SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SEVENTH GENERAL ASSEMBLY

27TH LEGISLATIVE DAY

FRIDAY, APRIL 8, 2011

9:20 O'CLOCK A.M.

NO. 27
[April 8, 2011]

SENATE
Daily Journal Index
27th Legislative Day

The Senate met pursuant to adjournment.
Senator M. Maggie Crotty, Oak Forest, Illinois, presiding.
Prayer by Reverend Jim Poole, Woodside United Methodist Church, Springfield, Illinois.
Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Thursday, April 7, 2011, be postponed, pending arrival of the printed Journal.
The motion prevailed.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

School Districts' Special Education Expenditures and Receipts Report, submitted by the Illinois State Board of Education.

Illinois Child Care Report FY 2010, 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 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. 2 to Senate Bill 172
Senate Floor Amendment No. 3 to Senate Bill 1147
Senate Floor Amendment No. 3 to Senate Bill 1149
Senate Floor Amendment No. 1 to Senate Bill 1427
Senate Floor Amendment No. 1 to Senate Bill 1490
Senate Floor Amendment No. 1 to Senate Bill 1651
Senate Floor Amendment No. 2 to Senate Bill 1682
Senate Floor Amendment No. 4 to Senate Bill 1853

REPORT FROM STANDING COMMITTEE

Senator Holmes, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred **Senate Resolutions numbered 97, 121 and 133,** reported the same back with the recommendation that the resolutions be adopted.
Under the rules, **Senate Resolutions numbered 97, 121 and 133** were placed on the Secretary's Desk.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 287
A bill for AN ACT concerning education.
HOUSE BILL NO. 1079
A bill for AN ACT concerning education.
HOUSE BILL NO. 1191

A bill for AN ACT concerning insurance.

HOUSE BILL NO. 1293

A bill for AN ACT concerning civil law.

HOUSE BILL NO. 1552

A bill for AN ACT concerning human rights.

HOUSE BILL NO. 1760

A bill for AN ACT concerning local government.

Passed the House, April 7, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 287, 1079, 1191, 1293, 1552 and 1760** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 2051

A bill for AN ACT concerning education.

HOUSE BILL NO. 2056

A bill for AN ACT concerning safety.

HOUSE BILL NO. 3027

A bill for AN ACT concerning education.

HOUSE BILL NO. 3253

A bill for AN ACT concerning public employee benefits.

HOUSE BILL NO. 3513

A bill for AN ACT concerning business.

Passed the House, April 7, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 2051, 2056, 3027, 3253 and 3513** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 2093

A bill for AN ACT concerning children.

HOUSE BILL NO. 3184

A bill for AN ACT concerning government.

HOUSE BILL NO. 3238

A bill for AN ACT concerning criminal law.

HOUSE BILL NO. 3293

A bill for AN ACT concerning criminal law.

Passed the House, April 7, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 2093, 3184, 3238 and 3293** were taken up, ordered printed and placed on first reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 192, sponsored by Senator Righter, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 287, sponsored by Senator Delgado, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 464, sponsored by Senator Hutchinson, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1076, sponsored by Senator Kotowski, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1077, sponsored by Senator Frerichs, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1149, sponsored by Senator Wilhelmi, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1157, sponsored by Senator Kotowski, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1191, sponsored by Senator Steans, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1293, sponsored by Senator Schoenberg, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1298, sponsored by Senator A. Collins, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1303, sponsored by Senator Koehler, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1518, sponsored by Senator Mulroe, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1684, sponsored by Senator Holmes, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1703, sponsored by Senator Clayborne, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1889, sponsored by Senator Garrett, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1953, sponsored by Senator Steans, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2019, sponsored by Senator Delgado, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2020, sponsored by Senator Delgado, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2023, sponsored by Senator Harmon, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2051, sponsored by Senator Pankau, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2053, sponsored by Senator Frerichs, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2056, sponsored by Senator Schmidt, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2084, sponsored by Senator Noland, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2086, sponsored by Senator Lightford, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2093, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2917, sponsored by Senator Harmon, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3027, sponsored by Senator Noland, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3238, sponsored by Senator Raoul, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3253, sponsored by Senator J. Jones, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3275, sponsored by Senator J. Collins, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3285, sponsored by Senator J. Collins, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3314, sponsored by Senator Frerichs, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3331, sponsored by Senator Hutchinson, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3406, sponsored by Senator Hutchinson, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3459, sponsored by Senator Link, was taken up, read by title a first time and referred to the Committee on Assignments.

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Haine, **Senate Bill No. 1544,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 1545** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1545

AMENDMENT NO. 1. Amend Senate Bill 1545 by replacing everything after the enacting clause

with the following:

"Section 5. The Illinois Insurance Code is amended by changing Section 1 as follows:
(215 ILCS 5/1) (from Ch. 73, par. 613)
Sec. 1. Short title. This Act shall be known and ~~and~~ may be cited as the Illinois Insurance Code.
(Source: P.A. 96-328, eff. 8-11-09.)".

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 Haine, **Senate Bill No. 1549** 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 Insurance, adopted and ordered printed:

AMENDMENT NO. 2 TO SENATE BILL 1549

AMENDMENT NO. 2. Amend Senate Bill 1549 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Illinois Health Benefits Exchange Act.".

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 Haine, **Senate Bill No. 1554,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 1555** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1555

AMENDMENT NO. 1. Amend Senate Bill 1555 on page 3, by replacing line 11 through line 14 with the following:
"U.S.C. 100 et seq. The insurance laws of this State, including this Code, do not apply to arrangements between a religious organization and the organization's members or participants when the arrangement and organization meet all of the following criteria:".

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 Haine, **Senate Bill No. 1556** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1556

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

"Section 5. The State Employees Group Insurance Act of 1971 is amended by changing Sections 3 and 8 as follows:
(5 ILCS 375/3) (from Ch. 127, par. 523)
Sec. 3. Definitions. Unless the context otherwise requires, the following words and phrases as used in this Act shall have the following meanings. The Department may define these and other words and phrases separately for the purpose of implementing specific programs providing benefits under this Act.
(a) "Administrative service organization" means any person, firm or corporation experienced in the

handling of claims which is fully qualified, financially sound and capable of meeting the service requirements of a contract of administration executed with the Department.

(b) "Annuitant" means (1) an employee who retires, or has retired, on or after January 1, 1966 on an immediate annuity under the provisions of Articles 2, 14 (including an employee who has elected to receive an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code in lieu of an annuity), 15 (including an employee who has retired under the optional retirement program established under Section 15-158.2), paragraphs (2), (3), or (5) of Section 16-106, or Article 18 of the Illinois Pension Code; (2) any person who was receiving group insurance coverage under this Act as of March 31, 1978 by reason of his status as an annuitant, even though the annuity in relation to which such coverage was provided is a proportional annuity based on less than the minimum period of service required for a retirement annuity in the system involved; (3) any person not otherwise covered by this Act who has retired as a participating member under Article 2 of the Illinois Pension Code but is ineligible for the retirement annuity under Section 2-119 of the Illinois Pension Code; (4) the spouse of any person who is receiving a retirement annuity under Article 18 of the Illinois Pension Code and who is covered under a group health insurance program sponsored by a governmental employer other than the State of Illinois and who has irrevocably elected to waive his or her coverage under this Act and to have his or her spouse considered as the "annuitant" under this Act and not as a "dependent"; or (5) an employee who retires, or has retired, from a qualified position, as determined according to rules promulgated by the Director, under a qualified local government, a qualified rehabilitation facility, a qualified domestic violence shelter or service, or a qualified child advocacy center. (For definition of "retired employee", see (p) post).

(b-5) "New SERS annuitant" means a person who, on or after January 1, 1998, becomes an annuitant, as defined in subsection (b), by virtue of beginning to receive a retirement annuity under Article 14 of the Illinois Pension Code (including an employee who has elected to receive an alternative retirement cancellation payment under Section 14-108.5 of that Code in lieu of an annuity), and is eligible to participate in the basic program of group health benefits provided for annuitants under this Act.

(b-6) "New SURS annuitant" means a person who (1) on or after January 1, 1998, becomes an annuitant, as defined in subsection (b), by virtue of beginning to receive a retirement annuity under Article 15 of the Illinois Pension Code, (2) has not made the election authorized under Section 15-135.1 of the Illinois Pension Code, and (3) is eligible to participate in the basic program of group health benefits provided for annuitants under this Act.

(b-7) "New TRS State annuitant" means a person who, on or after July 1, 1998, becomes an annuitant, as defined in subsection (b), by virtue of beginning to receive a retirement annuity under Article 16 of the Illinois Pension Code based on service as a teacher as defined in paragraph (2), (3), or (5) of Section 16-106 of that Code, and is eligible to participate in the basic program of group health benefits provided for annuitants under this Act.

(c) "Carrier" means (1) an insurance company, a corporation organized under the Limited Health Service Organization Act or the Voluntary Health Services Plan Act, a partnership, or other nongovernmental organization, which is authorized to do group life or group health insurance business in Illinois, or (2) the State of Illinois as a self-insurer.

(d) "Compensation" means salary or wages payable on a regular payroll by the State Treasurer on a warrant of the State Comptroller out of any State, trust or federal fund, or by the Governor of the State through a disbursing officer of the State out of a trust or out of federal funds, or by any Department out of State, trust, federal or other funds held by the State Treasurer or the Department, to any person for personal services currently performed, and ordinary or accidental disability benefits under Articles 2, 14, 15 (including ordinary or accidental disability benefits under the optional retirement program established under Section 15-158.2), paragraphs (2), (3), or (5) of Section 16-106, or Article 18 of the Illinois Pension Code, for disability incurred after January 1, 1966, or benefits payable under the Workers' Compensation or Occupational Diseases Act or benefits payable under a sick pay plan established in accordance with Section 36 of the State Finance Act. "Compensation" also means salary or wages paid to an employee of any qualified local government, qualified rehabilitation facility, qualified domestic violence shelter or service, or qualified child advocacy center.

(e) "Commission" means the State Employees Group Insurance Advisory Commission authorized by this Act. Commencing July 1, 1984, "Commission" as used in this Act means the Commission on Government Forecasting and Accountability as established by the Legislative Commission Reorganization Act of 1984.

(f) "Contributory", when referred to as contributory coverage, shall mean optional coverages or benefits elected by the member toward the cost of which such member makes contribution, or which are funded in whole or in part through the acceptance of a reduction in earnings or the foregoing of an

increase in earnings by an employee, as distinguished from noncontributory coverage or benefits which are paid entirely by the State of Illinois without reduction of the member's salary.

(g) "Department" means any department, institution, board, commission, officer, court or any agency of the State government receiving appropriations and having power to certify payrolls to the Comptroller authorizing payments of salary and wages against such appropriations as are made by the General Assembly from any State fund, or against trust funds held by the State Treasurer and includes boards of trustees of the retirement systems created by Articles 2, 14, 15, 16 and 18 of the Illinois Pension Code. "Department" also includes the Illinois Comprehensive Health Insurance Board, the Board of Examiners established under the Illinois Public Accounting Act, and the Illinois Finance Authority.

(h) "Dependent", when the term is used in the context of the health and life plan, means a member's spouse and any child (1) from birth to age 26 including an adopted child, a child who lives with the member from the time of the filing of a petition for adoption until entry of an order of adoption, a stepchild or adjudicated child, or a child who lives with the member if such member is a court appointed guardian of the child or (2) age 19 or over who is mentally or physically disabled from a cause originating prior to the age of 19 (age 26 if enrolled as an adult child dependent). For the health plan only, the term "dependent" also includes (1) any person enrolled prior to the effective date of this Section who is dependent upon the member to the extent that the member may claim such person as a dependent for income tax deduction purposes and (2) any person who has received after June 30, 2000 an organ transplant and who is financially dependent upon the member and eligible to be claimed as a dependent for income tax purposes. A member requesting to cover any dependent must provide documentation as requested by the Department of Central Management Services and file with the Department any and all forms required by the Department.

(i) "Director" means the Director of the Illinois Department of Central Management Services or of any successor agency designated to administer this Act.

(j) "Eligibility period" means the period of time a member has to elect enrollment in programs or to select benefits without regard to age, sex or health.

(k) "Employee" means and includes each officer or employee in the service of a department who (1) receives his compensation for service rendered to the department on a warrant issued pursuant to a payroll certified by a department or on a warrant or check issued and drawn by a department upon a trust, federal or other fund or on a warrant issued pursuant to a payroll certified by an elected or duly appointed officer of the State or who receives payment of the performance of personal services on a warrant issued pursuant to a payroll certified by a Department and drawn by the Comptroller upon the State Treasurer against appropriations made by the General Assembly from any fund or against trust funds held by the State Treasurer, and (2) is employed full-time or part-time in a position normally requiring actual performance of duty during not less than 1/2 of a normal work period, as established by the Director in cooperation with each department, except that persons elected by popular vote will be considered employees during the entire term for which they are elected regardless of hours devoted to the service of the State, and (3) except that "employee" does not include any person who is not eligible by reason of such person's employment to participate in one of the State retirement systems under Articles 2, 14, 15 (either the regular Article 15 system or the optional retirement program established under Section 15-158.2) or 18, or under paragraph (2), (3), or (5) of Section 16-106, of the Illinois Pension Code, but such term does include persons who are employed during the 6 month qualifying period under Article 14 of the Illinois Pension Code. Such term also includes any person who (1) after January 1, 1966, is receiving ordinary or accidental disability benefits under Articles 2, 14, 15 (including ordinary or accidental disability benefits under the optional retirement program established under Section 15-158.2), paragraphs (2), (3), or (5) of Section 16-106, or Article 18 of the Illinois Pension Code, for disability incurred after January 1, 1966, (2) receives total permanent or total temporary disability under the Workers' Compensation Act or Occupational Disease Act as a result of injuries sustained or illness contracted in the course of employment with the State of Illinois, or (3) is not otherwise covered under this Act and has retired as a participating member under Article 2 of the Illinois Pension Code but is ineligible for the retirement annuity under Section 2-119 of the Illinois Pension Code. However, a person who satisfies the criteria of the foregoing definition of "employee" except that such person is made ineligible to participate in the State Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code is also an "employee" for the purposes of this Act. "Employee" also includes any person receiving or eligible for benefits under a sick pay plan established in accordance with Section 36 of the State Finance Act. "Employee" also includes (i) each officer or employee in the service of a qualified local government, including persons appointed as trustees of sanitary districts regardless of hours devoted to the service of the sanitary district, (ii) each employee in the service of a qualified rehabilitation facility, (iii) each full-time employee in the service

of a qualified domestic violence shelter or service, and (iv) each full-time employee in the service of a qualified child advocacy center, as determined according to rules promulgated by the Director.

(l) "Member" means an employee, annuitant, retired employee or survivor. In the case of an annuitant or retired employee who first becomes an annuitant or retired employee on or after the effective date of this amendatory Act of the 97th General Assembly, the individual must meet the minimum vesting requirements of the applicable retirement system in order to be eligible for group insurance benefits under that system. In the case of a survivor who first becomes a survivor on or after the effective date of this amendatory Act of the 97th General Assembly, the deceased employee, annuitant, or retired employee upon whom the annuity is based must have been eligible to participate in the group insurance system under the applicable retirement system in order for the survivor to be eligible for group insurance benefits under that system.

(m) "Optional coverages or benefits" means those coverages or benefits available to the member on his or her voluntary election, and at his or her own expense.

(n) "Program" means the group life insurance, health benefits and other employee benefits designed and contracted for by the Director under this Act.

(o) "Health plan" means a health benefits program offered by the State of Illinois for persons eligible for the plan.

(p) "Retired employee" means any person who would be an annuitant as that term is defined herein but for the fact that such person retired prior to January 1, 1966. Such term also includes any person formerly employed by the University of Illinois in the Cooperative Extension Service who would be an annuitant but for the fact that such person was made ineligible to participate in the State Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code.

(q) "Survivor" means a person receiving an annuity as a survivor of an employee or of an annuitant. "Survivor" also includes: (1) the surviving dependent of a person who satisfies the definition of "employee" except that such person is made ineligible to participate in the State Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code; (2) the surviving dependent of any person formerly employed by the University of Illinois in the Cooperative Extension Service who would be an annuitant except for the fact that such person was made ineligible to participate in the State Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code; and (3) the surviving dependent of a person who was an annuitant under this Act by virtue of receiving an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code.

(q-2) "SERS" means the State Employees' Retirement System of Illinois, created under Article 14 of the Illinois Pension Code.

(q-3) "SURS" means the State Universities Retirement System, created under Article 15 of the Illinois Pension Code.

(q-4) "TRS" means the Teachers' Retirement System of the State of Illinois, created under Article 16 of the Illinois Pension Code.

(q-5) "New SERS survivor" means a survivor, as defined in subsection (q), whose annuity is paid under Article 14 of the Illinois Pension Code and is based on the death of (i) an employee whose death occurs on or after January 1, 1998, or (ii) a new SERS annuitant as defined in subsection (b-5). "New SERS survivor" includes the surviving dependent of a person who was an annuitant under this Act by virtue of receiving an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code.

(q-6) "New SURS survivor" means a survivor, as defined in subsection (q), whose annuity is paid under Article 15 of the Illinois Pension Code and is based on the death of (i) an employee whose death occurs on or after January 1, 1998, or (ii) a new SURS annuitant as defined in subsection (b-6).

(q-7) "New TRS State survivor" means a survivor, as defined in subsection (q), whose annuity is paid under Article 16 of the Illinois Pension Code and is based on the death of (i) an employee who is a teacher as defined in paragraph (2), (3), or (5) of Section 16-106 of that Code and whose death occurs on or after July 1, 1998, or (ii) a new TRS State annuitant as defined in subsection (b-7).

(r) "Medical services" means the services provided within the scope of their licenses by practitioners in all categories licensed under the Medical Practice Act of 1987.

(s) "Unit of local government" means any county, municipality, township, school district (including a combination of school districts under the Intergovernmental Cooperation Act), special district or other unit, designated as a unit of local government by law, which exercises limited governmental powers or powers in respect to limited governmental subjects, any not-for-profit association with a membership that primarily includes townships and township officials, that has duties that include provision of research service, dissemination of information, and other acts for the purpose of improving township

government, and that is funded wholly or partly in accordance with Section 85-15 of the Township Code; any not-for-profit corporation or association, with a membership consisting primarily of municipalities, that operates its own utility system, and provides research, training, dissemination of information, or other acts to promote cooperation between and among municipalities that provide utility services and for the advancement of the goals and purposes of its membership; the Southern Illinois Collegiate Common Market, which is a consortium of higher education institutions in Southern Illinois; the Illinois Association of Park Districts; and any hospital provider that is owned by a county that has 100 or fewer hospital beds and has not already joined the program. "Qualified local government" means a unit of local government approved by the Director and participating in a program created under subsection (i) of Section 10 of this Act.

(t) "Qualified rehabilitation facility" means any not-for-profit organization that is accredited by the Commission on Accreditation of Rehabilitation Facilities or certified by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) to provide services to persons with disabilities and which receives funds from the State of Illinois for providing those services, approved by the Director and participating in a program created under subsection (j) of Section 10 of this Act.

(u) "Qualified domestic violence shelter or service" means any Illinois domestic violence shelter or service and its administrative offices funded by the Department of Human Services (as successor to the Illinois Department of Public Aid), approved by the Director and participating in a program created under subsection (k) of Section 10.

(v) "TRS benefit recipient" means a person who:

(1) is not a "member" as defined in this Section; and

(2) is receiving a monthly benefit or retirement annuity under Article 16 of the Illinois Pension Code; and

(3) either (i) has at least 8 years of creditable service under Article 16 of the Illinois Pension Code, or (ii) was enrolled in the health insurance program offered under that Article on January 1, 1996, or (iii) is the survivor of a benefit recipient who had at least 8 years of creditable service under Article 16 of the Illinois Pension Code or was enrolled in the health insurance program offered under that Article on the effective date of this amendatory Act of 1995, or (iv) is a recipient or survivor of a recipient of a disability benefit under Article 16 of the Illinois Pension Code.

(w) "TRS dependent beneficiary" means a person who:

(1) is not a "member" or "dependent" as defined in this Section; and

(2) is a TRS benefit recipient's: (A) spouse, (B) dependent parent who is receiving at least half of his or her support from the TRS benefit recipient, or (C) natural, step, adjudicated, or adopted child who is (i) under age 26, (ii) was, on January 1, 1996, participating as a dependent beneficiary in the health insurance program offered under Article 16 of the Illinois Pension Code, or (iii) age 19 or over who is mentally or physically disabled from a cause originating prior to the age of 19 (age 26 if enrolled as an adult child).

"TRS dependent beneficiary" does not include, as indicated under paragraph (2) of this subsection (w), a dependent of the survivor of a TRS benefit recipient who first becomes a dependent of a survivor of a TRS benefit recipient on or after the effective date of this amendatory Act of the 97th General Assembly unless that dependent would have been eligible for coverage as a dependent of the deceased TRS benefit recipient upon whom the survivor benefit is based.

(x) "Military leave" refers to individuals in basic training for reserves, special/advanced training, annual training, emergency call up, activation by the President of the United States, or any other training or duty in service to the United States Armed Forces.

(y) (Blank).

(z) "Community college benefit recipient" means a person who:

(1) is not a "member" as defined in this Section; and

(2) is receiving a monthly survivor's annuity or retirement annuity under Article 15 of the Illinois Pension Code; and

(3) either (i) was a full-time employee of a community college district or an association of community college boards created under the Public Community College Act (other than an employee whose last employer under Article 15 of the Illinois Pension Code was a community college district subject to Article VII of the Public Community College Act) and was eligible to participate in a group health benefit plan as an employee during the time of employment with a community college district (other than a community college district subject to Article VII of the Public Community College Act) or an association of community college boards, or (ii) is the survivor of a person described in item (i).

(aa) "Community college dependent beneficiary" means a person who:

(1) is not a "member" or "dependent" as defined in this Section; and

(2) is a community college benefit recipient's: (A) spouse, (B) dependent parent who is receiving at least half of his or her support from the community college benefit recipient, or (C) natural, step, adjudicated, or adopted child who is (i) under age 26, or (ii) age 19 or over and mentally or physically disabled from a cause originating prior to the age of 19 (age 26 if enrolled as an adult child).

"Community college dependent beneficiary" does not include, as indicated under paragraph (2) of this subsection (aa), a dependent of the survivor of a community college benefit recipient who first becomes a dependent of a survivor of a community college benefit recipient on or after the effective date of this amendatory Act of the 97th General Assembly unless that dependent would have been eligible for coverage as a dependent of the deceased community college benefit recipient upon whom the survivor annuity is based.

(bb) "Qualified child advocacy center" means any Illinois child advocacy center and its administrative offices funded by the Department of Children and Family Services, as defined by the Children's Advocacy Center Act (55 ILCS 80/), approved by the Director and participating in a program created under subsection (n) of Section 10.

(Source: P.A. 95-331, eff. 8-21-07; 95-632, eff. 9-25-07; 96-756, eff. 1-1-10; 96-1519, eff. 2-4-11.)

(5 ILCS 375/8) (from Ch. 127, par. 528)

Sec. 8. Eligibility.

(a) Each employee ~~member~~ eligible under the provisions of this Act and any rules and regulations promulgated and adopted hereunder by the Director shall become immediately eligible and covered for all benefits available under the programs. Employees ~~Members~~ electing coverage for eligible dependents shall have the coverage effective immediately, provided that the election is properly filed in accordance with required filing dates and procedures specified by the Director , including the completion and submission of all documentation and forms required by the Director.

(1) Every member originally eligible to elect dependent coverage, but not electing it during the original eligibility period, may subsequently obtain dependent coverage only in the event of a qualifying change in status, special enrollment, special circumstance as defined by the Director, or during the annual Benefit Choice Period.

(2) Members described above being transferred from previous coverage towards which the State has been contributing shall be transferred regardless of preexisting conditions, waiting periods, or other requirements that might jeopardize claim payments to which they would otherwise have been entitled.

(3) Eligible and covered members that are eligible for coverage as dependents except for the fact of being members shall be transferred to, and covered under, dependent status regardless of preexisting conditions, waiting periods, or other requirements that might jeopardize claim payments to which they would otherwise have been entitled upon cessation of member status and the election of dependent coverage by a member eligible to elect that coverage.

(b) New employees shall be immediately insured for the basic group life insurance and covered by the program of health benefits on the first day of active State service. Optional life insurance coverage one to 4 times the basic amount, if elected during the relevant eligibility period, will become effective on the date of employment. Optional life insurance coverage exceeding 4 times the basic amount and all life insurance amounts applied for after the eligibility period will be effective, subject to satisfactory evidence of insurability when applicable, or other necessary qualifications, pursuant to the requirements of the applicable benefit program, unless there is a change in status that would confer new eligibility for change of enrollment under rules established supplementing this Act, in which event application must be made within the new eligibility period.

(c) As to the group health benefits program contracted to begin or continue after June 30, 1973, each annuitant, survivor, and retired employee shall become immediately eligible ~~and covered~~ for all benefits available under that program. Each annuitant, survivor, and retired employee shall have coverage effective immediately, provided that the election is properly filed in accordance with the required filing dates and procedures specified by the Director, including the completion and submission of all documentation and forms required by the Director. Annuitants, survivors, and retired ~~Retired~~ employees may elect coverage for eligible dependents and shall have the coverage effective immediately, provided that the election is properly filed in accordance with required filing dates and procedures specified by the Director , except that, for a survivor, the dependent sought to be added on or after the effective date of this amendatory Act of the 97th General Assembly must have been eligible for coverage as a dependent under the deceased member upon whom the survivor's annuity is based in order to be eligible for

coverage under the survivor.

Except as otherwise provided in this Act, where husband and wife are both eligible members, each shall be enrolled as a member and coverage on their eligible dependent children, if any, may be under the enrollment and election of either.

Regardless of other provisions herein regarding late enrollment or other qualifications, as appropriate, the Director may periodically authorize open enrollment periods for each of the benefit programs at which time each member may elect enrollment or change of enrollment without regard to age, sex, health, or other qualification under the conditions as may be prescribed in rules and regulations supplementing this Act. Special open enrollment periods may be declared by the Director for certain members only when special circumstances occur that affect only those members.

(d) Beginning with fiscal year 2003 and for all subsequent years, eligible members may elect not to participate in the program of health benefits as defined in this Act. The election must be made during the annual benefit choice period, subject to the conditions in this subsection.

(1) Members must furnish proof of health benefit coverage, either comprehensive major medical coverage or comprehensive managed care plan, from a source other than the Department of Central Management Services in order to elect not to participate in the program.

(2) Members may re-enroll in the Department of Central Management Services program of health benefits upon showing a qualifying change in status, as defined in the U.S. Internal Revenue Code, without evidence of insurability and with no limitations on coverage for pre-existing conditions, provided that there was not a break in coverage of more than 63 days.

(3) Members may also re-enroll in the program of health benefits during any annual benefit choice period, without evidence of insurability.

(4) Members who elect not to participate in the program of health benefits shall be furnished a written explanation of the requirements and limitations for the election not to participate in the program and for re-enrolling in the program. The explanation shall also be included in the annual benefit choice options booklets furnished to members.

(d-5) Beginning July 1, 2005, the Director may establish a program of financial incentives to encourage annuitants receiving a retirement annuity from the State Employees Retirement System, but who are not eligible for benefits under the federal Medicare health insurance program (Title XVIII of the Social Security Act, as added by Public Law 89-97) to elect not to participate in the program of health benefits provided under this Act. The election by an annuitant not to participate under this program must be made in accordance with the requirements set forth under subsection (d). The financial incentives provided to these annuitants under the program may not exceed $150 per month for each annuitant electing not to participate in the program of health benefits provided under this Act.

(e) Notwithstanding any other provision of this Act or the rules adopted under this Act, if a person participating in the program of health benefits as the dependent spouse of an eligible member becomes an annuitant, the person may elect, at the time of becoming an annuitant or during any subsequent annual benefit choice period, to continue participation as a dependent rather than as an eligible member for as long as the person continues to be an eligible dependent.

An eligible member who has elected to participate as a dependent may re-enroll in the program of health benefits as an eligible member (i) during any subsequent annual benefit choice period or (ii) upon showing a qualifying change in status, as defined in the U.S. Internal Revenue Code, without evidence of insurability and with no limitations on coverage for pre-existing conditions.

A person who elects to participate in the program of health benefits as a dependent rather than as an eligible member shall be furnished a written explanation of the consequences of electing to participate as a dependent and the conditions and procedures for re-enrolling as an eligible member. The explanation shall also be included in the annual benefit choice options booklet furnished to members.

(Source: P.A. 94-95, eff. 7-1-05; 94-109, eff. 7-1-05; 95-331, eff. 8-21-07.)".

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 Haine, **Senate Bill No. 1557** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1557

AMENDMENT NO. 1. Amend Senate Bill 1557 on page 2, line 14, by replacing "and is resulting

in approved clinical status" with "~~and is resulting in approved clinical status~~".

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 Holmes, **Senate Bill No. 1578** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1578

AMENDMENT NO. 1. Amend Senate Bill 1578 as follows:

on page 1, line 16, after "10-22.18d.", by inserting "Educational support personnel may be exempt from a workshop if (i) the workshop is not relevant to the work they do and (ii) the workshop is not related to the health and safety of students."; and

on page 4, line 19, after "institute", by inserting ", unless, in the case of educational support personnel, they are exempt from attending".

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. 1608** 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 1608

AMENDMENT NO. 1. Amend Senate Bill 1608 by replacing everything after the enacting clause with the following:

"Section 5. 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. "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. 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, both current and projected;

(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 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. 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;

(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 2011 ~~2008~~, the Illinois Power Agency shall prepare a draft 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. The draft procurement plan shall also indicate, in legislative style, the specific changes to the most recent Commission-approved procurement plan. Cost-effective demand-response measures shall be procured as set forth in item (iii) of subsection (b) of this Section. Copies of the draft 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 draft procurement plan. Other interested entities also may comment on the procurement plan within the timeframe outlined in this Section. 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 draft 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 draft procurement plan. Within 14 days following the end of the 30-day review period, the Agency shall revise the draft procurement plan as necessary based on the comments received and file the agency's final version of the procurement plan with the Commission and post the Agency's final version of the procurement plan on the websites. The Agency shall identify any revisions to the draft procurement plan by documenting such revisions in legislative style.

(3) Within 10 ~~5~~ days after the filing of the Agency's final version of the procurement plan, any person objecting to the

procurement plan shall file an objection with the Commission. Within 15 ~~10~~ days after the filing, the Commission shall determine whether a hearing is necessary. The Commission shall enter its order confirming or modifying the final procurement plan within 90 days after the filing of the final procurement plan, including all modifications and additions, 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 Jacobs, **Senate Bill No. 1609** 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 1609

AMENDMENT NO. 1. Amend Senate Bill 1609 on page 11, by replacing lines 21 through 25 with the following:

"(A) a comparison of the costs associated with the Agency's procurement of renewable energy resources to (1) the Agency's costs associated with electricity generated by other types of generation facilities and (2) the benefits associated with the Agency's procurement of renewable energy resources; and".

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 J. Jones, **Senate Bill No. 1610** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1610

AMENDMENT NO. 1. Amend Senate Bill 1610 by replacing everything after the enacting clause with the following:

"Section 5. The Government Electronic Records Act is amended by changing Section 10 as follows:
(20 ILCS 35/10)
Sec. 10. Definitions.
~~"Board" means the Electronic Records Advisory Board.~~
"Electronic transfer" means transfer of documents or reports by electronic means. Appropriate electronic transfer includes, but is not limited to, transfer by electronic mail, facsimile transmission, or posting downloadable versions on an Internet website, with electronic notice of the posting.
"Government agency" means all parts, boards, and commissions of the executive branch of the State government including, but not limited to, State colleges and universities and their governing boards and all departments established by the Civil Administrative Code of Illinois.
"Record" has the meaning ascribed to it in the Illinois State Records Act (5 ILCS 160/).
(Source: P.A. 96-1363, eff. 7-28-10.)
(20 ILCS 35/30 rep.) (20 ILCS 35/40 rep.)
Section 10. The Government Electronic Records Act is amended by repealing Sections 30 and 40.

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

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

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. 1615** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1615

AMENDMENT NO. 1. Amend Senate Bill 1615 by replacing everything after the enacting clause with the following:

"Section 5. The Alternate Fuels Act is amended by changing Section 30 as follows:
(415 ILCS 120/30)
Sec. 30. Rebate and grant program.
(a) Beginning January 1, 1997, and as long as funds are available, each owner of an alternate fuel vehicle shall be eligible to apply for a rebate. Beginning July 1, 2005, each owner of a vehicle using domestic renewable fuel is eligible to apply for a fuel cost differential rebate under item (3) of this subsection ~~(c) of this Section~~. The Agency shall cause rebates to be issued under the provisions of this Act. An owner may apply for only one of 3 types of rebates with regard to an individual alternate fuel vehicle: (i) a conversion cost rebate, (ii) an OEM differential cost rebate, or (iii) a fuel cost differential rebate. Only one rebate may be issued with regard to a particular alternate fuel vehicle during the life of that vehicle. A rebate shall not exceed $4,000 per vehicle. Over the life of this rebate program, an owner of an alternate fuel vehicle or a vehicle using domestic renewable fuel may not receive rebates for more than 150 vehicles per location or for 300 vehicles in total.

(1) ~~(a)~~ A conversion cost rebate may be issued to an owner or his or her designee in order to reduce the cost of converting a conventional vehicle or a hybrid vehicle to an alternate fuel vehicle. Conversion of a conventional vehicle or a hybrid vehicle to alternate fuel capability must take place in Illinois for the owner to be eligible for the conversion cost rebate. Amounts spent by applicants within a calendar year may be claimed on a rebate application submitted within 12 months after the month in which the conversion of the vehicle took place. Approved conversion cost rebates applied for during or after calendar year 1997 shall be 80% of all approved conversion costs claimed and documented. Approval of conversion cost rebates may continue after calendar year 2002, if funds are still available. An applicant may include on an application submitted in 1997 all amounts spent within that calendar year on the conversion, even if the expenditure occurred before promulgation of the Agency rules.

(2) ~~(b)~~ An OEM differential cost rebate may be issued to an owner or his or her designee in order to reduce the cost differential between a conventional vehicle or engine and the same vehicle or engine, produced by an original equipment manufacturer, that has the capability to use alternate fuels.

A new OEM vehicle or engine must be purchased in Illinois and must either be an alternate fuel vehicle or used in an alternate fuel vehicle, respectively, for the owner to be eligible for an OEM differential cost rebate. Large vehicles, over 8,500 pounds gross vehicle weight, purchased

outside Illinois are eligible for an OEM differential cost rebate if the same or a comparable vehicle is not available for purchase in Illinois. Amounts spent by applicants within a calendar year may be claimed on a rebate application submitted within 12 months after the month in which the new OEM vehicle or engine was purchased.

Approved OEM differential cost rebates applied for during or after calendar year 1997 shall be 80% of all approved cost differential claimed and documented. Approval of OEM differential cost rebates may continue after calendar year 2002, if funds are still available. An applicant may include on an application submitted in 1997 all amounts spent within that calendar year on OEM equipment, even if the expenditure occurred before promulgation of the Agency rules.

(3) ~~(c)~~ A fuel cost differential rebate may be issued to an owner or his or her designee in order to reduce the cost differential between conventional fuels and domestic renewable fuels or alternate fuels purchased to operate an alternate fuel vehicle. The fuel cost differential shall be based on a 3-year life cycle cost analysis developed by the Agency by rulemaking. The rebate shall apply to and be payable during a consecutive 3-year period commencing on the date the application is approved by the Agency. Approved fuel cost differential rebates may be applied for during or after calendar year 1997 and approved rebates shall be 80% of the cost differential for a consecutive 3-year period. Approval of fuel cost differential rebates may continue after calendar year 2002 if funds are still available.

Twenty-five percent of the amount that is appropriated under Section 40 to be used to fund programs authorized by this Section during calendar year 2001 shall be designated to fund fuel cost differential rebates. If the total dollar amount of approved fuel cost differential rebate applications as of July 1, 2001 is less than the amount designated for that calendar year, the balance of designated funds shall be immediately available to fund any rebate authorized by this Section and approved in the calendar year.

An approved fuel cost differential rebate shall be paid to an owner in 3 annual installments on or about the anniversary date of the approval of the application. Owners receiving a fuel cost differential rebate shall be required to demonstrate, through recordkeeping, the use of domestic renewable fuels during the 3-year period commencing on the date the application is approved by the Agency. If the vehicle ceases to be registered to the original applicant owner, a prorated installment shall be paid to that owner or the owner's designee and the remainder of the rebate shall be canceled.

(b) ~~(d)~~ Vehicles owned by the federal government or vehicles registered in a state outside Illinois are not eligible for rebates.

(c) In fiscal year 2012 and each fiscal year thereafter, the Agency may make a grant to a not-for-profit car-sharing organization. The grant funds may be used (i) to purchase electric vehicles from an original equipment manufacturer that operates a manufacturing facility in Illinois and (ii) to pay for 100% of the vehicle cost.

(Source: P.A. 96-537, eff. 8-14-09; 96-1278, eff. 7-26-10.)

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

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

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. 1619** 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 1619

AMENDMENT NO. 1. Amend Senate Bill 1619 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 27-9.1 as follows:

(105 ILCS 5/27-9.1) (from Ch. 122, par. 27-9.1)

Sec. 27-9.1. Sex Education.

(a) In this Section:

"Adapt" means to modify an evidenced-based program model for use with a particular demographic,

ethnic, linguistic, or cultural group.

"Age appropriate" means suitable to particular ages or age groups of children and adolescents, based on the developing cognitive, emotional, and behavioral capacity typical for the age or age group.

"Evidenced-based program" means a program for which systematic, empirical research or evaluation has provided evidence of effectiveness.

"Medically accurate" means verified or supported by the weight of research conducted in compliance with accepted scientific methods and published in peer-reviewed journals, if applicable, or comprising information recognized as accurate, objective, and complete.

(a-5) ~~(a)~~ No pupil shall be required to take or participate in any class or course in comprehensive sex education if his parent or guardian submits written objection thereto, and refusal to take or participate in such course or program shall not be reason for suspension or expulsion of such pupil. Each class or course in comprehensive sex education offered in any of grades 6 through 12 shall include instruction on both abstinence and contraception for the prevention of pregnancy and sexually transmitted diseases, including HIV/AIDS ~~the prevention, transmission and spread of AIDS~~. Nothing in this Section prohibits instruction in sanitation, hygiene or traditional courses in biology.

(b) All public elementary, junior high, and senior high school classes that teach sex education and discuss sexual intercourse shall emphasize that ~~abstinence is the expected norm in that~~ abstinence from sexual intercourse is the only protection that is 100% effective against unwanted teenage pregnancy, sexually transmitted diseases, and acquired immune deficiency syndrome (AIDS) when transmitted sexually.

(c) All public elementary, junior high, and senior high school classes that teach sex education and ~~courses that~~ discuss sexual intercourse shall satisfy the following criteria:

(1) Course material and instruction shall be developmentally and age appropriate, medically accurate, and complete.

(1.5) Course material and instruction shall replicate evidence-based programs or substantially incorporate elements of evidence-based programs.

(2) Course material and instruction shall teach honor and respect for monogamous heterosexual marriage.

(3) Course material and instruction shall place substantial emphasis on both abstinence and contraception for the prevention of pregnancy and sexually transmitted diseases among youth and shall stress that abstinence is the ensured method of avoiding unintended pregnancy, sexually transmitted diseases, and HIV/AIDS ~~pupils should abstain from sexual intercourse until they are ready for marriage~~.

(4) Course material and instruction shall include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual intercourse ~~outside of marriage~~ and the consequences of unwanted adolescent pregnancy.

(5) Course material and instruction shall stress that sexually transmitted diseases are serious possible hazards of sexual intercourse. Pupils shall be provided with statistics based on the latest medical information citing the failure and success rates of condoms in preventing AIDS and other sexually transmitted diseases.

(6) Course material and instruction shall advise pupils of the laws pertaining to their financial responsibility to children born in and out of wedlock.

(7) Course material and instruction shall advise pupils of the circumstances under which it is unlawful for males to have sexual relations with females under the age of 18 to whom they are not married pursuant to Article 12 of the Criminal Code of 1961, as now or hereafter amended.

(8) Course material and instruction shall teach pupils to not make unwanted physical and verbal sexual advances and how to say no to unwanted sexual advances. Pupils shall be taught that it is wrong to take advantage of or to exploit another person. The material and instruction shall also encourage youth to resist negative peer pressure.

(9) (Blank).

(10) Course material and instruction shall teach pupils about the dangers associated with drug and alcohol consumption during pregnancy.

(11) Course material and instruction shall be free from bias in accordance with the Illinois Human Rights Act.

(d) An opportunity shall be afforded to individuals, including parents or guardians, to examine the instructional materials to be used in such class or course.

(e) The State Board of Education shall make available resource materials, with the cooperation and input of the agency that administers grant programs consistent with criteria (1) and (2) of subsection (d) of this Section, for educating children regarding sex education and may take into consideration the curriculum on this subject developed by other states, as well as any other curricular materials suggested

by education experts and other groups that work on sex education issues. Materials may include without limitation model sex education curriculums and sexual health education programs. The State Board of Education shall make these resource materials available on its Internet website. School districts may adapt such programs to the specific needs of their communities.
(Source: P.A. 96-1082, eff. 7-16-10.)

Section 10. The Critical Health Problems and Comprehensive Health Education Act is amended by changing Section 3 as follows:

(105 ILCS 110/3)

Sec. 3. Comprehensive Health Education Program. The program established under this Act shall include, but not be limited to, the following major educational areas as a basis for curricula in all elementary and secondary schools in this State: human ecology and health, human growth and development, the emotional, psychological, physiological, hygienic and social responsibilities of family life, including sexual abstinence until marriage, prevention and control of disease, including instruction in grades 6 through 12 on the prevention, transmission and spread of AIDS, sexual assault awareness in secondary schools, public and environmental health, consumer health, safety education and disaster survival, mental health and illness, personal health habits, alcohol, drug use, and abuse including the medical and legal ramifications of alcohol, drug, and tobacco use, abuse during pregnancy, evidence-based and medically accurate information regarding sexual abstinence ~~until marriage~~, tobacco, nutrition, and dental health. The program shall also provide course material and instruction to advise pupils of the Abandoned Newborn Infant Protection Act. The program shall include information about cancer, including without limitation types of cancer, signs and symptoms, risk factors, the importance of early prevention and detection, and information on where to go for help. Notwithstanding the above educational areas, the following areas may also be included as a basis for curricula in all elementary and secondary schools in this State: basic first aid (including, but not limited to, cardiopulmonary resuscitation and the Heimlich maneuver), heart disease, diabetes, stroke, the prevention of child abuse, neglect, and suicide, and teen dating violence in grades 8 through 12.

The school board of each public elementary and secondary school in the State shall encourage all teachers and other school personnel to acquire, develop, and maintain the knowledge and skills necessary to properly administer life-saving techniques, including without limitation the Heimlich maneuver and rescue breathing. The training shall be in accordance with standards of the American Red Cross, the American Heart Association, or another nationally recognized certifying organization. A school board may use the services of non-governmental entities whose personnel have expertise in life-saving techniques to instruct teachers and other school personnel in these techniques. Each school board is encouraged to have in its employ, or on its volunteer staff, at least one person who is certified, by the American Red Cross or by another qualified certifying agency, as qualified to administer first aid and cardiopulmonary resuscitation. In addition, each school board is authorized to allocate appropriate portions of its institute or inservice days to conduct training programs for teachers and other school personnel who have expressed an interest in becoming qualified to administer emergency first aid or cardiopulmonary resuscitation. School boards are urged to encourage their teachers and other school personnel who coach school athletic programs and other extracurricular school activities to acquire, develop, and maintain the knowledge and skills necessary to properly administer first aid and cardiopulmonary resuscitation in accordance with standards and requirements established by the American Red Cross or another qualified certifying agency. Subject to appropriation, the State Board of Education shall establish and administer a matching grant program to pay for half of the cost that a school district incurs in training those teachers and other school personnel who express an interest in becoming qualified to administer cardiopulmonary resuscitation (which training must be in accordance with standards of the American Red Cross, the American Heart Association, or another nationally recognized certifying organization) or in learning how to use an automated external defibrillator. A school district that applies for a grant must demonstrate that it has funds to pay half of the cost of the training for which matching grant money is sought. The State Board of Education shall award the grants on a first-come, first-serve basis.

No pupil shall be required to take or participate in any class or course on AIDS or family life instruction if his parent or guardian submits written objection thereto, and refusal to take or participate in the course or program shall not be reason for suspension or expulsion of the pupil.

Curricula developed under programs established in accordance with this Act in the major educational area of alcohol and drug use and abuse shall include classroom instruction in grades 5 through 12. The instruction, which shall include matters relating to both the physical and legal effects and ramifications of drug and substance abuse, shall be integrated into existing curricula; and the State Board of Education

shall develop and make available to all elementary and secondary schools in this State instructional materials and guidelines which will assist the schools in incorporating the instruction into their existing curricula. In addition, school districts may offer, as part of existing curricula during the school day or as part of an after school program, support services and instruction for pupils or pupils whose parent, parents, or guardians are chemically dependent.
(Source: P.A. 95-43, eff. 1-1-08; 95-764, eff. 1-1-09; 96-128, eff. 1-1-10; 96-328, eff. 8-11-09; 96-383, eff. 1-1-10; 96-1000, eff. 7-2-10.)".

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. 1623** 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 1623

AMENDMENT NO. 1. Amend Senate Bill 1623 by replacing everything after the enacting clause with the following:

"Section 5. The Mental Health and Developmental Disabilities Administrative Act is amended by adding Section 73 as follows:

(20 ILCS 1705/73 new)

Sec. 73. Department rules; Outcome Monitoring Pilot Program.

(a) Oversight. The Department shall draft and promulgate a new rule governing community residential mental health services for individuals with serious mental illness. "Community residential mental health services" are those services provided in a Department funded community-based residential setting designed to allow the individual to live in a safe, appropriate, and therapeutic environment conducive to preparing them to move to the most integrated setting appropriate to afford them the opportunity to live similarly to individuals without serious mental illness. This new rule shall be submitted for promulgation no later than January 1, 2012. This new rule shall be drafted in such a manner as to continue eligibility of the individuals in programs governed by Title 59, Part 132 of the Illinois Administrative Code. The new rule to be submitted by the Department must include, but not be limited to, standards for:

(1) Environmental management of living arrangements.

(2) Administrative requirements.

(3) Monitoring and review.

(4) Certification requirements.

(b) Life Safety Standards. The Department shall draft and promulgate rules stipulating life safety standards for all community residential mental health services by January 1, 2012. These rules shall prohibit an individual seeking community residential mental health services from being placed in any facility that is known to have life safety violations.

(c) Supportive Housing. The Department shall draft rules specifically designed for supportive housing facilities that receive funds from the Department for this purpose. The administrative rules shall be prepared and promulgated by the Department by January 1, 2012. The rules governing supportive housing shall also include standards for, but not limited to, the following:

(1) Environmental management of living arrangements.

(2) Administrative requirements.

(3) Monitoring and review.

(4) Certification requirements.

(5) Life safety standards.

(d) Dispensing Public Information. The Department shall make any and all surveys conducted on the outcomes and perceptions of the State's mental health delivery system available to the public on the Department's website. These surveys shall be posted beginning January 1, 2012 and shall be listed under a link entitled "publications" within the Division of Mental Health's portion of the Department's website.

(e) Outcome Monitoring Pilot Program. The Department, in conjunction with the Department of Healthcare and Family Services, shall create a pilot program in which the Department shall identify a sample of client population residing in Cook County and served by agencies covered under this Act. The sample size shall be sufficient to be generally relevant to the population. The sample may be stratified to achieve a sufficient representation. Included in the sample size shall be a sufficient number of

participants who are receiving community residential mental health services for the first time. The Department shall follow and track any and all services provided to these individuals, including, but not limited to:

(1) The type of residential setting in which the individual is living.

(2) Any type of inpatient or outpatient services the individual may be receiving.

(3) Any type of State-subsidized supports the individual may be receiving.

Upon identifying the sample participants in this informative project, the Department will document the residential and community services each individual receives at the beginning of this project and will continue to record any changes to these services over the course of the year. For those who are receiving community residential mental health services for the first time, a projected cost of service shall be established when the participant enters the study. The tracking of changes will include any change in housing or residential services, any change in community supports received, and any changes to medical care received over the course of a year. The Department shall also track the cost of the various services received by each individual in the program including residential costs, community supports, counseling, and medical costs.

The Department shall compile the data collected under this pilot program and submit a report to the General Assembly no later than October 1, 2013. This report shall include individual costs by participant without identifying any participant by name. The report shall also identify the services received by each individual during the course of the yearlong study. The Report shall identify what percentages of different services are received by the population that participates in this study.

Nothing in this subsection (e) shall be construed to infringe upon the privacy rights of those encompassed by the project and the Department is prohibited from identifying those who were documented in the course of this project.

Nothing in this subsection (e) shall be construed to compel any individual from participating in this project. Any individual may request not to be included in this project.

This pilot program shall commence no later than July 1, 2012.

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 Mulroe, **Senate Bill No. 1631,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Althoff, **Senate Bill No. 1637** 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 1637

AMENDMENT NO. 1. Amend Senate Bill 1637 by replacing everything after the enacting clause with the following:

"Section 5. The Animal Control Act is amended by changing Sections 10 and 35 as follows:

(510 ILCS 5/10) (from Ch. 8, par. 360)

Sec. 10. Impoundment; redemption. When dogs or cats are apprehended and impounded, they must be scanned for the presence of a microchip and examined for other currently acceptable methods of identification, including, but not limited to, identification tags, tattoos, and rabies license tags. The examination for identification shall be done within 24 hours after the intake of each dog or cat. The Administrator shall make every reasonable attempt to contact the owner as defined by Section 2.16 as soon as possible. The Administrator shall give notice of not less than 7 business days to the owner prior to disposal of the animal. Such notice shall be mailed to the last known address of the owner. Testimony of the Administrator, or his or her authorized agent, who mails such notice shall be evidence of the receipt of such notice by the owner of the animal. A mailed notice shall remain the primary means of owner contact; however, the Administrator shall also attempt to contact the owner by any other contact information, such as by telephone or email address, provided by the microchip or other method of identification found on the dog or cat. If the dog or cat has been microchipped and the primary contact listed by the chip manufacturer cannot be located or refuses to reclaim the dog or cat, an attempt shall be

made to contact any secondary contacts listed by the chip manufacturer prior to adoption, transfer, or euthanization. Prior to transferring the dog or cat to another humane shelter, rescue group, or euthanization, the dog or cat shall be scanned again for the presence of a microchip and examined for other means of identification. If a second scan provides the same identifying information as the initial intake scan and the owner has not been located or refuses to reclaim the dog or cat, the animal control facility may proceed with the adoption, transfer, or euthanization.

In case the owner of any impounded dog or cat desires to make redemption thereof, he or she may do so by doing the following:

a. Presenting proof of current rabies inoculation and registration, if applicable.

b. Paying for the rabies inoculation of the dog or cat and registration, if applicable.

c. Paying the pound for the board of the dog or cat for the period it was impounded.

d. Paying into the Animal Control Fund an additional impoundment fee as prescribed by the Board as a penalty for the first offense and for each subsequent offense.

e. Paying a $25 public safety fine to be deposited into the Pet Population Control Fund; the fine shall be waived if it is the dog's or cat's first impoundment and the owner has the animal spayed or neutered within 14 days.

f. Paying for microchipping and registration if not already done.

The payments required for redemption under this Section shall be in addition to any other penalties invoked under this Act and the Illinois Public Health and Safety Animal Population Control Act. An animal control agency shall assist and share information with the Director of Public Health in the collection of public safety fines.

(Source: P.A. 93-548, eff. 8-19-03; 94-639, eff. 8-22-05.)

(510 ILCS 5/35)

Sec. 35. Liability.

(a) Any municipality or political subdivision allowing feral cat colonies and trap, sterilize, and return programs to help control cat overpopulation shall be immune from criminal liability and shall not be civilly liable, except for willful and wanton misconduct, for damages that may result from a feral cat. Any municipality or political subdivision allowing dog parks shall be immune from criminal liability and shall not be civilly liable, except for willful and wanton misconduct, for damages that may result from occurrences in the dog park.

(b) Any veterinarian or animal shelter or animal control facility who in good faith contacts the registered owner of a microchipped animal shall be immune from criminal liability and shall not, as a result of his or her acts or omissions, except for willful and wanton misconduct, be liable for civil damages.

(c) Any veterinarian who sterilizes feral cats and any feral cat caretaker who traps cats for a trap, sterilize, and return program shall be immune from criminal liability and shall not, as a result of his or her acts or omissions, except for willful and wanton misconduct, be liable for civil damages.

(d) Any animal shelter or animal control facility worker who microchips an animal shall be immune from criminal liability and shall not, as a result of his or her acts or omissions, except for willful and wanton misconduct, be liable for civil damages.

(e) Any animal shelter or animal control worker who deems it dangerous to scan an animal for a microchip or examine an animal for other identification due to the fractious display of the animal shall be immune from criminal liability and shall not, as a result of his or her acts or omissions, except for willful and wanton misconduct, be liable for civil damages.

(Source: P.A. 94-639, eff. 8-22-05.)

Section 99. Effective date. This Act takes effect January 1, 2012.".

Senator Althoff offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1637

AMENDMENT NO. 2. Amend Senate Bill 1637, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1 as follows:

on page 1, line 15, after "Section 2.16", by inserting ", agent, or caretaker"; and

on page 1, line 16 and on page 2, lines 2, 5, and 23, after "owner", by inserting ", agent, or caretaker; and

on page 2, lines 6, 7, and 19, after "owner", by inserting ", agent, or caretaker"; and

on page 3, line 11 and on page 4, line 9, after "owner", by inserting ", agent, or caretaker".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Sullivan, **Senate Bill No. 1640** having been printed, was taken up, read by title a second time.

Senator Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1640

AMENDMENT NO. 1. Amend Senate Bill 1640 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Veterans Affairs Act is amended by adding Section 2.03a as follows:

(20 ILCS 2805/2.03a new)

Sec. 2.03a. Quincy Veterans Home; out-of-state-resident. When more than 20% of available beds are vacant for 2 consecutive months, a veteran who is a resident of a state bordering the State of Illinois may be admitted to the Quincy Veterans Home. Any veteran admitted under this Section who is not an Illinois resident at the time of application shall pay a monthly maintenance fee no less than the full cost of care established in Section 2.03. Preference for filling vacant beds or placement on any waiting list shall be granted first to all Illinois residents identified in this Act.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Sullivan, **Senate Bill No. 1644** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1644

AMENDMENT NO. 1. Amend Senate Bill 1644 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 1-190.05, 3-401, 3-815, 3-818, 12-202, 15-101, 15-111, 15-112, 15-113, 15-301, and 15-307 and by adding Section 1-105.4 as follows:

(625 ILCS 5/1-105.4 new)

Sec. 1-105.4. Auxiliary power unit, or APU. Small engines used on commercial trucks to provide power for auxiliary loads, such as heating, air conditioning, and lighting in sleeper berths, which allows the operator to shut off the main engine while resting. Auxiliary power units may also be referred to as idle reduction units.

(625 ILCS 5/1-190.05)

Sec. 1-190.05. Special hauling vehicle. A vehicle or combination of vehicles transporting asphalt or concrete in the plastic state or a vehicle or combination of vehicles that is subject to the weight limitations in subsection ~~subsections~~ (a) ~~and (b)~~ of Section 15-111 for which the owner of the vehicle or combination of vehicles has elected to pay, in addition to the registration fees stated in subsection (a) or (c) of Section 3-815 or Section 3-818, $100 to the Secretary of State for each registration year.

(Source: P.A. 90-89, eff. 1-1-98.)

(625 ILCS 5/3-401) (from Ch. 95 1/2, par. 3-401)

Sec. 3-401. Effect of provisions.

(a) It shall be unlawful for any person to violate any provision of this Chapter or to drive or move or for an owner knowingly to permit to be driven or moved upon any highway any vehicle of a type required to be registered hereunder which is not registered or for which the appropriate fee has not been paid when and as required hereunder, except that when application accompanied by proper fee has been made for registration of a vehicle it may be operated temporarily pending complete registration upon displaying a duplicate application duly verified or

other evidence of such application or otherwise under rules and regulations promulgated by the Secretary of State.

(b) The appropriate fees required to be paid under the various provisions of this Act for registration of vehicles shall mean the fee or fees which would have been paid initially, if proper and timely application had been made to the Secretary of State for the appropriate registration required, whether such registration be a flat weight registration, a single trip permit, a reciprocity permit or a supplemental application to an original prorate application together with payment of fees due under the supplemental application for prorate decals.

(c) Effective October 1, 1984, no vehicle required to pay a Federal Highway Users Tax shall be registered unless proof of payment, in a form prescribed and approved by the Secretary of State, is submitted with the appropriate registration. Notwithstanding any other provision of this Code, failure of the applicant to comply with this paragraph shall be deemed grounds for the Secretary to refuse registration.

(c-1) A vehicle may not be registered by the Secretary of State unless that vehicle:

(1) was originally manufactured for operation on highways;

(2) is a modification of a vehicle that was originally manufactured for operation on highways; or

(3) was assembled from component parts designed for use in vehicles to be operated on highways.

(d) Second division vehicles.

(1) A vehicle of the second division moved or operated within this State shall have had paid for it the appropriate registration fees and flat weight tax, as evidenced by the Illinois registration issued for that vehicle, for the gross weight of the vehicle and load being operated or moved within this State. Second division vehicles of foreign jurisdictions operated within this State under a single trip permit, fleet reciprocity plan, prorate registration plan, or apportional registration plan, instead of second division vehicle registration under Article VIII of this Chapter, must have had paid for it the appropriate registration fees and flat weight tax in the base jurisdiction of that vehicle, as evidenced by the maximum gross weight shown on the foreign registration cards, plus any appropriate fees required under this Code.

(2) If a vehicle and load are operated in this State and the appropriate fees and taxes have not been paid or the vehicle and load exceed the registered gross weight for which the required fees and taxes have been paid by 2001 pounds or more, the operator or owner shall be fined as provided in Section 15-113 of this Code. However, an owner or operator shall not be subject to arrest under this subsection for any weight in excess of 80,000 pounds. Further, ~~for any unregistered vehicle or vehicle displaying expired registration,~~ no fine shall exceed the actual cost of what the appropriate registration for that vehicle and load should have been as established in subsection (a) of Section 3-815 of this Chapter regardless of the route traveled. <u>For purposes of this paragraph (2), "appropriate registration" means the full annual cost of the required registration and its associated fees.</u>

(3) Any person operating a legal combination of vehicles displaying valid registration shall not be considered in violation of the registration provision of this subsection unless the total gross weight of the combination exceeds the total licensed weight of the vehicles in the combination. The gross weight of a vehicle exempt from the registration requirements of this Chapter shall not be included when determining the total gross weight of vehicles in combination.

(4) If the defendant claims that he or she had previously paid the appropriate Illinois registration fees and taxes for this vehicle before the alleged violation, the defendant shall have the burden of proving the existence of the payment by competent evidence. Proof of proper Illinois registration issued by the Secretary of State, or the appropriate registration authority from the foreign state, shall be the only competent evidence of payment.

(Source: P.A. 94-239, eff. 1-1-06.)

(625 ILCS 5/3-815) (from Ch. 95 1/2, par. 3-815)

Sec. 3-815. Flat weight tax; vehicles of the second division.

(a) Except as provided in Section 3-806.3, every owner of a vehicle of the second division registered under Section 3-813, and not registered under the mileage weight tax under Section 3-818, shall pay to the Secretary of State, for each registration year, for the use of the public highways, a flat weight tax at the rates set forth in the following table, the rates including the $10 registration fee:

SCHEDULE OF FLAT WEIGHT TAX
REQUIRED BY LAW

Gross Weight in Lbs. Including Vehicle and Maximum Load	Class	Total Fees each Fiscal year
8,000 lbs. and less	B	$98
8,001 lbs. to 12,000 lbs.	D	138

12,001 lbs. to 16,000 lbs.	F	242
16,001 lbs. to 26,000 lbs.	H	490
26,001 lbs. to 28,000 lbs.	J	630
28,001 lbs. to 32,000 lbs.	K	842
32,001 lbs. to 36,000 lbs.	L	982
36,001 lbs. to 40,000 lbs.	N	1,202
40,001 lbs. to 45,000 lbs.	P	1,390
45,001 lbs. to 50,000 lbs.	Q	1,538
50,001 lbs. to 54,999 lbs.	R	1,698
55,000 lbs. to 59,500 lbs.	S	1,830
59,501 lbs. to 64,000 lbs.	T	1,970
64,001 lbs. to 73,280 lbs.	V	2,294
73,281 lbs. to 77,000 lbs.	X	2,622
77,001 lbs. to 80,000 lbs.	Z	2,790

Beginning with the 2010 registration year a $1 surcharge shall be collected for vehicles registered in the 8,000 lbs. and less flat weight plate category above to be deposited into the State Police Vehicle Fund.

All of the proceeds of the additional fees imposed by this amendatory Act of the 96th General Assembly shall be deposited into the Capital Projects Fund.

(a-1) A Special Hauling Vehicle is a vehicle or combination of vehicles of the second division registered under Section 3-813 transporting asphalt or concrete in the plastic state or a vehicle or combination of vehicles that are subject to the gross weight limitations in subsection (a) ~~(b)~~ of Section 15-111 for which the owner of the vehicle or combination of vehicles has elected to pay, in addition to the registration fee in subsection (a), $125 to the Secretary of State for each registration year. The Secretary shall designate this class of vehicle as a Special Hauling Vehicle.

(b) Except as provided in Section 3-806.3, every camping trailer, motor home, mini motor home, travel trailer, truck camper or van camper used primarily for recreational purposes, and not used commercially, nor for hire, nor owned by a commercial business, may be registered for each registration year upon the filing of a proper application and the payment of a registration fee and highway use tax, according to the following table of fees:

MOTOR HOME, MINI MOTOR HOME, TRUCK CAMPER OR VAN CAMPER

Gross Weight in Lbs. Including Vehicle and Maximum Load	Total Fees Each Calendar Year
8,000 lbs and less	$78
8,001 Lbs. to 10,000 Lbs	90
10,001 Lbs. and Over	102

CAMPING TRAILER OR TRAVEL TRAILER

Gross Weight in Lbs. Including Vehicle and Maximum Load	Total Fees Each Calendar Year
3,000 Lbs. and Less	$18
3,001 Lbs. to 8,000 Lbs.	30
8,001 Lbs. to 10,000 Lbs.	38
10,001 Lbs. and Over	50

Every house trailer must be registered under Section 3-819.

(c) Farm Truck. Any truck used exclusively for the owner's own agricultural, horticultural or livestock raising operations and not-for-hire only, or any truck used only in the transportation for-hire of seasonal, fresh, perishable fruit or vegetables from farm to the point of first processing, may be registered by the owner under this paragraph in lieu of registration under paragraph (a), upon filing of a proper application and the payment of the $10 registration fee and the highway use tax herein specified as follows:

SCHEDULE OF FEES AND TAXES

Gross Weight in Lbs. Including Truck and Maximum Load	Class	Total Amount for each Fiscal Year
16,000 lbs. or less	VF	$150
16,001 to 20,000 lbs.	VG	226
20,001 to 24,000 lbs.	VH	290
24,001 to 28,000 lbs.	VJ	378
28,001 to 32,000 lbs.	VK	506
32,001 to 36,000 lbs.	VL	610

36,001 to 45,000 lbs.	VP	810
45,001 to 54,999 lbs.	VR	1,026
55,000 to 64,000 lbs.	VT	1,202
64,001 to 73,280 lbs.	VV	1,290
73,281 to 77,000 lbs.	VX	1,350
77,001 to 80,000 lbs.	VZ	1,490

In the event the Secretary of State revokes a farm truck registration as authorized by law, the owner shall pay the flat weight tax due hereunder before operating such truck.

Any combination of vehicles having 5 axles, with a distance of 42 feet or less between extreme axles, that are subject to the weight limitations in subsection (a) ~~and (b)~~ of Section 15-111 for which the owner of the combination of vehicles has elected to pay, in addition to the registration fee in subsection (c), $125 to the Secretary of State for each registration year shall be designated by the Secretary as a Special Hauling Vehicle.

(d) The number of axles necessary to carry the maximum load provided shall be determined from Chapter 15 of this Code.

(e) An owner may only apply for and receive 5 farm truck registrations, and only 2 of those 5 vehicles shall exceed 59,500 gross weight in pounds per vehicle.

(f) Every person convicted of violating this Section by failure to pay the appropriate flat weight tax to the Secretary of State as set forth in the above tables shall be punished as provided for in Section 3-401.

(Source: P.A. 95-1009, eff. 12-15-08; 96-34, eff. 7-13-09.)

(625 ILCS 5/3-818) (from Ch. 95 1/2, par. 3-818)

Sec. 3-818. (a) Mileage weight tax option. Any owner of a vehicle of the second division may elect to pay a mileage weight tax for such vehicle in lieu of the flat weight tax set out in Section 3-815. Such election shall be binding to the end of the registration year. Renewal of this election must be filed with the Secretary of State on or before July 1 of each registration period. In such event the owner shall, at the time of making such election, pay the $10 registration fee and the minimum guaranteed mileage weight tax, as hereinafter provided, which payment shall permit the owner to operate that vehicle the maximum mileage in this State hereinafter set forth. Any vehicle being operated on mileage plates cannot be operated outside of this State. In addition thereto, the owner of that vehicle shall pay a mileage weight tax at the following rates for each mile traveled in this State in excess of the maximum mileage provided under the minimum guaranteed basis:

BUS, TRUCK OR TRUCK TRACTOR

Gross Weight Vehicle and Load	Class	Minimum Guaranteed Mileage Weight Tax	Maximum Mileage Permitted Under Guaranteed Tax	Mileage Weight Tax for Mileage in excess of Guaranteed Mileage
12,000 lbs. or less	MD	$73	5,000	26 Mills
12,001 to 16,000 lbs.	MF	120	6,000	34 Mills
16,001 to 20,000 lbs.	MG	180	6,000	46 Mills
20,001 to 24,000 lbs.	MH	235	6,000	63 Mills
24,001 to 28,000 lbs.	MJ	315	7,000	63 Mills
28,001 to 32,000 lbs.	MK	385	7,000	83 Mills
32,001 to 36,000 lbs.	ML	485	7,000	99 Mills
36,001 to 40,000 lbs.	MN	615	7,000	128 Mills
40,001 to 45,000 lbs.	MP	695	7,000	139 Mills
45,001 to 54,999 lbs.	MR	853	7,000	156 Mills
55,000 to 59,500 lbs.	MS	920	7,000	178 Mills
59,501 to 64,000 lbs.	MT	985	7,000	195 Mills
64,001 to 73,280 lbs.	MV	1,173	7,000	225 Mills
73,281 to 77,000 lbs.	MX	1,328	7,000	258 Mills
77,001 to 80,000 lbs.	MZ	1,415	7,000	275 Mills

TRAILER

Gross Weight Vehicle and Load	Class	Minimum Guaranteed Mileage Weight Tax	Maximum Mileage Permitted Under Guaranteed Tax	Mileage Weight Tax for Mileage in excess of Guaranteed Mileage
14,000 lbs. or less	ME	$75	5,000	31 Mills

14,001 to 20,000 lbs.	MF	135	6,000	36 Mills
20,001 to 36,000 lbs.	ML	540	7,000	103 Mills
36,001 to 40,000 lbs.	MM	750	7,000	150 Mills

(a-1) A Special Hauling Vehicle is a vehicle or combination of vehicles of the second division registered under Section 3-813 transporting asphalt or concrete in the plastic state or a vehicle or combination of vehicles that are subject to the gross weight limitations in subsection (a) ~~(b)~~ of Section 15-111 for which the owner of the vehicle or combination of vehicles has elected to pay, in addition to the registration fee in subsection (a), $125 to the Secretary of State for each registration year. The Secretary shall designate this class of vehicle as a Special Hauling Vehicle.

In preparing rate schedules on registration applications, the Secretary of State shall add to the above rates, the $10 registration fee. The Secretary may decline to accept any renewal filed after July 1st.

The number of axles necessary to carry the maximum load provided shall be determined from Chapter 15 of this Code.

Every owner of a second division motor vehicle for which he has elected to pay a mileage weight tax shall keep a daily record upon forms prescribed by the Secretary of State, showing the mileage covered by that vehicle in this State. Such record shall contain the license number of the vehicle and the miles traveled by the vehicle in this State for each day of the calendar month. Such owner shall also maintain records of fuel consumed by each such motor vehicle and fuel purchases therefor. On or before the 10th day of July the owner shall certify to the Secretary of State upon forms prescribed therefor, summaries of his daily records which shall show the miles traveled by the vehicle in this State during the preceding 12 months and such other information as the Secretary of State may require. The daily record and fuel records shall be filed, preserved and available for audit for a period of 3 years. Any owner filing a return hereunder shall certify that such return is a true, correct and complete return. Any person who willfully makes a false return hereunder is guilty of perjury and shall be punished in the same manner and to the same extent as is provided therefor.

At the time of filing his return, each owner shall pay to the Secretary of State the proper amount of tax at the rate herein imposed.

Every owner of a vehicle of the second division who elects to pay on a mileage weight tax basis and who operates the vehicle within this State, shall file with the Secretary of State a bond in the amount of $500. The bond shall be in a form approved by the Secretary of State and with a surety company approved by the Illinois Department of Insurance to transact business in this State as surety, and shall be conditioned upon such applicant's paying to the State of Illinois all money becoming due by reason of the operation of the second division vehicle in this State, together with all penalties and interest thereon.

Upon notice from the Secretary that the registrant has failed to pay the excess mileage fees, the surety shall immediately pay the fees together with any penalties and interest thereon in an amount not to exceed the limits of the bond.

(Source: P.A. 94-239, eff. 1-1-06.)

(625 ILCS 5/12-202) (from Ch. 95 1/2, par. 12-202)

Sec. 12-202. Clearance, identification and side marker lamps.

(a) Second division vehicles with a GVWR over 10,000 pounds ~~Every motor vehicle of the second division~~, the length of which together with any trailer or trailers in tow thereof, is more than 25 feet or the width of which is more than 80 inches exclusive of mirrors, bumpers and other required safety devices, while being operated on the highways of this State during the period from sunset to sunrise, shall display on the front of the vehicle 2 yellow or amber lights, one on each upper front corner of the vehicle, which shall be plainly visible at a distance of at least 500 feet; also on the rear thereof in a horizontal line, 3 red lights plainly visible at a distance of not less than 500 feet; also on the front of the body of that vehicle near the lower left hand corner one yellow or amber tinted reflector, and near the lower right hand corner one yellow or amber tinted reflector; also red reflectors on the rear of the body of that vehicle, not more than 12 inches from the lower left and right hand corners. All motor vehicles of the second division more than 20 feet long, and all trailers and semitrailers, except trailers and semitrailers having a gross weight of 3,000 pounds or less including the weight of the trailer and maximum load, while being operated on the highways of this State during the period from sunset to sunrise, shall display on each side of the vehicle at approximately the one-third points of the length of the same, at a height not exceeding 5 feet above the surface of the road, and reflecting on a line approximately at right angles to the center line of the vehicle, 2 amber tinted reflectors. After January, 1974, all new motor vehicles of the second division more than 20 feet long, and all trailers and semitrailers except trailers and semitrailers having a gross weight of 3,000 pounds or less including the weight of the trailer and maximum load sold as new in this State, while being operated on the highways of this State during period from sunset to sunrise, shall display on each side of the vehicle, not more than 12 inches from the front, one amber tinted reflector, and not more than 12 inches from the rear one red reflector at a height not exceeding 5 feet above the surface of the road, and reflecting on a line approximately at right angles to the center line of the vehicle, approved by the Department.

(b) Every trailer and semitrailer having a gross weight of 3,000 pounds or less including the weight of the trailer and maximum load, towed either by a motor vehicle of the first division or a motor vehicle of the second division shall be equipped with 2 red reflectors, which will be visible when hit by headlight beams 300 feet away at night, on the rear of the body of such trailer, not more than 12 inches from the lower left hand and lower right hand corners.

(c) Every vehicle designated in paragraph (a) or (b) of this Section that is manufactured after December 31, 1973, shall, at the places and times specified in paragraph (a) or (b) of this Section, display reflectors and clearance, identification, and side marker lamps in conformance with the specifications prescribed by the Department.
(Source: P.A. 78-1297.)

(625 ILCS 5/15-101) (from Ch. 95 1/2, par. 15-101)

Sec. 15-101. Scope and effect of Chapter 15.

(a) It is unlawful for any person to drive or move on, upon or across or for the owner to cause or knowingly permit to be driven or moved on, upon or across any highway any vehicle or vehicles of a size and weight exceeding the limitations stated in this Chapter or otherwise in violation of this Chapter, and the maximum size and weight of vehicles herein specified shall be lawful throughout this State, and local authorities, including a home rule county or municipality, shall have no power or authority to alter such limitations except as express authority may be granted in this Chapter.

(b) The provisions of this Chapter governing size, weight and load do not apply to fire apparatus or equipment for snow and ice removal operations owned or operated by any governmental body, or to implements of husbandry, as defined in Chapter 1 of this Code, temporarily operated or towed in a combination upon a highway provided such combination does not consist of more than 3 vehicles or, in the case of hauling fresh, perishable fruits or vegetables from farm to the point of first processing, not more than 3 wagons being towed by an implement of husbandry, or to a vehicle operated under the terms of a special permit issued hereunder.

(c) The provisions of this Chapter governing size, weight, and load do not apply to any snow and ice removal equipment that is no more than 12 feet in width, if the equipment displays flags at least 18 inches square mounted on the driver's side of the snow plow.

These vehicles must be equipped with an illuminated rotating, oscillating, or flashing amber light or lights, or a flashing amber strobe light or lights, mounted on the top of the cab and of sufficient intensity to be visible at 500 feet in normal sunlight. If the load on the transport vehicle blocks the visibility of the amber lighting from the rear of the vehicle, the vehicle must also be equipped with an illuminated rotating, oscillating, or flashing amber light or lights, or a flashing amber strobe light or lights, mounted on the rear of the load and of sufficient intensity to be visible at 500 feet in normal sunlight.

(d) The setting of size and weight limits is an exclusive power and function of the State. Except as granted in this Chapter, a home rule unit may not set size and weight limits. 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.
(Source: P.A. 94-270, eff. 1-1-06.)

(625 ILCS 5/15-111) (from Ch. 95 1/2, par. 15-111)

Sec. 15-111. Wheel and axle loads and gross weights.

(a) No ~~On non-designated highways, no~~ vehicle or combination of vehicles ~~equipped~~ with pneumatic tires may be operated, unladen or with load, when the total weight on ~~transmitted to~~ the road surface exceeds the following: 20,000 pounds on a single axle; ~~or~~ 34,000 pounds on a tandem axle with no axle within the tandem exceeding 20,000 pounds ; ~~except:~~

~~(1) when a different limit is established and posted in accordance with Section 15-316 of this Code;~~

~~(2) vehicles for which the Department of Transportation and local authorities issue overweight permits under authority of Section 15-301 of this Code;~~

~~(3) tow trucks subject to the conditions provided in subsection (d) may not exceed 24,000 pounds on a single rear axle or 44,000 pounds on a tandem rear axle;~~

~~(4) any single axle of a 2 axle truck weighing 36,000 pounds or less and not a part of a combination of vehicles, shall not exceed 20,000 pounds;~~

~~(5) any single axle of a 2 axle truck equipped with a personnel lift or digger derrick, weighing 36,000 pounds or less, owned and operated by a public utility, shall not exceed 20,000 pounds;~~

~~(6) any single axle of a 2 axle truck specially equipped with a front loading compactor used exclusively for garbage, refuse, or recycling may not exceed 20,000 pounds per axle, provided that the gross weight of the vehicle does not exceed 40,000 pounds;~~

~~(7) a truck, not in combination and specially equipped with a selfcompactor or an industrial roll off hoist and roll off container, used exclusively for garbage or refuse operations may, when laden, transmit upon the road surface the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle;~~

~~(8) a truck, not in combination and used exclusively for the collection of rendering materials, may, when laden, transmit upon the road surface the following maximum weights: 22,000 pounds on a single axle; 40,000~~

~~pounds on a tandem axle;~~

~~(9) tandem axles on a 3 axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2014 and first registered in Illinois prior to January 1, 2015, with a distance greater than 72 inches but not more than 96 inches between any series of 2 axles, is allowed a combined weight on the series not to exceed 36,000 pounds and neither axle of the series may exceed 20,000 pounds. Any vehicle of this type manufactured after the model year of 2014 or first registered in Illinois after December 31, 2014 may not exceed a combined weight of 34,000 pounds through the series of 2 axles and neither axle of the series may exceed 20,000 pounds;~~

~~(10) a 4 axle truck mixer registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete in the plastic state and manufactured prior to or in the model year of 2014 and first registered in Illinois prior to January 1, 2015, is allowed the following maximum weights: 20,000 pounds on any single axle; 36,000 pounds on any series of 2 axles greater than 72 inches but not more than 96 inches; and 34,000 pounds on any series of 2 axles greater than 40 inches but not more than 72 inches;~~

~~(11) 4 axle vehicles or a 5 or more axle combination of vehicles: The weight transmitted upon the road surface through any series of 3 axles whose centers are more than 96 inches apart, measured between extreme axles in the series, may not exceed those allowed in the table contained in subsection (f) of this Section. No axle or tandem axle of the series may exceed the maximum weight permitted under this Section for a single or tandem axle.~~

~~No vehicle or combination of vehicles equipped with other than pneumatic tires may be operated, unladen or with load, upon the highways of this State when the gross weight on the road surface through any wheel exceeds 800 pounds per inch width of tire tread or when the gross weight on the road surface through any axle exceeds 16,000 pounds.~~

~~(b) On non designated highways, the gross weight of vehicles and combination of vehicles including the weight of the vehicle or combination and its maximum load shall be subject to the federal bridge formula provided in subsection (f) of this Section.~~

~~VEHICLES OPERATING ON CRAWLER TYPE TRACKS ..... 40,000 pounds~~

~~TRUCKS EQUIPPED WITH SELFCOMPACTORS~~
~~OR ROLL-OFF HOISTS AND ROLL-OFF CONTAINERS FOR GARBAGE,~~
~~REFUSE, OR RECYCLING HAULS ONLY AND TRUCKS USED FOR~~
~~THE COLLECTION OF RENDERING MATERIALS~~
~~On Highway Not Part of National System~~
~~of Interstate and Defense Highways~~

~~with 2 axles~~	~~36,000 pounds~~
~~with 3 axles~~	~~54,000 pounds~~

~~TWO AXLE TRUCKS EQUIPPED WITH~~
~~A FRONT LOADING COMPACTOR USED EXCLUSIVELY~~
~~FOR THE COLLECTION OF GARBAGE, REFUSE, OR RECYCLING~~

~~with 2 axles~~	~~40,000 pounds~~

~~A 4 axle truck mixer registered as a Special Hauling Vehicle, used exclusively for mixing and transportation of concrete in the plastic state, manufactured before or in the model year of 2014, and first registered in Illinois before January 1, 2015, is allowed a maximum gross weight listed in the table of subsection (f) of this Section for 4 axles. This vehicle, while loaded with concrete in the plastic state, is not subject to the series of 3 axles requirement provided for in subdivision (a)(11) of this Section, but no axle or tandem axle of the series may exceed the maximum weight permitted under subdivision (a)(10) of this Section.~~

~~(b-1) As used in this Section, a "recycling haul" or "recycling operation" means the hauling of segregated, non hazardous, non special, homogeneous non putrescible materials, such as paper, glass, cans, or plastic, for subsequent use in the secondary materials market.~~

~~(c) Cities having a population of more than 50,000 may permit by ordinance axle loads on 2 axle motor vehicles 33 1/2% above those provided for herein, but the increase shall not become effective until the city has officially notified the Department of the passage of the ordinance and shall not apply to those vehicles when outside of the limits of the city, nor shall the gross weight of any 2 axle motor vehicle operating over any street of the city exceed 40,000 pounds.~~

~~(d) Weight limitations shall not apply to vehicles (including loads) operated by a public utility when transporting equipment required for emergency repair of public utility facilities or properties or water wells.~~

~~A combination of vehicles, including a tow truck and a disabled vehicle or disabled combination of vehicles, that exceeds the weight restriction imposed by this Code, may be operated on a public highway in this State provided that neither the disabled vehicle nor any vehicle being towed nor the tow truck itself shall exceed the weight~~

~~limitations permitted under this Chapter. During the towing operation, neither the tow truck nor the vehicle combination shall exceed 24,000 pounds on a single rear axle and 44,000 pounds on a tandem rear axle, provided the towing vehicle:~~

~~(1) is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and is equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor-trailer combination that is equipped with air brakes;~~

~~(2) is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;~~

~~(3) is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles; and~~

~~(4) does not engage in a tow exceeding 20 miles from the initial point of wreck or disablement. Any additional movement of the vehicles may occur only upon issuance of authorization for that movement under the provisions of Sections 15-301 through 15-319 of this Code. The towing vehicle, however, may tow any disabled vehicle from the initial point of wreck or disablement to a point where repairs are actually to occur. This movement shall be valid only on State routes. The tower must abide by posted bridge weight limits.~~

~~Gross weight limits shall not apply to the combination of the tow truck and vehicles being towed. The tow truck license plate must cover the operating empty weight of the tow truck only. The weight of each vehicle being towed shall be covered by a valid license plate issued to the owner or operator of the vehicle being towed and displayed on that vehicle. If no valid plate issued to the owner or operator of that vehicle is displayed on that vehicle, or the plate displayed on that vehicle does not cover the weight of the vehicle, the weight of the vehicle shall be covered by the third tow truck plate issued to the owner or operator of the tow truck and temporarily affixed to the vehicle being towed. If a roll back carrier is registered and being used as a tow truck, however, the license plate or plates for the tow truck must cover the gross vehicle weight, including any load carried on the bed of the roll back carrier.~~

~~The Department may by rule or regulation prescribe additional requirements. However, nothing in this Code shall prohibit a tow truck under instructions of a police officer from legally clearing a disabled vehicle, that may be in violation of weight limitations of this Chapter, from the roadway to the berm or shoulder of the highway. If in the opinion of the police officer that location is unsafe, the officer is authorized to have the disabled vehicle towed to the nearest place of safety.~~

~~For the purpose of this subsection, gross vehicle weight rating, or GVWR, shall mean the value specified by the manufacturer as the loaded weight of the tow truck.~~

~~(e) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated, unladen or with load, upon the highways of this State in violation of the provisions of any permit issued under the provisions of Sections 15-301 through 15-319 of this Chapter.~~

~~(f) No vehicle or combination of vehicles with pneumatic tires may be operated, unladen or with load, when the total weight on the road surface exceeds the following: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle with no axle within the tandem exceeding 20,000 pounds;~~ 80,000 pounds gross weight for vehicle combinations of 5 or more axles; or a total weight on a group of 2 or more consecutive axles in excess of that weight produced by the application of the following formula: W = 500 times the sum of (LN divided by N-1) + 12N + 36, where "W" equals overall total weight on any group of 2 or more consecutive axles to the nearest 500 pounds, "L" equals the distance measured to the nearest foot between extremes of any group of 2 or more consecutive axles, and "N" equals the number of axles in the group under consideration.

The above formula when expressed in tabular form results in allowable loads as follows:

Distance measured to the nearest foot between the extremes of any group of 2 or more consecutive axles	Maximum weight in pounds of any group of 2 or more consecutive axles				
feet	2 axles	3 axles	4 axles	5 axles	6 axles
4	34,000				
5	34,000				
6	34,000				
7	34,000				
8	38,000*	42,000			
9	39,000	42,500			
10	40,000	43,500			
11		44,000			
12		45,000	50,000		

13	45,500	50,500		
14	46,500	51,500		
15	47,000	52,000		
16	48,000	52,500	58,000	
17	48,500	53,500	58,500	
18	49,500	54,000	59,000	
19	50,000	54,500	60,000	
20	51,000	55,500	60,500	66,000
21	51,500	56,000	61,000	66,500
22	52,500	56,500	61,500	67,000
23	53,000	57,500	62,500	68,000
24	54,000	58,000	63,000	68,500
25	54,500	58,500	63,500	69,000
26	55,500	59,500	64,000	69,500
27	56,000	60,000	65,000	70,000
28	57,000	60,500	65,500	71,000
29	57,500	61,500	66,000	71,500
30	58,500	62,000	66,500	72,000
31	59,000	62,500	67,500	72,500
32	60,000	63,500	68,000	73,000
33		64,000	68,500	74,000
34		64,500	69,000	74,500
35		65,500	70,000	75,000
36		66,000	70,500	75,500
37		66,500	71,000	76,000
38		67,500	72,000	77,000
39		68,000	72,500	77,500
40		68,500	73,000	78,000
41		69,500	73,500	78,500
42		70,000	74,000	79,000
43		70,500	75,000	80,000
44		71,500	75,500	
45		72,000	76,000	
46		72,500	76,500	
47		73,500	77,500	
48		74,000	78,000	
49		74,500	78,500	
50		75,500	79,000	
51		76,000	80,000	
52		76,500		
53		77,500		
54		78,000		
55		78,500		
56		79,500		
57		80,000		

*If the distance between 2 axles is 96 inches or less, the 2 axles are tandem axles and the maximum total weight may not exceed 34,000 pounds, notwithstanding the higher limit resulting from the application of the formula.

Vehicles not in a combination having more than 4 axles may not exceed the weight in the table in this subsection (a) ~~(f)~~ for 4 axles measured between the extreme axles of the vehicle.

Vehicles in a combination having more than 6 axles may not exceed the weight in the table in this subsection (a) ~~(f)~~ for 6 axles measured between the extreme axles of the combination.

Local authorities, with respect to streets and highways under their jurisdiction, without additional fees, may also by ordinance or resolution allow the weight limitations of this subsection, provided the maximum gross weight on any one axle shall not exceed 20,000 pounds and the maximum total weight on any tandem axle shall not exceed 34,000 pounds, on designated highways when appropriate regulatory signs giving notice are erected upon the street or highway or portion of any street or highway affected by the ordinance or resolution.

The following are exceptions to the above formula:

(1) Vehicles for which a different limit is established and posted in accordance with Section 15-316 of this Code ~~Two consecutive sets of tandem axles may carry a total weight of 34,000 pounds each if the overall distance~~

~~between the first and last axles of the consecutive sets of tandem axles is 36 feet or more~~.

(2) Vehicles for which the Department of Transportation and local authorities issue overweight permits under authority of Section 15-301 of this Code. These vehicles are not subject to the bridge formula ~~Vehicles for which a different limit is established and posted in accordance with Section 15-316 of this Code~~.

(3) Cities having a population of more than 50,000 may permit by ordinance axle loads on 2 axle motor vehicles 33 1/2% above those provided for herein, but the increase shall not become effective until the city has officially notified the Department of the passage of the ordinance and shall not apply to those vehicles when outside of the limits of the city, nor shall the gross weight of any 2 axle motor vehicle operating over any street of the city exceed 40,000 pounds ~~Vehicles for which the Department of Transportation and local authorities issue overweight permits under authority of Section 15-301 of this Code. These vehicles are not subject to the bridge formula~~.

(4) Weight limitations shall not apply to vehicles (including loads) operated by a public utility when transporting equipment required for emergency repair of public utility facilities or properties or water wells ~~Tow trucks subject to the conditions provided in subsection (d) may not exceed 24,000 pounds on a single rear axle or 44,000 pounds on a tandem rear axle~~.

(5) Two consecutive sets of tandem axles may carry a total weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more, notwithstanding the lower limit resulting from the application of the above formula ~~A tandem axle on a 3-axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2014, and registered in Illinois prior to January 1, 2015, with a distance between 2 axles in a series greater than 72 inches but not more than 96 inches may not exceed a total weight of 36,000 pounds and neither axle of the series may exceed 20,000 pounds~~.

(6) A truck, not in combination and used exclusively for the collection of rendering materials, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle ~~A truck not in combination, equipped with a self compactor or an industrial roll-off hoist and roll-off container, used exclusively for garbage, refuse, or recycling operations, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 36,000 pounds gross weight on a 2-axle vehicle; 54,000 pounds gross weight on a 3-axle vehicle. This vehicle is not subject to the bridge formula~~.

(7) A truck not in combination, equipped with a self compactor or an industrial roll-off hoist and roll-off container, used exclusively for garbage, refuse, or recycling operations, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 40,000 pounds gross weight on a 2-axle vehicle; 54,000 pounds gross weight on a 3-axle vehicle. This vehicle is not subject to the bridge formula ~~Combinations of vehicles, registered as Special Hauling Vehicles that include a semitrailer manufactured prior to or in the model year of 2014, and registered in Illinois prior to January 1, 2015, having 5 axles with a distance of 42 feet or less between extreme axles, may not exceed the following maximum weights: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle; and 72,000 pounds gross weight. This combination of vehicles is not subject to the bridge formula. For all those combinations of vehicles that include a semitrailer manufactured after the effective date of this amendatory Act of the 92nd General Assembly, the overall distance between the first and last axles of the 2 sets of tandems must be 18 feet 6 inches or more. Any combination of vehicles that has had its cargo container replaced in its entirety after December 31, 2014 may not exceed the weights allowed by the bridge formula~~.

(8) Tandem axles on a 3-axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2014 and first registered in Illinois prior to January 1, 2015, with a distance greater than 72 inches but not more than 96 inches between any series of 2 axles, is allowed a combined weight on the series not to exceed 36,000 pounds and neither axle of the series may exceed 20,000 pounds. Any vehicle of this type manufactured after the model year of 2014 or first registered in Illinois after December 31, 2014 may not exceed a combined weight of 34,000 pounds through the series of 2 axles and neither axle of the series may exceed 20,000 pounds. ~~A 4-axle truck mixer registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete in the plastic state, manufactured before or in the model year of 2014, first registered in Illinois before January 1, 2015, and not operated on a highway that is part of the National System of Interstate Highways, is allowed the following maximum weights: 20,000 pounds on any single axle; 36,000 pounds on a series of axles greater than 72 inches but not more than 96 inches; and 34,000 pounds on any series of 2 axles greater than 40 inches but not more than 72 inches. The gross weight of this vehicle may not exceed the weights allowed by the bridge formula for 4 axles. The bridge formula does not apply to any series of 3 axles while the vehicle is transporting concrete in the plastic state, but no axle or tandem axle of the series may exceed the maximum weight permitted under this subsection (f)~~.

(9) A 4-axle truck mixer registered as a Special Hauling Vehicle, used exclusively for the mixing and

transportation of concrete in the plastic state, manufactured before or in the model year of 2014, first registered in Illinois before January 1, 2015, and not operated on a highway that is part of the National System of Interstate Highways, is allowed the following maximum weights: 20,000 pounds on any single axle; 36,000 pounds on a series of axles greater than 72 inches but not more than 96 inches; and 34,000 pounds on any series of 2 axles greater than 40 inches but not more than 72 inches. The gross weight of this vehicle may not exceed the weights allowed by the bridge formula for 4 axles. The bridge formula does not apply to any series of 3 axles while the vehicle is transporting concrete in the plastic state, but no axle or tandem axle of the series may exceed the maximum weight permitted under this paragraph (9) of subsection (a).

(10) Combinations of vehicles, registered as Special Hauling Vehicles that include a semitrailer manufactured prior to or in the model year of 2014, and registered in Illinois prior to January 1, 2015, having 5 axles with a distance of 42 feet or less between extreme axles, may not exceed the following maximum weights: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle; and 72,000 pounds gross weight. This combination of vehicles is not subject to the bridge formula. For all those combinations of vehicles that include a semitrailer manufactured after the effective date of P.A. 92-0417, the overall distance between the first and last axles of the 2 sets of tandems must be 18 feet 6 inches or more. Any combination of vehicles that has had its cargo container replaced in its entirety after December 31, 2014 may not exceed the weights allowed by the bridge formula.

(11) The maximum weight allowed on a vehicle with crawler type tracks is 40,000 pounds.

(12) A combination of vehicles, including a tow truck and a disabled vehicle or disabled combination of vehicles, that exceeds the weight restriction imposed by this Code, may be operated on a public highway in this State provided that neither the disabled vehicle nor any vehicle being towed nor the tow truck itself shall exceed the weight limitations permitted under this Chapter. During the towing operation, neither the tow truck nor the vehicle combination shall exceed 24,000 pounds on a single rear axle and 44,000 pounds on a tandem rear axle, provided the towing vehicle:

(i) is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and is equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor-trailer combination that is equipped with air brakes;

(ii) is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;

(iii) is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles; and

(iv) does not engage in a tow exceeding 20 miles from the initial point of wreck or disablement. Any additional movement of the vehicles may occur only upon issuance of authorization for that movement under the provisions of Sections 15-301 through 15-319 of this Code. The towing vehicle, however, may tow any disabled vehicle to a point where repairs are actually to occur. This movement shall be valid only on State routes. The tower must abide by posted bridge weight limits.

Gross weight limits shall not apply to the combination of the tow truck and vehicles being towed. The tow truck license plate must cover the operating empty weight of the tow truck only. The weight of each vehicle being towed shall be covered by a valid license plate issued to the owner or operator of the vehicle being towed and displayed on that vehicle. If no valid plate issued to the owner or operator of that vehicle is displayed on that vehicle, or the plate displayed on that vehicle does not cover the weight of the vehicle, the weight of the vehicle shall be covered by the third tow truck plate issued to the owner or operator of the tow truck and temporarily affixed to the vehicle being towed. If a roll-back carrier is registered and being used as a tow truck, however, the license plate or plates for the tow truck must cover the gross vehicle weight, including any load carried on the bed of the roll-back carrier.

The Department may by rule or regulation prescribe additional requirements. However, nothing in this Code shall prohibit a tow truck under instructions of a police officer from legally clearing a disabled vehicle, that may be in violation of weight limitations of this Chapter, from the roadway to the berm or shoulder of the highway. If in the opinion of the police officer that location is unsafe, the officer is authorized to have the disabled vehicle towed to the nearest place of safety.

For the purpose of this subsection, gross vehicle weight rating, or GVWR, means the value specified by the manufacturer as the loaded weight of the tow truck.

(b) As used in this Section, "recycling haul" or "recycling operation" means the hauling of non-hazardous, non-special, non-putrescible materials, such as paper, glass, cans, or plastic, for subsequent use in the secondary materials market.

(c) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated, unladen or with load, upon the highways of this State in violation of the provisions of any permit issued under the provisions of Sections 15-301 through 15-319 of this Chapter.

(d) No vehicle or combination of vehicles equipped with other than pneumatic tires may be operated, unladen or with load, upon the highways of this State when the gross weight on the road surface through any wheel exceeds 800 pounds per inch width of tire tread or when the gross weight on the road surface through any axle exceeds

16,000 pounds.

(e) No person shall operate a vehicle or combination of vehicles over a bridge or other elevated structure constituting part of a highway with a gross weight that is greater than the maximum weight permitted by the Department, when the structure is sign posted as provided in this Section.

(f) The Department upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it finds that the structure cannot with safety to itself withstand the weight of vehicles otherwise permissible under this Code the Department shall determine and declare the maximum weight of vehicles that the structures can withstand, and shall cause or permit suitable signs stating maximum weight to be erected and maintained before each end of the structure. No person shall operate a vehicle or combination of vehicles over any structure with a gross weight that is greater than the posted maximum weight.

~~(f-1) A vehicle and load not exceeding 80,000 pounds is allowed travel on non-designated highways so long as there is no sign prohibiting that access.~~

(g) Upon the trial of any person charged with a violation of subsection (e) or (f) of this Section, proof of the determination of the maximum allowable weight by the Department and the existence of the signs, constitutes conclusive evidence of the maximum weight that can be maintained with safety to the bridge or structure ~~No person shall operate a vehicle or combination of vehicles over a bridge or other elevated structure constituting part of a highway with a gross weight that is greater than the maximum weight permitted by the Department, when the structure is sign posted as provided in this Section~~.

~~(h) The Department upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it finds that the structure cannot with safety to itself withstand the weight of vehicles otherwise permissible under this Code the Department shall determine and declare the maximum weight of vehicles that the structures can withstand, and shall cause or permit suitable signs stating maximum weight to be erected and maintained before each end of the structure. No person shall operate a vehicle or combination of vehicles over any structure with a gross weight that is greater than the posted maximum weight.~~

~~(i) Upon the trial of any person charged with a violation of subsections (g) or (h) of this Section, proof of the determination of the maximum allowable weight by the Department and the existence of the signs, constitutes conclusive evidence of the maximum weight that can be maintained with safety to the bridge or structure.~~

(Source: P.A. 95-51, eff. 1-1-08; 96-34, eff. 1-1-10; 96-37, eff. 7-13-09.)

(625 ILCS 5/15-112) (from Ch. 95 1/2, par. 15-112)

Sec. 15-112. Officers to weigh vehicles and require removal of excess loads.

(a) Any police officer having reason to believe that the weight of a vehicle and load is unlawful shall require the driver to stop and submit to a weighing of the same either by means of a portable or stationary scales that have been tested and approved at a frequency prescribed by the Illinois Department of Agriculture, or for those scales operated by the State, when such tests are requested by the Department of State Police, whichever is more frequent. If such scales are not available at the place where such vehicle is stopped, the police officer shall require that such vehicle be driven to the nearest available scale that has been tested and approved pursuant to this Section by the Illinois Department of Agriculture. Notwithstanding any provisions of the Weights and Measures Act or the United States Department of Commerce NIST handbook 44, multi or single draft weighing is an acceptable method of weighing by law enforcement for determining a violation of Chapter 3 or 15 of this Code. Law enforcement is exempt from the requirements of commercial weighing established in NIST handbook 44.

Within 18 months after the effective date of this amendatory Act of the 91st General Assembly, all municipal and county officers, technicians, and employees who set up and operate portable scales for wheel load or axle load or both and issue citations based on the use of portable scales for wheel load or axle load or both and who have not successfully completed initial classroom and field training regarding the set up and operation of portable scales, shall attend and successfully complete initial classroom and field training administered by the Illinois Law Enforcement Training Standards Board.

(b) Whenever an officer, upon weighing a vehicle and the load, determines that the weight is unlawful, such officer shall require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the weight of the vehicle to the limit permitted under this Chapter, or to the limit permitted under the terms of a permit issued pursuant to Sections 15-301 through 15-318 and shall forthwith arrest the driver or owner. All material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of such owner or operator; however, whenever a 3 or 4 axle vehicle with a tandem axle dimension greater than 72 inches, but less than 96 inches and registered as a Special Hauling Vehicle is transporting asphalt or concrete in the plastic state that exceeds axle weight or gross weight limits by less than 4,000 pounds, the owner or operator of the vehicle shall accept the arrest ticket or tickets for the alleged violations under this Section and proceed without shifting or reducing the load being transported or may shift or reduce the load under the provisions of subsection (d) or (e) of this Section, when applicable. Any fine imposed following an

overweight violation by a vehicle registered as a Special Hauling Vehicle transporting asphalt or concrete in the plastic state shall be paid as provided in subsection 4 of paragraph (a) of Section 16-105 of this Code.

(c) The Department of Transportation may, at the request of the Department of State Police, erect appropriate regulatory signs on any State highway directing second division vehicles to a scale. The Department of Transportation may also, at the direction of any State Police officer, erect portable regulating signs on any highway directing second division vehicles to a portable scale. Every such vehicle, pursuant to such sign, shall stop and be weighed.

(d) Whenever any axle load of a vehicle exceeds the axle or tandem axle weight limits permitted by paragraph (a) ~~or (f)~~ of Section 15-111 by 2000 pounds or less, the owner or operator of the vehicle must shift or remove the excess so as to comply with paragraph (a) ~~or (f)~~ of Section 15-111. No overweight arrest ticket shall be issued to the owner or operator of the vehicle by any officer if the excess weight is shifted or removed as required by this paragraph.

(e) Whenever the gross weight of a vehicle with a registered gross weight ~~of~~ over 77,000 ~~80,000~~ pounds ~~or less~~ exceeds the weight limits of paragraph (a) ~~(b) or (f)~~ of Section 15-111 of this Chapter by 2000 pounds or less, the owner or operator of the vehicle must remove the excess. Whenever the gross weight of a vehicle with a registered gross weight of 77,000 ~~80,000~~ pounds or more exceeds the weight limits of paragraph (a) ~~(b) or (f)~~ of Section 15-111 by 1,000 pounds or less or 2,000 pounds or less if weighed on wheel load weighers, the owner or operator of the vehicle must remove the excess. In either case no arrest ticket for any overweight violation of this Code shall be issued to the owner or operator of the vehicle by any officer if the excess weight is removed as required by this paragraph. A person who has been granted a special permit under Section 15-301 of this Code shall not be granted a tolerance on wheel load weighers.

(e-5) Auxiliary power or idle reduction unit (APU) weight.

(1) A vehicle with a fully functional APU shall be allowed an additional 400 pounds or the certified unit weight, whichever is less. The additional pounds may be allowed in gross, axles, or bridge formula weight limits above the legal weight limits except when overweight on an axle or axles of the towed unit or units in combination. This tolerance shall be given in addition to the limits in subsection (d) of this Section.

(2) An operator of a vehicle equipped with an APU shall carry written certification showing the weight of the APU, which shall be displayed upon the request of any law enforcement officer.

(3) The operator may be required to demonstrate or certify that the APU is fully functional at all times.

(4) This allowance may not be granted above the weight limits specified on any loads permitted under Section 15-301 of this Code.

(f) Whenever an axle load of a vehicle exceeds axle weight limits allowed by the provisions of a permit an arrest ticket shall be issued, but the owner or operator of the vehicle may shift the load so as to comply with the provisions of the permit. Where such shifting of a load to comply with the permit is accomplished, the owner or operator of the vehicle may then proceed.

(g) Any driver of a vehicle who refuses to stop and submit his vehicle and load to weighing after being directed to do so by an officer or removes or causes the removal of the load or part of it prior to weighing is guilty of a business offense and shall be fined not less than $500 nor more than $2,000.

(Source: P.A. 96-34, eff. 1-1-10.)

(625 ILCS 5/15-113) (from Ch. 95 1/2, par. 15-113)

Sec. 15-113. Violations; Penalties.

(a) Whenever any vehicle is operated in violation of the provisions of Section 15-111 or subsection (d) of Section 3-401, the owner or driver of such vehicle shall be deemed guilty of such violation and either the owner or the driver of such vehicle may be prosecuted for such violation. Any person charged with a violation of any of these provisions who pleads not guilty shall be present in court for the trial on the charge. Any person, firm or corporation convicted of any violation of Section 15-111 including, but not limited to, a maximum axle or gross limit specified on a regulatory sign posted in accordance with paragraph (e) or (f) ~~(g) or (h)~~ of Section 15-111, shall be fined according to the following schedule:

Up to and including 2000 pounds overweight, the fine is $100

From 2001 through 2500 pounds overweight, the fine is $270

From 2501 through 3000 pounds overweight, the fine is $330

From 3001 through 3500 pounds overweight, the fine is $520

From 3501 through 4000 pounds overweight, the fine is $600

From 4001 through 4500 pounds overweight, the fine is $850

From 4501 through 5000 pounds overweight, the fine is $950

From 5001 or more pounds overweight, the fine shall be computed by assessing $1500 for the first 5000 pounds overweight and $150 for each additional increment of 500 pounds overweight or fraction thereof.

In addition any person, firm or corporation convicted of 4 or more violations of Section 15-111 within any 12 month period shall be fined an additional amount of $5,000 for the fourth and each subsequent conviction within the 12 month period. Provided, however, that with regard to a firm or corporation, a fourth or subsequent conviction shall mean a fourth or subsequent conviction attributable to any one employee-driver.

(b) Whenever any vehicle is operated in violation of the provisions of Sections 15-102, 15-103 or 15-107, the owner or driver of such vehicle shall be deemed guilty of such violation and either may be prosecuted for such violation. Any person, firm or corporation convicted of any violation of Sections 15-102, 15-103 or 15-107 shall be fined for the first or second conviction an amount equal to not less than $50 nor more than $500, and for the third and subsequent convictions by the same person, firm or corporation within a period of one year after the date of the first offense, not less than $500 nor more than $1,000.

(c) All proceeds of the additional fines imposed by this amendatory Act of the 96th General Assembly shall be deposited into the Capital Projects Fund.

(Source: P.A. 96-34, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(625 ILCS 5/15-301) (from Ch. 95 1/2, par. 15-301)

Sec. 15-301. Permits for excess size and weight.

(a) The Department with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction may, in their discretion, upon application and good cause being shown therefor, issue a special permit authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this Act or otherwise not in conformity with this Act upon any highway under the jurisdiction of the party granting such permit and for the maintenance of which the party is responsible. Applications and permits other than those in written or printed form may only be accepted from and issued to the company or individual making the movement. Except for an application to move directly across a highway, it shall be the duty of the applicant to establish in the application that the load to be moved by such vehicle or combination is composed of a single nondivisible object that cannot reasonably be dismantled or disassembled. For the purpose of over length movements, more than one object may be carried side by side as long as the height, width, and weight laws are not exceeded and the cause for the over length is not due to multiple objects. For the purpose of over height movements, more than one object may be carried as long as the cause for the over height is not due to multiple objects and the length, width, and weight laws are not exceeded. For the purpose of an over width movement, more than one object may be carried as long as the cause for the over width is not due to multiple objects and length, height, and weight laws are not exceeded. No state or local agency shall authorize the issuance of excess size or weight permits for vehicles and loads that are divisible and that can be carried, when divided, within the existing size or weight maximums specified in this Chapter. Any excess size or weight permit issued in violation of the provisions of this Section shall be void at issue and any movement made thereunder shall not be authorized under the terms of the void permit. In any prosecution for a violation of this Chapter when the authorization of an excess size or weight permit is at issue, it is the burden of the defendant to establish that the permit was valid because the load to be moved could not reasonably be dismantled or disassembled, or was otherwise nondivisible.

(b) The application for any such permit shall: (1) state whether such permit is requested for a single trip or for limited continuous operation; (2) state if the applicant is an authorized carrier under the Illinois Motor Carrier of Property Law, if so, his certificate, registration or permit number issued by the Illinois Commerce Commission; (3) specifically describe and identify the vehicle or vehicles and load to be operated or moved except that for vehicles or vehicle combinations registered by the Department as provided in Section 15-319 of this Chapter, only the Illinois Department of Transportation's (IDT) registration number or classification need be given; (4) state the routing requested including the points of origin and destination, and may identify and include a request for routing to the nearest certified scale in accordance with the Department's rules and regulations, provided the applicant has approval to travel on local roads; and (5) state if the vehicles or loads are being transported for hire. No permits for the movement of a vehicle or load for hire shall be issued to any applicant who is required under the Illinois Motor Carrier of Property Law to have a certificate, registration or permit and does not have such certificate, registration or permit.

(c) The Department or local authority when not inconsistent with traffic safety is authorized to issue or withhold such permit at its discretion; or, if such permit is issued at its discretion to prescribe the route or routes to be traveled, to limit the number of trips, to establish seasonal or other time limitations within which the vehicles

described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operations of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure. The Department shall maintain a daily record of each permit issued along with the fee and the stipulated dimensions, weights, conditions and restrictions authorized and this record shall be presumed correct in any case of questions or dispute. The Department shall install an automatic device for recording applications received and permits issued by telephone. In making application by telephone, the Department and applicant waive all objections to the recording of the conversation.

(d) The Department shall, upon application in writing from any local authority, issue an annual permit authorizing the local authority to move oversize highway construction, transportation, utility and maintenance equipment over roads under the jurisdiction of the Department. The permit shall be applicable only to equipment and vehicles owned by or registered in the name of the local authority, and no fee shall be charged for the issuance of such permits.

(e) As an exception to paragraph (a) of this Section, the Department and local authorities, with respect to highways under their respective jurisdictions, in their discretion and upon application in writing may issue a special permit for limited continuous operation, authorizing the applicant to move loads of agricultural commodities on a 2 axle single vehicle registered by the Secretary of State with axle loads not to exceed 35%, on a 3 or 4 axle vehicle registered by the Secretary of State with axle loads not to exceed 20%, and on a 5 axle vehicle registered by the Secretary of State not to exceed 10% above those provided in Section 15-111. The total gross weight of the vehicle, however, may not exceed the maximum gross weight of the registration class of the vehicle allowed under Section 3-815 or 3-818 of this Code.

As used in this Section, "agricultural commodities" means:

(1) cultivated plants or agricultural produce grown including, but is not limited to, corn, soybeans, wheat, oats, grain sorghum, canola, and rice;

(2) livestock, including but not limited to hogs, equine, sheep, and poultry;

(3) ensilage; and

(4) fruits and vegetables.

Permits may be issued for a period not to exceed 40 days and moves may be made of a distance not to exceed 50 miles from a field, an on-farm grain storage facility, a warehouse as defined in the Illinois Grain Code, or a livestock management facility as defined in the Livestock Management Facilities Act over any highway except the National System of Interstate and Defense Highways. The operator of the vehicle, however, must abide by posted bridge and posted highway weight limits. All implements of husbandry operating under this Section between sunset and sunrise shall be equipped as prescribed in Section 12-205.1.

(e-1) Upon a declaration by the Governor that an emergency harvest situation exists, a special permit issued by the Department under this Section shall not be required from September 1 through December 31 during harvest season emergencies, provided that the weight does not exceed 20% above the limits provided in Section 15-111. All other restrictions that apply to permits issued under this Section shall apply during the declared time period. With respect to highways under the jurisdiction of local authorities, the local authorities may, at their discretion, waive special permit requirements during harvest season emergencies. This permit exemption shall apply to all vehicles eligible to obtain permits under this Section, including commercial vehicles in use during the declared time period.

(f) The form and content of the permit shall be determined by the Department with respect to highways under its jurisdiction and by local authorities with respect to highways under their jurisdiction. Every permit shall be in written form and carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit and no person shall violate any of the terms or conditions of such special permit. Violation of the terms and conditions of the permit shall not be deemed a revocation of the permit; however, any vehicle and load found to be off the route prescribed in the permit shall be held to be operating without a permit. Any off route vehicle and load shall be required to obtain a new permit or permits, as necessary, to authorize the movement back onto the original permit routing. No rule or regulation, nor anything herein shall be construed to authorize any police officer, court, or authorized agent of any authority granting the permit to remove the permit from the possession of the permittee unless the permittee is charged with a fraudulent permit violation as provided in paragraph (i). However, upon arrest for an offense of violation of permit, operating without a permit when the vehicle is off route, or any size or weight offense under this Chapter when the permittee plans to raise the issuance of the permit as a defense, the permittee, or his agent, must produce the permit at any court hearing concerning the alleged offense.

If the permit designates and includes a routing to a certified scale, the permitee, while enroute to the designated scale, shall be deemed in compliance with the weight provisions of the permit provided the axle or gross weights do not exceed any of the permitted limits by more than the following amounts:

Single axle 2000 pounds

Tandem axle 3000 pounds
Gross 5000 pounds

(g) The Department is authorized to adopt, amend, and to make available to interested persons a policy concerning reasonable rules, limitations and conditions or provisions of operation upon highways under its jurisdiction in addition to those contained in this Section for the movement by special permit of vehicles, combinations, or loads which cannot reasonably be dismantled or disassembled, including manufactured and modular home sections and portions thereof. All rules, limitations and conditions or provisions adopted in the policy shall have due regard for the safety of the traveling public and the protection of the highway system and shall have been promulgated in conformity with the provisions of the Illinois Administrative Procedure Act. The requirements of the policy for flagmen and escort vehicles shall be the same for all moves of comparable size and weight. When escort vehicles are required, they shall meet the following requirements:

(1) All operators shall be 18 years of age or over and properly licensed to operate the vehicle.

(2) Vehicles escorting oversized loads more than 12-feet wide must be equipped with a rotating or flashing amber light mounted on top as specified under Section 12-215.

The Department shall establish reasonable rules and regulations regarding liability insurance or self insurance for vehicles with oversized loads promulgated under The Illinois Administrative Procedure Act. Police vehicles may be required for escort under circumstances as required by rules and regulations of the Department.

(h) Violation of any rule, limitation or condition or provision of any permit issued in accordance with the provisions of this Section shall not render the entire permit null and void but the violator shall be deemed guilty of violation of permit and guilty of exceeding any size, weight or load limitations in excess of those authorized by the permit. The prescribed route or routes on the permit are not mere rules, limitations, conditions, or provisions of the permit, but are also the sole extent of the authorization granted by the permit. If a vehicle and load are found to be off the route or routes prescribed by any permit authorizing movement, the vehicle and load are operating without a permit. Any off route movement shall be subject to the size and weight maximums, under the applicable provisions of this Chapter, as determined by the type or class highway upon which the vehicle and load are being operated.

(i) Whenever any vehicle is operated or movement made under a fraudulent permit the permit shall be void, and the person, firm, or corporation to whom such permit was granted, the driver of such vehicle in addition to the person who issued such permit and any accessory, shall be guilty of fraud and either one or all persons may be prosecuted for such violation. Any person, firm, or corporation committing such violation shall be guilty of a Class 4 felony and the Department shall not issue permits to the person, firm or corporation convicted of such violation for a period of one year after the date of conviction. Penalties for violations of this Section shall be in addition to any penalties imposed for violation of other Sections of this Act.

(j) Whenever any vehicle is operated or movement made in violation of a permit issued in accordance with this Section, the person to whom such permit was granted, or the driver of such vehicle, is guilty of such violation and either, but not both, persons may be prosecuted for such violation as stated in this subsection (j). Any person, firm or corporation convicted of such violation shall be guilty of a petty offense and shall be fined for the first offense, not less than $50 nor more than $200 and, for the second offense by the same person, firm or corporation within a period of one year, not less than $200 nor more than $300 and, for the third offense by the same person, firm or corporation within a period of one year after the date of the first offense, not less than $300 nor more than $500 and the Department shall not issue permits to the person, firm or corporation convicted of a third offense during a period of one year after the date of conviction for such third offense.

(k) Whenever any vehicle is operated on local roads under permits for excess width or length issued by local authorities, such vehicle may be moved upon a State highway for a distance not to exceed one-half mile without a permit for the purpose of crossing the State highway.

(l) Notwithstanding any other provision of this Section, the Department, with respect to highways under its jurisdiction, and local authorities, with respect to highways under their jurisdiction, may at their discretion authorize the movement of a vehicle in violation of any size or weight requirement, or both, that would not ordinarily be eligible for a permit, when there is a showing of extreme necessity that the vehicle and load should be moved without unnecessary delay.

For the purpose of this subsection, showing of extreme necessity shall be limited to the following: shipments of livestock, hazardous materials, liquid concrete being hauled in a mobile cement mixer, or hot asphalt.

(m) Penalties for violations of this Section shall be in addition to any penalties imposed for violating any other Section of this Code.

(n) The Department with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction, in their discretion and upon application in writing, may issue a special permit for continuous limited operation, authorizing the applicant to operate a tow-truck that exceeds the weight limits provided for in subsection (a) ~~(d)~~ of Section 15-111, provided:

(1) no rear single axle of the tow-truck exceeds 26,000 pounds;

(2) no rear tandem axle of the tow-truck exceeds 50,000 pounds;

(2.1) no triple rear axle on a manufactured recovery unit exceeds 60,000 pounds;

(3) neither the disabled vehicle nor the disabled combination of vehicles exceed the weight restrictions imposed by this Chapter 15, or the weight limits imposed under a permit issued by the Department prior to hookup;

(4) the tow-truck prior to hookup does not exceed the weight restrictions imposed by this Chapter 15;

(5) during the tow operation the tow-truck does not violate any weight restriction sign;

(6) the tow-truck is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;

(7) the tow-truck is specifically designed and licensed as a tow-truck;

(8) the tow-truck has a gross vehicle weight rating of sufficient capacity to safely handle the load;

(9) the tow-truck is equipped with air brakes;

(10) the tow-truck is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles;

(11) the tow commences at the initial point of wreck or disablement and terminates at a point where the repairs are actually to occur;

(12) the permit issued to the tow-truck is carried in the tow-truck and exhibited on demand by a police officer; and

(13) the movement shall be valid only on state routes approved by the Department.

(o) The Department, with respect to highways under its jurisdiction, and local authorities, with respect to highways under their jurisdiction, in their discretion and upon application in writing, may issue a special permit for continuous limited operation, authorizing the applicant to transport raw milk that exceeds the weight limits provided for in subsection (a) ~~subsections (b) and (f)~~ of Section 15-111 of this Code, provided:

(1) no single axle exceeds 20,000 pounds;

(2) no gross weight exceeds 80,000 pounds;

(3) permits issued by the State are good only for federal and State highways and are not applicable to interstate highways; and

(4) all road and bridge postings must be obeyed.

(Source: P.A. 95-331, eff. 8-21-07; 95-666, eff. 10-11-07.)

(625 ILCS 5/15-307) (from Ch. 95 1/2, par. 15-307)

Sec. 15-307. Fees for Overweight-Gross Loads. Fees for special permits to move vehicles, combinations of vehicles and loads with overweight-gross loads shall be paid at the flat rate fees established in this Section for weights in excess of legal gross weights, by the applicant to the Department.

(a) With respect to fees for overweight-gross loads listed in this Section and for overweight-axle loads listed in Section 15-306, one fee only shall be charged, whichever is the greater, but not for both.

(b) In lieu of the fees stated in this Section and Section 15-306, with respect to combinations of vehicles consisting of a 3-axle truck tractor with a tandem axle composed of 2 consecutive axles drawing a semitrailer, or other vehicle approved by the Department, equipped with a tandem axle composed of 3 consecutive axles, weighing over 80,000 pounds but not more than 88,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$10
From 45 miles to 90 miles	12.50
From 90 miles to 135 miles	15.00
From 135 miles to 180 miles	17.50
From 180 miles to 225 miles	20.00
For each additional 45 miles or part thereof in excess of the rate for 225 miles, an additional	2.50

For such combinations weighing over 88,000 pounds but not more than 100,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	15
From 45 miles to 90 miles	25
From 90 miles to 135 miles	35
From 135 miles to 180 miles	45
From 180 miles to 225 miles	55

For each additional 45 miles or part thereof in excess of the rate for 225 miles, an additional	10

For such combination weighing over 100,000 pounds but not more than 110,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$20
From 45 miles to 90 miles	32.50
From 90 miles to 135 miles	45
From 135 miles to 180 miles	57.50
From 180 miles to 225 miles	70
For each additional 45 miles or part thereof in excess of the rate for 225 miles an additional	12.50

For such combinations weighing over 110,000 pounds but not more than 120,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$30
From 46 miles to 90 miles	55
From 90 miles to 135 miles	80
From 135 miles to 180 miles	105
From 180 miles to 225 miles	130
For each additional 45 miles or part thereof in excess of the rate for 225 miles an additional	25

Payment of overweight fees for the above combinations also shall include fees for overwidth dimensions of 4 feet or less, overheight and overlength. Any overwidth in excess of 4 feet shall be charged an additional fee of $15.

(c) In lieu of the fees stated in this Section and Section 15-306 of this Chapter, with respect to combinations of vehicles consisting of a 3-axle truck tractor with a tandem axle composed of 2 consecutive axles drawing a semitrailer, or other vehicle approved by the Department, equipped with a tandem axle composed of 2 consecutive axles, weighing over 80,000 pounds but not more than 88,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$20
From 45 miles to 90 miles	32.50
From 90 miles to 135 miles	45
From 135 miles to 180 miles	57.50
From 180 miles to 225 miles	70
For each additional 60 miles or part thereof in excess of the rate for 225 miles an additional	12.50

For such combination weighing over 88,000 pounds but not more than 100,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$30
From 46 miles to 90 miles	55
From 90 miles to 135 miles	80
From 135 miles to 180 miles	105
From 180 miles to 225 miles	130
For each additional 45 miles or part thereof in excess of the rate for 225 miles an additional	25

Payment of overweight fees for the above combinations also shall include fees for overwidth dimension of 4 feet or less, overheight and overlength. Any overwidth in excess of 4 feet shall be charged an additional overwidth fee of $15.

(d) In lieu of the fees stated in this Section and in Section 15-306 of this Chapter, with respect to a 3 (or more) axle mobile crane or water well-drilling vehicle consisting of a single axle and a tandem axle or 2 tandem axle groups composed of 2 consecutive axles each, with a distance of extreme axles not less than 18 feet, weighing not more than 60,000 pounds gross with no single axle weighing more than 21,000 pounds, or any tandem axle group

to exceed 40,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$12.50
For each additional 45 miles or portion thereof	9.00

For such vehicles weighing over 60,000 pounds but not more than 68,000 pounds with no single axle weighing more than 21,000 pounds and no tandem axle group exceeding 48,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$20
For each additional 45 miles or portion thereof	12.50

Payment of overweight fees for the above vehicle shall include overwidth dimension of 4 feet or less, overheight and overlength. Any overwidth in excess of 4 feet shall be charged an additional overwidth fee of $15.

(e) In lieu of the fees stated in this Section and in Section 15-306 of this Chapter, with respect to a 4 (or more) axle mobile crane or water well drilling vehicle consisting of 2 sets of tandem axles composed of 2 or more consecutive axles each with a distance between extreme axles of not less than 23 feet weighing not more than 72,000 pounds with axle weights on one set of tandem axles not more than 34,000 pounds, and weight in the other set of tandem axles not to exceed 40,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$15
For each additional 45 miles or portion thereof	10

For such vehicles weighing over 72,000 pounds but not more than 76,000 pounds with axle weights on either set of tandem axles not more than 44,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$20
For each additional 45 miles or portion thereof	12.50

Payment of overweight fees for the above vehicle shall include overwidth dimension of 4 feet or less, overheight and overlength. Any overwidth in excess of 4 feet shall be charged an additional fee of $15.

(f) In lieu of fees stated in this Section and in Section 15-306 of this Chapter, with respect to a two axle mobile crane or water well-drilling vehicle consisting of 2 single axles weighing not more than 48,000 pounds with no single axle weighing more than 25,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$15
For each additional 45 miles or portion thereof	10

For such vehicles weighing over 48,000 pounds but not more than 54,000 pounds with no single axle weighing more than 28,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$20
For each additional 45 miles or portion thereof	12.50

Payment of overweight fees for the above vehicle shall include overwidth dimension of 4 feet or less, overheight and overlength. Any overwidth in excess of 4 feet shall be charged an additional overwidth fee of $15.

(g) Fees for special permits to move vehicles, combinations of vehicles, and loads with overweight gross loads not included in the fee categories shall be paid by the applicant to the Department at the rate of $50 plus 3.5 cents per ton-mile in excess of legal weight.

With respect to fees for overweight gross loads not included in the schedules specified in paragraphs (a) through (e) of Section 15-307 and for overweight axle loads listed in Section 15-306, one fee only shall be charged, whichever is the greater, but not both. An additional fee in accordance with the schedule set forth in Section 15-305 shall be charged for each overdimension.

(h) Fees for special permits for continuous limited operation authorizing the applicant to operate vehicles that exceed the weight limits provided for in subsection (a) ~~(d)~~ of Section 15-111.

All single axles excluding the steer axle and axles within a tandem are limited to 24,000 pounds or less unless otherwise noted in this subsection (h). Loads up to 12 feet wide and 110 feet in length shall be included within this permit. Fees shall be $250 for a quarterly and $1,000 for an annual permit. Front tag axle and double tandem trailers are not eligible.

The following configurations qualify for the quarterly and annual permits:

(1) 3 or more axles, total gross weight of 68,000 pounds or less, front tandem or axle 21,000 pounds or less, rear tandem 48,000 pounds or less on 2 or 3 axles, 25,000 pounds or less on single axle;

(2) 4 or more axles, total gross weight of 76,000 pounds or less, front tandem 44,000 pounds or less on 2 axles, front axle 20,000 pounds or less, rear tandem 44,000 pounds or less on 2 axles and 23,000 pounds or less on single axle or 48,000 pounds or less on 3 axles, 25,000 pounds or less on single axle;

(3) 5 or more axles, total gross weight of 100,000 pounds or less, front tandem 48,000 pounds or less on 2 axles, front axle 20,000 pounds or less, 25,000 pounds or less on single axle, rear tandem 48,000 pounds or less on 2 axles, 25,000 pounds or less on single axle;

(4) 6 or more axles, total gross weight of 120,000 pounds or less, front tandem 48,000 pounds or less on 2 axles, front axle 20,000 pounds or less, single axle 25,000 pounds or less, or rear tandem 60,000 pounds or less on 3 axles, 21,000 pounds or less on single axles within a tandem.

(Source: P.A. 96-34, eff. 1-1-10.)".

AMENDMENT NO. 2 TO SENATE BILL 1644

AMENDMENT NO. 2 . Amend Senate Bill 1644 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 1-190.05, 3-401, 3-815, 3-818, 12-202, 15-111, 15-112, 15-113, 15-301, and 15-307 and by adding Section 1-105.4 as follows:

(625 ILCS 5/1-105.4 new)

Sec. 1-105.4. Auxiliary power unit, or APU. Small engines used on commercial trucks to provide power for auxiliary loads, such as heating, air conditioning, and lighting in sleeper berths, which allows the operator to shut off the main engine while resting. Auxiliary power units may also be referred to as idle reduction units.

(625 ILCS 5/1-190.05)

Sec. 1-190.05. Special hauling vehicle. A vehicle or combination of vehicles transporting asphalt or concrete in the plastic state or a vehicle or combination of vehicles that is subject to the weight limitations in subsection ~~subsections~~ (a) ~~and (b)~~ of Section 15-111 for which the owner of the vehicle or combination of vehicles has elected to pay, in addition to the registration fees stated in subsection (a) or (c) of Section 3-815 or Section 3-818, $100 to the Secretary of State for each registration year.

(Source: P.A. 90-89, eff. 1-1-98.)

(625 ILCS 5/3-401) (from Ch. 95 1/2, par. 3-401)

Sec. 3-401. Effect of provisions.

(a) It shall be unlawful for any person to violate any provision of this Chapter or to drive or move or for an owner knowingly to permit to be driven or moved upon any highway any vehicle of a type required to be registered hereunder which is not registered or for which the appropriate fee has not been paid when and as required hereunder, except that when application accompanied by proper fee has been made for registration of a vehicle it may be operated temporarily pending complete registration upon displaying a duplicate application duly verified or other evidence of such application or otherwise under rules and regulations promulgated by the Secretary of State.

(b) The appropriate fees required to be paid under the various provisions of this Act for registration of vehicles shall mean the fee or fees which would have been paid initially, if proper and timely application had been made to the Secretary of State for the appropriate registration required, whether such registration be a flat weight registration, a single trip permit, a reciprocity permit or a supplemental application to an original prorate application together with payment of fees due under the supplemental application for prorate decals.

(c) Effective October 1, 1984, no vehicle required to pay a Federal Highway Users Tax shall be registered unless proof of payment, in a form prescribed and approved by the Secretary of State, is submitted with the appropriate registration. Notwithstanding any other provision of this Code, failure of the applicant to comply with this paragraph shall be deemed grounds for the Secretary to refuse registration.

(c-1) A vehicle may not be registered by the Secretary of State unless that vehicle:

(1) was originally manufactured for operation on highways;

(2) is a modification of a vehicle that was originally manufactured for operation on highways; or

(3) was assembled from component parts designed for use in vehicles to be operated on highways.

(d) Second division vehicles.

(1) A vehicle of the second division moved or operated within this State shall have had paid for it the appropriate registration fees and flat weight tax, as evidenced by the Illinois registration issued for that vehicle, for the gross weight of the vehicle and load being operated or moved within this State. Second division vehicles of foreign jurisdictions operated within this State under a single trip permit, fleet reciprocity plan, prorate registration plan, or apportional registration plan, instead of second division vehicle registration under Article VIII of this Chapter, must have had paid for it the appropriate registration fees and flat weight tax in the base jurisdiction of that vehicle, as evidenced by the maximum gross weight shown on the foreign registration cards, plus any appropriate fees required under this Code.

(2) If a vehicle and load are operated in this State and the appropriate fees and taxes have not been paid or the vehicle and load exceed the registered gross weight for which the required fees and

taxes have been paid by 2001 pounds or more, the operator or owner shall be fined as provided in Section 15-113 of this Code. However, an owner or operator shall not be subject to arrest under this subsection for any weight in excess of 80,000 pounds. Further, ~~for any unregistered vehicle or vehicle displaying expired registration,~~ no fine shall exceed the actual cost of what the appropriate registration for that vehicle and load should have been as established in subsection (a) of Section 3-815 of this Chapter regardless of the route traveled. For purposes of this paragraph (2), "appropriate registration" means the full annual cost of the required registration and its associated fees.

(3) Any person operating a legal combination of vehicles displaying valid registration shall not be considered in violation of the registration provision of this subsection unless the total gross weight of the combination exceeds the total licensed weight of the vehicles in the combination. The gross weight of a vehicle exempt from the registration requirements of this Chapter shall not be included when determining the total gross weight of vehicles in combination.

(4) If the defendant claims that he or she had previously paid the appropriate Illinois registration fees and taxes for this vehicle before the alleged violation, the defendant shall have the burden of proving the existence of the payment by competent evidence. Proof of proper Illinois registration issued by the Secretary of State, or the appropriate registration authority from the foreign state, shall be the only competent evidence of payment.

(Source: P.A. 94-239, eff. 1-1-06.)

(625 ILCS 5/3-815) (from Ch. 95 1/2, par. 3-815)

Sec. 3-815. Flat weight tax; vehicles of the second division.

(a) Except as provided in Section 3-806.3, every owner of a vehicle of the second division registered under Section 3-813, and not registered under the mileage weight tax under Section 3-818, shall pay to the Secretary of State, for each registration year, for the use of the public highways, a flat weight tax at the rates set forth in the following table, the rates including the $10 registration fee:

SCHEDULE OF FLAT WEIGHT TAX
REQUIRED BY LAW

Gross Weight in Lbs. Including Vehicle and Maximum Load	Class	Total Fees each Fiscal year
8,000 lbs. and less	B	$98
8,001 lbs. to 12,000 lbs.	D	138
12,001 lbs. to 16,000 lbs.	F	242
16,001 lbs. to 26,000 lbs.	H	490
26,001 lbs. to 28,000 lbs.	J	630
28,001 lbs. to 32,000 lbs.	K	842
32,001 lbs. to 36,000 lbs.	L	982
36,001 lbs. to 40,000 lbs.	N	1,202
40,001 lbs. to 45,000 lbs.	P	1,390
45,001 lbs. to 50,000 lbs.	Q	1,538
50,001 lbs. to 54,999 lbs.	R	1,698
55,000 lbs. to 59,500 lbs.	S	1,830
59,501 lbs. to 64,000 lbs.	T	1,970
64,001 lbs. to 73,280 lbs.	V	2,294
73,281 lbs. to 77,000 lbs.	X	2,622
77,001 lbs. to 80,000 lbs.	Z	2,790

Beginning with the 2010 registration year a $1 surcharge shall be collected for vehicles registered in the 8,000 lbs. and less flat weight plate category above to be deposited into the State Police Vehicle Fund.

All of the proceeds of the additional fees imposed by this amendatory Act of the 96th General Assembly shall be deposited into the Capital Projects Fund.

(a-1) A Special Hauling Vehicle is a vehicle or combination of vehicles of the second division registered under Section 3-813 transporting asphalt or concrete in the plastic state or a vehicle or combination of vehicles that are subject to the gross weight limitations in subsection (a) ~~(b)~~ of Section 15-111 for which the owner of the vehicle or combination of vehicles has elected to pay, in addition to the registration fee in subsection (a), $125 to the Secretary of State for each registration year. The Secretary shall designate this class of vehicle as a Special Hauling Vehicle.

(b) Except as provided in Section 3-806.3, every camping trailer, motor home, mini motor home, travel trailer, truck camper or van camper used primarily for recreational purposes, and not used commercially, nor for hire, nor owned by a commercial business, may be registered for each registration year upon the filing of a proper

application and the payment of a registration fee and highway use tax, according to the following table of fees:

MOTOR HOME, MINI MOTOR HOME, TRUCK CAMPER OR VAN CAMPER

Gross Weight in Lbs. Including Vehicle and Maximum Load	Total Fees Each Calendar Year
8,000 lbs and less	$78
8,001 Lbs. to 10,000 Lbs	90
10,001 Lbs. and Over	102

CAMPING TRAILER OR TRAVEL TRAILER

Gross Weight in Lbs. Including Vehicle and Maximum Load	Total Fees Each Calendar Year
3,000 Lbs. and Less	$18
3,001 Lbs. to 8,000 Lbs.	30
8,001 Lbs. to 10,000 Lbs.	38
10,001 Lbs. and Over	50

Every house trailer must be registered under Section 3-819.

(c) Farm Truck. Any truck used exclusively for the owner's own agricultural, horticultural or livestock raising operations and not-for-hire only, or any truck used only in the transportation for-hire of seasonal, fresh, perishable fruit or vegetables from farm to the point of first processing, may be registered by the owner under this paragraph in lieu of registration under paragraph (a), upon filing of a proper application and the payment of the $10 registration fee and the highway use tax herein specified as follows:

SCHEDULE OF FEES AND TAXES

Gross Weight in Lbs. Including Truck and Maximum Load	Class	Total Amount for each Fiscal Year
16,000 lbs. or less	VF	$150
16,001 to 20,000 lbs.	VG	226
20,001 to 24,000 lbs.	VH	290
24,001 to 28,000 lbs.	VJ	378
28,001 to 32,000 lbs.	VK	506
32,001 to 36,000 lbs.	VL	610
36,001 to 45,000 lbs.	VP	810
45,001 to 54,999 lbs.	VR	1,026
55,000 to 64,000 lbs.	VT	1,202
64,001 to 73,280 lbs.	VV	1,290
73,281 to 77,000 lbs.	VX	1,350
77,001 to 80,000 lbs.	VZ	1,490

In the event the Secretary of State revokes a farm truck registration as authorized by law, the owner shall pay the flat weight tax due hereunder before operating such truck.

Any combination of vehicles having 5 axles, with a distance of 42 feet or less between extreme axles, that are subject to the weight limitations in subsection (a) ~~and (b)~~ of Section 15-111 for which the owner of the combination of vehicles has elected to pay, in addition to the registration fee in subsection (c), $125 to the Secretary of State for each registration year shall be designated by the Secretary as a Special Hauling Vehicle.

(d) The number of axles necessary to carry the maximum load provided shall be determined from Chapter 15 of this Code.

(e) An owner may only apply for and receive 5 farm truck registrations, and only 2 of those 5 vehicles shall exceed 59,500 gross weight in pounds per vehicle.

(f) Every person convicted of violating this Section by failure to pay the appropriate flat weight tax to the Secretary of State as set forth in the above tables shall be punished as provided for in Section 3-401.

(Source: P.A. 95-1009, eff. 12-15-08; 96-34, eff. 7-13-09.)

(625 ILCS 5/3-818) (from Ch. 95 1/2, par. 3-818)

Sec. 3-818. (a) Mileage weight tax option. Any owner of a vehicle of the second division may elect to pay a mileage weight tax for such vehicle in lieu of the flat weight tax set out in Section 3-815. Such election shall be binding to the end of the registration year. Renewal of this election must be filed with the Secretary of State on or before July 1 of each registration period. In such event the owner shall, at the time of making such election, pay the $10 registration fee and the minimum guaranteed mileage weight tax, as hereinafter provided, which payment shall permit the owner to operate that vehicle the maximum mileage in this State hereinafter set forth. Any vehicle being operated on mileage plates cannot be operated outside of this State. In addition thereto, the owner of that vehicle

shall pay a mileage weight tax at the following rates for each mile traveled in this State in excess of the maximum mileage provided under the minimum guaranteed basis:

BUS, TRUCK OR TRUCK TRACTOR

Gross Weight Vehicle and Load	Class	Minimum Guaranteed Mileage Weight Tax	Maximum Mileage Permitted Under Guaranteed Tax	Mileage Weight Tax for Mileage in excess of Guaranteed Mileage
12,000 lbs. or less	MD	$73	5,000	26 Mills
12,001 to 16,000 lbs.	MF	120	6,000	34 Mills
16,001 to 20,000 lbs.	MG	180	6,000	46 Mills
20,001 to 24,000 lbs.	MH	235	6,000	63 Mills
24,001 to 28,000 lbs.	MJ	315	7,000	63 Mills
28,001 to 32,000 lbs.	MK	385	7,000	83 Mills
32,001 to 36,000 lbs.	ML	485	7,000	99 Mills
36,001 to 40,000 lbs.	MN	615	7,000	128 Mills
40,001 to 45,000 lbs.	MP	695	7,000	139 Mills
45,001 to 54,999 lbs.	MR	853	7,000	156 Mills
55,000 to 59,500 lbs.	MS	920	7,000	178 Mills
59,501 to 64,000 lbs.	MT	985	7,000	195 Mills
64,001 to 73,280 lbs.	MV	1,173	7,000	225 Mills
73,281 to 77,000 lbs.	MX	1,328	7,000	258 Mills
77,001 to 80,000 lbs.	MZ	1,415	7,000	275 Mills

TRAILER

Gross Weight Vehicle and Load	Class	Minimum Guaranteed Mileage Weight Tax	Maximum Mileage Permitted Under Guaranteed Tax	Mileage Weight Tax for Mileage in excess of Guaranteed Mileage
14,000 lbs. or less	ME	$75	5,000	31 Mills
14,001 to 20,000 lbs.	MF	135	6,000	36 Mills
20,001 to 36,000 lbs.	ML	540	7,000	103 Mills
36,001 to 40,000 lbs.	MM	750	7,000	150 Mills

(a-1) A Special Hauling Vehicle is a vehicle or combination of vehicles of the second division registered under Section 3-813 transporting asphalt or concrete in the plastic state or a vehicle or combination of vehicles that are subject to the gross weight limitations in subsection (a) ~~(b)~~ of Section 15-111 for which the owner of the vehicle or combination of vehicles has elected to pay, in addition to the registration fee in subsection (a), $125 to the Secretary of State for each registration year. The Secretary shall designate this class of vehicle as a Special Hauling Vehicle.

In preparing rate schedules on registration applications, the Secretary of State shall add to the above rates, the $10 registration fee. The Secretary may decline to accept any renewal filed after July 1st.

The number of axles necessary to carry the maximum load provided shall be determined from Chapter 15 of this Code.

Every owner of a second division motor vehicle for which he has elected to pay a mileage weight tax shall keep a daily record upon forms prescribed by the Secretary of State, showing the mileage covered by that vehicle in this State. Such record shall contain the license number of the vehicle and the miles traveled by the vehicle in this State for each day of the calendar month. Such owner shall also maintain records of fuel consumed by each such motor vehicle and fuel purchases therefor. On or before the 10th day of July the owner shall certify to the Secretary of State upon forms prescribed therefor, summaries of his daily records which shall show the miles traveled by the vehicle in this State during the preceding 12 months and such other information as the Secretary of State may require. The daily record and fuel records shall be filed, preserved and available for audit for a period of 3 years. Any owner filing a return hereunder shall certify that such return is a true, correct and complete return. Any person who willfully makes a false return hereunder is guilty of perjury and shall be punished in the same manner and to the same extent as is provided therefor.

At the time of filing his return, each owner shall pay to the Secretary of State the proper amount of tax at the rate herein imposed.

Every owner of a vehicle of the second division who elects to pay on a mileage weight tax basis and who

operates the vehicle within this State, shall file with the Secretary of State a bond in the amount of $500. The bond shall be in a form approved by the Secretary of State and with a surety company approved by the Illinois Department of Insurance to transact business in this State as surety, and shall be conditioned upon such applicant's paying to the State of Illinois all money becoming due by reason of the operation of the second division vehicle in this State, together with all penalties and interest thereon.

Upon notice from the Secretary that the registrant has failed to pay the excess mileage fees, the surety shall immediately pay the fees together with any penalties and interest thereon in an amount not to exceed the limits of the bond.

(Source: P.A. 94-239, eff. 1-1-06.)

(625 ILCS 5/12-202) (from Ch. 95 1/2, par. 12-202)

Sec. 12-202. Clearance, identification and side marker lamps.

(a) Second division vehicles with a GVWR over 10,000 pounds ~~Every motor vehicle of the second division~~, the length of which together with any trailer or trailers in tow thereof, is more than 25 feet or the width of which is more than 80 inches exclusive of mirrors, bumpers and other required safety devices, while being operated on the highways of this State during the period from sunset to sunrise, shall display on the front of the vehicle 2 yellow or amber lights, one on each upper front corner of the vehicle, which shall be plainly visible at a distance of at least 500 feet; also on the rear thereof in a horizontal line, 3 red lights plainly visible at a distance of not less than 500 feet; also on the front of the body of that vehicle near the lower left hand corner one yellow or amber tinted reflector, and near the lower right hand corner one yellow or amber tinted reflector; also red reflectors on the rear of the body of that vehicle, not more than 12 inches from the lower left and right hand corners. All motor vehicles of the second division more than 20 feet long, and all trailers and semitrailers, except trailers and semitrailers having a gross weight of 3,000 pounds or less including the weight of the trailer and maximum load, while being operated on the highways of this State during the period from sunset to sunrise, shall display on each side of the vehicle at approximately the one-third points of the length of the same, at a height not exceeding 5 feet above the surface of the road, and reflecting on a line approximately at right angles to the center line of the vehicle, 2 amber tinted reflectors. After January, 1974, all new motor vehicles of the second division more than 20 feet long, and all trailers and semitrailers except trailers and semitrailers having a gross weight of 3,000 pounds or less including the weight of the trailer and maximum load sold as new in this State, while being operated on the highways of this State during period from sunset to sunrise, shall display on each side of the vehicle, not more than 12 inches from the front, one amber tinted reflector, and not more than 12 inches from the rear one red reflector at a height not exceeding 5 feet above the surface of the road, and reflecting on a line approximately at right angles to the center line of the vehicle, approved by the Department.

(b) Every trailer and semitrailer having a gross weight of 3,000 pounds or less including the weight of the trailer and maximum load, towed either by a motor vehicle of the first division or a motor vehicle of the second division shall be equipped with 2 red reflectors, which will be visible when hit by headlight beams 300 feet away at night, on the rear of the body of such trailer, not more than 12 inches from the lower left hand and lower right hand corners.

(c) Every vehicle designated in paragraph (a) or (b) of this Section that is manufactured after December 31, 1973, shall, at the places and times specified in paragraph (a) or (b) of this Section, display reflectors and clearance, identification, and side marker lamps in conformance with the specifications prescribed by the Department.

(Source: P.A. 78-1297.)

(625 ILCS 5/15-111) (from Ch. 95 1/2, par. 15-111)

Sec. 15-111. Wheel and axle loads and gross weights.

(a) No ~~On non-designated highways, no~~ vehicle or combination of vehicles ~~equipped~~ with pneumatic tires may be operated, unladen or with load, when the total weight on ~~transmitted to~~ the road surface exceeds the following: 20,000 pounds on a single axle; ~~or~~ 34,000 pounds on a tandem axle with no axle within the tandem exceeding 20,000 pounds ; ~~except:~~

~~(1) when a different limit is established and posted in accordance with Section 15-316 of this Code;~~

~~(2) vehicles for which the Department of Transportation and local authorities issue overweight permits under authority of Section 15-301 of this Code;~~

~~(3) tow trucks subject to the conditions provided in subsection (d) may not exceed 24,000 pounds on a single rear axle or 44,000 pounds on a tandem rear axle;~~

~~(4) any single axle of a 2 axle truck weighing 36,000 pounds or less and not a part of a combination of vehicles, shall not exceed 20,000 pounds;~~

~~(5) any single axle of a 2 axle truck equipped with a personnel lift or digger derrick, weighing 36,000 pounds or less, owned and operated by a public utility, shall not exceed 20,000 pounds;~~

~~(6) any single axle of a 2 axle truck specially equipped with a front loading compactor used exclusively for garbage, refuse, or recycling may not exceed 20,000 pounds per axle, provided that the gross weight of the vehicle does not exceed 40,000 pounds;~~

~~(7) a truck, not in combination and specially equipped with a selfcompactor or an industrial roll off hoist and roll off container, used exclusively for garbage or refuse operations may, when laden, transmit upon the road surface the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle;~~

~~(8) a truck, not in combination and used exclusively for the collection of rendering materials, may, when laden, transmit upon the road surface the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle;~~

~~(9) tandem axles on a 3 axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2014 and first registered in Illinois prior to January 1, 2015, with a distance greater than 72 inches but not more than 96 inches between any series of 2 axles, is allowed a combined weight on the series not to exceed 36,000 pounds and neither axle of the series may exceed 20,000 pounds. Any vehicle of this type manufactured after the model year of 2014 or first registered in Illinois after December 31, 2014 may not exceed a combined weight of 34,000 pounds through the series of 2 axles and neither axle of the series may exceed 20,000 pounds;~~

~~(10) a 4 axle truck mixer registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete in the plastic state and manufactured prior to or in the model year of 2014 and first registered in Illinois prior to January 1, 2015, is allowed the following maximum weights: 20,000 pounds on any single axle; 36,000 pounds on any series of 2 axles greater than 72 inches but not more than 96 inches; and 34,000 pounds on any series of 2 axles greater than 40 inches but not more than 72 inches;~~

~~(11) 4 axle vehicles or a 5 or more axle combination of vehicles: The weight transmitted upon the road surface through any series of 3 axles whose centers are more than 96 inches apart, measured between extreme axles in the series, may not exceed those allowed in the table contained in subsection (f) of this Section. No axle or tandem axle of the series may exceed the maximum weight permitted under this Section for a single or tandem axle.~~

~~No vehicle or combination of vehicles equipped with other than pneumatic tires may be operated, unladen or with load, upon the highways of this State when the gross weight on the road surface through any wheel exceeds 800 pounds per inch width of tire tread or when the gross weight on the road surface through any axle exceeds 16,000 pounds.~~

~~(b) On non designated highways, the gross weight of vehicles and combination of vehicles including the weight of the vehicle or combination and its maximum load shall be subject to the federal bridge formula provided in subsection (f) of this Section.~~

~~VEHICLES OPERATING ON CRAWLER TYPE TRACKS ..... 40,000 pounds~~

~~TRUCKS EQUIPPED WITH SELFCOMPACTORS~~
~~OR ROLL OFF HOISTS AND ROLL OFF CONTAINERS FOR GARBAGE,~~
~~REFUSE, OR RECYCLING HAULS ONLY AND TRUCKS USED FOR~~
~~THE COLLECTION OF RENDERING MATERIALS~~
~~On Highway Not Part of National System~~
~~of Interstate and Defense Highways~~

~~with 2 axles~~	~~36,000 pounds~~
~~with 3 axles~~	~~54,000 pounds~~

~~TWO AXLE TRUCKS EQUIPPED WITH~~
~~A FRONT LOADING COMPACTOR USED EXCLUSIVELY~~
~~FOR THE COLLECTION OF GARBAGE, REFUSE, OR RECYCLING~~

~~with 2 axles~~	~~40,000 pounds~~

~~A 4 axle truck mixer registered as a Special Hauling Vehicle, used exclusively for mixing and transportation of concrete in the plastic state, manufactured before or in the model year of 2014, and first registered in Illinois before January 1, 2015, is allowed a maximum gross weight listed in the table of subsection (f) of this Section for 4 axles. This vehicle, while loaded with concrete in the plastic state, is not subject to the series of 3 axles requirement provided for in subdivision (a)(11) of this Section, but no axle or tandem axle of the series may exceed the maximum weight permitted under subdivision (a)(10) of this Section.~~

~~(b-1) As used in this Section, a "recycling haul" or "recycling operation" means the hauling of segregated, non hazardous, non special, homogeneous non putrescible materials, such as paper, glass, cans, or plastic, for subsequent use in the secondary materials market.~~

~~(c) Cities having a population of more than 50,000 may permit by ordinance axle loads on 2 axle motor vehicles 33 1/2% above those provided for herein, but the increase shall not become effective until the city has officially notified the Department of the passage of the ordinance and shall not apply to those vehicles when outside of the limits of the city, nor shall the gross weight of any 2 axle motor vehicle operating over any street of the city exceed 40,000 pounds.~~

~~(d) Weight limitations shall not apply to vehicles (including loads) operated by a public utility when transporting equipment required for emergency repair of public utility facilities or properties or water wells.~~

~~A combination of vehicles, including a tow truck and a disabled vehicle or disabled combination of vehicles, that exceeds the weight restriction imposed by this Code, may be operated on a public highway in this State provided that neither the disabled vehicle nor any vehicle being towed nor the tow truck itself shall exceed the weight limitations permitted under this Chapter. During the towing operation, neither the tow truck nor the vehicle combination shall exceed 24,000 pounds on a single rear axle and 44,000 pounds on a tandem rear axle, provided the towing vehicle:~~

~~(1) is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and is equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor trailer combination that is equipped with air brakes;~~

~~(2) is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;~~

~~(3) is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles; and~~

~~(4) does not engage in a tow exceeding 20 miles from the initial point of wreck or disablement. Any additional movement of the vehicles may occur only upon issuance of authorization for that movement under the provisions of Sections 15-301 through 15-319 of this Code. The towing vehicle, however, may tow any disabled vehicle from the initial point of wreck or disablement to a point where repairs are actually to occur. This movement shall be valid only on State routes. The tower must abide by posted bridge weight limits.~~

~~Gross weight limits shall not apply to the combination of the tow truck and vehicles being towed. The tow truck license plate must cover the operating empty weight of the tow truck only. The weight of each vehicle being towed shall be covered by a valid license plate issued to the owner or operator of the vehicle being towed and displayed on that vehicle. If no valid plate issued to the owner or operator of that vehicle is displayed on that vehicle, or the plate displayed on that vehicle does not cover the weight of the vehicle, the weight of the vehicle shall be covered by the third tow truck plate issued to the owner or operator of the tow truck and temporarily affixed to the vehicle being towed. If a roll-back carrier is registered and being used as a tow truck, however, the license plate or plates for the tow truck must cover the gross vehicle weight, including any load carried on the bed of the roll-back carrier.~~

~~The Department may by rule or regulation prescribe additional requirements. However, nothing in this Code shall prohibit a tow truck under instructions of a police officer from legally clearing a disabled vehicle, that may be in violation of weight limitations of this Chapter, from the roadway to the berm or shoulder of the highway. If in the opinion of the police officer that location is unsafe, the officer is authorized to have the disabled vehicle towed to the nearest place of safety.~~

~~For the purpose of this subsection, gross vehicle weight rating, or GVWR, shall mean the value specified by the manufacturer as the loaded weight of the tow truck.~~

~~(e) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated, unladen or with load, upon the highways of this State in violation of the provisions of any permit issued under the provisions of Sections 15-301 through 15-319 of this Chapter.~~

~~(f) No vehicle or combination of vehicles with pneumatic tires may be operated, unladen or with load, when the total weight on the road surface exceeds the following: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle with no axle within the tandem exceeding 20,000 pounds;~~ 80,000 pounds gross weight for vehicle combinations of 5 or more axles; or a total weight on a group of 2 or more consecutive axles in excess of that weight produced by the application of the following formula: W = 500 times the sum of (LN divided by N-1) + 12N + 36, where "W" equals overall total weight on any group of 2 or more consecutive axles to the nearest 500 pounds, "L" equals the distance measured to the nearest foot between extremes of any group of 2 or more consecutive axles, and "N" equals the number of axles in the group under consideration.

The above formula when expressed in tabular form results in allowable loads as follows:

Distance measured to the nearest foot between the extremes of any group of 2 or more consecutive axles	Maximum weight in pounds of any group of 2 or more consecutive axles				
feet	2 axles	3 axles	4 axles	5 axles	6 axles
4	34,000				
5	34,000				
6	34,000				
7	34,000				

8	38,000*	42,000			
9	39,000	42,500			
10	40,000	43,500			
11		44,000			
12		45,000	50,000		
13		45,500	50,500		
14		46,500	51,500		
15		47,000	52,000		
16		48,000	52,500	58,000	
17		48,500	53,500	58,500	
18		49,500	54,000	59,000	
19		50,000	54,500	60,000	
20		51,000	55,500	60,500	66,000
21		51,500	56,000	61,000	66,500
22		52,500	56,500	61,500	67,000
23		53,000	57,500	62,500	68,000
24		54,000	58,000	63,000	68,500
25		54,500	58,500	63,500	69,000
26		55,500	59,500	64,000	69,500
27		56,000	60,000	65,000	70,000
28		57,000	60,500	65,500	71,000
29		57,500	61,500	66,000	71,500
30		58,500	62,000	66,500	72,000
31		59,000	62,500	67,500	72,500
32		60,000	63,500	68,000	73,000
33			64,000	68,500	74,000
34			64,500	69,000	74,500
35			65,500	70,000	75,000
36			66,000	70,500	75,500
37			66,500	71,000	76,000
38			67,500	72,000	77,000
39			68,000	72,500	77,500
40			68,500	73,000	78,000
41			69,500	73,500	78,500
42			70,000	74,000	79,000
43			70,500	75,000	80,000
44			71,500	75,500	
45			72,000	76,000	
46			72,500	76,500	
47			73,500	77,500	
48			74,000	78,000	
49			74,500	78,500	
50			75,500	79,000	
51			76,000	80,000	
52			76,500		
53			77,500		
54			78,000		
55			78,500		
56			79,500		
57			80,000		

*If the distance between 2 axles is 96 inches or less, the 2 axles are tandem axles and the maximum total weight may not exceed 34,000 pounds, notwithstanding the higher limit resulting from the application of the formula.

Vehicles not in a combination having more than 4 axles may not exceed the weight in the table in this subsection (a) ~~(f)~~ for 4 axles measured between the extreme axles of the vehicle.

Vehicles in a combination having more than 6 axles may not exceed the weight in the table in this subsection (a) ~~(f)~~ for 6 axles measured between the extreme axles of the combination.

Local authorities, with respect to streets and highways under their jurisdiction, without additional fees, may also by ordinance or resolution allow the weight limitations of this subsection, provided the maximum gross weight on any one axle shall not exceed 20,000 pounds and the maximum total weight on any tandem axle shall not exceed

34,000 pounds, on designated highways when appropriate regulatory signs giving notice are erected upon the street or highway or portion of any street or highway affected by the ordinance or resolution.

The following are exceptions to the above formula:

(1) Vehicles for which a different limit is established and posted in accordance with Section 15-316 of this Code ~~Two consecutive sets of tandem axles may carry a total weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more~~.

(2) Vehicles for which the Department of Transportation and local authorities issue overweight permits under authority of Section 15-301 of this Code. These vehicles are not subject to the bridge formula ~~Vehicles for which a different limit is established and posted in accordance with Section 15-316 of this Code~~.

(3) Cities having a population of more than 50,000 may permit by ordinance axle loads on 2 axle motor vehicles 33 1/2% above those provided for herein, but the increase shall not become effective until the city has officially notified the Department of the passage of the ordinance and shall not apply to those vehicles when outside of the limits of the city, nor shall the gross weight of any 2 axle motor vehicle operating over any street of the city exceed 40,000 pounds ~~Vehicles for which the Department of Transportation and local authorities issue overweight permits under authority of Section 15-301 of this Code. These vehicles are not subject to the bridge formula~~.

(4) Weight limitations shall not apply to vehicles (including loads) operated by a public utility when transporting equipment required for emergency repair of public utility facilities or properties or water wells ~~Tow trucks subject to the conditions provided in subsection (d) may not exceed 24,000 pounds on a single rear axle or 44,000 pounds on a tandem rear axle~~.

(5) Two consecutive sets of tandem axles may carry a total weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more, notwithstanding the lower limit resulting from the application of the above formula ~~A tandem axle on a 3-axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2014, and registered in Illinois prior to January 1, 2015, with a distance between 2 axles in a series greater than 72 inches but not more than 96 inches may not exceed a total weight of 36,000 pounds and neither axle of the series may exceed 20,000 pounds~~.

(6) A truck, not in combination and used exclusively for the collection of rendering materials, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle ~~A truck not in combination, equipped with a self compactor or an industrial roll-off hoist and roll-off container, used exclusively for garbage, refuse, or recycling operations, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 36,000 pounds gross weight on a 2-axle vehicle; 54,000 pounds gross weight on a 3-axle vehicle. This vehicle is not subject to the bridge formula~~.

(7) A truck not in combination, equipped with a self compactor or an industrial roll-off hoist and roll-off container, used exclusively for garbage, refuse, or recycling operations, may, when laden, transmit upon the road surface, except when on part of the National System of Interstate and Defense Highways, the following maximum weights: 22,000 pounds on a single axle; 40,000 pounds on a tandem axle; 40,000 pounds gross weight on a 2-axle vehicle; 54,000 pounds gross weight on a 3-axle vehicle. This vehicle is not subject to the bridge formula ~~Combinations of vehicles, registered as Special Hauling Vehicles that include a semitrailer manufactured prior to or in the model year of 2014, and registered in Illinois prior to January 1, 2015, having 5 axles with a distance of 42 feet or less between extreme axles, may not exceed the following maximum weights: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle; and 72,000 pounds gross weight. This combination of vehicles is not subject to the bridge formula. For all those combinations of vehicles that include a semitrailer manufactured after the effective date of this amendatory Act of the 92nd General Assembly, the overall distance between the first and last axles of the 2 sets of tandems must be 18 feet 6 inches or more. Any combination of vehicles that has had its cargo container replaced in its entirety after December 31, 2014 may not exceed the weights allowed by the bridge formula~~.

(8) Tandem axles on a 3-axle truck registered as a Special Hauling Vehicle, manufactured prior to or in the model year of 2014 and first registered in Illinois prior to January 1, 2015, with a distance greater than 72 inches but not more than 96 inches between any series of 2 axles, is allowed a combined weight on the series not to exceed 36,000 pounds and neither axle of the series may exceed 20,000 pounds. Any vehicle of this type manufactured after the model year of 2014 or first registered in Illinois after December 31, 2014 may not exceed a combined weight of 34,000 pounds through the series of 2 axles and neither axle of the series may exceed 20,000 pounds. ~~A 4-axle truck mixer registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete in the plastic state, manufactured before or in the model year of 2014, first registered in Illinois before January 1, 2015, and not operated on a highway that is part of the National System of Interstate Highways, is allowed the following maximum weights: 20,000 pounds on any single axle; 36,000 pounds on a series of axles greater than 72 inches but not more than 96 inches; and 34,000 pounds on any series of 2 axles greater than 40~~

~~inches but not more than 72 inches. The gross weight of this vehicle may not exceed the weights allowed by the bridge formula for 4 axles. The bridge formula does not apply to any series of 3 axles while the vehicle is transporting concrete in the plastic state, but no axle or tandem axle of the series may exceed the maximum weight permitted under this subsection (f)~~.

(9) A 4-axle truck mixer registered as a Special Hauling Vehicle, used exclusively for the mixing and transportation of concrete in the plastic state, manufactured before or in the model year of 2014, first registered in Illinois before January 1, 2015, and not operated on a highway that is part of the National System of Interstate Highways, is allowed the following maximum weights: 20,000 pounds on any single axle; 36,000 pounds on a series of axles greater than 72 inches but not more than 96 inches; and 34,000 pounds on any series of 2 axles greater than 40 inches but not more than 72 inches. The gross weight of this vehicle may not exceed the weights allowed by the bridge formula for 4 axles. The bridge formula does not apply to any series of 3 axles while the vehicle is transporting concrete in the plastic state, but no axle or tandem axle of the series may exceed the maximum weight permitted under this paragraph (9) of subsection (a).

(10) Combinations of vehicles, registered as Special Hauling Vehicles that include a semitrailer manufactured prior to or in the model year of 2014, and registered in Illinois prior to January 1, 2015, having 5 axles with a distance of 42 feet or less between extreme axles, may not exceed the following maximum weights: 20,000 pounds on a single axle; 34,000 pounds on a tandem axle; and 72,000 pounds gross weight. This combination of vehicles is not subject to the bridge formula. For all those combinations of vehicles that include a semitrailer manufactured after the effective date of P.A. 92-0417, the overall distance between the first and last axles of the 2 sets of tandems must be 18 feet 6 inches or more. Any combination of vehicles that has had its cargo container replaced in its entirety after December 31, 2014 may not exceed the weights allowed by the bridge formula.

(11) The maximum weight allowed on a vehicle with crawler type tracks is 40,000 pounds.

(12) A combination of vehicles, including a tow truck and a disabled vehicle or disabled combination of vehicles, that exceeds the weight restriction imposed by this Code, may be operated on a public highway in this State provided that neither the disabled vehicle nor any vehicle being towed nor the tow truck itself shall exceed the weight limitations permitted under this Chapter. During the towing operation, neither the tow truck nor the vehicle combination shall exceed 24,000 pounds on a single rear axle and 44,000 pounds on a tandem rear axle, provided the towing vehicle:

(i) is specifically designed as a tow truck having a gross vehicle weight rating of at least 18,000 pounds and is equipped with air brakes, provided that air brakes are required only if the towing vehicle is towing a vehicle, semitrailer, or tractor-trailer combination that is equipped with air brakes;

(ii) is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;

(iii) is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles; and

(iv) does not engage in a tow exceeding 20 miles from the initial point of wreck or disablement. Any additional movement of the vehicles may occur only upon issuance of authorization for that movement under the provisions of Sections 15-301 through 15-319 of this Code. The towing vehicle, however, may tow any disabled vehicle to a point where repairs are actually to occur. This movement shall be valid only on State routes. The tower must abide by posted bridge weight limits.

Gross weight limits shall not apply to the combination of the tow truck and vehicles being towed. The tow truck license plate must cover the operating empty weight of the tow truck only. The weight of each vehicle being towed shall be covered by a valid license plate issued to the owner or operator of the vehicle being towed and displayed on that vehicle. If no valid plate issued to the owner or operator of that vehicle is displayed on that vehicle, or the plate displayed on that vehicle does not cover the weight of the vehicle, the weight of the vehicle shall be covered by the third tow truck plate issued to the owner or operator of the tow truck and temporarily affixed to the vehicle being towed. If a roll-back carrier is registered and being used as a tow truck, however, the license plate or plates for the tow truck must cover the gross vehicle weight, including any load carried on the bed of the roll-back carrier.

The Department may by rule or regulation prescribe additional requirements. However, nothing in this Code shall prohibit a tow truck under instructions of a police officer from legally clearing a disabled vehicle, that may be in violation of weight limitations of this Chapter, from the roadway to the berm or shoulder of the highway. If in the opinion of the police officer that location is unsafe, the officer is authorized to have the disabled vehicle towed to the nearest place of safety.

For the purpose of this subsection, gross vehicle weight rating, or GVWR, means the value specified by the manufacturer as the loaded weight of the tow truck.

(b) As used in this Section, "recycling haul" or "recycling operation" means the hauling of non-hazardous, non-special, non-putrescible materials, such as paper, glass, cans, or plastic, for subsequent use in the secondary materials market.

(c) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated, unladen or with load,

upon the highways of this State in violation of the provisions of any permit issued under the provisions of Sections 15-301 through 15-319 of this Chapter.

(d) No vehicle or combination of vehicles equipped with other than pneumatic tires may be operated, unladen or with load, upon the highways of this State when the gross weight on the road surface through any wheel exceeds 800 pounds per inch width of tire tread or when the gross weight on the road surface through any axle exceeds 16,000 pounds.

(e) No person shall operate a vehicle or combination of vehicles over a bridge or other elevated structure constituting part of a highway with a gross weight that is greater than the maximum weight permitted by the Department, when the structure is sign posted as provided in this Section.

(f) The Department upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it finds that the structure cannot with safety to itself withstand the weight of vehicles otherwise permissible under this Code the Department shall determine and declare the maximum weight of vehicles that the structures can withstand, and shall cause or permit suitable signs stating maximum weight to be erected and maintained before each end of the structure. No person shall operate a vehicle or combination of vehicles over any structure with a gross weight that is greater than the posted maximum weight.

~~(f-1) A vehicle and load not exceeding 80,000 pounds is allowed travel on non-designated highways so long as there is no sign prohibiting that access.~~

(g) Upon the trial of any person charged with a violation of subsection (e) or (f) of this Section, proof of the determination of the maximum allowable weight by the Department and the existence of the signs, constitutes conclusive evidence of the maximum weight that can be maintained with safety to the bridge or structure ~~No person shall operate a vehicle or combination of vehicles over a bridge or other elevated structure constituting part of a highway with a gross weight that is greater than the maximum weight permitted by the Department, when the structure is sign posted as provided in this Section~~.

~~(h) The Department upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it finds that the structure cannot with safety to itself withstand the weight of vehicles otherwise permissible under this Code the Department shall determine and declare the maximum weight of vehicles that the structures can withstand, and shall cause or permit suitable signs stating maximum weight to be erected and maintained before each end of the structure. No person shall operate a vehicle or combination of vehicles over any structure with a gross weight that is greater than the posted maximum weight.~~

~~(i) Upon the trial of any person charged with a violation of subsections (g) or (h) of this Section, proof of the determination of the maximum allowable weight by the Department and the existence of the signs, constitutes conclusive evidence of the maximum weight that can be maintained with safety to the bridge or structure.~~

(Source: P.A. 95-51, eff. 1-1-08; 96-34, eff. 1-1-10; 96-37, eff. 7-13-09.)

(625 ILCS 5/15-112) (from Ch. 95 1/2, par. 15-112)

Sec. 15-112. Officers to weigh vehicles and require removal of excess loads.

(a) Any police officer having reason to believe that the weight of a vehicle and load is unlawful shall require the driver to stop and submit to a weighing of the same either by means of a portable or stationary scales that have been tested and approved at a frequency prescribed by the Illinois Department of Agriculture, or for those scales operated by the State, when such tests are requested by the Department of State Police, whichever is more frequent. If such scales are not available at the place where such vehicle is stopped, the police officer shall require that such vehicle be driven to the nearest available scale that has been tested and approved pursuant to this Section by the Illinois Department of Agriculture. Notwithstanding any provisions of the Weights and Measures Act or the United States Department of Commerce NIST handbook 44, multi or single draft weighing is an acceptable method of weighing by law enforcement for determining a violation of Chapter 3 or 15 of this Code. Law enforcement is exempt from the requirements of commercial weighing established in NIST handbook 44.

Within 18 months after the effective date of this amendatory Act of the 91st General Assembly, all municipal and county officers, technicians, and employees who set up and operate portable scales for wheel load or axle load or both and issue citations based on the use of portable scales for wheel load or axle load or both and who have not successfully completed initial classroom and field training regarding the set up and operation of portable scales, shall attend and successfully complete initial classroom and field training administered by the Illinois Law Enforcement Training Standards Board.

(b) Whenever an officer, upon weighing a vehicle and the load, determines that the weight is unlawful, such officer shall require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the weight of the vehicle to the limit permitted under this Chapter, or to the limit permitted under the terms of a permit issued pursuant to Sections 15-301 through 15-318 and shall forthwith arrest the driver or owner. All material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of such owner or operator; however, whenever a 3 or 4 axle vehicle with a tandem axle

dimension greater than 72 inches, but less than 96 inches and registered as a Special Hauling Vehicle is transporting asphalt or concrete in the plastic state that exceeds axle weight or gross weight limits by less than 4,000 pounds, the owner or operator of the vehicle shall accept the arrest ticket or tickets for the alleged violations under this Section and proceed without shifting or reducing the load being transported or may shift or reduce the load under the provisions of subsection (d) or (e) of this Section, when applicable. Any fine imposed following an overweight violation by a vehicle registered as a Special Hauling Vehicle transporting asphalt or concrete in the plastic state shall be paid as provided in subsection 4 of paragraph (a) of Section 16-105 of this Code.

(c) The Department of Transportation may, at the request of the Department of State Police, erect appropriate regulatory signs on any State highway directing second division vehicles to a scale. The Department of Transportation may also, at the direction of any State Police officer, erect portable regulating signs on any highway directing second division vehicles to a portable scale. Every such vehicle, pursuant to such sign, shall stop and be weighed.

(d) Whenever any axle load of a vehicle exceeds the axle or tandem axle weight limits permitted by paragraph (a) ~~or (f)~~ of Section 15-111 by 2000 pounds or less, the owner or operator of the vehicle must shift or remove the excess so as to comply with paragraph (a) ~~or (f)~~ of Section 15-111. No overweight arrest ticket shall be issued to the owner or operator of the vehicle by any officer if the excess weight is shifted or removed as required by this paragraph.

(e) Whenever the gross weight of a vehicle with a registered gross weight ~~of~~ over 77,000 ~~80,000~~ pounds ~~or less~~ exceeds the weight limits of paragraph (a) ~~(b) or (f)~~ of Section 15-111 of this Chapter by 2000 pounds or less, the owner or operator of the vehicle must remove the excess. Whenever the gross weight of a vehicle with a registered gross weight of 77,000 ~~80,000~~ pounds or more exceeds the weight limits of paragraph (a) ~~(b) or (f)~~ of Section 15-111 by 1,000 pounds or less or 2,000 pounds or less if weighed on wheel load weighers, the owner or operator of the vehicle must remove the excess. In either case no arrest ticket for any overweight violation of this Code shall be issued to the owner or operator of the vehicle by any officer if the excess weight is removed as required by this paragraph. A person who has been granted a special permit under Section 15-301 of this Code shall not be granted a tolerance on wheel load weighers.

(e-5) Auxiliary power or idle reduction unit (APU) weight.

(1) A vehicle with a fully functional APU shall be allowed an additional 400 pounds or the certified unit weight, whichever is less. The additional pounds may be allowed in gross, axles, or bridge formula weight limits above the legal weight limits except when overweight on an axle or axles of the towed unit or units in combination. This tolerance shall be given in addition to the limits in subsection (d) of this Section.

(2) An operator of a vehicle equipped with an APU shall carry written certification showing the weight of the APU, which shall be displayed upon the request of any law enforcement officer.

(3) The operator may be required to demonstrate or certify that the APU is fully functional at all times.

(4) This allowance may not be granted above the weight limits specified on any loads permitted under Section 15-301 of this Code.

(f) Whenever an axle load of a vehicle exceeds axle weight limits allowed by the provisions of a permit an arrest ticket shall be issued, but the owner or operator of the vehicle may shift the load so as to comply with the provisions of the permit. Where such shifting of a load to comply with the permit is accomplished, the owner or operator of the vehicle may then proceed.

(g) Any driver of a vehicle who refuses to stop and submit his vehicle and load to weighing after being directed to do so by an officer or removes or causes the removal of the load or part of it prior to weighing is guilty of a business offense and shall be fined not less than $500 nor more than $2,000.

(Source: P.A. 96-34, eff. 1-1-10.)

(625 ILCS 5/15-113) (from Ch. 95 1/2, par. 15-113)

Sec. 15-113. Violations; Penalties.

(a) Whenever any vehicle is operated in violation of the provisions of Section 15-111 or subsection (d) of Section 3-401, the owner or driver of such vehicle shall be deemed guilty of such violation and either the owner or the driver of such vehicle may be prosecuted for such violation. Any person charged with a violation of any of these provisions who pleads not guilty shall be present in court for the trial on the charge. Any person, firm or corporation convicted of any violation of Section 15-111 including, but not limited to, a maximum axle or gross limit specified on a regulatory sign posted in accordance with paragraph (e) or (f) ~~(g) or (h)~~ of Section 15-111, shall be fined according to the following schedule:

Up to and including 2000 pounds overweight, the fine is $100

From 2001 through 2500 pounds overweight, the fine is $270

From 2501 through 3000 pounds overweight, the fine is $330

From 3001 through 3500 pounds overweight, the fine is $520

From 3501 through 4000 pounds overweight, the fine is $600

From 4001 through 4500 pounds overweight, the fine is $850

From 4501 through 5000 pounds overweight, the fine is $950

From 5001 or more pounds overweight, the fine shall be computed by assessing $1500 for the first 5000 pounds overweight and $150 for each additional increment of 500 pounds overweight or fraction thereof.

In addition any person, firm or corporation convicted of 4 or more violations of Section 15-111 within any 12 month period shall be fined an additional amount of $5,000 for the fourth and each subsequent conviction within the 12 month period. Provided, however, that with regard to a firm or corporation, a fourth or subsequent conviction shall mean a fourth or subsequent conviction attributable to any one employee-driver.

(b) Whenever any vehicle is operated in violation of the provisions of Sections 15-102, 15-103 or 15-107, the owner or driver of such vehicle shall be deemed guilty of such violation and either may be prosecuted for such violation. Any person, firm or corporation convicted of any violation of Sections 15-102, 15-103 or 15-107 shall be fined for the first or second conviction an amount equal to not less than $50 nor more than $500, and for the third and subsequent convictions by the same person, firm or corporation within a period of one year after the date of the first offense, not less than $500 nor more than $1,000.

(c) All proceeds of the additional fines imposed by this amendatory Act of the 96th General Assembly shall be deposited into the Capital Projects Fund.

(Source: P.A. 96-34, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(625 ILCS 5/15-301) (from Ch. 95 1/2, par. 15-301)

Sec. 15-301. Permits for excess size and weight.

(a) The Department with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction may, in their discretion, upon application and good cause being shown therefor, issue a special permit authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this Act or otherwise not in conformity with this Act upon any highway under the jurisdiction of the party granting such permit and for the maintenance of which the party is responsible. Applications and permits other than those in written or printed form may only be accepted from and issued to the company or individual making the movement. Except for an application to move directly across a highway, it shall be the duty of the applicant to establish in the application that the load to be moved by such vehicle or combination is composed of a single nondivisible object that cannot reasonably be dismantled or disassembled. For the purpose of over length movements, more than one object may be carried side by side as long as the height, width, and weight laws are not exceeded and the cause for the over length is not due to multiple objects. For the purpose of over height movements, more than one object may be carried as long as the cause for the over height is not due to multiple objects and the length, width, and weight laws are not exceeded. For the purpose of an over width movement, more than one object may be carried as long as the cause for the over width is not due to multiple objects and length, height, and weight laws are not exceeded. No state or local agency shall authorize the issuance of excess size or weight permits for vehicles and loads that are divisible and that can be carried, when divided, within the existing size or weight maximums specified in this Chapter. Any excess size or weight permit issued in violation of the provisions of this Section shall be void at issue and any movement made thereunder shall not be authorized under the terms of the void permit. In any prosecution for a violation of this Chapter when the authorization of an excess size or weight permit is at issue, it is the burden of the defendant to establish that the permit was valid because the load to be moved could not reasonably be dismantled or disassembled, or was otherwise nondivisible.

(b) The application for any such permit shall: (1) state whether such permit is requested for a single trip or for limited continuous operation; (2) state if the applicant is an authorized carrier under the Illinois Motor Carrier of Property Law, if so, his certificate, registration or permit number issued by the Illinois Commerce Commission; (3) specifically describe and identify the vehicle or vehicles and load to be operated or moved except that for vehicles or vehicle combinations registered by the Department as provided in Section 15-319 of this Chapter, only the Illinois Department of Transportation's (IDT) registration number or classification need be given; (4) state the routing requested including the points of origin and destination, and may identify and include a request for routing to the nearest certified scale in accordance with the Department's rules and regulations, provided the applicant has approval to travel on local roads; and (5) state if the vehicles or loads are being transported for hire. No permits for the movement of a vehicle or load for hire shall be issued to any applicant who is required under the Illinois Motor

Carrier of Property Law to have a certificate, registration or permit and does not have such certificate, registration or permit.

(c) The Department or local authority when not inconsistent with traffic safety is authorized to issue or withhold such permit at its discretion; or, if such permit is issued at its discretion to prescribe the route or routes to be traveled, to limit the number of trips, to establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or otherwise to limit or prescribe conditions of operations of such vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure. The Department shall maintain a daily record of each permit issued along with the fee and the stipulated dimensions, weights, conditions and restrictions authorized and this record shall be presumed correct in any case of questions or dispute. The Department shall install an automatic device for recording applications received and permits issued by telephone. In making application by telephone, the Department and applicant waive all objections to the recording of the conversation.

(d) The Department shall, upon application in writing from any local authority, issue an annual permit authorizing the local authority to move oversize highway construction, transportation, utility and maintenance equipment over roads under the jurisdiction of the Department. The permit shall be applicable only to equipment and vehicles owned by or registered in the name of the local authority, and no fee shall be charged for the issuance of such permits.

(e) As an exception to paragraph (a) of this Section, the Department and local authorities, with respect to highways under their respective jurisdictions, in their discretion and upon application in writing may issue a special permit for limited continuous operation, authorizing the applicant to move loads of agricultural commodities on a 2 axle single vehicle registered by the Secretary of State with axle loads not to exceed 35%, on a 3 or 4 axle vehicle registered by the Secretary of State with axle loads not to exceed 20%, and on a 5 axle vehicle registered by the Secretary of State not to exceed 10% above those provided in Section 15-111. The total gross weight of the vehicle, however, may not exceed the maximum gross weight of the registration class of the vehicle allowed under Section 3-815 or 3-818 of this Code.

As used in this Section, "agricultural commodities" means:

(1) cultivated plants or agricultural produce grown including, but is not limited to, corn, soybeans, wheat, oats, grain sorghum, canola, and rice;

(2) livestock, including but not limited to hogs, equine, sheep, and poultry;

(3) ensilage; and

(4) fruits and vegetables.

Permits may be issued for a period not to exceed 40 days and moves may be made of a distance not to exceed 50 miles from a field, an on-farm grain storage facility, a warehouse as defined in the Illinois Grain Code, or a livestock management facility as defined in the Livestock Management Facilities Act over any highway except the National System of Interstate and Defense Highways. The operator of the vehicle, however, must abide by posted bridge and posted highway weight limits. All implements of husbandry operating under this Section between sunset and sunrise shall be equipped as prescribed in Section 12-205.1.

(e-1) Upon a declaration by the Governor that an emergency harvest situation exists, a special permit issued by the Department under this Section shall not be required from September 1 through December 31 during harvest season emergencies, provided that the weight does not exceed 20% above the limits provided in Section 15-111. All other restrictions that apply to permits issued under this Section shall apply during the declared time period. With respect to highways under the jurisdiction of local authorities, the local authorities may, at their discretion, waive special permit requirements during harvest season emergencies. This permit exemption shall apply to all vehicles eligible to obtain permits under this Section, including commercial vehicles in use during the declared time period.

(f) The form and content of the permit shall be determined by the Department with respect to highways under its jurisdiction and by local authorities with respect to highways under their jurisdiction. Every permit shall be in written form and carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting the permit and no person shall violate any of the terms or conditions of such special permit. Violation of the terms and conditions of the permit shall not be deemed a revocation of the permit; however, any vehicle and load found to be off the route prescribed in the permit shall be held to be operating without a permit. Any off route vehicle and load shall be required to obtain a new permit or permits, as necessary, to authorize the movement back onto the original permit routing. No rule or regulation, nor anything herein shall be construed to authorize any police officer, court, or authorized agent of any authority granting the permit to remove the permit from the possession of the permittee unless the permittee is charged with a fraudulent permit violation as provided in paragraph (i). However, upon arrest for an offense of violation of permit, operating without a permit when the vehicle is off route, or any size or weight offense under this Chapter when the permittee plans to raise the issuance of the permit as a defense, the permittee, or his agent, must produce the permit

at any court hearing concerning the alleged offense.

If the permit designates and includes a routing to a certified scale, the permitee, while enroute to the designated scale, shall be deemed in compliance with the weight provisions of the permit provided the axle or gross weights do not exceed any of the permitted limits by more than the following amounts:

Single axle	2000 pounds
Tandem axle	3000 pounds
Gross	5000 pounds

(g) The Department is authorized to adopt, amend, and to make available to interested persons a policy concerning reasonable rules, limitations and conditions or provisions of operation upon highways under its jurisdiction in addition to those contained in this Section for the movement by special permit of vehicles, combinations, or loads which cannot reasonably be dismantled or disassembled, including manufactured and modular home sections and portions thereof. All rules, limitations and conditions or provisions adopted in the policy shall have due regard for the safety of the traveling public and the protection of the highway system and shall have been promulgated in conformity with the provisions of the Illinois Administrative Procedure Act. The requirements of the policy for flagmen and escort vehicles shall be the same for all moves of comparable size and weight. When escort vehicles are required, they shall meet the following requirements:

(1) All operators shall be 18 years of age or over and properly licensed to operate the vehicle.

(2) Vehicles escorting oversized loads more than 12-feet wide must be equipped with a rotating or flashing amber light mounted on top as specified under Section 12-215.

The Department shall establish reasonable rules and regulations regarding liability insurance or self insurance for vehicles with oversized loads promulgated under The Illinois Administrative Procedure Act. Police vehicles may be required for escort under circumstances as required by rules and regulations of the Department.

(h) Violation of any rule, limitation or condition or provision of any permit issued in accordance with the provisions of this Section shall not render the entire permit null and void but the violator shall be deemed guilty of violation of permit and guilty of exceeding any size, weight or load limitations in excess of those authorized by the permit. The prescribed route or routes on the permit are not mere rules, limitations, conditions, or provisions of the permit, but are also the sole extent of the authorization granted by the permit. If a vehicle and load are found to be off the route or routes prescribed by any permit authorizing movement, the vehicle and load are operating without a permit. Any off route movement shall be subject to the size and weight maximums, under the applicable provisions of this Chapter, as determined by the type or class highway upon which the vehicle and load are being operated.

(i) Whenever any vehicle is operated or movement made under a fraudulent permit the permit shall be void, and the person, firm, or corporation to whom such permit was granted, the driver of such vehicle in addition to the person who issued such permit and any accessory, shall be guilty of fraud and either one or all persons may be prosecuted for such violation. Any person, firm, or corporation committing such violation shall be guilty of a Class 4 felony and the Department shall not issue permits to the person, firm or corporation convicted of such violation for a period of one year after the date of conviction. Penalties for violations of this Section shall be in addition to any penalties imposed for violation of other Sections of this Act.

(j) Whenever any vehicle is operated or movement made in violation of a permit issued in accordance with this Section, the person to whom such permit was granted, or the driver of such vehicle, is guilty of such violation and either, but not both, persons may be prosecuted for such violation as stated in this subsection (j). Any person, firm or corporation convicted of such violation shall be guilty of a petty offense and shall be fined for the first offense, not less than $50 nor more than $200 and, for the second offense by the same person, firm or corporation within a period of one year, not less than $200 nor more than $300 and, for the third offense by the same person, firm or corporation within a period of one year after the date of the first offense, not less than $300 nor more than $500 and the Department shall not issue permits to the person, firm or corporation convicted of a third offense during a period of one year after the date of conviction for such third offense.

(k) Whenever any vehicle is operated on local roads under permits for excess width or length issued by local authorities, such vehicle may be moved upon a State highway for a distance not to exceed one-half mile without a permit for the purpose of crossing the State highway.

(l) Notwithstanding any other provision of this Section, the Department, with respect to highways under its jurisdiction, and local authorities, with respect to highways under their jurisdiction, may at their discretion authorize the movement of a vehicle in violation of any size or weight requirement, or both, that would not ordinarily be eligible for a permit, when there is a showing of extreme necessity that the vehicle and load should be moved without unnecessary delay.

For the purpose of this subsection, showing of extreme necessity shall be limited to the following: shipments of livestock, hazardous materials, liquid concrete being hauled in a mobile cement mixer, or hot asphalt.

(m) Penalties for violations of this Section shall be in addition to any penalties imposed for violating any other Section of this Code.

(n) The Department with respect to highways under its jurisdiction and local authorities with respect to highways under their jurisdiction, in their discretion and upon application in writing, may issue a special permit for continuous limited operation, authorizing the applicant to operate a tow-truck that exceeds the weight limits provided for in subsection (a) ~~(d)~~ of Section 15-111, provided:

(1) no rear single axle of the tow-truck exceeds 26,000 pounds;

(2) no rear tandem axle of the tow-truck exceeds 50,000 pounds;

(2.1) no triple rear axle on a manufactured recovery unit exceeds 60,000 pounds;

(3) neither the disabled vehicle nor the disabled combination of vehicles exceed the weight restrictions imposed by this Chapter 15, or the weight limits imposed under a permit issued by the Department prior to hookup;

(4) the tow-truck prior to hookup does not exceed the weight restrictions imposed by this Chapter 15;

(5) during the tow operation the tow-truck does not violate any weight restriction sign;

(6) the tow-truck is equipped with flashing, rotating, or oscillating amber lights, visible for at least 500 feet in all directions;

(7) the tow-truck is specifically designed and licensed as a tow-truck;

(8) the tow-truck has a gross vehicle weight rating of sufficient capacity to safely handle the load;

(9) the tow-truck is equipped with air brakes;

(10) the tow-truck is capable of utilizing the lighting and braking systems of the disabled vehicle or combination of vehicles;

(11) the tow commences at the initial point of wreck or disablement and terminates at a point where the repairs are actually to occur;

(12) the permit issued to the tow-truck is carried in the tow-truck and exhibited on demand by a police officer; and

(13) the movement shall be valid only on state routes approved by the Department.

(o) The Department, with respect to highways under its jurisdiction, and local authorities, with respect to highways under their jurisdiction, in their discretion and upon application in writing, may issue a special permit for continuous limited operation, authorizing the applicant to transport raw milk that exceeds the weight limits provided for in subsection (a) ~~subsections (b) and (f)~~ of Section 15-111 of this Code, provided:

(1) no single axle exceeds 20,000 pounds;

(2) no gross weight exceeds 80,000 pounds;

(3) permits issued by the State are good only for federal and State highways and are not applicable to interstate highways; and

(4) all road and bridge postings must be obeyed.

(Source: P.A. 95-331, eff. 8-21-07; 95-666, eff. 10-11-07.)

(625 ILCS 5/15-307) (from Ch. 95 1/2, par. 15-307)

Sec. 15-307. Fees for Overweight-Gross Loads. Fees for special permits to move vehicles, combinations of vehicles and loads with overweight-gross loads shall be paid at the flat rate fees established in this Section for weights in excess of legal gross weights, by the applicant to the Department.

(a) With respect to fees for overweight-gross loads listed in this Section and for overweight-axle loads listed in Section 15-306, one fee only shall be charged, whichever is the greater, but not for both.

(b) In lieu of the fees stated in this Section and Section 15-306, with respect to combinations of vehicles consisting of a 3-axle truck tractor with a tandem axle composed of 2 consecutive axles drawing a semitrailer, or other vehicle approved by the Department, equipped with a tandem axle composed of 3 consecutive axles, weighing over 80,000 pounds but not more than 88,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$10
From 45 miles to 90 miles	12.50
From 90 miles to 135 miles	15.00
From 135 miles to 180 miles	17.50
From 180 miles to 225 miles	20.00
For each additional 45 miles or part thereof in excess of the rate for 225 miles, an additional	2.50

For such combinations weighing over 88,000 pounds but not more than 100,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate

For the first 45 miles	15
From 45 miles to 90 miles	25
From 90 miles to 135 miles	35
From 135 miles to 180 miles	45
From 180 miles to 225 miles	55
For each additional 45 miles or part thereof in excess of the rate for 225 miles, an additional	10

For such combination weighing over 100,000 pounds but not more than 110,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$20
From 45 miles to 90 miles	32.50
From 90 miles to 135 miles	45
From 135 miles to 180 miles	57.50
From 180 miles to 225 miles	70
For each additional 45 miles or part thereof in excess of the rate for 225 miles an additional	12.50

For such combinations weighing over 110,000 pounds but not more than 120,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$30
From 46 miles to 90 miles	55
From 90 miles to 135 miles	80
From 135 miles to 180 miles	105
From 180 miles to 225 miles	130
For each additional 45 miles or part thereof in excess of the rate for 225 miles an additional	25

Payment of overweight fees for the above combinations also shall include fees for overwidth dimensions of 4 feet or less, overheight and overlength. Any overwidth in excess of 4 feet shall be charged an additional fee of $15.

(c) In lieu of the fees stated in this Section and Section 15-306 of this Chapter, with respect to combinations of vehicles consisting of a 3-axle truck tractor with a tandem axle composed of 2 consecutive axles drawing a semitrailer, or other vehicle approved by the Department, equipped with a tandem axle composed of 2 consecutive axles, weighing over 80,000 pounds but not more than 88,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$20
From 45 miles to 90 miles	32.50
From 90 miles to 135 miles	45
From 135 miles to 180 miles	57.50
From 180 miles to 225 miles	70
For each additional 60 miles or part thereof in excess of the rate for 225 miles an additional	12.50

For such combination weighing over 88,000 pounds but not more than 100,000 pounds gross weight, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$30
From 46 miles to 90 miles	55
From 90 miles to 135 miles	80
From 135 miles to 180 miles	105
From 180 miles to 225 miles	130
For each additional 45 miles or part thereof in excess of the rate for 225 miles an additional	25

Payment of overweight fees for the above combinations also shall include fees for overwidth dimension of 4 feet or less, overheight and overlength. Any overwidth in excess of 4 feet shall be charged an additional overwidth fee

of $15.

(d) In lieu of the fees stated in this Section and in Section 15-306 of this Chapter, with respect to a 3 (or more) axle mobile crane or water well-drilling vehicle consisting of a single axle and a tandem axle or 2 tandem axle groups composed of 2 consecutive axles each, with a distance of extreme axles not less than 18 feet, weighing not more than 60,000 pounds gross with no single axle weighing more than 21,000 pounds, or any tandem axle group to exceed 40,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$12.50
For each additional 45 miles or portion thereof	9.00

For such vehicles weighing over 60,000 pounds but not more than 68,000 pounds with no single axle weighing more than 21,000 pounds and no tandem axle group exceeding 48,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$20
For each additional 45 miles or portion thereof	12.50

Payment of overweight fees for the above vehicle shall include overwidth dimension of 4 feet or less, overheight and overlength. Any overwidth in excess of 4 feet shall be charged an additional overwidth fee of $15.

(e) In lieu of the fees stated in this Section and in Section 15-306 of this Chapter, with respect to a 4 (or more) axle mobile crane or water well drilling vehicle consisting of 2 sets of tandem axles composed of 2 or more consecutive axles each with a distance between extreme axles of not less than 23 feet weighing not more than 72,000 pounds with axle weights on one set of tandem axles not more than 34,000 pounds, and weight in the other set of tandem axles not to exceed 40,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$15
For each additional 45 miles or portion thereof	10

For such vehicles weighing over 72,000 pounds but not more than 76,000 pounds with axle weights on either set of tandem axles not more than 44,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$20
For each additional 45 miles or portion thereof	12.50

Payment of overweight fees for the above vehicle shall include overwidth dimension of 4 feet or less, overheight and overlength. Any overwidth in excess of 4 feet shall be charged an additional fee of $15.

(f) In lieu of fees stated in this Section and in Section 15-306 of this Chapter, with respect to a two axle mobile crane or water well-drilling vehicle consisting of 2 single axles weighing not more than 48,000 pounds with no single axle weighing more than 25,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$15
For each additional 45 miles or portion thereof	10

For such vehicles weighing over 48,000 pounds but not more than 54,000 pounds with no single axle weighing more than 28,000 pounds, the fees shall be at the following rates:

Distance	Rate
For the first 45 miles	$20
For each additional 45 miles or portion thereof	12.50

Payment of overweight fees for the above vehicle shall include overwidth dimension of 4 feet or less, overheight and overlength. Any overwidth in excess of 4 feet shall be charged an additional overwidth fee of $15.

(g) Fees for special permits to move vehicles, combinations of vehicles, and loads with overweight gross loads not included in the fee categories shall be paid by the applicant to the Department at the rate of $50 plus 3.5 cents per ton-mile in excess of legal weight.

With respect to fees for overweight gross loads not included in the schedules specified in paragraphs (a) through (e) of Section 15-307 and for overweight axle loads listed in Section 15-306, one fee only shall be charged, whichever is the greater, but not both. An additional fee in accordance with the schedule set forth in Section 15-305 shall be charged for each overdimension.

(h) Fees for special permits for continuous limited operation authorizing the applicant to operate vehicles that exceed the weight limits provided for in subsection (a) ~~(d)~~ of Section 15-111.

All single axles excluding the steer axle and axles within a tandem are limited to 24,000 pounds or less unless otherwise noted in this subsection (h). Loads up to 12 feet wide and 110 feet in length shall be included within this permit. Fees shall be $250 for a quarterly and $1,000 for an annual permit. Front tag axle and double tandem trailers are not eligible.

The following configurations qualify for the quarterly and annual permits:

(1) 3 or more axles, total gross weight of 68,000 pounds or less, front tandem or axle 21,000 pounds or less, rear tandem 48,000 pounds or less on 2 or 3 axles, 25,000 pounds or less on single axle;

(2) 4 or more axles, total gross weight of 76,000 pounds or less, front tandem 44,000 pounds or less on 2 axles, front axle 20,000 pounds or less, rear tandem 44,000 pounds or less on 2 axles and 23,000 pounds or less on single axle or 48,000 pounds or less on 3 axles, 25,000 pounds or less on single axle;

(3) 5 or more axles, total gross weight of 100,000 pounds or less, front tandem 48,000 pounds or less on 2 axles, front axle 20,000 pounds or less, 25,000 pounds or less on single axle, rear tandem 48,000 pounds or less on 2 axles, 25,000 pounds or less on single axle;

(4) 6 or more axles, total gross weight of 120,000 pounds or less, front tandem 48,000 pounds or less on 2 axles, front axle 20,000 pounds or less, single axle 25,000 pounds or less, or rear tandem 60,000 pounds or less on 3 axles, 21,000 pounds or less on single axles within a tandem.

(Source: P.A. 96-34, eff. 1-1-10.)".

Senator Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1644

AMENDMENT NO. 3. Amend Senate Bill 1644, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 41, by replacing line 14 with the following: "registered gross weight of 77,000 ~~80,000~~ pounds or less"; and

on page 41, line 19, by changing "weight of" to "weight over ~~of~~".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1, 2 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator J. Collins, **Senate Bill No. 1666** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1666

AMENDMENT NO. 1. Amend Senate Bill 1666 on page 2, line 1, by replacing ":(i)" with "; (i)"; and

on page 2, by replacing lines 4 and 5 with the following:

"is committing or attempting to commit another offense that includes felony unlawful use of weapons, aggravated discharge of a firearm, reckless discharge of a firearm, unlawful use of metal piercing bullets, unlawful sale or delivery of firearms on the premises of any school, disarming a police officer, armed violence, felony contributing to the criminal delinquency of a juvenile, possession of more than 30 grams of cannabis, manufacture of more than 10 grams of cannabis, cannabis trafficking, delivery of cannabis on school grounds, unauthorized production of more than 5 cannabis sativa plants, unauthorized manufacture or delivery of controlled substances, controlled substance trafficking, manufacture, distribution, or advertisement of look-alike substances, calculated criminal drug conspiracy, streetgang criminal drug conspiracy, delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property, using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances, delivery of controlled substances, sale or delivery of drug paraphernalia, felony possession, sale, or exchange of instruments adapted for use of a controlled substance, methamphetamine, or cannabis by subcutaneous injection, or any violation of the Methamphetamine Control and Community Protection Act, is a Class 3 felony for which".

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 Link, **Senate Bill No. 1682** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1682

AMENDMENT NO. 1. Amend Senate Bill 1682 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Water Well Construction Code is amended by changing Section 1 as follows:

(415 ILCS 30/1) (from Ch. 111 1/2, par. 116.111)

Sec. 1. Short title.

This Act shall be known and may be cited as the ~~the~~ "Illinois Water Well Construction Code". (Source: Laws 1965, p. 3217.)".

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

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 Haine, **Senate Bill No. 1711** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1711

AMENDMENT NO. 1. Amend Senate Bill 1711 by replacing everything after the enacting clause with the following:

"Section 5. The State Employees Group Insurance Act of 1971 is amended by changing Section 6.10 as follows:

(5 ILCS 375/6.10)

Sec. 6.10. Contributions to the Community College Health Insurance Security Fund.

(a) Beginning January 1, 1999, every active contributor of the ~~the~~ State Universities Retirement System (established under Article 15 of the Illinois Pension Code) who (1) is a full-time employee of a community college district (other than a community college district subject to Article VII of the Public Community College Act) or an association of community college boards and (2) is not an employee as defined in Section 3 of this Act shall make contributions toward the cost of community college annuitant and survivor health benefits at the rate of 0.50% of salary.

These contributions shall be deducted by the employer and paid to the State Universities Retirement System as service agent for the Department of Central Management Services. The System may use the same processes for collecting the contributions required by this subsection that it uses to collect the contributions received from those employees under Section 15-157 of the Illinois Pension Code. An employer may agree to pick up or pay the contributions required under this subsection on behalf of the employee; such contributions shall be deemed to have been paid by the employee.

The State Universities Retirement System shall promptly deposit all moneys collected under this subsection (a) into the Community College Health Insurance Security Fund created in Section 6.9 of this Act. The moneys collected under this Section shall be used only for the purposes authorized in Section 6.9 of this Act and shall not be considered to be assets of the State Universities Retirement System. Contributions made under this Section are not transferable to other pension funds or retirement systems and are not refundable upon termination of service.

(b) Beginning January 1, 1999, every community college district (other than a community college district subject to Article VII of the Public Community College Act) or association of community college boards that is an employer under the State Universities Retirement System shall contribute toward the cost of the community college health benefits provided under Section 6.9 of this Act an amount equal to 0.50% of the salary paid to its full-time employees who participate in the State Universities Retirement System and are not members as defined in Section 3 of this Act.

These contributions shall be paid by the employer to the State Universities Retirement System as service agent for the Department of Central Management Services. The System may use the same processes for collecting the contributions required by this subsection that it uses to collect the contributions received from those employers under Section 15-155 of the Illinois Pension Code.

The State Universities Retirement System shall promptly deposit all moneys collected under this

subsection (b) into the Community College Health Insurance Security Fund created in Section 6.9 of this Act. The moneys collected under this Section shall be used only for the purposes authorized in Section 6.9 of this Act and shall not be considered to be assets of the State Universities Retirement System. Contributions made under this Section are not transferable to other pension funds or retirement systems and are not refundable upon termination of service.

The Department of Healthcare and Family Services, or any successor agency designated to procure healthcare contracts pursuant to this Act, is authorized to establish funds, separate accounts provided by any bank or banks as defined by the Illinois Banking Act, or separate accounts provided by any savings and loan association or associations as defined by the Illinois Savings and Loan Act of 1985 to be held by the Director, outside the State treasury, for the purpose of receiving the transfer of moneys from the Community College Health Insurance Security Fund. The Department may promulgate rules further defining the methodology for the transfers. Any interest earned by moneys in the funds or accounts shall inure to the Community College Health Insurance Security Fund. The transferred moneys, and interest accrued thereon, shall be used exclusively for transfers to administrative service organizations or their financial institutions for payments of claims to claimants and providers under the self-insurance health plan. The transferred moneys, and interest accrued thereon, shall not be used for any other purpose including, but not limited to, reimbursement of administration fees due the administrative service organization pursuant to its contract or contracts with the Department.

(c) On or before November 15 of each year, the Board of Trustees of the State Universities Retirement System shall certify to the Governor, the Director of Central Management Services, and the State Comptroller its estimate of the total amount of contributions to be paid under subsection (a) of this Section for the next fiscal year. Beginning in fiscal year 2008, the amount certified shall be decreased or increased each year by the amount that the actual active employee contributions either fell short of or exceeded the estimate used by the Board in making the certification for the previous fiscal year. The State Universities Retirement System shall calculate the amount of actual active employee contributions in fiscal years 1999 through 2005. Based upon this calculation, the fiscal year 2008 certification shall include an amount equal to the cumulative amount that the actual active employee contributions either fell short of or exceeded the estimate used by the Board in making the certification for those fiscal years. The certification shall include a detailed explanation of the methods and information that the Board relied upon in preparing its estimate. As soon as possible after the effective date of this Section, the Board shall submit its estimate for fiscal year 1999.

(d) Beginning in fiscal year 1999, on the first day of each month, or as soon thereafter as may be practical, the State Treasurer and the State Comptroller shall transfer from the General Revenue Fund to the Community College Health Insurance Security Fund 1/12 of the annual amount appropriated for that fiscal year to the State Comptroller for deposit into the Community College Health Insurance Security Fund under Section 1.4 of the State Pension Funds Continuing Appropriation Act.

(e) Except where otherwise specified in this Section, the definitions that apply to Article 15 of the Illinois Pension Code apply to this Section.

(Source: P.A. 94-839, eff. 6-6-06; 95-632, eff. 9-25-07.)".

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 Sandoval, **Senate Bill No. 1732** having been printed, was taken up, read by title a second time.

Senator Sandoval offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1732

AMENDMENT NO. 1. Amend Senate Bill 1732 on page 1, line 7, by changing "Fee limits" to "Permit fee limits".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Sandoval, **Senate Bill No. 1733,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Raoul, **Senate Bill No. 1739,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Raoul, **Senate Bill No. 1740,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Luechtefeld, **Senate Bill No. 1741,** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Revenue.

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

On motion of Senator Radogno, **Senate Bill No. 1743,** 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. 1762** having been printed, was taken up, read by title a second time.

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

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

Senator Dillard offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1762

AMENDMENT NO. 3. Amend Senate Bill 1762 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Professional Regulation Law of the Civil Administrative Code of Illinois is amended by adding Section 2105-165 as follows:

(20 ILCS 2105/2105-165 new)

Sec. 2105-165. Health care worker licensure actions; sex crimes.

(a) When a licensed health care worker, as defined in the Health Care Worker Self-Referral Act, (1) has been convicted of a criminal act that requires registration under the Sex Offender Registration Act; (2) has been convicted of a criminal battery against any patient in the course of patient care or treatment, including any offense based on sexual conduct or sexual penetration; (3) has been convicted of a forcible felony; or (4) is required as a part of a criminal sentence to register under the Sex Offender Registration Act, then, notwithstanding any other provision of law to the contrary, the license of the health care worker shall by operation of law be permanently revoked without a hearing.

(b) No person who has been convicted of any offense listed in subsection (a) or required to register as a sex offender may receive a license as a health care worker in Illinois.

(c) Immediately after an Illinois State's Attorney files criminal charges alleging that a licensed health care worker, as defined in the Health Care Worker Self-Referral Act, committed any offense for which the sentence includes registration as a sex offender; a criminal battery against a patient, including any offense based on sexual conduct or sexual penetration, in the course of patient care or treatment; or a forcible felony; then the State's Attorney shall provide notice to the Department of the health care worker's name, address, practice address, and license number and the patient's name and a copy of the criminal charges filed. Within 5 business days after receiving notice from the State's Attorney of the filing of criminal charges against the health care worker, the Secretary shall issue an administrative order that the health care worker shall immediately practice only with a chaperone during all patient encounters pending the outcome of the criminal proceedings. The chaperone must be a licensed health care worker. The chaperone shall provide written notice to all of the health care worker's patients explaining the Department's order to use a chaperone. Each patient shall sign an acknowledgement that they received the notice. The notice to the patient of criminal charges shall include, in 14-point font, the following statement: "The health care worker is presumed innocent until proven guilty of the charges.". The licensed health care worker shall provide a written plan of compliance with the administrative order that is acceptable to the Department within 5 days after receipt of the administrative order. Failure to comply with the administrative order, failure to file a compliance plan, or failure to follow the compliance plan shall subject the health care worker to temporary suspension of his or her professional license until the completion of the criminal proceedings.

(d) Nothing contained in this Section shall act in any way to waive or modify the confidentiality of information provided by the State's Attorney to the extent provided by law. Any information reported or disclosed shall be kept for the confidential use of the Secretary, Department attorneys, the investigative

staff, and authorized clerical staff and shall be afforded the same status as is provided information under Part 21 of Article VIII of the Code of Civil Procedure, except that the Department may disclose information and documents to (1) a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation or (2) an appropriate licensing authority of another state or jurisdiction pursuant to an official request made by that authority. Any information and documents disclosed to a federal, State, or local law enforcement agency may be used by that agency only for the investigation and prosecution of a criminal offense. Any information or documents disclosed by the Department to a professional licensing authority of another state or jurisdiction may only be used by that authority for investigations and disciplinary proceedings with regards to a professional license.

(e) Any licensee whose license was revoked or who received an administrative order under this Section shall have the revocation or administrative order vacated and completely removed from the licensee's records and public view and the revocation or administrative order shall be afforded the same status as is provided information under Part 21 of Article VIII of the Code of Civil Procedure if (1) the charges upon which the revocation or administrative order is based are dropped; (2) the licensee is not convicted of the charges upon which the revocation or administrative order is based; or (3) any conviction for charges upon which the revocation or administrative order was based have been vacated, overturned, or reversed.

(f) Nothing contained in this Section shall prohibit the Department from initiating or maintaining a disciplinary action against a licensee independent from any criminal charges, conviction, or sex offender registration.

(g) The Department may adopt rules necessary to implement this Section.

Section 99. Effective date. This Act takes effect 30 days after becoming law.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Brady, **Senate Bill No. 1765** 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 1765

AMENDMENT NO. 1. Amend Senate Bill 1765 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Power Agency Act is amended by adding Section 1-126 as follows:

(20 ILCS 3855/1-126 new)

Sec. 1-126. Summary of current and projected electric generation load; reports. Beginning on the effective date of this amendatory Act of the 97th General Assembly, the Agency shall conduct a review of the information published by the regional transmission organizations (RTOs) in which the State's electric utilities' service territories are located for the purpose of summarizing current and projected electric generation load within each RTO, including what portion of the load is, or projected to be, generated by facilities located in Illinois. No later than January 1, 2012, the Agency shall issue a report to the General Assembly that summarizes this information.

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 Maloney, **Senate Bill No. 1773** 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 Higher Education, adopted and ordered printed:

AMENDMENT NO. 2 TO SENATE BILL 1773

AMENDMENT NO. 2. Amend Senate Bill 1773 by replacing everything after the enacting clause with the following:

"Section 5. The Board of Higher Education Act is amended by changing Section 8 as follows:
(110 ILCS 205/8) (from Ch. 144, par. 188)

Sec. 8. The Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, and the Illinois Community College Board shall submit to the Board not later than the 15th day of November of each year its budget proposals for the operation and capital needs of the institutions under its governance or supervision for the ensuing fiscal year. Each budget proposal shall conform to the procedures developed by the Board in the design of an information system for State universities and colleges.

In order to maintain a cohesive system of higher education, the Board and its staff shall communicate on a regular basis with all public university presidents. They shall meet at least semiannually to achieve economies of scale where possible and provide the most innovative and efficient programs and services.

The Board, in the analysis of formulating the annual budget request, shall consider rates of tuition and fees at the state universities and colleges. The Board shall also consider the current and projected utilization of the total physical plant of each campus of a university or college in approving the capital budget for any new building or facility.

The Board of Higher Education shall submit to the Governor, to the General Assembly, and to the appropriate budget agencies of the Governor and General Assembly its analysis and recommendations on such budget proposals.

The Board is directed to form a broad-based group of individuals representing the Office of the Governor, the General Assembly, public institutions of higher education, State agencies, business and industry, Statewide organizations representing faculty and staff, and others as the Board shall deem appropriate to devise a system for allocating State resources to public institutions of higher education based upon performance in achieving State goals related to student success and certificate and degree completion.

Beginning in Fiscal Year 2013, the Board of Higher Education budget recommendations to the Governor and the General Assembly shall include allocations to public institutions of higher education based upon performance metrics designed to promote and measure student success in degree and certificate completion. These metrics must be adopted by the Board by rule and must be developed and promulgated in accordance with the following principles:

(1) The metrics must be developed in consultation with public institutions of higher education, as well as other State educational agencies and other higher education organizations, associations, interests, and stakeholders as deemed appropriate by the Board.

(2) The metrics shall include provisions for recognizing the demands on and rewarding the performance of institutions in advancing the success of students who are academically or financially at risk, including first-generation students, low-income students, and students traditionally underrepresented in higher education, as specified in Section 9.16 of this Act.

(3) The metrics shall recognize and account for the differentiated missions of institutions and sectors of higher education.

(4) The metrics shall focus on the fundamental goal of increasing completion of college courses, certificates, and degrees. Performance metrics shall recognize the unique and broad mission of public community colleges through consideration of additional factors including, but not limited to, enrollment, progress through key academic milestones, transfer to a baccalaureate institution, and degree completion.

(5) The metrics must be designed to maintain the quality of degrees, certificates, courses, and programs.

In devising performance metrics, the Board may be guided by the report of the Higher Education Finance Study Commission.

Each state supported institution within the application of this Act must submit its plan for capital improvements of non-instructional facilities to the Board for approval before final commitments are made. Non-instructional uses shall include but not be limited to dormitories, union buildings, field houses, stadium, other recreational facilities and parking lots. The Board shall determine whether or not any project submitted for approval is consistent with the master plan for higher education and with instructional buildings that are provided for therein. If the project is found by a majority of the Board not

to be consistent, such capital improvement shall not be constructed.
(Source: P.A. 89-4, eff. 1-1-96.)".

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 Sandoval, **Senate Bill No. 1781,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Maloney, **Senate Bill No. 1798** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1798

AMENDMENT NO. 1. Amend Senate Bill 1798 by replacing everything after the enacting clause with the following:

"Section 5. The Eastern Illinois University Law is amended by adding Section 10-92 as follows:
(110 ILCS 665/10-92 new)
(Section scheduled to be repealed on July 1, 2015)
Sec. 10-92. Tuition waiver limitation pilot program.
(a) The General Assembly makes all of the following findings:
(1) Both access and affordability are important points in the Illinois Public Agenda for College and Career Success.
(2) This State is in the top quartile with respect to the percentage of family income needed to pay for college.
(3) Research suggests that as loan amounts increase, versus grants-in-aid, the probability of college attendance decreases.
(4) There is further research indicating socioeconomic status may affect the willingness of students to use loans to attend college.
(5) Strategic use of tuition waivers will decrease the amount of loans that students must use to pay for tuition.
(6) A modest, individually tailored tuition waiver can make the difference in choosing to attend college and would enhance college access for low (up to 150% of the federal poverty level) and middle income (151% to 300% of the federal poverty level) families.
(7) Even if the federally calculated financial need for college attendance is met, the federally determined Expected Family Contribution can still be a daunting amount.
(8) This State is the second largest exporter of students in the country.
(9) Illinois students need to be kept in this State. State universities in other states have adopted pricing and incentives that make college expenses for residents of this State less than in this State.
(10) A mechanism is needed to stop the outflow of Illinois students to institutions in other states, assisting in State efforts to maintain and educate a highly trained workforce.
(11) By being competitive on costs of attendance, this State can bring out-of-state students to this State.
(12) The pilot program established under this Section will allow Eastern Illinois University to compete for highly qualified students who may reside in other states by mitigating the effect of cost differences.
(13) Modest tuition waivers, individually targeted and tailored, result in enhanced revenue for university programs.
(14) By increasing Eastern Illinois University's capacity to strategically use tuition waivers, the University will be capable of creating enhanced tuition revenue by increasing enrollment yields.
(15) The Board of Higher Education's current institutional tuition waiver limitation is 3% of total available undergraduate tuition revenue.
(b) The Board shall establish a pilot program to increase the Board of Higher Education's institutional tuition waiver limitation for the university over a 4-year period to increase access to college and make college more affordable for undergraduate students. Under the pilot program, the institutional tuition waiver limitation shall be increased at a rate of 3 percentage points per academic year, beginning with the 2011-2012 academic year, resulting in an institutional tuition waiver limitation of 15% in the fourth

year of the pilot program.

(c) The pilot program shall require that students who receive a tuition waiver under the pilot program be accepted to the university through normal admissions standards and processes and make satisfactory academic progress, as defined by the Board, to continue to receive a pilot program tuition waiver. Students participating in the pilot program who maintain satisfactory academic progress are eligible to continue receiving a tuition waiver after the expiration of the pilot program notwithstanding the Board of Higher Education's institution tuition waiver limitation.

(d) The Board shall annually report to the Board of Higher Education on the pilot program's impact on tuition revenue, enrollment goals, and increasing access and affordability on such dates as the Board of Higher Education shall determine.

(e) The Board of Higher Education may adopt any rules that are necessary to implement this Section.

(f) This Section is repealed on July 1, 2015.

Section 99. Effective date. This Act takes effect July 1, 2011.".

Senator Maloney offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1798

AMENDMENT NO. 2. Amend Senate Bill 1798, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Eastern Illinois University Law is amended by adding Section 10-92 as follows:

(110 ILCS 665/10-92 new)

(Section scheduled to be repealed on July 1, 2019)

Sec. 10-92. Tuition waiver limitation pilot program.

(a) The General Assembly makes all of the following findings:

(1) Both access and affordability are important points in the Illinois Public Agenda for College and Career Success.

(2) This State is in the top quartile with respect to the percentage of family income needed to pay for college.

(3) Research suggests that as loan amounts increase, versus grants-in-aid, the probability of college attendance decreases.

(4) There is further research indicating socioeconomic status may affect the willingness of students to use loans to attend college.

(5) Strategic use of tuition waivers will decrease the amount of loans that students must use to pay for tuition.

(6) A modest, individually tailored tuition waiver can make the difference in choosing to attend college and would enhance college access for low (up to 150% of the federal poverty level) and middle income (151% to 300% of the federal poverty level) families.

(7) Even if the federally calculated financial need for college attendance is met, the federally determined Expected Family Contribution can still be a daunting amount.

(8) This State is the second largest exporter of students in the country.

(9) Illinois students need to be kept in this State. State universities in other states have adopted pricing and incentives that make college expenses for residents of this State less than in this State.

(10) A mechanism is needed to stop the outflow of Illinois students to institutions in other states, assisting in State efforts to maintain and educate a highly trained workforce.

(11) By being competitive on costs of attendance, this State can bring out-of-state students to this State.

(12) The pilot program established under this Section will allow Eastern Illinois University to compete for highly qualified students who may reside in other states by mitigating the effect of cost differences.

(13) Modest tuition waivers, individually targeted and tailored, result in enhanced revenue for university programs.

(14) By increasing Eastern Illinois University's capacity to strategically use tuition waivers, the University will be capable of creating enhanced tuition revenue by increasing enrollment yields.

(15) The Board of Higher Education's current institutional tuition waiver limitation is 3% of total available undergraduate tuition revenue.

(b) The Board shall establish a pilot program to increase the Board of Higher Education's institutional tuition waiver limitation for the university over a 4-year period to increase access to college and make

college more affordable for undergraduate students. Under the pilot program, the institutional tuition waiver limitation shall be increased by 2 percentage points in the 2012-2013 academic year, 2 percentage points in the 2013-2014 academic year, 2 percentage points in the 2014-2015 academic year, and one percentage point in the 2015-2016 academic year, resulting in an institutional tuition waiver limitation of 10% in the fourth year of the pilot program.

(c) The pilot program shall require that students who receive a tuition waiver under the pilot program be accepted to the university through normal admissions standards and processes. Individual tuition waivers granted under the pilot program must not exceed $2,500 per academic year. The pilot program shall provide a maximum of one waiver per academic year for a maximum of 4 years to each student in the pilot program who maintains satisfactory academic progress. The pilot program shall be terminated after the 2015-2016 academic year, with no new students receiving waivers. However, notwithstanding the Board of Higher Education's institutional tuition waiver limitation, existing students receiving waivers under the pilot program are eligible to maintain those waivers, with satisfactory academic progress, under the 4-year limitation, after the 2015-2016 academic year due to maintenance of effort within their 4-year window. Sunset dates for waiver support shall be based upon the first academic year in which a student receives a waiver. The sunset dates are as follows for each annual cohort of pilot program participants:

(1) Cohort 1: the beginning year is 2012-2013 and the terminal year is 2015-2016.

(2) Cohort 2: the beginning year is 2013-2014 and the terminal year is 2016-2017.

(3) Cohort 3: the beginning year is 2014-2015 and the terminal year is 2017-2018.

(4) Cohort 4: the beginning year is 2015-2016 and the terminal year is 2018-2019.

(d) The Board shall annually report to the Board of Higher Education on the pilot program's impact on tuition revenue, enrollment goals, and increasing access and affordability on such dates as the Board of Higher Education shall determine.

(e) The Board of Higher Education may adopt any rules that are necessary to implement this Section.

(f) This Section is repealed on July 1, 2019.

Section 99. Effective date. This Act takes effect July 1, 2011.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Steans, **Senate Bill No. 1799,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Althoff, **Senate Bill No. 1804** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1804

AMENDMENT NO. 1. Amend Senate Bill 1804 on page 1, by replacing lines 11 through 13 with the following:

"challenge (i) the creation of a special service area, (ii) the levy of any tax of a special service area, or (iii) the

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 Althoff, **Senate Bill No. 1805** 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 1805

AMENDMENT NO. 1. Amend Senate Bill 1805 on page 2, by replacing lines 18 through 20 with the following:

"on the Center for Disease Control and Prevention's National Healthcare Safety Network surveillance system or its successor ~~the Hospital~~".

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 Raoul, **Senate Bill No. 1831,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Raoul, **Senate Bill No. 1832** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1832

AMENDMENT NO. 1. Amend Senate Bill 1832 by replacing everything after the enacting clause with the following:

"Section 5. The Quasi-criminal and Misdemeanor Bail Act is amended by changing Section 4 as follows:

(725 ILCS 195/4) (from Ch. 16, par. 84)

Sec. 4. In any case which does not require a court appearance under Supreme Court Rule, upon a plea of guilty the amounts of fines, fees, costs, and penalties for the offense shall be in the amount mandated by statute or by local ordinance enacted pursuant to statute. No rule or order of the Supreme Court shall alter these amounts. Any circuit clerk or deputy circuit clerk is authorized to receive written appearances, pleas of guilty, and waivers of trial and to accept payments in satisfaction of the judgment entered upon the plea. ~~Whenever in any circuit there shall be in force a uniform schedule prescribing the amounts of fines, penalties, forfeitures and costs on pleas of guilty in specified minor conservation and traffic offenses, any circuit clerk or deputy circuit clerk is authorized to receive written appearances, pleas of guilty and waivers of trial and to accept and receipt for payments, in satisfaction of the judgment to be entered upon the plea, in accordance with the uniform schedule. The accused shall be furnished with an official receipt on a form prescribed by such uniform schedule for the purpose for any fine paid pursuant to this section.~~

(Source: Laws 1967, p. 2949.)".

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 Murphy, **Senate Bill No. 1833** 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 1833

AMENDMENT NO. 1. Amend Senate Bill 1833 by replacing everything after the enacting clause with the following:

"Section 1. Rule of construction. This Act shall be construed to make amendments to provisions of State law to substitute the term "intellectual disability" for "mental retardation", "intellectually disabled" for "mentally retarded", "ID/DD Community Care Act" for "MR/DD Community Care Act", "physically disabled" for "crippled", and "physical disability" or "physically disabling", as appropriate, for "crippling" without any intent to change the substantive rights, responsibilities, coverage, eligibility, or definitions referred to in the amended provisions represented in this Act.

Section 3. The Statute on Statutes is amended by adding Sections 1.37 and 1.38 as follows:

(5 ILCS 70/1.37 new)

Sec. 1.37. Intellectual disability. Except where the context indicates otherwise, in any rule, contract, or other document a reference to the term "mental retardation" shall be considered a reference to the term "intellectual disability" and a reference to the term "mentally retarded" shall be considered a reference to

the term "intellectually disabled". The use of either "mental retardation" or "intellectually disabled", or "mentally retarded" or "intellectually disabled" shall not invalidate any rule, contract, or other document.

(5 ILCS 70/1.38 new)

Sec. 1.38. Physical disability. Except where the context indicates otherwise, in any rule, contract, or other document a reference to the term "crippled" shall be considered a reference to the term "physically disabled" and a reference to the term "crippling" shall be considered a reference to the term "physical disability" or "physically disabling", as appropriate, when referring to a person. The use of either "crippled" or "physically disabled", or "crippling" or "physical disability" shall not invalidate any rule, contract, or other document.

Section 4. The Illinois Administrative Procedure Act is amended by adding Sections 5-146 and 5-147 as follows:

(5 ILCS 100/5-146 new)

Sec. 5-146. Rule change; intellectual disability. Any State agency with a rule that contains the term "mentally retarded" or "mental retardation" shall amend the text of the rule to substitute the term "intellectually disabled" for "mentally retarded" and "intellectual disability" for "mental retardation", and shall make any other changes that may be necessary to conform to the changes made by this amendatory Act of the 97th General Assembly.

(5 ILCS 100/5-147 new)

Sec. 5-147. Rule change; physical disability. Any State agency with a rule that contains the term "crippled" or "crippling" to refer to a person with a physical disability shall amend the text of the rule to substitute the term "physically disabled" for "crippled" and "physical disability" or "physically disabling", as appropriate, for "crippling", and shall make any other changes that may be necessary to conform to the changes made by this amendatory Act of the 97th General Assembly.

Section 5. The Supported Employees Act is amended by changing Section 3 as follows:

(5 ILCS 390/3) (from Ch. 127, par. 3903)

Sec. 3. As used in this Act:

(a) "Agency" means those Departments, Boards, Commissions and Authorities that are under the jurisdiction and control of the Governor and are subject to the provisions and requirements of the Personnel Code, the State Universities Civil Service Act and the Secretary of State Merit Employment Code.

(b) "Department" means the Department of Central Management Services.

(c) "Director" means the Director of the Department of Central Management Services.

(d) "Supported employee" means any individual who:

(1) has a severe physical or mental disability which seriously limits functional capacities including but not limited to mobility, communication, self-care, self-direction, work tolerance or work skills, in terms of employability as defined, determined and certified by the Department of Human Services; and

(2) has one or more physical or mental disabilities resulting from amputation; arthritis; blindness; cancer; cerebral palsy; cystic fibrosis; deafness; heart disease; hemiplegia; respiratory or pulmonary dysfunction; an intellectual disability ~~mental retardation~~; mental illness; multiple sclerosis; muscular dystrophy; musculoskeletal disorders; neurological disorders, including stroke and epilepsy; paraplegia; quadriplegia and other spinal cord conditions; sickle cell anemia; and end-stage renal disease; or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

(e) "Supported employment" means competitive work in integrated work settings:

(1) for individuals with severe handicaps for whom competitive employment has not traditionally occurred, or

(2) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and who because of their handicap, need on-going support services to perform such work. The term includes transitional employment for individuals with chronic mental illness.

(f) "Participation in a supported employee program" means participation as a supported employee that is not based on the expectation that an individual will have the skills to perform all the duties in a job class, but on the assumption that with support and adaptation, or both, a job can be designed to take advantage of the supported employee's special strengths.

(g) "Funder" means any entity either State, local or federal, or private not-for-profit or for-profit that provides monies to programs that provide services related to supported employment.

(h) "Provider" means any entity either public or private that provides technical support and services to any department or agency subject to the control of the Governor, the Secretary of State or the University Civil Service System.
(Source: P.A. 89-507, eff. 7-1-97.)

Section 7. The Election Code is amended by changing Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4, 19-12.1, and 19-12.2 as follows:

(10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

Sec. 3-3. Every honorably discharged soldier or sailor who is an inmate of any soldiers' and sailors' home within the State of Illinois, any person who is a resident of a facility licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, or any person who is a resident of a community-integrated living arrangement, as defined in Section 3 of the Community-Integrated Living Arrangements Licensure and Certification Act, for 30 days or longer, and who is a citizen of the United States and has resided in this State and in the election district 30 days next preceding any election shall be entitled to vote in the election district in which any such home or community-integrated living arrangement in which he is an inmate or resident is located, for all officers that now are or hereafter may be elected by the people, and upon all questions that may be submitted to the vote of the people: Provided, that he shall declare upon oath, that it was his bona fide intention at the time he entered said home or community-integrated living arrangement to become a resident thereof.
(Source: P.A. 96-339, eff. 7-1-10; 96-563, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

Sec. 4-6.3. The county clerk may establish a temporary place of registration for such times and at such locations within the county as the county clerk may select. However, no temporary place of registration may be in operation during the 27 days preceding an election. Notice of the time and place of registration under this Section shall be published by the county clerk in a newspaper having a general circulation in the county not less than 3 nor more than 15 days before the holding of such registration.

Temporary places of registration shall be established so that the areas of concentration of population or use by the public are served, whether by facilities provided in places of private business or in public buildings or in mobile units. Areas which may be designated as temporary places of registration include, but are not limited to, facilities licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors' Homes, shopping centers, business districts, public buildings and county fairs.

Temporary places of registration shall be available to the public not less than 2 hours per year for each 1,000 population or fraction thereof in the county.

All temporary places of registration shall be manned by deputy county clerks or deputy registrars appointed pursuant to Section 4-6.2.
(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

Sec. 4-10. Except as herein provided, no person shall be registered, unless he applies in person to a registration officer, answers such relevant questions as may be asked of him by the registration officer, and executes the affidavit of registration. The registration officer shall require the applicant to furnish two forms of identification, and except in the case of a homeless individual, one of which must include his or her residence address. These forms of identification shall include, but not be limited to, any of the following: driver's license, social security card, public aid identification card, utility bill, employee or student identification card, lease or contract for a residence, credit card, or a civic, union or professional association membership card. The registration officer shall require a homeless individual to furnish evidence of his or her use of the mailing address stated. This use may be demonstrated by a piece of mail addressed to that individual and received at that address or by a statement from a person authorizing use of the mailing address. The registration officer shall require each applicant for registration to read or have read to him the affidavit of registration before permitting him to execute the affidavit.

One of the registration officers or a deputy registration officer, county clerk, or clerk in the office of the county clerk, shall administer to all persons who shall personally apply to register the following oath or affirmation:

"You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your name, place of residence, place of birth, your qualifications as an elector and your right as such to register and vote under the laws of the State of Illinois."

The registration officer shall satisfy himself that each applicant for registration is qualified to register before registering him. If the registration officer has reason to believe that the applicant is a resident of a Soldiers' and Sailors' Home or any facility which is licensed or certified pursuant to the Nursing Home

Care Act or the ID/DD ~~MR/DD~~ Community Care Act, the following question shall be put, "When you entered the home which is your present address, was it your bona fide intention to become a resident thereof?" Any voter of a township, city, village or incorporated town in which such applicant resides, shall be permitted to be present at the place of any precinct registration and shall have the right to challenge any applicant who applies to be registered.

In case the officer is not satisfied that the applicant is qualified he shall forthwith notify such applicant in writing to appear before the county clerk to complete his registration. Upon the card of such applicant shall be written the word "incomplete" and no such applicant shall be permitted to vote unless such registration is satisfactorily completed as hereinafter provided. No registration shall be taken and marked as incomplete if information to complete it can be furnished on the date of the original application.

Any person claiming to be an elector in any election precinct and whose registration card is marked "Incomplete" may make and sign an application in writing, under oath, to the county clerk in substance in the following form:

"I do solemnly swear that I, ..., did on (insert date) make application to the board of registry of the .... precinct of the township of .... (or to the county clerk of .... county) and that said board or clerk refused to complete my registration as a qualified voter in said precinct. That I reside in said precinct, that I intend to reside in said precinct, and am a duly qualified voter of said precinct and am entitled to be registered to vote in said precinct at the next election.

(Signature of applicant) ....."

All such applications shall be presented to the county clerk or to his duly authorized representative by the applicant, in person between the hours of 9:00 a.m. and 5:00 p.m. on any day after the days on which the 1969 and 1970 precinct re-registrations are held but not on any day within 27 days preceding the ensuing general election and thereafter for the registration provided in Section 4-7 all such applications shall be presented to the county clerk or his duly authorized representative by the applicant in person between the hours of 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding the ensuing general election. Such application shall be heard by the county clerk or his duly authorized representative at the time the application is presented. If the applicant for registration has registered with the county clerk, such application may be presented to and heard by the county clerk or by his duly authorized representative upon the dates specified above or at any time prior thereto designated by the county clerk.

Any otherwise qualified person who is absent from his county of residence either due to business of the United States or because he is temporarily outside the territorial limits of the United States may become registered by mailing an application to the county clerk within the periods of registration provided for in this Article, or by simultaneous application for absentee registration and absentee ballot as provided in Article 20 of this Code.

Upon receipt of such application the county clerk shall immediately mail an affidavit of registration in duplicate, which affidavit shall contain the following and such other information as the State Board of Elections may think it proper to require for the identification of the applicant:

Name. The name of the applicant, giving surname and first or Christian name in full, and the middle name or the initial for such middle name, if any.

Sex.

Residence. The name and number of the street, avenue or other location of the dwelling, and such additional clear and definite description as may be necessary to determine the exact location of the dwelling of the applicant. Where the location cannot be determined by street and number, then the Section, congressional township and range number may be used, or such other information as may be necessary, including post office mailing address.

Term of residence in the State of Illinois and the precinct.

Nativity. The State or country in which the applicant was born.

Citizenship. Whether the applicant is native born or naturalized. If naturalized, the court, place and date of naturalization.

Age. Date of birth, by month, day and year.

Out of State address of .....

AFFIDAVIT OF REGISTRATION

State of .....)
)ss
County of .....)

I hereby swear (or affirm) that I am a citizen of the United States; that on the day of the next election I shall have resided in the State of Illinois and in the election precinct 30 days; that I am fully qualified to vote, that I am not registered to vote anywhere else in the United States, that I intend to remain a resident

of the State of Illinois and of the election precinct, that I intend to return to the State of Illinois, and that the above statements are true.

.....
(His or her signature or mark)

Subscribed and sworn to before me, an officer qualified to administer oaths, on (insert date).

.....
Signature of officer administering oath.

Upon receipt of the executed duplicate affidavit of Registration, the county clerk shall transfer the information contained thereon to duplicate Registration Cards provided for in Section 4-8 of this Article and shall attach thereto a copy of each of the duplicate affidavit of registration and thereafter such registration card and affidavit shall constitute the registration of such person the same as if he had applied for registration in person.

(Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

Sec. 5-9. Except as herein provided, no person shall be registered unless he applies in person to registration officer, answers such relevant questions as may be asked of him by the registration officer, and executes the affidavit of registration. The registration officer shall require the applicant to furnish two forms of identification, and except in the case of a homeless individual, one of which must include his or her residence address. These forms of identification shall include, but not be limited to, any of the following: driver's license, social security card, public aid identification card, utility bill, employee or student identification card, lease or contract for a residence, credit card, or a civic, union or professional association membership card. The registration officer shall require a homeless individual to furnish evidence of his or her use of the mailing address stated. This use may be demonstrated by a piece of mail addressed to that individual and received at that address or by a statement from a person authorizing use of the mailing address. The registration officer shall require each applicant for registration to read or have read to him the affidavit of registration before permitting him to execute the affidavit.

One of the Deputy Registrars, the Judge of Registration, or an Officer of Registration, County Clerk, or clerk in the office of the County Clerk, shall administer to all persons who shall personally apply to register the following oath or affirmation:

"You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence, name, place of birth, your qualifications as an elector and your right as such to register and vote under the laws of the State of Illinois."

The Registration Officer shall satisfy himself that each applicant for registration is qualified to register before registering him. If the registration officer has reason to believe that the applicant is a resident of a Soldiers' and Sailors' Home or any facility which is licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, the following question shall be put, "When you entered the home which is your present address, was it your bona fide intention to become a resident thereof?" Any voter of a township, city, village or incorporated town in which such applicant resides, shall be permitted to be present at the place of precinct registration, and shall have the right to challenge any applicant who applies to be registered.

In case the officer is not satisfied that the applicant is qualified, he shall forthwith in writing notify such applicant to appear before the County Clerk to furnish further proof of his qualifications. Upon the card of such applicant shall be written the word "Incomplete" and no such applicant shall be permitted to vote unless such registration is satisfactorily completed as hereinafter provided. No registration shall be taken and marked as "incomplete" if information to complete it can be furnished on the date of the original application.

Any person claiming to be an elector in any election precinct in such township, city, village or incorporated town and whose registration is marked "Incomplete" may make and sign an application in writing, under oath, to the County Clerk in substance in the following form:

"I do solemnly swear that I, ..., did on (insert date) make application to the Board of Registry of the ..... precinct of ..... ward of the City of .... or of the ..... District ..... Town of ..... (or to the County Clerk of .....) and ..... County; that said Board or Clerk refused to complete my registration as a qualified voter in said precinct, that I reside in said precinct (or that I intend to reside in said precinct), am a duly qualified voter and entitled to vote in said precinct at the next election.

.....
(Signature of Applicant)"

All such applications shall be presented to the County Clerk by the applicant, in person between the hours of nine o'clock a.m. and five o'clock p.m., on Monday and Tuesday of the third week subsequent to the weeks in which the 1961 and 1962 precinct re-registrations are to be held, and thereafter for the

registration provided in Section 5-17 of this Article, all such applications shall be presented to the County Clerk by the applicant in person between the hours of nine o'clock a.m. and nine o'clock p.m. on Monday and Tuesday of the third week prior to the date on which such election is to be held.

Any otherwise qualified person who is absent from his county of residence either due to business of the United States or because he is temporarily outside the territorial limits of the United States may become registered by mailing an application to the county clerk within the periods of registration provided for in this Article or by simultaneous application for absentee registration and absentee ballot as provided in Article 20 of this Code.

Upon receipt of such application the county clerk shall immediately mail an affidavit of registration in duplicate, which affidavit shall contain the following and such other information as the State Board of Elections may think it proper to require for the identification of the applicant:

Name. The name of the applicant, giving surname and first or Christian name in full, and the middle name or the initial for such middle name, if any.

Sex.

Residence. The name and number of the street, avenue or other location of the dwelling, and such additional clear and definite description as may be necessary to determine the exact location of the dwelling of the applicant. Where the location cannot be determined by street and number, then the Section, congressional township and range number may be used, or such other information as may be necessary, including post office mailing address.

Term of residence in the State of Illinois and the precinct.

Nativity. The State or country in which the applicant was born.

Citizenship. Whether the applicant is native born or naturalized. If naturalized, the court, place and date of naturalization.

Age. Date of birth, by month, day and year.

Out of State address of .....

AFFIDAVIT OF REGISTRATION

State of .....)
)ss
County of .....)

I hereby swear (or affirm) that I am a citizen of the United States; that on the day of the next election I shall have resided in the State of Illinois for 6 months and in the election precinct 30 days; that I am fully qualified to vote, that I am not registered to vote anywhere else in the United States, that I intend to remain a resident of the State of Illinois and of the election precinct, that I intend to return to the State of Illinois, and that the above statements are true.

.....
(His or her signature or mark)

Subscribed and sworn to before me, an officer qualified to administer oaths, on (insert date).

.....
Signature of officer administering oath.

Upon receipt of the executed duplicate affidavit of Registration, the county clerk shall transfer the information contained thereon to duplicate Registration Cards provided for in Section 5-7 of this Article and shall attach thereto a copy of each of the duplicate affidavit of registration and thereafter such registration card and affidavit shall constitute the registration of such person the same as if he had applied for registration in person.

(Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

Sec. 5-16.3. The county clerk may establish temporary places of registration for such times and at such locations within the county as the county clerk may select. However, no temporary place of registration may be in operation during the 27 days preceding an election. Notice of time and place of registration at any such temporary place of registration under this Section shall be published by the county clerk in a newspaper having a general circulation in the county not less than 3 nor more than 15 days before the holding of such registration.

Temporary places of registration shall be established so that the areas of concentration of population or use by the public are served, whether by facilities provided in places of private business or in public buildings or in mobile units. Areas which may be designated as temporary places of registration include, but are not limited to, facilities licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors' Homes, shopping centers, business districts, public buildings and county fairs.

Temporary places of registration shall be available to the public not less than 2 hours per year for each

1,000 population or fraction thereof in the county.

All temporary places of registration shall be manned by deputy county clerks or deputy registrars appointed pursuant to Section 5-16.2.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

Sec. 6-50.3. The board of election commissioners may establish temporary places of registration for such times and at such locations as the board may select. However, no temporary place of registration may be in operation during the 27 days preceding an election. Notice of the time and place of registration at any such temporary place of registration under this Section shall be published by the board of election commissioners in a newspaper having a general circulation in the city, village or incorporated town not less than 3 nor more than 15 days before the holding of such registration.

Temporary places of registration shall be established so that the areas of concentration of population or use by the public are served, whether by facilities provided in places of private business or in public buildings or in mobile units. Areas which may be designated as temporary places of registration include, but are not limited to facilities licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors' Homes, shopping centers, business districts, public buildings and county fairs.

Temporary places of registration shall be available to the public not less than 2 hours per year for each 1,000 population or fraction thereof in the county.

All temporary places of registration shall be manned by employees of the board of election commissioners or deputy registrars appointed pursuant to Section 6-50.2.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

Sec. 6-56. Not more than 30 nor less than 28 days before any election under this Article, all owners, managers, administrators or operators of hotels, lodging houses, rooming houses, furnished apartments or facilities licensed or certified under the Nursing Home Care Act, which house 4 or more persons, outside the members of the family of such owner, manager, administrator or operator, shall file with the board of election commissioners a report, under oath, together with one copy thereof, in such form as may be required by the board of election commissioners, of the names and descriptions of all lodgers, guests or residents claiming a voting residence at the hotels, lodging houses, rooming houses, furnished apartments, or facility licensed or certified under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act under their control. In counties having a population of 500,000 or more such report shall be made on forms mailed to them by the board of election commissioners. The board of election commissioners shall sort and assemble the sworn copies of the reports in numerical order according to ward and according to precincts within each ward and shall, not later than 5 days after the last day allowed by this Article for the filing of the reports, maintain one assembled set of sworn duplicate reports available for public inspection until 60 days after election days. Except as is otherwise expressly provided in this Article, the board shall not be required to perform any duties with respect to the sworn reports other than to mail, sort, assemble, post and file them as hereinabove provided.

Except in such cases where a precinct canvass is being conducted by the Board of Election Commissioners prior to a Primary or Election, the board of election commissioners shall compare the original copy of each such report with the list of registered voters from such addresses. Every person registered from such address and not listed in such report or whose name is different from any name so listed, shall immediately after the last day of registration be sent a notice through the United States mail, at the address appearing upon his registration record card, requiring him to appear before the board of election commissioners on one of the days specified in Section 6-45 of this Article and show cause why his registration should not be cancelled. The provisions of Sections 6-45, 6-46 and 6-47 of this Article shall apply to such hearing and proceedings subsequent thereto.

Any owner, manager or operator of any such hotel, lodging house, rooming house or furnished apartment who shall fail or neglect to file such statement and copy thereof as in this Article provided, may, upon written information of the attorney for the election commissioners, be cited by the election commissioners or upon the complaint of any voter of such city, village or incorporated town, to appear before them and furnish such sworn statement and copy thereof and make such oral statements under oath regarding such hotel, lodging house, rooming house or furnished apartment, as the election commissioners may require. The election commissioners shall sit to hear such citations on the Friday of the fourth week preceding the week in which such election is to be held. Such citation shall be served not later than the day preceding the day on which it is returnable.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

Sec. 19-4. Mailing or delivery of ballots - Time.) Immediately upon the receipt of such application either by mail, not more than 40 days nor less than 5 days prior to such election, or by personal delivery not more than 40 days nor less than one day prior to such election, at the office of such election authority, it shall be the duty of such election authority to examine the records to ascertain whether or not such applicant is lawfully entitled to vote as requested, including a verification of the applicant's signature by comparison with the signature on the official registration record card, and if found so to be entitled to vote, to post within one business day thereafter the name, street address, ward and precinct number or township and district number, as the case may be, of such applicant given on a list, the pages of which are to be numbered consecutively to be kept by such election authority for such purpose in a conspicuous, open and public place accessible to the public at the entrance of the office of such election authority, and in such a manner that such list may be viewed without necessity of requesting permission therefor. Within one day after posting the name and other information of an applicant for an absentee ballot, the election authority shall transmit that name and other posted information to the State Board of Elections, which shall maintain those names and other information in an electronic format on its website, arranged by county and accessible to State and local political committees. Within 2 business days after posting a name and other information on the list within its office, the election authority shall mail, postage prepaid, or deliver in person in such office an official ballot or ballots if more than one are to be voted at said election. Mail delivery of Temporarily Absent Student ballot applications pursuant to Section 19-12.3 shall be by nonforwardable mail. However, for the consolidated election, absentee ballots for certain precincts may be delivered to applicants not less than 25 days before the election if so much time is required to have prepared and printed the ballots containing the names of persons nominated for offices at the consolidated primary. The election authority shall enclose with each absentee ballot or application written instructions on how voting assistance shall be provided pursuant to Section 17-14 and a document, written and approved by the State Board of Elections, enumerating the circumstances under which a person is authorized to vote by absentee ballot pursuant to this Article; such document shall also include a statement informing the applicant that if he or she falsifies or is solicited by another to falsify his or her eligibility to cast an absentee ballot, such applicant or other is subject to penalties pursuant to Section 29-10 and Section 29-20 of the Election Code. Each election authority shall maintain a list of the name, street address, ward and precinct, or township and district number, as the case may be, of all applicants who have returned absentee ballots to such authority, and the name of such absent voter shall be added to such list within one business day from receipt of such ballot. If the absentee ballot envelope indicates that the voter was assisted in casting the ballot, the name of the person so assisting shall be included on the list. The list, the pages of which are to be numbered consecutively, shall be kept by each election authority in a conspicuous, open, and public place accessible to the public at the entrance of the office of the election authority and in a manner that the list may be viewed without necessity of requesting permission for viewing.

Each election authority shall maintain a list for each election of the voters to whom it has issued absentee ballots. The list shall be maintained for each precinct within the jurisdiction of the election authority. Prior to the opening of the polls on election day, the election authority shall deliver to the judges of election in each precinct the list of registered voters in that precinct to whom absentee ballots have been issued by mail.

Each election authority shall maintain a list for each election of voters to whom it has issued temporarily absent student ballots. The list shall be maintained for each election jurisdiction within which such voters temporarily abide. Immediately after the close of the period during which application may be made by mail for absentee ballots, each election authority shall mail to each other election authority within the State a certified list of all such voters temporarily abiding within the jurisdiction of the other election authority.

In the event that the return address of an application for ballot by a physically incapacitated elector is that of a facility licensed or certified under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, within the jurisdiction of the election authority, and the applicant is a registered voter in the precinct in which such facility is located, the ballots shall be prepared and transmitted to a responsible judge of election no later than 9 a.m. on the Saturday, Sunday or Monday immediately preceding the election as designated by the election authority under Section 19-12.2. Such judge shall deliver in person on the designated day the ballot to the applicant on the premises of the facility from which application was made. The election authority shall by mail notify the applicant in such facility that the ballot will be delivered by a judge of election on the designated day.

All applications for absentee ballots shall be available at the office of the election authority for public inspection upon request from the time of receipt thereof by the election authority until 30 days after the election, except during the time such applications are kept in the office of the election authority pursuant

to Section 19-7, and except during the time such applications are in the possession of the judges of election.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

Sec. 19-12.1. Any qualified elector who has secured an Illinois Disabled Person Identification Card in accordance with The Illinois Identification Card Act, indicating that the person named thereon has a Class 1A or Class 2 disability or any qualified voter who has a permanent physical incapacity of such a nature as to make it improbable that he will be able to be present at the polls at any future election, or any voter who is a resident of a facility licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act and has a condition or disability of such a nature as to make it improbable that he will be able to be present at the polls at any future election, may secure a disabled voter's or nursing home resident's identification card, which will enable him to vote under this Article as a physically incapacitated or nursing home voter.

Application for a disabled voter's or nursing home resident's identification card shall be made either: (a) in writing, with voter's sworn affidavit, to the county clerk or board of election commissioners, as the case may be, and shall be accompanied by the affidavit of the attending physician specifically describing the nature of the physical incapacity or the fact that the voter is a nursing home resident and is physically unable to be present at the polls on election days; or (b) by presenting, in writing or otherwise, to the county clerk or board of election commissioners, as the case may be, proof that the applicant has secured an Illinois Disabled Person Identification Card indicating that the person named thereon has a Class 1A or Class 2 disability. Upon the receipt of either the sworn-to application and the physician's affidavit or proof that the applicant has secured an Illinois Disabled Person Identification Card indicating that the person named thereon has a Class 1A or Class 2 disability, the county clerk or board of election commissioners shall issue a disabled voter's or nursing home resident's identification card. Such identification cards shall be issued for a period of 5 years, upon the expiration of which time the voter may secure a new card by making application in the same manner as is prescribed for the issuance of an original card, accompanied by a new affidavit of the attending physician. The date of expiration of such five-year period shall be made known to any interested person by the election authority upon the request of such person. Applications for the renewal of the identification cards shall be mailed to the voters holding such cards not less than 3 months prior to the date of expiration of the cards.

Each disabled voter's or nursing home resident's identification card shall bear an identification number, which shall be clearly noted on the voter's original and duplicate registration record cards. In the event the holder becomes physically capable of resuming normal voting, he must surrender his disabled voter's or nursing home resident's identification card to the county clerk or board of election commissioners before the next election.

The holder of a disabled voter's or nursing home resident's identification card may make application by mail for an official ballot within the time prescribed by Section 19-2. Such application shall contain the same information as is included in the form of application for ballot by a physically incapacitated elector prescribed in Section 19-3 except that it shall also include the applicant's disabled voter's identification card number and except that it need not be sworn to. If an examination of the records discloses that the applicant is lawfully entitled to vote, he shall be mailed a ballot as provided in Section 19-4. The ballot envelope shall be the same as that prescribed in Section 19-5 for physically disabled voters, and the manner of voting and returning the ballot shall be the same as that provided in this Article for other absentee ballots, except that a statement to be subscribed to by the voter but which need not be sworn to shall be placed on the ballot envelope in lieu of the affidavit prescribed by Section 19-5.

Any person who knowingly subscribes to a false statement in connection with voting under this Section shall be guilty of a Class A misdemeanor.

For the purposes of this Section, "nursing home resident" includes a resident of a facility licensed under the MR/DD Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

Sec. 19-12.2. Voting by physically incapacitated electors who have made proper application to the election authority not later than 5 days before the regular primary and general election of 1980 and before each election thereafter shall be conducted on the premises of facilities licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act for the sole benefit of residents of such facilities. Such voting shall be conducted during any continuous period sufficient to allow all applicants to cast their ballots between the hours of 9 a.m. and 7 p.m. either on the Friday, Saturday, Sunday or Monday immediately preceding the regular election. This absentee voting on one of said days designated by the election authority shall be supervised by two election judges who must be

selected by the election authority in the following order of priority: (1) from the panel of judges appointed for the precinct in which such facility is located, or from a panel of judges appointed for any other precinct within the jurisdiction of the election authority in the same ward or township, as the case may be, in which the facility is located or, only in the case where a judge or judges from the precinct, township or ward are unavailable to serve, (3) from a panel of judges appointed for any other precinct within the jurisdiction of the election authority. The two judges shall be from different political parties. Not less than 30 days before each regular election, the election authority shall have arranged with the chief administrative officer of each facility in his or its election jurisdiction a mutually convenient time period on the Friday, Saturday, Sunday or Monday immediately preceding the election for such voting on the premises of the facility and shall post in a prominent place in his or its office a notice of the agreed day and time period for conducting such voting at each facility; provided that the election authority shall not later than noon on the Thursday before the election also post the names and addresses of those facilities from which no applications were received and in which no supervised absentee voting will be conducted. All provisions of this Code applicable to pollwatchers shall be applicable herein. To the maximum extent feasible, voting booths or screens shall be provided to insure the privacy of the voter. Voting procedures shall be as described in Article 17 of this Code, except that ballots shall be treated as absentee ballots and shall not be counted until the close of the polls on the following day. After the last voter has concluded voting, the judges shall seal the ballots in an envelope and affix their signatures across the flap of the envelope. Immediately thereafter, the judges shall bring the sealed envelope to the office of the election authority who shall deliver such ballots to the election authority's central ballot counting location prior to the closing of the polls on the day of election. The judges of election shall also report to the election authority the name of any applicant in the facility who, due to unforeseen circumstance or condition or because of a religious holiday, was unable to vote. In this event, the election authority may appoint a qualified person from his or its staff to deliver the ballot to such applicant on the day of election. This staff person shall follow the same procedures prescribed for judges conducting absentee voting in such facilities and shall return the ballot to the central ballot counting location before the polls close. However, if the facility from which the application was made is also used as a regular precinct polling place for that voter, voting procedures heretofore prescribed may be implemented by 2 of the election judges of opposite party affiliation assigned to that polling place during the hours of voting on the day of the election. Judges of election shall be compensated not less than $25.00 for conducting absentee voting in such facilities.

Not less than 120 days before each regular election, the Department of Public Health shall certify to the State Board of Elections a list of the facilities licensed or certified pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, and shall indicate the approved bed capacity and the name of the chief administrative officer of each such facility, and the State Board of Elections shall certify the same to the appropriate election authority within 20 days thereafter.
(Source: P.A. 96-339, eff. 7-1-10.)

Section 10. The Secretary of State Merit Employment Code is amended by changing Section 18c as follows:

(15 ILCS 310/18c) (from Ch. 124, par. 118c)

Sec. 18c. Supported employees.

(a) The Director shall develop and implement a supported employment program. It shall be the goal of the program to appoint a minimum of 10 supported employees to Secretary of State positions before June 30, 1992.

(b) The Director shall designate a liaison to work with State agencies and departments under the jurisdiction of the Secretary of State and any funder or provider or both in the implementation of a supported employment program.

(c) As used in this Section:

(1) "Supported employee" means any individual who:

(A) has a severe physical or mental disability which seriously limits functional capacities including but not limited to mobility, communication, self-care, self-direction, work tolerance or work skills, in terms of employability as defined, determined and certified by the Department of Human Services; and

(B) has one or more physical or mental disabilities resulting from amputation; arthritis; blindness; cancer; cerebral palsy; cystic fibrosis; deafness; heart disease; hemiplegia; respiratory or pulmonary dysfunction; an intellectual disability ~~mental retardation~~; mental illness; multiple sclerosis; muscular dystrophy; musculoskeletal disorders; neurological disorders, including stroke and epilepsy; paraplegia; quadriplegia and other spinal cord conditions; sickle cell anemia;

and end-stage renal disease; or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

(2) "Supported employment" means competitive work in integrated work settings:

(A) for individuals with severe handicaps for whom competitive employment has not traditionally occurred, or

(B) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and who because of their handicap, need on-going support services to perform such work. The term includes transitional employment for individuals with chronic mental illness.

(3) "Participation in a supported employee program" means participation as a supported employee that is not based on the expectation that an individual will have the skills to perform all the duties in a job class, but on the assumption that with support and adaptation, or both, a job can be designed to take advantage of the supported employee's special strengths.

(4) "Funder" means any entity either State, local or federal, or private not-for-profit or for-profit that provides monies to programs that provide services related to supported employment.

(5) "Provider" means any entity either public or private that provides technical support and services to any department or agency subject to the control of the Governor, the Secretary of State or the University Civil Service System.

(d) The Director shall establish job classifications for supported employees who may be appointed into the classifications without open competitive testing requirements. Supported employees shall serve in a trial employment capacity for not less than 3 or more than 12 months.

(e) The Director shall maintain a record of all individuals hired as supported employees. The record shall include:

(1) the number of supported employees initially appointed;

(2) the number of supported employees who successfully complete the trial employment periods; and

(3) the number of permanent targeted positions by titles.

(f) The Director shall submit an annual report to the General Assembly regarding the employment progress of supported employees, with recommendations for legislative action.

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

Section 15. The Illinois Identification Card Act is amended by changing Section 4A as follows:

(15 ILCS 335/4A) (from Ch. 124, par. 24A)

Sec. 4A. (a) "Disabled person" as used in this Act means any person who is, and who is expected to indefinitely continue to be, subject to any of the following five types of disabilities:

Type One: Physical disability. A physical disability is a physical impairment, disease, or loss, which is of a permanent nature, and which substantially impairs normal physical ability or motor skills. The Secretary of State shall establish standards not inconsistent with this provision necessary to determine the presence of a physical disability.

Type Two: Developmental disability. A developmental disability is a disability which originates before the age of 18 years, and results in or has resulted in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons and which is attributable to an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy, autism, or other conditions or similar disorders. The Secretary of State shall establish standards not inconsistent with this provision necessary to determine the presence of a developmental disability.

Type Three: Visual disability. A visual disability is a disability resulting in complete absence of vision, or vision that with corrective glasses is so defective as to prevent performance of tasks or activities for which eyesight is essential. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a visual disability.

Type Four: Hearing disability. A hearing disability is a disability resulting in complete absence of hearing, or hearing that with sound enhancing or magnifying equipment is so impaired as to require the use of sensory input other than hearing as the principal means of receiving spoken language. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a hearing disability.

Type Five: Mental Disability. A mental disability is an emotional or psychological impairment or disease, which substantially impairs the ability to meet individual or societal needs. The Secretary of State shall establish standards not inconsistent with this provision necessary to determine the presence of

a mental disability.

(b) For purposes of this Act, a disability shall be classified as follows: Class 1 disability: A Class 1 disability is any type disability which does not render a person unable to engage in any substantial gainful activity or which does not impair his ability to live independently or to perform labor or services for which he is qualified. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a Class 1 disability. Class 1A disability: A Class 1A disability is a Class 1 disability which renders a person unable to walk 200 feet or more unassisted by another person or without the aid of a walker, crutches, braces, prosthetic device or a wheelchair or without great difficulty or discomfort due to the following impairments: neurologic, orthopedic, respiratory, cardiac, arthritic disorder, or the loss of function or absence of a limb or limbs. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a Class 1A disability. Class 2 disability: A Class 2 disability is any type disability which renders a person unable to engage in any substantial gainful activity, which substantially impairs his ability to live independently without supervision or in-home support services, or which substantially impairs his ability to perform labor or services for which he is qualified or significantly restricts the labor or services which he is able to perform. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a Class 2 disability. Class 2A disability: A Class 2A disability is a Class 2 disability which renders a person unable to walk 200 feet or more unassisted by another person or without the aid of a walker, crutches, braces, prosthetic device or a wheelchair or without great difficulty or discomfort due to the following impairments: neurologic, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb or limbs. The Secretary of State shall establish standards not inconsistent with this Section necessary to determine the presence of a Class 2A disability.

(Source: P.A. 85-354.)

Section 17. The Illinois Act on the Aging is amended by changing Section 4.08 as follows:

(20 ILCS 105/4.08)

Sec. 4.08. Rural and small town meals program. Subject to appropriation, the Department may establish a program to ensure the availability of congregate or home-delivered meals in communities with populations of under 5,000 that are not located within the large urban counties of Cook, DuPage, Kane, Lake, or Will.

The Department may meet these requirements by entering into agreements with Area Agencies on Aging or Department designees, which shall in turn enter into grants or contractual agreements with such local entities as restaurants, cafes, churches, facilities licensed under the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, the Assisted Living and Shared Housing Act, or the Hospital Licensing Act, facilities certified by the Department of Healthcare and Family Services, senior centers, or Older American Act designated nutrition service providers.

First consideration shall be given to entities that can cost effectively meet the needs of seniors in the community by preparing the food locally.

In no instance shall funds provided pursuant to this Section be used to replace funds allocated to a given area or program as of the effective date of this amendatory Act of the 95th General Assembly.

The Department shall establish guidelines and standards by administrative rule, which shall include submission of an expenditure plan by the recipient of the funds.

(Source: P.A. 95-68, eff. 8-13-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10.)

Section 20. The Mental Health and Developmental Disabilities Administrative Act is amended by changing Sections 7, 15, 34, 43, 45, 46, and 57.6 as follows:

(20 ILCS 1705/7) (from Ch. 91 1/2, par. 100-7)

Sec. 7. To receive and provide the highest possible quality of humane and rehabilitative care and treatment to all persons admitted or committed or transferred in accordance with law to the facilities, divisions, programs, and services under the jurisdiction of the Department. No resident of another state shall be received or retained to the exclusion of any resident of this State. No resident of another state shall be received or retained to the exclusion of any resident of this State. All recipients of 17 years of age and under in residence in a Department facility other than a facility for the care of the intellectually disabled ~~mentally retarded~~ shall be housed in quarters separated from older recipients except for: (a) recipients who are placed in medical-surgical units because of physical illness; and (b) recipients between 13 and 18 years of age who need temporary security measures.

All recipients in a Department facility shall be given a dental examination by a licensed dentist or registered dental hygienist at least once every 18 months and shall be assigned to a dentist for such

dental care and treatment as is necessary.

All medications administered to recipients shall be administered only by those persons who are legally qualified to do so by the laws of the State of Illinois. Medication shall not be prescribed until a physical and mental examination of the recipient has been completed. If, in the clinical judgment of a physician, it is necessary to administer medication to a recipient before the completion of the physical and mental examination, he may prescribe such medication but he must file a report with the facility director setting forth the reasons for prescribing such medication within 24 hours of the prescription. A copy of the report shall be part of the recipient's record.

No later than January 1, 2005, the Department shall adopt a model protocol and forms for recording all patient diagnosis, care, and treatment at each State-operated facility for the mentally ill and developmentally disabled under the jurisdiction of the Department. The model protocol and forms shall be used by each facility unless the Department determines that equivalent alternatives justify an exemption.

Every facility under the jurisdiction of the Department shall maintain a copy of each report of suspected abuse or neglect of the patient. Copies of those reports shall be made available to the State Auditor General in connection with his biennial program audit of the facility as required by Section 3-2 of the Illinois State Auditing Act.

No later than January 1 2004, the Department shall report to the Governor and the General Assembly whether each State-operated facility for the mentally ill and developmentally disabled under the jurisdiction of the Department and all services provided in those facilities comply with all of the applicable standards adopted by the Social Security Administration under Subchapter XVIII (Medicare) of the Social Security Act (42 U.S.C. 1395-1395ccc), if the facility and services may be eligible for federal financial participation under that federal law. For those facilities that do comply, the report shall indicate what actions need to be taken to ensure continued compliance. For those facilities that do not comply, the report shall indicate what actions need to be taken to bring each facility into compliance.
(Source: P.A. 93-636, eff. 6-1-04.)

(20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

Sec. 15. Before any person is released from a facility operated by the State pursuant to an absolute discharge or a conditional discharge from hospitalization under this Act, the facility director of the facility in which such person is hospitalized shall determine that such person is not currently in need of hospitalization and:

(a) is able to live independently in the community; or

(b) requires further oversight and supervisory care for which arrangements have been made with responsible relatives or supervised residential program approved by the Department; or

(c) requires further personal care or general oversight as defined by the ID/DD ~~MR/DD~~ Community Care Act, for which placement arrangements have been made with a suitable family home or other licensed facility approved by the Department under this Section; or

(d) requires community mental health services for which arrangements have been made with a community mental health provider in accordance with criteria, standards, and procedures promulgated by rule.

Such determination shall be made in writing and shall become a part of the facility record of such absolutely or conditionally discharged person. When the determination indicates that the condition of the person to be granted an absolute discharge or a conditional discharge is described under subparagraph (c) or (d) of this Section, the name and address of the continuing care facility or home to which such person is to be released shall be entered in the facility record. Where a discharge from a mental health facility is made under subparagraph (c), the Department shall assign the person so discharged to an existing community based not-for-profit agency for participation in day activities suitable to the person's needs, such as but not limited to social and vocational rehabilitation, and other recreational, educational and financial activities unless the community based not-for-profit agency is unqualified to accept such assignment. Where the clientele of any not-for-profit agency increases as a result of assignments under this amendatory Act of 1977 by more than 3% over the prior year, the Department shall fully reimburse such agency for the costs of providing services to such persons in excess of such 3% increase. The Department shall keep written records detailing how many persons have been assigned to a community based not-for-profit agency and how many persons were not so assigned because the community based agency was unable to accept the assignments, in accordance with criteria, standards, and procedures promulgated by rule. Whenever a community based agency is found to be unable to accept the assignments, the name of the agency and the reason for the finding shall be included in the report.

Insofar as desirable in the interests of the former recipient, the facility, program or home in which the discharged person is to be placed shall be located in or near the community in which the person resided

prior to hospitalization or in the community in which the person's family or nearest next of kin presently reside. Placement of the discharged person in facilities, programs or homes located outside of this State shall not be made by the Department unless there are no appropriate facilities, programs or homes available within this State. Out-of-state placements shall be subject to return of recipients so placed upon the availability of facilities, programs or homes within this State to accommodate these recipients, except where placement in a contiguous state results in locating a recipient in a facility or program closer to the recipient's home or family. If an appropriate facility or program becomes available equal to or closer to the recipient's home or family, the recipient shall be returned to and placed at the appropriate facility or program within this State.

To place any person who is under a program of the Department at board in a suitable family home or in such other facility or program as the Department may consider desirable. The Department may place in licensed nursing homes, sheltered care homes, or homes for the aged those persons whose behavioral manifestations and medical and nursing care needs are such as to be substantially indistinguishable from persons already living in such facilities. Prior to any placement by the Department under this Section, a determination shall be made by the personnel of the Department, as to the capability and suitability of such facility to adequately meet the needs of the person to be discharged. When specialized programs are necessary in order to enable persons in need of supervised living to develop and improve in the community, the Department shall place such persons only in specialized residential care facilities which shall meet Department standards including restricted admission policy, special staffing and programming for social and vocational rehabilitation, in addition to the requirements of the appropriate State licensing agency. The Department shall not place any new person in a facility the license of which has been revoked or not renewed on grounds of inadequate programming, staffing, or medical or adjunctive services, regardless of the pendency of an action for administrative review regarding such revocation or failure to renew. Before the Department may transfer any person to a licensed nursing home, sheltered care home or home for the aged or place any person in a specialized residential care facility the Department shall notify the person to be transferred, or a responsible relative of such person, in writing, at least 30 days before the proposed transfer, with respect to all the relevant facts concerning such transfer, except in cases of emergency when such notice is not required. If either the person to be transferred or a responsible relative of such person objects to such transfer, in writing to the Department, at any time after receipt of notice and before the transfer, the facility director of the facility in which the person was a recipient shall immediately schedule a hearing at the facility with the presence of the facility director, the person who objected to such proposed transfer, and a psychiatrist who is familiar with the record of the person to be transferred. Such person to be transferred or a responsible relative may be represented by such counsel or interested party as he may appoint, who may present such testimony with respect to the proposed transfer. Testimony presented at such hearing shall become a part of the facility record of the person-to-be-transferred. The record of testimony shall be held in the person-to-be-transferred's record in the central files of the facility. If such hearing is held a transfer may only be implemented, if at all, in accordance with the results of such hearing. Within 15 days after such hearing the facility director shall deliver his findings based on the record of the case and the testimony presented at the hearing, by registered or certified mail, to the parties to such hearing. The findings of the facility director shall be deemed a final administrative decision of the Department. For purposes of this Section, "case of emergency" means those instances in which the health of the person to be transferred is imperiled and the most appropriate mental health care or medical care is available at a licensed nursing home, sheltered care home or home for the aged or a specialized residential care facility.

Prior to placement of any person in a facility under this Section the Department shall ensure that an appropriate training plan for staff is provided by the facility. Said training may include instruction and demonstration by Department personnel qualified in the area of mental illness or <u>intellectual disabilities</u> ~~mental retardation~~, as applicable to the person to be placed. Training may be given both at the facility from which the recipient is transferred and at the facility receiving the recipient, and may be available on a continuing basis subsequent to placement. In a facility providing services to former Department recipients, training shall be available as necessary for facility staff. Such training will be on a continuing basis as the needs of the facility and recipients change and further training is required.

The Department shall not place any person in a facility which does not have appropriately trained staff in sufficient numbers to accommodate the recipient population already at the facility. As a condition of further or future placements of persons, the Department shall require the employment of additional trained staff members at the facility where said persons are to be placed. The Secretary, or his or her designate, shall establish written guidelines for placement of persons in facilities under this Act. The Department shall keep written records detailing which facilities have been determined to have staff who have been appropriately trained by the Department and all training which it has provided or required

under this Section.

Bills for the support for a person boarded out shall be payable monthly out of the proper maintenance funds and shall be audited as any other accounts of the Department. If a person is placed in a facility or program outside the Department, the Department may pay the actual costs of residence, treatment or maintenance in such facility and may collect such actual costs or a portion thereof from the recipient or the estate of a person placed in accordance with this Section.

Other than those placed in a family home the Department shall cause all persons who are placed in a facility, as defined by the ID/DD ~~MR/DD~~ Community Care Act, or in designated community living situations or programs, to be visited at least once during the first month following placement, and once every month thereafter for the first year following placement when indicated, but at least quarterly. After the first year, the Department shall determine at what point the appropriate licensing entity for the facility or designated community living situation or program will assume the responsibility of ensuring that appropriate services are being provided to the resident. Once that responsibility is assumed, the Department may discontinue such visits. If a long term care facility has periodic care plan conferences, the visitor may participate in those conferences, if such participation is approved by the resident or the resident's guardian. Visits shall be made by qualified and trained Department personnel, or their designee, in the area of mental health or developmental disabilities applicable to the person visited, and shall be made on a more frequent basis when indicated. The Department may not use as designee any personnel connected with or responsible to the representatives of any facility in which persons who have been transferred under this Section are placed. In the course of such visit there shall be consideration of the following areas, but not limited thereto: effects of transfer on physical and mental health of the person, sufficiency of nursing care and medical coverage required by the person, sufficiency of staff personnel and ability to provide basic care for the person, social, recreational and programmatic activities available for the person, and other appropriate aspects of the person's environment.

A report containing the above observations shall be made to the Department, to the licensing agency, and to any other appropriate agency subsequent to each visitation. The report shall contain recommendations to improve the care and treatment of the resident, as necessary, which shall be reviewed by the facility's interdisciplinary team and the resident or the resident's legal guardian.

Upon the complaint of any person placed in accordance with this Section or any responsible citizen or upon discovery that such person has been abused, neglected, or improperly cared for, or that the placement does not provide the type of care required by the recipient's current condition, the Department immediately shall investigate, and determine if the well-being, health, care, or safety of any person is affected by any of the above occurrences, and if any one of the above occurrences is verified, the Department shall remove such person at once to a facility of the Department or to another facility outside the Department, provided such person's needs can be met at said facility. The Department may also provide any person placed in accordance with this Section who is without available funds, and who is permitted to engage in employment outside the facility, such sums for the transportation, and other expenses as may be needed by him until he receives his wages for such employment.

The Department shall promulgate rules and regulations governing the purchase of care for persons who are wards of or who are receiving services from the Department. Such rules and regulations shall apply to all monies expended by any agency of the State of Illinois for services rendered by any person, corporate entity, agency, governmental agency or political subdivision whether public or private outside of the Department whether payment is made through a contractual, per-diem or other arrangement. No funds shall be paid to any person, corporation, agency, governmental entity or political subdivision without compliance with such rules and regulations.

The rules and regulations governing purchase of care shall describe categories and types of service deemed appropriate for purchase by the Department.

Any provider of services under this Act may elect to receive payment for those services, and the Department is authorized to arrange for that payment, by means of direct deposit transmittals to the service provider's account maintained at a bank, savings and loan association, or other financial institution. The financial institution shall be approved by the Department, and the deposits shall be in accordance with rules and regulations adopted by the Department.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 1705/34) (from Ch. 91 1/2, par. 100-34)

Sec. 34. To make grants-in-aid to community clinics and agencies for psychiatric or clinical services, training, research and other mental health, intellectual disabilities ~~mental retardation~~ and other developmental disabilities programs, for persons of all ages including those aged 3 to 21.

In addition to other standards and procedures governing the disbursement of grants-in-aid implemented under this Section, the Secretary shall require that each application for such aid submitted

by public agencies or public clinics with respect to services to be provided by a municipality with a population of 500,000 or more shall include review and comment by a community mental health board that is organized under local authority and broadly representative of the geographic, social, cultural, and economic interests of the area to be served, and which includes persons who are professionals in the field of mental health, consumers of services or representative of the general public. Within planning and service areas designated by the Secretary where more than one clinic or agency applies under this paragraph, each application shall be reviewed by a single community mental health board that is representative of the areas to be served by each clinic or agency.

The Secretary may authorize advance disbursements to any clinic or agency that has been awarded a grant-in-aid, provided that the Secretary shall, within 30 days before the making of such disbursement, certify to the Comptroller that (a) the provider is eligible to receive that disbursement, and (b) the disbursement is made as compensation for services to be rendered within 60 days of that certification.
(Source: P.A. 89-507, eff. 7-1-97.)

(20 ILCS 1705/43) (from Ch. 91 1/2, par. 100-43)

Sec. 43. To provide habilitation and care for the intellectually disabled ~~mentally retarded~~ and persons with a developmental disability and counseling for their families in accordance with programs established and conducted by the Department.

In assisting families to place such persons in need of care in licensed facilities for the intellectually disabled ~~mentally retarded~~ and persons with a developmental disability, the Department may supplement the amount a family is able to pay, as determined by the Department in accordance with Sections 5-105 through 5-116 of the "Mental Health and Developmental Disabilities Code" as amended, and the amount available from other sources. The Department shall have the authority to determine eligibility for placement of a person in a private facility.

Whenever an intellectually disabled ~~a mentally retarded~~ person or a client is placed in a private facility pursuant to this Section, such private facility must give the Department and the person's guardian or nearest relative, at least 30 days' notice in writing before such person may be discharged or transferred from the private facility, except in an emergency.
(Source: P.A. 90-14, eff. 7-1-97.)

(20 ILCS 1705/45) (from Ch. 91 1/2, par. 100-45)

Sec. 45. The following Acts are repealed:

"An Act to provide for the establishment and maintenance of services and facilities for severely physically handicapped children", approved June 29, 1945.

"An Act in relation to the visitation, instruction, and rehabilitation of major visually handicapped persons and to repeal acts herein named", approved July 21, 1959.

"An Act in relation to the rehabilitation of physically handicapped persons", approved June 28, 1919.

"An Act for the treatment, care and maintenance of persons mentally ill or in need of mental treatment who are inmates of the Illinois Soldiers' and Sailors' Home", approved June 15, 1895, as amended.

"An Act to establish and maintain a home for the disabled mothers, wives, widows and daughters of disabled or deceased soldiers in the State of Illinois, and to provide for the purchase and maintenance thereof", approved June 13, 1895, as amended.

"An Act to establish and maintain a Soldiers' and Sailors' Home in the State of Illinois, and making an appropriation for the purchase of land and the construction of the necessary buildings", approved June 26, 1885, as amended.

"An Act in relation to the disposal of certain funds and property which now are or hereafter may be in the custody of the managing officer of the Illinois Soldiers' and Sailors' Home at Quincy", approved June 24, 1921.

"An Act in relation to the establishment in the Department of Public Welfare of a Division to be known as the Institute for Juvenile Research and to define its powers and duties", approved July 16, 1941.

"An Act to provide for the establishment, maintenance and operation of the Southern Illinois Children's Service Center", approved August 2, 1951.

"An Act to change the name of the Illinois Charitable Eye and Ear Infirmary", approved June 27, 1923.

"An Act to establish and provide for the conduct of an institution for the care and custody of persons of unsound or feeble mind, to be known as the Illinois Security Hospital, and to designate the classes of persons to be confined therein", approved June 30, 1933, as amended.

Sections one through 27 and Sections 29 through 34 of "An Act to revise the laws relating to charities", approved June 11, 1912, as amended.

"An Act creating a Division of Alcoholism in the Department of Public Welfare, defining its rights,

powers and duties, and making an appropriation therefor", approved July 5, 1957.

"An Act to establish in the Department of Public Welfare a Psychiatric Training and Research Authority", approved July 14, 1955.

"An Act creating the Advisory Board on Intellectual Disabilities ~~Mental Retardation~~ in the Department of Public Welfare, defining its powers and duties and making an appropriation therefor", approved July 17, 1959.

"An Act to provide for the construction, equipment, and operation of a psychiatric institute state hospital to promote and advance knowledge, through research, in the causes and treatment of mental illness; to train competent psychiatric personnel available for service in the state hospitals and elsewhere; and to contribute to meeting the need for treatment for mentally ill patients", approved June 30, 1953, as amended.

"An Act in relation to the disposal of certain funds and property paid to, or received by, the officials of the State institutions under the direction and supervision of the Department of Public Welfare", approved June 10, 1929.

"An Act to require professional persons having patients with major visual limitations to report information regarding such cases to the Department of Public Welfare and to authorize the Department to inform such patients of services and training available," approved July 5, 1957.

Sections 3, 4, 5, 5a, 6, 22, 24, 25, 26 of "An Act to regulate the state charitable institutions and the state reform school, and to improve their organization and increase their efficiency," approved April 15, 1875.

(Source: Laws 1961, p. 2666.)

(20 ILCS 1705/46) (from Ch. 91 1/2, par. 100-46)

Sec. 46. Separation between the sexes shall be maintained relative to sleeping quarters in each facility under the jurisdiction of the Department, except in relation to quarters for intellectually disabled ~~mentally retarded~~ children under age 6 and quarters for severely-profoundly intellectually disabled ~~mentally retarded~~ persons and nonambulatory intellectually disabled ~~mentally retarded~~ persons, regardless of age.

(Source: P.A. 85-971.)

(20 ILCS 1705/57.6)

Sec. 57.6. Adult autism; funding for services. Subject to appropriations, the Department, or independent contractual consultants engaged by the Department, shall research possible funding streams for the development and implementation of services for adults with autism spectrum disorders without an intellectual disability ~~mental retardation~~. Independent consultants must have expertise in Medicaid services and alternative federal and State funding mechanisms. The research may include, but need not be limited to, research of a Medicaid state plan amendment, a Section 1915(c) home and community based waiver, a Section 1115 research and demonstration waiver, vocational rehabilitation funding, mental health block grants, and other appropriate funding sources. The Department shall report the results of the research and its recommendations to the Governor and the General Assembly by April 1, 2008.

(Source: P.A. 95-106, eff. 1-1-08.)

Section 22. The Civil Administrative Code of Illinois is amended by changing Sections 2310-550, 2310-560, 2310-565, and 2310-625 as follows:

(20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

Sec. 2310-550. Long-term care facilities. The Department may perform, in all long-term care facilities as defined in the Nursing Home Care Act and all facilities as defined in the ID/DD ~~MR/DD~~ Community Care Act, all inspection, evaluation, certification, and inspection of care duties that the federal government may require the State of Illinois to perform or have performed as a condition of participation in any programs under Title XVIII or Title XIX of the federal Social Security Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

Sec. 2310-560. Advisory committees concerning construction of facilities.

(a) The Director shall appoint an advisory committee. The committee shall be established by the Department by rule. The Director and the Department shall consult with the advisory committee concerning the application of building codes and Department rules related to those building codes to facilities under the Ambulatory Surgical Treatment Center Act, the Nursing Home Care Act, and the ID/DD ~~MR/DD~~ Community Care Act.

(b) The Director shall appoint an advisory committee to advise the Department and to conduct informal dispute resolution concerning the application of building codes for new and existing

construction and related Department rules and standards under the Hospital Licensing Act, including without limitation rules and standards for (i) design and construction, (ii) engineering and maintenance of the physical plant, site, equipment, and systems (heating, cooling, electrical, ventilation, plumbing, water, sewer, and solid waste disposal), and (iii) fire and safety. The advisory committee shall be composed of all of the following members:

(1) The chairperson or an elected representative from the Hospital Licensing Board under the Hospital Licensing Act.

(2) Two health care architects with a minimum of 10 years of experience in institutional design and building code analysis.

(3) Two engineering professionals (one mechanical and one electrical) with a minimum of 10 years of experience in institutional design and building code analysis.

(4) One commercial interior design professional with a minimum of 10 years of experience.

(5) Two representatives from provider associations.

(6) The Director or his or her designee, who shall serve as the committee moderator.

Appointments shall be made with the concurrence of the Hospital Licensing Board. The committee shall submit recommendations concerning the application of building codes and related Department rules and standards to the Hospital Licensing Board for review and comment prior to submission to the Department. The committee shall submit recommendations concerning informal dispute resolution to the Director. The Department shall provide per diem and travel expenses to the committee members.
(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

Sec. 2310-565. Facility construction training program. The Department shall conduct, at least annually, a joint in-service training program for architects, engineers, interior designers, and other persons involved in the construction of a facility under the Ambulatory Surgical Treatment Center Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Hospital Licensing Act on problems and issues relating to the construction of facilities under any of those Acts.
(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 2310/2310-625)

Sec. 2310-625. Emergency Powers.

(a) Upon proclamation of a disaster by the Governor, as provided for in the Illinois Emergency Management Agency Act, the Director of Public Health shall have the following powers, which shall be exercised only in coordination with the Illinois Emergency Management Agency and the Department of Financial and Professional Regulation:

(1) The power to suspend the requirements for temporary or permanent licensure or certification of persons who are licensed or certified in another state and are working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(2) The power to modify the scope of practice restrictions under the Emergency Medical Services (EMS) Systems Act for any persons who are licensed under that Act for any person working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(3) The power to modify the scope of practice restrictions under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act for Certified Nursing Assistants for any person working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(b) Persons exempt from licensure or certification under paragraph (1) of subsection (a) and persons operating under modified scope of practice provisions under paragraph (2) of subsection (a) and paragraph (3) of subsection (a) shall be exempt from licensure or certification or subject to modified scope of practice only until the declared disaster has ended as provided by law. For purposes of this Section, persons working under the direction of an emergency services and disaster agency accredited by the Illinois Emergency Management Agency and a local public health department, pursuant to a declared disaster, shall be deemed to be working under the direction of the Illinois Emergency Management Agency and the Department of Public Health.

(c) The Director shall exercise these powers by way of proclamation.
(Source: P.A. 96-339, eff. 7-1-10.)

Section 25. The Disabilities Services Act of 2003 is amended by changing Sections 10 and 52 as follows:

(20 ILCS 2407/10)

Sec. 10. Application of Act; definitions.

(a) This Act applies to persons with disabilities. The disabilities included are defined for purposes of this Act as follows:

"Disability" means a disability as defined by the Americans with Disabilities Act of 1990 that is attributable to a developmental disability, a mental illness, or a physical disability, or combination of those.

"Developmental disability" means a disability that is attributable to an intellectual disability ~~mental retardation~~ or a related condition. A related condition must meet all of the following conditions:

(1) It must be attributable to cerebral palsy, epilepsy, or any other condition (other than mental illness) found to be closely related to an intellectual disability ~~mental retardation~~ because that condition results in impairment of general intellectual functioning or adaptive behavior similar to that of individuals with an intellectual disability ~~mental retardation~~, and requires treatment or services similar to those required for those individuals. For purposes of this Section, autism is considered a related condition.

(2) It must be manifested before the individual reaches age 22.

(3) It must be likely to continue indefinitely.

(4) It must result in substantial functional limitations in 3 or more of the following areas of major life activity: self-care, language, learning, mobility, self-direction, and capacity for independent living.

"Mental Illness" means a mental or emotional disorder verified by a diagnosis contained in the Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition, published by the American Psychiatric Association (DSM-IV), or its successor, or International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM), or its successor, that substantially impairs a person's cognitive, emotional, or behavioral functioning, or any combination of those, excluding (i) conditions that may be the focus of clinical attention but are not of sufficient duration or severity to be categorized as a mental illness, such as parent-child relational problems, partner-relational problems, sexual abuse of a child, bereavement, academic problems, phase-of-life problems, and occupational problems (collectively, "V codes"), (ii) organic disorders such as substance intoxication dementia, substance withdrawal dementia, Alzheimer's disease, vascular dementia, dementia due to HIV infection, and dementia due to Creutzfeld-Jakob disease and disorders associated with known or unknown physical conditions such as hallucinosis, amnestic disorders and delirium, and psychoactive substance-induced organic disorders, and (iii) an intellectual disability ~~mental retardation~~ or psychoactive substance use disorders.

"Intellectual disability ~~Mental retardation~~" means significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before the age of 22 years.

"Physical disability" means a disability as defined by the Americans with Disabilities Act of 1990 that meets the following criteria:

(1) It is attributable to a physical impairment.

(2) It results in a substantial functional limitation in any of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic sufficiency.

(3) It reflects the person's need for a combination and sequence of special, interdisciplinary, or general care, treatment, or other services that are of lifelong or of extended duration and must be individually planned and coordinated.

(b) In this Act:

"Chronological age-appropriate services" means services, activities, and strategies for persons with disabilities that are representative of the lifestyle activities of nondisabled peers of similar age in the community.

"Comprehensive evaluation" means procedures used by qualified professionals selectively with an individual to determine whether a person has a disability and the nature and extent of the services that the person with a disability needs.

"Department" means the Department on Aging, the Department of Human Services, the Department of Public Health, the Department of Public Aid (now Department Healthcare and Family Services), the University of Illinois Division of Specialized Care for Children, the Department of Children and Family Services, and the Illinois State Board of Education, where appropriate, as designated in the implementation plan developed under Section 20.

"Family" means a natural, adoptive, or foster parent or parents or other person or persons responsible

for the care of an individual with a disability in a family setting.

"Family or individual support" means those resources and services that are necessary to maintain an individual with a disability within the family home or his or her own home. These services may include, but are not limited to, cash subsidy, respite care, and counseling services.

"Independent service coordination" means a social service that enables persons with developmental disabilities and their families to locate, use, and coordinate resources and opportunities in their communities on the basis of individual need. Independent service coordination is independent of providers of services and funding sources and is designed to ensure accessibility, continuity of care, and accountability and to maximize the potential of persons with developmental disabilities for independence, productivity, and integration into the community. Independent service coordination includes, at a minimum: (i) outreach to identify eligible individuals; (ii) assessment and periodic reassessment to determine each individual's strengths, functional limitations, and need for specific services; (iii) participation in the development of a comprehensive individual service or treatment plan; (iv) referral to and linkage with needed services and supports; (v) monitoring to ensure the delivery of appropriate services and to determine individual progress in meeting goals and objectives; and (vi) advocacy to assist the person in obtaining all services for which he or she is eligible or entitled.

"Individual service or treatment plan" means a recorded assessment of the needs of a person with a disability, a description of the services recommended, the goals of each type of element of service, an anticipated timetable for the accomplishment of the goals, and a designation of the qualified professionals responsible for the implementation of the plan.

"Least restrictive environment" means an environment that represents the least departure from the normal patterns of living and that effectively meets the needs of the person receiving the service.

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

(20 ILCS 2407/52)

Sec. 52. Applicability; definitions. In accordance with Section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171), as used in this Article:

"Departments". The term "Departments" means for the purposes of this Act, the Department of Human Services, the Department on Aging, Department of Healthcare and Family Services and Department of Public Health, unless otherwise noted.

"Home and community-based long-term care services". The term "home and community-based long-term care services" means, with respect to the State Medicaid program, a service aid, or benefit, home and community-based services, including but not limited to home health and personal care services, that are provided to a person with a disability, and are voluntarily accepted, as part of his or her long-term care that: (i) is provided under the State's qualified home and community-based program or that could be provided under such a program but is otherwise provided under the Medicaid program; (ii) is delivered in a qualified residence; and (iii) is necessary for the person with a disability to live in the community.

"ID/DD ~~MR/DD~~ community care facility". The term " ID/DD ~~MR/DD~~ community care facility", for the purposes of this Article, means a skilled nursing or intermediate long-term care facility subject to licensure by the Department of Public Health under the ID/DD ~~MR/DD~~ Community Care Act, an intermediate care facility for the developmentally disabled (ICF-DDs), and a State-operated developmental center or mental health center, whether publicly or privately owned.

"Money Follows the Person" Demonstration. Enacted by the Deficit Reduction Act of 2005, the Money Follows the Person (MFP) Rebalancing Demonstration is part of a comprehensive, coordinated strategy to assist states, in collaboration with stakeholders, to make widespread changes to their long-term care support systems. This initiative will assist states in their efforts to reduce their reliance on institutional care while developing community-based long-term care opportunities, enabling the elderly and people with disabilities to fully participate in their communities.

"Public funds" mean any funds appropriated by the General Assembly to the Departments of Human Services, on Aging, of Healthcare and Family Services and of Public Health for settings and services as defined in this Article.

"Qualified residence". The term "qualified residence" means, with respect to an eligible individual: (i) a home owned or leased by the individual or the individual's authorized representative (as defined by P.L. 109-171); (ii) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; or (iii) a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside. Where qualified residences are not sufficient to meet the demand of eligible individuals, time-limited exceptions to this definition may be developed through administrative rule.

"Self-directed services". The term "self-directed services" means, with respect to home and community-based long-term services for an eligible individual, those services for the individual that are planned and purchased under the direction and control of the individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State Medicaid program consistent with the following requirements:

(a) Assessment: there is an assessment of the needs, capabilities, and preference of the individual with respect to such services.

(b) Individual service care or treatment plan: based on the assessment, there is development jointly with such individual or individual's authorized representative, a plan for such services for the individual that (i) specifies those services, if any, that the individual or the individual's authorized representative would be responsible for directing; (ii) identifies the methods by which the individual or the individual's authorized representative or an agency designated by an individual or representative will select, manage, and dismiss providers of such services.

(Source: P.A. 95-438, eff. 1-1-08; 96-339, eff. 7-1-10.)

Section 26. The Abuse of Adults with Disabilities Intervention Act is amended by changing Section 15 as follows:

(20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

Sec. 15. Definitions. As used in this Act:

"Abuse" means causing any physical, sexual, or mental injury to an adult with disabilities, including exploitation of the adult's financial resources. Nothing in this Act shall be construed to mean that an adult with disabilities is a victim of abuse or neglect for the sole reason that he or she is being furnished with or relies upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination. Nothing in this Act shall be construed to mean that an adult with disabilities is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

"Adult with disabilities" means a person aged 18 through 59 who resides in a domestic living situation and whose physical or mental disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.

"Department" means the Department of Human Services.

"Adults with Disabilities Abuse Project" or "project" means that program within the Office of Inspector General designated by the Department of Human Services to receive and assess reports of alleged or suspected abuse, neglect, or exploitation of adults with disabilities.

"Domestic living situation" means a residence where the adult with disabilities lives alone or with his or her family or household members, a care giver, or others or at a board and care home or other community-based unlicensed facility, but is not:

(1) A licensed facility as defined in Section 1-113 of the Nursing Home Care Act or Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act.

(2) A life care facility as defined in the Life Care Facilities Act.

(3) A home, institution, or other place operated by the federal government, a federal agency, or the State.

(4) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities and that is required to be licensed under the Hospital Licensing Act.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or community residential alternative as licensed under that Act.

"Emergency" means a situation in which an adult with disabilities is in danger of death or great bodily harm.

"Exploitation" means the illegal, including tortious, use of the assets or resources of an adult with disabilities. Exploitation includes, but is not limited to, the misappropriation of assets or resources of an adult with disabilities by undue influence, by breach of a fiduciary relationship, by fraud, deception, or extortion, or by the use of the assets or resources in a manner contrary to law.

"Family or household members" means a person who as a family member, volunteer, or paid care provider has assumed responsibility for all or a portion of the care of an adult with disabilities who needs assistance with activities of daily living.

"Neglect" means the failure of another individual to provide an adult with disabilities with or the

willful withholding from an adult with disabilities the necessities of life, including, but not limited to, food, clothing, shelter, or medical care.

Nothing in the definition of "neglect" shall be construed to impose a requirement that assistance be provided to an adult with disabilities over his or her objection in the absence of a court order, nor to create any new affirmative duty to provide support, assistance, or intervention to an adult with disabilities. Nothing in this Act shall be construed to mean that an adult with disabilities is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

"Physical abuse" includes sexual abuse and means any of the following:

(1) knowing or reckless use of physical force, confinement, or restraint;

(2) knowing, repeated, and unnecessary sleep deprivation; or

(3) knowing or reckless conduct which creates an immediate risk of physical harm.

"Secretary" means the Secretary of Human Services.

"Sexual abuse" means touching, fondling, sexual threats, sexually inappropriate remarks, or any other sexual activity with an adult with disabilities when the adult with disabilities is unable to understand, unwilling to consent, threatened, or physically forced to engage in sexual behavior.

"Substantiated case" means a reported case of alleged or suspected abuse, neglect, or exploitation in which the Adults with Disabilities Abuse Project staff, after assessment, determines that there is reason to believe abuse, neglect, or exploitation has occurred.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 27. The Illinois Finance Authority Act is amended by changing Section 801-10 as follows:

(20 ILCS 3501/801-10)

Sec. 801-10. Definitions. The following terms, whenever used or referred to in this Act, shall have the following meanings, except in such instances where the context may clearly indicate otherwise:

(a) The term "Authority" means the Illinois Finance Authority created by this Act.

(b) The term "project" means an industrial project, conservation project, housing project, public purpose project, higher education project, health facility project, cultural institution project, agricultural facility or agribusiness, and "project" may include any combination of one or more of the foregoing undertaken jointly by any person with one or more other persons.

(c) The term "public purpose project" means any project or facility including without limitation land, buildings, structures, machinery, equipment and all other real and personal property, which is authorized or required by law to be acquired, constructed, improved, rehabilitated, reconstructed, replaced or maintained by any unit of government or any other lawful public purpose which is authorized or required by law to be undertaken by any unit of government.

(d) The term "industrial project" means the acquisition, construction, refurbishment, creation, development or redevelopment of any facility, equipment, machinery, real property or personal property for use by any instrumentality of the State or its political subdivisions, for use by any person or institution, public or private, for profit or not for profit, or for use in any trade or business including, but not limited to, any industrial, manufacturing or commercial enterprise and which is (1) a capital project including but not limited to: (i) land and any rights therein, one or more buildings, structures or other improvements, machinery and equipment, whether now existing or hereafter acquired, and whether or not located on the same site or sites; (ii) all appurtenances and facilities incidental to the foregoing, including, but not limited to utilities, access roads, railroad sidings, track, docking and similar facilities, parking facilities, dockage, wharfage, railroad roadbed, track, trestle, depot, terminal, switching and signaling or related equipment, site preparation and landscaping; and (iii) all non-capital costs and expenses relating thereto or (2) any addition to, renovation, rehabilitation or improvement of a capital project or (3) any activity or undertaking which the Authority determines will aid, assist or encourage economic growth, development or redevelopment within the State or any area thereof, will promote the expansion, retention or diversification of employment opportunities within the State or any area thereof or will aid in stabilizing or developing any industry or economic sector of the State economy. The term "industrial project" also means the production of motion pictures.

(e) The term "bond" or "bonds" shall include bonds, notes (including bond, grant or revenue anticipation notes), certificates and/or other evidences of indebtedness representing an obligation to pay money, including refunding bonds.

(f) The terms "lease agreement" and "loan agreement" shall mean: (i) an agreement whereby a project acquired by the Authority by purchase, gift or lease is leased to any person, corporation or unit of local government which will use or cause the project to be used as a project as heretofore defined upon terms providing for lease rental payments at least sufficient to pay when due all principal of, interest and premium, if any, on any bonds of the Authority issued with respect to such project, providing for the

maintenance, insuring and operation of the project on terms satisfactory to the Authority, providing for disposition of the project upon termination of the lease term, including purchase options or abandonment of the premises, and such other terms as may be deemed desirable by the Authority, or (ii) any agreement pursuant to which the Authority agrees to loan the proceeds of its bonds issued with respect to a project or other funds of the Authority to any person which will use or cause the project to be used as a project as heretofore defined upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on any bonds of the Authority, if any, issued with respect to the project, and providing for maintenance, insurance and other matters as may be deemed desirable by the Authority.

(g) The term "financial aid" means the expenditure of Authority funds or funds provided by the Authority through the issuance of its bonds, notes or other evidences of indebtedness or from other sources for the development, construction, acquisition or improvement of a project.

(h) The term "person" means an individual, corporation, unit of government, business trust, estate, trust, partnership or association, 2 or more persons having a joint or common interest, or any other legal entity.

(i) The term "unit of government" means the federal government, the State or unit of local government, a school district, or any agency or instrumentality, office, officer, department, division, bureau, commission, college or university thereof.

(j) The term "health facility" means: (a) any public or private institution, place, building, or agency required to be licensed under the Hospital Licensing Act; (b) any public or private institution, place, building, or agency required to be licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act; (c) any public or licensed private hospital as defined in the Mental Health and Developmental Disabilities Code; (d) any such facility exempted from such licensure when the Director of Public Health attests that such exempted facility meets the statutory definition of a facility subject to licensure; (e) any other public or private health service institution, place, building, or agency which the Director of Public Health attests is subject to certification by the Secretary, U.S. Department of Health and Human Services under the Social Security Act, as now or hereafter amended, or which the Director of Public Health attests is subject to standard-setting by a recognized public or voluntary accrediting or standard-setting agency; (f) any public or private institution, place, building or agency engaged in providing one or more supporting services to a health facility; (g) any public or private institution, place, building or agency engaged in providing training in the healing arts, including but not limited to schools of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy or nursing, schools for the training of x-ray, laboratory or other health care technicians and schools for the training of para-professionals in the health care field; (h) any public or private congregate, life or extended care or elderly housing facility or any public or private home for the aged or infirm, including, without limitation, any Facility as defined in the Life Care Facilities Act; (i) any public or private mental, emotional or physical rehabilitation facility or any public or private educational, counseling, or rehabilitation facility or home, for those persons with a developmental disability, those who are physically ill or disabled, the emotionally disturbed, those persons with a mental illness or persons with learning or similar disabilities or problems; (j) any public or private alcohol, drug or substance abuse diagnosis, counseling treatment or rehabilitation facility, (k) any public or private institution, place, building or agency licensed by the Department of Children and Family Services or which is not so licensed but which the Director of Children and Family Services attests provides child care, child welfare or other services of the type provided by facilities subject to such licensure; (l) any public or private adoption agency or facility; and (m) any public or private blood bank or blood center. "Health facility" also means a public or private structure or structures suitable primarily for use as a laboratory, laundry, nurses or interns residence or other housing or hotel facility used in whole or in part for staff, employees or students and their families, patients or relatives of patients admitted for treatment or care in a health facility, or persons conducting business with a health facility, physician's facility, surgicenter, administration building, research facility, maintenance, storage or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, including parking or other facilities or other supporting service structures required or useful for the orderly conduct of such health facility. "Health facility" also means, with respect to a project located outside the State, any public or private institution, place, building, or agency which provides services similar to those described above, provided that such project is owned, operated, leased or managed by a participating health institution located within the State, or a participating health institution affiliated with an entity located within the State.

(k) The term "participating health institution" means (i) a private corporation or association or (ii) a public entity of this State, in either case authorized by the laws of this State or the applicable state to provide or operate a health facility as defined in this Act and which, pursuant to the provisions of this

Act, undertakes the financing, construction or acquisition of a project or undertakes the refunding or refinancing of obligations, loans, indebtedness or advances as provided in this Act.

(l) The term "health facility project", means a specific health facility work or improvement to be financed or refinanced (including without limitation through reimbursement of prior expenditures), acquired, constructed, enlarged, remodeled, renovated, improved, furnished, or equipped, with funds provided in whole or in part hereunder, any accounts receivable, working capital, liability or insurance cost or operating expense financing or refinancing program of a health facility with or involving funds provided in whole or in part hereunder, or any combination thereof.

(m) The term "bond resolution" means the resolution or resolutions authorizing the issuance of, or providing terms and conditions related to, bonds issued under this Act and includes, where appropriate, any trust agreement, trust indenture, indenture of mortgage or deed of trust providing terms and conditions for such bonds.

(n) The term "property" means any real, personal or mixed property, whether tangible or intangible, or any interest therein, including, without limitation, any real estate, leasehold interests, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, rights of way, structures, accounts, contract rights or any interest therein.

(o) The term "revenues" means, with respect to any project, the rents, fees, charges, interest, principal repayments, collections and other income or profit derived therefrom.

(p) The term "higher education project" means, in the case of a private institution of higher education, an educational facility to be acquired, constructed, enlarged, remodeled, renovated, improved, furnished, or equipped, or any combination thereof.

(q) The term "cultural institution project" means, in the case of a cultural institution, a cultural facility to be acquired, constructed, enlarged, remodeled, renovated, improved, furnished, or equipped, or any combination thereof.

(r) The term "educational facility" means any property located within the State, or any property located outside the State, provided that, if the property is located outside the State, it must be owned, operated, leased or managed by an entity located within the State or an entity affiliated with an entity located within the State, in each case constructed or acquired before or after the effective date of this Act, which is or will be, in whole or in part, suitable for the instruction, feeding, recreation or housing of students, the conducting of research or other work of a private institution of higher education, the use by a private institution of higher education in connection with any educational, research or related or incidental activities then being or to be conducted by it, or any combination of the foregoing, including, without limitation, any such property suitable for use as or in connection with any one or more of the following: an academic facility, administrative facility, agricultural facility, assembly hall, athletic facility, auditorium, boating facility, campus, communication facility, computer facility, continuing education facility, classroom, dining hall, dormitory, exhibition hall, fire fighting facility, fire prevention facility, food service and preparation facility, gymnasium, greenhouse, health care facility, hospital, housing, instructional facility, laboratory, library, maintenance facility, medical facility, museum, offices, parking area, physical education facility, recreational facility, research facility, stadium, storage facility, student union, study facility, theatre or utility.

(s) The term "cultural facility" means any property located within the State, or any property located outside the State, provided that, if the property is located outside the State, it must be owned, operated, leased or managed by an entity located within the State or an entity affiliated with an entity located within the State, in each case constructed or acquired before or after the effective date of this Act, which is or will be, in whole or in part, suitable for the particular purposes or needs of a cultural institution, including, without limitation, any such property suitable for use as or in connection with any one or more of the following: an administrative facility, aquarium, assembly hall, auditorium, botanical garden, exhibition hall, gallery, greenhouse, library, museum, scientific laboratory, theater or zoological facility, and shall also include, without limitation, books, works of art or music, animal, plant or aquatic life or other items for display, exhibition or performance. The term "cultural facility" includes buildings on the National Register of Historic Places which are owned or operated by nonprofit entities.

(t) "Private institution of higher education" means a not-for-profit educational institution which is not owned by the State or any political subdivision, agency, instrumentality, district or municipality thereof, which is authorized by law to provide a program of education beyond the high school level and which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Provides an educational program for which it awards a bachelor's degree, or provides an educational program, admission into which is conditioned upon the prior attainment of a bachelor's degree or its equivalent, for which it awards a postgraduate degree, or provides not less than a 2-year

program which is acceptable for full credit toward such a degree, or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(3) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, and holds an unrevoked certificate of approval under the Private College Act from the Board of Higher Education, or is qualified as a "degree granting institution" under the Academic Degree Act; and

(4) Does not discriminate in the admission of students on the basis of race or color.

"Private institution of higher education" also includes any "academic institution".

(u) The term "academic institution" means any not-for-profit institution which is not owned by the State or any political subdivision, agency, instrumentality, district or municipality thereof, which institution engages in, or facilitates academic, scientific, educational or professional research or learning in a field or fields of study taught at a private institution of higher education. Academic institutions include, without limitation, libraries, archives, academic, scientific, educational or professional societies, institutions, associations or foundations having such purposes.

(v) The term "cultural institution" means any not-for-profit institution which is not owned by the State or any political subdivision, agency, instrumentality, district or municipality thereof, which institution engages in the cultural, intellectual, scientific, educational or artistic enrichment of the people of the State. Cultural institutions include, without limitation, aquaria, botanical societies, historical societies, libraries, museums, performing arts associations or societies, scientific societies and zoological societies.

(w) The term "affiliate" means, with respect to financing of an agricultural facility or an agribusiness, any lender, any person, firm or corporation controlled by, or under common control with, such lender, and any person, firm or corporation controlling such lender.

(x) The term "agricultural facility" means land, any building or other improvement thereon or thereto, and any personal properties deemed necessary or suitable for use, whether or not now in existence, in farming, ranching, the production of agricultural commodities (including, without limitation, the products of aquaculture, hydroponics and silviculture) or the treating, processing or storing of such agricultural commodities when such activities are customarily engaged in by farmers as a part of farming.

(y) The term "lender" with respect to financing of an agricultural facility or an agribusiness, means any federal or State chartered bank, Federal Land Bank, Production Credit Association, Bank for Cooperatives, federal or State chartered savings and loan association or building and loan association, Small Business Investment Company or any other institution qualified within this State to originate and service loans, including, but without limitation to, insurance companies, credit unions and mortgage loan companies. "Lender" also means a wholly owned subsidiary of a manufacturer, seller or distributor of goods or services that makes loans to businesses or individuals, commonly known as a "captive finance company".

(z) The term "agribusiness" means any sole proprietorship, limited partnership, co-partnership, joint venture, corporation or cooperative which operates or will operate a facility located within the State of Illinois that is related to the processing of agricultural commodities (including, without limitation, the products of aquaculture, hydroponics and silviculture) or the manufacturing, production or construction of agricultural buildings, structures, equipment, implements, and supplies, or any other facilities or processes used in agricultural production. Agribusiness includes but is not limited to the following:

(1) grain handling and processing, including grain storage, drying, treatment, conditioning, mailing and packaging;

(2) seed and feed grain development and processing;

(3) fruit and vegetable processing, including preparation, canning and packaging;

(4) processing of livestock and livestock products, dairy products, poultry and poultry products, fish or apiarian products, including slaughter, shearing, collecting, preparation, canning and packaging;

(5) fertilizer and agricultural chemical manufacturing, processing, application and supplying;

(6) farm machinery, equipment and implement manufacturing and supplying;

(7) manufacturing and supplying of agricultural commodity processing machinery and equipment, including machinery and equipment used in slaughter, treatment, handling, collecting,

preparation, canning or packaging of agricultural commodities;

(8) farm building and farm structure manufacturing, construction and supplying;

(9) construction, manufacturing, implementation, supplying or servicing of irrigation, drainage and soil and water conservation devices or equipment;

(10) fuel processing and development facilities that produce fuel from agricultural commodities or byproducts;

(11) facilities and equipment for processing and packaging agricultural commodities specifically for export;

(12) facilities and equipment for forestry product processing and supplying, including sawmilling operations, wood chip operations, timber harvesting operations, and manufacturing of prefabricated buildings, paper, furniture or other goods from forestry products;

(13) facilities and equipment for research and development of products, processes and equipment for the production, processing, preparation or packaging of agricultural commodities and byproducts.

(aa) The term "asset" with respect to financing of any agricultural facility or any agribusiness, means, but is not limited to the following: cash crops or feed on hand; livestock held for sale; breeding stock; marketable bonds and securities; securities not readily marketable; accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment; cars and trucks; farm and other real estate including life estates and personal residence; value of beneficial interests in trusts; government payments or grants; and any other assets.

(bb) The term "liability" with respect to financing of any agricultural facility or any agribusiness shall include, but not be limited to the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amounts owed on real estate contracts or real estate mortgages; judgments; accrued interest payable; and any other liability.

(cc) The term "Predecessor Authorities" means those authorities as described in Section 845-75.

(dd) The term "housing project" means a specific work or improvement undertaken to provide residential dwelling accommodations, including the acquisition, construction or rehabilitation of lands, buildings and community facilities and in connection therewith to provide nonhousing facilities which are part of the housing project, including land, buildings, improvements, equipment and all ancillary facilities for use for offices, stores, retirement homes, hotels, financial institutions, service, health care, education, recreation or research establishments, or any other commercial purpose which are or are to be related to a housing development.

(ee) The term "conservation project" means any project including the acquisition, construction, rehabilitation, maintenance, operation, or upgrade that is intended to create or expand open space or to reduce energy usage through efficiency measures. For the purpose of this definition, "open space" has the definition set forth under Section 10 of the Illinois Open Land Trust Act.

(ff) The term "significant presence" means the existence within the State of the national or regional headquarters of an entity or group or such other facility of an entity or group of entities where a significant amount of the business functions are performed for such entity or group of entities.

(Source: P.A. 95-697, eff. 11-6-07; 96-339, eff. 7-1-10; 96-1021, eff. 7-12-10.)

Section 29. The Illinois Health Facilities Planning Act is amended by changing Sections 3, 12, 13, and 14.1 as follows:

(20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

(Section scheduled to be repealed on December 31, 2019)

Sec. 3. Definitions. As used in this Act:

"Health care facilities" means and includes the following facilities and organizations:

1. An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act;

2. An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act;

3. Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;

3.5. Skilled and intermediate care facilities licensed under the ID/DD ~~MR/DD~~ Community Care Act;

4. Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof;

5. Kidney disease treatment centers, including a free-standing hemodialysis unit required to be licensed under the End Stage Renal Disease Facility Act;

6. An institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility;

7. An institution, place, building, or room used for provision of a health care category of service as defined by the Board, including, but not limited to, cardiac catheterization and open heart surgery; and

8. An institution, place, building, or room used for provision of major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the capital expenditure minimum.

This Act shall not apply to the construction of any new facility or the renovation of any existing facility located on any campus facility as defined in Section 5-5.8b of the Illinois Public Aid Code, provided that the campus facility encompasses 30 or more contiguous acres and that the new or renovated facility is intended for use by a licensed residential facility.

No federally owned facility shall be subject to the provisions of this Act, nor facilities used solely for healing by prayer or spiritual means.

No facility licensed under the Supportive Residences Licensing Act or the Assisted Living and Shared Housing Act shall be subject to the provisions of this Act.

No facility established and operating under the Alternative Health Care Delivery Act as a children's respite care center alternative health care model demonstration program or as an Alzheimer's Disease Management Center alternative health care model demonstration program shall be subject to the provisions of this Act.

A facility designated as a supportive living facility that is in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code shall not be subject to the provisions of this Act.

This Act does not apply to facilities granted waivers under Section 3-102.2 of the Nursing Home Care Act. However, if a demonstration project under that Act applies for a certificate of need to convert to a nursing facility, it shall meet the licensure and certificate of need requirements in effect as of the date of application.

This Act does not apply to a dialysis facility that provides only dialysis training, support, and related services to individuals with end stage renal disease who have elected to receive home dialysis. This Act does not apply to a dialysis unit located in a licensed nursing home that offers or provides dialysis-related services to residents with end stage renal disease who have elected to receive home dialysis within the nursing home. The Board, however, may require these dialysis facilities and licensed nursing homes to report statistical information on a quarterly basis to the Board to be used by the Board to conduct analyses on the need for proposed kidney disease treatment centers.

This Act shall not apply to the closure of an entity or a portion of an entity licensed under the Nursing Home Care Act or the MR/DD Community Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes, that elects to convert, in whole or in part, to an assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act.

This Act does not apply to any change of ownership of a healthcare facility that is licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, with the exceptions of facilities operated by a county or Illinois Veterans Homes. Changes of ownership of facilities licensed under the Nursing Home Care Act must meet the requirements set forth in Sections 3-101 through 3-119 of the Nursing Home Care Act.

With the exception of those health care facilities specifically included in this Section, nothing in this Act shall be intended to include facilities operated as a part of the practice of a physician or other licensed health care professional, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional group. Further, this Act shall not apply to physicians or other licensed health care professional's practices where such practices are carried out in a portion of a health care facility under contract with such health care facility by a physician or by other licensed health care professionals, whether practicing in his individual capacity or within the legal structure of any partnership, medical or professional corporation, or unincorporated medical or professional groups. This Act shall apply to construction or modification and to establishment by such health care facility of such contracted portion which is subject to facility licensing requirements, irrespective of the party responsible for such action or attendant financial obligation.

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof.

"Consumer" means any person other than a person (a) whose major occupation currently involves or whose official capacity within the last 12 months has involved the providing, administering or financing

of any type of health care facility, (b) who is engaged in health research or the teaching of health, (c) who has a material financial interest in any activity which involves the providing, administering or financing of any type of health care facility, or (d) who is or ever has been a member of the immediate family of the person defined by (a), (b), or (c).

"State Board" or "Board" means the Health Facilities and Services Review Board.

"Construction or modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership, of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation, or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditure made by or on behalf of a health care facility for (i) the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act or (ii) a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under this Act.

"Establish" means the construction of a health care facility or the replacement of an existing facility on another site or the initiation of a category of service as defined by the Board.

"Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of Section 1861(s) of such Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

"Capital Expenditure" means an expenditure: (A) made by or on behalf of a health care facility (as such a facility is defined in this Act); and (B) which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and which exceeds the capital expenditure minimum.

For the purpose of this paragraph, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditures minimum. Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under this Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure for purposes of this Act if a transfer of the equipment or facilities at fair market value would be subject to review.

"Capital expenditure minimum" means $11,500,000 for projects by hospital applicants, $6,500,000 for applicants for projects related to skilled and intermediate care long-term care facilities licensed under the Nursing Home Care Act, and $3,000,000 for projects by all other applicants, which shall be annually adjusted to reflect the increase in construction costs due to inflation, for major medical equipment and for all other capital expenditures.

"Non-clinical service area" means an area (i) for the benefit of the patients, visitors, staff, or employees of a health care facility and (ii) not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers.

"Areawide" means a major area of the State delineated on a geographic, demographic, and functional basis for health planning and for health service and having within it one or more local areas for health

planning and health service. The term "region", as contrasted with the term "subregion", and the word "area" may be used synonymously with the term "areawide".

"Local" means a subarea of a delineated major area that on a geographic, demographic, and functional basis may be considered to be part of such major area. The term "subregion" may be used synonymously with the term "local".

"Physician" means a person licensed to practice in accordance with the Medical Practice Act of 1987, as amended.

"Licensed health care professional" means a person licensed to practice a health profession under pertinent licensing statutes of the State of Illinois.

"Director" means the Director of the Illinois Department of Public Health.

"Agency" means the Illinois Department of Public Health.

"Alternative health care model" means a facility or program authorized under the Alternative Health Care Delivery Act.

"Out-of-state facility" means a person that is both (i) licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and (ii) not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility, its parent, or Illinois physicians licensed to practice medicine in all its branches shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act.

"Change of ownership of a health care facility" means a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change in ownership is indicated by the following transactions: sale, transfer, acquisition, lease, change of sponsorship, or other means of transferring control.

"Related person" means any person that: (i) is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility; or (ii) owns, directly or indirectly, at least 50% of the health care facility.

"Charity care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer.

"Freestanding emergency center" means a facility subject to licensure under Section 32.5 of the Emergency Medical Services (EMS) Systems Act.

(Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff. 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

(Section scheduled to be repealed on December 31, 2019)

Sec. 12. Powers and duties of State Board. For purposes of this Act, the State Board shall exercise the following powers and duties:

(1) Prescribe rules, regulations, standards, criteria, procedures or reviews which may vary according to the purpose for which a particular review is being conducted or the type of project reviewed and which are required to carry out the provisions and purposes of this Act. Policies and procedures of the State Board shall take into consideration the priorities and needs of medically underserved areas and other health care services identified through the comprehensive health planning process, giving special consideration to the impact of projects on access to safety net services.

(2) Adopt procedures for public notice and hearing on all proposed rules, regulations, standards, criteria, and plans required to carry out the provisions of this Act.

(3) (Blank).

(4) Develop criteria and standards for health care facilities planning, conduct statewide inventories of health care facilities, maintain an updated inventory on the Board's web site reflecting the most recent bed and service changes and updated need determinations when new census data become available or new need formulae are adopted, and develop health care facility plans which shall be utilized in the review of applications for permit under this Act. Such health facility plans shall be coordinated by the Board with pertinent State Plans. Inventories pursuant to this Section of skilled or intermediate care facilities licensed under the Nursing Home Care Act, skilled or intermediate care facilities licensed under the ID/DD ~~MR/DD~~ Community Care Act, or nursing homes licensed under the Hospital Licensing Act shall be conducted on an annual basis no later than July 1 of each year and shall include among the information requested a list of all services provided by a facility to its residents and to the community at

large and differentiate between active and inactive beds.

In developing health care facility plans, the State Board shall consider, but shall not be limited to, the following:

(a) The size, composition and growth of the population of the area to be served;

(b) The number of existing and planned facilities offering similar programs;

(c) The extent of utilization of existing facilities;

(d) The availability of facilities which may serve as alternatives or substitutes;

(e) The availability of personnel necessary to the operation of the facility;

(f) Multi-institutional planning and the establishment of multi-institutional systems where feasible;

(g) The financial and economic feasibility of proposed construction or modification; and

(h) In the case of health care facilities established by a religious body or denomination, the needs of the members of such religious body or denomination may be considered to be public need.

The health care facility plans which are developed and adopted in accordance with this Section shall form the basis for the plan of the State to deal most effectively with statewide health needs in regard to health care facilities.

(5) Coordinate with the Center for Comprehensive Health Planning and other state agencies having responsibilities affecting health care facilities, including those of licensure and cost reporting.

(6) Solicit, accept, hold and administer on behalf of the State any grants or bequests of money, securities or property for use by the State Board or Center for Comprehensive Health Planning in the administration of this Act; and enter into contracts consistent with the appropriations for purposes enumerated in this Act.

(7) The State Board shall prescribe procedures for review, standards, and criteria which shall be utilized to make periodic reviews and determinations of the appropriateness of any existing health services being rendered by health care facilities subject to the Act. The State Board shall consider recommendations of the Board in making its determinations.

(8) Prescribe, in consultation with the Center for Comprehensive Health Planning, rules, regulations, standards, and criteria for the conduct of an expeditious review of applications for permits for projects of construction or modification of a health care facility, which projects are classified as emergency, substantive, or non-substantive in nature.

Six months after June 30, 2009 (the effective date of Public Act 96-31), substantive projects shall include no more than the following:

(a) Projects to construct (1) a new or replacement facility located on a new site or (2) a replacement facility located on the same site as the original facility and the cost of the replacement facility exceeds the capital expenditure minimum;

(b) Projects proposing a (1) new service or (2) discontinuation of a service, which shall be reviewed by the Board within 60 days; or

(c) Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one physical facility or site to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board, whichever is less, over a 2-year period.

The Chairman may approve applications for exemption that meet the criteria set forth in rules or refer them to the full Board. The Chairman may approve any unopposed application that meets all of the review criteria or refer them to the full Board.

Such rules shall not abridge the right of the Center for Comprehensive Health Planning to make recommendations on the classification and approval of projects, nor shall such rules prevent the conduct of a public hearing upon the timely request of an interested party. Such reviews shall not exceed 60 days from the date the application is declared to be complete.

(9) Prescribe rules, regulations, standards, and criteria pertaining to the granting of permits for construction and modifications which are emergent in nature and must be undertaken immediately to prevent or correct structural deficiencies or hazardous conditions that may harm or injure persons using the facility, as defined in the rules and regulations of the State Board. This procedure is exempt from public hearing requirements of this Act.

(10) Prescribe rules, regulations, standards and criteria for the conduct of an expeditious review, not exceeding 60 days, of applications for permits for projects to construct or modify health care facilities which are needed for the care and treatment of persons who have acquired immunodeficiency syndrome (AIDS) or related conditions.

(11) Issue written decisions upon request of the applicant or an adversely affected party to the Board

within 30 days of the meeting in which a final decision has been made. A "final decision" for purposes of this Act is the decision to approve or deny an application, or take other actions permitted under this Act, at the time and date of the meeting that such action is scheduled by the Board. The staff of the State Board shall prepare a written copy of the final decision and the State Board shall approve a final copy for inclusion in the formal record.

(12) Require at least one of its members to participate in any public hearing, after the appointment of the 9 members to the Board.

(13) Provide a mechanism for the public to comment on, and request changes to, draft rules and standards.

(14) Implement public information campaigns to regularly inform the general public about the opportunity for public hearings and public hearing procedures.

(15) Establish a separate set of rules and guidelines for long-term care that recognizes that nursing homes are a different business line and service model from other regulated facilities. An open and transparent process shall be developed that considers the following: how skilled nursing fits in the continuum of care with other care providers, modernization of nursing homes, establishment of more private rooms, development of alternative services, and current trends in long-term care services. The Chairman of the Board shall appoint a permanent Health Services Review Board Long-term Care Facility Advisory Subcommittee that shall develop and recommend to the Board the rules to be established by the Board under this paragraph (15). The Subcommittee shall also provide continuous review and commentary on policies and procedures relative to long-term care and the review of related projects. In consultation with other experts from the health field of long-term care, the Board and the Subcommittee shall study new approaches to the current bed need formula and Health Service Area boundaries to encourage flexibility and innovation in design models reflective of the changing long-term care marketplace and consumer preferences. The Board shall file the proposed related administrative rules for the separate rules and guidelines for long-term care required by this paragraph (15) by September 1, 2010. The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used to evaluate project applications as provided under Section 12.3 of this Act prior to approval by the Board and promulgation of related rules.

(Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

(20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

(Section scheduled to be repealed on December 31, 2019)

Sec. 13. Investigation of applications for permits and certificates of recognition. The Agency or the State Board shall make or cause to be made such investigations as it or the State Board deems necessary in connection with an application for a permit or an application for a certificate of recognition, or in connection with a determination of whether or not construction or modification which has been commenced is in accord with the permit issued by the State Board or whether construction or modification has been commenced without a permit having been obtained. The State Board may issue subpoenas duces tecum requiring the production of records and may administer oaths to such witnesses.

Any circuit court of this State, upon the application of the State Board or upon the application of any party to such proceedings, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records, or memoranda and the giving of testimony before the State Board, by a proceeding as for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

The State Board shall require all health facilities operating in this State to provide such reasonable reports at such times and containing such information as is needed by it to carry out the purposes and provisions of this Act. Prior to collecting information from health facilities, the State Board shall make reasonable efforts through a public process to consult with health facilities and associations that represent them to determine whether data and information requests will result in useful information for health planning, whether sufficient information is available from other sources, and whether data requested is routinely collected by health facilities and is available without retrospective record review. Data and information requests shall not impose undue paperwork burdens on health care facilities and personnel. Health facilities not complying with this requirement shall be reported to licensing, accrediting, certifying, or payment agencies as being in violation of State law. Health care facilities and other parties at interest shall have reasonable access, under rules established by the State Board, to all planning information submitted in accord with this Act pertaining to their area.

Among the reports to be required by the State Board are facility questionnaires for health care facilities licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the End Stage Renal Disease

Facility Act. These questionnaires shall be conducted on an annual basis and compiled by the Agency. For health care facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, these reports shall include, but not be limited to, the identification of specialty services provided by the facility to patients, residents, and the community at large. For health care facilities that contain long term care beds, the reports shall also include the number of staffed long term care beds, physical capacity for long term care beds at the facility, and long term care beds available for immediate occupancy. For purposes of this paragraph, "long term care beds" means beds (i) licensed under the Nursing Home Care Act, (ii) licensed under the ID/DD ~~MR/DD~~ Community Care Act, or (iii) licensed under the Hospital Licensing Act and certified as skilled nursing or nursing facility beds under Medicaid or Medicare.

(Source: P.A. 96-339, eff. 7-1-10.)

(20 ILCS 3960/14.1)

Sec. 14.1. Denial of permit; other sanctions.

(a) The State Board may deny an application for a permit or may revoke or take other action as permitted by this Act with regard to a permit as the State Board deems appropriate, including the imposition of fines as set forth in this Section, for any one or a combination of the following:

(1) The acquisition of major medical equipment without a permit or in violation of the terms of a permit.

(2) The establishment, construction, or modification of a health care facility without a permit or in violation of the terms of a permit.

(3) The violation of any provision of this Act or any rule adopted under this Act.

(4) The failure, by any person subject to this Act, to provide information requested by the State Board or Agency within 30 days after a formal written request for the information.

(5) The failure to pay any fine imposed under this Section within 30 days of its imposition.

(a-5) For facilities licensed under the ID/DD ~~MR/DD~~ Community Care Act, no permit shall be denied on the basis of prior operator history, other than for actions specified under item (2), (4), or (5) of Section 3-117 of the ID/DD ~~MR/DD~~ Community Care Act. For facilities licensed under the Nursing Home Care Act, no permit shall be denied on the basis of prior operator history, other than for: (i) actions specified under item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing Home Care Act; (ii) actions specified under item (a)(6) of Section 3-119 of the Nursing Home Care Act; or (iii) actions within the preceding 5 years constituting a substantial and repeated failure to comply with the Nursing Home Care Act or the rules and regulations adopted by the Department under that Act. The State Board shall not deny a permit on account of any action described in this subsection (a-5) without also considering all such actions in the light of all relevant information available to the State Board, including whether the permit is sought to substantially comply with a mandatory or voluntary plan of correction associated with any action described in this subsection (a-5).

(b) Persons shall be subject to fines as follows:

(1) A permit holder who fails to comply with the requirements of maintaining a valid permit shall be fined an amount not to exceed 1% of the approved permit amount plus an additional 1% of the approved permit amount for each 30-day period, or fraction thereof, that the violation continues.

(2) A permit holder who alters the scope of an approved project or whose project costs exceed the allowable permit amount without first obtaining approval from the State Board shall be fined an amount not to exceed the sum of (i) the lesser of $25,000 or 2% of the approved permit amount and (ii) in those cases where the approved permit amount is exceeded by more than $1,000,000, an additional $20,000 for each $1,000,000, or fraction thereof, in excess of the approved permit amount.

(3) A person who acquires major medical equipment or who establishes a category of service without first obtaining a permit or exemption, as the case may be, shall be fined an amount not to exceed $10,000 for each such acquisition or category of service established plus an additional $10,000 for each 30-day period, or fraction thereof, that the violation continues.

(4) A person who constructs, modifies, or establishes a health care facility without first obtaining a permit shall be fined an amount not to exceed $25,000 plus an additional $25,000 for each 30-day period, or fraction thereof, that the violation continues.

(5) A person who discontinues a health care facility or a category of service without first obtaining a permit shall be fined an amount not to exceed $10,000 plus an additional $10,000 for each 30-day period, or fraction thereof, that the violation continues. For purposes of this subparagraph (5), facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act,

with the exceptions of facilities operated by a county or Illinois Veterans Homes, are exempt from this permit requirement. However, facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act must comply with Section 3-423 of the Nursing Home Care Act or Section 3-423 of the ID/DD ~~MR/DD~~ Community Care Act and must provide the Board with 30-days' written notice of its intent to close.

(6) A person subject to this Act who fails to provide information requested by the State Board or Agency within 30 days of a formal written request shall be fined an amount not to exceed $1,000 plus an additional $1,000 for each 30-day period, or fraction thereof, that the information is not received by the State Board or Agency.

(c) Before imposing any fine authorized under this Section, the State Board shall afford the person or permit holder, as the case may be, an appearance before the State Board and an opportunity for a hearing before a hearing officer appointed by the State Board. The hearing shall be conducted in accordance with Section 10.

(d) All fines collected under this Act shall be transmitted to the State Treasurer, who shall deposit them into the Illinois Health Facilities Planning Fund.

(Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10.)

Section 30. The State Finance Act is amended by changing Section 8.8 as follows:

(30 ILCS 105/8.8) (from Ch. 127, par. 144.8)

Sec. 8.8. Appropriations for the improvement, development, addition or expansion of services for the care, treatment, and training of persons who are intellectually disabled ~~mentally retarded~~ or subject to involuntary admission under the Mental Health and Developmental Disabilities Code or for the financing of any program designed to provide such improvement, development, addition or expansion of services or for expenses incurred in administering the provisions of Sections 5-105 to 5-115, inclusive, of the Mental Health and Developmental Disabilities Code, or other ordinary and contingent expenses of the Department of Human Services relating to mental health and developmental disabilities, are payable from the Mental Health Fund. However, no expenditures shall be made for the purchase, construction, lease, or rental of buildings for use as State-operated mental health or developmental disability facilities.

(Source: P.A. 96-959, eff. 7-1-10.)

Section 35. The Business Enterprise for Minorities, Females, and Persons with Disabilities Act is amended by changing Section 2 as follows:

(30 ILCS 575/2)

(Section scheduled to be repealed on June 30, 2012)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is:

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

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

(c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or

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

(2) "Female" shall mean a person who is a citizen or lawful permanent resident of the United States and who is of the female gender.

(2.05) "Person with a disability" means a person who is a citizen or lawful resident of the United States and is a person qualifying as being disabled under subdivision (2.1) of this subsection (A).

(2.1) "Disabled" means a severe physical or mental disability that:

(a) results from:

amputation,

arthritis,

autism,

blindness,

burn injury,

cancer,

cerebral palsy,

Crohn's disease,
cystic fibrosis,
deafness,
head injury,
heart disease,
hemiplegia,
hemophilia,
respiratory or pulmonary dysfunction,
an intellectual disability ~~mental retardation~~,
mental illness,
multiple sclerosis,
muscular dystrophy,
musculoskeletal disorders,
neurological disorders, including stroke and epilepsy,
paraplegia,
quadriplegia and other spinal cord conditions,
sickle cell anemia,
ulcerative colitis,
specific learning disabilities, or
end stage renal failure disease; and

(b) substantially limits one or more of the person's major life activities.

Another disability or combination of disabilities may also be considered as a severe disability for the purposes of item (a) of this subdivision (2.1) if it is determined by an evaluation of rehabilitation potential to cause a comparable degree of substantial functional limitation similar to the specific list of disabilities listed in item (a) of this subdivision (2.1).

(3) "Minority owned business" means a business concern which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

(4) "Female owned business" means a business concern which is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.

(4.1) "Business owned by a person with a disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.2) "Council" means the Business Enterprise Council for Minorities, Females, and Persons with Disabilities created under Section 5 of this Act.

(5) "State contracts" shall mean all State contracts, funded exclusively with State funds which are not subject to federal reimbursement, whether competitively bid or negotiated as defined by the Secretary of the Council and approved by the Council.

"State construction contracts" means all State contracts entered into by a State agency or State university for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "State universities" shall mean the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, and the Board of Trustees of Western Illinois

University.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, female, or person with a disability for whatever purpose. A business owned and controlled by females shall select and designate whether such business is to be certified as a "Female-owned business" or "Minority-owned business" if the females are also minorities.

(9) "Control" means the exclusive or ultimate and sole control of the business including, but not limited to, capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibilities, cost-control matters, income and dividend matters, financial transactions and rights of other shareholders or joint partners. Control shall be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership.

(10) "Business concern or business" means a business that has annual gross sales of less than $75,000,000 as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Council for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on businesses owned by minorities, females, or persons with disabilities as suppliers or subcontractors or in employment of minorities, females, or persons with disabilities.

(B) When a business concern is owned at least 51% by any combination of minority persons, females, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business concern.
(Source: P.A. 95-344, eff. 8-21-07; 96-453, eff. 8-14-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for effective date of changes made by P.A. 96-795); 96-1000, eff. 7-2-10.)

Section 36. The Illinois Income Tax Act is amended by changing Section 806 as follows:
(35 ILCS 5/806)

Sec. 806. Exemption from penalty. An individual taxpayer shall not be subject to a penalty for failing to pay estimated tax as required by Section 803 if the taxpayer is 65 years of age or older and is a permanent resident of a nursing home. For purposes of this Section, "nursing home" means a skilled nursing or intermediate long term care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.
(Source: P.A. 96-339, eff. 7-1-10.)

Section 37. The Use Tax Act is amended by changing Section 3-5 as follows:
(35 ILCS 105/3-5)

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

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

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

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

(4) Personal property purchased by a governmental body, by a corporation, society, association,

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

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

(6) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(7) Farm chemicals.

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

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

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

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

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

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

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

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

(14) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing

and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

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

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

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

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

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

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

(21) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (21) is exempt from the provisions of Section 3-90, and the exemption provided for under this item (21) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008.

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

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

(24) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable

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

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

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

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

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

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

(30) Beginning January 1, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD ~~MR/DD~~ Community Care Act.

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

lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

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

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

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

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

(36) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-90.

(Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 38. The Service Use Tax Act is amended by changing Sections 3-5 and 3-10 as follows:

(35 ILCS 110/3-5)

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

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

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

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

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

(5) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

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

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

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

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

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

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

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

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

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

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

(14) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (14) is exempt from the provisions of Section 3-75, and the exemption provided for under this item (14) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after the effective date of this amendatory Act of the 95th General Assembly for such taxes paid during the period beginning May 30, 2000 and ending on the effective date of this amendatory Act of the 95th General Assembly.

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

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

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

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

initiated on facilities located in the declared disaster area within 6 months after the disaster.

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

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

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

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

(23) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD ~~MR/DD~~ Community Care Act.

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

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market

value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

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

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

(28) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-75.

(Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

Sec. 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of the selling price of tangible personal property transferred as an incident to the sale of service, but, for the purpose of computing this tax, in no event shall the selling price be less than the cost price of the property to the serviceman.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of the Use Tax Act, the tax is imposed at the rate of 1.25%.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act applies to (i) 70% of the selling price of property transferred as an incident to the sale of service on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013, and (iii) 100% of the selling price thereafter. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 and (ii) 100% of the proceeds of the selling price thereafter. If, at any time, however, the tax under

this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to 100% biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more than 10% but no more than 99% biodiesel, the tax imposed by this Act does not apply to the proceeds of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

At the election of any registered serviceman made for each fiscal year, sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred as an incident to the sale of those services.

The tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Occupation Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Child Care Act of 1969. The tax shall also be imposed at the rate of 1% on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption and is not otherwise included in this paragraph) and prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. For purposes of this Section, "grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter-drugs". For the purposes of this paragraph, "over-the-counter-drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The "over-the-counter-drug" label includes:

(A) A "Drug Facts" panel; or

(B) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.

If the property that is acquired from a serviceman is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is taxable under this Act, the "selling price" on which the tax is computed shall be reduced by an amount that represents a reasonable allowance for depreciation for the period of prior out-of-state use.
(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38, eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 39. The Service Occupation Tax Act is amended by changing Sections 3-5 and 3-10 as follows:

(35 ILCS 115/3-5)

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

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

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

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

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

(5) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

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

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

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

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

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be

used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

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

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

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

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

(13) Beginning January 1, 1992 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD ~~MR/DD~~ Community Care Act.

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

(15) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (15) is exempt from the provisions of Section 3-55, and the exemption provided for under this item (15) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

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

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

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

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

(20) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area"

or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-55.

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

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

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

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

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

(26) Beginning on January 1, 2002 and through June 30, 2011, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (26). The permit issued under this paragraph (26) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

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

(28) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the

municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-55.

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

(Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

Sec. 3-10. Rate of tax. Unless otherwise provided in this Section, the tax imposed by this Act is at the rate of 6.25% of the "selling price", as defined in Section 2 of the Service Use Tax Act, of the tangible personal property. For the purpose of computing this tax, in no event shall the "selling price" be less than the cost price to the serviceman of the tangible personal property transferred. The selling price of each item of tangible personal property transferred as an incident of a sale of service may be shown as a distinct and separate item on the serviceman's billing to the service customer. If the selling price is not so shown, the selling price of the tangible personal property is deemed to be 50% of the serviceman's entire billing to the service customer. When, however, a serviceman contracts to design, develop, and produce special order machinery or equipment, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred incident to the completion of the contract.

Beginning on July 1, 2000 and through December 31, 2000, with respect to motor fuel, as defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of the Use Tax Act, the tax is imposed at the rate of 1.25%.

With respect to gasohol, as defined in the Use Tax Act, the tax imposed by this Act shall apply to (i) 70% of the cost price of property transferred as an incident to the sale of service on or after January 1, 1990, and before July 1, 2003, (ii) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013, and (iii) 100% of the cost price thereafter. If, at any time, however, the tax under this Act on sales of gasohol, as defined in the Use Tax Act, is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of gasohol made during that time.

With respect to majority blended ethanol fuel, as defined in the Use Tax Act, the tax imposed by this Act does not apply to the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling price thereafter.

With respect to biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel, the tax imposed by this Act applies to (i) 80% of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 and (ii) 100% of the proceeds of the selling price thereafter. If, at any time, however, the tax under this Act on sales of biodiesel blends, as defined in the Use Tax Act, with no less than 1% and no more than 10% biodiesel is imposed at the rate of 1.25%, then the tax imposed by this Act applies to 100% of the proceeds of sales of biodiesel blends with no less than 1% and no more than 10% biodiesel made during that time.

With respect to 100% biodiesel, as defined in the Use Tax Act, and biodiesel blends, as defined in the Use Tax Act, with more than 10% but no more than 99% biodiesel material, the tax imposed by this Act does not apply to the proceeds of the selling price of property transferred as an incident to the sale of service on or after July 1, 2003 and on or before December 31, 2013 but applies to 100% of the selling

price thereafter.

At the election of any registered serviceman made for each fiscal year, sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service, the tax imposed by this Act shall be based on the serviceman's cost price of the tangible personal property transferred incident to the sale of those services.

The tax shall be imposed at the rate of 1% on food prepared for immediate consumption and transferred incident to a sale of service subject to this Act or the Service Occupation Tax Act by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Child Care Act of 1969. The tax shall also be imposed at the rate of 1% on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption and is not otherwise included in this paragraph) and prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. For the purposes of this Section, until September 1, 2009: the term "soft drinks" means any complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed can, carton, or container, regardless of size; but "soft drinks" does not include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50% or more natural fruit or vegetable juice.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.

Until August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine. Beginning August 1, 2009, and notwithstanding any other provisions of this Act, "food for human consumption that is to be consumed off the premises where it is sold" includes all food sold through a vending machine, except soft drinks, candy, and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "food for human consumption that is to be consumed off the premises where it is sold" does not include candy. For purposes of this Section, "candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.

Notwithstanding any other provisions of this Act, beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. For purposes of this Section, "grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter-drugs". For the purposes of this paragraph, "over-the-counter-drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The "over-the-counter-drug" label includes:

(A) A "Drug Facts" panel; or

(B) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38, eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 40. The Retailers' Occupation Tax Act is amended by changing Section 2-5 as follows:

(35 ILCS 120/2-5)

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

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated.

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

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

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

(4) Until July 1, 2003 and beginning again September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(5) A motor vehicle of the first division, a motor vehicle of the second division that is a self contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 2-70.

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

(7) Until July 1, 2003, proceeds of that portion of the selling price of a passenger car the sale of which is subject to the Replacement Vehicle Tax.

(8) Personal property sold to an Illinois county fair association for use in conducting, operating, or promoting the county fair.

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

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

(11) Personal property sold to a governmental body, to a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or to

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

(12) Tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors under leases of one year or longer executed or in effect at the time of purchase by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(13) Proceeds from sales to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

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

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

(16) Petroleum products sold to a purchaser if the seller is prohibited by federal law from charging tax to the purchaser.

(17) Tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.

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

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

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

(21) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and

reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

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

(23) A transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois.

(24) Fuel consumed or used in the operation of ships, barges, or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river.

(25) Except as provided in item (25-5) of this Section, a motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State.

(25-5) The exemption under item (25) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this item (25-5) shall be proportionately distributed as if the tax were collected at the 6.25% general rate imposed under this Act.

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

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

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

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

For purposes of this item (25-7):

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

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

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

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

(27) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (27) is exempt from the provisions of Section 2-70, and the exemption provided for under this item (27) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

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

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

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

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

(32) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 2-70.

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

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 2-70.

(35) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70.

(35-5) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to

be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or a licensed facility as defined in the ID/DD ~~MR/DD~~ Community Care Act.

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(37) Beginning August 2, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(38) Beginning on January 1, 2002 and through June 30, 2011, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (38). The permit issued under this paragraph (38) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

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

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

(41) Tangible personal property sold to a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 2-70.

(Source: P.A. 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 41. The Property Tax Code is amended by changing Sections 15-168, 15-170, and 15-172 as follows:

(35 ILCS 200/15-168)

Sec. 15-168. Disabled persons' homestead exemption.

(a) Beginning with taxable year 2007, an annual homestead exemption is granted to disabled persons in the amount of $2,000, except as provided in subsection (c), to be deducted from the property's value as equalized or assessed by the Department of Revenue. The disabled person shall receive the homestead exemption upon meeting the following requirements:

(1) The property must be occupied as the primary residence by the disabled person.

(2) The disabled person must be liable for paying the real estate taxes on the property.

(3) The disabled person must be an owner of record of the property or have a legal or equitable interest in the property as evidenced by a written instrument. In the case of a leasehold interest in property, the lease must be for a single family residence.

A person who is disabled during the taxable year is eligible to apply for this homestead exemption during that taxable year. Application must be made during the application period in effect for the county of residence. If a homestead exemption has been granted under this Section and the person awarded the exemption subsequently becomes a resident of a facility licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, then the exemption shall continue (i) so long as the residence continues to be occupied by the qualifying person's spouse or (ii) if the residence remains unoccupied but is still owned by the person qualified for the homestead exemption.

(b) For the purposes of this Section, "disabled person" means a person unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months. Disabled persons filing claims under this Act shall submit proof of disability in such form and manner as the Department shall by rule and regulation prescribe. Proof that a claimant is eligible to receive disability benefits under the Federal Social Security Act shall constitute proof of disability for purposes of this Act. Issuance of an Illinois Disabled Person Identification Card stating that the claimant is under a Class 2 disability, as defined in Section 4A of The Illinois Identification Card Act, shall constitute proof that the person named thereon is a disabled person for purposes of this Act. A disabled person not covered under the Federal Social Security Act and not presenting a Disabled Person Identification Card stating that the claimant is under a Class 2 disability shall be examined by a physician designated by the Department, and his status as a disabled person determined using the same standards as used by the Social Security Administration. The costs of any required examination shall be borne by the claimant.

(c) For land improved with (i) an apartment building owned and operated as a cooperative or (ii) a life care facility as defined under Section 2 of the Life Care Facilities Act that is considered to be a cooperative, the maximum reduction from the value of the property, as equalized or assessed by the Department, shall be multiplied by the number of apartments or units occupied by a disabled person. The disabled person shall receive the homestead exemption upon meeting the following requirements:

(1) The property must be occupied as the primary residence by the disabled person.

(2) The disabled person must be liable by contract with the owner or owners of record for paying the apportioned property taxes on the property of the cooperative or life care facility. In the case of a life care facility, the disabled person must be liable for paying the apportioned property taxes under a life care contract as defined in Section 2 of the Life Care Facilities Act.

(3) The disabled person must be an owner of record of a legal or equitable interest in the cooperative apartment building. A leasehold interest does not meet this requirement.

If a homestead exemption is granted under this subsection, the cooperative association or management firm shall credit the savings resulting from the exemption to the apportioned tax liability of the qualifying disabled person. The chief county assessment officer may request reasonable proof that the association or firm has properly credited the exemption. A person who willfully refuses to credit an exemption to the qualified disabled person is guilty of a Class B misdemeanor.

(d) The chief county assessment officer shall determine the eligibility of property to receive the homestead exemption according to guidelines established by the Department. After a person has received an exemption under this Section, an annual verification of eligibility for the exemption shall be mailed to the taxpayer.

In counties with fewer than 3,000,000 inhabitants, the chief county assessment officer shall provide to each person granted a homestead exemption under this Section a form to designate any other person to receive a duplicate of any notice of delinquency in the payment of taxes assessed and levied under this Code on the person's qualifying property. The duplicate notice shall be in addition to the notice required

to be provided to the person receiving the exemption and shall be given in the manner required by this Code. The person filing the request for the duplicate notice shall pay an administrative fee of $5 to the chief county assessment officer. The assessment officer shall then file the executed designation with the county collector, who shall issue the duplicate notices as indicated by the designation. A designation may be rescinded by the disabled person in the manner required by the chief county assessment officer.

(e) A taxpayer who claims an exemption under Section 15-165 or 15-169 may not claim an exemption under this Section.

(Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10.)

(35 ILCS 200/15-170)

Sec. 15-170. Senior Citizens Homestead Exemption. An annual homestead exemption limited, except as described here with relation to cooperatives or life care facilities, to a maximum reduction set forth below from the property's value, as equalized or assessed by the Department, is granted for property that is occupied as a residence by a person 65 years of age or older who is liable for paying real estate taxes on the property and is an owner of record of the property or has a legal or equitable interest therein as evidenced by a written instrument, except for a leasehold interest, other than a leasehold interest of land on which a single family residence is located, which is occupied as a residence by a person 65 years or older who has an ownership interest therein, legal, equitable or as a lessee, and on which he or she is liable for the payment of property taxes. Before taxable year 2004, the maximum reduction shall be $2,500 in counties with 3,000,000 or more inhabitants and $2,000 in all other counties. For taxable years 2004 through 2005, the maximum reduction shall be $3,000 in all counties. For taxable years 2006 and 2007, the maximum reduction shall be $3,500 and, for taxable years 2008 and thereafter, the maximum reduction is $4,000 in all counties.

For land improved with an apartment building owned and operated as a cooperative, the maximum reduction from the value of the property, as equalized by the Department, shall be multiplied by the number of apartments or units occupied by a person 65 years of age or older who is liable, by contract with the owner or owners of record, for paying property taxes on the property and is an owner of record of a legal or equitable interest in the cooperative apartment building, other than a leasehold interest. For land improved with a life care facility, the maximum reduction from the value of the property, as equalized by the Department, shall be multiplied by the number of apartments or units occupied by persons 65 years of age or older, irrespective of any legal, equitable, or leasehold interest in the facility, who are liable, under a contract with the owner or owners of record of the facility, for paying property taxes on the property. In a cooperative or a life care facility where a homestead exemption has been granted, the cooperative association or the management firm of the cooperative or facility shall credit the savings resulting from that exemption only to the apportioned tax liability of the owner or resident who qualified for the exemption. Any person who willfully refuses to so credit the savings shall be guilty of a Class B misdemeanor. Under this Section and Sections 15-175, 15-176, and 15-177, "life care facility" means a facility, as defined in Section 2 of the Life Care Facilities Act, with which the applicant for the homestead exemption has a life care contract as defined in that Act.

When a homestead exemption has been granted under this Section and the person qualifying subsequently becomes a resident of a facility licensed under the Assisted Living and Shared Housing Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act, the exemption shall continue so long as the residence continues to be occupied by the qualifying person's spouse if the spouse is 65 years of age or older, or if the residence remains unoccupied but is still owned by the person qualified for the homestead exemption.

A person who will be 65 years of age during the current assessment year shall be eligible to apply for the homestead exemption during that assessment year. Application shall be made during the application period in effect for the county of his residence.

Beginning with assessment year 2003, for taxes payable in 2004, property that is first occupied as a residence after January 1 of any assessment year by a person who is eligible for the senior citizens homestead exemption under this Section must be granted a pro-rata exemption for the assessment year. The amount of the pro-rata exemption is the exemption allowed in the county under this Section divided by 365 and multiplied by the number of days during the assessment year the property is occupied as a residence by a person eligible for the exemption under this Section. The chief county assessment officer must adopt reasonable procedures to establish eligibility for this pro-rata exemption.

The assessor or chief county assessment officer may determine the eligibility of a life care facility to receive the benefits provided by this Section, by affidavit, application, visual inspection, questionnaire or other reasonable methods in order to insure that the tax savings resulting from the exemption are credited by the management firm to the apportioned tax liability of each qualifying resident. The assessor may request reasonable proof that the management firm has so credited the exemption.

The chief county assessment officer of each county with less than 3,000,000 inhabitants shall provide to each person allowed a homestead exemption under this Section a form to designate any other person to receive a duplicate of any notice of delinquency in the payment of taxes assessed and levied under this Code on the property of the person receiving the exemption. The duplicate notice shall be in addition to the notice required to be provided to the person receiving the exemption, and shall be given in the manner required by this Code. The person filing the request for the duplicate notice shall pay a fee of $5 to cover administrative costs to the supervisor of assessments, who shall then file the executed designation with the county collector. Notwithstanding any other provision of this Code to the contrary, the filing of such an executed designation requires the county collector to provide duplicate notices as indicated by the designation. A designation may be rescinded by the person who executed such designation at any time, in the manner and form required by the chief county assessment officer.

The assessor or chief county assessment officer may determine the eligibility of residential property to receive the homestead exemption provided by this Section by application, visual inspection, questionnaire or other reasonable methods. The determination shall be made in accordance with guidelines established by the Department.

In counties with 3,000,000 or more inhabitants, beginning in taxable year 2010, each taxpayer who has been granted an exemption under this Section must reapply on an annual basis. The chief county assessment officer shall mail the application to the taxpayer. In counties with less than 3,000,000 inhabitants, the county board may by resolution provide that if a person has been granted a homestead exemption under this Section, the person qualifying need not reapply for the exemption.

In counties with less than 3,000,000 inhabitants, if the assessor or chief county assessment officer requires annual application for verification of eligibility for an exemption once granted under this Section, the application shall be mailed to the taxpayer.

The assessor or chief county assessment officer shall notify each person who qualifies for an exemption under this Section that the person may also qualify for deferral of real estate taxes under the Senior Citizens Real Estate Tax Deferral Act. The notice shall set forth the qualifications needed for deferral of real estate taxes, the address and telephone number of county collector, and a statement that applications for deferral of real estate taxes may be obtained from the county collector.

Notwithstanding Sections 6 and 8 of the State Mandates Act, no reimbursement by the State is required for the implementation of any mandate created by this Section.

(Source: P.A. 95-644, eff. 10-12-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1418, eff. 8-2-10.)

(35 ILCS 200/15-172)

Sec. 15-172. Senior Citizens Assessment Freeze Homestead Exemption.

(a) This Section may be cited as the Senior Citizens Assessment Freeze Homestead Exemption.

(b) As used in this Section:

"Applicant" means an individual who has filed an application under this Section.

"Base amount" means the base year equalized assessed value of the residence plus the first year's equalized assessed value of any added improvements which increased the assessed value of the residence after the base year.

"Base year" means the taxable year prior to the taxable year for which the applicant first qualifies and applies for the exemption provided that in the prior taxable year the property was improved with a permanent structure that was occupied as a residence by the applicant who was liable for paying real property taxes on the property and who was either (i) an owner of record of the property or had legal or equitable interest in the property as evidenced by a written instrument or (ii) had a legal or equitable interest as a lessee in the parcel of property that was single family residence. If in any subsequent taxable year for which the applicant applies and qualifies for the exemption the equalized assessed value of the residence is less than the equalized assessed value in the existing base year (provided that such equalized assessed value is not based on an assessed value that results from a temporary irregularity in the property that reduces the assessed value for one or more taxable years), then that subsequent taxable year shall become the base year until a new base year is established under the terms of this paragraph. For taxable year 1999 only, the Chief County Assessment Officer shall review (i) all taxable years for which the applicant applied and qualified for the exemption and (ii) the existing base year. The assessment officer shall select as the new base year the year with the lowest equalized assessed value. An equalized assessed value that is based on an assessed value that results from a temporary irregularity in the property that reduces the assessed value for one or more taxable years shall not be considered the lowest equalized assessed value. The selected year shall be the base year for taxable year 1999 and thereafter until a new base year is established under the terms of this paragraph.

"Chief County Assessment Officer" means the County Assessor or Supervisor of Assessments of the

county in which the property is located.

"Equalized assessed value" means the assessed value as equalized by the Illinois Department of Revenue.

"Household" means the applicant, the spouse of the applicant, and all persons using the residence of the applicant as their principal place of residence.

"Household income" means the combined income of the members of a household for the calendar year preceding the taxable year.

"Income" has the same meaning as provided in Section 3.07 of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, except that, beginning in assessment year 2001, "income" does not include veteran's benefits.

"Internal Revenue Code of 1986" means the United States Internal Revenue Code of 1986 or any successor law or laws relating to federal income taxes in effect for the year preceding the taxable year.

"Life care facility that qualifies as a cooperative" means a facility as defined in Section 2 of the Life Care Facilities Act.

"Maximum income limitation" means:

(1) $35,000 prior to taxable year 1999;

(2) $40,000 in taxable years 1999 through 2003;

(3) $45,000 in taxable years 2004 through 2005;

(4) $50,000 in taxable years 2006 and 2007; and

(5) $55,000 in taxable year 2008 and thereafter.

"Residence" means the principal dwelling place and appurtenant structures used for residential purposes in this State occupied on January 1 of the taxable year by a household and so much of the surrounding land, constituting the parcel upon which the dwelling place is situated, as is used for residential purposes. If the Chief County Assessment Officer has established a specific legal description for a portion of property constituting the residence, then that portion of property shall be deemed the residence for the purposes of this Section.

"Taxable year" means the calendar year during which ad valorem property taxes payable in the next succeeding year are levied.

(c) Beginning in taxable year 1994, a senior citizens assessment freeze homestead exemption is granted for real property that is improved with a permanent structure that is occupied as a residence by an applicant who (i) is 65 years of age or older during the taxable year, (ii) has a household income that does not exceed the maximum income limitation, (iii) is liable for paying real property taxes on the property, and (iv) is an owner of record of the property or has a legal or equitable interest in the property as evidenced by a written instrument. This homestead exemption shall also apply to a leasehold interest in a parcel of property improved with a permanent structure that is a single family residence that is occupied as a residence by a person who (i) is 65 years of age or older during the taxable year, (ii) has a household income that does not exceed the maximum income limitation, (iii) has a legal or equitable ownership interest in the property as lessee, and (iv) is liable for the payment of real property taxes on that property.

In counties of 3,000,000 or more inhabitants, the amount of the exemption for all taxable years is the equalized assessed value of the residence in the taxable year for which application is made minus the base amount. In all other counties, the amount of the exemption is as follows: (i) through taxable year 2005 and for taxable year 2007 and thereafter, the amount of this exemption shall be the equalized assessed value of the residence in the taxable year for which application is made minus the base amount; and (ii) for taxable year 2006, the amount of the exemption is as follows:

(1) For an applicant who has a household income of $45,000 or less, the amount of the exemption is the equalized assessed value of the residence in the taxable year for which application is made minus the base amount.

(2) For an applicant who has a household income exceeding $45,000 but not exceeding $46,250, the amount of the exemption is (i) the equalized assessed value of the residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.8.

(3) For an applicant who has a household income exceeding $46,250 but not exceeding $47,500, the amount of the exemption is (i) the equalized assessed value of the residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.6.

(4) For an applicant who has a household income exceeding $47,500 but not exceeding $48,750, the amount of the exemption is (i) the equalized assessed value of the residence in the taxable year for which application is made minus the base amount (ii) multiplied by 0.4.

(5) For an applicant who has a household income exceeding $48,750 but not exceeding $50,000, the amount of the exemption is (i) the equalized assessed value of the residence in the

taxable year for which application is made minus the base amount (ii) multiplied by 0.2.

When the applicant is a surviving spouse of an applicant for a prior year for the same residence for which an exemption under this Section has been granted, the base year and base amount for that residence are the same as for the applicant for the prior year.

Each year at the time the assessment books are certified to the County Clerk, the Board of Review or Board of Appeals shall give to the County Clerk a list of the assessed values of improvements on each parcel qualifying for this exemption that were added after the base year for this parcel and that increased the assessed value of the property.

In the case of land improved with an apartment building owned and operated as a cooperative or a building that is a life care facility that qualifies as a cooperative, the maximum reduction from the equalized assessed value of the property is limited to the sum of the reductions calculated for each unit occupied as a residence by a person or persons (i) 65 years of age or older, (ii) with a household income that does not exceed the maximum income limitation, (iii) who is liable, by contract with the owner or owners of record, for paying real property taxes on the property, and (iv) who is an owner of record of a legal or equitable interest in the cooperative apartment building, other than a leasehold interest. In the instance of a cooperative where a homestead exemption has been granted under this Section, the cooperative association or its management firm shall credit the savings resulting from that exemption only to the apportioned tax liability of the owner who qualified for the exemption. Any person who willfully refuses to credit that savings to an owner who qualifies for the exemption is guilty of a Class B misdemeanor.

When a homestead exemption has been granted under this Section and an applicant then becomes a resident of a facility licensed under the Assisted Living and Shared Housing Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act, the exemption shall be granted in subsequent years so long as the residence (i) continues to be occupied by the qualified applicant's spouse or (ii) if remaining unoccupied, is still owned by the qualified applicant for the homestead exemption.

Beginning January 1, 1997, when an individual dies who would have qualified for an exemption under this Section, and the surviving spouse does not independently qualify for this exemption because of age, the exemption under this Section shall be granted to the surviving spouse for the taxable year preceding and the taxable year of the death, provided that, except for age, the surviving spouse meets all other qualifications for the granting of this exemption for those years.

When married persons maintain separate residences, the exemption provided for in this Section may be claimed by only one of such persons and for only one residence.

For taxable year 1994 only, in counties having less than 3,000,000 inhabitants, to receive the exemption, a person shall submit an application by February 15, 1995 to the Chief County Assessment Officer of the county in which the property is located. In counties having 3,000,000 or more inhabitants, for taxable year 1994 and all subsequent taxable years, to receive the exemption, a person may submit an application to the Chief County Assessment Officer of the county in which the property is located during such period as may be specified by the Chief County Assessment Officer. The Chief County Assessment Officer in counties of 3,000,000 or more inhabitants shall annually give notice of the application period by mail or by publication. In counties having less than 3,000,000 inhabitants, beginning with taxable year 1995 and thereafter, to receive the exemption, a person shall submit an application by July 1 of each taxable year to the Chief County Assessment Officer of the county in which the property is located. A county may, by ordinance, establish a date for submission of applications that is different than July 1. The applicant shall submit with the application an affidavit of the applicant's total household income, age, marital status (and if married the name and address of the applicant's spouse, if known), and principal dwelling place of members of the household on January 1 of the taxable year. The Department shall establish, by rule, a method for verifying the accuracy of affidavits filed by applicants under this Section, and the Chief County Assessment Officer may conduct audits of any taxpayer claiming an exemption under this Section to verify that the taxpayer is eligible to receive the exemption. Each application shall contain or be verified by a written declaration that it is made under the penalties of perjury. A taxpayer's signing a fraudulent application under this Act is perjury, as defined in Section 32-2 of the Criminal Code of 1961. The applications shall be clearly marked as applications for the Senior Citizens Assessment Freeze Homestead Exemption and must contain a notice that any taxpayer who receives the exemption is subject to an audit by the Chief County Assessment Officer.

Notwithstanding any other provision to the contrary, in counties having fewer than 3,000,000 inhabitants, if an applicant fails to file the application required by this Section in a timely manner and this failure to file is due to a mental or physical condition sufficiently severe so as to render the applicant incapable of filing the application in a timely manner, the Chief County Assessment Officer may extend the filing deadline for a period of 30 days after the applicant regains the capability to file the application,

but in no case may the filing deadline be extended beyond 3 months of the original filing deadline. In order to receive the extension provided in this paragraph, the applicant shall provide the Chief County Assessment Officer with a signed statement from the applicant's physician stating the nature and extent of the condition, that, in the physician's opinion, the condition was so severe that it rendered the applicant incapable of filing the application in a timely manner, and the date on which the applicant regained the capability to file the application.

Beginning January 1, 1998, notwithstanding any other provision to the contrary, in counties having fewer than 3,000,000 inhabitants, if an applicant fails to file the application required by this Section in a timely manner and this failure to file is due to a mental or physical condition sufficiently severe so as to render the applicant incapable of filing the application in a timely manner, the Chief County Assessment Officer may extend the filing deadline for a period of 3 months. In order to receive the extension provided in this paragraph, the applicant shall provide the Chief County Assessment Officer with a signed statement from the applicant's physician stating the nature and extent of the condition, and that, in the physician's opinion, the condition was so severe that it rendered the applicant incapable of filing the application in a timely manner.

In counties having less than 3,000,000 inhabitants, if an applicant was denied an exemption in taxable year 1994 and the denial occurred due to an error on the part of an assessment official, or his or her agent or employee, then beginning in taxable year 1997 the applicant's base year, for purposes of determining the amount of the exemption, shall be 1993 rather than 1994. In addition, in taxable year 1997, the applicant's exemption shall also include an amount equal to (i) the amount of any exemption denied to the applicant in taxable year 1995 as a result of using 1994, rather than 1993, as the base year, (ii) the amount of any exemption denied to the applicant in taxable year 1996 as a result of using 1994, rather than 1993, as the base year, and (iii) the amount of the exemption erroneously denied for taxable year 1994.

For purposes of this Section, a person who will be 65 years of age during the current taxable year shall be eligible to apply for the homestead exemption during that taxable year. Application shall be made during the application period in effect for the county of his or her residence.

The Chief County Assessment Officer may determine the eligibility of a life care facility that qualifies as a cooperative to receive the benefits provided by this Section by use of an affidavit, application, visual inspection, questionnaire, or other reasonable method in order to insure that the tax savings resulting from the exemption are credited by the management firm to the apportioned tax liability of each qualifying resident. The Chief County Assessment Officer may request reasonable proof that the management firm has so credited that exemption.

Except as provided in this Section, all information received by the chief county assessment officer or the Department from applications filed under this Section, or from any investigation conducted under the provisions of this Section, shall be confidential, except for official purposes or pursuant to official procedures for collection of any State or local tax or enforcement of any civil or criminal penalty or sanction imposed by this Act or by any statute or ordinance imposing a State or local tax. Any person who divulges any such information in any manner, except in accordance with a proper judicial order, is guilty of a Class A misdemeanor.

Nothing contained in this Section shall prevent the Director or chief county assessment officer from publishing or making available reasonable statistics concerning the operation of the exemption contained in this Section in which the contents of claims are grouped into aggregates in such a way that information contained in any individual claim shall not be disclosed.

(d) Each Chief County Assessment Officer shall annually publish a notice of availability of the exemption provided under this Section. The notice shall be published at least 60 days but no more than 75 days prior to the date on which the application must be submitted to the Chief County Assessment Officer of the county in which the property is located. The notice shall appear in a newspaper of general circulation in the county.

Notwithstanding Sections 6 and 8 of the State Mandates Act, no reimbursement by the State is required for the implementation of any mandate created by this Section.

(Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 42. The Counties Code is amended by changing Section 5-25013 as follows:

(55 ILCS 5/5-25013) (from Ch. 34, par. 5-25013)

Sec. 5-25013. Organization of board; powers and duties.

(A) The board of health of each county or multiple-county health department shall, immediately after appointment, meet and organize, by the election of one of its number as president and one as secretary, and either from its number or otherwise, a treasurer and such other officers as it may deem necessary. A

board of health may make and adopt such rules for its own guidance and for the government of the health department as may be deemed necessary to protect and improve public health not inconsistent with this Division. It shall:

1. Hold a meeting prior to the end of each operating fiscal year, at which meeting officers shall be elected for the ensuing operating fiscal year;

2. Hold meetings at least quarterly;

3. Hold special meetings upon a written request signed by two members and filed with the Secretary or on request of the medical health officer or public health administrator;

4. Provide, equip and maintain suitable offices, facilities and appliances for the health department;

5. Publish annually, within 90 days after the end of the county's operating fiscal year, in pamphlet form, for free distribution, an annual report showing the condition of its trust on the last day of the most recently completed operating fiscal year, the sums of money received from all sources, giving the name of any donor, how all moneys have been expended and for what purpose, and such other statistics and information in regard to the work of the health department as it may deem of general interest;

6. Within its jurisdiction, and professional and technical competence, enforce and observe all State laws pertaining to the preservation of health, and all county and municipal ordinances except as otherwise provided in this Division;

7. Within its jurisdiction, and professional and technical competence, investigate the existence of any contagious or infectious disease and adopt measures, not inconsistent with the regulations of the State Department of Public Health, to arrest the progress of the same;

8. Within its jurisdiction, and professional and technical competence, make all necessary sanitary and health investigations and inspections;

9. Upon request, give professional advice and information to all city, village, incorporated town and school authorities, within its jurisdiction, in all matters pertaining to sanitation and public health;

10. Appoint a medical health officer as the executive officer for the department, who shall be a citizen of the United States and shall possess such qualifications as may be prescribed by the State Department of Public Health; or appoint a public health administrator who shall possess such qualifications as may be prescribed by the State Department of Public Health as the executive officer for the department, provided that the board of health shall make available medical supervision which is considered adequate by the Director of Public Health;

10 1/2. Appoint such professional employees as may be approved by the executive officer who meet the qualification requirements of the State Department of Public Health for their respective positions provided, that in those health departments temporarily without a medical health officer or public health administrator approval by the State Department of Public Health shall suffice;

11. Appoint such other officers and employees as may be necessary;

12. Prescribe the powers and duties of all officers and employees, fix their compensation, and authorize payment of the same and all other department expenses from the County Health Fund of the county or counties concerned;

13. Submit an annual budget to the county board or boards;

14. Submit an annual report to the county board or boards, explaining all of its activities and expenditures;

15. Establish and carry out programs and services in mental health, including intellectual disabilities ~~mental retardation~~ and alcoholism and substance abuse, not inconsistent with the regulations of the Department of Human Services;

16. Consult with all other private and public health agencies in the county in the development of local plans for the most efficient delivery of health services.

(B) The board of health of each county or multiple-county health department may:

1. Initiate and carry out programs and activities of all kinds, not inconsistent with law, that may be deemed necessary or desirable in the promotion and protection of health and in the control of disease including tuberculosis;

2. Receive contributions of real and personal property;

3. Recommend to the county board or boards the adoption of such ordinances and of such rules and regulations as may be deemed necessary or desirable for the promotion and protection of health and control of disease;

4. Appoint a medical and dental advisory committee and a non-medical advisory committee

to the health department;

5. Enter into contracts with the State, municipalities, other political subdivisions and non-official agencies for the purchase, sale or exchange of health services;

6. Set fees it deems reasonable and necessary (i) to provide services or perform regulatory activities, (ii) when required by State or federal grant award conditions, (iii) to support activities delegated to the board of health by the Illinois Department of Public Health, or (iv) when required by an agreement between the board of health and other private or governmental organizations, unless the fee has been established as a part of a regulatory ordinance adopted by the county board, in which case the board of health shall make recommendations to the county board concerning those fees. Revenue generated under this Section shall be deposited into the County Health Fund or to the account of the multiple-county health department.

7. Enter into multiple year employment contracts with the medical health officer or public health administrator as may be necessary for the recruitment and retention of personnel and the proper functioning of the health department.

(C) The board of health of a multiple-county health department may hire attorneys to represent and advise the department concerning matters that are not within the exclusive jurisdiction of the State's Attorney of one of the counties that created the department.

(Source: P.A. 89-272, eff. 8-10-95; 89-507, eff. 7-1-97.)

Section 45. The County Care for Persons with Developmental Disabilities Act is amended by changing the title of the Act and by changing Sections 1, 1.1, and 1.2 as follows:

(55 ILCS 105/Act title)

An Act concerning the care and treatment of persons who are intellectually disabled ~~mentally retarded~~ or under developmental disability.

(55 ILCS 105/1) (from Ch. 91 1/2, par. 201)

Sec. 1. Facilities or services; tax levy. Any county may provide facilities or services for the benefit of its residents who are intellectually disabled ~~mentally retarded~~ or under a developmental disability and who are not eligible to participate in any such program conducted under Article 14 of the School Code, or may contract therefor with any privately or publicly operated entity which provides facilities or services either in or out of such county.

For such purpose, the county board may levy an annual tax of not to exceed .1% upon all of the taxable property in the county at the value thereof, as equalized or assessed by the Department of Revenue. Taxes first levied under this Section on or after the effective date of this amendatory Act of the 96th General Assembly are subject to referendum approval under Section 1.1 or 1.2 of this Act. Such tax shall be levied and collected in the same manner as other county taxes, but shall not be included in any limitation otherwise prescribed as to the rate or amount of county taxes but shall be in addition thereto and in excess thereof. When collected, such tax shall be paid into a special fund in the county treasury, to be designated as the "Fund for Persons With a Developmental Disability", and shall be used only for the purpose specified in this Section. The levying of this annual tax shall not preclude the county from the use of other federal, State, or local funds for the purpose of providing facilities or services for the care and treatment of its residents who are mentally retarded or under a developmental disability.

(Source: P.A. 96-1350, eff. 7-28-10.)

(55 ILCS 105/1.1)

Sec. 1.1. Petition for submission to referendum by county.

(a) If, on and after the effective date of this amendatory Act of the 96th General Assembly, the county board passes an ordinance or resolution as provided in Section 1 of this Act asking that an annual tax may be levied for the purpose of providing facilities or services set forth in that Section and so instructs the county clerk, the clerk shall certify the proposition to the proper election officials for submission at the next general county election. The proposition shall be in substantially the following form:

Shall ..... County levy an annual tax not to exceed 0.1% upon the equalized assessed value of all taxable property in the county for the purposes of providing facilities or services for the benefit of its residents who are intellectually disabled ~~mentally retarded~~ or under a developmental disability and who are not eligible to participate in any program provided under Article 14 of the School Code, 105 ILCS 5/14.1-1.01 et seq., including contracting for those facilities or services with any privately or publicly operated entity that provides those facilities or services either in or out of the county?

(b) If a majority of the votes cast upon the proposition are in favor thereof, such tax levy shall be authorized and the county shall levy a tax not to exceed the rate set forth in Section 1 of this Act.

(Source: P.A. 96-1350, eff. 7-28-10.)

(55 ILCS 105/1.2)

Sec. 1.2. Petition for submission to referendum by electors.

(a) Whenever a petition for submission to referendum by the electors which requests the establishment and maintenance of facilities or services for the benefit of its residents with a developmental disability and the levy of an annual tax not to exceed 0.1% upon all the taxable property in the county at the value thereof, as equalized or assessed by the Department of Revenue, is signed by electors of the county equal in number to at least 10% of the total votes cast for the office that received the greatest total number of votes at the last preceding general county election and is presented to the county clerk, the clerk shall certify the proposition to the proper election authorities for submission at the next general county election. The proposition shall be in substantially the following form:

Shall ..... County levy an annual tax not to exceed 0.1% upon the equalized assessed value of all taxable property in the county for the purposes of establishing and maintaining facilities or services for the benefit of its residents who are intellectually disabled ~~mentally retarded~~ or under a developmental disability and who are not eligible to participate in any program provided under Article 14 of the School Code, 105 ILCS 5/14.1-1.01 et seq., including contracting for those facilities or services with any privately or publicly operated entity that provides those facilities or services either in or out of the county?

(b) If a majority of the votes cast upon the proposition are in favor thereof, such tax levy shall be authorized and the county shall levy a tax not to exceed the rate set forth in Section 1 of this Act.

(Source: P.A. 96-1350, eff. 7-28-10.)

Section 50. The Township Code is amended by changing Sections 30-145, 190-10, and 260-5 as follows:

(60 ILCS 1/30-145)

Sec. 30-145. Mental health services. If a township is not included in a mental health district organized under the Community Mental Health Act, the electors may authorize the board of trustees to provide mental health services, including services for the alcoholic, the drug addicted, and the intellectually disabled ~~mentally retarded~~, for residents of the township by disbursing existing funds if available by contracting with mental health agencies approved by the Department of Human Services, alcoholism treatment programs licensed by the Department of Public Health, and drug abuse facilities and other alcohol and drug abuse services approved by the Department of Human Services. To be eligible to receive township funds, an agency, program, facility, or other service provider must have been in existence for more than one year and must serve the township area.

(Source: P.A. 89-507, eff. 7-1-97; 90-210, eff. 7-25-97.)

(60 ILCS 1/190-10)

Sec. 190-10. Mental health services. If a township is not included in a mental health district organized under the Community Mental Health Act, the township board may provide mental health services (including services for the alcoholic, the drug addicted, and the intellectually disabled ~~mentally retarded~~) for residents of the township by disbursing funds, pursuant to an appropriation, to mental health agencies approved by the Department of Human Services, alcoholism treatment programs licensed by the Department of Public Health, drug abuse facilities approved by the Department of Human Services, and other alcoholism and drug abuse services approved by the Department of Human Services. To be eligible for township funds disbursed under this Section, an agency, program, facility, or other service provider must have been in existence for more than one year and serve the township area.

(Source: P.A. 88-62; 89-507, eff. 7-1-97.)

(60 ILCS 1/260-5)

Sec. 260-5. Distributions from general fund, generally. To the extent that moneys in the township general fund have not been appropriated for other purposes, the township board may direct that distributions be made from that fund as follows:

(1) To (i) school districts maintaining grades 1 through 8 that are wholly or partly located within the township or (ii) governmental units as defined in Section 1 of the Community Mental Health Act that provide mental health facilities and services (including facilities and services for the intellectually disabled ~~mentally retarded~~) under that Act within the township, or (iii) both.

(2) To community action agencies that serve township residents. "Community action agencies" are defined as in Part A of Title II of the federal Economic Opportunity Act of 1964.

(Source: P.A. 82-783; 88-62.)

Section 55. The Public Health District Act is amended by changing Section 17 as follows:

(70 ILCS 905/17) (from Ch. 111 1/2, par. 17)

Sec. 17. The medical health officer or administrator shall have power, and it shall be his or her duty:

(1) To be the executive officer of the board of health.

(2) To enforce and observe the rules, regulations and orders of the State Department of Public Health and all State laws pertaining to the preservation of the health of the people within the public health district, including regulations in which the State Department of Public Health shall require provision of home visitation and other services for pregnant women, new mothers and infants who are at risk as defined by that Department that encompass but are not limited to consultation for parental and child development, comprehensive health education, nutritional assessment, dental health, and periodic health screening, referral and follow-up; the services shall be provided through programs funded by grants from the Department of Public Health from appropriations to the Department for that purpose.

(3) To exercise the rights, powers and duties of all township boards of health and county boards of health within the public health district.

(4) To execute and enforce, within the public health district, all city, village and incorporated town ordinances relating to public health and sanitation.

(5) To investigate the existence of any contagious or infectious disease within the public health district and to adopt measures, with the approval of the State Department of Public Health, to arrest the progress of the same.

(6) To make all necessary sanitary and health investigations and inspections within the public health district.

(7) To establish a dental clinic for the benefit of the school children of the district.

(8) To give professional advice and information to all city, village, incorporated town and school authorities within the public health district in all matters pertaining to sanitation and public health.

(9) To devote his or her entire time to his or her official duties.

(10) To establish and execute programs and services in the field of mental health, including intellectual disabilities ~~mental retardation~~, not inconsistent with the regulations of the Department of Human Services.

(11) If approved by the board of health, to enter into contracts with municipalities, other political subdivisions and private agencies for the purchase, sale, delivery or exchange of health services.

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

Section 56. The Regional Transportation Authority Act is amended by changing Section 4.03 as follows:

(70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

Sec. 4.03. Taxes.

(a) In order to carry out any of the powers or purposes of the Authority, the Board may by ordinance adopted with the concurrence of 12 of the then Directors, impose throughout the metropolitan region any or all of the taxes provided in this Section. Except as otherwise provided in this Act, taxes imposed under this Section and civil penalties imposed incident thereto shall be collected and enforced by the State Department of Revenue. The Department shall have the power to administer and enforce the taxes and to determine all rights for refunds for erroneous payments of the taxes. Nothing in this amendatory Act of the 95th General Assembly is intended to invalidate any taxes currently imposed by the Authority. The increased vote requirements to impose a tax shall only apply to actions taken after the effective date of this amendatory Act of the 95th General Assembly.

(b) The Board may impose a public transportation tax upon all persons engaged in the metropolitan region in the business of selling at retail motor fuel for operation of motor vehicles upon public highways. The tax shall be at a rate not to exceed 5% of the gross receipts from the sales of motor fuel in the course of the business. As used in this Act, the term "motor fuel" shall have the same meaning as in the Motor Fuel Tax Law. The Board may provide for details of the tax. The provisions of any tax shall conform, as closely as may be practicable, to the provisions of the Municipal Retailers Occupation Tax Act, including without limitation, conformity to penalties with respect to the tax imposed and as to the powers of the State Department of Revenue to promulgate and enforce rules and regulations relating to the administration and enforcement of the provisions of the tax imposed, except that reference in the Act to any municipality shall refer to the Authority and the tax shall be imposed only with regard to receipts from sales of motor fuel in the metropolitan region, at rates as limited by this Section.

(c) In connection with the tax imposed under paragraph (b) of this Section the Board may impose a tax

upon the privilege of using in the metropolitan region motor fuel for the operation of a motor vehicle upon public highways, the tax to be at a rate not in excess of the rate of tax imposed under paragraph (b) of this Section. The Board may provide for details of the tax.

(d) The Board may impose a motor vehicle parking tax upon the privilege of parking motor vehicles at off-street parking facilities in the metropolitan region at which a fee is charged, and may provide for reasonable classifications in and exemptions to the tax, for administration and enforcement thereof and for civil penalties and refunds thereunder and may provide criminal penalties thereunder, the maximum penalties not to exceed the maximum criminal penalties provided in the Retailers' Occupation Tax Act. The Authority may collect and enforce the tax itself or by contract with any unit of local government. The State Department of Revenue shall have no responsibility for the collection and enforcement unless the Department agrees with the Authority to undertake the collection and enforcement. As used in this paragraph, the term "parking facility" means a parking area or structure having parking spaces for more than 2 vehicles at which motor vehicles are permitted to park in return for an hourly, daily, or other periodic fee, whether publicly or privately owned, but does not include parking spaces on a public street, the use of which is regulated by parking meters.

(e) The Board may impose a Regional Transportation Authority Retailers' Occupation Tax upon all persons engaged in the business of selling tangible personal property at retail in the metropolitan region. In Cook County the tax rate shall be 1.25% of the gross receipts from sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics, and 1% of the gross receipts from other taxable sales made in the course of that business. In DuPage, Kane, Lake, McHenry, and Will Counties, the tax rate shall be 0.75% of the gross receipts from all taxable sales made in the course of that business. The tax imposed under this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with this Section, the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax), 2c, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

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

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax fund established under paragraph (n) of this Section.

If a tax is imposed under this subsection (e), a tax shall also be imposed under subsections (f) and (g) of this Section.

For the purpose of determining whether a tax authorized under this Section is applicable, a retail sale by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or other mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the Federal Constitution as a sale in interstate or foreign commerce.

No tax shall be imposed or collected under this subsection on the sale of a motor vehicle in this State to a resident of another state if that motor vehicle will not be titled in this State.

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

(f) If a tax has been imposed under paragraph (e), a Regional Transportation Authority Service Occupation Tax shall also be imposed upon all persons engaged, in the metropolitan region in the

business of making sales of service, who as an incident to making the sales of service, transfer tangible personal property within the metropolitan region, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. In Cook County, the tax rate shall be: (1) 1.25% of the serviceman's cost price of food prepared for immediate consumption and transferred incident to a sale of service subject to the service occupation tax by an entity licensed under the Hospital Licensing Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act that is located in the metropolitan region; (2) 1.25% of the selling price of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics; and (3) 1% of the selling price from other taxable sales of tangible personal property transferred. In DuPage, Kane, Lake, McHenry and Will Counties the rate shall be 0.75% of the selling price of all tangible personal property transferred.

The tax imposed under this paragraph and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this paragraph; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of and compliance with this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the Authority), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the Authority), 9 (except as to the disposition of taxes and penalties collected, and except that the returned merchandise credit for this tax may not be taken against any State tax), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the Authority), the first paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

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

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax fund established under paragraph (n) of this Section.

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

(g) If a tax has been imposed under paragraph (e), a tax shall also be imposed upon the privilege of using in the metropolitan region, any item of tangible personal property that is purchased outside the metropolitan region at retail from a retailer, and that is titled or registered with an agency of this State's government. In Cook County the tax rate shall be 1% of the selling price of the tangible personal property, as "selling price" is defined in the Use Tax Act. In DuPage, Kane, Lake, McHenry and Will counties the tax rate shall be 0.75% of the selling price of the tangible personal property, as "selling price" is defined in the Use Tax Act. The tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the metropolitan region. The tax shall be collected by the Department of Revenue for the Regional Transportation Authority. The tax must be paid to the State, or an exemption determination must be obtained from the Department of Revenue, before the title or certificate of registration for the property may be issued. The tax or proof of exemption may be transmitted to the Department by way of the State agency with which, or the State officer with whom, the tangible personal property must be titled or registered if the Department and the State agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

The Department shall have full power to administer and enforce this paragraph; to collect all taxes, penalties and interest due hereunder; to dispose of taxes, penalties and interest collected in the manner

hereinafter provided; and to determine all rights to credit memoranda or refunds arising on account of the erroneous payment of tax, penalty or interest hereunder. In the administration of and compliance with this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms and employ the same modes of procedure, as are prescribed in Sections 2 (except the definition of "retailer maintaining a place of business in this State"), 3 through 3-80 (except provisions pertaining to the State rate of tax, and except provisions concerning collection or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15, 19 (except the portions pertaining to claims by retailers and except the last paragraph concerning refunds), 20, 21 and 22 of the Use Tax Act, and are not inconsistent with this paragraph, as fully as if those provisions were set forth herein.

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named in the notification from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax fund established under paragraph (n) of this Section.

(h) The Authority may impose a replacement vehicle tax of $50 on any passenger car as defined in Section 1-157 of the Illinois Vehicle Code purchased within the metropolitan region by or on behalf of an insurance company to replace a passenger car of an insured person in settlement of a total loss claim. The tax imposed may not become effective before the first day of the month following the passage of the ordinance imposing the tax and receipt of a certified copy of the ordinance by the Department of Revenue. The Department of Revenue shall collect the tax for the Authority in accordance with Sections 3-2002 and 3-2003 of the Illinois Vehicle Code.

The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes collected hereunder.

As soon as possible after the first day of each month, beginning January 1, 2011, upon certification of the Department of Revenue, the Comptroller shall order transferred, and the Treasurer shall transfer, to the STAR Bonds Revenue Fund the local sales tax increment, as defined in the Innovation Development and Economy Act, collected under this Section during the second preceding calendar month for sales within a STAR bond district.

After the monthly transfer to the STAR Bonds Revenue Fund, on or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to the Authority. The amount to be paid to the Authority shall be the amount collected hereunder during the second preceding calendar month by the Department, less any amount determined by the Department to be necessary for the payment of refunds, and less any amounts that are transferred to the STAR Bonds Revenue Fund. Within 10 days after receipt by the Comptroller of the disbursement certification to the Authority provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for that amount in accordance with the directions contained in the certification.

(i) The Board may not impose any other taxes except as it may from time to time be authorized by law to impose.

(j) A certificate of registration issued by the State Department of Revenue to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit the registrant to engage in a business that is taxed under the tax imposed under paragraphs (b), (e), (f) or (g) of this Section and no additional registration shall be required under the tax. A certificate issued under the Use Tax Act or the Service Use Tax Act shall be applicable with regard to any tax imposed under paragraph (c) of this Section.

(k) The provisions of any tax imposed under paragraph (c) of this Section shall conform as closely as may be practicable to the provisions of the Use Tax Act, including without limitation conformity as to penalties with respect to the tax imposed and as to the powers of the State Department of Revenue to promulgate and enforce rules and regulations relating to the administration and enforcement of the provisions of the tax imposed. The taxes shall be imposed only on use within the metropolitan region and at rates as provided in the paragraph.

(l) The Board in imposing any tax as provided in paragraphs (b) and (c) of this Section, shall, after seeking the advice of the State Department of Revenue, provide means for retailers, users or purchasers of motor fuel for purposes other than those with regard to which the taxes may be imposed as provided in those paragraphs to receive refunds of taxes improperly paid, which provisions may be at variance with the refund provisions as applicable under the Municipal Retailers Occupation Tax Act. The State Department of Revenue may provide for certificates of registration for users or purchasers of motor fuel

for purposes other than those with regard to which taxes may be imposed as provided in paragraphs (b) and (c) of this Section to facilitate the reporting and nontaxability of the exempt sales or uses.

(m) Any ordinance imposing or discontinuing any tax under this Section shall be adopted and a certified copy thereof filed with the Department on or before June 1, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the Regional Transportation Authority as of September 1 next following such adoption and filing. Beginning January 1, 1992, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of July, whereupon the Department shall proceed to administer and enforce this Section as of the first day of October next following such adoption and filing. Beginning January 1, 1993, an ordinance or resolution imposing, increasing, decreasing, or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department, whereupon the Department shall proceed to administer and enforce this Section as of the first day of the first month to occur not less than 60 days following such adoption and filing. Any ordinance or resolution of the Authority imposing a tax under this Section and in effect on August 1, 2007 shall remain in full force and effect and shall be administered by the Department of Revenue under the terms and conditions and rates of tax established by such ordinance or resolution until the Department begins administering and enforcing an increased tax under this Section as authorized by this amendatory Act of the 95th General Assembly. The tax rates authorized by this amendatory Act of the 95th General Assembly are effective only if imposed by ordinance of the Authority.

(n) The State Department of Revenue shall, upon collecting any taxes as provided in this Section, pay the taxes over to the State Treasurer as trustee for the Authority. The taxes shall be held in a trust fund outside the State Treasury. On or before the 25th day of each calendar month, the State Department of Revenue shall prepare and certify to the Comptroller of the State of Illinois and to the Authority (i) the amount of taxes collected in each County other than Cook County in the metropolitan region, (ii) the amount of taxes collected within the City of Chicago, and (iii) the amount collected in that portion of Cook County outside of Chicago, each amount less the amount necessary for the payment of refunds to taxpayers located in those areas described in items (i), (ii), and (iii). Within 10 days after receipt by the Comptroller of the certification of the amounts, the Comptroller shall cause an order to be drawn for the payment of two-thirds of the amounts certified in item (i) of this subsection to the Authority and one-third of the amounts certified in item (i) of this subsection to the respective counties other than Cook County and the amount certified in items (ii) and (iii) of this subsection to the Authority.

In addition to the disbursement required by the preceding paragraph, an allocation shall be made in July 1991 and each year thereafter to the Regional Transportation Authority. The allocation shall be made in an amount equal to the average monthly distribution during the preceding calendar year (excluding the 2 months of lowest receipts) and the allocation shall include the amount of average monthly distribution from the Regional Transportation Authority Occupation and Use Tax Replacement Fund. The distribution made in July 1992 and each year thereafter under this paragraph and the preceding paragraph shall be reduced by the amount allocated and disbursed under this paragraph in the preceding calendar year. The Department of Revenue shall prepare and certify to the Comptroller for disbursement the allocations made in accordance with this paragraph.

(o) Failure to adopt a budget ordinance or otherwise to comply with Section 4.01 of this Act or to adopt a Five-year Capital Program or otherwise to comply with paragraph (b) of Section 2.01 of this Act shall not affect the validity of any tax imposed by the Authority otherwise in conformity with law.

(p) At no time shall a public transportation tax or motor vehicle parking tax authorized under paragraphs (b), (c) and (d) of this Section be in effect at the same time as any retailers' occupation, use or service occupation tax authorized under paragraphs (e), (f) and (g) of this Section is in effect.

Any taxes imposed under the authority provided in paragraphs (b), (c) and (d) shall remain in effect only until the time as any tax authorized by paragraphs (e), (f) or (g) of this Section are imposed and becomes effective. Once any tax authorized by paragraphs (e), (f) or (g) is imposed the Board may not reimpose taxes as authorized in paragraphs (b), (c) and (d) of the Section unless any tax authorized by paragraphs (e), (f) or (g) of this Section becomes ineffective by means other than an ordinance of the Board.

(q) Any existing rights, remedies and obligations (including enforcement by the Regional Transportation Authority) arising under any tax imposed under paragraphs (b), (c) or (d) of this Section shall not be affected by the imposition of a tax under paragraphs (e), (f) or (g) of this Section.
(Source: P.A. 95-708, eff. 1-18-08; 96-339, eff. 7-1-10; 96-939, eff. 6-24-10.)

Section 60. The School Code is amended by changing Sections 2-3.83, 14-1.03a, 21-28, and 34-18 as follows:

(105 ILCS 5/2-3.83) (from Ch. 122, par. 2-3.83)

Sec. 2-3.83. Individual transition plan model pilot program.

(a) The General Assembly finds that transition services for special education students in secondary schools are needed for the increasing numbers of students exiting school programs. Therefore, to ensure coordinated and timely delivery of services, the State shall establish a model pilot program to provide such services. Local school districts, using joint agreements and regional service delivery systems for special and vocational education selected by the Governor's Planning Council on Developmental Disabilities, shall have the primary responsibility to convene transition planning meetings for these students who will require post-school adult services.

(b) For purposes of this Section:

(1) "Post-secondary Service Provider" means a provider of services for adults who have any developmental disability as defined in Section 1-106 of the Mental Health and Developmental Disabilities Code or who are disabled as defined in the Disabled Persons Rehabilitation Act.

(2) "Individual Education Plan" means a written statement for an exceptional child that provides at least a statement of: the child's present levels of educational performance, annual goals and short-term instructional objectives; specific special education and related services; the extent of participation in the regular education program; the projected dates for initiation of services; anticipated duration of services; appropriate objective criteria and evaluation procedures; and a schedule for annual determination of short-term objectives.

(3) "Individual Transition Plan" (ITP) means a multi-agency informal assessment of a student's needs for post-secondary adult services including but not limited to employment, post-secondary education or training and residential independent living.

(4) "Developmental Disability" means a disability which is attributable to: (a) an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap.

(5) "Exceptional Characteristic" means any disabling or exceptional characteristic which interferes with a student's education including, but not limited to, a determination that the student is severely or profoundly mentally disabled, trainably mentally disabled, deaf-blind, or has some other health impairment.

(c) The model pilot program required by this Section shall be established and administered by the Governor's Planning Council on Developmental Disabilities in conjunction with the case coordination pilot projects established by the Department of Human Services pursuant to Section 4.1 of the Community Services Act, as amended.

(d) The model pilot program shall include the following features:

(1) Written notice shall be sent to the student and, when appropriate, his or her parent or guardian giving the opportunity to consent to having the student's name and relevant information shared with the local case coordination unit and other appropriate State or local agencies for purposes of inviting participants to the individual transition plan meeting.

(2) Meetings to develop and modify, as needed, an Individual Transition Plan shall be conducted annually for all students with a developmental disability in the pilot program area who are age 16 or older and who are receiving special education services for 50% or more of their public school program. These meetings shall be convened by the local school district and conducted in conjunction with any other regularly scheduled meetings such as the student's annual individual educational plan meeting. The Governor's Planning Council on Developmental Disabilities shall cooperate with and may enter into any necessary written agreements with the Department of Human Services and the State Board of Education to identify the target group of students for transition planning and the appropriate case coordination unit to serve these individuals.

(3) The ITP meetings shall be co-chaired by the individual education plan coordinator and the case coordinator. The ITP meeting shall include but not be limited to discussion of the following: the student's projected date of exit from the public schools; his projected post-school goals in the areas of employment, residential living arrangement and post-secondary education or training; specific school or post-school services needed during the following year to achieve the student's goals, including but not limited to vocational evaluation, vocational education, work experience or vocational training, placement assistance, independent living skills training, recreational or leisure training, income support, medical needs and transportation; and referrals and linkage to needed services, including a proposed time frame for services and the responsible agency or provider. The

individual transition plan shall be signed by participants in the ITP discussion, including but not limited to the student's parents or guardian, the student (where appropriate), multi-disciplinary team representatives from the public schools, the case coordinator and any other individuals who have participated in the ITP meeting at the discretion of the individual education plan coordinator, the developmental disability case coordinator or the parents or guardian.

(4) At least 10 days prior to the ITP meeting, the parents or guardian of the student shall be notified in writing of the time and place of the meeting by the local school district. The ITP discussion shall be documented by the assigned case coordinator, and an individual student file shall be maintained by each case coordination unit. One year following a student's exit from public school the case coordinator shall conduct a follow up interview with the student.

(5) Determinations with respect to individual transition plans made under this Section shall not be subject to any due process requirements prescribed in Section 14-8.02 of this Code.

(e) (Blank).

(Source: P.A. 91-96; eff. 7-9-99.)

(105 ILCS 5/14-1.03a) (from Ch. 122, par. 14-1.03a)

Sec. 14-1.03a. Children with Specific Learning Disabilities.

"Children with Specific Learning Disabilities" means children between the ages of 3 and 21 years who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Such disorders include such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing or motor disabilities, of an intellectual disability ~~mental retardation~~, emotional disturbance or environmental disadvantage.

(Source: P.A. 89-397, eff. 8-20-95.)

(105 ILCS 5/21-28)

Sec. 21-28. Special education teachers; categorical certification. The State Teacher Certification Board shall categorically certify a special education teacher in one or more of the following specialized categories of disability if the special education teacher applies and qualifies for such certification:

(1) Serious emotional disturbance.

(2) Learning disabilities.

(3) Autism.

(4) Intellectual disabilities ~~Mental retardation~~.

(5) Orthopedic (physical) impairment.

(6) Traumatic brain injury.

(7) Other health impairment.

(Source: P.A. 92-709, eff. 7-19-02.)

(105 ILCS 5/34-18) (from Ch. 122, par. 34-18)

Sec. 34-18. Powers of the board. The board shall exercise general supervision and jurisdiction over the public education and the public school system of the city, and, except as otherwise provided by this Article, shall have power:

1. To make suitable provision for the establishment and maintenance throughout the year or for such portion thereof as it may direct, not less than 9 months, of schools of all grades and kinds, including normal schools, high schools, night schools, schools for defectives and delinquents, parental and truant schools, schools for the blind, the deaf and the physically disabled ~~crippled~~, schools or classes in manual training, constructural and vocational teaching, domestic arts and physical culture, vocation and extension schools and lecture courses, and all other educational courses and facilities, including establishing, equipping, maintaining and operating playgrounds and recreational programs, when such programs are conducted in, adjacent to, or connected with any public school under the general supervision and jurisdiction of the board; provided that the calendar for the school term and any changes must be submitted to and approved by the State Board of Education before the calendar or changes may take effect, and provided that in allocating funds from year to year for the operation of all attendance centers within the district, the board shall ensure that supplemental general State aid funds are allocated and applied in accordance with Section 18-8 or 18-8.05. To admit to such schools without charge foreign exchange students who are participants in an organized exchange student program which is authorized by the board. The board shall permit all students to enroll in apprenticeship programs in trade schools operated by the board, whether those programs are union-sponsored or not. No student shall be refused admission into or be excluded from any course of instruction offered in the common schools by reason of that student's sex. No student shall be denied

equal access to physical education and interscholastic athletic programs supported from school district funds or denied participation in comparable physical education and athletic programs solely by reason of the student's sex. Equal access to programs supported from school district funds and comparable programs will be defined in rules promulgated by the State Board of Education in consultation with the Illinois High School Association. Notwithstanding any other provision of this Article, neither the board of education nor any local school council or other school official shall recommend that children with disabilities be placed into regular education classrooms unless those children with disabilities are provided with supplementary services to assist them so that they benefit from the regular classroom instruction and are included on the teacher's regular education class register;

2. To furnish lunches to pupils, to make a reasonable charge therefor, and to use school funds for the payment of such expenses as the board may determine are necessary in conducting the school lunch program;

3. To co-operate with the circuit court;

4. To make arrangements with the public or quasi-public libraries and museums for the use of their facilities by teachers and pupils of the public schools;

5. To employ dentists and prescribe their duties for the purpose of treating the pupils in the schools, but accepting such treatment shall be optional with parents or guardians;

6. To grant the use of assembly halls and classrooms when not otherwise needed, including light, heat, and attendants, for free public lectures, concerts, and other educational and social interests, free of charge, under such provisions and control as the principal of the affected attendance center may prescribe;

7. To apportion the pupils to the several schools; provided that no pupil shall be excluded from or segregated in any such school on account of his color, race, sex, or nationality. The board shall take into consideration the prevention of segregation and the elimination of separation of children in public schools because of color, race, sex, or nationality. Except that children may be committed to or attend parental and social adjustment schools established and maintained either for boys or girls only. All records pertaining to the creation, alteration or revision of attendance areas shall be open to the public. Nothing herein shall limit the board's authority to establish multi-area attendance centers or other student assignment systems for desegregation purposes or otherwise, and to apportion the pupils to the several schools. Furthermore, beginning in school year 1994-95, pursuant to a board plan adopted by October 1, 1993, the board shall offer, commencing on a phased-in basis, the opportunity for families within the school district to apply for enrollment of their children in any attendance center within the school district which does not have selective admission requirements approved by the board. The appropriate geographical area in which such open enrollment may be exercised shall be determined by the board of education. Such children may be admitted to any such attendance center on a space available basis after all children residing within such attendance center's area have been accommodated. If the number of applicants from outside the attendance area exceed the space available, then successful applicants shall be selected by lottery. The board of education's open enrollment plan must include provisions that allow low income students to have access to transportation needed to exercise school choice. Open enrollment shall be in compliance with the provisions of the Consent Decree and Desegregation Plan cited in Section 34-1.01;

8. To approve programs and policies for providing transportation services to students. Nothing herein shall be construed to permit or empower the State Board of Education to order, mandate, or require busing or other transportation of pupils for the purpose of achieving racial balance in any school;

9. Subject to the limitations in this Article, to establish and approve system-wide curriculum objectives and standards, including graduation standards, which reflect the multi-cultural diversity in the city and are consistent with State law, provided that for all purposes of this Article courses or proficiency in American Sign Language shall be deemed to constitute courses or proficiency in a foreign language; and to employ principals and teachers, appointed as provided in this Article, and fix their compensation. The board shall prepare such reports related to minimal competency testing as may be requested by the State Board of Education, and in addition shall monitor and approve special education and bilingual education programs and policies within the district to assure that appropriate services are provided in accordance with applicable State and federal laws to children requiring services and education in those areas;

10. To employ non-teaching personnel or utilize volunteer personnel for: (i) non-teaching duties not requiring instructional judgment or evaluation of pupils, including library duties; and (ii) supervising study halls, long distance teaching reception areas used incident to

instructional programs transmitted by electronic media such as computers, video, and audio, detention and discipline areas, and school-sponsored extracurricular activities. The board may further utilize volunteer non-certificated personnel or employ non-certificated personnel to assist in the instruction of pupils under the immediate supervision of a teacher holding a valid certificate, directly engaged in teaching subject matter or conducting activities; provided that the teacher shall be continuously aware of the non-certificated persons' activities and shall be able to control or modify them. The general superintendent shall determine qualifications of such personnel and shall prescribe rules for determining the duties and activities to be assigned to such personnel;

10.5. To utilize volunteer personnel from a regional School Crisis Assistance Team (S.C.A.T.), created as part of the Safe to Learn Program established pursuant to Section 25 of the Illinois Violence Prevention Act of 1995, to provide assistance to schools in times of violence or other traumatic incidents within a school community by providing crisis intervention services to lessen the effects of emotional trauma on individuals and the community; the School Crisis Assistance Team Steering Committee shall determine the qualifications for volunteers;

11. To provide television studio facilities in not to exceed one school building and to provide programs for educational purposes, provided, however, that the board shall not construct, acquire, operate, or maintain a television transmitter; to grant the use of its studio facilities to a licensed television station located in the school district; and to maintain and operate not to exceed one school radio transmitting station and provide programs for educational purposes;

12. To offer, if deemed appropriate, outdoor education courses, including field trips within the State of Illinois, or adjacent states, and to use school educational funds for the expense of the said outdoor educational programs, whether within the school district or not;

13. During that period of the calendar year not embraced within the regular school term, to provide and conduct courses in subject matters normally embraced in the program of the schools during the regular school term and to give regular school credit for satisfactory completion by the student of such courses as may be approved for credit by the State Board of Education;

14. To insure against any loss or liability of the board, the former School Board Nominating Commission, Local School Councils, the Chicago Schools Academic Accountability Council, or the former Subdistrict Councils or of any member, officer, agent or employee thereof, resulting from alleged violations of civil rights arising from incidents occurring on or after September 5, 1967 or from the wrongful or negligent act or omission of any such person whether occurring within or without the school premises, provided the officer, agent or employee was, at the time of the alleged violation of civil rights or wrongful act or omission, acting within the scope of his employment or under direction of the board, the former School Board Nominating Commission, the Chicago Schools Academic Accountability Council, Local School Councils, or the former Subdistrict Councils; and to provide for or participate in insurance plans for its officers and employees, including but not limited to retirement annuities, medical, surgical and hospitalization benefits in such types and amounts as may be determined by the board; provided, however, that the board shall contract for such insurance only with an insurance company authorized to do business in this State. Such insurance may include provision for employees who rely on treatment by prayer or spiritual means alone for healing, in accordance with the tenets and practice of a recognized religious denomination;

15. To contract with the corporate authorities of any municipality or the county board of any county, as the case may be, to provide for the regulation of traffic in parking areas of property used for school purposes, in such manner as is provided by Section 11-209 of The Illinois Vehicle Code, approved September 29, 1969, as amended;

16. (a) To provide, on an equal basis, access to a high school campus and student directory information to the official recruiting representatives of the armed forces of Illinois and the United States for the purposes of informing students of the educational and career opportunities available in the military if the board has provided such access to persons or groups whose purpose is to acquaint students with educational or occupational opportunities available to them. The board is not required to give greater notice regarding the right of access to recruiting representatives than is given to other persons and groups. In this paragraph 16, "directory information" means a high school student's name, address, and telephone number.

(b) If a student or his or her parent or guardian submits a signed, written request to the high school before the end of the student's sophomore year (or if the student is a transfer student, by another time set by the high school) that indicates that the student or his or her parent or guardian does not want the student's directory information to be provided to official recruiting representatives under subsection (a) of this Section, the high school may not provide access to the student's directory information to these recruiting representatives. The high school shall notify its students and their

parents or guardians of the provisions of this subsection (b).

(c) A high school may require official recruiting representatives of the armed forces of Illinois and the United States to pay a fee for copying and mailing a student's directory information in an amount that is not more than the actual costs incurred by the high school.

(d) Information received by an official recruiting representative under this Section may be used only to provide information to students concerning educational and career opportunities available in the military and may not be released to a person who is not involved in recruiting students for the armed forces of Illinois or the United States;

17. (a) To sell or market any computer program developed by an employee of the school district, provided that such employee developed the computer program as a direct result of his or her duties with the school district or through the utilization of the school district resources or facilities. The employee who developed the computer program shall be entitled to share in the proceeds of such sale or marketing of the computer program. The distribution of such proceeds between the employee and the school district shall be as agreed upon by the employee and the school district, except that neither the employee nor the school district may receive more than 90% of such proceeds. The negotiation for an employee who is represented by an exclusive bargaining representative may be conducted by such bargaining representative at the employee's request.

(b) For the purpose of this paragraph 17:

(1) "Computer" means an internally programmed, general purpose digital device capable of automatically accepting data, processing data and supplying the results of the operation.

(2) "Computer program" means a series of coded instructions or statements in a form acceptable to a computer, which causes the computer to process data in order to achieve a certain result.

(3) "Proceeds" means profits derived from marketing or sale of a product after deducting the expenses of developing and marketing such product;

18. To delegate to the general superintendent of schools, by resolution, the authority to approve contracts and expenditures in amounts of $10,000 or less;

19. Upon the written request of an employee, to withhold from the compensation of that employee any dues, payments or contributions payable by such employee to any labor organization as defined in the Illinois Educational Labor Relations Act. Under such arrangement, an amount shall be withheld from each regular payroll period which is equal to the pro rata share of the annual dues plus any payments or contributions, and the board shall transmit such withholdings to the specified labor organization within 10 working days from the time of the withholding;

19a. Upon receipt of notice from the comptroller of a municipality with a population of 500,000 or more, a county with a population of 3,000,000 or more, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or a housing authority of a municipality with a population of 500,000 or more that a debt is due and owing the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority by an employee of the Chicago Board of Education, to withhold, from the compensation of that employee, the amount of the debt that is due and owing and pay the amount withheld to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority; provided, however, that the amount deducted from any one salary or wage payment shall not exceed 25% of the net amount of the payment. Before the Board deducts any amount from any salary or wage of an employee under this paragraph, the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority shall certify that (i) the employee has been afforded an opportunity for a hearing to dispute the debt that is due and owing the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority and (ii) the employee has received notice of a wage deduction order and has been afforded an opportunity for a hearing to object to the order. For purposes of this paragraph, "net amount" means that part of the salary or wage payment remaining after the deduction of any amounts required by law to be deducted and "debt due and owing" means (i) a specified sum of money owed to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority for services, work, or goods, after the period granted for payment has expired, or (ii) a specified sum of money owed to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water

Reclamation District, the Chicago Transit Authority, or the housing authority pursuant to a court order or order of an administrative hearing officer after the exhaustion of, or the failure to exhaust, judicial review;

20. The board is encouraged to employ a sufficient number of certified school counselors to maintain a student/counselor ratio of 250 to 1 by July 1, 1990. Each counselor shall spend at least 75% of his work time in direct contact with students and shall maintain a record of such time;

21. To make available to students vocational and career counseling and to establish 5 special career counseling days for students and parents. On these days representatives of local businesses and industries shall be invited to the school campus and shall inform students of career opportunities available to them in the various businesses and industries. Special consideration shall be given to counseling minority students as to career opportunities available to them in various fields. For the purposes of this paragraph, minority student means a person who is:

(a) Black (a person having origins in any of the black racial groups in Africa);

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

(c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or

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

Counseling days shall not be in lieu of regular school days;

22. To report to the State Board of Education the annual student dropout rate and number of students who graduate from, transfer from or otherwise leave bilingual programs;

23. Except as otherwise provided in the Abused and Neglected Child Reporting Act or other applicable State or federal law, to permit school officials to withhold, from any person, information on the whereabouts of any child removed from school premises when the child has been taken into protective custody as a victim of suspected child abuse. School officials shall direct such person to the Department of Children and Family Services, or to the local law enforcement agency if appropriate;

24. To develop a policy, based on the current state of existing school facilities, projected enrollment and efficient utilization of available resources, for capital improvement of schools and school buildings within the district, addressing in that policy both the relative priority for major repairs, renovations and additions to school facilities, and the advisability or necessity of building new school facilities or closing existing schools to meet current or projected demographic patterns within the district;

25. To make available to the students in every high school attendance center the ability to take all courses necessary to comply with the Board of Higher Education's college entrance criteria effective in 1993;

26. To encourage mid-career changes into the teaching profession, whereby qualified professionals become certified teachers, by allowing credit for professional employment in related fields when determining point of entry on teacher pay scale;

27. To provide or contract out training programs for administrative personnel and principals with revised or expanded duties pursuant to this Act in order to assure they have the knowledge and skills to perform their duties;

28. To establish a fund for the prioritized special needs programs, and to allocate such funds and other lump sum amounts to each attendance center in a manner consistent with the provisions of part 4 of Section 34-2.3. Nothing in this paragraph shall be construed to require any additional appropriations of State funds for this purpose;

29. (Blank);

30. Notwithstanding any other provision of this Act or any other law to the contrary, to contract with third parties for services otherwise performed by employees, including those in a bargaining unit, and to layoff those employees upon 14 days written notice to the affected employees. Those contracts may be for a period not to exceed 5 years and may be awarded on a system-wide basis. The board may not operate more than 30 contract schools, provided that the board may operate an additional 5 contract turnaround schools pursuant to item (5.5) of subsection (d) of Section 34-8.3 of this Code;

31. To promulgate rules establishing procedures governing the layoff or reduction in force of employees and the recall of such employees, including, but not limited to, criteria for such layoffs, reductions in force or recall rights of such employees and the weight to be given to any particular criterion. Such criteria shall take into account factors including, but not be limited to,

qualifications, certifications, experience, performance ratings or evaluations, and any other factors relating to an employee's job performance;

32. To develop a policy to prevent nepotism in the hiring of personnel or the selection of contractors;

33. To enter into a partnership agreement, as required by Section 34-3.5 of this Code, and, notwithstanding any other provision of law to the contrary, to promulgate policies, enter into contracts, and take any other action necessary to accomplish the objectives and implement the requirements of that agreement; and

34. To establish a Labor Management Council to the board comprised of representatives of the board, the chief executive officer, and those labor organizations that are the exclusive representatives of employees of the board and to promulgate policies and procedures for the operation of the Council.

The specifications of the powers herein granted are not to be construed as exclusive but the board shall also exercise all other powers that they may be requisite or proper for the maintenance and the development of a public school system, not inconsistent with the other provisions of this Article or provisions of this Code which apply to all school districts.

In addition to the powers herein granted and authorized to be exercised by the board, it shall be the duty of the board to review or to direct independent reviews of special education expenditures and services. The board shall file a report of such review with the General Assembly on or before May 1, 1990.

(Source: P.A. 96-105, eff. 7-30-09.)

Section 65. The State Universities Civil Service Act is amended by changing Section 36s as follows:

(110 ILCS 70/36s) (from Ch. 24 1/2, par. 38b18)

Sec. 36s. Supported employees.

(a) The Merit Board shall develop and implement a supported employment program. It shall be the goal of the program to appoint a minimum of 10 supported employees to State University civil service positions before June 30, 1992.

(b) The Merit Board shall designate a liaison to work with State agencies and departments, any funder or provider or both, and State universities in the implementation of a supported employment program.

(c) As used in this Section:

(1) "Supported employee" means any individual who:

(A) has a severe physical or mental disability which seriously limits functional capacities, including but not limited to, mobility, communication, self-care, self-direction, work tolerance or work skills, in terms of employability as defined, determined and certified by the Department of Human Services; and

(B) has one or more physical or mental disabilities resulting from amputation; arthritis; blindness; cancer; cerebral palsy; cystic fibrosis; deafness; heart disease; hemiplegia; respiratory or pulmonary dysfunction; an intellectual disability ~~mental retardation~~; mental illness; multiple sclerosis; muscular dystrophy; musculoskeletal disorders; neurological disorders, including stroke and epilepsy; paraplegia; quadriplegia and other spinal cord conditions; sickle cell anemia; and end-stage renal disease; or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

(2) "Supported employment" means competitive work in integrated work settings:

(A) for individuals with severe handicaps for whom competitive employment has not traditionally occurred, or

(B) for individuals for whom competitive employment has been interrupted or intermittent as a result of a severe disability, and who because of their handicap, need on-going support services to perform such work. The term includes transitional employment for individuals with chronic mental illness.

(3) "Participation in a supported employee program" means participation as a supported employee that is not based on the expectation that an individual will have the skills to perform all the duties in a job class, but on the assumption that with support and adaptation, or both, a job can be designed to take advantage of the supported employee's special strengths.

(4) "Funder" means any entity either State, local or federal, or private not-for-profit or for-profit that provides monies to programs that provide services related to supported employment.

(5) "Provider" means any entity either public or private that provides technical support and services to any department or agency subject to the control of the Governor, the Secretary of State

or the University Civil Service System.

(d) The Merit Board shall establish job classifications for supported employees who may be appointed into the classifications without open competitive testing requirements. Supported employees shall serve in a trial employment capacity for not less than 3 or more than 12 months.

(e) The Merit Board shall maintain a record of all individuals hired as supported employees. The record shall include:

(1) the number of supported employees initially appointed;

(2) the number of supported employees who successfully complete the trial employment periods; and

(3) the number of permanent targeted positions by titles.

(f) The Merit Board shall submit an annual report to the General Assembly regarding the employment progress of supported employees, with recommendations for legislative action.

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

Section 66. The Specialized Care for Children Act is amended by changing Section 1 as follows:

(110 ILCS 345/1) (from Ch. 144, par. 67.1)

Sec. 1. The University of Illinois is hereby designated as the agency to receive, administer, and to hold in its own treasury federal funds and aid in relation to the administration of its Division of Specialized Care for Children. The Board of Trustees of the University of Illinois shall have a charge upon all claims, demands and causes of action for injuries to an applicant for or recipient of financial aid for the total amount of medical assistance provided the recipient by the Division from the time of injury to the date of recovery upon such claim, demand or cause of action. The Board of Trustees of the University of Illinois may cooperate with the United States Children's Bureau of the Department of Health, Education and Welfare, or with any successor or other federal agency, in the administration of the Division of Specialized Care for Children, and shall have full responsibility for the expenditure of federal and state funds, or monies recovered as the result of a judgment or settlement of a lawsuit or from an insurance or personal settlement arising from a claim relating to a recipient child's medical condition, as well as any aid which may be made available to the Board of Trustees for administering, through the Division of Specialized Care for Children, a program of services for children who are physically disabled ~~crippled~~ or suffering from conditions which may lead to a physical disability ~~crippling~~, including medical, surgical, corrective and other services and care, and facilities for diagnosis, hospitalization and aftercare of such children.

(Source: P.A. 87-203.)

Section 67. The Alternative Health Care Delivery Act is amended by changing Section 15 as follows:

(210 ILCS 3/15)

Sec. 15. License required. No health care facility or program that meets the definition and scope of an alternative health care model shall operate as such unless it is a participant in a demonstration program under this Act and licensed by the Department as an alternative health care model. The provisions of this Section as they relate to subacute care hospitals shall not apply to hospitals licensed under the Illinois Hospital Licensing Act or skilled nursing facilities licensed under the Illinois Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act; provided, however, that the facilities shall not hold themselves out to the public as subacute care hospitals. The provisions of this Act concerning children's respite care centers shall not apply to any facility licensed under the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the University of Illinois Hospital Act that provides respite care services to children.

(Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

Section 68. The Ambulatory Surgical Treatment Center Act is amended by changing Section 3 as follows:

(210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

Sec. 3. As used in this Act, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them:

(A) "Ambulatory surgical treatment center" means any institution, place or building devoted primarily to the maintenance and operation of facilities for the performance of surgical procedures or any facility in which a medical or surgical procedure is utilized to terminate a pregnancy, irrespective of whether the facility is devoted primarily to this purpose. Such facility shall not provide beds or other accommodations for the overnight stay of patients; however, facilities devoted exclusively to the treatment of children may provide accommodations and beds for their patients for up to 23 hours

following admission. Individual patients shall be discharged in an ambulatory condition without danger to the continued well being of the patients or shall be transferred to a hospital.

The term "ambulatory surgical treatment center" does not include any of the following:

(1) Any institution, place, building or agency required to be licensed pursuant to the "Hospital Licensing Act", approved July 1, 1953, as amended.

(2) Any person or institution required to be licensed pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

(3) Hospitals or ambulatory surgical treatment centers maintained by the State or any department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitals or ambulatory surgical treatment centers under its management and control.

(4) Hospitals or ambulatory surgical treatment centers maintained by the Federal Government or agencies thereof.

(5) Any place, agency, clinic, or practice, public or private, whether organized for profit or not, devoted exclusively to the performance of dental or oral surgical procedures.

(B) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, or the legal successor thereof.

(C) "Department" means the Department of Public Health of the State of Illinois.

(D) "Director" means the Director of the Department of Public Health of the State of Illinois.

(E) "Physician" means a person licensed to practice medicine in all of its branches in the State of Illinois.

(F) "Dentist" means a person licensed to practice dentistry under the Illinois Dental Practice Act.

(G) "Podiatrist" means a person licensed to practice podiatry under the Podiatric Medical Practice Act of 1987.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 69. The Assisted Living and Shared Housing Act is amended by changing Sections 10, 35, 55, and 145 as follows:

(210 ILCS 9/10)

Sec. 10. Definitions. For purposes of this Act:

"Activities of daily living" means eating, dressing, bathing, toileting, transferring, or personal hygiene.

"Assisted living establishment" or "establishment" means a home, building, residence, or any other place where sleeping accommodations are provided for at least 3 unrelated adults, at least 80% of whom are 55 years of age or older and where the following are provided consistent with the purposes of this Act:

(1) services consistent with a social model that is based on the premise that the resident's unit in assisted living and shared housing is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident;

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or resident's representative; and

(4) a physical environment that is a homelike setting that includes the following and such other elements as established by the Department: individual living units each of which shall accommodate small kitchen appliances and contain private bathing, washing, and toilet facilities, or private washing and toilet facilities with a common bathing room readily accessible to each resident. Units shall be maintained for single occupancy except in cases in which 2 residents choose to share a unit. Sufficient common space shall exist to permit individual and group activities.

"Assisted living establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act or a facility licensed under the ID/DD ~~MR/DD~~ Community Care Act. However, a facility licensed under either of those Acts may convert distinct parts of the facility to assisted living. If the facility elects to do so, the facility shall retain the Certificate of Need for its nursing and sheltered care beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) The portion of a life care facility as defined in the Life Care Facilities Act not licensed as an assisted living establishment under this Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) A shared housing establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"Emergency situation" means imminent danger of death or serious physical harm to a resident of an establishment.

"License" means any of the following types of licenses issued to an applicant or licensee by the Department:

(1) "Probationary license" means a license issued to an applicant or licensee that has not held a license under this Act prior to its application or pursuant to a license transfer in accordance with Section 50 of this Act.

(2) "Regular license" means a license issued by the Department to an applicant or licensee that is in substantial compliance with this Act and any rules promulgated under this Act.

"Licensee" means a person, agency, association, corporation, partnership, or organization that has been issued a license to operate an assisted living or shared housing establishment.

"Licensed health care professional" means a registered professional nurse, an advanced practice nurse, a physician assistant, and a licensed practical nurse.

"Mandatory services" include the following:

(1) 3 meals per day available to the residents prepared by the establishment or an outside contractor;

(2) housekeeping services including, but not limited to, vacuuming, dusting, and cleaning the resident's unit;

(3) personal laundry and linen services available to the residents provided or arranged for by the establishment;

(4) security provided 24 hours each day including, but not limited to, locked entrances or building or contract security personnel;

(5) an emergency communication response system, which is a procedure in place 24 hours each day by which a resident can notify building management, an emergency response vendor, or others able to respond to his or her need for assistance; and

(6) assistance with activities of daily living as required by each resident.

"Negotiated risk" is the process by which a resident, or his or her representative, may formally negotiate with providers what risks each are willing and unwilling to assume in service provision and the resident's living environment. The provider assures that the resident and the resident's representative, if any, are informed of the risks of these decisions and of the potential consequences of assuming these risks.

"Owner" means the individual, partnership, corporation, association, or other person who owns an assisted living or shared housing establishment. In the event an assisted living or shared housing establishment is operated by a person who leases or manages the physical plant, which is owned by another person, "owner" means the person who operates the assisted living or shared housing establishment, except that if the person who owns the physical plant is an affiliate of the person who operates the assisted living or shared housing establishment and has significant control over the day to day operations of the assisted living or shared housing establishment, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under this Act.

"Physician" means a person licensed under the Medical Practice Act of 1987 to practice medicine in

all of its branches.

"Resident" means a person residing in an assisted living or shared housing establishment.

"Resident's representative" means a person, other than the owner, agent, or employee of an establishment or of the health care provider unless related to the resident, designated in writing by a resident to be his or her representative. This designation may be accomplished through the Illinois Power of Attorney Act, pursuant to the guardianship process under the Probate Act of 1975, or pursuant to an executed designation of representative form specified by the Department.

"Self" means the individual or the individual's designated representative.

"Shared housing establishment" or "establishment" means a publicly or privately operated free-standing residence for 16 or fewer persons, at least 80% of whom are 55 years of age or older and who are unrelated to the owners and one manager of the residence, where the following are provided:

(1) services consistent with a social model that is based on the premise that the resident's unit is his or her own home;

(2) community-based residential care for persons who need assistance with activities of daily living, including housing and personal, supportive, and intermittent health-related services available 24 hours per day, if needed, to meet the scheduled and unscheduled needs of a resident; and

(3) mandatory services, whether provided directly by the establishment or by another entity arranged for by the establishment, with the consent of the resident or the resident's representative.

"Shared housing establishment" or "establishment" does not mean any of the following:

(1) A home, institution, or similar place operated by the federal government or the State of Illinois.

(2) A long term care facility licensed under the Nursing Home Care Act or a facility licensed under the ID/DD ~~MR/DD~~ Community Care Act. A facility licensed under either of those Acts may, however, convert sections of the facility to assisted living. If the facility elects to do so, the facility shall retain the Certificate of Need for its nursing beds that were converted.

(3) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness and that is required to be licensed under the Hospital Licensing Act.

(4) A facility for child care as defined in the Child Care Act of 1969.

(5) A community living facility as defined in the Community Living Facilities Licensing Act.

(6) A nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer in accordance with the creed or tenants of a well-recognized church or religious denomination.

(7) A facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act.

(8) A supportive residence licensed under the Supportive Residences Licensing Act.

(9) A life care facility as defined in the Life Care Facilities Act; a life care facility may apply under this Act to convert sections of the community to assisted living.

(10) A free-standing hospice facility licensed under the Hospice Program Licensing Act.

(11) An assisted living establishment.

(12) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

"Total assistance" means that staff or another individual performs the entire activity of daily living without participation by the resident.

(Source: P.A. 95-216, eff. 8-16-07; 96-339, eff. 7-1-10; 96-975, eff. 7-2-10.)

(210 ILCS 9/35)

Sec. 35. Issuance of license.

(a) Upon receipt and review of an application for a license and review of the applicant establishment, the Director may issue a license if he or she finds:

(1) that the individual applicant, or the corporation, partnership, or other entity if the applicant is not an individual, is a person responsible and suitable to operate or to direct or participate in the operation of an establishment by virtue of financial capacity, appropriate business or professional experience, a record of lawful compliance with lawful orders of the Department and lack of revocation of a license issued under this Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act during the previous 5 years;

(2) that the establishment is under the supervision of a full-time director who is at

least 21 years of age and has a high school diploma or equivalent plus either:

(A) 2 years of management experience or 2 years of experience in positions of progressive responsibility in health care, housing with services, or adult day care or providing similar services to the elderly; or

(B) 2 years of management experience or 2 years of experience in positions of progressive responsibility in hospitality and training in health care and housing with services management as defined by rule;

(3) that the establishment has staff sufficient in number with qualifications, adequate skills, education, and experience to meet the 24 hour scheduled and unscheduled needs of residents and who participate in ongoing training to serve the resident population;

(4) that all employees who are subject to the Health Care Worker Background Check Act meet the requirements of that Act;

(5) that the applicant is in substantial compliance with this Act and such other requirements for a license as the Department by rule may establish under this Act;

(6) that the applicant pays all required fees;

(7) that the applicant has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Disease and Related Dementias Special Care Disclosure Act and in substantial compliance with Section 150 of this Act.

In addition to any other requirements set forth in this Act, as a condition of licensure under this Act, the director of an establishment must participate in at least 20 hours of training every 2 years to assist him or her in better meeting the needs of the residents of the establishment and managing the operation of the establishment.

Any license issued by the Director shall state the physical location of the establishment, the date the license was issued, and the expiration date. All licenses shall be valid for one year, except as provided in Sections 40 and 45. Each license shall be issued only for the premises and persons named in the application, and shall not be transferable or assignable.

(Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07; 95-628, eff. 9-25-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-990, eff. 7-2-10.)

(210 ILCS 9/55)

Sec. 55. Grounds for denial of a license. An application for a license may be denied for any of the following reasons:

(1) failure to meet any of the standards set forth in this Act or by rules adopted by the Department under this Act;

(2) conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or if a corporation, the conviction of the corporation or any of its officers or stockholders, or of the person designated to manage or supervise the establishment, of a felony or of 2 or more misdemeanors involving moral turpitude during the previous 5 years as shown by a certified copy of the record of the court of conviction;

(3) personnel insufficient in number or unqualified by training or experience to properly care for the residents;

(4) insufficient financial or other resources to operate and conduct the establishment in accordance with standards adopted by the Department under this Act;

(5) revocation of a license during the previous 5 years, if such prior license was issued to the individual applicant, a controlling owner or controlling combination of owners of the applicant; or any affiliate of the individual applicant or controlling owner of the applicant and such individual applicant, controlling owner of the applicant or affiliate of the applicant was a controlling owner of the prior license; provided, however, that the denial of an application for a license pursuant to this Section must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of meeting or maintaining an establishment in accordance with the standards and rules adopted by the Department under this Act; or

(6) the establishment is not under the direct supervision of a full-time director, as defined by rule.

The Department shall deny an application for a license if 6 months after submitting its initial application the applicant has not provided the Department with all of the information required for review and approval or the applicant is not actively pursuing the processing of its application. In addition, the Department shall determine whether the applicant has violated any provision of the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 9/145)

Sec. 145. Conversion of facilities. Entities licensed as facilities under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act may elect to convert to a license under this Act. Any facility that chooses to convert, in whole or in part, shall follow the requirements in the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, as applicable, and rules promulgated under those Acts regarding voluntary closure and notice to residents. Any conversion of existing beds licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act to licensure under this Act is exempt from review by the Health Facilities and Services Review Board.
(Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 70. The Abuse Prevention Review Team Act is amended by changing Sections 10 and 50 as follows:

(210 ILCS 28/10)

Sec. 10. Definitions. As used in this Act, unless the context requires otherwise:

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"Executive Council" means the Illinois Residential Health Care Facility Resident Sexual Assault and Death Review Teams Executive Council.

"Resident" means a person residing in and receiving personal care from a facility licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

"Review team" means a residential health care facility resident sexual assault and death review team appointed under this Act.
(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 28/50)

Sec. 50. Funding. Notwithstanding any other provision of law, to the extent permitted by federal law, the Department shall use moneys from fines paid by facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act for violating requirements for certification under Titles XVIII and XIX of the Social Security Act to implement the provisions of this Act. The Department shall use moneys deposited in the Long Term Care Monitor/Receiver Fund to pay the costs of implementing this Act that cannot be met by the use of federal civil monetary penalties.
(Source: P.A. 96-339, eff. 7-1-10.)

Section 71. The Abused and Neglected Long Term Care Facility Residents Reporting Act is amended by changing Sections 3, 4, and 6 as follows:

(210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

Sec. 3. As used in this Act unless the context otherwise requires:

a. "Department" means the Department of Public Health of the State of Illinois.

b. "Resident" means a person residing in and receiving personal care from a long term care facility, or residing in a mental health facility or developmental disability facility as defined in the Mental Health and Developmental Disabilities Code.

c. "Long term care facility" has the same meaning ascribed to such term in the Nursing Home Care Act, except that the term as used in this Act shall include any mental health facility or developmental disability facility as defined in the Mental Health and Developmental Disabilities Code. The term also includes any facility licensed under the ID/DD ~~MR/DD~~ Community Care Act.

d. "Abuse" means any physical injury, sexual abuse or mental injury inflicted on a resident other than by accidental means.

e. "Neglect" means a failure in a long term care facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition.

f. "Protective services" means services provided to a resident who has been abused or neglected, which may include, but are not limited to alternative temporary institutional placement, nursing care, counseling, other social services provided at the nursing home where the resident resides or at some other facility, personal care and such protective services of voluntary agencies as are available.

g. Unless the context otherwise requires, direct or indirect references in this Act to the programs, personnel, facilities, services, service providers, or service recipients of the Department of Human Services shall be construed to refer only to those programs, personnel, facilities, services, service providers, or service recipients that pertain to the Department of Human Services' mental health and developmental disabilities functions.
(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

Sec. 4. Any long term care facility administrator, agent or employee or any physician, hospital, surgeon, dentist, osteopath, chiropractor, podiatrist, accredited religious practitioner who provides treatment by spiritual means alone through prayer in accordance with the tenets and practices of the accrediting church, coroner, social worker, social services administrator, registered nurse, law enforcement officer, field personnel of the Department of Healthcare and Family Services, field personnel of the Illinois Department of Public Health and County or Municipal Health Departments, personnel of the Department of Human Services (acting as the successor to the Department of Mental Health and Developmental Disabilities or the Department of Public Aid), personnel of the Guardianship and Advocacy Commission, personnel of the State Fire Marshal, local fire department inspectors or other personnel, or personnel of the Illinois Department on Aging, or its subsidiary Agencies on Aging, or employee of a facility licensed under the Assisted Living and Shared Housing Act, having reasonable cause to believe any resident with whom they have direct contact has been subjected to abuse or neglect shall immediately report or cause a report to be made to the Department. Persons required to make reports or cause reports to be made under this Section include all employees of the State of Illinois who are involved in providing services to residents, including professionals providing medical or rehabilitation services and all other persons having direct contact with residents; and further include all employees of community service agencies who provide services to a resident of a public or private long term care facility outside of that facility. Any long term care surveyor of the Illinois Department of Public Health who has reasonable cause to believe in the course of a survey that a resident has been abused or neglected and initiates an investigation while on site at the facility shall be exempt from making a report under this Section but the results of any such investigation shall be forwarded to the central register in a manner and form described by the Department.

The requirement of this Act shall not relieve any long term care facility administrator, agent or employee of responsibility to report the abuse or neglect of a resident under Section 3-610 of the Nursing Home Care Act or under Section 3-610 of the ID/DD ~~MR/DD~~ Community Care Act.

In addition to the above persons required to report suspected resident abuse and neglect, any other person may make a report to the Department, or to any law enforcement officer, if such person has reasonable cause to suspect a resident has been abused or neglected.

This Section also applies to residents whose death occurs from suspected abuse or neglect before being found or brought to a hospital.

A person required to make reports or cause reports to be made under this Section who fails to comply with the requirements of this Section is guilty of a Class A misdemeanor.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

Sec. 6. All reports of suspected abuse or neglect made under this Act shall be made immediately by telephone to the Department's central register established under Section 14 on the single, State-wide, toll-free telephone number established under Section 13, or in person or by telephone through the nearest Department office. No long term care facility administrator, agent or employee, or any other person, shall screen reports or otherwise withhold any reports from the Department, and no long term care facility, department of State government, or other agency shall establish any rules, criteria, standards or guidelines to the contrary. Every long term care facility, department of State government and other agency whose employees are required to make or cause to be made reports under Section 4 shall notify its employees of the provisions of that Section and of this Section, and provide to the Department documentation that such notification has been given. The Department of Human Services shall train all of its mental health and developmental disabilities employees in the detection and reporting of suspected abuse and neglect of residents. Reports made to the central register through the State-wide, toll-free telephone number shall be transmitted to appropriate Department offices and municipal health departments that have responsibility for licensing long term care facilities under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act. All reports received through offices of the Department shall be forwarded to the central register, in a manner and form described by the Department. The Department shall be capable of receiving reports of suspected abuse and neglect 24 hours a day, 7 days a week. Reports shall also be made in writing deposited in the U.S. mail, postage prepaid, within 24 hours after having reasonable cause to believe that the condition of the resident resulted from abuse or neglect. Such reports may in addition be made to the local law enforcement agency in the same manner. However, in the event a report is made to the local law enforcement agency, the reporter also shall immediately so inform the Department. The Department shall initiate an investigation of each report of resident abuse and neglect under this Act, whether oral or written, as provided for in Section 3-702 of the Nursing Home Care Act or Section 3-702 of the ID/DD ~~MR/DD~~ Community Care Act, except that reports of abuse which indicate that a resident's life or safety is in imminent danger shall be investigated

within 24 hours of such report. The Department may delegate to law enforcement officials or other public agencies the duty to perform such investigation.

With respect to investigations of reports of suspected abuse or neglect of residents of mental health and developmental disabilities institutions under the jurisdiction of the Department of Human Services, the Department shall transmit copies of such reports to the Department of State Police, the Department of Human Services, and the Inspector General appointed under Section 1-17 of the Department of Human Services Act. If the Department receives a report of suspected abuse or neglect of a recipient of services as defined in Section 1-123 of the Mental Health and Developmental Disabilities Code, the Department shall transmit copies of such report to the Inspector General and the Directors of the Guardianship and Advocacy Commission and the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act. When requested by the Director of the Guardianship and Advocacy Commission, the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act, or the Department of Financial and Professional Regulation, the Department, the Department of Human Services and the Department of State Police shall make available a copy of the final investigative report regarding investigations conducted by their respective agencies on incidents of suspected abuse or neglect of residents of mental health and developmental disabilities institutions or individuals receiving services at community agencies under the jurisdiction of the Department of Human Services. Such final investigative report shall not contain witness statements, investigation notes, draft summaries, results of lie detector tests, investigative files or other raw data which was used to compile the final investigative report. Specifically, the final investigative report of the Department of State Police shall mean the Director's final transmittal letter. The Department of Human Services shall also make available a copy of the results of disciplinary proceedings of employees involved in incidents of abuse or neglect to the Directors. All identifiable information in reports provided shall not be further disclosed except as provided by the Mental Health and Developmental Disabilities Confidentiality Act. Nothing in this Section is intended to limit or construe the power or authority granted to the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act, pursuant to any other State or federal statute.

With respect to investigations of reported resident abuse or neglect, the Department shall effect with appropriate law enforcement agencies formal agreements concerning methods and procedures for the conduct of investigations into the criminal histories of any administrator, staff assistant or employee of the nursing home or other person responsible for the residents care, as well as for other residents in the nursing home who may be in a position to abuse, neglect or exploit the patient. Pursuant to the formal agreements entered into with appropriate law enforcement agencies, the Department may request information with respect to whether the person or persons set forth in this paragraph have ever been charged with a crime and if so, the disposition of those charges. Unless the criminal histories of the subjects involved crimes of violence or resident abuse or neglect, the Department shall be entitled only to information limited in scope to charges and their dispositions. In cases where prior crimes of violence or resident abuse or neglect are involved, a more detailed report can be made available to authorized representatives of the Department, pursuant to the agreements entered into with appropriate law enforcement agencies. Any criminal charges and their disposition information obtained by the Department shall be confidential and may not be transmitted outside the Department, except as required herein, to authorized representatives or delegates of the Department, and may not be transmitted to anyone within the Department who is not duly authorized to handle resident abuse or neglect investigations.

The Department shall effect formal agreements with appropriate law enforcement agencies in the various counties and communities to encourage cooperation and coordination in the handling of resident abuse or neglect cases pursuant to this Act. The Department shall adopt and implement methods and procedures to promote statewide uniformity in the handling of reports of abuse and neglect under this Act, and those methods and procedures shall be adhered to by personnel of the Department involved in such investigations and reporting. The Department shall also make information required by this Act available to authorized personnel within the Department, as well as its authorized representatives.

The Department shall keep a continuing record of all reports made pursuant to this Act, including indications of the final determination of any investigation and the final disposition of all reports.

The Department shall report annually to the General Assembly on the incidence of abuse and neglect of long term care facility residents, with special attention to residents who are mentally disabled. The report shall include but not be limited to data on the number and source of reports of suspected abuse or neglect filed under this Act, the nature of any injuries to residents, the final determination of investigations, the type and number of cases where abuse or neglect is determined to exist, and the final

disposition of cases.
(Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

Section 72. The Nursing Home Care Act is amended by changing Sections 1-113 and 3-202.5 as follows:

(210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

Sec. 1-113. "Facility" or "long-term care facility" means a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for 3 or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act. It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs.

"Facility" does not include the following:

(1) A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois, other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

(2) A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;

(3) Any "facility for child care" as defined in the Child Care Act of 1969;

(4) Any "Community Living Facility" as defined in the Community Living Facilities Licensing Act;

(5) Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act;

(6) Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

(7) Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act;

(8) Any "Supportive Residence" licensed under the Supportive Residences Licensing Act;

(9) Any "supportive living facility" in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(10) Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(11) An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act; or

(12) A facility licensed under the ID/DD ~~MR/DD~~ Community Care Act.

(Source: P.A. 95-380, eff. 8-23-07; 96-339, eff. 7-1-10.)

(210 ILCS 45/3-202.5)

Sec. 3-202.5. Facility plan review; fees.

(a) Before commencing construction of a new facility or specified types of alteration or additions to an existing long term care facility involving major construction, as defined by rule by the Department, with an estimated cost greater than $100,000, architectural drawings and specifications for the facility shall be submitted to the Department for review and approval. A facility may submit architectural drawings and specifications for other construction projects for Department review according to subsection (b) that shall not be subject to fees under subsection (d). Review of drawings and specifications shall be conducted by an employee of the Department meeting the qualifications established by the Department of Central Management Services class specifications for such an individual's position or by a person contracting with the Department who meets those class specifications. Final approval of the drawings and specifications for compliance with design and construction standards shall be obtained from the Department before the alteration, addition, or new construction is begun.

(b) The Department shall inform an applicant in writing within 10 working days after receiving

drawings and specifications and the required fee, if any, from the applicant whether the applicant's submission is complete or incomplete. Failure to provide the applicant with this notice within 10 working days shall result in the submission being deemed complete for purposes of initiating the 60-day review period under this Section. If the submission is incomplete, the Department shall inform the applicant of the deficiencies with the submission in writing. If the submission is complete the required fee, if any, has been paid, the Department shall approve or disapprove drawings and specifications submitted to the Department no later than 60 days following receipt by the Department. The drawings and specifications shall be of sufficient detail, as provided by Department rule, to enable the Department to render a determination of compliance with design and construction standards under this Act. If the Department finds that the drawings are not of sufficient detail for it to render a determination of compliance, the plans shall be determined to be incomplete and shall not be considered for purposes of initiating the 60 day review period. If a submission of drawings and specifications is incomplete, the applicant may submit additional information. The 60-day review period shall not commence until the Department determines that a submission of drawings and specifications is complete or the submission is deemed complete. If the Department has not approved or disapproved the drawings and specifications within 60 days, the construction, major alteration, or addition shall be deemed approved. If the drawings and specifications are disapproved, the Department shall state in writing, with specificity, the reasons for the disapproval. The entity submitting the drawings and specifications may submit additional information in response to the written comments from the Department or request a reconsideration of the disapproval. A final decision of approval or disapproval shall be made within 45 days of the receipt of the additional information or reconsideration request. If denied, the Department shall state the specific reasons for the denial.

(c) The Department shall provide written approval for occupancy pursuant to subsection (g) and shall not issue a violation to a facility as a result of a licensure or complaint survey based upon the facility's physical structure if:

(1) the Department reviewed and approved or deemed approved the drawings and specifications for compliance with design and construction standards;

(2) the construction, major alteration, or addition was built as submitted;

(3) the law or rules have not been amended since the original approval; and

(4) the conditions at the facility indicate that there is a reasonable degree of safety provided for the residents.

(d) The Department shall charge the following fees in connection with its reviews conducted before June 30, 2004 under this Section:

(1) (Blank).

(2) (Blank).

(3) If the estimated dollar value of the alteration, addition, or new construction is $100,000 or more but less than $500,000, the fee shall be the greater of $2,400 or 1.2% of that value.

(4) If the estimated dollar value of the alteration, addition, or new construction is $500,000 or more but less than $1,000,000, the fee shall be the greater of $6,000 or 0.96% of that value.

(5) If the estimated dollar value of the alteration, addition, or new construction is $1,000,000 or more but less than $5,000,000, the fee shall be the greater of $9,600 or 0.22% of that value.

(6) If the estimated dollar value of the alteration, addition, or new construction is $5,000,000 or more, the fee shall be the greater of $11,000 or 0.11% of that value, but shall not exceed $40,000.

The fees provided in this subsection (d) shall not apply to major construction projects involving facility changes that are required by Department rule amendments.

The fees provided in this subsection (d) shall also not apply to major construction projects if 51% or more of the estimated cost of the project is attributed to capital equipment. For major construction projects where 51% or more of the estimated cost of the project is attributed to capital equipment, the Department shall by rule establish a fee that is reasonably related to the cost of reviewing the project.

The Department shall not commence the facility plan review process under this Section until the applicable fee has been paid.

(e) All fees received by the Department under this Section shall be deposited into the Health Facility Plan Review Fund, a special fund created in the State Treasury. All fees paid by long-term care facilities under subsection (d) shall be used only to cover the costs relating to the Department's review of long-term care facility projects under this Section. Moneys shall be appropriated from that Fund to the Department only to pay the costs of conducting reviews under this Section or under Section 3-202.5 of

the ID/DD ~~MR/DD~~ Community Care Act. None of the moneys in the Health Facility Plan Review Fund shall be used to reduce the amount of General Revenue Fund moneys appropriated to the Department for facility plan reviews conducted pursuant to this Section.

(f) (1) The provisions of this amendatory Act of 1997 concerning drawings and specifications shall apply only to drawings and specifications submitted to the Department on or after October 1, 1997.

(2) On and after the effective date of this amendatory Act of 1997 and before October 1, 1997, an applicant may submit or resubmit drawings and specifications to the Department and pay the fees provided in subsection (d). If an applicant pays the fees provided in subsection (d) under this paragraph (2), the provisions of subsection (b) shall apply with regard to those drawings and specifications.

(g) The Department shall conduct an on-site inspection of the completed project no later than 30 days after notification from the applicant that the project has been completed and all certifications required by the Department have been received and accepted by the Department. The Department shall provide written approval for occupancy to the applicant within 5 working days of the Department's final inspection, provided the applicant has demonstrated substantial compliance as defined by Department rule. Occupancy of new major construction is prohibited until Department approval is received, unless the Department has not acted within the time frames provided in this subsection (g), in which case the construction shall be deemed approved. Occupancy shall be authorized after any required health inspection by the Department has been conducted.

(h) The Department shall establish, by rule, a procedure to conduct interim on-site review of large or complex construction projects.

(i) The Department shall establish, by rule, an expedited process for emergency repairs or replacement of like equipment.

(j) Nothing in this Section shall be construed to apply to maintenance, upkeep, or renovation that does not affect the structural integrity of the building, does not add beds or services over the number for which the long-term care facility is licensed, and provides a reasonable degree of safety for the residents. (Source: P.A. 96-339, eff. 7-1-10.)

Section 73. The MR/DD Community Care Act is amended by changing Sections 1-101 and 1-113 as follows:

(210 ILCS 47/1-101)

Sec. 1-101. Short title. This Act may be cited as the ID/DD ~~MR/DD~~ Community Care Act. (Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 47/1-113)

Sec. 1-113. Facility. "ID/DD ~~MR/DD~~ facility" or "facility" means an intermediate care facility for the developmentally disabled or a long-term care for under age 22 facility, whether operated for profit or not, which provides, through its ownership or management, personal care or nursing for 3 or more persons not related to the applicant or owner by blood or marriage. It includes intermediate care facilities for the intellectually disabled ~~mentally retarded~~ as the term is defined in Title XVIII and Title XIX of the federal Social Security Act.

"Facility" does not include the following:

(1) A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois, other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

(2) A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefore, which is required to be licensed under the Hospital Licensing Act;

(3) Any "facility for child care" as defined in the Child Care Act of 1969;

(4) Any "community living facility" as defined in the Community Living Facilities Licensing Act;

(5) Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act;

(6) Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

(7) Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living

Arrangements Licensure and Certification Act;

(8) Any "supportive residence" licensed under the Supportive Residences Licensing Act;

(9) Any "supportive living facility" in good standing with the program established under Section 5-5.01a of the Illinois Public Aid Code, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(10) Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act, except only for purposes of the employment of persons in accordance with Section 3-206.01;

(11) An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act; or

(12) A home, institution, or other place operated by or under the authority of the Illinois Department of Veterans' Affairs.

(Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

Section 74. The Home Health, Home Services, and Home Nursing Agency Licensing Act is amended by changing Section 2.08 as follows:

(210 ILCS 55/2.08)

Sec. 2.08. "Home services agency" means an agency that provides services directly, or acts as a placement agency, for the purpose of placing individuals as workers providing home services for consumers in their personal residences. "Home services agency" does not include agencies licensed under the Nurse Agency Licensing Act, the Hospital Licensing Act, the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Assisted Living and Shared Housing Act and does not include an agency that limits its business exclusively to providing housecleaning services. Programs providing services exclusively through the Community Care Program of the Illinois Department on Aging, the Department of Human Services Office of Rehabilitation Services, or the United States Department of Veterans Affairs are not considered to be a home services agency under this Act.

(Source: P.A. 96-339, eff. 7-1-10; 96-577, eff. 8-18-09; 96-1000, eff. 7-2-10.)

Section 75. The Hospice Program Licensing Act is amended by changing Sections 3 and 4 as follows:

(210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

Sec. 3. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Bereavement" means the period of time during which the hospice patient's family experiences and adjusts to the death of the hospice patient.

(a-5) "Bereavement services" means counseling services provided to an individual's family after the individual's death.

(a-10) "Attending physician" means a physician who:

(1) is a doctor of medicine or osteopathy; and

(2) is identified by an individual, at the time the individual elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

(b) "Department" means the Illinois Department of Public Health.

(c) "Director" means the Director of the Illinois Department of Public Health.

(d) "Hospice care" means a program of palliative care that provides for the physical, emotional, and spiritual care needs of a terminally ill patient and his or her family. The goal of such care is to achieve the highest quality of life as defined by the patient and his or her family through the relief of suffering and control of symptoms.

(e) "Hospice care team" means an interdisciplinary group or groups composed of individuals who provide or supervise the care and services offered by the hospice.

(f) "Hospice patient" means a terminally ill person receiving hospice services.

(g) "Hospice patient's family" means a hospice patient's immediate family consisting of a spouse, sibling, child, parent and those individuals designated as such by the patient for the purposes of this Act.

(g-1) "Hospice residence" means a separately licensed home, apartment building, or similar building providing living quarters:

(1) that is owned or operated by a person licensed to operate as a comprehensive hospice; and

(2) at which hospice services are provided to facility residents.

A building that is licensed under the Hospital Licensing Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act is not a hospice residence.

(h) "Hospice services" means a range of professional and other supportive services provided to a hospice patient and his or her family. These services may include, but are not limited to, physician services, nursing services, medical social work services, spiritual counseling services, bereavement services, and volunteer services.

(h-5) "Hospice program" means a licensed public agency or private organization, or a subdivision of either of those, that is primarily engaged in providing care to terminally ill individuals through a program of home care or inpatient care, or both home care and inpatient care, utilizing a medically directed interdisciplinary hospice care team of professionals or volunteers, or both professionals and volunteers. A hospice program may be licensed as a comprehensive hospice program or a volunteer hospice program.

(h-10) "Comprehensive hospice" means a program that provides hospice services and meets the minimum standards for certification under the Medicare program set forth in the Conditions of Participation in 42 CFR Part 418 but is not required to be Medicare-certified.

(i) "Palliative care" means the management of pain and other distressing symptoms that incorporates medical, nursing, psychosocial, and spiritual care according to the needs, values, beliefs, and culture or cultures of the patient and his or her family. The evaluation and treatment is patient-centered, with a focus on the central role of the family unit in decision-making.

(j) "Hospice service plan" means a plan detailing the specific hospice services offered by a comprehensive or volunteer hospice program, and the administrative and direct care personnel responsible for those services. The plan shall include but not be limited to:

(1) Identification of the person or persons administratively responsible for the program.

(2) The estimated average monthly patient census.

(3) The proposed geographic area the hospice will serve.

(4) A listing of those hospice services provided directly by the hospice, and those hospice services provided indirectly through a contractual agreement.

(5) The name and qualifications of those persons or entities under contract to provide indirect hospice services.

(6) The name and qualifications of those persons providing direct hospice services, with the exception of volunteers.

(7) A description of how the hospice plans to utilize volunteers in the provision of hospice services.

(8) A description of the program's record keeping system.

(k) "Terminally ill" means a medical prognosis by a physician licensed to practice medicine in all of its branches that a patient has an anticipated life expectancy of one year or less.

(l) "Volunteer" means a person who offers his or her services to a hospice without compensation. Reimbursement for a volunteer's expenses in providing hospice service shall not be considered compensation.

(l-5) "Employee" means a paid or unpaid member of the staff of a hospice program, or, if the hospice program is a subdivision of an agency or organization, of the agency or organization, who is appropriately trained and assigned to the hospice program. "Employee" also means a volunteer whose duties are prescribed by the hospice program and whose performance of those duties is supervised by the hospice program.

(l-10) "Representative" means an individual who has been authorized under State law to terminate an individual's medical care or to elect or revoke the election of hospice care on behalf of a terminally ill individual who is mentally or physically incapacitated.

(m) "Volunteer hospice" means a program which provides hospice services to patients regardless of their ability to pay, with emphasis on the utilization of volunteers to provide services, under the administration of a not-for-profit agency. This definition does not prohibit the employment of staff.

(Source: P.A. 96-339, eff. 7-1-10.)

(210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

Sec. 4. License.

(a) No person shall establish, conduct or maintain a comprehensive or volunteer hospice program without first obtaining a license from the Department. A hospice residence may be operated only at the locations listed on the license. A comprehensive hospice program owning or operating a hospice residence is not subject to the provisions of the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act in owning or operating a hospice residence.

(b) No public or private agency shall advertise or present itself to the public as a comprehensive or volunteer hospice program which provides hospice services without meeting the provisions of subsection

(a).

(c) The license shall be valid only in the possession of the hospice to which it was originally issued and shall not be transferred or assigned to any other person, agency, or corporation.

(d) The license shall be renewed annually.

(e) The license shall be displayed in a conspicuous place inside the hospice program office.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 76. The Hospital Licensing Act is amended by changing Sections 3, 6.09, and 6.11 as follows:

(210 ILCS 85/3)

Sec. 3. As used in this Act:

(A) "Hospital" means any institution, place, building, buildings on a campus, or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of 2 or more unrelated persons admitted for overnight stay or longer in order to obtain medical, including obstetric, psychiatric and nursing, care of illness, disease, injury, infirmity, or deformity.

The term "hospital", without regard to length of stay, shall also include:

(a) any facility which is devoted primarily to providing psychiatric and related services and programs for the diagnosis and treatment or care of 2 or more unrelated persons suffering from emotional or nervous diseases;

(b) all places where pregnant females are received, cared for, or treated during delivery irrespective of the number of patients received.

The term "hospital" includes general and specialized hospitals, tuberculosis sanitaria, mental or psychiatric hospitals and sanitaria, and includes maternity homes, lying-in homes, and homes for unwed mothers in which care is given during delivery.

The term "hospital" does not include:

(1) any person or institution required to be licensed pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act;

(2) hospitalization or care facilities maintained by the State or any department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitalization or care facilities under its management and control;

(3) hospitalization or care facilities maintained by the federal government or agencies thereof;

(4) hospitalization or care facilities maintained by any university or college established under the laws of this State and supported principally by public funds raised by taxation;

(5) any person or facility required to be licensed pursuant to the Alcoholism and Other Drug Abuse and Dependency Act;

(6) any facility operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination;

(7) an Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act; or

(8) any veterinary hospital or clinic operated by a veterinarian or veterinarians licensed under the Veterinary Medicine and Surgery Practice Act of 2004 or maintained by a State-supported or publicly funded university or college.

(B) "Person" means the State, and any political subdivision or municipal corporation, individual, firm, partnership, corporation, company, association, or joint stock association, or the legal successor thereof.

(C) "Department" means the Department of Public Health of the State of Illinois.

(D) "Director" means the Director of Public Health of the State of Illinois.

(E) "Perinatal" means the period of time between the conception of an infant and the end of the first month after birth.

(F) "Federally designated organ procurement agency" means the organ procurement agency designated by the Secretary of the U.S. Department of Health and Human Services for the service area in which a hospital is located; except that in the case of a hospital located in a county adjacent to Wisconsin which currently contracts with an organ procurement agency located in Wisconsin that is not the organ procurement agency designated by the U.S. Secretary of Health and Human Services for the service area in which the hospital is located, if the hospital applies for a waiver pursuant to 42 USC 1320b-8(a), it may designate an organ procurement agency located in Wisconsin to be thereafter deemed its federally designated organ procurement agency for the purposes of this Act.

(G) "Tissue bank" means any facility or program operating in Illinois that is certified by the American

Association of Tissue Banks or the Eye Bank Association of America and is involved in procuring, furnishing, donating, or distributing corneas, bones, or other human tissue for the purpose of injecting, transfusing, or transplanting any of them into the human body. "Tissue bank" does not include a licensed blood bank. For the purposes of this Act, "tissue" does not include organs.

(H) "Campus", as this terms applies to operations, has the same meaning as the term "campus" as set forth in federal Medicare regulations, 42 CFR 413.65.

(Source: P.A. 96-219, eff. 8-10-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1515, eff. 2-4-11.)

(210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

Sec. 6.09. (a) In order to facilitate the orderly transition of aged and disabled patients from hospitals to post-hospital care, whenever a patient who qualifies for the federal Medicare program is hospitalized, the patient shall be notified of discharge at least 24 hours prior to discharge from the hospital. With regard to pending discharges to a skilled nursing facility, the hospital must notify the case coordination unit, as defined in 89 Ill. Adm. Code 240.260, at least 24 hours prior to discharge or, if home health services are ordered, the hospital must inform its designated case coordination unit, as defined in 89 Ill. Adm. Code 240.260, of the pending discharge and must provide the patient with the case coordination unit's telephone number and other contact information.

(b) Every hospital shall develop procedures for a physician with medical staff privileges at the hospital or any appropriate medical staff member to provide the discharge notice prescribed in subsection (a) of this Section. The procedures must include prohibitions against discharging or referring a patient to any of the following if unlicensed, uncertified, or unregistered: (i) a board and care facility, as defined in the Board and Care Home Act; (ii) an assisted living and shared housing establishment, as defined in the Assisted Living and Shared Housing Act; (iii) a facility licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act; (iv) a supportive living facility, as defined in Section 5-5.01a of the Illinois Public Aid Code; or (v) a free-standing hospice facility licensed under the Hospice Program Licensing Act if licensure, certification, or registration is required. The Department of Public Health shall annually provide hospitals with a list of licensed, certified, or registered board and care facilities, assisted living and shared housing establishments, nursing homes, supportive living facilities, facilities licensed under the ID/DD ~~MR/DD~~ Community Care Act, and hospice facilities. Reliance upon this list by a hospital shall satisfy compliance with this requirement. The procedure may also include a waiver for any case in which a discharge notice is not feasible due to a short length of stay in the hospital by the patient, or for any case in which the patient voluntarily desires to leave the hospital before the expiration of the 24 hour period.

(c) At least 24 hours prior to discharge from the hospital, the patient shall receive written information on the patient's right to appeal the discharge pursuant to the federal Medicare program, including the steps to follow to appeal the discharge and the appropriate telephone number to call in case the patient intends to appeal the discharge.

(d) Before transfer of a patient to a long term care facility licensed under the Nursing Home Care Act where elderly persons reside, a hospital shall as soon as practicable initiate a name-based criminal history background check by electronic submission to the Department of State Police for all persons between the ages of 18 and 70 years; provided, however, that a hospital shall be required to initiate such a background check only with respect to patients who:

(1) are transferring to a long term care facility for the first time;

(2) have been in the hospital more than 5 days;

(3) are reasonably expected to remain at the long term care facility for more than 30 days;

(4) have a known history of serious mental illness or substance abuse; and

(5) are independently ambulatory or mobile for more than a temporary period of time.

A hospital may also request a criminal history background check for a patient who does not meet any of the criteria set forth in items (1) through (5).

A hospital shall notify a long term care facility if the hospital has initiated a criminal history background check on a patient being discharged to that facility. In all circumstances in which the hospital is required by this subsection to initiate the criminal history background check, the transfer to the long term care facility may proceed regardless of the availability of criminal history results. Upon receipt of the results, the hospital shall promptly forward the results to the appropriate long term care facility. If the results of the background check are inconclusive, the hospital shall have no additional duty or obligation to seek additional information from, or about, the patient.

(Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10.)

(210 ILCS 85/6.11) (from Ch. 111 1/2, par. 147.11)

Sec. 6.11. In licensing any hospital which provides for the diagnosis, care or treatment for persons suffering from mental or emotional disorders or for intellectually disabled ~~mentally retarded~~ persons, the Department shall consult with the Department of Human Services in developing standards for and evaluating the psychiatric programs of such hospitals.
(Source: P.A. 89-507, eff. 7-1-97.)

Section 77. The Language Assistance Services Act is amended by changing Section 10 as follows:
(210 ILCS 87/10)
Sec. 10. Definitions. As used in this Act:
"Department" means the Department of Public Health.
"Interpreter" means a person fluent in English and in the necessary language of the patient who can accurately speak, read, and readily interpret the necessary second language, or a person who can accurately sign and read sign language. Interpreters shall have the ability to translate the names of body parts and to describe completely symptoms and injuries in both languages. Interpreters may include members of the medical or professional staff.
"Language or communication barriers" means either of the following:
(1) With respect to spoken language, barriers that are experienced by limited-English-speaking or non-English-speaking individuals who speak the same primary language, if those individuals constitute at least 5% of the patients served by the health facility annually.
(2) With respect to sign language, barriers that are experienced by individuals who are deaf and whose primary language is sign language.
"Health facility" means a hospital licensed under the Hospital Licensing Act, a long-term care facility licensed under the Nursing Home Care Act, or a facility licensed under the ID/DD ~~MR/DD~~ Community Care Act.
(Source: P.A. 96-339, eff. 7-1-10.)

Section 78. Community-Integrated Living Arrangements Licensure and Certification Act is amended by changing Section 4 as follows:
(210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)
Sec. 4. (a) Any community mental health or developmental services agency who wishes to develop and support a variety of community-integrated living arrangements may do so pursuant to a license issued by the Department under this Act. However, programs established under or otherwise subject to the Child Care Act of 1969, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act, as now or hereafter amended, shall remain subject thereto, and this Act shall not be construed to limit the application of those Acts.
(b) The system of licensure established under this Act shall be for the purposes of:
(1) Insuring that all recipients residing in community-integrated living arrangements are receiving appropriate community-based services, including treatment, training and habilitation or rehabilitation;
(2) Insuring that recipients' rights are protected and that all programs provided to and placements arranged for recipients comply with this Act, the Mental Health and Developmental Disabilities Code, and applicable Department rules and regulations;
(3) Maintaining the integrity of communities by requiring regular monitoring and inspection of placements and other services provided in community-integrated living arrangements.
The licensure system shall be administered by a quality assurance unit within the Department which shall be administratively independent of units responsible for funding of agencies or community services.
(c) As a condition of being licensed by the Department as a community mental health or developmental services agency under this Act, the agency shall certify to the Department that:
(1) All recipients residing in community-integrated living arrangements are receiving appropriate community-based services, including treatment, training and habilitation or rehabilitation;
(2) All programs provided to and placements arranged for recipients are supervised by the agency; and
(3) All programs provided to and placements arranged for recipients comply with this Act, the Mental Health and Developmental Disabilities Code, and applicable Department rules and regulations.
(d) An applicant for licensure as a community mental health or developmental services agency under this Act shall submit an application pursuant to the application process established by the Department by rule and shall pay an application fee in an amount established by the Department, which amount shall

not be more than $200.

(e) If an applicant meets the requirements established by the Department to be licensed as a community mental health or developmental services agency under this Act, after payment of the licensing fee, the Department shall issue a license valid for 3 years from the date thereof unless suspended or revoked by the Department or voluntarily surrendered by the agency.

(f) Upon application to the Department, the Department may issue a temporary permit to an applicant for a 6-month period to allow the holder of such permit reasonable time to become eligible for a license under this Act.

(g)(1) The Department may conduct site visits to an agency licensed under this Act, or to any program or placement certified by the agency, and inspect the records or premises, or both, of such agency, program or placement as it deems appropriate, for the purpose of determining compliance with this Act, the Mental Health and Developmental Disabilities Code, and applicable Department rules and regulations.

(2) If the Department determines that an agency licensed under this Act is not in compliance with this Act or the rules and regulations promulgated under this Act, the Department shall serve a notice of violation upon the licensee. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, the statutory provision or rule alleged to have been violated, and that the licensee submit a plan of correction to the Department if required. The notice shall also inform the licensee of any other action which the Department might take pursuant to this Act and of the right to a hearing.

(h) Upon the expiration of any license issued under this Act, a license renewal application shall be required of and a license renewal fee in an amount established by the Department shall be charged to a community mental health or developmental services agency, provided that such fee shall not be more than $200.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 79. The Child Care Act of 1969 is amended by changing Sections 2.06 and 7 as follows:

(225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

Sec. 2.06. "Child care institution" means a child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both. The term "child care institution" includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not include:

(a) Any State-operated institution for child care established by legislative action;

(b) Any juvenile detention or shelter care home established and operated by any county or child protection district established under the "Child Protection Act";

(c) Any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act;

(d) Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or taught in public elementary schools, high schools, or both elementary and high schools, and which operates on a regular academic school year basis; or

(e) Any facility licensed as a "group home" as defined in this Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(225 ILCS 10/7) (from Ch. 23, par. 2217)

Sec. 7. (a) The Department must prescribe and publish minimum standards for licensing that apply to the various types of facilities for child care defined in this Act and that are equally applicable to like institutions under the control of the Department and to foster family homes used by and under the direct supervision of the Department. The Department shall seek the advice and assistance of persons representative of the various types of child care facilities in establishing such standards. The standards prescribed and published under this Act take effect as provided in the Illinois Administrative Procedure Act, and are restricted to regulations pertaining to the following matters and to any rules and regulations required or permitted by any other Section of this Act:

(1) The operation and conduct of the facility and responsibility it assumes for child care;

(2) The character, suitability and qualifications of the applicant and other persons directly responsible for the care and welfare of children served. All child day care center licensees and employees who are required to report child abuse or neglect under the Abused and Neglected Child Reporting Act shall be required to attend training on recognizing child abuse and neglect, as prescribed by Department rules;

(3) The general financial ability and competence of the applicant to provide necessary

care for children and to maintain prescribed standards;

(4) The number of individuals or staff required to insure adequate supervision and care of the children received. The standards shall provide that each child care institution, maternity center, day care center, group home, day care home, and group day care home shall have on its premises during its hours of operation at least one staff member certified in first aid, in the Heimlich maneuver and in cardiopulmonary resuscitation by the American Red Cross or other organization approved by rule of the Department. Child welfare agencies shall not be subject to such a staffing requirement. The Department may offer, or arrange for the offering, on a periodic basis in each community in this State in cooperation with the American Red Cross, the American Heart Association or other appropriate organization, voluntary programs to train operators of foster family homes and day care homes in first aid and cardiopulmonary resuscitation;

(5) The appropriateness, safety, cleanliness and general adequacy of the premises, including maintenance of adequate fire prevention and health standards conforming to State laws and municipal codes to provide for the physical comfort, care and well-being of children received;

(6) Provisions for food, clothing, educational opportunities, program, equipment and individual supplies to assure the healthy physical, mental and spiritual development of children served;

(7) Provisions to safeguard the legal rights of children served;

(8) Maintenance of records pertaining to the admission, progress, health and discharge of children, including, for day care centers and day care homes, records indicating each child has been immunized as required by State regulations. The Department shall require proof that children enrolled in a facility have been immunized against Haemophilus Influenzae B (HIB);

(9) Filing of reports with the Department;

(10) Discipline of children;

(11) Protection and fostering of the particular religious faith of the children served;

(12) Provisions prohibiting firearms on day care center premises except in the possession of peace officers;

(13) Provisions prohibiting handguns on day care home premises except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside on the premises of a day care home;

(14) Provisions requiring that any firearm permitted on day care home premises, except handguns in the possession of peace officers, shall be kept in a disassembled state, without ammunition, in locked storage, inaccessible to children and that ammunition permitted on day care home premises shall be kept in locked storage separate from that of disassembled firearms, inaccessible to children;

(15) Provisions requiring notification of parents or guardians enrolling children at a day care home of the presence in the day care home of any firearms and ammunition and of the arrangements for the separate, locked storage of such firearms and ammunition.

(b) If, in a facility for general child care, there are children diagnosed as mentally ill, intellectually disabled ~~mentally retarded~~ or physically handicapped, who are determined to be in need of special mental treatment or of nursing care, or both mental treatment and nursing care, the Department shall seek the advice and recommendation of the Department of Human Services, the Department of Public Health, or both Departments regarding the residential treatment and nursing care provided by the institution.

(c) The Department shall investigate any person applying to be licensed as a foster parent to determine whether there is any evidence of current drug or alcohol abuse in the prospective foster family. The Department shall not license a person as a foster parent if drug or alcohol abuse has been identified in the foster family or if a reasonable suspicion of such abuse exists, except that the Department may grant a foster parent license to an applicant identified with an alcohol or drug problem if the applicant has successfully participated in an alcohol or drug treatment program, self-help group, or other suitable activities.

(d) The Department, in applying standards prescribed and published, as herein provided, shall offer consultation through employed staff or other qualified persons to assist applicants and licensees in meeting and maintaining minimum requirements for a license and to help them otherwise to achieve programs of excellence related to the care of children served. Such consultation shall include providing information concerning education and training in early childhood development to providers of day care home services. The Department may provide or arrange for such education and training for those providers who request such assistance.

(e) The Department shall distribute copies of licensing standards to all licensees and applicants for a

license. Each licensee or holder of a permit shall distribute copies of the appropriate licensing standards and any other information required by the Department to child care facilities under its supervision. Each licensee or holder of a permit shall maintain appropriate documentation of the distribution of the standards. Such documentation shall be part of the records of the facility and subject to inspection by authorized representatives of the Department.

(f) The Department shall prepare summaries of day care licensing standards. Each licensee or holder of a permit for a day care facility shall distribute a copy of the appropriate summary and any other information required by the Department, to the legal guardian of each child cared for in that facility at the time when the child is enrolled or initially placed in the facility. The licensee or holder of a permit for a day care facility shall secure appropriate documentation of the distribution of the summary and brochure. Such documentation shall be a part of the records of the facility and subject to inspection by an authorized representative of the Department.

(g) The Department shall distribute to each licensee and holder of a permit copies of the licensing or permit standards applicable to such person's facility. Each licensee or holder of a permit shall make available by posting at all times in a common or otherwise accessible area a complete and current set of licensing standards in order that all employees of the facility may have unrestricted access to such standards. All employees of the facility shall have reviewed the standards and any subsequent changes. Each licensee or holder of a permit shall maintain appropriate documentation of the current review of licensing standards by all employees. Such records shall be part of the records of the facility and subject to inspection by authorized representatives of the Department.

(h) Any standards involving physical examinations, immunization, or medical treatment shall include appropriate exemptions for children whose parents object thereto on the grounds that they conflict with the tenets and practices of a recognized church or religious organization, of which the parent is an adherent or member, and for children who should not be subjected to immunization for clinical reasons.

(i) The Department, in cooperation with the Department of Public Health, shall work to increase immunization awareness and participation among parents of children enrolled in day care centers and day care homes by publishing on the Department's website information about the benefits of annual immunization against influenza for children 6 months of age to 5 years of age. The Department shall work with day care centers and day care homes licensed under this Act to ensure that the information is annually distributed to parents in August or September.

(Source: P.A. 96-391, eff. 8-13-09.)

Section 80. The Health Care Worker Background Check Act is amended by changing Section 15 as follows:

(225 ILCS 46/15)

Sec. 15. Definitions. In this Act:

"Applicant" means an individual seeking employment with a health care employer who has received a bona fide conditional offer of employment.

"Conditional offer of employment" means a bona fide offer of employment by a health care employer to an applicant, which is contingent upon the receipt of a report from the Department of Public Health indicating that the applicant does not have a record of conviction of any of the criminal offenses enumerated in Section 25.

"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, toileting, or other personal needs, including home services as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act. The entity responsible for inspecting and licensing, certifying, or registering the health care employer may, by administrative rule, prescribe guidelines for interpreting this definition with regard to the health care employers that it licenses.

"Disqualifying offenses" means those offenses set forth in Section 25 of this Act.

"Employee" means any individual hired, employed, or retained to which this Act applies.

"Fingerprint-based criminal history records check" means a livescan fingerprint-based criminal history records check submitted as a fee applicant inquiry in the form and manner prescribed by the Department of State Police.

"Health care employer" means:

(1) the owner or licensee of any of the following:

(i) a community living facility, as defined in the Community Living Facilities Act;

(ii) a life care facility, as defined in the Life Care Facilities Act;

(iii) a long-term care facility;

(iv) a home health agency, home services agency, or home nursing agency as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act;

(v) a hospice care program or volunteer hospice program, as defined in the Hospice Program Licensing Act;
(vi) a hospital, as defined in the Hospital Licensing Act;
(vii) (blank);
(viii) a nurse agency, as defined in the Nurse Agency Licensing Act;
(ix) a respite care provider, as defined in the Respite Program Act;
(ix-a) an establishment licensed under the Assisted Living and Shared Housing Act;
(x) a supportive living program, as defined in the Illinois Public Aid Code;
(xi) early childhood intervention programs as described in 59 Ill. Adm. Code 121;
(xii) the University of Illinois Hospital, Chicago;
(xiii) programs funded by the Department on Aging through the Community Care Program;
(xiv) programs certified to participate in the Supportive Living Program authorized pursuant to Section 5-5.01a of the Illinois Public Aid Code;
(xv) programs listed by the Emergency Medical Services (EMS) Systems Act as Freestanding Emergency Centers;
(xvi) locations licensed under the Alternative Health Care Delivery Act;

(2) a day training program certified by the Department of Human Services;

(3) a community integrated living arrangement operated by a community mental health and developmental service agency, as defined in the Community-Integrated Living Arrangements Licensing and Certification Act; or

(4) the State Long Term Care Ombudsman Program, including any regional long term care ombudsman programs under Section 4.04 of the Illinois Act on the Aging, only for the purpose of securing background checks.

"Initiate" means obtaining from a student, applicant, or employee his or her social security number, demographics, a disclosure statement, and an authorization for the Department of Public Health or its designee to request a fingerprint-based criminal history records check; transmitting this information electronically to the Department of Public Health; conducting Internet searches on certain web sites, including without limitation the Illinois Sex Offender Registry, the Department of Corrections' Sex Offender Search Engine, the Department of Corrections' Inmate Search Engine, the Department of Corrections Wanted Fugitives Search Engine, the National Sex Offender Public Registry, and the website of the Health and Human Services Office of Inspector General to determine if the applicant has been adjudicated a sex offender, has been a prison inmate, or has committed Medicare or Medicaid fraud, or conducting similar searches as defined by rule; and having the student, applicant, or employee's fingerprints collected and transmitted electronically to the Department of State Police.

"Livescan vendor" means an entity whose equipment has been certified by the Department of State Police to collect an individual's demographics and inkless fingerprints and, in a manner prescribed by the Department of State Police and the Department of Public Health, electronically transmit the fingerprints and required data to the Department of State Police and a daily file of required data to the Department of Public Health. The Department of Public Health shall negotiate a contract with one or more vendors that effectively demonstrate that the vendor has 2 or more years of experience transmitting fingerprints electronically to the Department of State Police and that the vendor can successfully transmit the required data in a manner prescribed by the Department of Public Health. Vendor authorization may be further defined by administrative rule.

"Long-term care facility" means a facility licensed by the State or certified under federal law as a long-term care facility, including without limitation facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, a supportive living facility, an assisted living establishment, or a shared housing establishment or registered as a board and care home.
(Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

Section 81. The Nursing Home Administrators Licensing and Disciplinary Act is amended by changing Sections 4 and 17 as follows:

(225 ILCS 70/4) (from Ch. 111, par. 3654)

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

Sec. 4. Definitions. For purposes of this Act, the following definitions shall have the following meanings, except where the context requires otherwise:

(1) "Act" means the Nursing Home Administrators Licensing and Disciplinary Act.

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

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

(4) "Board" means the Nursing Home Administrators Licensing and Disciplinary Board appointed by the Governor.

(5) "Nursing home administrator" means the individual licensed under this Act and directly responsible for planning, organizing, directing and supervising the operation of a nursing home, or who in fact performs such functions, whether or not such functions are delegated to one or more other persons.

(6) "Nursing home" or "facility" means any entity that is required to be licensed by the Department of Public Health under the Nursing Home Care Act, as amended, other than a sheltered care home as defined thereunder, and includes private homes, institutions, buildings, residences, or other places, whether operated for profit or not, irrespective of the names attributed to them, county homes for the infirm and chronically ill operated pursuant to the County Nursing Home Act, as amended, and any similar institutions operated by a political subdivision of the State of Illinois that provide, though their ownership or management, maintenance, personal care, and nursing for 3 or more persons, not related to the owner by blood or marriage, or any similar facilities in which maintenance is provided to 3 or more persons who by reason of illness of physical infirmity require personal care and nursing. The term also means any facility licensed under the ID/DD ~~MR/DD~~ Community Care Act.

(7) "Maintenance" means food, shelter and laundry.

(8) "Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs, or general supervision of the physical and mental well-being of an individual who because of age, physical, or mental disability, emotion or behavior disorder, or an intellectual disability ~~mental retardation~~ is incapable of managing his or her person, whether or not a guardian has been appointed for such individual. For the purposes of this Act, this definition does not include the professional services of a nurse.

(9) "Nursing" means professional nursing or practical nursing, as those terms are defined in the Nurse Practice Act, for sick or infirm persons who are under the care and supervision of licensed physicians or dentists.

(10) "Disciplinary action" means revocation, suspension, probation, supervision, reprimand, required education, fines or any other action taken by the Department against a person holding a license.

(11) "Impaired" means the inability to practice with reasonable skill and safety due to physical or mental disabilities as evidenced by a written determination or written consent based on clinical evidence including deterioration through the aging process or loss of motor skill, or abuse of drugs or alcohol, of sufficient degree to diminish a person's ability to administer a nursing home.

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

(Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)

(225 ILCS 70/17) (from Ch. 111, par. 3667)

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

Sec. 17. Grounds for disciplinary action.

(a) The Department may impose fines not to exceed $10,000 or may refuse to issue or to renew, or may revoke, suspend, place on probation, censure, reprimand or take other disciplinary or non-disciplinary action with regard to the license of any person, for any one or combination of the following causes:

(1) Intentional material misstatement in furnishing information to the Department.

(2) 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 a misdemeanor of which an essential element is dishonesty or that is directly related to the practice of the profession of nursing home administration.

(3) Making any misrepresentation for the purpose of obtaining a license, or violating any provision of this Act.

(4) Immoral conduct in the commission of any act, such as sexual abuse or sexual misconduct, related to the licensee's practice.

(5) Failing to respond within 30 days, to a written request made by the Department for information.

(6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely

to deceive, defraud or harm the public.

(7) Habitual use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug which results in the inability to practice with reasonable judgment, skill or safety.

(8) Discipline by another U.S. jurisdiction if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth herein.

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

(10) 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.

(11) Physical illness, mental illness, or other impairment or disability, including, but not limited to, deterioration through the aging process, or loss of motor skill that results in the inability to practice the profession with reasonable judgment, skill or safety.

(12) Disregard or violation of this Act or of any rule issued pursuant to this Act.

(13) Aiding or abetting another in the violation of this Act or any rule or regulation issued pursuant to this Act.

(14) Allowing one's license to be used by an unlicensed person.

(15) (Blank).

(16) Professional incompetence in the practice of nursing home administration.

(17) Conviction of a violation of Section 12-19 of the Criminal Code of 1961 for the abuse and gross neglect of a long term care facility resident.

(18) Violation of the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act or of any rule issued under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act. A final adjudication of a Type "AA" violation of the Nursing Home Care Act made by the Illinois Department of Public Health, as identified by rule, relating to the hiring, training, planning, organizing, directing, or supervising the operation of a nursing home and a licensee's failure to comply with this Act or the rules adopted under this Act, shall create a rebuttable presumption of a violation of this subsection.

(19) Failure to report to the Department any adverse final action taken against the licensee by a licensing authority of another state, territory of the United States, or foreign country; or by any governmental or law enforcement agency; or by any court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this Section.

(20) Failure to report to the Department the surrender of a license or authorization to practice as a nursing home administrator in another state or jurisdiction for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this Section.

(21) Failure to report to the Department any adverse judgment, settlement, or award arising from a liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under this Section.

All proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 years next after receipt by the Department of (i) a complaint alleging the commission of or notice of the conviction order for any of the acts described herein or (ii) a referral for investigation under Section 3-108 of the Nursing Home Care Act.

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a person in need of mental treatment operates as a suspension of that license. That person may resume their practice only upon the entry of a Department order based upon a finding by the Board that they have been determined to be recovered from mental illness by the court and upon the Board's recommendation that they be permitted to resume their practice.

The Department, upon the recommendation of the Board, may adopt rules which set forth standards to be used in determining what constitutes:

(i) when a person will be deemed sufficiently rehabilitated to warrant the public trust;

(ii) dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(iii) immoral conduct in the commission of any act related to the licensee's practice; and

(iv) professional incompetence in the practice of nursing home administration.

However, no such rule shall be admissible into evidence in any civil action except for review of a licensing or other disciplinary action under this Act.

In enforcing this Section, the Department or Board, upon a showing of a possible violation, may

compel any individual licensed to practice under this Act, or who has applied for licensure pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Department or Board. The Department or Board may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board shall require such individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. Any individual whose license was granted pursuant to this Act or continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately, pending a hearing by the Department. In instances in which the Secretary immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Board within 30 days after such suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject administrator's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(b) Any individual or organization acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Department, or assisting in the investigation or preparation of such information, or by participating in proceedings of the Department, or by serving as a member of the Board, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(c) Members of the Board, and persons retained under contract to assist and advise in an investigation, shall be indemnified by the State for any actions occurring within the scope of services on or for the Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

Should the Attorney General decline representation, a person entitled to indemnification under this Section shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were wilful and wanton.

A person entitled to indemnification under this Section must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent a person entitled to indemnification under this Section.

(d) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. Such suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient; and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice.

(e) The Department may refuse to issue or may suspend the license 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 tax, penalty or interest, as required by any tax Act administered by the Department of Revenue, until such

time as the requirements of any such tax Act are satisfied.

(f) The Department of Public Health shall transmit to the Department a list of those facilities which receive an "A" violation as defined in Section 1-129 of the Nursing Home Care Act.

(Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10; 96-1372, eff. 7-29-10.)

Section 82. The Pharmacy Practice Act is amended by changing Section 3 as follows:

(225 ILCS 85/3)

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

Sec. 3. Definitions. For the purpose of this Act, except where otherwise limited therein:

(a) "Pharmacy" or "drugstore" means and includes every store, shop, pharmacy department, or other place where pharmacist care is provided by a pharmacist (1) where drugs, medicines, or poisons are dispensed, sold or offered for sale at retail, or displayed for sale at retail; or (2) where prescriptions of physicians, dentists, advanced practice nurses, physician assistants, veterinarians, podiatrists, or optometrists, within the limits of their licenses, are compounded, filled, or dispensed; or (3) which has upon it or displayed within it, or affixed to or used in connection with it, a sign bearing the word or words "Pharmacist", "Druggist", "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore", "Medicine Store", "Prescriptions", "Drugs", "Dispensary", "Medicines", or any word or words of similar or like import, either in the English language or any other language; or (4) where the characteristic prescription sign (Rx) or similar design is exhibited; or (5) any store, or shop, or other place with respect to which any of the above words, objects, signs or designs are used in any advertisement.

(b) "Drugs" means and includes (l) articles recognized in the official United States Pharmacopoeia/National Formulary (USP/NF), or any supplement thereto and being intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, as approved by the United States Food and Drug Administration, but does not include devices or their components, parts, or accessories; and (2) all other articles intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, as approved by the United States Food and Drug Administration, but does not include devices or their components, parts, or accessories; and (3) articles (other than food) having for their main use and intended to affect the structure or any function of the body of man or other animals; and (4) articles having for their main use and intended for use as a component or any articles specified in clause (l), (2) or (3); but does not include devices or their components, parts or accessories.

(c) "Medicines" means and includes all drugs intended for human or veterinary use approved by the United States Food and Drug Administration.

(d) "Practice of pharmacy" means (1) the interpretation and the provision of assistance in the monitoring, evaluation, and implementation of prescription drug orders; (2) the dispensing of prescription drug orders; (3) participation in drug and device selection; (4) drug administration limited to the administration of oral, topical, injectable, and inhalation as follows: in the context of patient education on the proper use or delivery of medications; vaccination of patients 14 years of age and older pursuant to a valid prescription or standing order, by a physician licensed to practice medicine in all its branches, upon completion of appropriate training, including how to address contraindications and adverse reactions set forth by rule, with notification to the patient's physician and appropriate record retention, or pursuant to hospital pharmacy and therapeutics committee policies and procedures; (5) drug regimen review; (6) drug or drug-related research; (7) the provision of patient counseling; (8) the practice of telepharmacy; (9) the provision of those acts or services necessary to provide pharmacist care; (10) medication therapy management; and (11) the responsibility for compounding and labeling of drugs and devices (except labeling by a manufacturer, repackager, or distributor of non-prescription drugs and commercially packaged legend drugs and devices), proper and safe storage of drugs and devices, and maintenance of required records. A pharmacist who performs any of the acts defined as the practice of pharmacy in this State must be actively licensed as a pharmacist under this Act.

(e) "Prescription" means and includes any written, oral, facsimile, or electronically transmitted order for drugs or medical devices, issued by a physician licensed to practice medicine in all its branches, dentist, veterinarian, or podiatrist, or optometrist, within the limits of their licenses, by a physician assistant in accordance with subsection (f) of Section 4, or by an advanced practice nurse in accordance with subsection (g) of Section 4, containing the following: (l) name of the patient; (2) date when prescription was issued; (3) name and strength of drug or description of the medical device prescribed; and (4) quantity; (5) directions for use; (6) prescriber's name, address, and signature; and (7) DEA number where required, for controlled substances. The prescription may, but is not required to, list the illness, disease, or condition for which the drug or device is being prescribed. DEA numbers shall not be required on inpatient drug orders.

(f) "Person" means and includes a natural person, copartnership, association, corporation, government entity, or any other legal entity.

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

(h) "Board of Pharmacy" or "Board" means the State Board of Pharmacy of the Department of Financial and Professional Regulation.

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

(j) "Drug product selection" means the interchange for a prescribed pharmaceutical product in accordance with Section 25 of this Act and Section 3.14 of the Illinois Food, Drug and Cosmetic Act.

(k) "Inpatient drug order" means an order issued by an authorized prescriber for a resident or patient of a facility licensed under the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Hospital Licensing Act, or "An Act in relation to the founding and operation of the University of Illinois Hospital and the conduct of University of Illinois health care programs", approved July 3, 1931, as amended, or a facility which is operated by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) or the Department of Corrections.

(k-5) "Pharmacist" means an individual health care professional and provider currently licensed by this State to engage in the practice of pharmacy.

(l) "Pharmacist in charge" means the licensed pharmacist whose name appears on a pharmacy license and who is responsible for all aspects of the operation related to the practice of pharmacy.

(m) "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to or use by a patient in accordance with applicable State and federal laws and regulations. "Dispense" or "dispensing" does not mean the physical delivery to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier. "Dispense" or "dispensing" also does not mean the physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

(n) "Nonresident pharmacy" means a pharmacy that is located in a state, commonwealth, or territory of the United States, other than Illinois, that delivers, dispenses, or distributes, through the United States Postal Service, commercially acceptable parcel delivery service, or other common carrier, to Illinois residents, any substance which requires a prescription.

(o) "Compounding" means the preparation and mixing of components, excluding flavorings, (1) as the result of a prescriber's prescription drug order or initiative based on the prescriber-patient-pharmacist relationship in the course of professional practice or (2) for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing. "Compounding" includes the preparation of drugs or devices in anticipation of receiving prescription drug orders based on routine, regularly observed dispensing patterns. Commercially available products may be compounded for dispensing to individual patients only if all of the following conditions are met: (i) the commercial product is not reasonably available from normal distribution channels in a timely manner to meet the patient's needs and (ii) the prescribing practitioner has requested that the drug be compounded.

(p) (Blank).

(q) (Blank).

(r) "Patient counseling" means the communication between a pharmacist or a student pharmacist under the supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of optimizing proper use of prescription medications or devices. "Patient counseling" may include without limitation (1) obtaining a medication history; (2) acquiring a patient's allergies and health conditions; (3) facilitation of the patient's understanding of the intended use of the medication; (4) proper directions for use; (5) significant potential adverse events; (6) potential food-drug interactions; and (7) the need to be compliant with the medication therapy. A pharmacy technician may only participate in the following aspects of patient counseling under the supervision of a pharmacist: (1) obtaining medication history; (2) providing the offer for counseling by a pharmacist or student pharmacist; and (3) acquiring a patient's allergies and health conditions.

(s) "Patient profiles" or "patient drug therapy record" means the obtaining, recording, and maintenance of patient prescription information, including prescriptions for controlled substances, and personal information.

(t) (Blank).

(u) "Medical device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, required under federal law to bear the label "Caution: Federal law requires dispensing by or on the order of a physician". A seller of goods and services who, only for the purpose of retail sales, compounds, sells,

rents, or leases medical devices shall not, by reasons thereof, be required to be a licensed pharmacy.

(v) "Unique identifier" means an electronic signature, handwritten signature or initials, thumb print, or other acceptable biometric or electronic identification process as approved by the Department.

(w) "Current usual and customary retail price" means the price that a pharmacy charges to a non-third-party payor.

(x) "Automated pharmacy system" means a mechanical system located within the confines of the pharmacy or remote location that performs operations or activities, other than compounding or administration, relative to storage, packaging, dispensing, or distribution of medication, and which collects, controls, and maintains all transaction information.

(y) "Drug regimen review" means and includes the evaluation of prescription drug orders and patient records for (1) known allergies; (2) drug or potential therapy contraindications; (3) reasonable dose, duration of use, and route of administration, taking into consideration factors such as age, gender, and contraindications; (4) reasonable directions for use; (5) potential or actual adverse drug reactions; (6) drug-drug interactions; (7) drug-food interactions; (8) drug-disease contraindications; (9) therapeutic duplication; (10) patient laboratory values when authorized and available; (11) proper utilization (including over or under utilization) and optimum therapeutic outcomes; and (12) abuse and misuse.

(z) "Electronic transmission prescription" means any prescription order for which a facsimile or electronic image of the order is electronically transmitted from a licensed prescriber to a pharmacy. "Electronic transmission prescription" includes both data and image prescriptions.

(aa) "Medication therapy management services" means a distinct service or group of services offered by licensed pharmacists, physicians licensed to practice medicine in all its branches, advanced practice nurses authorized in a written agreement with a physician licensed to practice medicine in all its branches, or physician assistants authorized in guidelines by a supervising physician that optimize therapeutic outcomes for individual patients through improved medication use. In a retail or other non-hospital pharmacy, medication therapy management services shall consist of the evaluation of prescription drug orders and patient medication records to resolve conflicts with the following:

(1) known allergies;

(2) drug or potential therapy contraindications;

(3) reasonable dose, duration of use, and route of administration, taking into consideration factors such as age, gender, and contraindications;

(4) reasonable directions for use;

(5) potential or actual adverse drug reactions;

(6) drug-drug interactions;

(7) drug-food interactions;

(8) drug-disease contraindications;

(9) identification of therapeutic duplication;

(10) patient laboratory values when authorized and available;

(11) proper utilization (including over or under utilization) and optimum therapeutic outcomes; and

(12) drug abuse and misuse.

"Medication therapy management services" includes the following:

(1) documenting the services delivered and communicating the information provided to patients' prescribers within an appropriate time frame, not to exceed 48 hours;

(2) providing patient counseling designed to enhance a patient's understanding and the appropriate use of his or her medications; and

(3) providing information, support services, and resources designed to enhance a patient's adherence with his or her prescribed therapeutic regimens.

"Medication therapy management services" may also include patient care functions authorized by a physician licensed to practice medicine in all its branches for his or her identified patient or groups of patients under specified conditions or limitations in a standing order from the physician.

"Medication therapy management services" in a licensed hospital may also include the following:

(1) reviewing assessments of the patient's health status; and

(2) following protocols of a hospital pharmacy and therapeutics committee with respect to the fulfillment of medication orders.

(bb) "Pharmacist care" means the provision by a pharmacist of medication therapy management services, with or without the dispensing of drugs or devices, intended to achieve outcomes that improve patient health, quality of life, and comfort and enhance patient safety.

(cc) "Protected health information" means individually identifiable health information that, except as otherwise provided, is:

(1) transmitted by electronic media;

(2) maintained in any medium set forth in the definition of "electronic media" in the federal Health Insurance Portability and Accountability Act; or

(3) transmitted or maintained in any other form or medium.

"Protected health information" does not include individually identifiable health information found in:

(1) education records covered by the federal Family Educational Right and Privacy Act; or

(2) employment records held by a licensee in its role as an employer.

(dd) "Standing order" means a specific order for a patient or group of patients issued by a physician licensed to practice medicine in all its branches in Illinois.

(ee) "Address of record" means the address recorded by the Department in the applicant's or licensee's application file or license file, as maintained by the Department's licensure maintenance unit.

(ff) "Home pharmacy" means the location of a pharmacy's primary operations.

(Source: P.A. 95-689, eff. 10-29-07; 96-339, eff. 7-1-10; 96-673, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1353, eff. 7-28-10.)

Section 83. The Nurse Agency Licensing Act is amended by changing Section 3 as follows:

(225 ILCS 510/3) (from Ch. 111, par. 953)

Sec. 3. Definitions. As used in this Act:

(a) "Certified nurse aide" means an individual certified as defined in Section 3-206 of the Nursing Home Care Act or Section 3-206 of the ID/DD ~~MR/DD~~ Community Care Act, as now or hereafter amended.

(b) "Department" means the Department of Labor.

(c) "Director" means the Director of Labor.

(d) "Health care facility" is defined as in Section 3 of the Illinois Health Facilities Planning Act, as now or hereafter amended.

(e) "Licensee" means any nursing agency which is properly licensed under this Act.

(f) "Nurse" means a registered nurse or a licensed practical nurse as defined in the Nurse Practice Act.

(g) "Nurse agency" means any individual, firm, corporation, partnership or other legal entity that employs, assigns or refers nurses or certified nurse aides to a health care facility for a fee. The term "nurse agency" includes nurses registries. The term "nurse agency" does not include services provided by home health agencies licensed and operated under the Home Health, Home Services, and Home Nursing Agency Licensing Act or a licensed or certified individual who provides his or her own services as a regular employee of a health care facility, nor does it apply to a health care facility's organizing nonsalaried employees to provide services only in that facility.

(Source: P.A. 95-639, eff. 10-5-07; 96-339, eff. 7-1-10.)

Section 85. The Illinois Public Aid Code is amended by changing Sections 5-1.1, 5-5.4, 5-5.7, 5-5.17, 5-6, 5-13, 5B-1, 5C-1, 5E-5, 8A-11, and 11-4.1 and by changing and renumbering Section 12-4.40 as added by Public Act 96-1405 as follows:

(305 ILCS 5/5-1.1) (from Ch. 23, par. 5-1.1)

Sec. 5-1.1. Definitions. The terms defined in this Section shall have the meanings ascribed to them, except when the context otherwise requires.

(a) "Nursing facility" means a facility, licensed by the Department of Public Health under the Nursing Home Care Act, that provides nursing facility services within the meaning of Title XIX of the federal Social Security Act.

(b) "Intermediate care facility for the developmentally disabled" or "ICF/DD" means a facility, licensed by the Department of Public Health under the ID/DD ~~MR/DD~~ Community Care Act, that is an intermediate care facility for the mentally retarded within the meaning of Title XIX of the federal Social Security Act.

(c) "Standard services" means those services required for the care of all patients in the facility and shall, as a minimum, include the following: (1) administration; (2) dietary (standard); (3) housekeeping; (4) laundry and linen; (5) maintenance of property and equipment, including utilities; (6) medical records; (7) training of employees; (8) utilization review; (9) activities services; (10) social services; (11) disability services; and all other similar services required by either the laws of the State of Illinois or one of its political subdivisions or municipalities or by Title XIX of the Social Security Act.

(d) "Patient services" means those which vary with the number of personnel; professional and para-professional skills of the personnel; specialized equipment, and reflect the intensity of the medical and psycho-social needs of the patients. Patient services shall as a minimum include: (1) physical

services; (2) nursing services, including restorative nursing; (3) medical direction and patient care planning; (4) health related supportive and habilitative services and all similar services required by either the laws of the State of Illinois or one of its political subdivisions or municipalities or by Title XIX of the Social Security Act.

(e) "Ancillary services" means those services which require a specific physician's order and defined as under the medical assistance program as not being routine in nature for skilled nursing facilities and ICF/DDs. Such services generally must be authorized prior to delivery and payment as provided for under the rules of the Department of Healthcare and Family Services.

(f) "Capital" means the investment in a facility's assets for both debt and non-debt funds. Non-debt capital is the difference between an adjusted replacement value of the assets and the actual amount of debt capital.

(g) "Profit" means the amount which shall accrue to a facility as a result of its revenues exceeding its expenses as determined in accordance with generally accepted accounting principles.

(h) "Non-institutional services" means those services provided under paragraph (f) of Section 3 of the Disabled Persons Rehabilitation Act and those services provided under Section 4.02 of the Illinois Act on the Aging.

(i) "Exceptional medical care" means the level of medical care required by persons who are medically stable for discharge from a hospital but who require acute intensity hospital level care for physician, nurse and ancillary specialist services, including persons with acquired immunodeficiency syndrome (AIDS) or a related condition. Such care shall consist of those services which the Department shall determine by rule.

(j) "Institutionalized person" means an individual who is an inpatient in an ICF/DD or nursing facility, or who is an inpatient in a medical institution receiving a level of care equivalent to that of an ICF/DD or nursing facility, or who is receiving services under Section 1915(c) of the Social Security Act.

(k) "Institutionalized spouse" means an institutionalized person who is expected to receive services at the same level of care for at least 30 days and is married to a spouse who is not an institutionalized person.

(l) "Community spouse" is the spouse of an institutionalized spouse.

(Source: P.A. 95-331, eff. 8-21-07; 96-1530, eff. 2-16-11.)

(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 ID/DD ~~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.

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.

(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.

(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 5/5-5.7) (from Ch. 23, par. 5-5.7)

Sec. 5-5.7. Cost Reports - Audits. The Department of Healthcare and Family Services shall work with the Department of Public Health to use cost report information currently being collected under provisions of the Nursing Home Care Act and the ID/DD ~~MR/DD~~ Community Care Act. The Department of Healthcare and Family Services may, in conjunction with the Department of Public Health, develop in accordance with generally accepted accounting principles a uniform chart of accounts which each facility providing services under the medical assistance program shall adopt, after a reasonable period.

Nursing homes licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act and providers of adult developmental training services certified by the Department of Human Services pursuant to Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act which provide services to clients eligible for medical assistance under this Article are responsible for submitting the required annual cost report to the Department of Healthcare and Family Services.

The Department of Healthcare and Family Services shall audit the financial and statistical records of each provider participating in the medical assistance program as a nursing facility or ICF/DD over a 3 year period, beginning with the close of the first cost reporting year. Following the end of this 3-year term, audits of the financial and statistical records will be performed each year in at least 20% of the facilities participating in the medical assistance program with at least 10% being selected on a random sample basis, and the remainder selected on the basis of exceptional profiles. All audits shall be conducted in accordance with generally accepted auditing standards.

The Department of Healthcare and Family Services shall establish prospective payment rates for categories of service needed within the nursing facility or ICF/DD levels of services, in order to more

appropriately recognize the individual needs of patients in nursing facilities.

The Department of Healthcare and Family Services shall provide, during the process of establishing the payment rate for nursing facility or ICF/DD services, or when a substantial change in rates is proposed, an opportunity for public review and comment on the proposed rates prior to their becoming effective.

(Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

(305 ILCS 5/5-5.17) (from Ch. 23, par. 5-5.17)

Sec. 5-5.17. Separate reimbursement rate. The Illinois Department may by rule establish a separate reimbursement rate to be paid to long term care facilities for adult developmental training services as defined in Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act which are provided to intellectually disabled ~~mentally retarded~~ residents of such facilities who receive aid under this Article. Any such reimbursement shall be based upon cost reports submitted by the providers of such services and shall be paid by the long term care facility to the provider within such time as the Illinois Department shall prescribe by rule, but in no case less than 3 business days after receipt of the reimbursement by such facility from the Illinois Department. The Illinois Department may impose a penalty upon a facility which does not make payment to the provider of adult developmental training services within the time so prescribed, up to the amount of payment not made to the provider.

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

(305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

Sec. 5-6. Obligations incurred prior to death of a recipient. Obligations incurred but not paid for at the time of a recipient's death for services authorized under Section 5-5, including medical and other care in group care facilities as defined in the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, or in like facilities not required to be licensed under that Act, may be paid, subject to the rules and regulations of the Illinois Department, after the death of the recipient.

(Source: P.A. 96-339, eff. 7-1-10.)

(305 ILCS 5/5-13) (from Ch. 23, par. 5-13)

Sec. 5-13. Claim against estate of recipients. To the extent permitted under the federal Social Security Act, the amount expended under this Article (1) for a person of any age who is an inpatient in a nursing facility, an intermediate care facility for the intellectually disabled ~~mentally retarded~~, or other medical institution, or (2) for a person aged 55 or more, shall be a claim against the person's estate or a claim against the estate of the person's spouse, regardless of the order of death, but no recovery may be had thereon until after the death of the surviving spouse, if any, and then only at such time when there is no surviving child who is under age 21, or blind, or permanently and totally disabled. This Section, however, shall not bar recovery at the death of the person of amounts of medical assistance paid to or in his behalf to which he was not entitled; provided that such recovery shall not be enforced against any real estate while it is occupied as a homestead by the surviving spouse or other dependent, if no claims by other creditors have been filed against the estate, or if such claims have been filed, they remain dormant for failure of prosecution or failure of the claimant to compel administration of the estate for the purpose of payment. The term "estate", as used in this Section, with respect to a deceased person, means all real and personal property and other assets included within the person's estate, as that term is used in the Probate Act of 1975; however, in the case of a deceased person who has received (or is entitled to receive) benefits under a long-term care insurance policy in connection with which assets or resources are disregarded to the extent that payments are made or because the deceased person received (or was entitled to receive) benefits under a long-term care insurance policy, "estate" also includes any other real and personal property and other assets in which the deceased person had any legal title or interest at the time of his or her death (to the extent of that interest), including assets conveyed to a survivor, heir, or assignee of the deceased person through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. The term "homestead", as used in this Section, means the dwelling house and contiguous real estate occupied by a surviving spouse or relative, as defined by the rules and regulations of the Illinois Department, regardless of the value of the property.

A claim arising under this Section against assets conveyed to a survivor, heir, or assignee of the deceased person through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement is not effective until the claim is recorded or filed in the manner provided for a notice of lien in Section 3-10.2. The claim is subject to the same requirements and conditions to which liens on real property interests are subject under Sections 3-10.1 through 3-10.10. A claim arising under this Section attaches to interests owned or subsequently acquired by the estate of a recipient or the estate of a recipient's surviving spouse. The transfer or conveyance of any real or personal property of the estate as defined in this Section shall be subject to the fraudulent transfer conditions that apply to real property in Section 3-11 of this Code.

The provisions of this Section shall not affect the validity of claims against estates for medical assistance provided prior to January 1, 1966 to aged, blind, or disabled persons receiving aid under Articles V, VII and VII-A of the 1949 Code.
(Source: P.A. 88-85; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95; 89-437, eff. 12-15-95; 89-686, eff. 12-31-96.)

(305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

Sec. 5B-1. Definitions. As used in this Article, unless the context requires otherwise:

"Fund" means the Long-Term Care Provider Fund.

"Long-term care facility" means (i) a nursing facility, whether public or private and whether organized for profit or not-for-profit, that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, including a county nursing home directed and maintained under Section 5-1005 of the Counties Code, and (ii) a part of a hospital in which skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act are provided; except that the term "long-term care facility" does not include a facility operated by a State agency, a facility participating in the Illinois Department's demonstration program pursuant to the provisions of Title 77, Part 300, Subpart T of the Illinois Administrative Code, or operated solely as an intermediate care facility for the mentally retarded within the meaning of Title XIX of the Social Security Act.

"Long-term care provider" means (i) a person licensed by the Department of Public Health to operate and maintain a skilled nursing or intermediate long-term care facility or (ii) a hospital provider that provides skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act. For purposes of this paragraph, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court. "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital.

"Occupied bed days" shall be computed separately for each long-term care facility operated or maintained by a long-term care provider, and means the sum for all beds of the number of days during the month on which each bed was occupied by a resident, other than a resident for whom Medicare Part A is the primary payer.
(Source: P.A. 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

(305 ILCS 5/5C-1) (from Ch. 23, par. 5C-1)

Sec. 5C-1. Definitions. As used in this Article, unless the context requires otherwise:

"Fund" means the Developmentally Disabled Care Provider Fund.

"Developmentally disabled care facility" means an intermediate care facility for the intellectually disabled ~~mentally retarded~~ within the meaning of Title XIX of the Social Security Act, whether public or private and whether organized for profit or not-for-profit, but shall not include any facility operated by the State.

"Developmentally disabled care provider" means a person conducting, operating, or maintaining a developmentally disabled care facility. For this purpose, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Adjusted gross developmentally disabled care revenue" shall be computed separately for each developmentally disabled care facility conducted, operated, or maintained by a developmentally disabled care provider, and means the developmentally disabled care provider's total revenue for inpatient residential services less contractual allowances and discounts on patients' accounts, but does not include non-patient revenue from sources such as contributions, donations or bequests, investments, day training services, television and telephone service, and rental of facility space.
(Source: P.A. 87-861.)

(305 ILCS 5/5E-5)

Sec. 5E-5. Definitions. As used in this Article, unless the context requires otherwise:

"Nursing home" means (i) a skilled nursing or intermediate long-term care facility, whether public or private and whether organized for profit or not-for-profit, that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, including a county nursing home directed and maintained under Section 5-1005 of the Counties Code, and (ii) a part of a hospital in which skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act are provided; except that the term "nursing home" does not include a facility operated solely as an intermediate care facility for the intellectually

disabled ~~mentally retarded~~ within the meaning of Title XIX of the Social Security Act.

"Nursing home provider" means (i) a person licensed by the Department of Public Health to operate and maintain a skilled nursing or intermediate long-term care facility which charges its residents, a third party payor, Medicaid, or Medicare for skilled nursing or intermediate long-term care services, or (ii) a hospital provider that provides skilled or intermediate long-term care services within the meaning of Title XVIII or XIX of the Social Security Act. For purposes of this paragraph, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court. "Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital.

"Licensed bed days" shall be computed separately for each nursing home operated or maintained by a nursing home provider and means, with respect to a nursing home provider, the sum for all nursing home beds of the number of days during a calendar quarter on which each bed is covered by a license issued to that provider under the Nursing Home Care Act or the Hospital Licensing Act.

(Source: P.A. 96-339, eff. 7-1-10.)

(305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

Sec. 8A-11. (a) No person shall:

(1) Knowingly charge a resident of a nursing home for any services provided pursuant to Article V of the Illinois Public Aid Code, money or other consideration at a rate in excess of the rates established for covered services by the Illinois Department pursuant to Article V of The Illinois Public Aid Code; or

(2) Knowingly charge, solicit, accept or receive, in addition to any amount otherwise authorized or required to be paid pursuant to Article V of The Illinois Public Aid Code, any gift, money, donation or other consideration:

(i) As a precondition to admitting or expediting the admission of a recipient or applicant, pursuant to Article V of The Illinois Public Aid Code, to a long-term care facility as defined in Section 1-113 of the Nursing Home Care Act or a facility as defined in Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act; and

(ii) As a requirement for the recipient's or applicant's continued stay in such facility when the cost of the services provided therein to the recipient is paid for, in whole or in part, pursuant to Article V of The Illinois Public Aid Code.

(b) Nothing herein shall prohibit a person from making a voluntary contribution, gift or donation to a long-term care facility.

(c) This paragraph shall not apply to agreements to provide continuing care or life care between a life care facility as defined by the Life Care Facilities Act, and a person financially eligible for benefits pursuant to Article V of The Illinois Public Aid Code.

(d) Any person who violates this Section shall be guilty of a business offense and fined not less than $5,000 nor more than $25,000.

(e) "Person", as used in this Section, means an individual, corporation, partnership, or unincorporated association.

(f) The State's Attorney of the county in which the facility is located and the Attorney General shall be notified by the Illinois Department of any alleged violations of this Section known to the Department.

(g) The Illinois Department shall adopt rules and regulations to carry out the provisions of this Section.

(Source: P.A. 96-339, eff. 7-1-10.)

(305 ILCS 5/11-4.1)

Sec. 11-4.1. Medical providers assisting with applications for medical assistance. A provider enrolled to provide medical assistance services may, upon the request of an individual, accompany, represent, and assist the individual in applying for medical assistance under Article V of this Code. If an individual is unable to request such assistance due to incapacity or mental incompetence and has no other representative willing or able to assist in the application process, a facility licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act or certified under this Code is authorized to assist the individual in applying for long-term care services. Subject to the provisions of the Free Healthcare Benefits Application Assistance Act, nothing in this Section shall be construed as prohibiting any individual or entity from assisting another individual in applying for medical assistance under Article V of this Code.

(Source: P.A. 96-1439, eff. 8-20-10.)

(305 ILCS 5/12-4.42)

Sec. 12-4.42 ~~12-4.40~~. Medicaid Revenue Maximization.

(a) Purpose. The General Assembly finds that there is a need to make changes to the administration of services provided by State and local governments in order to maximize federal financial participation.

(b) Definitions. As used in this Section:

"Community Medicaid mental health services" means all mental health services outlined in Section 132 of Title 59 of the Illinois Administrative Code that are funded through DHS, eligible for federal financial participation, and provided by a community-based provider.

"Community-based provider" means an entity enrolled as a provider pursuant to Sections 140.11 and 140.12 of Title 89 of the Illinois Administrative Code and certified to provide community Medicaid mental health services in accordance with Section 132 of Title 59 of the Illinois Administrative Code.

"DCFS" means the Department of Children and Family Services.

"Department" means the Illinois Department of Healthcare and Family Services.

"Developmentally disabled care facility" means an intermediate care facility for the intellectually disabled ~~mentally retarded~~ within the meaning of Title XIX of the Social Security Act, whether public or private and whether organized for profit or not-for-profit, but shall not include any facility operated by the State.

"Developmentally disabled care provider" means a person conducting, operating, or maintaining a developmentally disabled care facility. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

"DHS" means the Illinois Department of Human Services.

"Hospital" means an institution, place, building, or agency located in this State that is licensed as a general acute hospital by the Illinois Department of Public Health under the Hospital Licensing Act, whether public or private and whether organized for profit or not-for-profit.

"Long term care facility" means (i) a skilled nursing or intermediate long term care facility, whether public or private and whether organized for profit or not-for-profit, that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act, including a county nursing home directed and maintained under Section 5-1005 of the Counties Code, and (ii) a part of a hospital in which skilled or intermediate long term care services within the meaning of Title XVIII or XIX of the Social Security Act are provided; except that the term "long term care facility" does not include a facility operated solely as an intermediate care facility for the intellectually disabled ~~mentally retarded~~ within the meaning of Title XIX of the Social Security Act.

"Long term care provider" means (i) a person licensed by the Department of Public Health to operate and maintain a skilled nursing or intermediate long term care facility or (ii) a hospital provider that provides skilled or intermediate long term care services within the meaning of Title XVIII or XIX of the Social Security Act. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

"State-operated developmentally disabled care facility" means an intermediate care facility for the intellectually disabled ~~mentally retarded~~ within the meaning of Title XIX of the Social Security Act operated by the State.

(c) Administration and deposit of Revenues. The Department shall coordinate the implementation of changes required by this amendatory Act of the 96th General Assembly amongst the various State and local government bodies that administer programs referred to in this Section.

Revenues generated by program changes mandated by any provision in this Section, less reasonable administrative costs associated with the implementation of these program changes, shall be deposited into the Healthcare Provider Relief Fund.

The Department shall issue a report to the General Assembly detailing the implementation progress of this amendatory Act of the 96th General Assembly as a part of the Department's Medical Programs annual report for fiscal years 2010 and 2011.

(d) Acceleration of payment vouchers. To the extent practicable and permissible under federal law, the Department shall create all vouchers for long term care facilities and developmentally disabled care facilities for dates of service in the month in which the enhanced federal medical assistance percentage (FMAP) originally set forth in the American Recovery and Reinvestment Act (ARRA) expires and for dates of service in the month prior to that month and shall, no later than the 15th of the month in which the enhanced FMAP expires, submit these vouchers to the Comptroller for payment.

The Department of Human Services shall create the necessary documentation for State-operated

developmentally disabled care facilities so that the necessary data for all dates of service before the expiration of the enhanced FMAP originally set forth in the ARRA can be adjudicated by the Department no later than the 15th of the month in which the enhanced FMAP expires.

(e) Billing of DHS community Medicaid mental health services. No later than July 1, 2011, community Medicaid mental health services provided by a community-based provider must be billed directly to the Department.

(f) DCFS Medicaid services. The Department shall work with DCFS to identify existing programs, pending qualifying services, that can be converted in an economically feasible manner to Medicaid in order to secure federal financial revenue.

(g) Third Party Liability recoveries. The Department shall contract with a vendor to support the Department in coordinating benefits for Medicaid enrollees. The scope of work shall include, at a minimum, the identification of other insurance for Medicaid enrollees and the recovery of funds paid by the Department when another payer was liable. The vendor may be paid a percentage of actual cash recovered when practical and subject to federal law.

(h) Public health departments. The Department shall identify unreimbursed costs for persons covered by Medicaid who are served by the Chicago Department of Public Health.

The Department shall assist the Chicago Department of Public Health in determining total unreimbursed costs associated with the provision of healthcare services to Medicaid enrollees.

The Department shall determine and draw the maximum allowable federal matching dollars associated with the cost of Chicago Department of Public Health services provided to Medicaid enrollees.

(i) Acceleration of hospital-based payments. The Department shall, by the 10th day of the month in which the enhanced FMAP originally set forth in the ARRA expires, create vouchers for all State fiscal year 2011 hospital payments exempt from the prompt payment requirements of the ARRA. The Department shall submit these vouchers to the Comptroller for payment.

(Source: P.A. 96-1405, eff. 7-29-10; revised 9-9-10.)

Section 90. The Medicaid Revenue Act is amended by changing Section 1-2 as follows:

(305 ILCS 35/1-2) (from Ch. 23, par. 7051-2)

Sec. 1-2. Legislative finding and declaration. The General Assembly hereby finds, determines, and declares:

(1) It is in the public interest and it is the public policy of this State to provide for and improve the basic medical care and long-term health care services of its indigent, most vulnerable citizens.

(2) Preservation of health, alleviation of sickness, and correction of handicapping conditions for persons requiring maintenance support are essential if those persons are to have an opportunity to become self-supporting or to attain a greater capacity for self-care.

(3) For persons who are medically indigent but otherwise able to provide themselves a livelihood, it is of special importance to maintain their incentives for continued independence and preserve their limited resources for ordinary maintenance needed to prevent their total or substantial dependence on public support.

(4) The State has historically provided for care and services, in conjunction with the federal government, through the establishment and funding of a medical assistance program administered by the Department of Healthcare and Family Services (formerly Department of Public Aid) and approved by the Secretary of Health and Human Services under Title XIX of the federal Social Security Act, that program being commonly referred to as "Medicaid".

(5) The Medicaid program is a funding partnership between the State of Illinois and the federal government, with the Department of Healthcare and Family Services being designated as the single State agency responsible for the administration of the program, but with the State historically receiving 50% of the amounts expended as medical assistance under the Medicaid program from the federal government.

(6) To raise a portion of Illinois' share of the Medicaid funds after July 1, 1991, the General Assembly enacted Public Act 87-13 to provide for the collection of provider participation fees from designated health care providers receiving Medicaid payments.

(7) On September 12, 1991, the Secretary of Health and Human Services proposed regulations that could have reduced the federal matching of Medicaid expenditures incurred on or after January 1, 1992 by the portion of the expenditures paid from funds raised through the provider participation fees.

(8) To prevent the Secretary from enacting those regulations but at the same time to impose certain statutory limitations on the means by which states may raise Medicaid funds eligible

for federal matching, Congress enacted the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, Public Law 102-234.

(9) Public Law 102-234 provides for a state's share of Medicaid funding eligible for federal matching to be raised through "broad-based health care related taxes", meaning, generally, a tax imposed with respect to a class of health care items or services (or providers thereof) specified therein, which (i) is imposed on all items or services or providers in the class in the state, except federal or public providers, and (ii) is imposed uniformly on all providers in the class at the same rate with respect to the same base.

(10) The separate classes of health care items and services established by P.L. 102-234 include inpatient and outpatient hospital services, nursing facility services, and services of intermediate care facilities for the intellectually disabled ~~mentally retarded~~.

(11) The provider participation fees imposed under P.A. 87-13 may not meet the standards under P.L. 102-234.

(12) The resulting hospital Medicaid reimbursement reductions may force the closure of some hospitals now serving a disproportionately high number of the needy, who would then have to be cared for by remaining hospitals at substantial cost to those remaining hospitals.

(13) The hospitals in the State are all part of and benefit from a hospital system linked together in a number of ways, including common licensing and regulation, health care standards, education, research and disease control reporting, patient transfers for specialist care, and organ donor networks.

(14) Each hospital's patient population demographics, including the proportion of patients whose care is paid by Medicaid, is subject to change over time.

(15) Hospitals in the State have a special interest in the payment of adequate reimbursement levels for hospital care by Medicaid.

(16) Most hospitals are exempt from payment of most federal, State, and local income, sales, property, and other taxes.

(17) The hospital assessment enacted by this Act under the guidelines of P.L. 102-234 is the most efficient means of raising the federally matchable funds needed for hospital care reimbursement.

(18) Cook County Hospital and Oak Forest Hospital are public hospitals owned and operated by Cook County with unique fiscal problems, including a patient population that is primarily Medicaid or altogether nonpaying, that make an intergovernmental transfer payment arrangement a more appropriate means of financing than the regular hospital assessment and reimbursement provisions.

(19) Sole community hospitals provide access to essential care that would otherwise not be reasonably available in the community they serve, such that imposition of assessments on them in their precarious financial circumstances may force their closure and have the effect of reducing access to health care.

(20) Each nursing home's resident population demographics, including the proportion of residents whose care is paid by Medicaid, is subject to change over time in that, among other things, residents currently able to pay the cost of nursing home care may become dependent on Medicaid support for continued care and services as resources are depleted.

(21) As the citizens of the State age, increased pressures will be placed on limited facilities to provide reasonable levels of care for a greater number of geriatric residents, and all involved in the nursing home industry, providers and residents, have a special interest in the maintenance of adequate Medicaid support for all nursing facilities.

(22) The assessments on nursing homes enacted by this Act under the guidelines of P.L. 102-234 are the most efficient means of raising the federally matchable funds needed for nursing home care reimbursement.

(23) All intermediate care facilities for persons with developmental disabilities receive a high degree of Medicaid support and benefits and therefore have a special interest in the maintenance of adequate Medicaid support.

(24) The assessments on intermediate care facilities for persons with developmental disabilities enacted by this Act under the guidelines of P.L. 102-234 are the most efficient means of raising the federally matchable funds needed for reimbursement of providers of intermediate care for persons with developmental disabilities.

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

Section 91. The Nursing Home Grant Assistance Act is amended by changing Section 5 as follows:

(305 ILCS 40/5) (from Ch. 23, par. 7100-5)

Sec. 5. Definitions. As used in this Act, unless the context requires otherwise:

"Applicant" means an eligible individual who makes a payment of at least $1 in a quarter to a nursing home.

"Application" means the receipt by a nursing home of at least $1 from an eligible individual that is a resident of the home.

"Department" means the Department of Revenue.

"Director" means the Director of the Department of Revenue.

"Distribution agent" means a nursing home that is residence to one or more eligible individuals, which receives an application from one or more applicants for participation in the Nursing Home Grant Assistance Program provided for by this Act, and is thereby designated as distributing agent by such applicant or applicants, and which is thereby authorized by virtue of its license to receive from the Department and distribute to eligible individuals residing in the nursing home Nursing Home Grant Assistance payments under this Act.

"Qualified distribution agent" means a distribution agent that the Department of Public Health has certified to the Department of Revenue to be a licensed nursing home in good standing.

"Eligible individual" means an individual eligible for a nursing home grant assistance payment because he or she meets each of the following requirements:

(1) The individual resides, after June 30, 1992, in a nursing home as defined in this Act.

(2) For each day for which nursing home grant assistance is sought, the individual's nursing home care was not paid for, in whole or in part, by a federal, State, or combined federal-State medical care program; the receipt of Medicare Part B benefits does not make a person ineligible for nursing home grant assistance.

(3) The individual's annual adjusted gross income, after payment of any expenses for nursing home care, does not exceed 250% of the federal poverty guidelines for an individual as published annually by the U.S. Department of Health and Human Services for purposes of determining Medicaid eligibility.

"Fund" means the Nursing Home Grant Assistance Fund.

"Nursing home" means a skilled nursing or intermediate long term care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

"Occupied bed days" means the sum for all beds of the number of days during a quarter for which grant assistance is sought under this Act on which a bed is occupied by an individual.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 92. The Elder Abuse and Neglect Act is amended by changing Section 2 as follows:

(320 ILCS 20/2) (from Ch. 23, par. 6602)

Sec. 2. Definitions. As used in this Act, unless the context requires otherwise:

(a) "Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse, neglect, or self-neglect for the sole reason that he or she is being furnished with or relies upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

(a-5) "Abuser" means a person who abuses, neglects, or financially exploits an eligible adult.

(a-7) "Caregiver" means a person who either as a result of a family relationship, voluntarily, or in exchange for compensation has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living.

(b) "Department" means the Department on Aging of the State of Illinois.

(c) "Director" means the Director of the Department.

(d) "Domestic living situation" means a residence where the eligible adult lives alone or with his or her family or a caregiver, or others, or a board and care home or other community-based unlicensed facility, but is not:

(1) A licensed facility as defined in Section 1-113 of the Nursing Home Care Act;

(1.5) A facility licensed under the ID/DD ~~MR/DD~~ Community Care Act;

(2) A "life care facility" as defined in the Life Care Facilities Act;

(3) A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

(4) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;

(5) A "community living facility" as defined in the Community Living Facilities Licensing Act;

(6) (Blank);

(7) A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act;

(8) An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act; or

(9) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

(e) "Eligible adult" means a person 60 years of age or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself.

(f) "Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk.

(f-5) "Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:

(1) a professional or professional's delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietetic and Nutrition Services Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nurse Practice Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional Counselor Licensing Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;

(2) an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;

(3) an administrator, employee, or person providing services in or through an unlicensed community based facility;

(4) any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

(5) field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

(6) personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies, and the Office of State Long Term Care Ombudsman;

(7) any employee of the State of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

(8) a person who performs the duties of a coroner or medical examiner; or

(9) a person who performs the duties of a paramedic or an emergency medical technician.

(g) "Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This subsection does not create any new affirmative duty to provide support to eligible adults. Nothing in this Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

(h) "Provider agency" means any public or nonprofit agency in a planning and service area appointed

by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation.

(i) "Regional administrative agency" means any public or nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency on Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service area where another agency is not so designated.

(i-5) "Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety.

(j) "Substantiated case" means a reported case of alleged or suspected abuse, neglect, financial exploitation, or self-neglect in which a provider agency, after assessment, determines that there is reason to believe abuse, neglect, or financial exploitation has occurred.

(Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-526, eff. 1-1-10; 96-572, eff. 1-1-10; 96-1000, eff. 7-2-10.)

Section 93. The Older Adult Services Act is amended by changing Section 10 as follows:

(320 ILCS 42/10)

Sec. 10. Definitions. In this Act:

"Advisory Committee" means the Older Adult Services Advisory Committee.

"Certified nursing home" means any nursing home licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act and certified under Title XIX of the Social Security Act to participate as a vendor in the medical assistance program under Article V of the Illinois Public Aid Code.

"Comprehensive case management" means the assessment of needs and preferences of an older adult at the direction of the older adult or the older adult's designated representative and the arrangement, coordination, and monitoring of an optimum package of services to meet the needs of the older adult.

"Consumer-directed" means decisions made by an informed older adult from available services and care options, which may range from independently making all decisions and managing services directly to limited participation in decision-making, based upon the functional and cognitive level of the older adult.

"Coordinated point of entry" means an integrated access point where consumers receive information and assistance, assessment of needs, care planning, referral, assistance in completing applications, authorization of services where permitted, and follow-up to ensure that referrals and services are accessed.

"Department" means the Department on Aging, in collaboration with the departments of Public Health and Healthcare and Family Services and other relevant agencies and in consultation with the Advisory Committee, except as otherwise provided.

"Departments" means the Department on Aging, the departments of Public Health and Healthcare and Family Services, and other relevant agencies in collaboration with each other and in consultation with the Advisory Committee, except as otherwise provided.

"Family caregiver" means an adult family member or another individual who is an uncompensated provider of home-based or community-based care to an older adult.

"Health services" means activities that promote, maintain, improve, or restore mental or physical health or that are palliative in nature.

"Older adult" means a person age 60 or older and, if appropriate, the person's family caregiver.

"Person-centered" means a process that builds upon an older adult's strengths and capacities to engage in activities that promote community life and that reflect the older adult's preferences, choices, and abilities, to the extent practicable.

"Priority service area" means an area identified by the Departments as being less-served with respect to the availability of and access to older adult services in Illinois. The Departments shall determine by rule the criteria and standards used to designate such areas.

"Priority service plan" means the plan developed pursuant to Section 25 of this Act.

"Provider" means any supplier of services under this Act.

"Residential setting" means the place where an older adult lives.

"Restructuring" means the transformation of Illinois' comprehensive system of older adult services from funding primarily a facility-based service delivery system to primarily a home-based and community-based system, taking into account the continuing need for 24-hour skilled nursing care and congregate housing with services.

"Services" means the range of housing, health, financial, and supportive services, other than acute health care services, that are delivered to an older adult with functional or cognitive limitations, or socialization needs, who requires assistance to perform activities of daily living, regardless of the residential setting in which the services are delivered.

"Supportive services" means non-medical assistance given over a period of time to an older adult that is needed to compensate for the older adult's functional or cognitive limitations, or socialization needs, or those services designed to restore, improve, or maintain the older adult's functional or cognitive abilities.

(Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

Section 94. The Mental Health and Developmental Disabilities Code is amended by changing Sections 1-106, 1-116, 1-122.4, 2-107, 3-200, 4-201, 4-201.1, 4-203, 4-209, 4-400, 4-500, and 4-701 and by changing the headings of Article IV of Chapter IV and Article IV of Chapter V as follows:

(405 ILCS 5/1-106) (from Ch. 91 1/2, par. 1-106)

Sec. 1-106. "Developmental disability" means a disability which is attributable to: (a) an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap.

(Source: P.A. 80-1414.)

(405 ILCS 5/1-116) (from Ch. 91 1/2, par. 1-116)

Sec. 1-116. "Intellectual disability" ~~"Mental retardation"~~ means significantly subaverage general intellectual functioning which exists concurrently with impairment in adaptive behavior and which originates before the age of 18 years.

(Source: P.A. 80-1414.)

(405 ILCS 5/1-122.4) (from Ch. 91 1/2, par. 1-122.4)

Sec. 1-122.4. "Qualified intellectual disabilities ~~mental retardation~~ professional" as used in this Act means those persons who meet this definition under Section 483.430 of Chapter 42 of the Code of Federal Regulations, subpart G.

(Source: P.A. 86-1416.)

(405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

Sec. 2-107. Refusal of services; informing of risks.

(a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services.

(b) Psychotropic medication or electroconvulsive therapy may be administered under this Section for up to 24 hours only if the circumstances leading up to the need for emergency treatment are set forth in writing in the recipient's record.

(c) Administration of medication or electroconvulsive therapy may not be continued unless the need for such treatment is redetermined at least every 24 hours based upon a personal examination of the recipient by a physician or a nurse under the supervision of a physician and the circumstances demonstrating that need are set forth in writing in the recipient's record.

(d) Neither psychotropic medication nor electroconvulsive therapy may be administered under this Section for a period in excess of 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition is filed under Section 2-107.1 and the treatment continues to be necessary under subsection (a) of this Section. Once the petition has been filed, treatment may continue in compliance with subsections (a),

(b), and (c) of this Section until the final outcome of the hearing on the petition.

(e) The Department shall issue rules designed to insure that in State-operated mental health facilities psychotropic medication and electroconvulsive therapy are administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. The facility director of each mental health facility not operated by the State shall issue rules designed to insure that in that facility psychotropic medication and electroconvulsive therapy are administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. Such rules shall be available for public inspection and copying during normal business hours.

(f) The provisions of this Section with respect to the emergency administration of psychotropic medication and electroconvulsive therapy do not apply to facilities licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

(g) Under no circumstances may long-acting psychotropic medications be administered under this Section.

(h) Whenever psychotropic medication or electroconvulsive therapy is refused pursuant to subsection (a) of this Section at least once that day, the physician shall determine and state in writing the reasons why the recipient did not meet the criteria for administration of medication or electroconvulsive therapy under subsection (a) and whether the recipient meets the standard for administration of psychotropic medication or electroconvulsive therapy under Section 2-107.1 of this Code. If the physician determines that the recipient meets the standard for administration of psychotropic medication or electroconvulsive therapy under Section 2-107.1, the facility director or his or her designee shall petition the court for administration of psychotropic medication or electroconvulsive therapy pursuant to that Section unless the facility director or his or her designee states in writing in the recipient's record why the filing of such a petition is not warranted. This subsection (h) applies only to State-operated mental health facilities.

(i) The Department shall conduct annual trainings for all physicians and registered nurses working in State-operated mental health facilities on the appropriate use of emergency administration of psychotropic medication and electroconvulsive therapy, standards for their use, and the methods of authorization under this Section.

(Source: P.A. 95-172, eff. 8-14-07; 96-339, eff. 7-1-10.)

(405 ILCS 5/3-200) (from Ch. 91 1/2, par. 3-200)

Sec. 3-200. (a) A person may be admitted as an inpatient to a mental health facility for treatment of mental illness only as provided in this Chapter, except that a person may be transferred by the Department of Corrections pursuant to the Unified Code of Corrections. A person transferred by the Department of Corrections in this manner may be released only as provided in the Unified Code of Corrections.

(b) No person who is diagnosed as intellectually disabled ~~mentally retarded~~ or a person with a developmental disability may be admitted or transferred to a Department mental health facility or, any portion thereof, except as provided in this Chapter. However, the evaluation and placement of such persons shall be governed by Article II of Chapter 4 of this Code.

(Source: P.A. 88-380.)

(405 ILCS 5/4-201) (from Ch. 91 1/2, par. 4-201)

Sec. 4-201. (a) An intellectually disabled ~~A mentally retarded~~ person shall not reside in a Department mental health facility unless the person is evaluated and is determined to be a person with mental illness and the facility director determines that appropriate treatment and habilitation are available and will be provided to such person on the unit. In all such cases the Department mental health facility director shall certify in writing within 30 days of the completion of the evaluation and every 30 days thereafter, that the person has been appropriately evaluated, that services specified in the treatment and habilitation plan are being provided, that the setting in which services are being provided is appropriate to the person's needs, and that provision of such services fully complies with all applicable federal statutes and regulations concerning the provision of services to persons with a developmental disability. Those regulations shall include, but not be limited to the regulations which govern the provision of services to persons with a developmental disability in facilities certified under the Social Security Act for federal financial participation, whether or not the facility or portion thereof in which the recipient has been placed is presently certified under the Social Security Act or would be eligible for such certification under applicable federal regulations. The certifications shall be filed in the recipient's record and with the office of the Secretary of the Department. A copy of the certification shall be given to the person, an attorney or advocate who is representing the person and the person's guardian.

(b) Any person admitted to a Department mental health facility who is reasonably suspected of being

mildly or moderately intellectually disabled ~~mentally retarded~~, including those who also have a mental illness, shall be evaluated by a multidisciplinary team which includes a qualified intellectual disabilities ~~mental retardation~~ professional designated by the Department facility director. The evaluation shall be consistent with Section 4-300 of Article III in this Chapter, and shall include: (1) a written assessment of whether the person needs a habilitation plan and, if so, (2) a written habilitation plan consistent with Section 4-309, and (3) a written determination whether the admitting facility is capable of providing the specified habilitation services. This evaluation shall occur within a reasonable period of time, but in no case shall that period exceed 14 days after admission. In all events, a treatment plan shall be prepared for the person within 3 days of admission, and reviewed and updated every 30 days, consistent with Section 3-209 of this Code.

(c) Any person admitted to a Department mental health facility with an admitting diagnosis of a severe or profound intellectual disability ~~mental retardation~~ shall be transferred to an appropriate facility or unit for persons with a developmental disability within 72 hours of admission unless transfer is contraindicated by the person's medical condition documented by appropriate medical personnel. Any person diagnosed as severely or profoundly intellectually disabled ~~mentally retarded~~ while in a Department mental health facility shall be transferred to an appropriate facility or unit for persons with a developmental disability within 72 hours of such diagnosis unless transfer is contraindicated by the person's medical condition documented by appropriate medical personnel.

(d) The Secretary of the Department shall designate a qualified intellectual disabilities ~~mental retardation~~ professional in each of its mental health facilities who has responsibility for insuring compliance with the provisions of Sections 4-201 and 4-201.1.

(Source: P.A. 88-380; 89-439, eff. 6-1-96; 89-507, eff. 7-1-97.)

(405 ILCS 5/4-201.1) (from Ch. 91 1/2, par. 4-201.1)

Sec. 4-201.1. (a) A person residing in a Department mental health facility who is evaluated as being mildly or moderately intellectually disabled ~~mentally retarded~~, an attorney or advocate representing the person, or a guardian of such person may object to the Department facility director's certification required in Section 4-201, the treatment and habilitation plan, or appropriateness of setting, and obtain an administrative decision requiring revision of a treatment or habilitation plan or change of setting, by utilization review as provided in Sections 3-207 and 4-209 of this Code. As part of this utilization review, the Committee shall include as one of its members a qualified intellectual disabilities ~~mental retardation~~ professional.

(b) The mental health facility director shall give written notice to each person evaluated as being mildly or moderately intellectually disabled ~~mentally retarded~~, the person's attorney and guardian, if any, or in the case of a minor, to his or her attorney, to the parent, guardian or person in loco parentis and to the minor if 12 years of age or older, of the person's right to request a review of the facility director's initial or subsequent determination that such person is appropriately placed or is receiving appropriate services. The notice shall also provide the address and phone number of the Legal Advocacy Service of the Guardianship and Advocacy Commission, which the person or guardian can contact for legal assistance. If requested, the facility director shall assist the person or guardian in contacting the Legal Advocacy Service. This notice shall be given within 24 hours of Department's evaluation that the person is mildly or moderately intellectually disabled ~~mentally retarded~~.

(c) Any recipient of services who successfully challenges a final decision of the Secretary of the Department (or his or her designee) reviewing an objection to the certification required under Section 4-201, the treatment and habilitation plan, or the appropriateness of the setting shall be entitled to recover reasonable attorney's fees incurred in that challenge, unless the Department's position was substantially justified.

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

(405 ILCS 5/4-203) (from Ch. 91 1/2, par. 4-203)

Sec. 4-203. (a) Every developmental disabilities facility shall maintain adequate records which shall include the Section of this Act under which the client was admitted, any subsequent change in the client's status, and requisite documentation for such admission and status.

(b) The Department shall ensure that a monthly report is maintained for each Department mental health facility, and each unit of a Department developmental disability facility for dually diagnosed persons, which lists (1) initials of persons admitted to, residing at, or discharged from a Department mental health facility or unit for dually diagnosed persons of Department developmental disability facility during that month with a primary or secondary diagnosis of intellectual disability ~~mental retardation~~, (2) the date and facility and unit of admission or continuing, care, (3) the legal admission status, (4) the recipient's diagnosis, (5) the date and facility and unit of transfer or discharge, (6) whether or not there is a public or private guardian, (7) whether the facility director has certified that appropriate

treatment and habilitation are available for and being provided to such person pursuant to Section 4-203 of this Chapter, and (8) whether the person or a guardian has requested review as provided in Section 4-209 of this Chapter and, if so, the outcome of the review. The Secretary of the Department shall furnish a copy of each monthly report upon request to the Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending certain Acts therein named", approved September 20, 1985, and under Section 1 of "An Act for the protection and advocacy of mentally ill persons", approved September 20, 1987.

(c) Nothing contained in this Chapter shall be construed to limit or otherwise affect the power of any developmental disabilities facility to determine the qualifications of persons permitted to admit clients to such facility. This subsection shall not affect or limit the powers of any court to order admission to a developmental disabilities facility as set forth in this Chapter.

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

(405 ILCS 5/4-209) (from Ch. 91 1/2, par. 4-209)

Sec. 4-209. (a) Hearings under Sections 4-201.1, 4-312, 4-704 and 4-709 of this Chapter shall be conducted by a utilization review committee. The Secretary shall appoint a utilization review committee at each Department facility. Each such committee shall consist of multi-disciplinary professional staff members who are trained and equipped to deal with the habilitation needs of clients. At least one member of the committee shall be a qualified intellectual disabilities ~~mental retardation~~ professional. The client and the objector may be represented by persons of their choice.

(b) The utilization review committee shall not be bound by rules of evidence or procedure but shall conduct the proceedings in a manner intended to ensure a fair hearing. The committee may make such investigation as it deems necessary. It may administer oaths and compel by subpoena testimony and the production of records. A stenographic or audio recording of the proceedings shall be made and shall be kept in the client's record. Within 3 days of conclusion of the hearing, the committee shall submit to the facility director its written recommendations which include its factual findings and conclusions. A copy of the recommendations shall be given to the client and the objector.

(c) Within 7 days of receipt of the recommendations, the facility director shall give written notice to the client and objector of his acceptance or rejection of the recommendations and his reason therefor. If the facility director rejects the recommendations or if the client or objector requests review of the facility director's decision, the facility director shall promptly forward a copy of his decision, the recommendations, and the record of the hearing to the Secretary of the Department for final review. The review of the facility director's decision shall be decided by the Secretary or his or her designee within 30 days of the receipt of a request for final review. The decision of the facility director, or the decision of the Secretary (or his or her designee) if review was requested, shall be considered a final administrative decision, and shall be subject to review under and in accordance with Article III of the Code of Civil Procedure. The decision of the facility director, or the decision of the Secretary (or his or her designee) if review was requested, shall be considered a final administrative decision.

(Source: P.A. 91-357, eff. 7-29-99.)

(405 ILCS 5/Ch. IV Art. IV heading)

ARTICLE IV. EMERGENCY ADMISSION
OF THE INTELLECTUALLY DISABLED ~~MENTALLY RETARDED~~

(405 ILCS 5/4-400) (from Ch. 91 1/2, par. 4-400)

Sec. 4-400. (a) A person 18 years of age or older may be admitted on an emergency basis to a facility under this Article if the facility director of the facility determines: (1) that he is intellectually disabled ~~mentally retarded~~; (2) that he is reasonably expected to inflict serious physical harm upon himself or another in the near future; and (3) that immediate admission is necessary to prevent such harm.

(b) Persons with a developmental disability under 18 years of age and persons with a developmental disability 18 years of age or over who are under guardianship or who are seeking admission on their own behalf may be admitted for emergency care under Section 4-311.

(Source: P.A. 88-380.)

(405 ILCS 5/Ch. IV Art. V heading)

ARTICLE V. JUDICIAL ADMISSION FOR THE INTELLECTUALLY DISABLED ~~MENTALLY RETARDED~~

(405 ILCS 5/4-500) (from Ch. 91 1/2, par. 4-500)

Sec. 4-500. A person 18 years of age or older may be admitted to a facility upon court order under this Article if the court determines: (1) that he is intellectually disabled ~~mentally retarded~~; and (2) that he is

reasonably expected to inflict serious physical harm upon himself or another in the near future.
(Source: P.A. 80-1414.)

(405 ILCS 5/4-701) (from Ch. 91 1/2, par. 4-701)

Sec. 4-701. (a) Any client admitted to a developmental disabilities facility under this Chapter may be discharged whenever the facility director determines that he is suitable for discharge.

(b) Any client admitted to a facility or program of nonresidential services upon court order under Article V of this Chapter or admitted upon court order as intellectually disabled ~~mentally retarded~~ or mentally deficient under any prior statute shall be discharged whenever the facility director determines that he no longer meets the standard for judicial admission. When the facility director believes that continued residence is advisable for such a client, he shall inform the client and his guardian, if any, that the client may remain at the facility on administrative admission status. When a facility director discharges or changes the status of such client, he shall promptly notify the clerk of the court who shall note the action in the court record.

(c) When the facility director discharges a client pursuant to subsection (b) of this Section, he shall promptly notify the State's Attorney of the county in which the client resided immediately prior to his admission to a development disabilities facility. Upon receipt of such notice, the State's Attorney may notify such peace officers that he deems appropriate.

(d) The facility director may grant a temporary release to any client when such release is appropriate and consistent with the habilitation needs of the client.
(Source: P.A. 80-1414.)

Section 95. The Community Mental Health Act is amended by changing Section 3e as follows:

(405 ILCS 20/3e) (from Ch. 91 1/2, par. 303e)

Sec. 3e. Board's powers and duties.

(1) Every community mental health board shall, immediately after appointment, meet and organize, by the election of one of its number as president and one as secretary and such other officers as it may deem necessary. It shall make rules and regulations concerning the rendition or operation of services and facilities which it directs, supervises or funds, not inconsistent with the provisions of this Act. It shall:

(a) Hold a meeting prior to July 1 of each year at which officers shall be elected for the ensuing year beginning July 1;

(b) Hold meetings at least quarterly;

(c) Hold special meetings upon a written request signed by at least 2 members and filed with the secretary;

(d) Review and evaluate community mental health services and facilities, including services and facilities for the treatment of alcoholism, drug addiction, developmental disabilities, and intellectual disabilities ~~mental retardation~~;

(e) Authorize the disbursement of money from the community mental health fund for payment for the ordinary and contingent expenses of the board;

(f) Submit to the appointing officer and the members of the governing body a written plan for a program of community mental health services and facilities for persons with a mental illness, a developmental disability, or a substance use disorder. Such plan shall be for the ensuing 12 month period. In addition, a plan shall be developed for the ensuing 3 year period and such plan shall be reviewed at the end of every 12 month period and shall be modified as deemed advisable.

(g) Within amounts appropriated therefor, execute such programs and maintain such services and facilities as may be authorized under such appropriations, including amounts appropriated under bond issues, if any;

(h) Publish the annual budget and report within 120 days after the end of the fiscal year in a newspaper distributed within the jurisdiction of the board, or, if no newspaper is published within the jurisdiction of the board, then one published in the county, or, if no newspaper is published in the county, then in a newspaper having general circulation within the jurisdiction of the board. The report shall show the condition of its trust of that year, the sums of money received from all sources, giving the name of any donor, how all monies have been expended and for what purpose, and such other statistics and program information in regard to the work of the board as it may deem of general interest. A copy of the budget and the annual report shall be made available to the Department of Human Services and to members of the General Assembly whose districts include any part of the jurisdiction of such board. The names of all employees, consultants, and other personnel shall be set forth along with the amounts of money received;

(i) Consult with other appropriate private and public agencies in the development of local plans for the most efficient delivery of mental health, developmental disabilities, and substance

use disorder services. The Board is authorized to join and to participate in the activities of associations organized for the purpose of promoting more efficient and effective services and programs;

(j) Have the authority to review and comment on all applications for grants by any person, corporation, or governmental unit providing services within the geographical area of the board which provides mental health facilities and services, including services for the person with a mental illness, a developmental disability, or a substance use disorder. The board may require funding applicants to send a copy of their funding application to the board at the time such application is submitted to the Department of Human Services or to any other local, State or federal funding source or governmental agency. Within 60 days of the receipt of any application, the board shall submit its review and comments to the Department of Human Services or to any other appropriate local, State or federal funding source or governmental agency. A copy of the review and comments shall be submitted to the funding applicant. Within 60 days thereafter, the Department of Human Services or any other appropriate local or State governmental agency shall issue a written response to the board and the funding applicant. The Department of Human Services shall supply any community mental health board such information about purchase-of-care funds, State facility utilization, and costs in its geographical area as the board may request provided that the information requested is for the purpose of the Community Mental Health Board complying with the requirements of Section 3f, subsection (f) of this Act;

(k) Perform such other acts as may be necessary or proper to carry out the purposes of this Act.

(2) The community mental health board has the following powers:

(a) The board may enter into multiple-year contracts for rendition or operation of services, facilities and educational programs.

(b) The board may arrange through intergovernmental agreements or intragovernmental agreements or both for the rendition of services and operation of facilities by other agencies or departments of the governmental unit or county in which the governmental unit is located with the approval of the governing body.

(c) To employ, establish compensation for, and set policies for its personnel, including legal counsel, as may be necessary to carry out the purposes of this Act and prescribe the duties thereof. The board may enter into multiple-year employment contracts as may be necessary for the recruitment and retention of personnel and the proper functioning of the board.

(d) The board may enter into multiple-year joint agreements, which shall be written, with other mental health boards and boards of health to provide jointly agreed upon community mental health facilities and services and to pool such funds as may be deemed necessary and available for this purpose.

(e) The board may organize a not-for-profit corporation for the purpose of providing direct recipient services. Such corporations shall have, in addition to all other lawful powers, the power to contract with persons to furnish services for recipients of the corporation's facilities, including psychiatrists and other physicians licensed in this State to practice medicine in all of its branches. Such physicians shall be considered independent contractors, and liability for any malpractice shall not extend to such corporation, nor to the community mental health board, except for gross negligence in entering into such a contract.

(f) The board shall not operate any direct recipient services for more than a 2-year period when such services are being provided in the governmental unit, but shall encourage, by financial support, the development of private agencies to deliver such needed services, pursuant to regulations of the board.

(g) Where there are multiple boards within the same planning area, as established by the Department of Human Services, services may be purchased through a single delivery system. In such areas, a coordinating body with representation from each board shall be established to carry out the service functions of this Act. In the event any such coordinating body purchases or improves real property, such body shall first obtain the approval of the governing bodies of the governmental units in which the coordinating body is located.

(h) The board may enter into multiple-year joint agreements with other governmental units located within the geographical area of the board. Such agreements shall be written and shall provide for the rendition of services by the board to the residents of such governmental units.

(i) The board may enter into multiple-year joint agreements with federal, State, and local governments, including the Department of Human Services, whereby the board will provide certain services. All such joint agreements must provide for the exchange of relevant data. However, nothing in this Act shall be construed to permit the abridgement of the confidentiality of patient

records.

(j) The board may receive gifts from private sources for purposes not inconsistent with the provisions of this Act.

(k) The board may receive Federal, State and local funds for purposes not inconsistent with the provisions of this Act.

(l) The board may establish scholarship programs. Such programs shall require equivalent service or reimbursement pursuant to regulations of the board.

(m) The board may sell, rent, or lease real property for purposes consistent with this Act.

(n) The board may: (i) own real property, lease real property as lessee, or acquire real property by purchase, construction, lease-purchase agreement, or otherwise; (ii) take title to the property in the board's name; (iii) borrow money and issue debt instruments, mortgages, purchase-money mortgages, and other security instruments with respect to the property; and (iv) maintain, repair, remodel, or improve the property. All of these activities must be for purposes consistent with this Act as may be reasonably necessary for the housing and proper functioning of the board. The board may use moneys in the Community Mental Health Fund for these purposes.

(o) The board may organize a not-for-profit corporation (i) for the purpose of raising money to be distributed by the board for providing community mental health services and facilities for the treatment of alcoholism, drug addiction, developmental disabilities, and intellectual disabilities ~~mental retardation~~ or (ii) for other purposes not inconsistent with this Act.

(Source: P.A. 95-336, eff. 8-21-07.)

Section 100. The Specialized Living Centers Act is amended by changing Section 2.03 as follows:

(405 ILCS 25/2.03) (from Ch. 91 1/2, par. 602.03)

Sec. 2.03. "Person with a developmental disability" means individuals whose disability is attributable to an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy or other neurological condition which generally originates before such individuals attain age 18 which had continued or can be expected to continue indefinitely and which constitutes a substantial handicap to such individuals.

(Source: P.A. 88-380.)

Section 101. The Protection and Advocacy for Developmentally Disabled Persons Act is amended by changing Section 1 as follows:

(405 ILCS 40/1) (from Ch. 91 1/2, par. 1151)

Sec. 1. The Governor may designate a private not-for-profit corporation as the agency to administer a State plan to protect and advocate the rights of persons with developmental disabilities pursuant to the requirements of the federal Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6001 to 6081, as now or hereafter amended. The designated agency may pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of such persons who are receiving treatment, services or habilitation within this State. The agency designated by the Governor shall be independent of any agency which provides treatment, services, guardianship, or habilitation to persons with developmental disabilities, and such agency shall not be administered by the Governor's Planning Council on Developmental Disabilities or any successor State Planning Council organized pursuant to federal law.

The designated agency may receive and expend funds to protect and advocate the rights of persons with developmental disabilities. In order to properly exercise its powers and duties, such agency shall have access to developmental disability facilities and mental health facilities, as defined under Sections 1-107 and 1-114 of the Mental Health and Developmental Disabilities Code, and facilities as defined in Section 1-113 of the Nursing Home Care Act or Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act. Such access shall be granted for the purposes of meeting with residents and staff, informing them of services available from the agency, distributing written information about the agency and the rights of persons with developmental disabilities, conducting scheduled and unscheduled visits, and performing other activities designed to protect the rights of persons with developmental disabilities. The agency also shall have access, for the purpose of inspection and copying, to the records of a person with developmental disabilities who resides in any such facility subject to the limitations of this Act, the Mental Health and Developmental Disabilities Confidentiality Act, the Nursing Home Care Act, and the ID/DD ~~MR/DD~~ Community Care Act. The agency also shall have access, for the purpose of inspection and copying, to the records of a person with developmental disabilities who resides in any such facility if (1) a complaint is received by the agency from or on behalf of the person with a developmental disability, and (2) such person does not have a legal guardian or the State or the designee of the State is

the legal guardian of such person. The designated agency shall provide written notice to the person with developmental disabilities and the State guardian of the nature of the complaint based upon which the designated agency has gained access to the records. No record or the contents of any record shall be redisclosed by the designated agency unless the person with developmental disabilities and the State guardian are provided 7 days advance written notice, except in emergency situations, of the designated agency's intent to redisclose such record, during which time the person with developmental disabilities or the State guardian may seek to judicially enjoin the designated agency's redisclosure of such record on the grounds that such redisclosure is contrary to the interests of the person with developmental disabilities. Any person who in good faith complains to the designated agency on behalf of a person with developmental disabilities, or provides information or participates in the investigation of any such complaint shall have immunity from any liability, civil, criminal or otherwise, and shall not be subject to any penalties, sanctions, restrictions or retaliation as a consequence of making such complaint, providing such information or participating in such investigation.

Upon request, the designated agency shall be entitled to inspect and copy any records or other materials which may further the agency's investigation of problems affecting numbers of persons with developmental disabilities. When required by law any personally identifiable information of persons with developmental disabilities shall be removed from the records. However, the designated agency may not inspect or copy any records or other materials when the removal of personally identifiable information imposes an unreasonable burden on mental health and developmental disabilities facilities pursuant to the Mental Health and Developmental Disabilities Code or facilities as defined in the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

The Governor shall not redesignate the agency to administer the State plan to protect and advocate the rights of persons with developmental disabilities unless there is good cause for the redesignation and unless notice of the intent to make such redesignation is given to persons with developmental disabilities or their representatives, the federal Secretary of Health and Human Services, and the General Assembly at least 60 days prior thereto.

As used in this Act, the term "developmental disability" means a severe, chronic disability of a person which:

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the person attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in 3 or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

(E) reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 102. The Protection and Advocacy for Mentally Ill Persons Act is amended by changing Section 3 as follows:

(405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

Sec. 3. Powers and Duties.

(A) In order to properly exercise its powers and duties, the agency shall have the authority to:

(1) Investigate incidents of abuse and neglect of mentally ill persons if the incidents are reported to the agency or if there is probable cause to believe that the incidents occurred. In case of conflict with provisions of the Abused and Neglected Child Reporting Act or the Nursing Home Care Act, the provisions of those Acts shall apply.

(2) Pursue administrative, legal and other appropriate remedies to ensure the protection of the rights of mentally ill persons who are receiving care and treatment in this State.

(3) Pursue administrative, legal and other remedies on behalf of an individual who:

(a) was a mentally ill individual; and

(b) is a resident of this State, but only with respect to matters which occur within 90 days after the date of the discharge of such individual from a facility providing care and treatment.

(4) Establish a board which shall:

(a) advise the protection and advocacy system on policies and priorities to be carried out in protecting and advocating the rights of mentally ill individuals; and

(b) include attorneys, mental health professionals, individuals from the public who are knowledgeable about mental illness, a provider of mental health services, individuals who have received or are receiving mental health services and family members of such individuals. At least one-half the members of the board shall be individuals who have received or are receiving mental health services or who are family members of such individuals.

(5) On January 1, 1988, and on January 1 of each succeeding year, prepare and transmit to the Secretary of the United States Department of Health and Human Services and to the Illinois Secretary of Human Services a report describing the activities, accomplishments and expenditures of the protection and advocacy system during the most recently completed fiscal year.

(B) The agency shall have access to all mental health facilities as defined in Sections 1-107 and 1-114 of the Mental Health and Developmental Disabilities Code, all facilities as defined in Section 1-113 of the Nursing Home Care Act, all facilities as defined in Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act, all facilities as defined in Section 2.06 of the Child Care Act of 1969, as now or hereafter amended, and all other facilities providing care or treatment to mentally ill persons. Such access shall be granted for the purposes of meeting with residents and staff, informing them of services available from the agency, distributing written information about the agency and the rights of persons who are mentally ill, conducting scheduled and unscheduled visits, and performing other activities designed to protect the rights of mentally ill persons.

(C) The agency shall have access to all records of mentally ill persons who are receiving care or treatment from a facility, subject to the limitations of this Act, the Mental Health and Developmental Disabilities Confidentiality Act, the Nursing Home Care Act and the Child Care Act of 1969, as now or hereafter amended. If the mentally ill person has a legal guardian other than the State or a designee of the State, the facility director shall disclose the guardian's name, address and telephone number to the agency upon its request. In cases of conflict with provisions of the Abused and Neglected Child Reporting Act and the Nursing Home Care Act, the provisions of the Abused and Neglected Child Reporting Act and the Nursing Home Care Act shall apply. The agency shall also have access, for the purpose of inspection and copying, to the records of a mentally ill person (i) who by reason of his or her mental or physical condition is unable to authorize the agency to have such access; (ii) who does not have a legal guardian or for whom the State or a designee of the State is the legal guardian; and (iii) with respect to whom a complaint has been received by the agency or with respect to whom there is probable cause to believe that such person has been subjected to abuse or neglect.

The agency shall provide written notice to the mentally ill person and the State guardian of the nature of the complaint based upon which the agency has gained access to the records. No record or the contents of the record shall be redisclosed by the agency unless the person who is mentally ill and the State guardian are provided 7 days advance written notice, except in emergency situations, of the agency's intent to redisclose such record. Within such 7-day period, the mentally ill person or the State guardian may seek an injunction prohibiting the agency's redisclosure of such record on the grounds that such redisclosure is contrary to the interests of the mentally ill person.

Upon request, the authorized agency shall be entitled to inspect and copy any clinical or trust fund records of mentally ill persons which may further the agency's investigation of alleged problems affecting numbers of mentally ill persons. When required by law, any personally identifiable information of mentally ill persons shall be removed from the records. However, the agency may not inspect or copy any records or other materials when the removal of personally identifiable information imposes an unreasonable burden on any facility as defined by the Mental Health and Developmental Disabilities Code, the Nursing Home Care Act or the Child Care Act of 1969, or any other facility providing care or treatment to mentally ill persons.

(D) Prior to instituting any legal action in a federal or State court on behalf of a mentally ill individual, an eligible protection and advocacy system, or a State agency or nonprofit organization which entered into a contract with such an eligible system under Section 104(a) of the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, shall exhaust in a timely manner all administrative remedies where appropriate. If, in pursuing administrative remedies, the system, State agency or organization determines that any matter with respect to such individual will not be resolved within a reasonable time, the system, State agency or organization may pursue alternative remedies, including the initiation of appropriate legal action.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 105. The Developmental Disability and Mental Disability Services Act is amended by changing Sections 2-3, 2-5, 2-17, 3-3, 3-5, 5-1, 5-4, and 6-1 as follows:

(405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

Sec. 2-3. As used in this Article, unless the context requires otherwise:

(a) "Agency" means an agency or entity licensed by the Department pursuant to this Article or pursuant to the Community Residential Alternatives Licensing Act.

(b) "Department" means the Department of Human Services, as successor to the Department of Mental Health and Developmental Disabilities.

(c) "Home-based services" means services provided to a mentally disabled adult who lives in his or her own home. These services include but are not limited to:

(1) home health services;

(2) case management;

(3) crisis management;

(4) training and assistance in self-care;

(5) personal care services;

(6) habilitation and rehabilitation services;

(7) employment-related services;

(8) respite care; and

(9) other skill training that enables a person to become self-supporting.

(d) "Legal guardian" means a person appointed by a court of competent jurisdiction to exercise certain powers on behalf of a mentally disabled adult.

(e) "Mentally disabled adult" means a person over the age of 18 years who lives in his or her own home; who needs home-based services, but does not require 24-hour-a-day supervision; and who has one of the following conditions: severe autism, severe mental illness, a severe or profound intellectual disability ~~mental retardation~~, or severe and multiple impairments.

(f) In one's "own home" means that a mentally disabled adult lives alone; or that a mentally disabled adult is in full-time residence with his or her parents, legal guardian, or other relatives; or that a mentally disabled adult is in full-time residence in a setting not subject to licensure under the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the Child Care Act of 1969, as now or hereafter amended, with 3 or fewer other adults unrelated to the mentally disabled adult who do not provide home-based services to the mentally disabled adult.

(g) "Parent" means the biological or adoptive parent of a mentally disabled adult, or a person licensed as a foster parent under the laws of this State who acts as a mentally disabled adult's foster parent.

(h) "Relative" means any of the following relationships by blood, marriage or adoption: parent, son, daughter, brother, sister, grandparent, uncle, aunt, nephew, niece, great grandparent, great uncle, great aunt, stepbrother, stepsister, stepson, stepdaughter, stepparent or first cousin.

(i) "Severe autism" means a lifelong developmental disability which is typically manifested before 30 months of age and is characterized by severe disturbances in reciprocal social interactions; verbal and nonverbal communication and imaginative activity; and repertoire of activities and interests. A person shall be determined severely autistic, for purposes of this Article, if both of the following are present:

(1) Diagnosis consistent with the criteria for autistic disorder in the current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(2) Severe disturbances in reciprocal social interactions; verbal and nonverbal communication and imaginative activity; repertoire of activities and interests. A determination of severe autism shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist. A determination of severe autism shall not be based solely on behaviors relating to environmental, cultural or economic differences.

(j) "Severe mental illness" means the manifestation of all of the following characteristics:

(1) A primary diagnosis of one of the major mental disorders in the current edition of the Diagnostic and Statistical Manual of Mental Disorders listed below:

(A) Schizophrenia disorder.

(B) Delusional disorder.

(C) Schizo-affective disorder.

(D) Bipolar affective disorder.

(E) Atypical psychosis.

(F) Major depression, recurrent.

(2) The individual's mental illness must substantially impair his or her functioning in at least 2 of the following areas:

(A) Self-maintenance.

(B) Social functioning.

(C) Activities of community living.

(D) Work skills.

(3) Disability must be present or expected to be present for at least one year.

A determination of severe mental illness shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist, and shall not be based solely on behaviors relating to environmental, cultural or economic differences.

(k) "Severe or profound intellectual disability ~~mental retardation~~" means a manifestation of all of the following characteristics:

(1) A diagnosis which meets Classification in Mental Retardation or criteria in the current edition of the Diagnostic and Statistical Manual of Mental Disorders for severe or profound mental retardation (an IQ of 40 or below). This must be measured by a standardized instrument for general intellectual functioning.

(2) A severe or profound level of disturbed adaptive behavior. This must be measured by a standardized adaptive behavior scale or informal appraisal by the professional in keeping with illustrations in Classification in Mental Retardation, 1983.

(3) Disability diagnosed before age of 18.

A determination of a severe or profound intellectual disability ~~mental retardation~~ shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or certified school psychologist or a psychiatrist, and shall not be based solely on behaviors relating to environmental, cultural or economic differences.

(l) "Severe and multiple impairments" means the manifestation of all of the following characteristics:

(1) The evaluation determines the presence of a developmental disability which is expected to continue indefinitely, constitutes a substantial handicap and is attributable to any of the following:

(A) Intellectually disability ~~Mental retardation~~, which is defined as general intellectual functioning that is 2 or more standard deviations below the mean concurrent with impairment of adaptive behavior which is 2 or more standard deviations below the mean. Assessment of the individual's intellectual functioning must be measured by a standardized instrument for general intellectual functioning.

(B) Cerebral palsy.

(C) Epilepsy.

(D) Autism.

(E) Any other condition which results in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons.

(2) The evaluation determines multiple handicaps in physical, sensory, behavioral or cognitive functioning which constitute a severe or profound impairment attributable to one or more of the following:

(A) Physical functioning, which severely impairs the individual's motor performance that may be due to:

(i) Neurological, psychological or physical involvement resulting in a variety of disabling conditions such as hemiplegia, quadriplegia or ataxia,

(ii) Severe organ systems involvement such as congenital heart defect,

(iii) Physical abnormalities resulting in the individual being non-mobile and non-ambulatory or confined to bed and receiving assistance in transferring, or

(iv) The need for regular medical or nursing supervision such as gastrostomy care and feeding.

Assessment of physical functioning must be based on clinical medical assessment by a physician licensed to practice medicine in all its branches, using the appropriate instruments, techniques and standards of measurement required by the professional.

(B) Sensory, which involves severe restriction due to hearing or visual impairment limiting the individual's movement and creating dependence in completing most daily activities. Hearing impairment is defined as a loss of 70 decibels aided or speech discrimination of less than 50% aided. Visual impairment is defined as 20/200 corrected in the better eye or a visual field of 20 degrees or less. Sensory functioning must be based on clinical medical assessment by a physician licensed to practice medicine in all its branches using the appropriate instruments, techniques and standards of measurement required by the professional.

(C) Behavioral, which involves behavior that is maladaptive and presents a danger to self or others, is destructive to property by deliberately breaking, destroying or defacing objects, is disruptive by fighting, or has other socially offensive behaviors in sufficient frequency or severity

to seriously limit social integration. Assessment of behavioral functioning may be measured by a standardized scale or informal appraisal by a clinical psychologist or psychiatrist.

(D) Cognitive, which involves intellectual functioning at a measured IQ of 70 or below. Assessment of cognitive functioning must be measured by a standardized instrument for general intelligence.

(3) The evaluation determines that development is substantially less than expected for the age in cognitive, affective or psychomotor behavior as follows:

(A) Cognitive, which involves intellectual functioning at a measured IQ of 70 or below. Assessment of cognitive functioning must be measured by a standardized instrument for general intelligence.

(B) Affective behavior, which involves over and under responding to stimuli in the environment and may be observed in mood, attention to awareness, or in behaviors such as euphoria, anger or sadness that seriously limit integration into society. Affective behavior must be based on clinical assessment using the appropriate instruments, techniques and standards of measurement required by the professional.

(C) Psychomotor, which includes a severe developmental delay in fine or gross motor skills so that development in self-care, social interaction, communication or physical activity will be greatly delayed or restricted.

(4) A determination that the disability originated before the age of 18 years.

A determination of severe and multiple impairments shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist.

If the examiner is a licensed clinical psychologist, ancillary evaluation of physical impairment, cerebral palsy or epilepsy must be made by a physician licensed to practice medicine in all its branches.

Regardless of the discipline of the examiner, ancillary evaluation of visual impairment must be made by an ophthalmologist or a licensed optometrist.

Regardless of the discipline of the examiner, ancillary evaluation of hearing impairment must be made by an otolaryngologist or an audiologist with a certificate of clinical competency.

The only exception to the above is in the case of a person with cerebral palsy or epilepsy who, according to the eligibility criteria listed below, has multiple impairments which are only physical and sensory. In such a case, a physician licensed to practice medicine in all its branches may serve as the examiner.

(m) "Twenty-four-hour-a-day supervision" means 24-hour-a-day care by a trained mental health or developmental disability professional on an ongoing basis.

(Source: P.A. 96-339, eff. 7-1-10.)

(405 ILCS 80/2-5) (from Ch. 91 1/2, par. 1802-5)

Sec. 2-5. The Department shall establish eligibility standards for the Program, taking into consideration the disability levels and service needs of the target population. The Department shall create application forms which shall be used to determine the eligibility of mentally disabled adults to participate in the Program. The forms shall be made available by the Department and shall require at least the following items of information which constitute eligibility criteria for participation in the Program:

(a) A statement that the mentally disabled adult resides in the State of Illinois and is over the age of 18 years.

(b) Verification that the mentally disabled adult has one of the following conditions: severe autism, severe mental illness, a severe or profound intellectual disability ~~mental retardation~~, or severe and multiple impairments.

(c) Verification that the mentally disabled adult has applied and is eligible for federal Supplemental Security Income or federal Social Security Disability Income benefits.

(d) Verification that the mentally disabled adult resides full-time in his or her own home or that, within 2 months of receipt of services under this Article, he or she will reside full-time in his or her own home.

The Department may by rule adopt provisions establishing liability of responsible relatives of a recipient of services under this Article for the payment of sums representing charges for services to such recipient. Such rules shall be substantially similar to the provisions for such liability contained in Chapter 5 of the Mental Health and Developmental Disabilities Code, as now or hereafter amended, and rules adopted pursuant thereto.

(Source: P.A. 86-921; 87-447.)

(405 ILCS 80/2-17)

Sec. 2-17. Transition from special education.

(a) If a person receiving special educational services under Article 14 of the School Code at a school in this State has severe autism, severe mental illness, a severe or profound intellectual disability ~~mental retardation~~, or severe and multiple impairments and is not over 18 years of age but is otherwise eligible to participate in the Program, the person shall be determined eligible to participate in the Program, subject to the availability of funds appropriated for this purpose, when he or she becomes an adult and no longer receives special educational services.

(b) The Department shall implement this Section for fiscal years beginning July 1, 1996 and thereafter.

(Source: P.A. 89-425, eff. 6-1-96.)

(405 ILCS 80/3-3) (from Ch. 91 1/2, par. 1803-3)

Sec. 3-3. As used in this Article, unless the context requires otherwise:

(a) "Agency" means an agency or entity licensed by the Department pursuant to this Article or pursuant to the Community Residential Alternatives Licensing Act.

(b) "Department" means the Department of Human Services, as successor to the Department of Mental Health and Developmental Disabilities.

(c) "Department-funded out-of-home placement services" means those services for which the Department pays the partial or full cost of care of the residential placement.

(d) "Family" or "families" means a family member or members and his, her or their parents or legal guardians.

(e) "Family member" means a child 17 years old or younger who has one of the following conditions: severe autism, severe emotional disturbance, a severe or profound intellectual disability ~~mental retardation~~, or severe and multiple impairments.

(f) "Legal guardian" means a person appointed by a court of competent jurisdiction to exercise certain powers on behalf of a family member and with whom the family member resides.

(g) "Parent" means a biological or adoptive parent with whom the family member resides, or a person licensed as a foster parent under the laws of this State, acting as a family member's foster parent, and with whom the family member resides.

(h) "Severe autism" means a lifelong developmental disability which is typically manifested before 30 months of age and is characterized by severe disturbances in reciprocal social interactions; verbal and nonverbal communication and imaginative activity; and repertoire of activities and interests. A person shall be determined severely autistic, for purposes of this Article, if both of the following are present:

(1) Diagnosis consistent with the criteria for autistic disorder in the current edition of the Diagnostic and Statistical Manual of Mental Disorders;

(2) Severe disturbances in reciprocal social interactions; verbal and nonverbal communication and imaginative activity; and repertoire of activities and interests. A determination of severe autism shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist. A determination of severe autism shall not be based solely on behaviors relating to environmental, cultural or economic differences.

(i) "Severe mental illness" means the manifestation of all of the following characteristics:

(1) a severe mental illness characterized by the presence of a mental disorder in children or adolescents, classified in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition - Revised), as now or hereafter revised, excluding V-codes (as that term is used in the current edition of the Diagnostic and Statistical Manual of Mental Disorders), adjustment disorders, the presence of an intellectual disability ~~mental retardation~~ when no other mental disorder is present, alcohol or substance abuse, or other forms of dementia based upon organic or physical disorders; and

(2) a functional disability of an extended duration which results in substantial limitations in major life activities.

A determination of severe mental illness shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or a psychiatrist.

(j) "Severe or profound intellectual disability ~~mental retardation~~" means a manifestation of all of the following characteristics:

(1) A diagnosis which meets Classification in Mental Retardation or criteria in the current edition of the Diagnostic and Statistical Manual of Mental Disorders for severe or profound mental retardation (an IQ of 40 or below). This must be measured by a standardized instrument for general intellectual functioning.

(2) A severe or profound level of adaptive behavior. This must be measured by a standardized adaptive behavior scale or informal appraisal by the professional in keeping with illustrations in Classification in Mental Retardation, 1983.

(3) Disability diagnosed before age of 18.

A determination of a severe or profound intellectual disability ~~mental retardation~~ shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist, certified school psychologist, a psychiatrist or other physician licensed to practice medicine in all its branches, and shall not be based solely on behaviors relating to environmental, cultural or economic differences.

(k) "Severe and multiple impairments" means the manifestation of all the following characteristics:

(1) The evaluation determines the presence of a developmental disability which is expected to continue indefinitely, constitutes a substantial handicap and is attributable to any of the following:

(A) Intellectual disability ~~Mental retardation~~, which is defined as general intellectual functioning that is 2 or more standard deviations below the mean concurrent with impairment of adaptive behavior which is 2 or more standard deviations below the mean. Assessment of the individual's intellectual functioning must be measured by a standardized instrument for general intellectual functioning.

(B) Cerebral palsy.

(C) Epilepsy.

(D) Autism.

(E) Any other condition which results in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons.

(2) The evaluation determines multiple handicaps in physical, sensory, behavioral or cognitive functioning which constitute a severe or profound impairment attributable to one or more of the following:

(A) Physical functioning, which severely impairs the individual's motor performance that may be due to:

(i) Neurological, psychological or physical involvement resulting in a variety of disabling conditions such as hemiplegia, quadriplegia or ataxia,

(ii) Severe organ systems involvement such as congenital heart defect,

(iii) Physical abnormalities resulting in the individual being non-mobile and non-ambulatory or confined to bed and receiving assistance in transferring, or

(iv) The need for regular medical or nursing supervision such as gastrostomy care and feeding.

Assessment of physical functioning must be based on clinical medical assessment, using the appropriate instruments, techniques and standards of measurement required by the professional.

(B) Sensory, which involves severe restriction due to hearing or visual impairment limiting the individual's movement and creating dependence in completing most daily activities. Hearing impairment is defined as a loss of 70 decibels aided or speech discrimination of less than 50% aided. Visual impairment is defined as 20/200 corrected in the better eye or a visual field of 20 degrees or less. Sensory functioning must be based on clinical medical assessment using the appropriate instruments, techniques and standards of measurement required by the professional.

(C) Behavioral, which involves behavior that is maladaptive and presents a danger to self or others, is destructive to property by deliberately breaking, destroying or defacing objects, is disruptive by fighting, or has other socially offensive behaviors in sufficient frequency or severity to seriously limit social integration. Assessment of behavioral functioning may be measured by a standardized scale or informal appraisal by the medical professional.

(D) Cognitive, which involves intellectual functioning at a measured IQ of 70 or below. Assessment of cognitive functioning must be measured by a standardized instrument for general intelligence.

(3) The evaluation determines that development is substantially less than expected for the age in cognitive, affective or psychomotor behavior as follows:

(A) Cognitive, which involves intellectual functioning at a measured IQ of 70 or below. Assessment of cognitive functioning must be measured by a standardized instrument for general intelligence.

(B) Affective behavior, which involves over and under responding to stimuli in the environment and may be observed in mood, attention to awareness, or in behaviors such as euphoria, anger or sadness that seriously limit integration into society. Affective behavior must be based on clinical medical and psychiatric assessment using the appropriate instruments, techniques

and standards of measurement required by the professional.

(C) Psychomotor, which includes a severe developmental delay in fine or gross motor skills so that development in self-care, social interaction, communication or physical activity will be greatly delayed or restricted.

(4) A determination that the disability originated before the age of 18 years.

A determination of severe and multiple impairments shall be based upon a comprehensive, documented assessment with an evaluation by a licensed clinical psychologist or psychiatrist. If the examiner is a licensed clinical psychologist, ancillary evaluation of physical impairment, cerebral palsy or epilepsy must be made by a physician licensed to practice medicine in all its branches.

Regardless of the discipline of the examiner, ancillary evaluation of visual impairment must be made by an ophthalmologist or a licensed optometrist.

Regardless of the discipline of the examiner, ancillary evaluation of hearing impairment must be made by an otolaryngologist or an audiologist with a certificate of clinical competency.

The only exception to the above is in the case of a person with cerebral palsy or epilepsy who, according to the eligibility criteria listed below, has multiple impairments which are only physical and sensory. In such a case, a physician licensed to practice medicine in all its branches may serve as the examiner.

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

(405 ILCS 80/3-5) (from Ch. 91 1/2, par. 1803-5)

Sec. 3-5. The Department shall create application forms which shall be used to determine the eligibility of families for the Program. The forms shall require at least the following items of information which constitute the eligibility criteria for participation in the Program:

(a) A statement that the family resides in the State of Illinois.

(b) A statement that the family member is 17 years of age or younger.

(c) A statement that the family member resides, or is expected to reside, with his or her parent or legal guardian, or that the family member resides in an out-of-home placement with the expectation of residing with the parent or legal guardian within 2 months of the date of the application.

(d) Verification that the family member has one of the following conditions: severe autism, severe mental illness, a severe or profound intellectual disability ~~mental retardation~~, or severe and multiple impairments. Verification of the family member's condition shall be:

(1) by the family member's local school district for family members enrolled with a local school district; or

(2) by an entity designated by the Department.

(e) Verification that the taxable income for the family for the year immediately preceding the date of the application did not exceed an amount to be established by rule of the Department, unless it can be verified that the taxable income for the family for the year in which the application is made will be less than such amount. The maximum taxable family income set by rule of the Department may not be less than $65,000 beginning January 1, 2008.

(Source: P.A. 95-112, eff. 8-13-07.)

(405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

Sec. 5-1. As the mental health and developmental disabilities or intellectual disabilities ~~mental retardation~~ authority for the State of Illinois, the Department of Human Services shall have the authority to license, certify and prescribe standards governing the programs and services provided under this Act, as well as all other agencies or programs which provide home-based or community-based services to the mentally disabled, except those services, programs or agencies established under or otherwise subject to the Child Care Act of 1969 or the ID/DD ~~MR/DD~~ Community Care Act, as now or hereafter amended, and this Act shall not be construed to limit the application of those Acts.

(Source: P.A. 96-339, eff. 7-1-10.)

(405 ILCS 80/5-4)

Sec. 5-4. Home and Community-Based Services Waivers; autism spectrum disorder. A person diagnosed with an autism spectrum disorder may be assessed for eligibility for services under Home and Community-Based Services Waivers for persons with developmental disabilities, without regard to whether that person is also diagnosed with an intellectual disability ~~mental retardation~~, so long as the person otherwise meets applicable level-of-care criteria under those waivers. This amendatory Act of the 95th General Assembly does not create any new entitlement to a service, program, or benefit, but shall not affect any entitlement to a service, program, or benefit created by any other law.

(Source: P.A. 95-251, eff. 8-17-07.)

(405 ILCS 80/6-1)

Sec. 6-1. Community Residential Choices Program.

(a) The purpose of this Article is to promote greater compatibility among individuals with developmental disabilities who live together by allowing individuals with developmental disabilities who meet either the emergency or critical need criteria of the Department of Human Services as defined under the Department's developmental disabilities cross-disability database (as required by Section 10-26 of the Department of Human Services Act), and who also meet the Department's developmental disabilities priority population criteria for residential services as defined in the Department's developmental disabilities Community Services Agreement and whose parents are over the age of 60, to choose to live together in a community-based residential program.

(b) For purposes of this Article:

"Community-based residential program" means one of a variety of living arrangements for persons with developmental disabilities, including existing settings such as community-integrated living arrangements, and may also include newly developed settings that are consistent with this definition.

"Developmental disability" may include an autism spectrum disorder.

(c) A person diagnosed with an autism spectrum disorder may be assessed for eligibility for services under Home and Community-Based Services Waivers for persons with developmental disabilities without regard to whether that person is also diagnosed with an intellectual disability ~~mental retardation~~, so long as the person otherwise meets applicable level-of-care criteria under those waivers. This provision does not create any new entitlement to a service, program, or benefit, but shall not affect any entitlement to a service, program, or benefit created by any other law.

(Source: P.A. 95-636, eff. 10-5-07.)

Section 110. The Medical Patient Rights Act is amended by changing Section 2.03 as follows:

(410 ILCS 50/2.03) (from Ch. 111 1/2, par. 5402.03)

Sec. 2.03. "Health care provider" means any public or private facility that provides, on an inpatient or outpatient basis, preventive, diagnostic, therapeutic, convalescent, rehabilitation, mental health, or intellectual disability ~~mental retardation~~ services, including general or special hospitals, skilled nursing homes, extended care facilities, intermediate care facilities and mental health centers.

(Source: P.A. 81-1167.)

Section 115. The Newborn Metabolic Screening Act is amended by changing Section 2 as follows:

(410 ILCS 240/2) (from Ch. 111 1/2, par. 4904)

Sec. 2. The Department of Public Health shall administer the provisions of this Act and shall:

(a) Institute and carry on an intensive educational program among physicians, hospitals, public health nurses and the public concerning the diseases phenylketonuria, hypothyroidism, galactosemia and other metabolic diseases. This educational program shall include information about the nature of the diseases and examinations for the detection of the diseases in early infancy in order that measures may be taken to prevent the intellectual disabilities ~~mental retardation~~ resulting from the diseases.

(a-5) Beginning July 1, 2002, provide all newborns with expanded screening tests for the presence of genetic, endocrine, or other metabolic disorders, including phenylketonuria, galactosemia, hypothyroidism, congenital adrenal hyperplasia, biotinidase deficiency, and sickling disorders, as well as other amino acid disorders, organic acid disorders, fatty acid oxidation disorders, and other abnormalities detectable through the use of a tandem mass spectrometer. If by July 1, 2002, the Department is unable to provide expanded screening using the State Laboratory, it shall temporarily provide such screening through an accredited laboratory selected by the Department until the Department has the capacity to provide screening through the State Laboratory. If expanded screening is provided on a temporary basis through an accredited laboratory, the Department shall substitute the fee charged by the accredited laboratory, plus a 5% surcharge for documentation and handling, for the fee authorized in subsection (e) of this Section.

(a-6) In accordance with the timetable specified in this subsection, provide all newborns with expanded screening tests for the presence of certain Lysosomal Storage Disorders known as Krabbe, Pompe, Gaucher, Fabry, and Niemann-Pick. The testing shall begin within 6 months following the occurrence of all of the following:

(i) the registration with the federal Food and Drug Administration of the necessary reagents;

(ii) the availability of the necessary reagents from the Centers for Disease Control and Prevention;

(iii) the availability of quality assurance testing methodology for these processes; and

(iv) the acquisition and installment by the Department of the equipment necessary to implement the expanded screening tests.

It is the goal of this amendatory Act of the 95th General Assembly that the expanded screening for the specified Lysosomal Storage Disorders begins within 3 years after the effective date of this Act. The Department is authorized to implement an additional fee for the screening prior to beginning the testing in order to accumulate the resources for start-up and other costs associated with implementation of the screening and thereafter to support the costs associated with screening and follow-up programs for the specified Lysosomal Storage Disorders.

(b) Maintain a registry of cases including information of importance for the purpose of follow-up services to prevent intellectual disabilities ~~mental retardation~~.

(c) Supply the necessary metabolic treatment formulas where practicable for diagnosed cases of amino acid metabolism disorders, including phenylketonuria, organic acid disorders, and fatty acid oxidation disorders for as long as medically indicated, when the product is not available through other State agencies.

(d) Arrange for or provide public health nursing, nutrition and social services and clinical consultation as indicated.

(e) Require that all specimens collected pursuant to this Act or the rules and regulations promulgated hereunder be submitted for testing to the nearest Department of Public Health laboratory designated to perform such tests. The Department may develop a reasonable fee structure and may levy fees according to such structure to cover the cost of providing this testing service. Fees collected from the provision of this testing service shall be placed in a special fund in the State Treasury, hereafter known as the Metabolic Screening and Treatment Fund. Other State and federal funds for expenses related to metabolic screening, follow-up and treatment programs may also be placed in such Fund. Moneys shall be appropriated from such Fund to the Department of Public Health solely for the purposes of providing metabolic screening, follow-up and treatment programs. Nothing in this Act shall be construed to prohibit any licensed medical facility from collecting additional specimens for testing for metabolic or neonatal diseases or any other diseases or conditions, as it deems fit. Any person violating the provisions of this subsection (e) is guilty of a petty offense.

(Source: P.A. 95-695, eff. 11-5-07.)

Section 120. The Developmental Disability Prevention Act is amended by changing Section 2 as follows:

(410 ILCS 250/2) (from Ch. 111 1/2, par. 2102)

Sec. 2.

As used in this Act:

a "perinatal" means the period of time between the conception of an infant and the end of the first month of life;

b "congenital" means those intrauterine factors which influence the growth, development and function of the fetus;

c "environmental" means those extrauterine factors which influence the adaptation, well being or life of the newborn and may lead to disability;

d "high risk" means an increased level of risk of harm or mortality to the woman of childbearing age, fetus or newborn from congenital and/or environmental factors;

e "perinatal center" means a referral facility intended to care for the high risk patient before, during, or after labor and delivery and characterized by sophistication and availability of personnel, equipment, laboratory, transportation techniques, consultation and other support services;

f "developmental disability" means an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy, or other neurological handicapping conditions of an individual found to be closely related to an intellectual disability ~~mental retardation~~ or to require treatment similar to that required by intellectually disabled ~~mentally retarded~~ individuals, and the disability originates before such individual attains age 18, and has continued, or can be expected to continue indefinitely, and constitutes a substantial handicap of such individuals;

g "disability" means a condition characterized by temporary or permanent, partial or complete impairment of physical, mental or physiological function;

h "Department" means the Department of Public Health.

(Source: P.A. 78-557.)

Section 125. The Communicable Disease Prevention Act is amended by changing Section 1 as follows:

(410 ILCS 315/1) (from Ch. 111 1/2, par. 22.11)

Sec. 1. Certain communicable diseases such as measles, poliomyelitis, invasive pneumococcal

disease, and tetanus, may and do result in serious physical and mental disability including an intellectual disability ~~mental retardation~~, permanent paralysis, encephalitis, convulsions, pneumonia, and not infrequently, death.

Most of these diseases attack young children, and if they have not been immunized, may spread to other susceptible children and possibly, adults, thus, posing serious threats to the health of the community. Effective, safe and widely used vaccines and immunization procedures have been developed and are available to prevent these diseases and to limit their spread. Even though such immunization procedures are available, many children fail to receive this protection either through parental oversight, lack of concern, knowledge or interest, or lack of available facilities or funds. The existence of susceptible children in the community constitutes a health hazard to the individual and to the public at large by serving as a focus for the spread of these communicable diseases.

It is declared to be the public policy of this State that all children shall be protected, as soon after birth as medically indicated, by the appropriate vaccines and immunizing procedures to prevent communicable diseases which are or which may in the future become preventable by immunization.
(Source: P.A. 95-159, eff. 8-14-07.)

Section 126. The Arthritis Quality of Life Initiative Act is amended by changing Section 5 as follows:
(410 ILCS 503/5)

Sec. 5. Legislative findings. The General Assembly finds and declares that:

(1) Arthritis is the most common, physically disabling ~~crippling~~, and costly chronic disease in the United States; it affects 14.5% of the population or more than 40,000,000 Americans of all ages. One in every 7 people and one in every 3 families are affected by the disease.

(2) Arthritis is the nation's number one disabling disease and disables 7,000,000 Americans. It is one of the most common and disabling chronic conditions reported by women and far exceeds the reporting of hypertension, heart disease, diabetes, and breast, cervical, and ovarian cancers.

(3) With an aggregate cost of about 1.1% of the gross national product or an estimated $64,800,000,000 annually in medical expenses, lost wages, and associated economic losses, arthritis and other rheumatic diseases have a significant economic impact on the nation.

(4) As the leading cause of industrial absenteeism after the common cold, arthritis accounts nationally for 500,000,000 days of restricted activity and 27,000,000 days lost from work each year.

(5) The federal Centers for Disease Control and Prevention project that by the year 2020, the incidence of arthritis will increase by 59% in the State and throughout the country, affecting 20% of the population.

(6) Programs and services presently are available that can dramatically impact on early diagnosis and treatment as well as the quality of life of people with arthritis.

(7) A mechanism for broader dissemination of these programs and services aimed at prevention, information, and education is needed to help reduce the physical and emotional impact of arthritis and its associated health care and related costs.
(Source: P.A. 91-750, eff. 1-1-01.)

Section 128. The Facilities Requiring Smoke Detectors Act is amended by changing Section 1 as follows:
(425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

Sec. 1. For purposes of this Act, unless the context requires otherwise:

(a) "Facility" means:

(1) Any long-term care facility as defined in Section 1-113 of the Nursing Home Care Act or any facility as defined in Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act, as amended;

(2) Any community residential alternative as defined in paragraph (4) of Section 3 of the Community Residential Alternatives Licensing Act, as amended; and

(3) Any child care facility as defined in Section 2.05 of the Child Care Act of 1969, as amended.

(b) "Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal.
(Source: P.A. 96-339, eff. 7-1-10.)

Section 130. The Firearm Owners Identification Card Act is amended by changing Sections 4 and 8 as follows:

(430 ILCS 65/4) (from Ch. 38, par. 83-4)

Sec. 4. (a) Each applicant for a Firearm Owner's Identification Card must:

(1) Make application on blank forms prepared and furnished at convenient locations throughout the State by the Department of State Police, or by electronic means, if and when made available by the Department of State Police; and

(2) Submit evidence to the Department of State Police that:

(i) He or she is 21 years of age or over, or if he or she is under 21 years of age that he or she has the written consent of his or her parent or legal guardian to possess and acquire firearms and firearm ammunition and that he or she has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card and files an affidavit with the Department as prescribed by the Department stating that he or she is not an individual prohibited from having a Card;

(ii) He or she has not been convicted of a felony under the laws of this or any other jurisdiction;

(iii) He or she is not addicted to narcotics;

(iv) He or she has not been a patient in a mental institution within the past 5 years and he or she has not been adjudicated as a mental defective;

(v) He or she is not intellectually disabled ~~mentally retarded~~;

(vi) He or she is not an alien who is unlawfully present in the United States under the laws of the United States;

(vii) He or she is not subject to an existing order of protection prohibiting him or her from possessing a firearm;

(viii) He or she has not been convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed;

(ix) He or she has not been convicted of domestic battery or a substantially similar offense in another jurisdiction committed on or after the effective date of this amendatory Act of 1997;

(x) He or she has not been convicted within the past 5 years of domestic battery or a substantially similar offense in another jurisdiction committed before the effective date of this amendatory Act of 1997;

(xi) He or she is not an alien who has been admitted to the United States under a non-immigrant visa (as that term is defined in Section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26))), or that he or she is an alien who has been lawfully admitted to the United States under a non-immigrant visa if that alien is:

(1) admitted to the United States for lawful hunting or sporting purposes;

(2) an official representative of a foreign government who is:

(A) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(B) en route to or from another country to which that alien is accredited;

(3) an official of a foreign government or distinguished foreign visitor who has been so designated by the Department of State;

(4) a foreign law enforcement officer of a friendly foreign government entering the United States on official business; or

(5) one who has received a waiver from the Attorney General of the United States pursuant to 18 U.S.C. 922(y)(3);

(xii) He or she is not a minor subject to a petition filed under Section 5-520 of the Juvenile Court Act of 1987 alleging that the minor is a delinquent minor for the commission of an offense that if committed by an adult would be a felony; and

(xiii) He or she is not an adult who had been adjudicated a delinquent minor under the Juvenile Court Act of 1987 for the commission of an offense that if committed by an adult would be a felony; and

(3) Upon request by the Department of State Police, sign a release on a form prescribed by the Department of State Police waiving any right to confidentiality and requesting the disclosure to the Department of State Police of limited mental health institution admission information from another state, the District of Columbia, any other territory of the United States, or a foreign nation

concerning the applicant for the sole purpose of determining whether the applicant is or was a patient in a mental health institution and disqualified because of that status from receiving a Firearm Owner's Identification Card. No mental health care or treatment records may be requested. The information received shall be destroyed within one year of receipt.

(a-5) Each applicant for a Firearm Owner's Identification Card who is over the age of 18 shall furnish to the Department of State Police either his or her driver's license number or Illinois Identification Card number.

(a-10) Each applicant for a Firearm Owner's Identification Card, who is employed as an armed security officer at a nuclear energy, storage, weapons, or development facility regulated by the Nuclear Regulatory Commission and who is not an Illinois resident, shall furnish to the Department of State Police his or her driver's license number or state identification card number from his or her state of residence. The Department of State Police may promulgate rules to enforce the provisions of this subsection (a-10).

(b) Each application form shall include the following statement printed in bold type: "Warning: Entering false information on an application for a Firearm Owner's Identification Card is punishable as a Class 2 felony in accordance with subsection (d-5) of Section 14 of the Firearm Owners Identification Card Act.".

(c) Upon such written consent, pursuant to Section 4, paragraph (a)(2)(i), the parent or legal guardian giving the consent shall be liable for any damages resulting from the applicant's use of firearms or firearm ammunition.

(Source: P.A. 95-581, eff. 6-1-08.)

(430 ILCS 65/8) (from Ch. 38, par. 83-8)

Sec. 8. The Department of State Police has authority to deny an application for or to revoke and seize a Firearm Owner's Identification Card previously issued under this Act only if the Department finds that the applicant or the person to whom such card was issued is or was at the time of issuance:

(a) A person under 21 years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent;

(b) A person under 21 years of age who does not have the written consent of his parent or guardian to acquire and possess firearms and firearm ammunition, or whose parent or guardian has revoked such written consent, or where such parent or guardian does not qualify to have a Firearm Owner's Identification Card;

(c) A person convicted of a felony under the laws of this or any other jurisdiction;

(d) A person addicted to narcotics;

(e) A person who has been a patient of a mental institution within the past 5 years or has been adjudicated as a mental defective;

(f) A person whose mental condition is of such a nature that it poses a clear and present danger to the applicant, any other person or persons or the community;

For the purposes of this Section, "mental condition" means a state of mind manifested by violent, suicidal, threatening or assaultive behavior.

(g) A person who is intellectually disabled ~~mentally retarded~~;

(h) A person who intentionally makes a false statement in the Firearm Owner's Identification Card application;

(i) An alien who is unlawfully present in the United States under the laws of the United States;

(i-5) An alien who has been admitted to the United States under a non-immigrant visa (as that term is defined in Section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26))), except that this subsection (i-5) does not apply to any alien who has been lawfully admitted to the United States under a non-immigrant visa if that alien is:

(1) admitted to the United States for lawful hunting or sporting purposes;

(2) an official representative of a foreign government who is:

(A) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(B) en route to or from another country to which that alien is accredited;

(3) an official of a foreign government or distinguished foreign visitor who has been so designated by the Department of State;

(4) a foreign law enforcement officer of a friendly foreign government entering the United States on official business; or

(5) one who has received a waiver from the Attorney General of the United States pursuant to 18 U.S.C. 922(y)(3);

(j) (Blank);

(k) A person who has been convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed;

(l) A person who has been convicted of domestic battery or a substantially similar offense in another jurisdiction committed on or after January 1, 1998;

(m) A person who has been convicted within the past 5 years of domestic battery or a substantially similar offense in another jurisdiction committed before January 1, 1998;

(n) A person who is prohibited from acquiring or possessing firearms or firearm ammunition by any Illinois State statute or by federal law;

(o) A minor subject to a petition filed under Section 5-520 of the Juvenile Court Act of 1987 alleging that the minor is a delinquent minor for the commission of an offense that if committed by an adult would be a felony; or

(p) An adult who had been adjudicated a delinquent minor under the Juvenile Court Act of 1987 for the commission of an offense that if committed by an adult would be a felony.

(Source: P.A. 95-581, eff. 6-1-08; 96-701, eff. 1-1-10.)

Section 135. The Criminal Code of 1961 is amended by changing Sections 2-10.1, 10-1, 10-2, 10-5, 11-14.1, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 11-20.1, 11-20.3, 12-4.3, 12-14, 12-16, 12-19, 12-21, 17-29, 24-3, 24-3.1, and 26-1 as follows:

(720 ILCS 5/2-10.1) (from Ch. 38, par. 2-10.1)

Sec. 2-10.1. "Severely or profoundly intellectually disabled ~~mentally retarded~~ person" means a person (i) whose intelligence quotient does not exceed 40 or (ii) whose intelligence quotient does not exceed 55 and who suffers from significant mental illness to the extent that the person's ability to exercise rational judgment is impaired. In any proceeding in which the defendant is charged with committing a violation of Section 10-2, 10-5, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-4.3, 12-14, or 12-16 of this Code against a victim who is alleged to be a severely or profoundly intellectually disabled ~~mentally retarded~~ person, any findings concerning the victim's status as a severely or profoundly intellectually disabled ~~mentally retarded~~ person, made by a court after a judicial admission hearing concerning the victim under Articles V and VI of Chapter 4 of the Mental Health and Developmental Disabilities Code shall be admissible.

(Source: P.A. 92-434, eff. 1-1-02.)

(720 ILCS 5/10-1) (from Ch. 38, par. 10-1)

Sec. 10-1. Kidnapping.

(a) A person commits the offense of kidnapping when he or she knowingly:

(1) and secretly confines another against his or her will;

(2) by force or threat of imminent force carries another from one place to another with intent secretly to confine that other person against his or her will; or

(3) by deceit or enticement induces another to go from one place to another with intent secretly to confine that other person against his or her will.

(b) Confinement of a child under the age of 13 years, or of a severely or profoundly intellectually disabled ~~mentally retarded~~ person, is against that child's or person's will within the meaning of this Section if that confinement is without the consent of that child's or person's parent or legal guardian.

(c) Sentence. Kidnapping is a Class 2 felony.

(Source: P.A. 96-710, eff. 1-1-10.)

(720 ILCS 5/10-2) (from Ch. 38, par. 10-2)

Sec. 10-2. Aggravated kidnaping.

(a) A person commits the offense of aggravated kidnaping when he or she commits kidnapping and:

(1) kidnaps with the intent to obtain ransom from the person kidnaped or from any other person;

(2) takes as his or her victim a child under the age of 13 years, or a severely or profoundly intellectually disabled ~~mentally retarded~~ person;

(3) inflicts great bodily harm, other than by the discharge of a firearm, or commits another felony upon his or her victim;

(4) wears a hood, robe, or mask or conceals his or her identity;

(5) commits the offense of kidnaping while armed with a dangerous weapon, other than a firearm, as defined in Section 33A-1 of this Code;

(6) commits the offense of kidnaping while armed with a firearm;

(7) during the commission of the offense of kidnaping, personally discharges a firearm; or

(8) during the commission of the offense of kidnaping, personally discharges a firearm

that proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

As used in this Section, "ransom" includes money, benefit, or other valuable thing or concession.

(b) Sentence. Aggravated kidnaping in violation of paragraph (1), (2), (3), (4), or (5) of subsection (a) is a Class X felony. A violation of subsection (a)(6) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(7) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X felony for which 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

A person who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense.

(Source: P.A. 96-710, eff. 1-1-10.)

(720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

Sec. 10-5. Child abduction.

(a) For purposes of this Section, the following terms have the following meanings:

(1) "Child" means a person who, at the time the alleged violation occurred, was under the age of 18 or severely or profoundly intellectually disabled ~~mentally retarded~~.

(2) "Detains" means taking or retaining physical custody of a child, whether or not the child resists or objects.

(3) "Lawful custodian" means a person or persons granted legal custody of a child or entitled to physical possession of a child pursuant to a court order. It is presumed that, when the parties have never been married to each other, the mother has legal custody of the child unless a valid court order states otherwise. If an adjudication of paternity has been completed and the father has been assigned support obligations or visitation rights, such a paternity order should, for the purposes of this Section, be considered a valid court order granting custody to the mother.

(4) "Putative father" means a man who has a reasonable belief that he is the father of a child born of a woman who is not his wife.

(b) A person commits the offense of child abduction when he or she does any one of the following:

(1) Intentionally violates any terms of a valid court order granting sole or joint custody, care, or possession to another by concealing or detaining the child or removing the child from the jurisdiction of the court.

(2) Intentionally violates a court order prohibiting the person from concealing or detaining the child or removing the child from the jurisdiction of the court.

(3) Intentionally conceals, detains, or removes the child without the consent of the mother or lawful custodian of the child if the person is a putative father and either: (A) the paternity of the child has not been legally established or (B) the paternity of the child has been legally established but no orders relating to custody have been entered. Notwithstanding the presumption created by paragraph (3) of subsection (a), however, a mother commits child abduction when she intentionally conceals or removes a child, whom she has abandoned or relinquished custody of, from an unadjudicated father who has provided sole ongoing care and custody of the child in her absence.

(4) Intentionally conceals or removes the child from a parent after filing a petition or being served with process in an action affecting marriage or paternity but prior to the issuance of a temporary or final order determining custody.

(5) At the expiration of visitation rights outside the State, intentionally fails or refuses to return or impedes the return of the child to the lawful custodian in Illinois.

(6) Being a parent of the child, and if the parents of that child are or have been married and there has been no court order of custody, knowingly conceals the child for 15 days, and fails to make reasonable attempts within the 15-day period to notify the other parent as to the specific whereabouts of the child, including a means by which to contact the child, or to arrange reasonable visitation or contact with the child. It is not a violation of this Section for a person fleeing domestic violence to take the child with him or her to housing provided by a domestic violence program.

(7) Being a parent of the child, and if the parents of the child are or have been married and there has been no court order of custody, knowingly conceals, detains, or removes the child with physical force or threat of physical force.

(8) Knowingly conceals, detains, or removes the child for payment or promise of payment at the instruction of a person who has no legal right to custody.

(9) Knowingly retains in this State for 30 days a child removed from another state

without the consent of the lawful custodian or in violation of a valid court order of custody.

(10) Intentionally lures or attempts to lure a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place without the consent of the child's parent or lawful custodian for other than a lawful purpose. For the purposes of this item (10), the luring or attempted luring of a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place without the consent of the child's parent or lawful custodian is prima facie evidence of other than a lawful purpose.

(11) With the intent to obstruct or prevent efforts to locate the child victim of a child abduction, knowingly destroys, alters, conceals, or disguises physical evidence or furnishes false information.

(c) It is an affirmative defense to subsections (b)(1) through (b)(10) of this Section that:

(1) the person had custody of the child pursuant to a court order granting legal custody or visitation rights that existed at the time of the alleged violation;

(2) the person had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond his or her control, and the person notified and disclosed to the other parent or legal custodian the specific whereabouts of the child and a means by which the child could be contacted or made a reasonable attempt to notify the other parent or lawful custodian of the child of those circumstances and made the disclosure within 24 hours after the visitation period had expired and returned the child as soon as possible;

(3) the person was fleeing an incidence or pattern of domestic violence; or

(4) the person lured or attempted to lure a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place for a lawful purpose in prosecutions under paragraph (10) of subsection (b).

(d) A person convicted of child abduction under this Section is guilty of a Class 4 felony. A person convicted of a second or subsequent violation of paragraph (10) of subsection (b) of this Section is guilty of a Class 3 felony. It is a factor in aggravation under subsections (b)(1) through (b)(10) of this Section for which a court may impose a more severe sentence under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter V of the Unified Code of Corrections if, upon sentencing, the court finds evidence of any of the following aggravating factors:

(1) that the defendant abused or neglected the child following the concealment, detention, or removal of the child;

(2) that the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause that parent or lawful custodian to discontinue criminal prosecution of the defendant under this Section;

(3) that the defendant demanded payment in exchange for return of the child or demanded that he or she be relieved of the financial or legal obligation to support the child in exchange for return of the child;

(4) that the defendant has previously been convicted of child abduction;

(5) that the defendant committed the abduction while armed with a deadly weapon or the taking of the child resulted in serious bodily injury to another; or

(6) that the defendant committed the abduction while in a school, regardless of the time of day or time of year; in a playground; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school or playground. For purposes of this paragraph (6), "playground" means a piece of land owned or controlled by a unit of local government that is designated by the unit of local government for use solely or primarily for children's recreation; and "school" means a public or private elementary or secondary school, community college, college, or university.

(e) The court may order the child to be returned to the parent or lawful custodian from whom the child was concealed, detained, or removed. In addition to any sentence imposed, the court may assess any reasonable expense incurred in searching for or returning the child against any person convicted of violating this Section.

(f) Nothing contained in this Section shall be construed to limit the court's contempt power.

(g) Every law enforcement officer investigating an alleged incident of child abduction shall make a written police report of any bona fide allegation and the disposition of that investigation. Every police report completed pursuant to this Section shall be compiled and recorded within the meaning of Section 5.1 of the Criminal Identification Act.

(h) Whenever a law enforcement officer has reasons to believe a child abduction has occurred, she or

he shall provide the lawful custodian a summary of her or his rights under this Code, including the procedures and relief available to her or him.

(i) If during the course of an investigation under this Section the child is found in the physical custody of the defendant or another, the law enforcement officer shall return the child to the parent or lawful custodian from whom the child was concealed, detained, or removed, unless there is good cause for the law enforcement officer or the Department of Children and Family Services to retain temporary protective custody of the child pursuant to the Abused and Neglected Child Reporting Act.

(Source: P.A. 95-1052, eff. 7-1-09; 96-710, eff. 1-1-10; ; 96-1000, eff. 7-2-10.)

(720 ILCS 5/11-14.1)

Sec. 11-14.1. Solicitation of a sexual act.

(a) Any person who offers a person not his or her spouse any money, property, token, object, or article or anything of value for that person or any other person not his or her spouse to perform any act of sexual penetration as defined in Section 12-12 of this Code, or any touching or fondling of the sex organs of one person by another person for the purpose of sexual arousal or gratification, commits the offense of solicitation of a sexual act.

(b) Sentence. Solicitation of a sexual act is a Class A misdemeanor. Solicitation of a sexual act from a person who is under the age of 18 or who is severely or profoundly intellectually disabled ~~mentally retarded~~ is a Class 4 felony.

(b-5) It is an affirmative defense to a charge of solicitation of a sexual act with a person who is under the age of 18 or who is severely or profoundly intellectually disabled ~~mentally retarded~~ that the accused reasonably believed the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time of the act giving rise to the charge.

(Source: P.A. 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-15.1) (from Ch. 38, par. 11-15.1)

Sec. 11-15.1. Soliciting for a minor engaged in prostitution.

(a) Any person who violates any of the provisions of Section 11-15(a) of this Act commits soliciting for a minor engaged in prostitution where the person for whom such person is soliciting is under 18 years of age or is a severely or profoundly intellectually disabled ~~mentally retarded~~ person.

(b) It is an affirmative defense to a charge of soliciting for a minor engaged in prostitution that the accused reasonably believed the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time of the act giving rise to the charge.

(c) Sentence.

Soliciting for a minor engaged in prostitution is a Class 1 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14, 11-14.1, 11-15, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, or 11-19.2 of this Code, is guilty of a Class X felony. The fact of such prior conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during the trial.

(c-5) A person who violates this Section within 1,000 feet of real property comprising a school commits a Class X felony.

(Source: P.A. 95-95, eff. 1-1-08; 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-17.1) (from Ch. 38, par. 11-17.1)

Sec. 11-17.1. Keeping a Place of Juvenile Prostitution.

(a) Any person who knowingly violates any of the provisions of Section 11-17 of this Act commits keeping a place of juvenile prostitution when any person engaged in prostitution in the place of prostitution is under 18 years of age or is a severely or profoundly intellectually disabled ~~mentally retarded~~ person.

(b) If the accused did not have a reasonable opportunity to observe the person, it is an affirmative defense to a charge of keeping a place of juvenile prostitution that the accused reasonably believed the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time of the act giving rise to the charge.

(c) Sentence. Keeping a place of juvenile prostitution is a Class 1 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, or 11-19.2 of this Code, is guilty of a Class X felony.

(d) Forfeiture. Any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(Source: P.A. 95-95, eff. 1-1-08; 96-712, eff. 1-1-10; 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-18.1) (from Ch. 38, par. 11-18.1)

Sec. 11-18.1. Patronizing a minor engaged in prostitution.

(a) Any person who engages in an act of sexual penetration as defined in Section 12-12 of this Code with a person engaged in prostitution who is under 18 years of age or is a severely or profoundly intellectually disabled ~~mentally retarded~~ person commits the offense of patronizing a minor engaged in prostitution.

(b) It is an affirmative defense to the charge of patronizing a minor engaged in prostitution that the accused reasonably believed that the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time of the act giving rise to the charge.

(c) Sentence. A person who commits patronizing a juvenile prostitute is guilty of a Class 3 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-19, 11-19.1, or 11-19.2 of this Code, is guilty of a Class 2 felony. The fact of such conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial. A person who violates this Section within 1,000 feet of real property comprising a school commits a Class 2 felony.

(Source: P.A. 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-19.1) (from Ch. 38, par. 11-19.1)

Sec. 11-19.1. Juvenile Pimping and aggravated juvenile pimping.

(a) A person commits the offense of juvenile pimping if the person knowingly receives any form of consideration derived from the practice of prostitution, in whole or in part, and

(1) the prostituted person was under the age of 18 at the time the act of prostitution occurred; or

(2) the prostitute was a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time the act of prostitution occurred.

(b) A person commits the offense of aggravated juvenile pimping if the person knowingly receives any form of consideration derived from the practice of prostitution, in whole or in part, and the prostituted person was under the age of 13 at the time the act of prostitution occurred.

(c) If the accused did not have a reasonable opportunity to observe the prostituted person, it is an affirmative defense to a charge of juvenile pimping that the accused reasonably believed the person was of the age of 18 years or over or was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person at the time of the act giving rise to the charge.

(d) Sentence.

A person who commits a violation of subsection (a) is guilty of a Class 1 felony. A person convicted of a second or subsequent violation of this Section, or of any combination of such number of convictions under this Section and Sections 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, or 11-19.2 of this Code, is guilty of a Class X felony. A person who commits a violation of subsection (b) is guilty of a Class X felony.

(e) For the purposes of this Section, "prostituted person" means any person who engages in, or agrees or offers to engage in, any act of sexual penetration as defined in Section 12-12 of this Code for any money, property, token, object, or article or anything of value, or any touching or fondling of the sex organs of one person by another person, for any money, property, token, object, or article or anything of value, for the purpose of sexual arousal or gratification.

(Source: P.A. 95-95, eff. 1-1-08; 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

Sec. 11-19.2. Exploitation of a child.

(A) A person commits exploitation of a child when he or she confines a child under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person against his or her will by the infliction or threat of imminent infliction of great bodily harm, permanent disability or disfigurement or by administering to the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person without his or her consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in the Illinois Controlled Substances Act or the Cannabis Control Act or methamphetamine as defined in the Methamphetamine Control and Community Protection Act and:

(1) compels the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person to engage in prostitution; or

(2) arranges a situation in which the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person may

practice prostitution; or

(3) receives any money, property, token, object, or article or anything of value from the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person knowing it was obtained in whole or in part from the practice of prostitution.

(B) For purposes of this Section, administering drugs, as defined in subsection (A), or an alcoholic intoxicant to a child under the age of 13 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person shall be deemed to be without consent if such administering is done without the consent of the parents or legal guardian or if such administering is performed by the parents or legal guardians for other than medical purposes.

(C) Exploitation of a child is a Class X felony, for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 60 years.

(D) Any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(Source: P.A. 95-640, eff. 6-1-08; 96-712, eff. 1-1-10; 96-1464, eff. 8-20-10.)

(720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

Sec. 11-20.1. Child pornography.

(a) A person commits the offense of child pornography who:

(1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he knows or reasonably should know to be under the age of 18 or any severely or profoundly intellectually disabled ~~mentally retarded~~ person where such child or severely or profoundly intellectually disabled ~~mentally retarded~~ person is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person and the sex organs of another person or animal; or

(iii) actually or by simulation engaged in any act of masturbation; or

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person; or

(2) with the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly intellectually disabled ~~mentally retarded~~ person whom the person knows or reasonably should know to be under the age of 18 or to be a severely or profoundly intellectually disabled ~~mentally retarded~~ person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a

child whom the person knows or reasonably should know to be under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person and who knowingly permits, induces, promotes, or arranges for such child or severely or profoundly intellectually disabled ~~mentally retarded~~ person to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child or severely or profoundly intellectually disabled ~~mentally retarded~~ person whom the person knows or reasonably should know to be under the age of 18 or to be a severely or profoundly intellectually disabled ~~mentally retarded~~ person, engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, uses, persuades, induces, entices, or coerces a person to provide a child under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

(b) (1) It shall be an affirmative defense to a charge of child pornography that the defendant reasonably believed, under all of the circumstances, that the child was 18 years of age or older or that the person was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person but only where, prior to the act or acts giving rise to a prosecution under this Section, he took some affirmative action or made a bonafide inquiry designed to ascertain whether the child was 18 years of age or older or that the person was not a severely or profoundly intellectually disabled ~~mentally retarded~~ person and his reliance upon the information so obtained was clearly reasonable.

(2) (Blank).

(3) The charge of child pornography shall not apply to the performance of official duties by law enforcement or prosecuting officers or persons employed by law enforcement or prosecuting agencies, court personnel or attorneys, nor to bonafide treatment or professional education programs conducted by licensed physicians, psychologists or social workers.

(4) Possession by the defendant of more than one of the same film, videotape or visual reproduction or depiction by computer in which child pornography is depicted shall raise a rebuttable presumption that the defendant possessed such materials with the intent to disseminate them.

(5) The charge of child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(6) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.

(c) Violation of paragraph (1), (4), (5), or (7) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000. Violation of paragraph (3) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $1500 and a maximum fine of $100,000. Violation of paragraph (2) of subsection (a) is a Class 1 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000. Violation of paragraph (6) of subsection (a) is a Class 3 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

(d) If a person is convicted of a second or subsequent violation of this Section within 10 years of a prior conviction, the court shall order a presentence psychiatric examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

(e) Any film, videotape, photograph or other similar visual reproduction or depiction by computer which includes a child under the age of 18 or a severely or profoundly intellectually disabled ~~mentally retarded~~ person engaged in any activity described in subparagraphs (i) through (vii) or paragraph 1 of subsection (a), and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

In addition, any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(e-5) Upon the conclusion of a case brought under this Section, the court shall seal all evidence depicting a victim or witness that is sexually explicit. The evidence may be unsealed and viewed, on a motion of the party seeking to unseal and view the evidence, only for good cause shown and in the discretion of the court. The motion must expressly set forth the purpose for viewing the material. The State's attorney and the victim, if possible, shall be provided reasonable notice of the hearing on the motion to unseal the evidence. Any person entitled to notice of a hearing under this subsection (e-5) may object to the motion.

(f) Definitions. For the purposes of this Section:

(1) "Disseminate" means (i) to sell, distribute, exchange or transfer possession, whether with or without consideration or (ii) to make a depiction by computer available for distribution or downloading through the facilities of any telecommunications network or through any other means of transferring computer programs or data to a computer.

(2) "Produce" means to direct, promote, advertise, publish, manufacture, issue, present or show.

(3) "Reproduce" means to make a duplication or copy.

(4) "Depict by computer" means to generate or create, or cause to be created or generated, a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(5) "Depiction by computer" means a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(6) "Computer", "computer program", and "data" have the meanings ascribed to them in Section 16D-2 of this Code.

(7) "Child" includes a film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer that is, or appears to be, that of a person, either in part, or in total, under the age of 18, regardless of the method by which the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is created, adopted, or modified to appear as such. "Child" also includes a film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer that is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is of a person under the age of 18.

(8) "Sexual penetration" and "sexual conduct" have the meanings ascribed to them in Section 12-12 of this Code.

(g) Re-enactment; findings; purposes.

(1) The General Assembly finds and declares that:

(i) Section 50-5 of Public Act 88-680, effective January 1, 1995, contained provisions amending the child pornography statute, Section 11-20.1 of the Criminal Code of 1961. Section 50-5 also contained other provisions.

(ii) In addition, Public Act 88-680 was entitled "AN ACT to create a Safe Neighborhoods Law". (A) Article 5 was entitled JUVENILE JUSTICE and amended the Juvenile Court Act of 1987. (B) Article 15 was entitled GANGS and amended various provisions of the Criminal Code of 1961 and the Unified Code of Corrections. (C) Article 20 was entitled ALCOHOL ABUSE and amended various provisions of the Illinois Vehicle Code. (D) Article 25 was entitled DRUG ABUSE and amended the Cannabis Control Act and the Illinois Controlled Substances Act. (E) Article 30 was entitled FIREARMS and amended the Criminal Code of 1961 and the Code of Criminal Procedure of 1963. (F) Article 35 amended the Criminal Code of 1961, the Rights of Crime Victims and Witnesses Act, and the Unified Code of Corrections. (G) Article 40 amended the Criminal Code of 1961 to increase the penalty for compelling organization membership of persons. (H) Article 45 created the Secure Residential Youth Care Facility Licensing Act and amended the State Finance Act, the Juvenile Court Act of 1987, the Unified Code of Corrections, and the Private Correctional Facility Moratorium Act. (I) Article 50 amended the WIC Vendor Management Act, the Firearm Owners Identification Card Act, the Juvenile Court Act of 1987, the Criminal Code of 1961, the Wrongs to Children Act, and the Unified Code of Corrections.

(iii) On September 22, 1998, the Third District Appellate Court in People v. Dainty, 701 N.E. 2d 118, ruled that Public Act 88-680 violates the single subject clause of the Illinois Constitution (Article IV, Section 8 (d)) and was unconstitutional in its entirety. As of the time this amendatory Act of 1999 was prepared, People v. Dainty was still subject to appeal.

(iv) Child pornography is a vital concern to the people of this State and the validity of future prosecutions under the child pornography statute of the Criminal Code of 1961 is in grave doubt.

(2) It is the purpose of this amendatory Act of 1999 to prevent or minimize any problems relating to prosecutions for child pornography that may result from challenges to the constitutional validity of Public Act 88-680 by re-enacting the Section relating to child pornography that was included in Public Act 88-680.

(3) This amendatory Act of 1999 re-enacts Section 11-20.1 of the Criminal Code of 1961, as it has been amended. This re-enactment is intended to remove any question as to the validity or content of that Section; it is not intended to supersede any other Public Act that amends the text of the Section as set forth in this amendatory Act of 1999. The material is shown as existing text (i.e., without underscoring) because, as of the time this amendatory Act of 1999 was prepared, People v. Dainty was subject to appeal to the Illinois Supreme Court.

(4) The re-enactment by this amendatory Act of 1999 of Section 11-20.1 of the Criminal Code of 1961 relating to child pornography that was amended by Public Act 88-680 is not intended, and shall not be construed, to imply that Public Act 88-680 is invalid or to limit or impair any legal argument concerning whether those provisions were substantially re-enacted by other Public Acts.

(Source: P.A. ; 96-292, eff. 1-1-10; 96-712, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(720 ILCS 5/11-20.3)

Sec. 11-20.3. Aggravated child pornography.

(a) A person commits the offense of aggravated child pornography who:

(1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he or she knows or reasonably should know to be under the age of 13 years where such child is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child and the sex organs of another person or animal; or

(iii) actually or by simulation engaged in any act of masturbation; or

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person; or

(2) with the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he or she knows or reasonably should know to be under the age of 13 to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or severely or profoundly intellectually disabled ~~mentally retarded~~ person is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 13 and who knowingly permits, induces, promotes, or arranges for such child to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation

or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, or knowingly uses, persuades, induces, entices, or coerces a person to provide a child under the age of 13 to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

(b)(1) It shall be an affirmative defense to a charge of aggravated child pornography that the defendant reasonably believed, under all of the circumstances, that the child was 13 years of age or older, but only where, prior to the act or acts giving rise to a prosecution under this Section, he or she took some affirmative action or made a bonafide inquiry designed to ascertain whether the child was 13 years of age or older and his or her reliance upon the information so obtained was clearly reasonable.

(2) The charge of aggravated child pornography shall not apply to the performance of official duties by law enforcement or prosecuting officers or persons employed by law enforcement or prosecuting agencies, court personnel or attorneys, nor to bonafide treatment or professional education programs conducted by licensed physicians, psychologists or social workers.

(3) If the defendant possessed more than 3 of the same film, videotape or visual reproduction or depiction by computer in which aggravated child pornography is depicted, then the trier of fact may infer that the defendant possessed such materials with the intent to disseminate them.

(4) The charge of aggravated child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which aggravated child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(5) Any violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) that includes a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context shall be deemed a crime of violence.

(c) Sentence: (1) A person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is guilty of a Class X felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000.

(2) A person who commits a violation of paragraph (6) of subsection (a) is guilty of a Class 2 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

(3) A person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 9 years with a mandatory minimum fine of $2,000 and a maximum fine of $100,000.

(4) A person who commits a violation of paragraph (6) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class 1 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

(d) If a person is convicted of a second or subsequent violation of this Section within 10 years of a prior conviction, the court shall order a presentence psychiatric examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

(e) Any film, videotape, photograph or other similar visual reproduction or depiction by

computer which includes a child under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of subsection (a), and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

In addition, any person convicted under this Section is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963.

(e-5) Upon the conclusion of a case brought under this Section, the court shall seal all evidence depicting a victim or witness that is sexually explicit. The evidence may be unsealed and viewed, on a motion of the party seeking to unseal and view the evidence, only for good cause shown and in the discretion of the court. The motion must expressly set forth the purpose for viewing the material. The State's attorney and the victim, if possible, shall be provided reasonable notice of the hearing on the motion to unseal the evidence. Any person entitled to notice of a hearing under this subsection (e-5) may object to the motion.

(f) Definitions. For the purposes of this Section:

(1) "Disseminate" means (i) to sell, distribute, exchange or transfer possession, whether with or without consideration or (ii) to make a depiction by computer available for distribution or downloading through the facilities of any telecommunications network or through any other means of transferring computer programs or data to a computer.

(2) "Produce" means to direct, promote, advertise, publish, manufacture, issue, present or show.

(3) "Reproduce" means to make a duplication or copy.

(4) "Depict by computer" means to generate or create, or cause to be created or generated, a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(5) "Depiction by computer" means a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(6) "Computer", "computer program", and "data" have the meanings ascribed to them in Section 16D-2 of this Code.

(7) For the purposes of this Section, "child" means a person, either in part or in total, under the age of 13, regardless of the method by which the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is created, adopted, or modified to appear as such.

(8) "Sexual penetration" and "sexual conduct" have the meanings ascribed to them in Section 12-12 of this Code.

(g) When a charge of aggravated child pornography is brought, the age of the child is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the age in question. The trier of fact can rely on its own everyday observations and common experiences in making this determination.

(Source: P.A. 95-579, eff. 6-1-08; 96-292, eff. 1-1-10; 96-712, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(720 ILCS 5/12-4.3) (from Ch. 38, par. 12-4.3)

Sec. 12-4.3. Aggravated battery of a child.

(a) Any person of the age 18 years and upwards who intentionally or knowingly, and without legal justification and by any means, causes great bodily harm or permanent disability or disfigurement to any child under the age of 13 years or to any severely or profoundly intellectually disabled ~~mentally retarded~~ person, commits the offense of aggravated battery of a child.

(a-5) Any person of the age 18 years and upwards who intentionally or knowingly, and without legal justification and by any means, causes bodily harm or disability or disfigurement to any child under the age of 13 years or to any severely or profoundly intellectually disabled ~~mentally retarded~~ person, commits the offense of aggravated battery of a child.

(b) Sentence.

(1) Aggravated battery of a child under subsection (a) of this Section is a Class X felony, except that:

(A) if the person committed the offense while armed with a firearm, 15 years shall be added to the term of imprisonment imposed by the court;

(B) if, during the commission of the offense, the person personally discharged a

firearm, 20 years shall be added to the term of imprisonment imposed by the court;

(C) if, during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

(2) Aggravated battery of a child under subsection (a-5) of this Section is a Class 3 felony.

(Source: P.A. 95-768, eff. 1-1-09.)

(720 ILCS 5/12-14) (from Ch. 38, par. 12-14)

Sec. 12-14. Aggravated Criminal Sexual Assault.

(a) The accused commits aggravated criminal sexual assault if he or she commits criminal sexual assault and any of the following aggravating circumstances existed during, or for the purposes of paragraph (7) of this subsection (a) as part of the same course of conduct as, the commission of the offense:

(1) the accused displayed, threatened to use, or used a dangerous weapon, other than a firearm, or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon; or

(2) the accused caused bodily harm, except as provided in subsection (a)(10), to the victim; or

(3) the accused acted in such a manner as to threaten or endanger the life of the victim or any other person; or

(4) the criminal sexual assault was perpetrated during the course of the commission or attempted commission of any other felony by the accused; or

(5) the victim was 60 years of age or over when the offense was committed; or

(6) the victim was a physically handicapped person; or

(7) the accused delivered (by injection, inhalation, ingestion, transfer of possession, or any other means) to the victim without his or her consent, or by threat or deception, and for other than medical purposes, any controlled substance; or

(8) the accused was armed with a firearm; or

(9) the accused personally discharged a firearm during the commission of the offense; or

(10) the accused, during the commission of the offense, personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person.

(b) The accused commits aggravated criminal sexual assault if the accused was under 17 years of age and (i) commits an act of sexual penetration with a victim who was under 9 years of age when the act was committed; or (ii) commits an act of sexual penetration with a victim who was at least 9 years of age but under 13 years of age when the act was committed and the accused used force or threat of force to commit the act.

(c) The accused commits aggravated criminal sexual assault if he or she commits an act of sexual penetration with a victim who was a severely or profoundly <u>intellectually disabled</u> ~~mentally retarded~~ person at the time the act was committed.

(d) Sentence.

(1) Aggravated criminal sexual assault in violation of paragraph (2), (3), (4), (5), (6), or (7) of subsection (a) or in violation of subsection (b) or (c) is a Class X felony. A violation of subsection (a)(1) is a Class X felony for which 10 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(9) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(10) is a Class X felony for which 25 years or up to a term of natural life imprisonment shall be added to the term of imprisonment imposed by the court.

(2) A person who is convicted of a second or subsequent offense of aggravated criminal sexual assault, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted of the offense of criminal sexual assault or the offense of predatory criminal sexual assault of a child, or who is convicted of the offense of aggravated criminal sexual assault after having previously been convicted under the laws of this or any other state of an offense that is substantially equivalent to the offense of criminal sexual assault, the offense of aggravated criminal sexual assault or the offense of predatory criminal sexual assault of a child, shall be sentenced to a term of natural life imprisonment. The commission of the second or subsequent offense is required to have been after the initial conviction for this paragraph (2) to apply.

(Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02; 92-502, eff. 12-19-01; 92-721, eff. 1-1-03.)

(720 ILCS 5/12-16) (from Ch. 38, par. 12-16)

Sec. 12-16. Aggravated Criminal Sexual Abuse.

(a) The accused commits aggravated criminal sexual abuse if he or she commits criminal sexual abuse as defined in subsection (a) of Section 12-15 of this Code and any of the following aggravating circumstances existed during, or for the purposes of paragraph (7) of this subsection (a) as part of the same course of conduct as, the commission of the offense:

(1) the accused displayed, threatened to use or used a dangerous weapon or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon; or

(2) the accused caused bodily harm to the victim; or

(3) the victim was 60 years of age or over when the offense was committed; or

(4) the victim was a physically handicapped person; or

(5) the accused acted in such a manner as to threaten or endanger the life of the victim or any other person; or

(6) the criminal sexual abuse was perpetrated during the course of the commission or attempted commission of any other felony by the accused; or

(7) the accused delivered (by injection, inhalation, ingestion, transfer of possession, or any other means) to the victim without his or her consent, or by threat or deception, and for other than medical purposes, any controlled substance.

(b) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual conduct with a victim who was under 18 years of age when the act was committed and the accused was a family member.

(c) The accused commits aggravated criminal sexual abuse if:

(1) the accused was 17 years of age or over and (i) commits an act of sexual conduct with a victim who was under 13 years of age when the act was committed; or (ii) commits an act of sexual conduct with a victim who was at least 13 years of age but under 17 years of age when the act was committed and the accused used force or threat of force to commit the act; or

(2) the accused was under 17 years of age and (i) commits an act of sexual conduct with a victim who was under 9 years of age when the act was committed; or (ii) commits an act of sexual conduct with a victim who was at least 9 years of age but under 17 years of age when the act was committed and the accused used force or threat of force to commit the act.

(d) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual penetration or sexual conduct with a victim who was at least 13 years of age but under 17 years of age and the accused was at least 5 years older than the victim.

(e) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual conduct with a victim who was a severely or profoundly <u>intellectually disabled</u> ~~mentally retarded~~ person at the time the act was committed.

(f) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual conduct with a victim who was at least 13 years of age but under 18 years of age when the act was committed and the accused was 17 years of age or over and held a position of trust, authority or supervision in relation to the victim.

(g) Sentence. Aggravated criminal sexual abuse is a Class 2 felony.

(Source: P.A. 92-434, eff. 1-1-02.)

(720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care Facility Resident.

(a) Any person or any owner or licensee of a long term care facility who abuses a long term care facility resident is guilty of a Class 3 felony. Any person or any owner or licensee of a long term care facility who criminally neglects a long term care facility resident is guilty of a Class 4 felony. A person whose criminal neglect of a long term care facility resident results in the resident's death is guilty of a Class 3 felony. However, nothing herein shall be deemed to apply to a physician licensed to practice medicine in all its branches or a duly licensed nurse providing care within the scope of his or her professional judgment and within the accepted standards of care within the community.

(b) Notwithstanding the penalties in subsections (a) and (c) and in addition thereto, if a licensee or owner of a long term care facility or his or her employee has caused neglect of a resident, the licensee or owner is guilty of a petty offense. An owner or licensee is guilty under this subsection (b) only if the owner or licensee failed to exercise reasonable care in the hiring, training, supervising or providing of staff or other related routine administrative responsibilities.

(c) Notwithstanding the penalties in subsections (a) and (b) and in addition thereto, if a licensee or owner of a long term care facility or his or her employee has caused gross neglect of a resident, the

licensee or owner is guilty of a business offense for which a fine of not more than $10,000 may be imposed. An owner or licensee is guilty under this subsection (c) only if the owner or licensee failed to exercise reasonable care in the hiring, training, supervising or providing of staff or other related routine administrative responsibilities.

(d) For the purpose of this Section:

(1) "Abuse" means intentionally or knowingly causing any physical or mental injury or committing any sexual offense set forth in this Code.

(2) "Criminal neglect" means an act whereby a person recklessly (i) performs acts that cause an elderly person's or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate or that create the substantial likelihood that an elderly person's or person with a disability's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate, or (ii) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of an elderly person or person with a disability, and that failure causes the elderly person's or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate or that create the substantial likelihood that an elderly person's or person with a disability's life will be endangered, health will be injured, or pre-existing physical or mental condition will deteriorate, or (iii) abandons an elderly person or person with a disability.

(3) "Neglect" means negligently failing to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury or the deterioration of a physical or mental condition.

(4) "Resident" means a person residing in a long term care facility.

(5) "Owner" means the person who owns a long term care facility as provided under the Nursing Home Care Act, a facility as provided under the ID/DD ~~MR/DD~~ Community Care Act, or an assisted living or shared housing establishment under the Assisted Living and Shared Housing Act.

(6) "Licensee" means the individual or entity licensed to operate a facility under the Nursing Home Care Act, the MR/DD Community Care Act, or the Assisted Living and Shared Housing Act.

(7) "Facility" or "long term care facility" means a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by the State of Illinois or a political subdivision thereof, which provides, through its ownership or management, personal care, sheltered care or nursing for 3 or more persons not related to the owner by blood or marriage. The term also includes skilled nursing facilities and intermediate care facilities as defined in Title XVIII and Title XIX of the federal Social Security Act and assisted living establishments and shared housing establishments licensed under the Assisted Living and Shared Housing Act.

(e) Nothing contained in this Section shall be deemed to apply to the medical supervision, regulation or control of the remedial care or treatment of residents in a facility conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination and which is licensed in accordance with Section 3-803 of the Nursing Home Care Act or Section 3-803 of the ID/DD ~~MR/DD~~ Community Care Act.

(Source: P.A. 96-339, eff. 7-1-10; 96-1373, eff. 7-29-10.)

(720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

Sec. 12-21. Criminal abuse or neglect of an elderly person or person with a disability.

(a) A person commits the offense of criminal abuse or neglect of an elderly person or person with a disability when he or she is a caregiver and he or she knowingly:

(1) performs acts that cause the elderly person or person with a disability's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate; or

(2) fails to perform acts that he or she knows or reasonably should know are necessary to maintain or preserve the life or health of the elderly person or person with a disability and such failure causes the elderly person or person with a disability's life to be endangered, health to be injured or pre-existing physical or mental condition to deteriorate; or

(3) abandons the elderly person or person with a disability; or

(4) physically abuses, harasses, intimidates, or interferes with the personal liberty of the elderly person or person with a disability or exposes the elderly person or person with a disability to willful deprivation.

Criminal abuse or neglect of an elderly person or person with a disability is a Class 3 felony. Criminal neglect of an elderly person or person with a disability is a Class 2 felony if the criminal neglect results

in the death of the person neglected for which the defendant, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 3 years and not more than 14 years.

(b) For purposes of this Section:

(1) "Elderly person" means a person 60 years of age or older who is incapable of adequately providing for his own health and personal care.

(2) "Person with a disability" means a person who suffers from a permanent physical or mental impairment, resulting from disease, injury, functional disorder or congenital condition which renders such person incapable of adequately providing for his own health and personal care.

(3) "Caregiver" means a person who has a duty to provide for an elderly person or person with a disability's health and personal care, at such person's place of residence, including but not limited to, food and nutrition, shelter, hygiene, prescribed medication and medical care and treatment.

"Caregiver" shall include:

(A) a parent, spouse, adult child or other relative by blood or marriage who resides with or resides in the same building with or regularly visits the elderly person or person with a disability, knows or reasonably should know of such person's physical or mental impairment and knows or reasonably should know that such person is unable to adequately provide for his own health and personal care;

(B) a person who is employed by the elderly person or person with a disability or by another to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care;

(C) a person who has agreed for consideration to reside with or regularly visit the elderly person or person with a disability and provide for such person's health and personal care; and

(D) a person who has been appointed by a private or public agency or by a court of competent jurisdiction to provide for the elderly person or person with a disability's health and personal care.

"Caregiver" shall not include a long-term care facility licensed or certified under the Nursing Home Care Act or a facility licensed or certified under the ID/DD ~~MR/DD~~ Community Care Act, or any administrative, medical or other personnel of such a facility, or a health care provider who is licensed under the Medical Practice Act of 1987 and renders care in the ordinary course of his profession.

(4) "Abandon" means to desert or knowingly forsake an elderly person or person with a disability under circumstances in which a reasonable person would continue to provide care and custody.

(5) "Willful deprivation" has the meaning ascribed to it in paragraph (15) of Section 103 of the Illinois Domestic Violence Act of 1986.

(c) Nothing in this Section shall be construed to limit the remedies available to the victim under the Illinois Domestic Violence Act.

(d) Nothing in this Section shall be construed to impose criminal liability on a person who has made a good faith effort to provide for the health and personal care of an elderly person or person with a disability, but through no fault of his own has been unable to provide such care.

(e) Nothing in this Section shall be construed as prohibiting a person from providing treatment by spiritual means through prayer alone and care consistent therewith in lieu of medical care and treatment in accordance with the tenets and practices of any church or religious denomination of which the elderly person or person with a disability is a member.

(f) It is not a defense to criminal abuse or neglect of an elderly person or person with a disability that the accused reasonably believed that the victim was not an elderly person or person with a disability.

(Source: P.A. 96-339, eff. 7-1-10.)

(720 ILCS 5/17-29)

Sec. 17-29. Businesses owned by minorities, females, and persons with disabilities; fraudulent contracts with governmental units.

(a) In this Section:

"Minority person" means a person who is: (1) African American (a person having origins in any of the black racial groups in Africa); (2) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race); (3) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or (4) Native American or Alaskan Native (a person having origins in any of the original peoples of North America).

"Female" means a person who is of the female gender.

"Person with a disability" means a person who is a person qualifying as being disabled.

"Disabled" means a severe physical or mental disability that: (1) results from: amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, an intellectual disability ~~mental retardation~~, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders, including stroke and epilepsy, paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disabilities, or end stage renal failure disease; and (2) substantially limits one or more of the person's major life activities.

"Minority owned business" means a business concern that is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

"Female owned business" means a business concern that is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.

"Business owned by a person with a disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

"Governmental unit" means the State, a unit of local government, or school district.

(b) In addition to any other penalties imposed by law or by an ordinance or resolution of a unit of local government or school district, any individual or entity that knowingly obtains, or knowingly assists another to obtain, a contract with a governmental unit, or a subcontract or written commitment for a subcontract under a contract with a governmental unit, by falsely representing that the individual or entity, or the individual or entity assisted, is a minority owned business, female owned business, or business owned by a person with a disability is guilty of a Class 2 felony, regardless of whether the preference for awarding the contract to a minority owned business, female owned business, or business owned by a person with a disability was established by statute or by local ordinance or resolution.

(c) In addition to any other penalties authorized by law, the court shall order that an individual or entity convicted of a violation of this Section must pay to the governmental unit that awarded the contract a penalty equal to one and one-half times the amount of the contract obtained because of the false representation.

(Source: P.A. 94-126, eff. 1-1-06; 94-863, eff. 6-16-06.)

(720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

Sec. 24-3. Unlawful Sale of Firearms.

(A) A person commits the offense of unlawful sale of firearms when he or she knowingly does any of the following:

(a) Sells or gives any firearm of a size which may be concealed upon the person to any person under 18 years of age.

(b) Sells or gives any firearm to a person under 21 years of age who has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent.

(c) Sells or gives any firearm to any narcotic addict.

(d) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction.

(e) Sells or gives any firearm to any person who has been a patient in a mental hospital within the past 5 years.

(f) Sells or gives any firearms to any person who is intellectually disabled ~~mentally retarded~~.

(g) Delivers any firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least 72 hours after application for its purchase has been made, or delivers any rifle, shotgun or other long gun, or a stun gun or taser, incidental to a sale, without withholding delivery of such rifle, shotgun or other long gun, or a stun gun or taser for at least 24 hours after application for its purchase has been made. However, this paragraph (g) does not apply to: (1) the sale of a firearm to a law enforcement officer if the seller of the firearm knows that the person to whom he or she is selling the firearm is a law enforcement officer or the sale of a firearm to a person who desires to purchase a firearm for use in promoting the public

interest incident to his or her employment as a bank guard, armed truck guard, or other similar employment; (2) a mail order sale of a firearm to a nonresident of Illinois under which the firearm is mailed to a point outside the boundaries of Illinois; (3) the sale of a firearm to a nonresident of Illinois while at a firearm showing or display recognized by the Illinois Department of State Police; or (4) the sale of a firearm to a dealer licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923). For purposes of this paragraph (g), "application" means when the buyer and seller reach an agreement to purchase a firearm.

(h) While holding any license as a dealer, importer, manufacturer or pawnbroker under the federal Gun Control Act of 1968, manufactures, sells or delivers to any unlicensed person a handgun having a barrel, slide, frame or receiver which is a die casting of zinc alloy or any other nonhomogeneous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit. For purposes of this paragraph, (1) "firearm" is defined as in the Firearm Owners Identification Card Act; and (2) "handgun" is defined as a firearm designed to be held and fired by the use of a single hand, and includes a combination of parts from which such a firearm can be assembled.

(i) Sells or gives a firearm of any size to any person under 18 years of age who does not possess a valid Firearm Owner's Identification Card.

(j) Sells or gives a firearm while engaged in the business of selling firearms at wholesale or retail without being licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923). In this paragraph (j):

A person "engaged in the business" means a person who devotes time, attention, and labor to engaging in the activity as a regular course of trade or business with the principal objective of livelihood and profit, but does not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms.

"With the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection; however, proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism.

(k) Sells or transfers ownership of a firearm to a person who does not display to the seller or transferor of the firearm a currently valid Firearm Owner's Identification Card that has previously been issued in the transferee's name by the Department of State Police under the provisions of the Firearm Owners Identification Card Act. This paragraph (k) does not apply to the transfer of a firearm to a person who is exempt from the requirement of possessing a Firearm Owner's Identification Card under Section 2 of the Firearm Owners Identification Card Act. For the purposes of this Section, a currently valid Firearm Owner's Identification Card means (i) a Firearm Owner's Identification Card that has not expired or (ii) if the transferor is licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923), an approval number issued in accordance with Section 3.1 of the Firearm Owners Identification Card Act shall be proof that the Firearm Owner's Identification Card was valid.

(B) Paragraph (h) of subsection (A) does not include firearms sold within 6 months after enactment of Public Act 78-355 (approved August 21, 1973, effective October 1, 1973), nor is any firearm legally owned or possessed by any citizen or purchased by any citizen within 6 months after the enactment of Public Act 78-355 subject to confiscation or seizure under the provisions of that Public Act. Nothing in Public Act 78-355 shall be construed to prohibit the gift or trade of any firearm if that firearm was legally held or acquired within 6 months after the enactment of that Public Act.

(C) Sentence.

(1) Any person convicted of unlawful sale of firearms in violation of paragraph (c), (e), (f), (g), or (h) of subsection (A) commits a Class 4 felony.

(2) Any person convicted of unlawful sale of firearms in violation of paragraph (b) or (i) of subsection (A) commits a Class 3 felony.

(3) Any person convicted of unlawful sale of firearms in violation of paragraph (a) of subsection (A) commits a Class 2 felony.

(4) Any person convicted of unlawful sale of firearms in violation of paragraph (a), (b), or (i) of subsection (A) in any school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on or within 1,000 feet of any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity, regardless of the time of day or time of year at which the offense was committed, commits a Class 1 felony. Any person convicted of a second or subsequent violation of unlawful sale of firearms in violation of paragraph (a), (b), or (i) of subsection (A) in any school, on

the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on or within 1,000 feet of any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity, regardless of the time of day or time of year at which the offense was committed, commits a Class 1 felony for which the sentence shall be a term of imprisonment of no less than 5 years and no more than 15 years.

(5) Any person convicted of unlawful sale of firearms in violation of paragraph (a) or (i) of subsection (A) in residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, in a public park, in a courthouse, on residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property comprising any public park, on the real property comprising any courthouse, or on any public way within 1,000 feet of the real property comprising any public park, courthouse, or residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development commits a Class 2 felony.

(6) Any person convicted of unlawful sale of firearms in violation of paragraph (j) of subsection (A) commits a Class A misdemeanor. A second or subsequent violation is a Class 4 felony.

(7) Any person convicted of unlawful sale of firearms in violation of paragraph (k) of subsection (A) commits a Class 4 felony. A third or subsequent conviction for a violation of paragraph (k) of subsection (A) is a Class 1 felony.

(8) A person 18 years of age or older convicted of unlawful sale of firearms in violation of paragraph (a) or (i) of subsection (A), when the firearm that was sold or given to another person under 18 years of age was used in the commission of or attempt to commit a forcible felony, shall be fined or imprisoned, or both, not to exceed the maximum provided for the most serious forcible felony so committed or attempted by the person under 18 years of age who was sold or given the firearm.

(9) Any person convicted of unlawful sale of firearms in violation of paragraph (d) of subsection (A) commits a Class 3 felony.

(D) For purposes of this Section:

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

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

(E) A prosecution for a violation of paragraph (k) of subsection (A) of this Section may be commenced within 6 years after the commission of the offense. A prosecution for a violation of this Section other than paragraph (g) of subsection (A) of this Section may be commenced within 5 years after the commission of the offense defined in the particular paragraph.

(Source: P.A. 95-331, eff. 8-21-07; 95-735, eff. 7-16-08; 96-190, eff. 1-1-10.)

(720 ILCS 5/24-3.1) (from Ch. 38, par. 24-3.1)

Sec. 24-3.1. Unlawful possession of firearms and firearm ammunition.

(a) A person commits the offense of unlawful possession of firearms or firearm ammunition when:

(1) He is under 18 years of age and has in his possession any firearm of a size which may be concealed upon the person; or

(2) He is under 21 years of age, has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent and has any firearms or firearm ammunition in his possession; or

(3) He is a narcotic addict and has any firearms or firearm ammunition in his possession; or

(4) He has been a patient in a mental hospital within the past 5 years and has any firearms or firearm ammunition in his possession; or

(5) He is intellectually disabled ~~mentally retarded~~ and has any firearms or firearm ammunition in his possession; or

(6) He has in his possession any explosive bullet.

For purposes of this paragraph "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an explosive charge which will explode upon contact with the flesh of a human or an animal. "Cartridge" means a tubular metal case having a projectile affixed at the front thereof and a cap or primer at the rear end thereof, with the propellant contained in such tube between the projectile and the cap.

(b) Sentence.

Unlawful possession of firearms, other than handguns, and firearm ammunition is a Class A misdemeanor. Unlawful possession of handguns is a Class 4 felony. The possession of each firearm or firearm ammunition in violation of this Section constitutes a single and separate violation.

(c) Nothing in paragraph (1) of subsection (a) of this Section prohibits a person under 18 years of age from participating in any lawful recreational activity with a firearm such as, but not limited to, practice shooting at targets upon established public or private target ranges or hunting, trapping, or fishing in accordance with the Wildlife Code or the Fish and Aquatic Life Code.

(Source: P.A. 94-284, eff. 7-21-05; 95-331, eff. 8-21-07.)

(720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

Sec. 26-1. Elements of the Offense.

(a) A person commits disorderly conduct when he knowingly:

(1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(2) Transmits or causes to be transmitted in any manner to the fire department of any city, town, village or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(3) Transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place that its explosion or release would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place; or

(4) Transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense will be committed, is being committed, or has been committed; or

(5) Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(6) While acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(7) Transmits or causes to be transmitted a false report to the Department of Children and Family Services under Section 4 of the "Abused and Neglected Child Reporting Act"; or

(8) Transmits or causes to be transmitted a false report to the Department of Public Health under the Nursing Home Care Act or the <u>ID/DD</u> ~~MR/DD~~ Community Care Act; or

(9) Transmits or causes to be transmitted in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that such assistance is required; or

(10) Transmits or causes to be transmitted a false report under Article II of "An Act in relation to victims of violence and abuse", approved September 16, 1984, as amended; or

(11) Transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting such a report is necessary for the safety and welfare of the public; or

(12) Calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency; or

(13) Transmits or causes to be transmitted a threat of destruction of a school building or school property, or a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session.

(b) Sentence. A violation of subsection (a)(1) of this Section is a Class C misdemeanor. A violation of subsection (a)(5) or (a)(11) of this Section is a Class A misdemeanor. A violation of subsection (a)(8) or (a)(10) of this Section is a Class B misdemeanor. A violation of subsection (a)(2), (a)(4), (a)(7), (a)(9), (a)(12), or (a)(13) of this Section is a Class 4 felony. A violation of subsection (a)(3) of this Section is a Class 3 felony, for which a fine of not less than $3,000 and no more than $10,000 shall be assessed in addition to any other penalty imposed.

A violation of subsection (a)(6) of this Section is a Business Offense and shall be punished by a fine not to exceed $3,000. A second or subsequent violation of subsection (a)(7) or (a)(11) of this Section is a Class 4 felony. A third or subsequent violation of subsection (a)(5) of this Section is a Class 4 felony.

(c) In addition to any other sentence that may be imposed, a court shall order any person convicted of disorderly conduct to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. In addition, whenever any person is placed on supervision for an alleged offense under this Section, the supervision shall be conditioned upon the performance of the community service.

This subsection does not apply when the court imposes a sentence of incarceration.

(d) In addition to any other sentence that may be imposed, the court shall order any person convicted of disorderly conduct under paragraph (3) of subsection (a) involving a false alarm of a threat that a bomb or explosive device has been placed in a school to reimburse the unit of government that employs the emergency response officer or officers that were dispatched to the school for the cost of the search for a bomb or explosive device. For the purposes of this Section, "emergency response" means any incident requiring a response by a police officer, a firefighter, a State Fire Marshal employee, or an ambulance.

(Source: P.A. 96-339, eff. 7-1-10; 96-413, eff. 8-13-09; 96-772, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1261, eff. 1-1-11.)

Section 140. The Code of Criminal Procedure of 1963 is amended by changing Sections 102-23, 106B-5, 114-15, 115-10, and 122-2.2 as follows:

(725 ILCS 5/102-23)

Sec. 102-23. "Moderately intellectually disabled ~~mentally retarded~~ person" means a person whose intelligence quotient is between 41 and 55 and who does not suffer from significant mental illness to the extent that the person's ability to exercise rational judgment is impaired.

(Source: P.A. 92-434, eff. 1-1-02.)

(725 ILCS 5/106B-5)

Sec. 106B-5. Testimony by a victim who is a child or a moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or a person affected by a developmental disability.

(a) In a proceeding in the prosecution of an offense of criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, or aggravated criminal sexual abuse, a court may order that the testimony of a victim who is a child under the age of 18 years or a moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or a person affected by a developmental disability be taken outside the courtroom and shown in the courtroom by means of a closed circuit television if:

(1) the testimony is taken during the proceeding; and

(2) the judge determines that testimony by the child victim or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ victim or victim affected by a developmental disability in the courtroom will result in the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability suffering serious emotional distress such that the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability cannot reasonably communicate or that the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability will suffer severe emotional distress that is likely to cause the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability to suffer severe adverse effects.

(b) Only the prosecuting attorney, the attorney for the defendant, and the judge may question the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability.

(c) The operators of the closed circuit television shall make every effort to be unobtrusive.

(d) Only the following persons may be in the room with the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability when the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability testifies by closed circuit television:

(1) the prosecuting attorney;

(2) the attorney for the defendant;

(3) the judge;

(4) the operators of the closed circuit television equipment; and

(5) any person or persons whose presence, in the opinion of the court, contributes to the well-being of the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability, including a person who has dealt with the child in a therapeutic setting concerning the abuse, a parent or guardian of the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability, and court security personnel.

(e) During the child's or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person's or person affected by a developmental disability's testimony by closed circuit television, the defendant shall be in the courtroom and shall not communicate with the jury if the cause is being heard before a jury.

(f) The defendant shall be allowed to communicate with the persons in the room where the child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person or person affected by a developmental disability is testifying by any appropriate electronic method.

(g) The provisions of this Section do not apply if the defendant represents himself pro se.

(h) This Section may not be interpreted to preclude, for purposes of identification of a defendant, the presence of both the victim and the defendant in the courtroom at the same time.

(i) This Section applies to prosecutions pending on or commenced on or after the effective date of this amendatory Act of 1994.

(j) For the purposes of this Section, "developmental disability" includes, but is not limited to, cerebral palsy, epilepsy, and autism.

(Source: P.A. 95-897, eff. 1-1-09.)

(725 ILCS 5/114-15)

Sec. 114-15. Intellectual disability ~~Mental retardation~~.

(a) In a first degree murder case in which the State seeks the death penalty as an appropriate sentence, any party may raise the issue of the defendant's intellectual disabilities ~~mental retardation~~ by motion. A defendant wishing to raise the issue of his or her intellectual disabilities ~~mental retardation~~ shall provide written notice to the State and the court as soon as the defendant reasonably believes such issue will be raised.

(b) The issue of the defendant's intellectual disabilities ~~mental retardation~~ shall be determined in a pretrial hearing. The court shall be the fact finder on the issue of the defendant's intellectual disabilities ~~mental retardation~~ and shall determine the issue by a preponderance of evidence in which the moving party has the burden of proof. The court may appoint an expert in the field of intellectual disabilities ~~mental retardation~~. The defendant and the State may offer experts from the field of intellectual disabilities ~~mental retardation~~. The court shall determine admissibility of evidence and qualification as an expert.

(c) If after a plea of guilty to first degree murder, or a finding of guilty of first degree murder in a bench trial, or a verdict of guilty for first degree murder in a jury trial, or on a matter remanded from the Supreme Court for sentencing for first degree murder, and the State seeks the death penalty as an appropriate sentence, the defendant may raise the issue of defendant's intellectual disabilities ~~mental retardation~~ not at eligibility but at aggravation and mitigation. The defendant and the State may offer experts from the field of intellectual disabilities ~~mental retardation~~. The court shall determine admissibility of evidence and qualification as an expert.

(d) In determining whether the defendant is intellectually disabled ~~mentally retarded~~, the intellectual disability ~~mental retardation~~ must have manifested itself by the age of 18. IQ tests and psychometric tests administered to the defendant must be the kind and type recognized by experts in the field of intellectual disabilities ~~mental retardation~~. In order for the defendant to be considered intellectually disabled ~~mentally retarded~~, a low IQ must be accompanied by significant deficits in adaptive behavior in at least 2 of the following skill areas: communication, self-care, social or interpersonal skills, home living, self-direction, academics, health and safety, use of community resources, and work. An intelligence quotient (IQ) of 75 or below is presumptive evidence of an intellectual disability ~~mental retardation~~.

(e) Evidence of an intellectual disability ~~mental retardation~~ that did not result in disqualifying the case as a capital case, may be introduced as evidence in mitigation during a capital sentencing hearing. A failure of the court to determine that the defendant is intellectually disabled ~~mentally retarded~~ does not preclude the court during trial from allowing evidence relating to mental disability should the court deem it appropriate.

(f) If the court determines at a pretrial hearing or after remand that a capital defendant is intellectually disabled ~~mentally retarded~~, and the State does not appeal pursuant to Supreme Court Rule 604, the case shall no longer be considered a capital case and the procedural guidelines established for capital cases

shall no longer be applicable to the defendant. In that case, the defendant shall be sentenced under the sentencing provisions of Chapter V of the Unified Code of Corrections.
(Source: P.A. 93-605, eff. 11-19-03.)

(725 ILCS 5/115-10) (from Ch. 38, par. 115-10)

Sec. 115-10. Certain hearsay exceptions.

(a) In a prosecution for a physical or sexual act perpetrated upon or against a child under the age of 13, or a person who was a moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person as defined in this Code and in Section 2-10.1 of the Criminal Code of 1961 at the time the act was committed, including but not limited to prosecutions for violations of Sections 12-13 through 12-16 of the Criminal Code of 1961 and prosecutions for violations of Sections 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3 (unlawful restraint), 10-3.1 (aggravated unlawful restraint), 10-4 (forcible detention), 10-5 (child abduction), 10-6 (harboring a runaway), 10-7 (aiding or abetting child abduction), 11-9 (public indecency), 11-11 (sexual relations within families), 11-21 (harmful material), 12-1 (assault), 12-2 (aggravated assault), 12-3 (battery), 12-3.2 (domestic battery), 12-4 (aggravated battery), 12-4.1 (heinous battery), 12-4.2 (aggravated battery with a firearm), 12-4.3 (aggravated battery of a child), 12-4.7 (drug induced infliction of great bodily harm), 12-5 (reckless conduct), 12-6 (intimidation), 12-6.1 (compelling organization membership of persons), 12-7.1 (hate crime), 12-7.3 (stalking), 12-7.4 (aggravated stalking), 12-10 (tattooing body of minor), 12-11 (home invasion), 12-21.5 (child abandonment), 12-21.6 (endangering the life or health of a child) or 12-32 (ritual mutilation) of the Criminal Code of 1961 or any sex offense as defined in subsection (B) of Section 2 of the Sex Offender Registration Act, the following evidence shall be admitted as an exception to the hearsay rule:

(1) testimony by the victim of an out of court statement made by the victim that he or she complained of such act to another; and

(2) testimony of an out of court statement made by the victim describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a sexual or physical act against that victim.

(b) Such testimony shall only be admitted if:

(1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and

(2) The child or moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person either:

(A) testifies at the proceeding; or

(B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement; and

(3) In a case involving an offense perpetrated against a child under the age of 13, the out of court statement was made before the victim attained 13 years of age or within 3 months after the commission of the offense, whichever occurs later, but the statement may be admitted regardless of the age of the victim at the time of the proceeding.

(c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the age and maturity of the child, or the intellectual capabilities of the moderately, severely, or profoundly intellectually disabled ~~mentally retarded~~ person, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

(d) The proponent of the statement shall give the adverse party reasonable notice of his intention to offer the statement and the particulars of the statement.

(e) Statements described in paragraphs (1) and (2) of subsection (a) shall not be excluded on the basis that they were obtained as a result of interviews conducted pursuant to a protocol adopted by a Child Advocacy Advisory Board as set forth in subsections (c), (d), and (e) of Section 3 of the Children's Advocacy Center Act or that an interviewer or witness to the interview was or is an employee, agent, or investigator of a State's Attorney's office.
(Source: P.A. 95-892, eff. 1-1-09; 96-710, eff. 1-1-10.)

(725 ILCS 5/122-2.2)

Sec. 122-2.2. Intellectual disability ~~Mental retardation~~ and post-conviction relief.

(a) In cases where no determination of an intellectual disability ~~mental retardation~~ was made and a defendant has been convicted of first-degree murder, sentenced to death, and is in custody pending execution of the sentence of death, the following procedures shall apply:

(1) Notwithstanding any other provision of law or rule of court, a defendant may seek relief from the death sentence through a petition for post-conviction relief under this Article alleging that the defendant was intellectually disabled ~~mentally retarded~~ as defined in Section 114-15 at the

time the offense was alleged to have been committed.

(2) The petition must be filed within 180 days of the effective date of this amendatory Act of the 93rd General Assembly or within 180 days of the issuance of the mandate by the Illinois Supreme Court setting the date of execution, whichever is later.

(3) All other provisions of this Article governing petitions for post-conviction relief shall apply to a petition for post-conviction relief alleging an intellectual disability ~~mental retardation~~.

(Source: P.A. 93-605, eff. 11-19-03.)

Section 145. The Unified Code of Corrections is amended by changing Sections 5-1-8, 5-1-13, 5-2-6, and 5-5-3.1 as follows:

(730 ILCS 5/5-1-8) (from Ch. 38, par. 1005-1-8)

Sec. 5-1-8. Defendant in Need of Mental Treatment.

"Defendant in need of mental treatment" means any defendant afflicted with a mental disorder, not including a person who is intellectually disabled ~~mentally retarded~~, if that defendant, as a result of such mental disorder, is reasonably expected at the time of determination or within a reasonable time thereafter to intentionally or unintentionally physically injure himself or other persons, or is unable to care for himself so as to guard himself from physical injury or to provide for his own physical needs.

(Source: P.A. 77-2097.)

(730 ILCS 5/5-1-13) (from Ch. 38, par. 1005-1-13)

Sec. 5-1-13. Intellectually Disabled ~~Mentally Retarded~~.

"Intellectually disabled" ~~Mentally retarded~~ and "intellectual disability ~~mental retardation~~" mean sub-average general intellectual functioning generally originating during the developmental period and associated with impairment in adaptive behavior reflected in delayed maturation or reduced learning ability or inadequate social adjustment.

(Source: P.A. 77-2097.)

(730 ILCS 5/5-2-6) (from Ch. 38, par. 1005-2-6)

Sec. 5-2-6. Sentencing and Treatment of Defendant Found Guilty but Mentally Ill.

(a) After a plea or verdict of guilty but mentally ill under Sections 115-2, 115-3 or 115-4 of the Code of Criminal Procedure of 1963, the court shall order a presentence investigation and report pursuant to Sections 5-3-1 and 5-3-2 of this Act, and shall set a date for a sentencing hearing. The court may impose any sentence upon the defendant which could be imposed pursuant to law upon a defendant who had been convicted of the same offense without a finding of mental illness.

(b) If the court imposes a sentence of imprisonment upon a defendant who has been found guilty but mentally ill, the defendant shall be committed to the Department of Corrections, which shall cause periodic inquiry and examination to be made concerning the nature, extent, continuance, and treatment of the defendant's mental illness. The Department of Corrections shall provide such psychiatric, psychological, or other counseling and treatment for the defendant as it determines necessary.

(c) The Department of Corrections may transfer the defendant's custody to the Department of Human Services in accordance with the provisions of Section 3-8-5 of this Act.

(d) (1) The Department of Human Services shall return to the Department of Corrections any person committed to it pursuant to this Section whose sentence has not expired and whom the Department of Human Services deems no longer requires hospitalization for mental treatment, an intellectual disability ~~mental retardation~~, or addiction.

(2) The Department of Corrections shall notify the Secretary of Human Services of the expiration of the sentence of any person transferred to the Department of Human Services under this Section. If the Department of Human Services determines that any such person requires further hospitalization, it shall file an appropriate petition for involuntary commitment pursuant to the Mental Health and Developmental Disabilities Code.

(e) (1) All persons found guilty but mentally ill, whether by plea or by verdict, who are placed on probation or sentenced to a term of periodic imprisonment or a period of conditional discharge shall be required to submit to a course of mental treatment prescribed by the sentencing court.

(2) The course of treatment prescribed by the court shall reasonably assure the defendant's satisfactory progress in treatment or habilitation and for the safety of the defendant and others. The court shall consider terms, conditions and supervision which may include, but need not be limited to, notification and discharge of the person to the custody of his family, community adjustment programs, periodic checks with legal authorities and outpatient care and utilization of local mental health or developmental disabilities facilities.

(3) Failure to continue treatment, except by agreement with the treating person or agency and the court, shall be a basis for the institution of probation revocation proceedings.

(4) The period of probation shall be in accordance with Article 4.5 of Chapter V of this Code and shall not be shortened without receipt and consideration of such psychiatric or psychological report or reports as the court may require.

(Source: P.A. 95-1052, eff. 7-1-09.)

(730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

Sec. 5-5-3.1. Factors in Mitigation.

(a) The following grounds shall be accorded weight in favor of withholding or minimizing a sentence of imprisonment:

(1) The defendant's criminal conduct neither caused nor threatened serious physical harm to another.

(2) The defendant did not contemplate that his criminal conduct would cause or threaten serious physical harm to another.

(3) The defendant acted under a strong provocation.

(4) There were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense.

(5) The defendant's criminal conduct was induced or facilitated by someone other than the defendant.

(6) The defendant has compensated or will compensate the victim of his criminal conduct for the damage or injury that he sustained.

(7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime.

(8) The defendant's criminal conduct was the result of circumstances unlikely to recur.

(9) The character and attitudes of the defendant indicate that he is unlikely to commit another crime.

(10) The defendant is particularly likely to comply with the terms of a period of probation.

(11) The imprisonment of the defendant would entail excessive hardship to his dependents.

(12) The imprisonment of the defendant would endanger his or her medical condition.

(13) The defendant was intellectually disabled ~~mentally retarded~~ as defined in Section 5-1-13 of this Code.

(b) If the court, having due regard for the character of the offender, the nature and circumstances of the offense and the public interest finds that a sentence of imprisonment is the most appropriate disposition of the offender, or where other provisions of this Code mandate the imprisonment of the offender, the grounds listed in paragraph (a) of this subsection shall be considered as factors in mitigation of the term imposed.

(Source: P.A. 91-357, eff. 7-29-99.)

Section 146. The Unified Code of Corrections is amended by changing Section 5-5-3.2 as follows:

(730 ILCS 5/5-5-3.2)

Sec. 5-5-3.2. Factors in Aggravation and Extended-Term Sentencing.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1 or Article 4.5 of Chapter V:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion,

ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act;

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm;

(20) the defendant (i) committed the offense of reckless homicide under Section 9-3 of the Criminal Code of 1961 or the offense of driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance and (ii) was operating a motor vehicle in excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(21) the defendant (i) committed the offense of reckless driving or aggravated reckless driving under Section 11-503 of the Illinois Vehicle Code and (ii) was operating a motor vehicle in

excess of 20 miles per hour over the posted speed limit as provided in Article VI of Chapter 11 of the Illinois Vehicle Code;

(22) the defendant committed the offense against a person that the defendant knew, or reasonably should have known, was a member of the Armed Forces of the United States serving on active duty. For purposes of this clause (22), the term "Armed Forces" means any of the Armed Forces of the United States, including a member of any reserve component thereof or National Guard unit called to active duty;

(23) the defendant committed the offense against a person who was elderly, disabled, or infirm by taking advantage of a family or fiduciary relationship with the elderly, disabled, or infirm person;

(24) the defendant committed any offense under Section 11-20.1 of the Criminal Code of 1961 and possessed 100 or more images;

(25) the defendant committed the offense while the defendant or the victim was in a train, bus, or other vehicle used for public transportation; ~~or~~

(26) the defendant committed the offense of child pornography or aggravated child pornography, specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context and specifically including paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.3 of the Criminal Code of 1961 where a child engaged in, solicited for, depicted in, or posed in any act of sexual penetration or bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in a sexual context; or

(27) the defendant committed the offense of first degree murder, assault, aggravated assault, battery, aggravated battery, robbery, armed robbery, or aggravated robbery against a person who was a veteran and the defendant knew, or reasonably should have known, that the person was a veteran performing duties as a representative of a veterans' organization. For the purposes of this paragraph (27), "veteran" means an Illinois resident who has served as a member of the United States Armed Forces, a member of the Illinois National Guard, or a member of the United States Reserve Forces; and "veterans' organization" means an organization comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

"Public transportation" means the transportation or conveyance of persons by means available to the general public, and includes paratransit services.

(b) The following factors, related to all felonies, may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of any felony committed against:

(i) a person under 12 years of age at the time of the offense or such person's property;

(ii) a person 60 years of age or older at the time of the offense or such person's property; or

(iii) a person physically handicapped at the time of the offense or such person's property; or

(4) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

(i) the brutalizing or torturing of humans or animals;

(ii) the theft of human corpses;

(iii) the kidnapping of humans;

(iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or

(v) ritualized abuse of a child; or

(5) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(6) When a defendant is convicted of an offense committed while using a firearm with a laser sight attached to it. For purposes of this paragraph, "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(7) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(8) When a defendant commits any felony and the defendant used, possessed, exercised control over, or otherwise directed an animal to assault a law enforcement officer engaged in the execution of his or her official duties or in furtherance of the criminal activities of an organized gang in which the defendant is engaged.

(c) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

(1) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and the charges are separately brought and tried and arise out of different series of acts.

(1.5) When a defendant is convicted of first degree murder, after having been previously convicted of domestic battery (720 ILCS 5/12-3.2) or aggravated domestic battery (720 ILCS 5/12-3.3) committed on the same victim or after having been previously convicted of violation of an order of protection (720 ILCS 5/12-30) in which the same victim was the protected person.

(2) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter, or reckless homicide in which the defendant has been convicted of causing the death of more than one individual.

(3) When a defendant is convicted of aggravated criminal sexual assault or criminal sexual assault, when there is a finding that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective.

(4) If the victim was under 18 years of age at the time of the commission of the offense, when a defendant is convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS 5/12-14.1).

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) and there is a finding that the defendant is a member of an organized gang.

(6) When a defendant was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1) for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

(7) When a defendant is convicted of an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act (720 ILCS 570/401), the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act (720 ILCS 646/25), or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph, "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and

"emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel.

(d) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(e) The court may impose an extended term sentence under Article 4.5 of Chapter V upon an offender who has been convicted of a felony violation of Section 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the victim of the offense is under 18 years of age at the time of the commission of the offense and, during the commission of the offense, the victim was under the influence of alcohol, regardless of whether or not the alcohol was supplied by the offender; and the offender, at the time of the commission of the offense, knew or should have known that the victim had consumed alcohol.

(Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390, eff. 1-1-11; revised 9-16-10.)

Section 147. The Secure Residential Youth Care Facility Licensing Act is amended by changing Section 45-10 as follows:

(730 ILCS 175/45-10)

Sec. 45-10. Definitions. As used in this Act:

"Department" means the Illinois Department of Corrections.

"Director" means the Director of Corrections.

"Secure residential youth care facility" means a facility (1) where youth are placed and reside for care, treatment, and custody; (2) that is designed and operated so as to ensure that all entrances and exits from the facility, or from a building or distinct part of a building within the facility, are under the exclusive control of the staff of the facility, whether or not the youth has freedom of movement within the perimeter of the facility or within the perimeter of a building or distinct part of a building within the facility; and (3) that uses physically restrictive construction including, but not limited to, locks, bolts, gates, doors, bars, fences, and screen barriers. This definition does not include jails, prisons, detention centers, or other such correctional facilities; State operated mental health facilities; or facilities operating as psychiatric hospitals under a license pursuant to the ID/DD ~~MR/DD~~ Community Care Act, the Nursing Home Care Act, or the Hospital Licensing Act.

"Youth" means an adjudicated delinquent who is 18 years of age or under and is transferred to the Department pursuant to Section 3-10-11 of the Unified Code of Corrections.

(Source: P.A. 96-339, eff. 7-1-10.)

Section 150. The Code of Civil Procedure is amended by changing Sections 2-203 and 8-201 as follows:

(735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

Sec. 2-203. Service on individuals.

(a) Except as otherwise expressly provided, service of summons upon an individual defendant shall be made (1) by leaving a copy of the summons with the defendant personally, (2) by leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the contents of the summons, provided the officer or other person making service shall also send a copy of the summons in a sealed envelope with postage fully prepaid, addressed to the defendant at his or her usual place of abode, or (3) as provided in Section 1-2-9.2 of the Illinois Municipal Code with respect to violation of an ordinance governing parking or standing of vehicles in cities with a population over 500,000. The certificate of the officer or affidavit of the person that he or she has sent the copy in pursuance of this Section is evidence that he or she has done so. No employee of a facility licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act shall obstruct an officer or other person making service in compliance with this Section.

(b) The officer, in his or her certificate or in a record filed and maintained in the Sheriff's office, or other person making service, in his or her affidavit or in a record filed and maintained in his or her employer's office, shall (1) identify as to sex, race, and approximate age the defendant or other person with whom the summons was left and (2) state the place where (whenever possible in terms of an exact street address) and the date and time of the day when the summons was left with the defendant or other

person.

(c) Any person who knowingly sets forth in the certificate or affidavit any false statement, shall be liable in civil contempt. When the court holds a person in civil contempt under this Section, it shall award such damages as it determines to be just and, when the contempt is prosecuted by a private attorney, may award reasonable attorney's fees.

(Source: P.A. 95-858, eff. 8-18-08; 96-339, eff. 7-1-10.)

(735 ILCS 5/8-201) (from Ch. 110, par. 8-201)

Sec. 8-201. Dead-Man's Act. In the trial of any action in which any party sues or defends as the representative of a deceased person or person under a legal disability, no adverse party or person directly interested in the action shall be allowed to testify on his or her own behalf to any conversation with the deceased or person under legal disability or to any event which took place in the presence of the deceased or person under legal disability, except in the following instances:

(a) If any person testifies on behalf of the representative to any conversation with the deceased or person under legal disability or to any event which took place in the presence of the deceased or person under legal disability, any adverse party or interested person, if otherwise competent, may testify concerning the same conversation or event.

(b) If the deposition of the deceased or person under legal disability is admitted in evidence on behalf of the representative, any adverse party or interested person, if otherwise competent, may testify concerning the same matters admitted in evidence.

(c) Any testimony competent under Section 8-401 of this Act, is not barred by this Section.

(d) No person shall be barred from testifying as to any fact relating to the heirship of a decedent.

As used in this Section:

(a) "Person under legal disability" means any person who is adjudged by the court in the pending civil action to be unable to testify by reason of mental illness, an intellectual disability, ~~mental retardation~~ or deterioration of mentality.

(b) "Representative" means an executor, administrator, heir or legatee of a deceased person and any guardian or trustee of any such heir or legatee, or a guardian or guardian ad litem for a person under legal disability.

(c) "Person directly interested in the action" or "interested person" does not include a person who is interested solely as executor, trustee or in any other fiduciary capacity, whether or not he or she receives or expects to receive compensation for acting in that capacity.

(d) This Section applies to proceedings filed on or after October 1, 1973.

(Source: P.A. 82-280.)

Section 155. The Predator Accountability Act is amended by changing Section 10 as follows:

(740 ILCS 128/10)

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

"Sex trade" means any act, which if proven beyond a reasonable doubt could support a conviction for a violation or attempted violation of any of the following Sections of the Criminal Code of 1961: 11-15 (soliciting for a prostitute); 11-15.1 (soliciting for a juvenile prostitute); 11-16 (pandering); 11-17 (keeping a place of prostitution); 11-17.1 (keeping a place of juvenile prostitution); 11-19 (pimping); 11-19.1 (juvenile pimping and aggravated juvenile pimping); 11-19.2 (exploitation of a child); 11-20 (obscenity); or 11-20.1 (child pornography); or Section 10-9 of the Criminal Code of 1961 (trafficking of persons and involuntary servitude).

"Sex trade" activity may involve adults and youth of all genders and sexual orientations.

"Victim of the sex trade" means, for the following sex trade acts, the person or persons indicated:

(1) soliciting for a prostitute: the prostitute who is the object of the solicitation;

(2) soliciting for a juvenile prostitute: the juvenile prostitute, or severely or profoundly intellectually disabled ~~mentally retarded~~ person, who is the object of the solicitation;

(3) pandering: the person intended or compelled to act as a prostitute;

(4) keeping a place of prostitution: any person intended or compelled to act as a prostitute, while present at the place, during the time period in question;

(5) keeping a place of juvenile prostitution: any juvenile intended or compelled to act as a prostitute, while present at the place, during the time period in question;

(6) pimping: the prostitute from whom anything of value is received;

(7) juvenile pimping and aggravated juvenile pimping: the juvenile, or severely or profoundly intellectually disabled ~~mentally retarded~~ person, from whom anything of value is received for that person's act of prostitution;

(8) exploitation of a child: the juvenile, or severely or profoundly intellectually disabled ~~mentally~~

~~retarded~~ person, intended
or compelled to act as a prostitute or from whom anything of value is received for that person's act of prostitution;

(9) obscenity: any person who appears in or is described or depicted in the offending conduct or material;

(10) child pornography: any child, or severely or profoundly intellectually disabled ~~mentally retarded~~ person, who appears in or
is described or depicted in the offending conduct or material; or

(11) trafficking of persons or involuntary servitude: a "trafficking victim" as defined in Section 10-9 of the Criminal Code of 1961.

(Source: P.A. 96-710, eff. 1-1-10.)

Section 160. The Sports Volunteer Immunity Act is amended by changing Section 1 as follows:

(745 ILCS 80/1) (from Ch. 70, par. 701)

Sec. 1. Manager, coach, umpire or referee negligence standard. (a) General rule. Except as provided otherwise in this Section, no person who, without compensation and as a volunteer, renders services as a manager, coach, instructor, umpire or referee or who, without compensation and as a volunteer, assists a manager, coach, instructor, umpire or referee in a sports program of a nonprofit association, shall be liable to any person for any civil damages as a result of any acts or omissions in rendering such services or in conducting or sponsoring such sports program, unless the conduct of such person falls substantially below the standards generally practiced and accepted in like circumstances by similar persons rendering such services or conducting or sponsoring such sports programs, and unless it is shown that such person did an act or omitted the doing of an act which such person was under a recognized duty to another to do, knowing or having reason to know that such act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of such person fell below ordinary standards of care.

(b) Exceptions.

(1) Nothing in this Section shall be construed as affecting or modifying the liability of such person or a nonprofit association for any of the following:

(i) acts or omissions relating to the transportation of participants in a sports program or others to or from a game, event or practice.

(ii) acts or omissions relating to the care and maintenance of real estate unrelated to the practice or playing areas which such persons or nonprofit associations own, possess or control.

(2) Nothing in this Section shall be construed as affecting or modifying any existing legal basis for determining the liability, or any defense thereto, of any person not covered by the standard of negligence established by this Section.

(c) Assumption of risk or comparative fault. Nothing in this Section shall be construed as affecting or modifying the doctrine of assumption of risk or comparative fault on the part of the participant.

(d) Definitions. As used in this Act the following words and phrases shall have the meanings given to them in this subsection:

"Compensation" means any payment for services performed but does not include reimbursement for reasonable expenses actually incurred or to be incurred or, solely in the case of umpires or referees, a modest honorarium.

"Nonprofit association" means an entity which is organized as a not-for-profit corporation under the laws of this State or the United States or a nonprofit unincorporated association or any entity which is authorized to do business in this State as a not-for-profit corporation under the laws of this State, including, but not limited to, youth or athletic associations, volunteer fire, ambulance, religious, charitable, fraternal, veterans, civic, county fair or agricultural associations, or any separately chartered auxiliary of the foregoing, if organized and operated on a nonprofit basis.

"Sports program" means baseball (including softball), football, basketball, soccer or any other competitive sport formally recognized as a sport by the United States Olympic Committee as specified by and under the jurisdiction of the Amateur Sports Act of 1978 (36 U.S.C. 371 et seq.), the Amateur Athletic Union or the National Collegiate Athletic Association. The term shall be limited to a program or that portion of a program that is organized for recreational purposes and whose activities are substantially for such purposes and which is primarily for participants who are 18 years of age or younger or whose 19th birthday occurs during the year of participation or the competitive season, whichever is longer. There shall, however, be no age limitation for programs operated for the physically handicapped or intellectually disabled ~~mentally retarded~~.

(e) Nothing in this Section is intended to bar any cause of action against a nonprofit association or

change the liability of such an association which arises out of an act or omission of any person exempt from liability under this Act.
(Source: P.A. 85-959.)

Section 165. The Adoption Act is amended by changing Sections 1 and 12 as follows:
(750 ILCS 50/1) (from Ch. 40, par. 1501)
Sec. 1. Definitions. When used in this Act, unless the context otherwise requires:
A. "Child" means a person under legal age subject to adoption under this Act.
B. "Related child" means a child subject to adoption where either or both of the adopting parents stands in any of the following relationships to the child by blood or marriage: parent, grand-parent, brother, sister, step-parent, step-grandparent, step-brother, step-sister, uncle, aunt, great-uncle, great-aunt, or cousin of first degree. A child whose parent has executed a final irrevocable consent to adoption or a final irrevocable surrender for purposes of adoption, or whose parent has had his or her parental rights terminated, is not a related child to that person, unless the consent is determined to be void or is void pursuant to subsection O of Section 10.
C. "Agency" for the purpose of this Act means a public child welfare agency or a licensed child welfare agency.
D. "Unfit person" means any person whom the court shall find to be unfit to have a child, without regard to the likelihood that the child will be placed for adoption. The grounds of unfitness are any one or more of the following, except that a person shall not be considered an unfit person for the sole reason that the person has relinquished a child in accordance with the Abandoned Newborn Infant Protection Act:
(a) Abandonment of the child.
(a-1) Abandonment of a newborn infant in a hospital.
(a-2) Abandonment of a newborn infant in any setting where the evidence suggests that the parent intended to relinquish his or her parental rights.
(b) Failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare.
(c) Desertion of the child for more than 3 months next preceding the commencement of the Adoption proceeding.
(d) Substantial neglect of the child if continuous or repeated.
(d-1) Substantial neglect, if continuous or repeated, of any child residing in the household which resulted in the death of that child.
(e) Extreme or repeated cruelty to the child.
(f) There is a rebuttable presumption, which can be overcome only by clear and convincing evidence, that a parent is unfit if:
(1) Two or more findings of physical abuse have been entered regarding any children under Section 2-21 of the Juvenile Court Act of 1987, the most recent of which was determined by the juvenile court hearing the matter to be supported by clear and convincing evidence; or
(2) The parent has been convicted or found not guilty by reason of insanity and the conviction or finding resulted from the death of any child by physical abuse; or
(3) There is a finding of physical child abuse resulting from the death of any child under Section 2-21 of the Juvenile Court Act of 1987.
No conviction or finding of delinquency pursuant to Article 5 of the Juvenile Court Act of 1987 shall be considered a criminal conviction for the purpose of applying any presumption under this item (f).
(g) Failure to protect the child from conditions within his environment injurious to the child's welfare.
(h) Other neglect of, or misconduct toward the child; provided that in making a finding of unfitness the court hearing the adoption proceeding shall not be bound by any previous finding, order or judgment affecting or determining the rights of the parents toward the child sought to be adopted in any other proceeding except such proceedings terminating parental rights as shall be had under either this Act, the Juvenile Court Act or the Juvenile Court Act of 1987.
(i) Depravity. Conviction of any one of the following crimes shall create a presumption that a parent is depraved which can be overcome only by clear and convincing evidence: (1) first degree murder in violation of paragraph 1 or 2 of subsection (a) of Section 9-1 of the Criminal Code of 1961 or conviction of second degree murder in violation of subsection (a) of Section 9-2 of the Criminal Code of 1961 of a parent of the child to be adopted; (2) first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; (3) attempt or conspiracy to commit

first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; (4) solicitation to commit murder of any child, solicitation to commit murder of any child for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961; (5) predatory criminal sexual assault of a child in violation of Section 12-14.1 of the Criminal Code of 1961; (6) heinous battery of any child in violation of the Criminal Code of 1961; or (7) aggravated battery of any child in violation of the Criminal Code of 1961.

There is a rebuttable presumption that a parent is depraved if the parent has been criminally convicted of at least 3 felonies under the laws of this State or any other state, or under federal law, or the criminal laws of any United States territory; and at least one of these convictions took place within 5 years of the filing of the petition or motion seeking termination of parental rights.

There is a rebuttable presumption that a parent is depraved if that parent has been criminally convicted of either first or second degree murder of any person as defined in the Criminal Code of 1961 within 10 years of the filing date of the petition or motion to terminate parental rights.

No conviction or finding of delinquency pursuant to Article 5 of the Juvenile Court Act of 1987 shall be considered a criminal conviction for the purpose of applying any presumption under this item (i).

(j) Open and notorious adultery or fornication.

(j-1) (Blank).

(k) Habitual drunkenness or addiction to drugs, other than those prescribed by a physician, for at least one year immediately prior to the commencement of the unfitness proceeding.

There is a rebuttable presumption that a parent is unfit under this subsection with respect to any child to which that parent gives birth where there is a confirmed test result that at birth the child's blood, urine, or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or metabolites of such substances, the presence of which in the newborn infant was not the result of medical treatment administered to the mother or the newborn infant; and the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987.

(l) Failure to demonstrate a reasonable degree of interest, concern or responsibility as to the welfare of a new born child during the first 30 days after its birth.

(m) Failure by a parent (i) to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent, or (ii) to make reasonable progress toward the return of the child to the parent within 9 months after an adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987 or dependent minor under Section 2-4 of that Act, or (iii) to make reasonable progress toward the return of the child to the parent during any 9-month period after the end of the initial 9-month period following the adjudication of neglected or abused minor under Section 2-3 of the Juvenile Court Act of 1987 or dependent minor under Section 2-4 of that Act. If a service plan has been established as required under Section 8.2 of the Abused and Neglected Child Reporting Act to correct the conditions that were the basis for the removal of the child from the parent and if those services were available, then, for purposes of this Act, "failure to make reasonable progress toward the return of the child to the parent" includes (I) the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care within 9 months after the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987 and (II) the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care during any 9-month period after the end of the initial 9-month period following the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987. Notwithstanding any other provision, when a petition or motion seeks to terminate parental rights on the basis of item (iii) of this subsection (m), the petitioner shall file with the court and serve on the parties a pleading that specifies the 9-month period or periods relied on. The pleading shall be filed and served on the parties no later than 3 weeks before the date set by the court for closure of discovery, and the allegations in the pleading shall be treated as incorporated into the petition or motion. Failure of a respondent to file a written denial of the allegations in the pleading shall not be treated as an admission that the allegations are true.

(m-1) Pursuant to the Juvenile Court Act of 1987, a child has been in foster care for 15 months out of any 22 month period which begins on or after the effective date of this amendatory Act of 1998 unless the child's parent can prove by a preponderance of the evidence that it is more likely than not that it will be in the best interests of the child to be returned to the parent within 6 months of the date on which a petition for termination of parental rights is filed under the Juvenile Court Act of 1987. The 15 month time limit is tolled during any period for which there is a court finding that the

appointed custodian or guardian failed to make reasonable efforts to reunify the child with his or her family, provided that (i) the finding of no reasonable efforts is made within 60 days of the period when reasonable efforts were not made or (ii) the parent filed a motion requesting a finding of no reasonable efforts within 60 days of the period when reasonable efforts were not made. For purposes of this subdivision (m-1), the date of entering foster care is the earlier of: (i) the date of a judicial finding at an adjudicatory hearing that the child is an abused, neglected, or dependent minor; or (ii) 60 days after the date on which the child is removed from his or her parent, guardian, or legal custodian.

(n) Evidence of intent to forgo his or her parental rights, whether or not the child is a ward of the court, (1) as manifested by his or her failure for a period of 12 months: (i) to visit the child, (ii) to communicate with the child or agency, although able to do so and not prevented from doing so by an agency or by court order, or (iii) to maintain contact with or plan for the future of the child, although physically able to do so, or (2) as manifested by the father's failure, where he and the mother of the child were unmarried to each other at the time of the child's birth, (i) to commence legal proceedings to establish his paternity under the Illinois Parentage Act of 1984 or the law of the jurisdiction of the child's birth within 30 days of being informed, pursuant to Section 12a of this Act, that he is the father or the likely father of the child or, after being so informed where the child is not yet born, within 30 days of the child's birth, or (ii) to make a good faith effort to pay a reasonable amount of the expenses related to the birth of the child and to provide a reasonable amount for the financial support of the child, the court to consider in its determination all relevant circumstances, including the financial condition of both parents; provided that the ground for termination provided in this subparagraph (n)(2)(ii) shall only be available where the petition is brought by the mother or the husband of the mother.

Contact or communication by a parent with his or her child that does not demonstrate affection and concern does not constitute reasonable contact and planning under subdivision (n). In the absence of evidence to the contrary, the ability to visit, communicate, maintain contact, pay expenses and plan for the future shall be presumed. The subjective intent of the parent, whether expressed or otherwise, unsupported by evidence of the foregoing parental acts manifesting that intent, shall not preclude a determination that the parent has intended to forgo his or her parental rights. In making this determination, the court may consider but shall not require a showing of diligent efforts by an authorized agency to encourage the parent to perform the acts specified in subdivision (n).

It shall be an affirmative defense to any allegation under paragraph (2) of this subsection that the father's failure was due to circumstances beyond his control or to impediments created by the mother or any other person having legal custody. Proof of that fact need only be by a preponderance of the evidence.

(o) Repeated or continuous failure by the parents, although physically and financially able, to provide the child with adequate food, clothing, or shelter.

(p) Inability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness or <u>an intellectual disability</u> ~~mental retardation~~ as defined in Section 1-116 of the Mental Health and Developmental Disabilities Code, or developmental disability as defined in Section 1-106 of that Code, and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period. However, this subdivision (p) shall not be construed so as to permit a licensed clinical social worker to conduct any medical diagnosis to determine mental illness or mental impairment.

(q) (Blank).

(r) The child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated as a result of criminal conviction at the time the petition or motion for termination of parental rights is filed, prior to incarceration the parent had little or no contact with the child or provided little or no support for the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period in excess of 2 years after the filing of the petition or motion for termination of parental rights.

(s) The child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated at the time the petition or motion for termination of parental rights is filed, the parent has been repeatedly incarcerated as a result of criminal convictions, and the parent's repeated incarceration has prevented the parent from discharging his or her parental responsibilities for the child.

(t) A finding that at birth the child's blood, urine, or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled

Substances Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances, the presence of which in the newborn infant was the result of medical treatment administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to enroll in and participate in a clinically appropriate substance abuse counseling, treatment, and rehabilitation program.

E. "Parent" means the father or mother of a lawful child of the parties or child born out of wedlock. For the purpose of this Act, a person who has executed a final and irrevocable consent to adoption or a final and irrevocable surrender for purposes of adoption, or whose parental rights have been terminated by a court, is not a parent of the child who was the subject of the consent or surrender, unless the consent is void pursuant to subsection O of Section 10.

F. A person is available for adoption when the person is:

(a) a child who has been surrendered for adoption to an agency and to whose adoption the agency has thereafter consented;

(b) a child to whose adoption a person authorized by law, other than his parents, has consented, or to whose adoption no consent is required pursuant to Section 8 of this Act;

(c) a child who is in the custody of persons who intend to adopt him through placement made by his parents;

(c-1) a child for whom a parent has signed a specific consent pursuant to subsection O of Section 10;

(d) an adult who meets the conditions set forth in Section 3 of this Act; or

(e) a child who has been relinquished as defined in Section 10 of the Abandoned Newborn Infant Protection Act.

A person who would otherwise be available for adoption shall not be deemed unavailable for adoption solely by reason of his or her death.

G. The singular includes the plural and the plural includes the singular and the "male" includes the "female", as the context of this Act may require.

H. "Adoption disruption" occurs when an adoptive placement does not prove successful and it becomes necessary for the child to be removed from placement before the adoption is finalized.

I. "Foreign placing agency" is an agency or individual operating in a country or territory outside the United States that is authorized by its country to place children for adoption either directly with families in the United States or through United States based international agencies.

J. "Immediate relatives" means the biological parents, the parents of the biological parents and siblings of the biological parents.

K. "Intercountry adoption" is a process by which a child from a country other than the United States is adopted.

L. "Intercountry Adoption Coordinator" is a staff person of the Department of Children and Family Services appointed by the Director to coordinate the provision of services by the public and private sector to prospective parents of foreign-born children.

M. "Interstate Compact on the Placement of Children" is a law enacted by most states for the purpose of establishing uniform procedures for handling the interstate placement of children in foster homes, adoptive homes, or other child care facilities.

N. "Non-Compact state" means a state that has not enacted the Interstate Compact on the Placement of Children.

O. "Preadoption requirements" are any conditions established by the laws or regulations of the Federal Government or of each state that must be met prior to the placement of a child in an adoptive home.

P. "Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

(a) inflicts, causes to be inflicted, or allows to be inflicted upon the child physical injury, by other than accidental means, that causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(b) creates a substantial risk of physical injury to the child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(c) commits or allows to be committed any sex offense against the child, as sex offenses are defined in the Criminal Code of 1961 and extending those definitions of sex offenses to include children under 18 years of age;

(d) commits or allows to be committed an act or acts of torture upon the child; or

(e) inflicts excessive corporal punishment.

Q. "Neglected child" means any child whose parent or other person responsible for the child's welfare withholds or denies nourishment or medically indicated treatment including food or care denied solely on the basis of the present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise does not provide the proper or necessary support, education as required by law, or medical or other remedial care recognized under State law as necessary for a child's well-being, or other care necessary for his or her well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare.

A child shall not be considered neglected or abused for the sole reason that the child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care as provided under Section 4 of the Abused and Neglected Child Reporting Act. A child shall not be considered neglected or abused for the sole reason that the child's parent or other person responsible for the child's welfare failed to vaccinate, delayed vaccination, or refused vaccination for the child due to a waiver on religious or medical grounds as permitted by law.

R. "Putative father" means a man who may be a child's father, but who (1) is not married to the child's mother on or before the date that the child was or is to be born and (2) has not established paternity of the child in a court proceeding before the filing of a petition for the adoption of the child. The term includes a male who is less than 18 years of age. "Putative father" does not mean a man who is the child's father as a result of criminal sexual abuse or assault as defined under Article 12 of the Criminal Code of 1961.

S. "Standby adoption" means an adoption in which a parent consents to custody and termination of parental rights to become effective upon the occurrence of a future event, which is either the death of the parent or the request of the parent for the entry of a final judgment of adoption.

T. (Blank).

(Source: P.A. 93-732, eff. 1-1-05; 94-229, eff. 1-1-06; 94-563, eff. 1-1-06; 94-939, eff. 1-1-07.)

(750 ILCS 50/12) (from Ch. 40, par. 1514)

Sec. 12. Consent of child or adult. If, upon the date of the entry of the judgment the person sought to be adopted is of the age of 14 years or upwards, the adoption shall not be made without the consent of such person. Such consent shall be in writing and shall be acknowledged by such person as provided in Section 10 of this Act, provided, that if such person is in need of mental treatment or is intellectually disabled ~~mentally retarded~~, the court may waive the provisions of this Section. No consent shall be required under this Section if the person sought to be adopted has died before giving such consent.

(Source: P.A. 85-517.)

Section 170. The Probate Act of 1975 is amended by changing Section 11a-1 as follows:

(755 ILCS 5/11a-1) (from Ch. 110 1/2, par. 11a-1)

Sec. 11a-1. Developmental disability defined.) "Developmental disability" means a disability which is attributable to: (a) an intellectual disability ~~mental retardation~~, cerebral palsy, epilepsy or autism; or to (b) any other condition which results in impairment similar to that caused by an intellectual disability ~~mental retardation~~ and which requires services similar to those required by intellectually disabled ~~mentally retarded~~ persons. Such disability must originate before the age of 18 years, be expected to continue indefinitely, and constitute a substantial handicap.

(Source: P.A. 80-1415.)

Section 175. The Health Care Surrogate Act is amended by changing Section 20 as follows:

(755 ILCS 40/20) (from Ch. 110 1/2, par. 851-20)

Sec. 20. Private decision making process. (a) Decisions whether to forgo life-sustaining or any other form of medical treatment involving an adult patient with decisional capacity may be made by that adult patient.

(b) Decisions whether to forgo life-sustaining treatment on behalf of a patient without decisional capacity are lawful, without resort to the courts or legal process, if the patient has a qualifying condition and if the decisions are made in accordance with one of the following paragraphs in this subsection and otherwise meet the requirements of this Act:

(1) Decisions whether to forgo life-sustaining treatment on behalf of a minor or an adult patient who lacks decisional capacity may be made by a surrogate decision maker or makers in consultation with the attending physician, in the order or priority provided in Section 25. A surrogate decision maker shall make decisions for the adult patient conforming as closely as possible to what the

patient would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the patient's personal, philosophical, religious and moral beliefs and ethical values relative to the purpose of life, sickness, medical procedures, suffering, and death. Where possible, the surrogate shall determine how the patient would have weighed the burdens and benefits of initiating or continuing life-sustaining treatment against the burdens and benefits of that treatment. In the event an unrevoked advance directive, such as a living will, a declaration for mental health treatment, or a power of attorney for health care, is no longer valid due to a technical deficiency or is not applicable to the patient's condition, that document may be used as evidence of a patient's wishes. The absence of a living will, declaration for mental health treatment, or power of attorney for health care shall not give rise to any presumption as to the patient's preferences regarding the initiation or continuation of life-sustaining procedures. If the adult patient's wishes are unknown and remain unknown after reasonable efforts to discern them or if the patient is a minor, the decision shall be made on the basis of the patient's best interests as determined by the surrogate decision maker. In determining the patient's best interests, the surrogate shall weigh the burdens on and benefits to the patient of initiating or continuing life-sustaining treatment against the burdens and benefits of that treatment and shall take into account any other information, including the views of family and friends, that the surrogate decision maker believes the patient would have considered if able to act for herself or himself.

(2) Decisions whether to forgo life-sustaining treatment on behalf of a minor or an adult patient who lacks decisional capacity, but without any surrogate decision maker or guardian being available determined after reasonable inquiry by the health care provider, may be made by a court appointed guardian. A court appointed guardian shall be treated as a surrogate for the purposes of this Act.

(b-5) Decisions concerning medical treatment on behalf of a patient without decisional capacity are lawful, without resort to the courts or legal process, if the patient does not have a qualifying condition and if decisions are made in accordance with one of the following paragraphs in this subsection and otherwise meet the requirements of this Act:

(1) Decisions concerning medical treatment on behalf of a minor or adult patient who lacks decisional capacity may be made by a surrogate decision maker or makers in consultation with the attending physician, in the order of priority provided in Section 25 with the exception that decisions to forgo life-sustaining treatment may be made only when a patient has a qualifying condition. A surrogate decision maker shall make decisions for the patient conforming as closely as possible to what the patient would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the patient's personal, philosophical, religious, and moral beliefs and ethical values relative to the purpose of life, sickness, medical procedures, suffering, and death. In the event an unrevoked advance directive, such as a living will, a declaration for mental health treatment, or a power of attorney for health care, is no longer valid due to a technical deficiency or is not applicable to the patient's condition, that document may be used as evidence of a patient's wishes. The absence of a living will, declaration for mental health treatment, or power of attorney for health care shall not give rise to any presumption as to the patient's preferences regarding any process. If the adult patient's wishes are unknown and remain unknown after reasonable efforts to discern them or if the patient is a minor, the decision shall be made on the basis of the patient's best interests as determined by the surrogate decision maker. In determining the patient's best interests, the surrogate shall weigh the burdens on and benefits to the patient of the treatment against the burdens and benefits of that treatment and shall take into account any other information, including the views of family and friends, that the surrogate decision maker believes the patient would have considered if able to act for herself or himself.

(2) Decisions concerning medical treatment on behalf of a minor or adult patient who lacks decisional capacity, but without any surrogate decision maker or guardian being available as determined after reasonable inquiry by the health care provider, may be made by a court appointed guardian. A court appointed guardian shall be treated as a surrogate for the purposes of this Act.

(c) For the purposes of this Act, a patient or surrogate decision maker is presumed to have decisional capacity in the absence of actual notice to the contrary without regard to advanced age. With respect to a patient, a diagnosis of mental illness or an intellectual disability ~~mental retardation~~, of itself, is not a bar to a determination of decisional capacity. A determination that an adult patient lacks decisional capacity shall be made by the attending physician to a reasonable degree of medical certainty. The determination shall be in writing in the patient's medical record and shall set forth the attending physician's opinion regarding the cause, nature, and duration of the patient's lack of decisional capacity. Before implementation of a decision by a surrogate decision maker to forgo life-sustaining treatment, at least

one other qualified physician must concur in the determination that an adult patient lacks decisional capacity. The concurring determination shall be made in writing in the patient's medical record after personal examination of the patient. The attending physician shall inform the patient that it has been determined that the patient lacks decisional capacity and that a surrogate decision maker will be making life-sustaining treatment decisions on behalf of the patient. Moreover, the patient shall be informed of the identity of the surrogate decision maker and any decisions made by that surrogate. If the person identified as the surrogate decision maker is not a court appointed guardian and the patient objects to the statutory surrogate decision maker or any decision made by that surrogate decision maker, then the provisions of this Act shall not apply.

(d) A surrogate decision maker acting on behalf of the patient shall express decisions to forgo life-sustaining treatment to the attending physician and one adult witness who is at least 18 years of age. This decision and the substance of any known discussion before making the decision shall be documented by the attending physician in the patient's medical record and signed by the witness.

(e) The existence of a qualifying condition shall be documented in writing in the patient's medical record by the attending physician and shall include its cause and nature, if known. The written concurrence of another qualified physician is also required.

(f) Once the provisions of this Act are complied with, the attending physician shall thereafter promptly implement the decision to forgo life-sustaining treatment on behalf of the patient unless he or she believes that the surrogate decision maker is not acting in accordance with his or her responsibilities under this Act, or is unable to do so for reasons of conscience or other personal views or beliefs.

(g) In the event of a patient's death as determined by a physician, all life-sustaining treatment and other medical care is to be terminated, unless the patient is an organ donor, in which case appropriate organ donation treatment may be applied or continued temporarily.

(Source: P.A. 93-794, eff. 7-22-04.)

Section 177. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2BBB as follows:

(815 ILCS 505/2BBB)

Sec. 2BBB. Long term care or ID/DD ~~MR/DD~~ facility; Consumer Choice Information Report. A long term care facility that fails to comply with Section 2-214 of the Nursing Home Care Act or a facility that fails to comply with Section 2-214 of the ID/DD ~~MR/DD~~ Community Care Act commits an unlawful practice within the meaning of this Act.

(Source: P.A. 95-823, eff. 1-1-09; 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)".

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. 1843** 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 1843

AMENDMENT NO. 1. Amend Senate Bill 1843 by replacing everything after the enacting clause with the following:

"Section 5. The Medical Practice Act of 1987 is amended by changing Section 2 as follows:

(225 ILCS 60/2) (from Ch. 111, par. 4400-2)

(Section scheduled to be repealed on November 30, 2011)

Sec. 2. Definitions. For purposes of this Act, the following definitions shall have the following meanings, except where the context requires otherwise:

1. "Act" means the Medical Practice Act of 1987.

1.5. "Chiropractic physician" means a person licensed to treat human ailments without the use of drugs and without operative surgery. Nothing in this Act shall be construed to prohibit a chiropractic physician from providing advice regarding the use of non-prescription products or from administering atmospheric oxygen. Nothing in this Act shall be construed to authorize a chiropractic physician to prescribe drugs.

2. "Department" means the Department of Professional Regulation.

3. "Director" means the Director of Professional Regulation.

4. "Disciplinary Action" means revocation, suspension, probation, supervision, practice modification, reprimand, required education, fines or any other action taken by the Department against a person holding a license.

5. "Disciplinary Board" means the Medical Disciplinary Board.

6. "Final Determination" means the governing body's final action taken under the procedure followed by a health care institution, or professional association or society, against any person licensed under the Act in accordance with the bylaws or rules and regulations of such health care institution, or professional association or society.

7. "Fund" means the Medical Disciplinary Fund.

8. "Impaired" means the inability to practice medicine with reasonable skill and safety due to physical or mental disabilities as evidenced by a written determination or written consent based on clinical evidence including deterioration through the aging process or loss of motor skill, or abuse of drugs or alcohol, of sufficient degree to diminish a person's ability to deliver competent patient care.

9. "Licensing Board" means the Medical Licensing Board.

10. "Physician" means a person licensed under the Medical Practice Act to practice medicine in all of its branches or a chiropractic physician ~~licensed to treat human ailments without the use of drugs and without operative surgery~~.

11. "Professional Association" means an association or society of persons licensed under this Act, and operating within the State of Illinois, including but not limited to, medical societies, osteopathic organizations, and chiropractic organizations, but this term shall not be deemed to include hospital medical staffs.

12. "Program of Care, Counseling, or Treatment" means a written schedule of organized treatment, care, counseling, activities, or education, satisfactory to the Disciplinary Board, designed for the purpose of restoring an impaired person to a condition whereby the impaired person can practice medicine with reasonable skill and safety of a sufficient degree to deliver competent patient care.

(Source: P.A. 85-1209; 85-1245; 85-1440.)

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 Link, **Senate Bill No. 1847,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Link, **Senate Bill No. 1849,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator McCarter, **Senate Bill No. 1856** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1856

AMENDMENT NO. __1__. Amend Senate Bill 1856 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Highway Code is amended by changing Section 4-510 as follows:

(605 ILCS 5/4-510) (from Ch. 121, par. 4-510)

Sec. 4-510. The Department may establish presently the approximate locations and widths of rights of way for future additions to the State highway system to inform the public and prevent costly and conflicting development of the land involved.

The Department shall hold a public hearing whenever approximate locations and widths of rights of way for future highway additions are to be established. The hearing shall be held in or near the county or counties where the land to be used is located and notice of the hearing shall be published in a newspaper or newspapers of general circulation in the county or counties involved. Any interested person or his representative may be heard. The Department shall evaluate the testimony given at the hearing.

The Department shall make a survey and prepare a map showing the location and approximate widths of the rights of way needed for future additions to the highway system. The map shall show existing

highways in the area involved and the property lines and owners of record of all land that will be needed for the future additions and all other pertinent information. Approval of the map with any changes resulting from the hearing shall be indicated in the record of the hearing and a notice of the approval and a copy of the map shall be filed in the office of the recorder for all counties in which the land needed for future additions is located.

Public notice of the approval and filing shall be given in newspapers of general circulation in all counties where the land is located and shall be served by registered mail within 60 days thereafter on all owners of record of the land needed for future additions.

The Department may approve changes in the map from time to time. The changes shall be filed and notice given in the manner provided for an original map.

After the map is filed and notice thereof given to the owners of record of the land needed for future additions, no one shall incur development costs or place improvements in, upon or under the land involved nor rebuild, alter or add to any existing structure without first giving 60 days notice by registered mail to the Department. This prohibition shall not apply to any normal or emergency repairs to existing structures. The Department shall have 45 days after receipt of that notice to inform the owner of the Department's intention to acquire the land involved; after which, it shall have the additional time of 120 days to acquire such land by purchase or to initiate action to acquire said land through the exercise of the right of eminent domain. When the right of way is acquired by the State no damages shall be allowed for any construction, alteration or addition in violation of this Section unless the Department has failed to acquire the land by purchase or has abandoned an eminent domain proceeding initiated pursuant to the provisions of this paragraph.

Any right of way needed for additions to the highway system may be acquired at any time by the State or by the county or municipality in which it is located. The time of determination of the value of the property to be taken under this Section for additions to the highway system shall be the date of the actual taking, if the property is acquired by purchase, or the date of the filing of a complaint for condemnation, if the property is acquired through the exercise of the right of eminent domain, rather than the date when the map of the proposed right-of-way was filed of record. The rate of compensation to be paid for farm land acquired hereunder by the exercise of the right of eminent domain shall be in accordance with Section 4-501 of this Code.

Not more than 10 years after a protected corridor is established under this Section regardless of whether the corridor is established before or after the effective date of this amendatory Act of the 97th General Assembly, and not later than the expiration of each succeeding 10 year period, the Department shall hold public hearings to discuss the viability and feasibility of the protected corridor. In the case of a protected corridor established prior to 10 years before the effective date of this amendatory Act of the 97th General Assembly, the hearing shall be conducted within 6 months of the effective date of this amendatory Act of the 97th General Assembly. The Department shall retain the discretion to maintain any protected corridor established under this Section, but shall give due consideration to the information obtained at the hearing and, if the Department in its discretion determines that construction of the roadway is no longer feasible, the Department shall abolish the protected corridor.

(Source: P.A. 91-357, eff. 7-29-99.)

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 Maloney, **Senate Bill No. 1883** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1883

AMENDMENT NO. 1. Amend Senate Bill 1883 on page 2, by replacing lines 18 through 24 with the following:

"economically justified. Each State university shall report annually to the Board on programs of instruction, research, or public service that have been terminated, dissolved, reduced, or consolidated by the university. Each State university shall also report to the Board all programs of instruction, research, and public service that exhibit a trend of low performance in enrollments, degree completions, and high expense per degree. The Board shall compile an annual report that shall contain information on new

programs created, existing programs that have been closed or consolidated, and programs that exhibit low performance or productivity. The report must be submitted to the General Assembly. The Board shall have the authority to define relevant terms and timelines by rule with respect to this reporting.".

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 Sandoval, **Senate Bill No. 1907,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Link, **Senate Bill No. 1927,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1936,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Delgado, **Senate Bill No. 1945** 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 1945

AMENDMENT NO. 1. Amend Senate Bill 1945 on page 4, immediately below line 3, by inserting the following:

"Section 99. Effective date. This Act takes effect on July 1, 2012.".

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

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 Delgado, **Senate Bill No. 1948** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Human Services, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 1948

AMENDMENT NO. 1. Amend Senate Bill 1948 by replacing everything after the enacting clause with the following:

"Section 5. The Children's Health Insurance Program Act is amended by adding Section 65 as follows:

(215 ILCS 106/65 new)

Sec. 65. Provider incentives. Subject to appropriations, beginning on July 1, 2011, the Department shall develop incentive programs for dentists who perform dental services on children covered under this Act. The incentive programs shall include a pilot program in a rural and urban designated shortage area that increases rates up to 64% of the reimbursement level that the dentists charge for those services covered. In addition, subject to appropriations, the Department shall increase the rate level of dental specialty services that are provided to children covered under this Act to equal 64% of the dentist's usual and customary charges. Subject to appropriations, the Department shall also develop and implement an incentive program that rewards dentists who are enrolled as a "dental home" with a bonus for providing services to children enrolled and covered under this Act.

Section 10. The Covering ALL KIDS Health Insurance Act is amended by adding Section 54 as follows:

(215 ILCS 170/54 new)

Sec. 54. Provider incentives. Subject to appropriations, beginning on July 1, 2011, the Department shall develop incentive programs for dentists who perform dental services on children covered under this Act. The incentive programs shall include a pilot program in a rural and urban designated shortage area that increases rates up to 64% of the reimbursement level that the dentists charge for those services

covered. In addition, subject to appropriations, the Department shall increase the rate level of dental specialty services that are provided to children covered under this Act to equal 64% of the dentist's usual and customary charges. Subject to appropriations, the Department shall also develop and implement an incentive program that rewards dentists who are enrolled as a "dental home" with a bonus for providing services to children enrolled and covered under this Act.

Section 15. The Illinois Public Aid Code is amended by adding Section 5-5.06 as follows:
(305 ILCS 5/5-5.06 new)
Sec. 5-5.06. Provider incentives. Subject to appropriations, beginning on July 1, 2011, the Department shall develop incentive programs for dentists who perform dental services on children covered under this Article. The incentive programs shall include a pilot program in a rural and urban designated shortage area that increases rates up to 64% of the reimbursement level that the dentists charge for those services covered. In addition, subject to appropriations, the Department shall increase the rate level of dental specialty services that are provided to children covered under this Article to equal 64% of the dentist's usual and customary charges. Subject to appropriations, the Department shall also develop and implement an incentive program that rewards dentists who are enrolled as a "dental home" with a bonus for providing services to children enrolled and covered under this Article.

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

AMENDMENT NO. 2 TO SENATE BILL 1948

AMENDMENT NO. _2__. Amend Senate Bill 1948, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Children's Health Insurance Program Act is amended by adding Section 65 as follows:
(215 ILCS 106/65 new)
Sec. 65. Dental home initiative. The Department, in cooperation with the dental community and other affected organizations such as Head Start, shall work to develop and promote the concept of a dental home for children covered under this Act. Included in this dental home outreach should be an effort to ensure an ongoing relationship between the patient and the dentist with an effort to provide comprehensive, coordinated, oral health care so that all children covered under this Act have access to preventative and restorative oral health care.

Section 10. The Covering ALL KIDS Health Insurance Act is amended by adding Section 54 as follows:
(215 ILCS 170/54 new)
Sec. 54. Dental home initiative. The Department, in cooperation with the dental community and other affected organizations such as Head Start, shall work to develop and promote the concept of a dental home for children covered under this Act. Included in this dental home outreach should be an effort to ensure an ongoing relationship between the patient and the dentist with an effort to provide comprehensive, coordinated, oral health care so that all children covered under this Act have access to preventative and restorative oral health care.

Section 15. The Illinois Public Aid Code is amended by adding Section 5-5.06 as follows:
(305 ILCS 5/5-5.06 new)
Sec. 5-5.06. Dental home initiative. The Department, in cooperation with the dental community and other affected organizations such as Head Start, shall work to develop and promote the concept of a dental home for children covered under this Article. Included in this dental home outreach should be an effort to ensure an ongoing relationship between the patient and the dentist with an effort to provide comprehensive, coordinated, oral health care so that all children covered under this Article have access to preventative and restorative oral health care.

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

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

On motion of Senator Delgado, **Senate Bill No. 1949,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1951** 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 1951

AMENDMENT NO. 1. Amend Senate Bill 1951 by replacing everything after the enacting clause with the following:

"Section 5. The Motor Fuel Tax Law is amended by changing Section 1 as follows:

(35 ILCS 505/1) (from Ch. 120, par. 417)

Sec. 1. For the ~~the~~ purposes of this Act the terms set out in Sections 1.1 through 1.21 have the meanings ascribed to them in those Sections.

(Source: P.A. 86-16; 86-1028.)".

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 Althoff, **Senate Bill No. 1952,** 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. 1992** having been printed, was taken up, read by title a second time.

Senator Dillard offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1992

AMENDMENT NO. 1. Amend Senate Bill 1992 on page 4, immediately below line 24, by inserting the following:

"(f) The legislative branch shall be responsible for verifying the accuracy of the data submitted under paragraph (1) of subsection (c) with regard to members of the General Assembly and State employees of the legislative branch. The judicial branch shall be responsible for verifying the accuracy of the data submitted under paragraph (1) of subsection (c) with regard to State employees of the judicial branch.

(g) The changes made to this Section by this amendatory Act of the 97th General Assembly are subject to appropriation.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Delgado, **Senate Bill No. 2002,** 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. 2004** 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.

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

AMENDMENT NO. 3 TO SENATE BILL 2004

AMENDMENT NO. 3. Amend Senate Bill 2004 on page 8, by replacing lines 16 through 18 with the following:

"(20) Knows the individual assaulted to be either:

(A) a person authorized to serve process under Section 2-202 of the Code of Civil Procedure; or

(B) a special process server appointed by the circuit court;

while that individual is in the performance of his or her duties as a process server."; and

on page 15, by replacing lines 17 and 18 with the following:

"(23) Knows the individual harmed to be a either:

(A) a person authorized to serve process under Section 2-202 of the Code of Civil Procedure; or

(B) a special process server appointed by the circuit court;

while that individual is in the performance of his or her duties as a process server.".

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

On motion of Senator Silverstein, **Senate Bill No. 2015** having been printed, was taken up, read by title a second time.

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

Senate Floor Amendment No. 2 was postponed in the Committee on Judiciary.

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

On motion of Senator Radogno, **Senate Bill No. 2022,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2024,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Muñoz, **Senate Bill No. 2034,** 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. 2063** having been printed, was taken up, read by title a second time.

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

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2063

AMENDMENT NO. _2_. Amend Senate Bill 2063 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Prepaid Wireless 9-1-1 Surcharge Act.

Section 5. Purpose. The General Assembly finds and declares that maintaining effective and efficient 9-1-1 systems across the State benefits all citizens. The fees imposed upon the consumers of telecommunication services that have the ability to dial 9-1-1 are an important funding mechanism to assist the State and units of local government with the deployment of enhanced 9-1-1 services to the citizens of this State.

Prepaid wireless telecommunication services are an important segment of the telecommunications industry and have proven particularly attractive to low-income and low-volume consumers. Unlike traditional telecommunication services, prepaid wireless telecommunications services are not sold or used pursuant to term contracts or subscriptions and monthly bills are not sent to consumers by prepaid wireless telecommunication service providers or retail vendors.

Prepaid wireless consumers have the same access to emergency 9-1-1 services from their wireless devices as wireless consumers on term contracts. Prepaid wireless consumers benefit from the ability to access the 9-1-1 system by dialing 9-1-1.

Consumers purchase prepaid wireless telecommunication services at a wide variety of general retail locations and other distribution channels. Such purchases are made on a cash-and-carry or pay-as-you-go basis from retailers.

It is the intent of the General Assembly to:

(1) ensure equitable contributions to the funding of 9-1-1 systems from consumers of prepaid wireless telecommunication services;

(2) collect 9-1-1 surcharges from purchasers of prepaid wireless telecommunications service at the point of sale;

(3) impose the collection and remittance obligation for 9-1-1 surcharges on sellers of prepaid wireless telecommunications service;

(4) impose a statewide administered 9-1-1 surcharge on point of sale transactions in

order to minimize administrative costs on retailers.

Section 10. Definitions. In this Act:

"Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

"Department" means the Department of Revenue.

"Prepaid wireless E911 surcharge" means the charge that is required to be collected by a seller from a consumer in the amount established under Section 15 of this Act.

"Prepaid wireless telecommunications service" means a wireless telecommunications service that allows a caller to dial 9-1-1 to access the 9-1-1 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the amount declines with use in a known amount.

"Provider" means a person that provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.

"Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

"Seller" means a person who sells prepaid wireless telecommunications service to another person.

"Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. 20.3.

Section 15. Prepaid wireless 9-1-1 surcharge.

(a) There is hereby imposed on consumers a prepaid wireless 9-1-1 surcharge of 1.5% per retail transaction. The surcharge authorized by this subsection (a) does not apply in a home rule municipality having a population in excess of 500,000. The amount of the surcharge may be reduced or increased pursuant to subsection (e).

(a-5) A home rule municipality having a population in excess of 500,000 on of the effective date of this Act may only impose a prepaid wireless 9-1-1 surcharge not to exceed 7% per retail transaction sourced to that jurisdiction and collected and remitted in accordance with the provisions of subsection (b-5).

(b) The prepaid wireless 9-1-1 surcharge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this State and shall be remitted to the Department by the seller as provided in this Act. The amount of the prepaid wireless 9-1-1 surcharge shall be separately stated as a distinct item apart from the charge for the prepaid wireless telecommunications service on an invoice, receipt, or other similar document that is provided to the consumer by the seller or shall be otherwise disclosed to the consumer. If the seller does not separately state the surcharge as a distinct item to the consumer as provided in this Section, then the seller shall maintain books and records as required by this Act which clearly identify the amount of the 9-1-1 surcharge for retail transactions.

For purposes of this subsection (b), a retail transaction occurs in this State if (i) the retail transaction is made in person by a consumer at the seller's business location and the business is located within the State; (ii) the seller is a provider and sells prepaid wireless telecommunications service to a consumer located in Illinois; (iii)the retail transaction is treated as occurring in this State for purposes of the Retailers' Occupation Tax Act; or (iv) a seller that is included within the definition of a "retailer maintaining a place of business in this State" under Section 2 of the Use Tax Act makes a sale of prepaid wireless telecommunications service to a consumer located in Illinois. In the case of a retail transaction which does not occur in person at a seller's business location, if a consumer uses a credit card to purchase prepaid wireless telecommunications service on-line or over the telephone, and no product is shipped to the consumer, the transaction occurs in this State if the billing address for the consumer's credit card is in this State.

(b-5) The prepaid wireless 9-1-1 surcharge imposed under subsection (a-5) of this Section shall be collected by the seller from the consumer with respect to each retail transaction occurring in the municipality imposing the surcharge. The amount of the prepaid wireless 9-1-1 surcharge shall be separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller or shall be otherwise disclosed to the consumer. If the seller does not separately state the surcharge as a distinct item to the consumer as provided in this Section, then the seller shall maintain books and records as required by this Act which clearly identify the amount of the 9-1-1 surcharge for retail transactions.

For purposes of this subsection (b-5), a retail transaction occurs in the municipality if (i) the retail transaction is made in person by a consumer at the seller's business location and the business is located within the municipality; (ii) the seller is a provider and sells prepaid wireless telecommunications service to a consumer located in the municipality; (iii) the retail transaction is treated as occurring in the

municipality for purposes of the Retailers' Occupation Tax Act; or (iv) a seller that is included within the definition of a "retailer maintaining a place of business in this State" under Section 2 of the Use Tax Act makes a sale of prepaid wireless telecommunications service to a consumer located in the municipality. In the case of a retail transaction which does not occur in person at a seller's business location, if a consumer uses a credit card to purchase prepaid wireless telecommunications service on-line or over the telephone, and no product is shipped to the consumer, the transaction occurs in the municipality if the billing address for the consumer's credit card is in the municipality.

(c) The prepaid wireless 9-1-1 surcharge is imposed on the consumer and not on any provider. The seller shall be liable to remit all prepaid wireless 9-1-1 surcharges that the seller collects from consumers as provided in Section 20, including all such surcharges that the seller is deemed to collect where the amount of the surcharge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller. The surcharge collected or deemed collected by a seller shall constitute a debt owed by the seller to this State, and any such surcharge actually collected shall be held in trust for the benefit of the Department.

For purposes of this subsection (c), the surcharge shall not be imposed or collected from entities that are tax exempt under the Retailers' Occupation Tax Act.

(d) The amount of the prepaid wireless 9-1-1 surcharge that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by this State, any political subdivision of this State, or any intergovernmental agency.

(e) The prepaid wireless 9-1-1 charge imposed under subsection (a) of this Section shall be proportionately increased or reduced, as applicable, upon any change to the surcharge imposed under Section 17 of the Wireless Emergency Telephone Safety Act. The adjusted rate shall be determined by dividing the amount of the surcharge imposed under Section 17 of the Wireless Emergency Telephone Safety Act by $50. Such increase or reduction shall be effective on the first day of the first calendar month to occur at least 60 days after the enactment of the change to the surcharge imposed under Section 17 of the Wireless Emergency Telephone Safety Act. The Department shall provide not less than 30 days' notice of an increase or reduction in the amount of the surcharge on the Department's website.

(e-5) Any changes in the rate of the surcharge imposed by a municipality under the authority granted in subsection (a-5) of this Section shall be effective on the first day of the first calendar month to occur at least 60 days after the enactment of the change. The Department shall provide not less than 30 days' notice of the increase or reductions in the rate of such surcharge on the Department's website.

(f) When prepaid wireless telecommunications service is sold with one or more other products or services for a single, non-itemized price, then the percentage specified in subsection (a) or (a-5) of this Section 15 shall be applied to the entire non-itemized price unless the seller elects to apply the percentage to (i) the dollar amount of the prepaid wireless telecommunications service if that dollar amount is disclosed to the consumer or (ii) the portion of the price that is attributable to the prepaid wireless telecommunications service if the retailer can identify that portion by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, books and records that are kept for non-tax purposes. However, if a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, non-itemized price, then the seller may elect not to apply the percentage specified in subsection (a) or (a-5) of this Section 15 to such transaction. For purposes of this subsection, an amount of service denominated as 10 minutes or less or $5 or less is considered minimal.

Section 20. Administration of prepaid wireless 9-1-1 surcharge.

(a) In the administration and enforcement of this Act, the provisions of Sections 2a, 2b, 2c, 3, 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, and 12 of the Retailers' Occupation Tax Act that are not inconsistent with this Act, and Section 3-7 of the Uniform Penalty and Interest Act shall apply as far as practicable, to the subject matter of this Act to the same extent as if those provisions were included in this Act. References to "taxes" in these incorporated Sections shall be construed to apply to the administration, payment, and remittance of all surcharges under this Act. The Department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply to the Retailers' Occupation Tax Act.

(b) For the first 12 months after the effective date of this Act, a seller shall be permitted to deduct and retain 5% of prepaid wireless 9-1-1 surcharges that are collected by the seller from consumers and that are remitted and timely filed with the Department. After the first 12 months, a seller shall be permitted to deduct and retain 3% of prepaid wireless 9-1-1 surcharges that are collected by the seller from

consumers and that are remitted and timely filed with the Department.

(c) The Department shall pay all remitted prepaid wireless E911 charges over to the State Treasurer for deposit into the Wireless Service Emergency Fund within 30 days after receipt. The Illinois Commerce Commission shall distribute such funds in the same proportion as they are distributed under the Wireless Emergency Telephone Safety Act and such funds may only be used in accordance with the provisions of the Wireless Emergency Telephone Safety Act. The Department may deduct an amount, not to exceed 3% during the first year following the effective date of this Act and not to exceed 2% during every year thereafter of remitted charges, to be retained by the Department to reimburse its direct costs of administering the collection and remittance of prepaid wireless 9-1-1 surcharges.

(d) The Department shall administer the collection of all 9-1-1 surcharges and may adopt and enforce reasonable rules relating to the administration and enforcement of the provisions of this Act as may be deemed expedient. The Department shall require all surcharges collected under this Act to be reported on existing forms or combined forms, including, but not limited to, Form ST-1.

Section 25. Liability of sellers and providers. The provisions of Section 50 of the Wireless Emergency Telephone Safety Act shall apply to sellers and providers of prepaid wireless telecommunications service.

Section 27. Home rule. A home rule unit may not impose a separate surcharge on wireless 9-1-1 service in addition to the surcharge imposed on wireless 9-1-1 service under this Act. 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 30. Exclusivity of prepaid wireless 9-1-1 surcharge. The prepaid wireless 9-1-1 surcharge imposed by this Act shall be the only 9-1-1 funding obligation imposed with respect to prepaid wireless telecommunications service in this State. No tax, fee, surcharge, or other charge shall be imposed by this State, any political subdivision of this State, or any intergovernmental agency, for 9-1-1 funding purposes, upon any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

Section 95. The Wireless Emergency Telephone Safety Act is amended by changing Sections 10 and 17 and by adding Section 80 as follows:

(50 ILCS 751/10)

(Section scheduled to be repealed on April 1, 2013)

Sec. 10. Definitions. In this Act:

~~"Active prepaid wireless telephone" means a prepaid wireless telephone that has been used or activated by the customer during the month to complete a telephone call for which the customer's card or account was decremented.~~

"Emergency telephone system board" means a board appointed by the corporate authorities of any county or municipality that provides for the management and operation of a 9-1-1 system within the scope of the duties and powers prescribed by the Emergency Telephone System Act.

"Master street address guide" means the computerized geographical database that consists of all street and address data within a 9-1-1 system.

"Mobile telephone number" or "MTN" shall mean the telephone number assigned to a wireless telephone at the time of initial activation.

"Prepaid wireless telecommunications ~~telephone~~ service" means wireless telecommunications ~~telephone~~ service that allows a caller to dial 9-1-1 to access the 9-1-1 system, which service must be paid for in advance and is sold in predetermined units or dollars which the amount declines with use in a known amount. ~~which is activated by payment in advance of a finite dollar amount or for a finite set of minutes and which, unless an additional finite dollar amount or finite set of minutes is paid in advance, terminates either (i) upon use by a customer and delivery by the wireless carrier of an agreed upon amount of service corresponding to the total dollar amount paid in advance, or within a certain period of time following initial purchase or activation.~~

"Public safety agency" means a functional division of a public agency that provides fire fighting, police, medical, or other emergency services. For the purpose of providing wireless service to users of 9-1-1 emergency services, as expressly provided for in this Act, the Department of State Police may be considered a public safety agency.

"Qualified governmental entity" means a unit of local government authorized to provide 9-1-1 services pursuant to the Emergency Telephone System Act where no emergency telephone system board

exists.

"Remit period" means the billing period, one month in duration, for which a wireless carrier~~, other than a prepaid wireless carrier that provides zip code information based upon the addresses associated with its customers' points of purchase, customers' billing addresses, or locations associated with MTNs, as described in subsection (a) of Section 17,~~ remits a surcharge and provides subscriber information by zip code to the Illinois Commerce Commission, in accordance with Section 17 of this Act.

"Statewide wireless emergency 9-1-1 system" means all areas of the State where an emergency telephone system board or, in the absence of an emergency telephone system board, a qualified governmental entity has not declared its intention for one or more of its public safety answering points to serve as a primary wireless 9-1-1 public safety answering point for its jurisdiction. The operator of the statewide wireless emergency 9-1-1 system shall be the Department of State Police.

~~"Sufficient positive balance" means a dollar amount greater than or equal to the monthly wireless 9-1-1 surcharge amount.~~

"Wireless carrier" means a provider of two-way cellular, broadband PCS, geographic area 800 MHZ and 900 MHZ Commercial Mobile Radio Service (CMRS), Wireless Communications Service (WCS), or other Commercial Mobile Radio Service (CMRS), as defined by the Federal Communications Commission, offering radio communications that may provide fixed, mobile, radio location, or satellite communication services to individuals or businesses within its assigned spectrum block and geographical area or that offers real-time, two-way voice service that is interconnected with the public switched network, including a reseller of such service.

"Wireless enhanced 9-1-1" means the ability to relay the telephone number of the originator of a 9-1-1 call and location information from any mobile handset or text telephone device accessing the wireless system to the designated wireless public safety answering point as set forth in the order of the Federal Communications Commission, FCC Docket No. 94-102, adopted June 12, 1996, with an effective date of October 1, 1996, and any subsequent amendment thereto.

"Wireless public safety answering point" means the functional division of an emergency telephone system board, qualified governmental entity, or the Department of State Police accepting wireless 9-1-1 calls.

"Wireless subscriber" means an individual or entity to whom a wireless service account or number has been assigned by a wireless carrier, other than an account or number associated with prepaid wireless telecommunication service.

~~"Wireless telephone service" includes prepaid wireless telephone service and means all "commercial mobile service", as that term is defined in 47 CFR 20.3, including all personal communications services, wireless radio telephone services, geographic area specialized and enhanced specialized mobile radio services, and incumbent wide area specialized mobile radio licensees that offer real time, two-way service that is interconnected with the public switched telephone network.~~

(Source: P.A. 95-63, eff. 8-13-07.)

(50 ILCS 751/17)

(Section scheduled to be repealed on April 1, 2013)

Sec. 17. Wireless carrier surcharge.

(a) Except as provided in Sections ~~Section~~ 45 and 80, each wireless carrier shall impose a monthly wireless carrier surcharge per CMRS connection that either has a telephone number within an area code assigned to Illinois by the North American Numbering Plan Administrator or has a billing address in this State. ~~In the case of prepaid wireless telephone service, this surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the MTN for each active prepaid wireless telephone that has a sufficient positive balance as of the last day of each month, if that information is available.~~ No wireless carrier shall impose the surcharge authorized by this Section upon any subscriber who is subject to the surcharge imposed by a unit of local government pursuant to Section 45. Prior to January 1, 2008 (the effective date of Public Act 95-698), the surcharge amount shall be the amount set by the Wireless Enhanced 9-1-1 Board. Beginning on January 1, 2008 (the effective date of Public Act 95-698), the monthly surcharge imposed under this Section shall be $0.73 per CMRS connection. The wireless carrier that provides wireless service to the subscriber shall collect the surcharge from the subscriber. For mobile telecommunications services provided on and after August 1, 2002, any surcharge imposed under this Act shall be imposed based upon the municipality or county that encompasses the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. The surcharge shall be stated as a separate item on the subscriber's monthly bill. The wireless carrier shall begin collecting the surcharge on bills issued within 90 days after the Wireless Enhanced 9-1-1 Board sets the monthly wireless surcharge. State and local taxes shall not apply to the wireless carrier surcharge.

(b) Except as provided in Sections ~~Section~~ 45 and 80, a wireless carrier shall, within 45 days of collection, remit, either by check or by electronic funds transfer, to the State Treasurer the amount of the wireless carrier surcharge collected from each subscriber. Of the amounts remitted under this subsection prior to January 1, 2008 (the effective date of Public Act 95-698), and for surcharges imposed before January 1, 2008 (the effective date of Public Act 95-698) but remitted after January 1, 2008, the State Treasurer shall deposit one-third into the Wireless Carrier Reimbursement Fund and two-thirds into the Wireless Service Emergency Fund. For surcharges collected and remitted on or after January 1, 2008 (the effective date of Public Act 95-698), $0.1475 per surcharge collected shall be deposited into the Wireless Carrier Reimbursement Fund, and $0.5825 per surcharge collected shall be deposited into the Wireless Service Emergency Fund. Of the amounts deposited into the Wireless Carrier Reimbursement Fund under this subsection, $0.01 per surcharge collected may be distributed to the carriers to cover their administrative costs. Of the amounts deposited into the Wireless Service Emergency Fund under this subsection, $0.01 per surcharge collected may be disbursed to the Illinois Commerce Commission to cover its administrative costs.

(c) The first such remittance by wireless carriers shall include the number of wireless subscribers ~~customers~~ by zip code, and the 9-digit zip code if currently being used or later implemented by the carrier, that shall be the means by which the Illinois Commerce Commission shall determine distributions from the Wireless Service Emergency Fund. This information shall be updated no less often than every year. Wireless carriers are not required to remit surcharge moneys that are billed to subscribers but not yet collected. Any carrier that fails to provide the zip code information required under this subsection (c) ~~or any prepaid wireless carrier that fails to provide zip code information based upon the addresses associated with its customers' points of purchase, customers' billing addresses, or locations associated with MTNs, as described in subsection (a) of this Section,~~ shall be subject to the penalty set forth in subsection (f) of this Section.

(d) Any funds collected under the Prepaid Wireless 9-1-1 Surcharge Act shall be distributed using a prorated method based upon zip code information collected from post-paid wireless carriers under subsection (c) of this Section. ~~Within 90 days after August 13, 2007 (the effective date of Public Act 95-63), each wireless carrier must implement a mechanism for the collection of the surcharge imposed under subsection (a) of this Section from its subscribers. If a wireless carrier does not implement a mechanism for the collection of the surcharge from its subscribers in accordance with this subsection (d), then the carrier is required to remit the surcharge for all subscribers until the carrier is deemed to be in compliance with this subsection (d) by the Illinois Commerce Commission.~~

(e) If before midnight on the last day of the third calendar month after the closing date of the remit period a wireless carrier does not remit the surcharge or any portion thereof required under this Section, then the surcharge or portion thereof shall be deemed delinquent until paid in full, and the Illinois Commerce Commission may impose a penalty against the carrier in an amount equal to the greater of:

(1) $25 for each month or portion of a month from the time an amount becomes delinquent until the amount is paid in full; or

(2) an amount equal to the product of 1% and the sum of all delinquent amounts for each month or portion of a month that the delinquent amounts remain unpaid.

A penalty imposed in accordance with this subsection (e) for a portion of a month during which the carrier provides the number of subscribers by zip code as required under subsection (c) of this Section shall be prorated for each day of that month during which the carrier had not provided the number of subscribers by zip code as required under subsection (c) of this Section. Any penalty imposed under this subsection (e) is in addition to the amount of the delinquency and is in addition to any other penalty imposed under this Section.

(f) If, before midnight on the last day of the third calendar month after the closing date of the remit period, a wireless carrier does not provide the number of subscribers by zip code as required under subsection (c) of this Section, then the report is deemed delinquent and the Illinois Commerce Commission may impose a penalty against the carrier in an amount equal to the greater of:

(1) $25 for each month or portion of a month that the report is delinquent; or

(2) an amount equal to the product of 1/2¢ and the number of subscribers served by the wireless carrier.

A penalty imposed in accordance with this subsection (f) for a portion of a month during which the carrier pays the delinquent amount in full shall be prorated for each day of that month that the delinquent amount was paid in full. Any penalty imposed under this subsection (f) is in addition to any other penalty imposed under this Section.

(g) The Illinois Commerce Commission may enforce the collection of any delinquent amount and any penalty due and unpaid under this Section by legal action or in any other manner by which the collection

of debts due the State of Illinois may be enforced under the laws of this State. The Executive Director of the Illinois Commerce Commission, or his or her designee, may excuse the payment of any penalty imposed under this Section if the Executive Director, or his or her designee, determines that the enforcement of this penalty is unjust.

(h) Notwithstanding any provision of law to the contrary, nothing shall impair the right of wireless carriers to recover compliance costs for all emergency communications services that are not reimbursed out of the Wireless Carrier Reimbursement Fund directly from their wireless subscribers ~~customers~~ via line-item charges on the wireless subscriber's ~~customer's~~ bill. Those compliance costs include all costs incurred by wireless carriers in complying with local, State, and federal regulatory or legislative mandates that require the transmission and receipt of emergency communications to and from the general public, including, but not limited to, E-911.

(i) The Auditor General shall conduct, on an annual basis, an audit of the Wireless Service Emergency Fund and the Wireless Carrier Reimbursement Fund for compliance with the requirements of this Act. The audit shall include, but not be limited to, the following determinations:

(1) Whether the Commission is maintaining detailed records of all receipts and disbursements from the Wireless Carrier Emergency Fund and the Wireless Carrier Reimbursement Fund.

(2) Whether the Commission's administrative costs charged to the funds are adequately documented and are reasonable.

(3) Whether the Commission's procedures for making grants and providing reimbursements in accordance with the Act are adequate.

(4) The status of the implementation of wireless 9-1-1 and E9-1-1 services in Illinois.

The Commission, the Department of State Police, and any other entity or person that may have information relevant to the audit shall cooperate fully and promptly with the Office of the Auditor General in conducting the audit. The Auditor General shall commence the audit as soon as possible and distribute the report upon completion in accordance with Section 3-14 of the Illinois State Auditing Act.
(Source: P.A. 95-63, eff. 8-13-07; 95-698, eff. 1-1-08; 95-876, eff. 8-21-08.)

(50 ILCS 751/80 new)

Sec. 80. Prepaid wireless telecommunications service; surcharge. The wireless carrier surcharge and any other requirements imposed by Section 17 or authorized by Section 45 shall not apply to prepaid wireless telecommunications service. The provisions of the Prepaid Wireless 9-1-1 Surcharge Act shall apply to prepaid wireless telecommunications service.

Section 97. The Public Utilities Act is amended by changing Section 13-230 as follows:

(220 ILCS 5/13-230)

(Section scheduled to be repealed on July 1, 2013)

Sec. 13-230. Prepaid calling service. "Prepaid calling service" means telecommunications service that must be paid for in advance by an end user, enables the end user to originate calls using an access number or authorization code, whether manually or electronically dialed, and is sold in predetermined units or dollars of which the number declines with use in a known amount. A prepaid calling service call is a call made by an end user using prepaid calling service. "Prepaid calling service" does not include prepaid wireless telecommunications ~~telephone~~ service as defined in Section 10 of the Wireless Emergency Telephone Safety Act.
(Source: P.A. 93-1002, eff. 1-1-05.)

Section 997. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 999. Effective date. This Act takes effect January 1, 2012.".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2063

AMENDMENT NO. 3. Amend Senate Bill 2063, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2 as follows:

on page 11, immediately below line 22, by inserting the following:

"Section 90. The Emergency Telephone System Act is amended by changing Section 15.3 and by adding Sections 2.24, 2.25, and 2.26 as follows:

(50 ILCS 750/2.24 new)

Sec. 2.24. Advanced service. "Advanced service" means any telecommunications service with dynamic bandwidth allocation, including but not limited to ISDN Primary Rate Interface (PRI), that, through the use of a DS-1, T-1, or similar un-channelized or multi-channel transmission facility, is capable of transporting either the subscriber's inter-premises voice telecommunications services to the public switched network or the subscriber's 9-1-1 calls to the public agency. As used in this Section, "dynamic bandwidth allocation" means the ability of the facility or customer to drop and add channels, or adjust bandwidth, when needed in real time for voice or data purposes. As used in this Section, "DS-1, T-1, or similar un-channelized or multi-channel transmission facility" means a facility that can transmit and receive a bit rate of at least 1.544 megabits per second (Mbps).

(50 ILCS 750/2.25 new)

Sec. 2.25. Regular service. "Regular service" means any telecommunications service, other than advanced service, that is capable of transporting either the subscriber's inter-premises voice telecommunications services to the public switched network or the subscriber's 9-1-1 calls to the public agency.

(50 ILCS 750/2.26 new)

Sec. 2.26. Trunk line. "Trunk line" means a transmission path, or group of transmission paths, connecting a subscriber's Private Branch Exchange ("P.B.X.") to a telecommunications carrier's public switched network. In the case of regular service, each voice grade communications channel or equivalent amount of bandwidth capable of transporting either the subscriber's inter-premises voice telecommunications services to the public switched network or the subscriber's 9-1-1 calls to the public agency shall be considered a trunk line, even if it is bundled with other channels or additional bandwidth. In the case of advanced service, each DS-1, T-1, or similar un-channelized or multi-channel transmission facility that is capable of transporting either the subscriber's inter-premises voice telecommunications services to the public switched network or the subscriber's 9-1-1 calls to the public agency shall be considered a single trunk line, even if it contains multiple voice grade communications channels or otherwise supports 2 or more voice grade calls ("VGC") at a time; provided, however, that each additional 1.544 Mbps of transmission capacity that is capable of transporting either the subscriber's inter-premises voice telecommunications services to the public switched network or the subscriber's 9-1-1 calls to the public agency shall be considered an additional trunk line.

(50 ILCS 750/15.3) (from Ch. 134, par. 45.3)

Sec. 15.3. Surcharge.

(a) The corporate authorities of any municipality or any county may, subject to the limitations of subsections (c), (d), and (h), and in addition to any tax levied pursuant to the Simplified Municipal Telecommunications Tax Act, impose a monthly surcharge on billed subscribers of network connection provided by telecommunication carriers engaged in the business of transmitting messages by means of electricity originating within the corporate limits of the municipality or county imposing the surcharge at a rate per network connection determined in accordance with subsection (c), however the monthly surcharge shall not apply to a network connection provided for use with pay telephone services. Provided, however, that where multiple voice grade communications channels are connected between the subscriber's premises and a public switched network through private branch exchange (PBX) or centrex type service, a municipality imposing a surcharge at a rate per network connection, as determined in accordance with this Act, shall impose:

(i) in a municipality with a population of 500,000 or less, 5 such surcharges per network connection, as determined in accordance with subsections (a) and (d) of Section 2.12 of this Act, for both regular service and advanced service provisioned trunk lines;

(ii) in a municipality with a population, prior to March 1, 2010, of 500,000 or more, 5 surcharges per network connection, as determined in accordance with subsections (a) and (d) of Section 2.12 of this Act, for both regular service and advanced service provisioned trunk lines;

(iii) in a municipality with a population, as of March 1, 2010, of 500,000 or more, 5 surcharges per network connection, as determined in accordance with subsections (a) and (d) of Section 2.12 of this Act, for regular service provisioned trunk lines, and 12 surcharges per network connection, as determined in accordance with subsections (a) and (d) of Section 2.12 of this Act, for advanced service provisioned trunk lines, except where an advanced service provisioned trunk line supports at least 2 but fewer than 23 simultaneous voice grade calls ("VGC's"), a telecommunication carrier may elect to impose fewer than 12 surcharges per trunk line as provided in subsection (iv) of this Section; or

(iv) for an advanced service provisioned trunk line connected between the subscriber's premises and the public switched network through a P.B.X., where the advanced service provisioned trunk line is capable of transporting at least 2 but fewer than 23 simultaneous VGC's per trunk line, the telecommunications carrier collecting the surcharge may elect to impose surcharges in accordance with the table provided in this Section, without limiting any telecommunications carrier's obligations to otherwise keep and maintain records. Any telecommunications carrier electing to impose fewer than 12 surcharges per an advanced service provisioned trunk line shall keep and maintain records adequately to demonstrate the VGC capability of each advanced service provisioned trunk line with fewer than 12 surcharges imposed, provided that 12 surcharges shall be imposed on an advanced service provisioned trunk line regardless of the VGC capability where a telecommunications carrier cannot demonstrate the VGC capability of the advanced service provisioned trunk line.

Facility	VGC's	911 Surcharges
Advanced service provisioned trunk line	18-23	12
Advanced service provisioned trunk line	12-17	10
Advanced service provisioned trunk line	2-11	8

Subsections (i), (ii), (iii), and (iv) are not intended to make any change in the meaning of this Section, but are intended to remove possible ambiguity, thereby confirming the intent of paragraph (a) as it existed prior to and following the effective date of this amendatory Act of the 97th General Assembly.

For mobile telecommunications services, if a surcharge is imposed it shall be imposed based upon the municipality or county that encompasses the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. A municipality may enter into an intergovernmental agreement with any county in which it is partially located, when the county has adopted an ordinance to impose a surcharge as provided in subsection (c), to include that portion of the municipality lying outside the county in that county's surcharge referendum. If the county's surcharge referendum is approved, the portion of the municipality identified in the intergovernmental agreement shall automatically be disconnected from the county in which it lies and connected to the county which approved the referendum for purposes of a surcharge on telecommunications carriers.

(b) For purposes of computing the surcharge imposed by subsection (a), the network connections to which the surcharge shall apply shall be those in-service network connections, other than those network connections assigned to the municipality or county, where the service address for each such network connection or connections is located within the corporate limits of the municipality or county levying the surcharge. Except for mobile telecommunication services, the "service address" shall mean the location of the primary use of the network connection or connections. For mobile telecommunication services, "service address" means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act.

(c) Upon the passage of an ordinance to impose a surcharge under this Section the clerk of the municipality or county shall certify the question of whether the surcharge may be imposed to the proper election authority who shall submit the public question to the electors of the municipality or county in accordance with the general election law; provided that such question shall not be submitted at a consolidated primary election. The public question shall be in substantially the following form:

Shall the county (or city, village or incorporated town) of ..... impose a surcharge of up to ...¢ per month per network connection, which surcharge will be added to the monthly bill you receive for telephone or telecommunications charges, for the purpose of installing (or improving) a 9-1-1 Emergency Telephone System?	YES --- NO

If a majority of the votes cast upon the public question are in favor thereof, the surcharge shall be imposed.

However, if a Joint Emergency Telephone System Board is to be created pursuant to an intergovernmental agreement under Section 15.4, the ordinance to impose the surcharge shall be subject to the approval of a majority of the total number of votes cast upon the public question by the electors of

all of the municipalities or counties, or combination thereof, that are parties to the intergovernmental agreement.

The referendum requirement of this subsection (c) shall not apply to any municipality with a population over 500,000 or to any county in which a proposition as to whether a sophisticated 9-1-1 Emergency Telephone System should be installed in the county, at a cost not to exceed a specified monthly amount per network connection, has previously been approved by a majority of the electors of the county voting on the proposition at an election conducted before the effective date of this amendatory Act of 1987.

(d) A county may not impose a surcharge, unless requested by a municipality, in any incorporated area which has previously approved a surcharge as provided in subsection (c) or in any incorporated area where the corporate authorities of the municipality have previously entered into a binding contract or letter of intent with a telecommunications carrier to provide sophisticated 9-1-1 service through municipal funds.

(e) A municipality or county may at any time by ordinance change the rate of the surcharge imposed under this Section if the new rate does not exceed the rate specified in the referendum held pursuant to subsection (c).

(f) The surcharge authorized by this Section shall be collected from the subscriber by the telecommunications carrier providing the subscriber the network connection as a separately stated item on the subscriber's bill.

(g) The amount of surcharge collected by the telecommunications carrier shall be paid to the particular municipality or county or Joint Emergency Telephone System Board not later than 30 days after the surcharge is collected, net of any network or other 9-1-1 or sophisticated 9-1-1 system charges then due the particular telecommunications carrier, as shown on an itemized bill. The telecommunications carrier collecting the surcharge shall also be entitled to deduct 3% of the gross amount of surcharge collected to reimburse the telecommunications carrier for the expense of accounting and collecting the surcharge.

(h) Except as expressly provided in subsection (a) of this Section, a municipality with a population over 500,000 may not impose a monthly surcharge in excess of $2.50 per network connection.

(i) Any municipality or county or joint emergency telephone system board that has imposed a surcharge pursuant to this Section prior to the effective date of this amendatory Act of 1990 shall hereafter impose the surcharge in accordance with subsection (b) of this Section.

(j) The corporate authorities of any municipality or county may issue, in accordance with Illinois law, bonds, notes or other obligations secured in whole or in part by the proceeds of the surcharge described in this Section. Notwithstanding any change in law subsequent to the issuance of any bonds, notes or other obligations secured by the surcharge, every municipality or county issuing such bonds, notes or other obligations shall be authorized to impose the surcharge as though the laws relating to the imposition of the surcharge in effect at the time of issuance of the bonds, notes or other obligations were in full force and effect until the bonds, notes or other obligations are paid in full. The State of Illinois pledges and agrees that it will not limit or alter the rights and powers vested in municipalities and counties by this Section to impose the surcharge so as to impair the terms of or affect the security for bonds, notes or other obligations secured in whole or in part with the proceeds of the surcharge described in this Section.

(k) Any surcharge collected by or imposed on a telecommunications carrier pursuant to this Section shall be held to be a special fund in trust for the municipality, county or Joint Emergency Telephone Board imposing the surcharge. Except for the 3% deduction provided in subsection (g) above, the special fund shall not be subject to the claims of creditors of the telecommunication carrier.

(Source: P.A. 95-331, eff. 8-21-07; 95-698, eff. 1-1-08; 95-1012, eff. 12-15-08.)"; and

on page 23, line 19, immediately after "2012", by inserting ", except that this Section and Section 90 shall take effect upon becoming law".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 4 was held in the Committee on Assignments.

There being no further amendments, the foregoing Amendments Numbered 2 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Maloney, **Senate Bill No. 2064** having been printed, was taken up, read by title a second time.

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

Senator Maloney offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2064

AMENDMENT NO. 2. Amend Senate Bill 2064 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 3-704 as follows:

(625 ILCS 5/3-704) (from Ch. 95 1/2, par. 3-704)

Sec. 3-704. Authority of Secretary of State to suspend or revoke a registration or certificate of title; authority to suspend or revoke the registration of a vehicle.

(a) The Secretary of State may suspend or revoke the registration of a vehicle or a certificate of title, registration card, registration sticker, registration plate, disability parking decal or device, or any nonresident or other permit in any of the following events:

1. When the Secretary of State is satisfied that such registration or that such certificate, card, plate, registration sticker or permit was fraudulently or erroneously issued;

2. When a registered vehicle has been dismantled or wrecked or is not properly equipped;

3. When the Secretary of State determines that any required fees have not been paid to the Secretary of State, to the Illinois Commerce Commission, or to the Illinois Department of Revenue under the Motor Fuel Tax Law, and the same are not paid upon reasonable notice and demand;

4. When a registration card, registration plate, registration sticker or permit is knowingly displayed upon a vehicle other than the one for which issued;

5. When the Secretary of State determines that the owner has committed any offense under this Chapter involving the registration or the certificate, card, plate, registration sticker or permit to be suspended or revoked;

6. When the Secretary of State determines that a vehicle registered not-for-hire is used or operated for-hire unlawfully, or used or operated for purposes other than those authorized;

7. When the Secretary of State determines that an owner of a for-hire motor vehicle has failed to give proof of financial responsibility as required by this Act;

8. When the Secretary determines that the vehicle is not subject to or eligible for a registration;

9. When the Secretary determines that the owner of a vehicle registered under the mileage weight tax option fails to maintain the records specified by law, or fails to file the reports required by law, or that such vehicle is not equipped with an operable and operating speedometer or odometer;

10. When the Secretary of State is so authorized under any other provision of law;

11. When the Secretary of State determines that the holder of a disability parking decal or device has committed any offense under Chapter 11 of this Code involving the use of a disability parking decal or device.

(a-5) The Secretary of State may revoke a certificate of title and registration card and issue a corrected certificate of title and registration card, at no fee to the vehicle owner or lienholder, if there is proof that the vehicle identification number is erroneously shown on the original certificate of title.

(b) The Secretary of State may suspend or revoke the registration of a vehicle as follows:

1. When the Secretary of State determines that the owner of a vehicle has not paid a civil penalty or a settlement agreement arising from the violation of rules adopted under the Illinois Motor Carrier Safety Law or the Illinois Hazardous Materials Transportation Act or that a vehicle, regardless of ownership, was the subject of violations of these rules that resulted in a civil penalty or settlement agreement which remains unpaid.

2. When the Secretary of State determines that a vehicle registered for a gross weight of more than 16,000 pounds within an affected area is not in compliance with the provisions of Section 13-109.1 of the Illinois Vehicle Code.

3. When the Secretary of State is notified by the United States Department of Transportation that a vehicle is in violation of the Federal Motor Carrier Safety Regulations, as they are now or hereafter amended, and is prohibited from operating.

4. When a court finds that the vehicle was used in a violation of Section 24-3A of the Criminal Code of 1961 relating to gunrunning. A suspension or revocation of registration under this paragraph 4 may be for a period of up to 90 days.

(Source: P.A. 94-239, eff. 1-1-06; 94-619, eff. 1-1-06; 94-759, eff. 5-12-06; 95-287, eff. 1-1-08.)

Section 99. Effective date. This Act takes effect January 1, 2012.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator J. Collins, **Senate Bill No. 2069,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Link, **Senate Bill No. 2070,** having been printed, was taken up, read by title a second time.

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

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

On motion of Senator Pankau, **Senate Bill No. 2082** having been printed, was taken up, read by title a second time.

Senator Pankau offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2082

AMENDMENT NO. 1. Amend Senate Bill 2082 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by adding Section 605-1010 as follows:

(20 ILCS 605/605-1010 new)

Sec. 605-1010. Quarterly business report. The Department shall issue a quarterly report to the Commerce Committee of the Illinois Senate detailing the number of new businesses incorporating or otherwise forming in Illinois, the number of businesses not seeking renewal of their registration or having lapsed registration in Illinois, and the number of businesses renewing registrations in Illinois by category, including, but not limited to, sole proprietorships, partnerships, C corporations, S corporations, and limited liability companies. The report shall include that data with a column reflecting increases or decreases for each business type compared with the previous quarter. The Department shall publish the report on its website. The Department shall obtain any information necessary to create this report from the office of the Secretary of State.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Sandoval, **Senate Bill No. 2103** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 2103

AMENDMENT NO. 1. Amend Senate Bill 2103 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 11-612 and 12-610.5 as follows:

(625 ILCS 5/11-612)

Sec. 11-612. Certain systems to record vehicle speeds prohibited. Except as authorized in the Automated Traffic Control Systems in Highway Construction, ~~or~~ Maintenance , or High-Fatality Zones Act, no photographic, video, or other imaging system may be used in this State to record vehicle speeds for the purpose of enforcing any law or ordinance regarding a maximum or minimum speed limit unless a law enforcement officer is present at the scene and witnesses the event. No State or local governmental

entity, including a home rule county or municipality, may use such a system in a way that is prohibited by this Section. The regulation of the use of such systems is an exclusive power and function of the State. 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.

(Source: P.A. 94-771, eff. 1-1-07; 94-795, eff. 5-22-06; 94-814, eff. 1-1-07.)

(625 ILCS 5/12-610.5)

Sec. 12-610.5. Registration plate covers.

(a) In this Section, "registration plate cover" means any tinted, colored, painted, marked, clear, or illuminated object that is designed to:

(1) cover any of the characters of a motor vehicle's registration plate; or

(2) distort a recorded image of any of the characters of a motor vehicle's registration plate recorded by an automated traffic law enforcement system as defined in Section 11-208.6 of this Code or recorded by an automated traffic control system as defined in Section 15 of the Automated Traffic Control Systems in Highway Construction, ~~or~~ Maintenance , or High-Fatality Zones Act.

(b) It shall be unlawful to operate any motor vehicle that is equipped with registration plate covers.

(c) A person may not sell or offer for sale a registration plate cover.

(d) A person may not advertise for the purpose of promoting the sale of registration plate covers.

(e) A violation of this Section or a similar provision of a local ordinance shall be an offense against laws and ordinances regulating the movement of traffic.

(Source: P.A. 96-328, eff. 8-11-09.)

Section 10. The Automated Traffic Control Systems in Highway Construction or Maintenance Zones Act is amended by changing Sections 1, 5, 10, 15, 25, and 30 and by adding Section 50 as follows:

(625 ILCS 7/1)

Sec. 1. Short title. This Act may be cited as the Automated Traffic Control Systems in Highway Construction, ~~or~~ Maintenance , or High-Fatality Zones Act.

(Source: P.A. 93-947, eff. 8-19-04.)

(625 ILCS 7/5)

Sec. 5. Purpose. The purpose of this Act is to increase safety in highway construction, ~~or~~ maintenance , or high-fatality zones.

(Source: P.A. 93-947, eff. 8-19-04.)

(625 ILCS 7/10)

Sec. 10. Establishment of automated control systems. The Department of State Police may establish an automated traffic control system in any construction, ~~or~~ maintenance , or high-fatality zone established by the Department of Transportation or the Illinois State Toll Highway Authority. An automated traffic control system in a construction or maintenance zone may operate only during those periods when workers are present in the construction or maintenance zone. In any prosecution based upon evidence obtained through an automated traffic control system established under this Act, the State must prove that one or more workers were present in the construction or maintenance zone when the violation occurred.

(Source: P.A. 93-947, eff. 8-19-04; 94-757, eff. 5-12-06; 94-814, eff. 1-1-07.)

(625 ILCS 7/15)

Sec. 15. Definitions. As used in this Act:

(a) "Automated traffic control system" means a photographic device, radar device, laser device, or other electrical or mechanical device or devices installed in a construction, maintenance, or high-fatality zone designed to record the speed of a vehicle and obtain a clear photograph or other recorded image of the vehicle, the vehicle operator, and the vehicle's registration plate while the driver is violating Section 11-605.1 of the Illinois Vehicle Code. The photograph or other recorded image must also display the time, date, and location of the violation. A law enforcement officer is not required to be present or to witness the violation.

(b) "Construction or maintenance zone" means an area in which the Department of Transportation or the Illinois State Toll Highway Authority has determined that the preexisting established speed limit through a highway construction or maintenance project is greater than is reasonable or safe with respect to the conditions expected to exist in the construction or maintenance zone and has posted a lower speed limit with a highway construction or maintenance zone special speed limit sign in accordance with Section 11-605.1 of the Illinois Vehicle Code.

(c) "Owner" means the person or entity to whom the vehicle is registered.

(d) "High-fatality zone" means an area in which the Department of Transportation or the Illinois State Toll Highway Authority has determined that the number of fatal accidents which have occurred in the

area is such that an automated speed enforcement system is warranted.
(Source: P.A. 93-947, eff. 8-19-04.)

(625 ILCS 7/25)

Sec. 25. Limitations on the use of automated traffic enforcement systems.

(a) The Department of State Police must conduct a public information campaign to inform drivers about the use of automated traffic control systems in highway construction, ~~or~~ maintenance , or high-fatality zones before establishing any of those systems. The information campaign must provide 30 days' notice of the use of a new automated traffic control system prior to the issuance of any citations through the automated traffic control system. The Department of State Police shall adopt rules for implementing this subsection (a).

(b) Signs indicating that speeds are enforced by automated traffic control systems must be clearly posted in the areas where the systems are in use. The signs shall contain the amount of the fine for a violation.

(c) Operation of automated traffic control systems is limited to areas where road construction or maintenance is occurring.

(d) Photographs obtained in this manner may only be used as evidence in relation to a violation of Section 11-605.1 of the Illinois Vehicle Code for which the photograph is taken. The photographs are available only to the owner of the vehicle, the offender and the offender's attorney, the judiciary, the local State's Attorney, and law enforcement officials.

(e) If the driver of the vehicle cannot be identified through the photograph, the owner is not liable for the fine, and the citation may not be counted against the driving record of the owner. If the driver can be identified, the driver is liable for the fine, and the violation is counted against his or her driving record.
(Source: P.A. 93-947, eff. 8-19-04.)

(625 ILCS 7/30)

Sec. 30. Requirements for issuance of a citation.

(a) The vehicle, vehicle operator, vehicle registration plate, speed, date, time, and location must be clearly visible on the photograph or other recorded image of the alleged violation.

(b) A Uniform Traffic Citation must be mailed or otherwise delivered to the registered owner of the vehicle. If mailed, the citation must be sent via certified mail within 14 business days of the alleged violation, return receipt requested.

(c) The Uniform Traffic Citation must include:

(1) the name and address of the vehicle owner;

(2) the registration number of the vehicle;

(3) the offense charged;

(4) the time, date, and location of the violation;

(5) the first available court date; ~~and~~

(6) notice that the basis of the citation is the photograph or recorded image from the automated traffic control system; and ~~.~~

(7) a copy of the recorded image or images.

(d) The Uniform Traffic Citation issued to the violator must be accompanied by a written document that lists the violator's rights and obligations and explains how the violator can elect to proceed by either paying the fine or challenging the issuance of the Uniform Traffic Citation.
(Source: P.A. 93-947, eff. 8-19-04; 94-757, eff. 5-12-06; 94-814, eff. 1-1-07.)

(625 ILCS 7/50 new)

Sec. 50. Construction of Act. If any Section, sentence, clause, or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The General Assembly hereby declares that it would have passed this Act, and each Section, sentence, clause, or part thereof, irrespective of the fact that one or more Sections, sentences, clauses, or parts might be declared unconstitutional.".

Senate Floor Amendment Nos. 2 and 3 were postponed in the Committee on Transportation.

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

ANNOUNCEMENT ON ATTENDANCE

Senator Murphy announced for the record that Senator Millner was absent due to illness in the family.

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Harmon, **Senate Bill No. 2141** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 2141

AMENDMENT NO. 1. Amend Senate Bill 2141 by replacing everything after the enacting clause with the following:

"Section 5. The Code of Civil Procedure is amended by changing Section 2-701 and by adding Section 2-701.5 as follows:

(735 ILCS 5/2-701) (from Ch. 110, par. 2-701)

Sec. 2-701. Declaratory judgments. (a) No action or proceeding is open to objection on the ground that a merely declaratory judgment or order is sought thereby. The court may, in cases of actual controversy, make binding declarations of rights, having the force of final judgments, whether or not any consequential relief is or could be claimed, including the determination, at the instance of anyone interested in the controversy, of the construction of any statute, municipal ordinance, or other governmental regulation, or of any deed, will, contract or other written instrument, and a declaration of the rights of the parties interested. The foregoing enumeration does not exclude other cases of actual controversy. Except as provided for in Section 2-701.5, the ~~The~~ court shall refuse to enter a declaratory judgment or order, if it appears that the judgment or order, would not terminate the controversy or some part thereof, giving rise to the proceeding. In no event shall the court entertain any action or proceeding for a declaratory judgment or order involving any political question where the defendant is a State officer whose election is provided for by the Constitution; however, nothing herein shall prevent the court from entertaining any such action or proceeding for a declaratory judgment or order if such question also involves a constitutional convention or the construction of a statute involving a constitutional convention.

(b) Declarations of rights, as herein provided for, may be obtained by means of a pleading seeking that relief alone, or as incident to or part of a complaint, counterclaim or other pleading seeking other relief as well, and if a declaration of rights is the only relief asked, the case may be set for early hearing as in the case of a motion.

(c) If further relief based upon a declaration of right becomes necessary or proper after the declaration has been made, application may be made by petition to any court having jurisdiction for an order directed to any party or parties whose rights have been determined by the declaration to show cause why the further relief should not be granted forthwith, upon reasonable notice prescribed by the court in its order.

(d) If a proceeding under this Section involves the determination of issues of fact triable by a jury, they shall be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

(e) Unless the parties agree by stipulation as to the allowance thereof, costs in proceedings authorized by this Section shall be allowed in accordance with rules. In the absence of rules the practice in other civil actions shall be followed if applicable, and if not applicable, the costs may be taxed as to the court seems just.

(Source: P.A. 82-280.)

(735 ILCS 5/2-701.5 new)

Sec. 2-701.5. Declaratory judgment in an action involving defamation, slander, or libel.

(a) Findings. The General Assembly finds that defamation, slander, and libel can seriously damage a person's reputation and significantly distort the integrity of the democratic process. Defamatory, slanderous, and libelous statements against a person expose the person to ridicule, contempt, or reproach, and otherwise injure the person in the person's business or occupation. The General Assembly further finds that there are significant expenses and obstacles involved in actions seeking to restore a person's reputation. It is the intent of the General Assembly to expedite the process of restoring a person's reputation following a defamatory, slanderous, or libelous statement and to minimize the litigation expenses of all parties. The State of Illinois agrees with the U.S. Supreme Court's finding that "[t]he right of a man to the protection of his own reputation from unjustified invasion and wrongful hurt

reflects no more than our basic concept of the essential dignity and worth of every human being – a concept at the root of any decent system of ordered liberty." Rosenblatt v. Baer, 383 U.S. 75, 92 (1966). There is a compelling state interest in (i) deterring the harm caused to innocent persons by false statements, (ii) promoting the vindication and protection of personal reputation, and (iii) minimizing the judicial resources and costs that are associated with restoring a person's reputation. The General Assembly seeks to protect the constitutionally recognized interest of a person in his or her reputation, as was discussed by the Illinois Supreme Court in Troman v. Wood, which stated that "[f]rom the outset it has been recognized that an individual is entitled to a remedy 'for all injuries and wrongs that he may receive in his person, property or character.' (Const. of 1818, art. VIII, sec. 12; Const. of 1848, art. XIII, sec. 12.) (In the most recent constitutions the word 'reputation' is substituted for 'character.' Const. of 1870, art. II, sec. 19; Const. of 1970, art. I, sec. 12.) The freedom of speech provisions of both our former and present constitutions (Const. of 1870, art. II, sec. 4; Const. of 1970, art. I, sec. 4) recognize the interest of the individual in the protection of his reputation, for they provide that the exercise of the right to speak freely shall not relieve the speaker from responsibility for his abuse of that right. The constitutionally recognized interest of the individual in his reputation is not and can not be measured solely in terms of monetary compensation. At the least, the individual has an interest in preserving and restoring his reputation through an authoritative and publicly known determination that an injurious statement about him is in fact false. To foreclose or restrict the availability of the judicial process as a means of securing such a determination prevents the individual from obtaining the effective vindication to which he is entitled." Troman v. Wood, 62 Ill.2d 184, 194-195 (1975).

(b) Legislative intent. The cause of action for declaratory judgment is hereby provided in this Section as an alternative to a defamation action for damages for any person who believes that his or her reputation has been damaged by a published false statement of fact. This alternative action is intended for the expeditious resolution with minimal costs of litigation due to the elimination of issues unrelated to the question of the truth or falsity of the statement at issue.

(c) Definitions. For purposes of this Section,

"Mass media" means, but is not limited to, a newspaper or periodical, or any broadcast, cable, or satellite means of mass communication, including an Internet website.

"Person" means a natural person.

(d) Action. Any person who has been defamed, slandered, or libeled may bring an action for declaratory judgment pursuant to Section 2-701. If an adverse party files a motion pursuant to Section 15 of the Citizen Participation Act in an action, then any person who is a party to the action may bring an action for declaratory judgment alleging defamation, slander, or libel pursuant to Section 2-701. An action for declaratory judgment alleging defamation, slander, or libel shall be brought by filing a verified complaint or other pleading setting forth facts showing the following:

(1) that the defendant made a statement of fact referring to the plaintiff that is damaging to the plaintiff's reputation;

(2) that the statement was published; and

(3) that the statement was false.

If the statement at issue was published in writing, a copy of the published statement must be attached to the complaint. The provisions of this Section are in derogation of the common law.

(e) Pre-trial proceedings.

(1) Except for limitations on discovery as provided in this Section, pre-trial proceedings are governed by the Code of Civil Procedure and the Supreme Court Rules.

(2) A plaintiff shall be furnished, upon his or her request, from a defendant that is a mass media entity with a copy of each tape, film, or digital file of the alleged defamatory, slanderous, or libelous statement, or if a tape, film, or digital file is not available, any available transcript of the alleged statement. A defendant that is a mass media entity that has been served with a complaint under this Section identifying the statement at issue must preserve any tape, film, digital file, or transcript which contains that statement.

(3) Discovery is severely restricted. No discovery may take place without specific prior approval by the court in writing, after a hearing in which the party requesting discovery is able to demonstrate by clear and convincing evidence to the court's satisfaction that there is a compelling need for the particular information sought. Discovery is specifically prohibited with regard to the following matters due to their irrelevance:

(A) the status of the plaintiff;

(B) any malice, intention, knowledge, recklessness, or other mental state of the defendant, any agent of the defendant, or any employee of the defendant pertaining to the publication of the statement at issue.

(f) Affirmative defense. In addition to other common law defenses which may be applicable, it is an affirmative defense to an action for declaratory judgment alleging defamation, slander, or libel that the allegedly false statement referring to the plaintiff:

(1) appeared in a report of an official action or proceeding or of a meeting open to the public that dealt with a matter of public concern, if the report is accurate and complete or a fair abridgment of the occurrence reported; or

(2) was taken from remarks made by an identified governmental official or by an identified candidate for public office who has already filed his or her petitions of candidacy, if the published statement is an accurate and complete rendition of those remarks or a fair abridgment of the statement.

(g) Trial proceedings. Trial proceedings are governed by the Code of Civil Procedure and the Supreme Court Rules. The plaintiff has the burden of proving by clear and convincing evidence each of the allegations required to be pled in this Section. No damages may be awarded to a plaintiff who is granted a declaratory judgment that finds that the defendant made a defamatory, slanderous, or libelous statement against the plaintiff.

(h) Declaratory judgment; judicial declaration of falsity. The judgment to be entered on behalf of a plaintiff who prevails on his or her complaint alleging defamation, slander, or libel shall be entitled to a "Judicial Declaration of Falsity".

(i) Publication of a notice of a judicial declaration of falsity.

(1) A plaintiff who prevails on his or her action filed pursuant to this Section may petition the court for the publication of a Notice of Judicial Declaration of Falsity by a court-supervised method.

(2) Whether a Notice of Judicial Declaration of Falsity shall be published, and if published the contents of the notice, shall be determined by the court after a hearing that considers the following matters:

(A) if the nature of the statement, parties, and circumstances warrant, in the court's discretion, a Notice being published;

(B) a notice shall contain only factual statements which must pertain to the proceedings in which the Judicial Declaration of Falsity is sought;

(C) a notice may refer to the statement found to be false;

(D) a notice, consistent with the other criteria under this paragraph (2), it shall be as brief as possible;

(E) a notice shall be published at a time and in a manner so that the greatest number of people who saw or heard the false statement are likely to see or hear it;

(F) if requested by the plaintiff, the notice shall indicate that it is a compulsory statement; otherwise, that indication shall be left to the court's discretion; and

(G) the notice may be ordered to be published more than once if the statement found to be false was published more than once.

(3) The court may determine that the Notice of a Judicial Declaration of Falsity shall be published by a medium of mass communication by purchase of time or space, as for advertising. The medium shall be selected by the court after a hearing in which the parties may present their proposed choices. The court additionally shall attempt to choose a medium as close in form to the medium used by the defendant as possible. A court may order a mass media defendant to publish the Notice of a Judicial Declaration of Falsity in the defendant's own medium of mass communication only if the mass media defendant mutually agrees to such publication. In determining the method or form of publishing the Notice of a Judicial Declaration of Falsity, the court may, among other things, take into account case law and stare decisis of the United States Supreme Court and the Illinois Supreme Court dealing with freedom of speech and freedom of the press.

(4) All expenses arising from the publication of a Notice of a Judicial Declaration of Falsity ordered under this Section shall be reviewed and approved by the court and taxed against the defendant.

(5) Any order entered under this subsection (i) may be enforced through the court's contempt powers.

(j) Bar on actions for damages. A plaintiff who files a complaint for declaratory judgment action alleging defamation, slander, or libel is thereafter barred from ever asserting any other cause of action of any kind and from ever seeking damages based upon the statements or conduct of the defendant which are the subject of the action. No action for damages no matter how designated may be filed concurrently or joined with an action for declaratory judgment action alleging defamation, slander, or libel.

(k) Statute of limitations. An action for declaratory judgment action alleging defamation, slander, or libel shall be commenced within one year next after the cause of action accrued or within 30 days after a motion is filed pursuant to Section 15 of the Citizen Participation Act, whichever is later.

Section 10. The Citizen Participation Act is amended by changing Section 15 and by adding Section 21 as follows:

(735 ILCS 110/15)

Sec. 15. Applicability.

This Act applies to any motion to dispose of a claim in a judicial proceeding on the grounds that the claim is based on, relates to, or is in response to any act or acts of the moving party in furtherance of the moving party's rights of petition, speech, association, or to otherwise participate in government. However, this Act does not apply to any pleading filed in accordance with Section 2-701.5 of the Code of Civil Procedure.

Acts in furtherance of the constitutional rights to petition, speech, association, and participation in government are immune from liability, regardless of intent or purpose, except when not genuinely aimed at procuring favorable government action, result, or outcome.

(Source: P.A. 95-506, eff. 8-28-07.)

(735 ILCS 110/21 new)

Sec. 21. Motion for declaratory judgment.

A natural person who is a party to an action in which an adverse party filed a motion pursuant to Section 15 may file a declaratory judgment action alleging defamation, slander, or libel, in accordance with Section 2-701.5 of the Code of Civil Procedure, so long as the person files the declaratory judgment action within 30 days after the moving party filed the Section 15 motion.

A party who files a declaratory judgment action pursuant to this Section and Section 2-701.5 shall voluntarily dismiss all claims that are the subject of the motion filed pursuant to Section 15. The court shall also dismiss any motions filed pursuant to Section 15 against the party who filed the action for a declaratory judgment under this Section.

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 Sullivan, **Senate Bill No. 2149** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 2149

AMENDMENT NO. 1. Amend Senate Bill 2149 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Sections 18-15, 18-50.1, 18-92, and 18-241 as follows:

(35 ILCS 200/18-15)

Sec. 18-15. Filing of levies of taxing districts.

(a) Notwithstanding any other law to the contrary, all taxing districts, other than a school district subject to the authority of a Financial Oversight Panel pursuant to Article 1H of the School Code, shall annually certify to the county clerk, on or before the last Tuesday in December, the several amounts that they have levied.

(b) A school district subject to the authority of a Financial Oversight Panel pursuant to Article 1H of the School Code shall file a certificate of tax levy, reflective of the approved financial plan and the approval of the Panel, as otherwise provided by this Section, except that the certificate must be certified to the county clerk on or before the first Tuesday in November.

(c) If a school district as specified in subsection (b) of this Section fails to certify and return the certificate of tax levy, reflective of the approved financial plan and the approval of the Financial Oversight Panel, to the county clerk on or before the first Tuesday in November, then the Financial Oversight Panel for the school district shall proceed to adopt, certify, and return a certificate of tax levy for the school district to the county clerk on or before the last Tuesday in December.

(Source: P.A. 87-17; 87-738; 87-895; 88-455.)

(35 ILCS 200/18-50.1)

Sec. 18-50.1. School Finance Authority and Financial Oversight Panel levies.

(a) Notwithstanding any other law to the contrary, any levy adopted by a School Finance Authority

created under Article 1F of the School Code is valid and shall be extended by the county clerk if it is certified to the county clerk by the Authority in sufficient time to allow the county clerk to include the levy in the extension for the taxable year.

(b) Notwithstanding any other law to the contrary, any levy adopted by a Financial Oversight Panel created under Article 1H of the School Code and levied pursuant to Section 1H-75 of the School Code is valid and shall be extended by the county clerk if it is certified to the county clerk by the Panel in sufficient time to allow the county clerk to include the levy in the extension for the taxable year.

(Source: P.A. 92-855, eff. 12-6-02.)

(35 ILCS 200/18-92)

Sec. 18-92. Downstate School Finance Authority for Elementary Districts Law and Financial Oversight Panel Law.

(a) The provisions of the Truth in Taxation Law are subject to the Downstate School Finance Authority for Elementary Districts Law.

(b) A Financial Oversight Panel created under Article 1H of the School Code is subject to the provisions of the Truth in Taxation Law with respect to tax levies filed by it on behalf of a school district, as well as with respect to any tax levies it may file on its own behalf.

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

(35 ILCS 200/18-241)

Sec. 18-241. School Finance Authority and Financial Oversight Panel.

(a) A School Finance Authority established under Article 1E or 1F of the School Code shall not be a taxing district for purposes of this Law. A Financial Oversight Panel established under Article 1H of the School Code shall not be a taxing district for purposes of this Law.

(b) This Law shall not apply to the extension of taxes for a school district for the levy year in which a School Finance Authority for the district is created pursuant to Article 1E or 1F of the School Code. This Law shall not apply to the extension of taxes for a school district for the levy year in which a Financial Oversight Panel for the district is created pursuant to Article 1H of the School Code.

(Source: P.A. 92-547, eff. 6-13-02; 93-501, eff. 8-11-03.)

Section 10. The Illinois Pension Code is amended by changing Sections 7-105, 7-109, and 7-132 as follows:

(40 ILCS 5/7-105) (from Ch. 108 1/2, par. 7-105)

Sec. 7-105. "Municipality": A city, village, incorporated town, county, township; a Financial Oversight Panel established pursuant to Article 1H of the School Code; and any school, park, sanitary, road forest preserve, water, fire protection, public health, river conservancy, mosquito abatement, tuberculosis sanitarium, public community college district, or other local district with general continuous power to levy taxes on the property within such district; now existing or hereafter created within the State; and, for the purposes of providing annuities and benefits to its employees, the fund itself.

(Source: P.A. 84-1308.)

(40 ILCS 5/7-109) (from Ch. 108 1/2, par. 7-109)

Sec. 7-109. Employee.

(1) "Employee" means any person who:

(a) 1. Receives earnings as payment for the performance of personal services or official duties out of the general fund of a municipality, or out of any special fund or funds controlled by a municipality, or by an instrumentality thereof, or a participating instrumentality, including, in counties, the fees or earnings of any county fee office; and

2. Under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee with a municipality, or any instrumentality thereof, or a participating instrumentality, including aldermen, county supervisors and other persons (excepting those employed as independent contractors) who are paid compensation, fees, allowances or other emolument for official duties, and, in counties, the several county fee offices.

(b) Serves as a township treasurer appointed under the School Code, as heretofore or hereafter amended, and who receives for such services regular compensation as distinguished from per diem compensation, and any regular employee in the office of any township treasurer whether or not his earnings are paid from the income of the permanent township fund or from funds subject to distribution to the several school districts and parts of school districts as provided in the School Code, or from both such sources; or is the chief executive officer, chief educational officer, chief fiscal officer, or other employee of a Financial Oversight Panel established pursuant to Article 1H of the School Code, other than a superintendent or certified school business official.

(c) Holds an elective office in a municipality, instrumentality thereof or participating

instrumentality.

(2) "Employee" does not include persons who:

(a) Are eligible for inclusion under any of the following laws:

1. "An Act in relation to an Illinois State Teachers' Pension and Retirement Fund", approved May 27, 1915, as amended;

2. Articles 15 and 16 of this Code.

However, such persons shall be included as employees to the extent of earnings that are not eligible for inclusion under the foregoing laws for services not of an instructional nature of any kind.

However, any member of the armed forces who is employed as a teacher of subjects in the Reserve Officers Training Corps of any school and who is not certified under the law governing the certification of teachers shall be included as an employee.

(b) Are designated by the governing body of a municipality in which a pension fund is required by law to be established for policemen or firemen, respectively, as performing police or fire protection duties, except that when such persons are the heads of the police or fire department and are not eligible to be included within any such pension fund, they shall be included within this Article; provided, that such persons shall not be excluded to the extent of concurrent service and earnings not designated as being for police or fire protection duties. However, (i) any head of a police department who was a participant under this Article immediately before October 1, 1977 and did not elect, under Section 3-109 of this Act, to participate in a police pension fund shall be an "employee", and (ii) any chief of police who elects to participate in this Fund under Section 3-109.1 of this Code, regardless of whether such person continues to be employed as chief of police or is employed in some other rank or capacity within the police department, shall be an employee under this Article for so long as such person is employed to perform police duties by a participating municipality and has not lawfully rescinded that election.

(3) All persons, including, without limitation, public defenders and probation officers, who receive earnings from general or special funds of a county for performance of personal services or official duties within the territorial limits of the county, are employees of the county (unless excluded by subsection (2) of this Section) notwithstanding that they may be appointed by and are subject to the direction of a person or persons other than a county board or a county officer. It is hereby established that an employer-employee relationship under the usual common law rules exists between such employees and the county paying their salaries by reason of the fact that the county boards fix their rates of compensation, appropriate funds for payment of their earnings and otherwise exercise control over them. This finding and this amendatory Act shall apply to all such employees from the date of appointment whether such date is prior to or after the effective date of this amendatory Act and is intended to clarify existing law pertaining to their status as participating employees in the Fund.

(Source: P.A. 90-460, eff. 8-17-97.)

(40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)

Sec. 7-132. Municipalities, instrumentalities and participating instrumentalities included and effective dates.

(A) Municipalities and their instrumentalities.

(a) The following described municipalities, but not including any with more than 1,000,000 inhabitants, and the instrumentalities thereof, shall be included within and be subject to this Article beginning upon the effective dates specified by the Board:

(1) Except as to the municipalities and instrumentalities thereof specifically excluded under this Article, every county shall be subject to this Article, and all cities, villages and incorporated towns having a population in excess of 5,000 inhabitants as determined by the last preceding decennial or subsequent federal census, shall be subject to this Article following publication of the census by the Bureau of the Census. Within 90 days after publication of the census, the Board shall notify any municipality that has become subject to this Article as a result of that census, and shall provide information to the corporate authorities of the municipality explaining the duties and consequences of participation. The notification shall also include a proposed date upon which participation by the municipality will commence.

However, for any city, village or incorporated town that attains a population over 5,000 inhabitants after having provided social security coverage for its employees under the Social Security Enabling Act, participation under this Article shall not be mandatory but may be elected in accordance with subparagraph (3) or (4) of this paragraph (a), whichever is applicable.

(2) School districts, other than those specifically excluded under this Article, shall

be subject to this Article, without election, with respect to all employees thereof.

(3) Towns and all other bodies politic and corporate which are formed by vote of, or are subject to control by, the electors in towns and are located in towns which are not participating municipalities on the effective date of this Act, may become subject to this Article by election pursuant to Section 7-132.1.

(4) Any other municipality (together with its instrumentalities), other than those specifically excluded from participation and those described in paragraph (3) above, may elect to be included either by referendum under Section 7-134 or by the adoption of a resolution or ordinance by its governing body. A copy of such resolution or ordinance duly authenticated and certified by the clerk of the municipality or other appropriate official of its governing body shall constitute the required notice to the board of such action.

(b) A municipality that is about to begin participation shall submit to the Board an application to participate, in a form acceptable to the Board, not later than 90 days prior to the proposed effective date of participation. The Board shall act upon the application within 90 days, and if it finds that the application is in conformity with its requirements and the requirements of this Article, participation by the applicant shall commence on a date acceptable to the municipality and specified by the Board, but in no event more than one year from the date of application.

(c) A participating municipality which succeeds to the functions of a participating municipality which is dissolved or terminates its existence shall assume and be transferred the net accumulation balance in the municipality reserve and the municipality account receivable balance of the terminated municipality.

(d) In the case of a Veterans Assistance Commission whose employees were being treated by the Fund on January 1, 1990 as employees of the county served by the Commission, the Fund may continue to treat the employees of the Veterans Assistance Commission as county employees for the purposes of this Article, unless the Commission becomes a participating instrumentality in accordance with subsection (B) of this Section.

(B) Participating instrumentalities.

(a) The participating instrumentalities designated in paragraph (b) of this subsection shall be included within and be subject to this Article if:

(1) an application to participate, in a form acceptable to the Board and adopted by a two-thirds vote of the governing body, is presented to the Board not later than 90 days prior to the proposed effective date; and

(2) the Board finds that the application is in conformity with its requirements, that the applicant has reasonable expectation to continue as a political entity for a period of at least 10 years and has the prospective financial capacity to meet its current and future obligations to the Fund, and that the actuarial soundness of the Fund may be reasonably expected to be unimpaired by approval of participation by the applicant.

The Board shall notify the applicant of its findings within 90 days after receiving the application, and if the Board approves the application, participation by the applicant shall commence on the effective date specified by the Board.

(b) The following participating instrumentalities, so long as they meet the requirements of Section 7-108 and the area served by them or within their jurisdiction is not located entirely within a municipality having more than one million inhabitants, may be included hereunder:

i. Township School District Trustees.

ii. Multiple County and Consolidated Health Departments created under Division 5-25 of the Counties Code or its predecessor law.

iii. Public Building Commissions created under the Public Building Commission Act, and located in counties of less than 1,000,000 inhabitants.

iv. A multitype, consolidated or cooperative library system created under the Illinois Library System Act. Any library system created under the Illinois Library System Act that has one or more predecessors that participated in the Fund may participate in the Fund upon application. The Board shall establish procedures for implementing the transfer of rights and obligations from the predecessor system to the successor system.

v. Regional Planning Commissions created under Division 5-14 of the Counties Code or its predecessor law.

vi. Local Public Housing Authorities created under the Housing Authorities Act, located in counties of less than 1,000,000 inhabitants.

vii. Illinois Municipal League.

viii. Northeastern Illinois Metropolitan Area Planning Commission.

ix. Southwestern Illinois Metropolitan Area Planning Commission.

x. Illinois Association of Park Districts.

xi. Illinois Supervisors, County Commissioners and Superintendents of Highways Association.

xii. Tri-City Regional Port District.

xiii. An association, or not-for-profit corporation, membership in which is authorized under Section 85-15 of the Township Code.

xiv. Drainage Districts operating under the Illinois Drainage Code.

xv. Local mass transit districts created under the Local Mass Transit District Act.

xvi. Soil and water conservation districts created under the Soil and Water Conservation Districts Law.

xvii. Commissions created to provide water supply or sewer services or both under Division 135 or Division 136 of Article 11 of the Illinois Municipal Code.

xviii. Public water districts created under the Public Water District Act.

xix. Veterans Assistance Commissions established under Section 9 of the Military Veterans Assistance Act that serve counties with a population of less than 1,000,000.

xx. The governing body of an entity, other than a vocational education cooperative, created under an intergovernmental cooperative agreement established between participating municipalities under the Intergovernmental Cooperation Act, which by the terms of the agreement is the employer of the persons performing services under the agreement under the usual common law rules determining the employer-employee relationship. The governing body of such an intergovernmental cooperative entity established prior to July 1, 1988 may make participation retroactive to the effective date of the agreement and, if so, the effective date of participation shall be the date the required application is filed with the fund. If any such entity is unable to pay the required employer contributions to the fund, then the participating municipalities shall make payment of the required contributions and the payments shall be allocated as provided in the agreement or, if not so provided, equally among them.

xxi. The Illinois Municipal Electric Agency.

xxii. The Waukegan Port District.

xxiii. The Fox Waterway Agency created under the Fox Waterway Agency Act.

xxiv. The Illinois Municipal Gas Agency.

xxv. The Kaskaskia Regional Port District.

xxvi. The Southwestern Illinois Development Authority.

xxvii. The Cairo Public Utility Company.

xxviii. Except with respect to employees who elect to participate in the State Employees' Retirement System of Illinois under Section 14-104.13 of this Code, the Chicago Metropolitan Agency for Planning created under the Regional Planning Act, provided that, with respect to the benefits payable pursuant to Sections 7-146, 7-150, and 7-164 and the requirement that eligibility for such benefits is conditional upon satisfying a minimum period of service or a minimum contribution, any employee of the Chicago Metropolitan Agency for Planning that was immediately prior to such employment an employee of the Chicago Area Transportation Study or the Northeastern Illinois Planning Commission, such employee's service at the Chicago Area Transportation Study or the Northeastern Illinois Planning Commission and contributions to the State Employees' Retirement System of Illinois established under Article 14 and the Illinois Municipal Retirement Fund shall count towards the satisfaction of such requirements.

xxix. United Counties Council (formerly the Urban Counties Council), but only if the Council has a ruling from the United States Internal Revenue Service that it is a governmental entity.

xxx. The Will County Governmental League, but only if the League has a ruling from the United States Internal Revenue Service that it is a governmental entity.

(c) The governing boards of special education joint agreements created under Section 10-22.31 of the School Code without designation of an administrative district shall be included within and be subject to this Article as participating instrumentalities when the joint agreement becomes effective. However, the governing board of any such special education joint agreement in effect before September 5, 1975 shall not be subject to this Article unless the joint agreement is modified by the school districts to provide that the governing board is subject to this Article, except as otherwise provided by this Section.

The governing board of the Special Education District of Lake County shall become subject to this Article as a participating instrumentality on July 1, 1997. Notwithstanding subdivision (a)1 of Section 7-139, on the effective date of participation, employees of the governing board of the Special Education District of Lake County shall receive creditable service for their prior service with that employer, up to a

maximum of 5 years, without any employee contribution. Employees may establish creditable service for the remainder of their prior service with that employer, if any, by applying in writing and paying an employee contribution in an amount determined by the Fund, based on the employee contribution rates in effect at the time of application for the creditable service and the employee's salary rate on the effective date of participation for that employer, plus interest at the effective rate from the date of the prior service to the date of payment. Application for this creditable service must be made before July 1, 1998; the payment may be made at any time while the employee is still in service. The employer may elect to make the required contribution on behalf of the employee.

The governing board of a special education joint agreement created under Section 10-22.31 of the School Code for which an administrative district has been designated, if there are employees of the cooperative educational entity who are not employees of the administrative district, may elect to participate in the Fund and be included within this Article as a participating instrumentality, subject to such application procedures and rules as the Board may prescribe.

The Boards of Control of cooperative or joint educational programs or projects created and administered under Section 3-15.14 of the School Code, whether or not the Boards act as their own administrative district, shall be included within and be subject to this Article as participating instrumentalities when the agreement establishing the cooperative or joint educational program or project becomes effective.

The governing board of a special education joint agreement entered into after June 30, 1984 and prior to September 17, 1985 which provides for representation on the governing board by less than all the participating districts shall be included within and subject to this Article as a participating instrumentality. Such participation shall be effective as of the date the joint agreement becomes effective.

The governing boards of educational service centers established under Section 2-3.62 of the School Code shall be included within and subject to this Article as participating instrumentalities. The governing boards of vocational education cooperative agreements created under the Intergovernmental Cooperation Act and approved by the State Board of Education shall be included within and be subject to this Article as participating instrumentalities. If any such governing boards or boards of control are unable to pay the required employer contributions to the fund, then the school districts served by such boards shall make payment of required contributions as provided in Section 7-172. The payments shall be allocated among the several school districts in proportion to the number of students in average daily attendance for the last full school year for each district in relation to the total number of students in average attendance for such period for all districts served. If such educational service centers, vocational education cooperatives or cooperative or joint educational programs or projects created and administered under Section 3-15.14 of the School Code are dissolved, the assets and obligations shall be distributed among the districts in the same proportions unless otherwise provided.

The governing board of Paris Cooperative High School shall be included within and be subject to this Article as a participating instrumentality on the effective date of this amendatory Act of the 96th General Assembly. If the governing board of Paris Cooperative High School is unable to pay the required employer contributions to the fund, then the school districts served shall make payment of required contributions as provided in Section 7-172. The payments shall be allocated among the several school districts in proportion to the number of students in average daily attendance for the last full school year for each district in relation to the total number of students in average attendance for such period for all districts served. If Paris Cooperative High School is dissolved, then the assets and obligations shall be distributed among the districts in the same proportions unless otherwise provided.

Financial Oversight Panels established under Article 1H of the School Code shall be included within and be subject to this Article as a participating instrumentality on the effective date of this amendatory Act of on the 97th General Assembly. If the Financial Oversight Panel is unable to pay the required employer contributions to the fund, then the school districts served shall make payment of required contributions as provided in Section 7-172. If the Financial Oversight Panel is dissolved, then the assets and obligations shall be distributed to the district served.

(d) The governing boards of special recreation joint agreements created under Section 8-10b of the Park District Code, operating without designation of an administrative district or an administrative municipality appointed to administer the program operating under the authority of such joint agreement shall be included within and be subject to this Article as participating instrumentalities when the joint agreement becomes effective. However, the governing board of any such special recreation joint agreement in effect before January 1, 1980 shall not be subject to this Article unless the joint agreement is modified, by the districts and municipalities which are parties to the agreement, to provide that the governing board is subject to this Article.

If the Board returns any employer and employee contributions to any employer which erroneously submitted such contributions on behalf of a special recreation joint agreement, the Board shall include interest computed from the end of each year to the date of payment, not compounded, at the rate of 7% per annum.

(e) Each multi-township assessment district, the board of trustees of which has adopted this Article by ordinance prior to April 1, 1982, shall be a participating instrumentality included within and subject to this Article effective December 1, 1981. The contributions required under Section 7-172 shall be included in the budget prepared under and allocated in accordance with Section 2-30 of the Property Tax Code.

(f) The Illinois Medical District Commission created under the Illinois Medical District Act may be included within and subject to this Article as a participating instrumentality, notwithstanding that the location of the District is entirely within the City of Chicago. To become a participating instrumentality, the Commission must apply to the Board in the manner set forth in paragraph (a) of this subsection (B). If the Board approves the application, under the criteria and procedures set forth in paragraph (a) and any other applicable rules, criteria, and procedures of the Board, participation by the Commission shall commence on the effective date specified by the Board.

(C) Prospective participants.

Beginning January 1, 1992, each prospective participating municipality or participating instrumentality shall pay to the Fund the cost, as determined by the Board, of a study prepared by the Fund or its actuary, detailing the prospective costs of participation in the Fund to be expected by the municipality or instrumentality.

(Source: P.A. 95-677, eff. 10-11-07; 96-211, eff. 8-10-09; 96-551, eff. 8-17-09; 96-1000, eff. 7-2-10; 96-1046, eff. 7-14-10.)

Section 15. The School Code is amended by changing Sections 1A-8, 1B-8, 8-6, 10-16.9, 10-16.11, 17-1, 17-11, 19-8, and 19-9 and by adding Sections 1E-165 and 1F-165 and Article 1H as follows:

(105 ILCS 5/1A-8) (from Ch. 122, par. 1A-8)

Sec. 1A-8. Powers of the Board in Assisting Districts Deemed in Financial Difficulties. To promote the financial integrity of school districts, the State Board of Education shall be provided the necessary powers to promote sound financial management and continue operation of the public schools.

(a) The State Superintendent of Education may require a school district, including any district subject to Article 34A of this Code, to share financial information relevant to a proper investigation of the district's financial condition and the delivery of appropriate State financial, technical, and consulting services to the district if the district (i) has been designated, through the State Board of Education's School District Financial Profile System, as on financial warning or financial watch status, (ii) has failed to file an annual financial report, annual budget, deficit reduction plan, or other financial information as required by law, (iii) has been identified, through the district's annual audit or other financial and management information, as in serious financial difficulty in the current or next school year, or (iv) is determined to be likely to fail to fully meet any regularly scheduled, payroll-period obligations when due or any debt service payments when due or both. In addition to financial, technical, and consulting services provided by the State Board of Education, at the request of a school district, the State Superintendent may provide for an independent financial consultant to assist the district review its financial condition and options.

(b) The State Board of Education, after proper investigation of a district's financial condition, may certify that a district, including any district subject to Article 34A, is in financial difficulty when any of the following conditions occur:

(1) The district has issued school or teacher orders for wages as permitted in Sections 8-16, 32-7.2 and 34-76 of this Code.

(2) The district has issued tax anticipation warrants or tax anticipation notes in anticipation of a second year's taxes when warrants or notes in anticipation of current year taxes are still outstanding, as authorized by Sections 17-16, 34-23, 34-59 and 34-63 of this Code, or has issued short-term debt against 2 future revenue sources, such as, but not limited to, tax anticipation warrants and general State Aid certificates or tax anticipation warrants and revenue anticipation notes.

(3) The district has for 2 consecutive years shown an excess of expenditures and other financing uses over revenues and other financing sources and beginning fund balances on its annual financial report for the aggregate totals of the Educational, Operations and Maintenance, Transportation, and Working Cash Funds.

(4) The district refuses to provide financial information or cooperate with the State

Superintendent in an investigation of the district's financial condition.

(5) The district is likely to fail to fully meet any regularly scheduled, payroll-period obligations when due or any debt service payments when due or both.

No school district shall be certified by the State Board of Education to be in financial difficulty solely by reason of any of the above circumstances arising as a result of (i) the failure of the county to make any distribution of property tax money due the district at the time such distribution is due or (ii) the failure of this State to make timely payments of general State aid or any of the mandated categoricals; or if the district clearly demonstrates to the satisfaction of the State Board of Education at the time of its determination that such condition no longer exists. If the State Board of Education certifies that a district in a city with 500,000 inhabitants or more is in financial difficulty, the State Board shall so notify the Governor and the Mayor of the city in which the district is located. The State Board of Education may require school districts certified in financial difficulty, except those districts subject to Article 34A, to develop, adopt and submit a financial plan within 45 days after certification of financial difficulty. The financial plan shall be developed according to guidelines presented to the district by the State Board of Education within 14 days of certification. Such guidelines shall address the specific nature of each district's financial difficulties. Any proposed budget of the district shall be consistent with the financial plan submitted to and approved by the State Board of Education.

A district certified to be in financial difficulty, other than a district subject to Article 34A, shall report to the State Board of Education at such times and in such manner as the State Board may direct, concerning the district's compliance with each financial plan. The State Board may review the district's operations, obtain budgetary data and financial statements, require the district to produce reports, and have access to any other information in the possession of the district that it deems relevant. The State Board may issue recommendations or directives within its powers to the district to assist in compliance with the financial plan. The district shall produce such budgetary data, financial statements, reports and other information and comply with such directives. If the State Board of Education determines that a district has failed to comply with its financial plan, the State Board of Education may rescind approval of the plan and appoint a Financial Oversight Panel for the district as provided in Section 1B-4. This action shall be taken only after the district has been given notice and an opportunity to appear before the State Board of Education to discuss its failure to comply with its financial plan.

No bonds, notes, teachers orders, tax anticipation warrants or other evidences of indebtedness shall be issued or sold by a school district or be legally binding upon or enforceable against a local board of education of a district certified to be in financial difficulty unless and until the financial plan required under this Section has been approved by the State Board of Education.

Any financial profile compiled and distributed by the State Board of Education in Fiscal Year 2009 or any fiscal year thereafter shall incorporate such adjustments as may be needed in the profile scores to reflect the financial effects of the inability or refusal of the State of Illinois to make timely disbursements of any general State aid or mandated categorical aid payments due school districts or to fully reimburse school districts for mandated categorical programs pursuant to reimbursement formulas provided in this School Code.

(Source: P.A. 96-668, eff. 8-25-09; 96-1423, eff. 8-3-10.)

(105 ILCS 5/1B-8) (from Ch. 122, par. 1B-8)

Sec. 1B-8. There is created in the State Treasury a special fund to be known as the School District Emergency Financial Assistance Fund (the "Fund"). The School District Emergency Financial Assistance Fund shall consist of appropriations, loan repayments, grants from the federal government, and donations from any public or private source. Moneys in the Fund may be appropriated only to the Illinois Finance Authority and the State Board for those purposes authorized under this Article and Articles ~~Article~~ 1F and 1H of this Code. The appropriation may be allocated and expended by the State Board for contractual services ~~as grants~~ to provide technical assistance or consultation ~~and consulting services~~ to school districts to assess their financial condition and to Financial Oversight Panels that petition for emergency financial assistance grants. The ~~and by the~~ Illinois Finance Authority may provide ~~as~~ loans to school districts which are the subject of an approved petition for emergency financial assistance under Section 1B-4 , ~~or~~ 1F-62 , or 1H-65 of this Code. Neither the State Board of Education nor the Illinois Finance Authority may collect any fees for providing these services.

From the amount allocated to each such school district under this Article the State Board shall identify a sum sufficient to cover all approved costs of the Financial Oversight Panel established for the respective school district. If the State Board and State Superintendent of Education have not approved emergency financial assistance in conjunction with the appointment of a Financial Oversight Panel, the Panel's approved costs shall be paid from deductions from the district's general State aid.

The Financial Oversight Panel may prepare and file with the State Superintendent a proposal for

emergency financial assistance for the school district and for its operations budget. No expenditures from the Fund shall be authorized by the State Superintendent until he or she has approved the request ~~proposal~~ of the Panel, either as submitted or in such lesser amount determined by the State Superintendent.

The maximum amount of an emergency financial assistance loan which may be allocated to any school district under this Article, including moneys necessary for the operations of the Panel, shall not exceed $4,000 times the number of pupils enrolled in the school district during the school year ending June 30 prior to the date of approval by the State Board of the petition for emergency financial assistance, as certified to the local board and the Panel by the State Superintendent. An emergency financial assistance grant shall not exceed $1,000 times the number of such pupils. A district may receive both a loan and a grant.

The payment of an emergency State financial assistance grant or loan shall be subject to appropriation by the General Assembly. Payment of the emergency state financial assistance loan is subject to the applicable provisions of the Illinois Finance Authority Act. Emergency State financial assistance allocated and paid to a school district under this Article may be applied to any fund or funds from which the local board of education of that district is authorized to make expenditures by law.

Any emergency financial assistance grant proposed by the Financial Oversight Panel and approved by the State Superintendent may be paid in its entirety during the initial year of the Panel's existence or spread in equal or declining amounts over a period of years not to exceed the period of the Panel's existence. An emergency financial assistance loan proposed by the Financial Oversight Panel and approved by the Illinois Finance Authority may be paid in its entirety during the initial year of the Panel's existence or spread in equal or declining amounts over a period of years not to exceed the period of the Panel's existence. All loan payments made by the Illinois Finance Authority ~~from the School District Emergency Financial Assistance Fund~~ for a school district shall be required to be repaid, with simple interest over the term of the loan at a rate equal to 50% of the one-year Constant Maturity Treasury (CMT) yield as last published by the Board of Governors of the Federal Reserve System before the date on which the district's loan is approved by the Illinois Finance Authority ~~State Board of Education~~, not later than the date the Financial Oversight Panel ceases to exist. The Panel shall establish and the Illinois Finance Authority shall approve the terms and conditions, including the schedule, of repayments. The schedule shall provide for repayments commencing July 1 of each year or upon each fiscal year's receipt of moneys from a tax levy for emergency financial assistance. Repayment shall be incorporated into the annual budget of the school district and may be made from any fund or funds of the district in which there are moneys available. Default on repayment is subject to the Illinois Grant Funds Recovery Act. When moneys are repaid as provided herein they shall not be made available to the local board for further use as emergency financial assistance under this Article at any time thereafter. All repayments required to be made by a school district shall be received by the State Board and deposited in the School District Emergency Financial Assistance Fund.

In establishing the terms and conditions for the repayment obligation of the school district the Panel shall annually determine whether a separate local property tax levy is required. The board of any school district with a tax rate for educational purposes for the prior year of less than 120% of the maximum rate for educational purposes authorized by Section 17-2 shall provide for a separate tax levy for emergency financial assistance repayment purposes. Such tax levy shall not be subject to referendum approval. The amount of the levy shall be equal to the amount necessary to meet the annual repayment obligations of the district as established by the Panel, or 20% of the amount levied for educational purposes for the prior year, whichever is less. However, no district shall be required to levy the tax if the district's operating tax rate as determined under Section 18-8 or 18-8.05 exceeds 200% of the district's tax rate for educational purposes for the prior year.

(Source: P.A. 94-234, eff. 7-1-06.)

(105 ILCS 5/1E-165 new)

Sec. 1E-165. Repeal. When the Authority established pursuant to this Article is abolished pursuant to Section 1E-155, this Article shall be repealed.

(105 ILCS 5/1F-165 new)

Sec. 1F-165. Repeal. When the Authority established pursuant to this Article is abolished pursuant to Section 1F-155, this Article shall be repealed.

(105 ILCS 5/Art. 1H heading new)

ARTICLE 1H. FINANCIAL OVERSIGHT PANELS

(105 ILCS 5/1H-1 new)

Sec. 1H-1. Short title. This Article may be cited as the Financial Oversight Panel Law.

(105 ILCS 5/1H-5 new)

Sec. 1H-5. Findings; purpose; intent.

(a) The General Assembly finds all of the following:

(1) A fundamental goal of the people of this State, as expressed in Section 1 of Article X of the Illinois Constitution, is the educational development of all persons to the limits of their capacities. When a board of education faces financial difficulties, continued operation of the public school system is threatened.

(2) A sound financial structure is essential to the continued operation of any school system. It is vital to commercial, educational, and cultural interests that public schools remain in operation. To achieve that goal, public school systems must have effective access to the private market to borrow short and long term funds.

(3) To promote the financial integrity of districts, as defined in this Article, it is necessary to provide for the creation of financial oversight panels with the powers necessary to promote sound financial management and to ensure the continued operation of the public schools.

(b) It is the purpose of this Article to provide a secure financial basis for the continued operation of public schools. The intention of the General Assembly, in creating this Article, is to establish procedures, provide powers, and impose restrictions to ensure the financial and educational integrity of public school districts, while leaving principal responsibility for the educational policies of public schools to their boards of education, consistent with the requirements for satisfying the public policy and purpose set forth in this Article.

(105 ILCS 5/1H-10 new)

Sec. 1H-10. Definitions. As used in this Article:

"Budget" means the annual budget of the district required under Section 17-1 of this Code, as in effect from time to time.

"Chairperson" means the Chairperson of the Panel.

"District" means any school district having a population of not more than 500,000 that has had a Financial Oversight Panel established under this Article.

"Financial plan" means the financial plan of the district to be developed pursuant to this Article, as in effect from time to time.

"Fiscal year" means the fiscal year of the district.

"Obligations" means notes or other short-term debts or liabilities of the Panel.

"Panel" means a Financial Oversight Panel created under this Article.

"State Board" means the State Board of Education.

"State Superintendent" means the State Superintendent of Education.

(105 ILCS 5/1H-15 new)

Sec. 1H-15. Establishment of Financial Oversight Panels; duties of district.

(a) A school district may petition the State Board for the establishment of a Financial Oversight Panel for the district. The petition shall cite the reasons why the creation of a Financial Oversight Panel for the district is necessary. In determining whether or not to place a district under a Panel, the State Board shall consider all of the following:

(1) If a Panel is in the best educational and financial interests of the district.

(2) If a panel is in the best interest of other schools in the area and the educational welfare of all the pupils therein.

(3) Whether the board of education has complied with the requirements of Section 1A-8 of this Code.

(b) Upon establishment of a Financial Oversight Panel, all of the following shall occur:

(1) There is established a body both corporate and politic to be known as the "(Name of School District) Financial Oversight Panel", which in this name shall exercise all authority vested in a Panel by this Article.

(2) The powers and duties of a Financial Oversight Panel established pursuant to this Article shall include the duties and obligations of financial oversight panels established under Article 1B of this Code, in addition to any duties and obligations established under this Article. However, if there is any conflict between the provisions of this Article and the provisions of Article 1B of this Code, the provisions of this Article control.

(3) The Financial Oversight Panel, the school board, and the district administrator shall develop goals and objectives to assist the district in obtaining financial stability. The goals and objectives must be developed as part of the financial plan that the school board is required to develop, adopt, and submit to the Panel in accordance with Section 1B-12 of this Code. The goals and objectives must be formally reviewed at agreed to intervals, but at least one time per year. Review shall include progress made and

recommendations and modifications needed to achieve abolition of financial oversight provided for under Section 1H-115 of this Code.

(c) Any school district having a Financial Oversight Panel established under Article 1B of this Code or any Financial Oversight Panel established under Article 1B may petition the State Board for the establishment of a Financial Oversight Panel under this Article and concurrent dissolution of the Article 1B Panel. All records, papers, books, funds, or other assets or liabilities belonging to the dissolving Financial Oversight Panel shall be transferred to the newly established Financial Oversight Panel.

(105 ILCS 5/1H-20 new)

Sec. 1H-20. Members of Panel; meetings.

(a) Upon establishment of a Financial Oversight Panel under Section 1H-15 of this Code, the State Superintendent shall within 15 working days thereafter appoint 5 members to serve on a Financial Oversight Panel for the district. Members appointed to the Panel shall serve at the pleasure of the State Superintendent. The State Superintendent shall designate one of the members of the Panel to serve as its Chairperson. In the event of vacancy or resignation, the State Superintendent shall, within 10 days after receiving notice, appoint a successor to serve out that member's term. The State Superintendent may remove a member for incompetence, malfeasance, neglect of duty, or other just cause.

(b) Members of the Panel shall be selected primarily on the basis of their experience and education in financial management, with consideration given to persons knowledgeable in education finance. Two members of the Panel shall be residents of the school district that the Panel serves. A member of the Panel may not be a member of the district's school board or an employee of the district nor may a member have a direct financial interest in the district.

(c) Panel members may be reimbursed by the State Board for travel and other necessary expenses incurred in the performance of their official duties. The amount reimbursed members for their expenses shall be charged to the school district as part of any emergency financial assistance and incorporated as a part of the terms and conditions for repayment of the assistance or shall be deducted from the district's general State aid as provided in Section 1H-65 of this Code.

(d) With the exception of the chairperson, who shall be designated as provided in subsection (a) of this Section, the Panel may elect such officers as it deems appropriate.

(e) The first meeting of the Panel shall be held at the call of the Chairperson. The Panel shall prescribe the times and places for its meetings and the manner in which regular and special meetings may be called and shall comply with the Open Meetings Act. The Panel shall also comply with the Freedom of Information Act.

(f) Three members of the Panel shall constitute a quorum. A majority of members present is required to pass a measure.

(105 ILCS 5/1H-25 new)

Sec. 1H-25. General powers.

(a) The purposes of the Panel shall be to exercise financial control over the district and to furnish financial assistance so that the district can provide public education within the district's jurisdiction while permitting the district to meet its obligations to its creditors and the holders of its debt. Except as expressly limited by this Article, the Panel shall have all powers granted to a voluntary or involuntary Financial Oversight Panel and to a Financial Administrator under Article 1B of this Code and all other powers necessary to meet its responsibilities and to carry out its purposes and the purposes of this Article, including without limitation all of the following powers:

(1) To sue and to be sued.

(2) To determine at a regular or special meeting that the district has insufficient or inadequate funds or other financial resources with respect to any contract (other than collective bargaining agreements), leases, subleases, and other instruments or agreements applicable to or binding upon the school board, and to make, cancel, modify, or execute contracts (other than collective bargaining agreements), leases, subleases, and all other instruments or agreements necessary, convenient, or otherwise beneficial to the district and consistent with the powers and functions granted by this Article or other applicable law.

(3) To lease or purchase real or personal property necessary or convenient for its purposes; to execute and deliver deeds for real property held in its own name; and to sell, lease, or otherwise dispose of such of its property as, in the judgment of the Panel, is no longer necessary for its purposes.

(4) To employ officers, agents, and employees of the Panel, to define their duties and qualifications, and to fix their compensation and benefits.

(5) To transfer to the district such sums of money as are not required for other purposes.

(6) To borrow money, including without limitation accepting State loans, and to issue obligations pursuant to this Article; to fund, refund, or advance refund the same; to provide for the rights of the holders of its obligations; and to repay any advances.

(7) To levy all property tax levies that otherwise could be levied by the district if the district fails to certify and return the certificate of tax levy to the county clerk on or before the first Tuesday in November, and to make levies pursuant to Section 1H-65 of this Code. This levy or levies shall be exempt from the Truth in Taxation Law.

(8) Subject to the provisions of any contract with or for the benefit of the holders of its obligations, to purchase or redeem its obligations.

(9) To procure all necessary goods and services for the Panel in compliance with the purchasing laws and requirements applicable to the district.

(10) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given to it by this Article.

(11) To recommend any type of reorganization of the district, in whole or in part, pursuant to Article 7 or 11E of this Code or Section 10-22.22b or 10-22.22c of this Code to the General Assembly if in the Panel's judgment the circumstances so require.

(b) Notwithstanding the provisions of subsection (a) of this Section, the Panel shall have no power to do any of the following:

(1) Unilaterally cancel or modify any collective bargaining agreement in force upon the date of creation of the Panel.

(2) Lease, sublease, buy, build, or otherwise acquire any additional school buildings or grounds for or on behalf of the district without prior approval by referendum held pursuant to Section 19-2 or 19-3 of this Code.

(3) Authorize payments for or incur any debt for any additional school buildings or grounds as specified in subdivision (2) of this subsection (b) without prior approval via referendum pursuant to the provisions of Sections 19-2 through 19-7 of this Code, the provisions of Section 10-22.36 of this Code to the contrary notwithstanding.

(105 ILCS 5/1H-30 new)

Sec. 1H-30. Employees. The Panel may employ individuals under this Section if it is so warranted. These individuals may include any of the following:

(1) A chief executive officer who shall supervise the Panel's staff, including the chief educational officer and the chief fiscal officer, and shall have ultimate responsibility for implementing the policies, procedures, directives, and decisions of the Panel. The chief executive officer shall have the authority to determine the agenda and order of business at school board meetings, as needed in order to carry forward and implement the objectives and priorities of the school board and Financial Oversight Panel in the administration and management of the district. This individual is not required to hold any certificate issued under Article 21 of this Code. The chief executive officer shall have the powers and duties as assigned by the Panel in accordance with this Code.

(2) A chief educational officer, who may be employed by the Panel if there is no superintendent in the district or if the Panel, at a regular or special meeting, finds that cause exists to cancel the contract of the district's superintendent who is serving at the time the Panel is established. Cancellation of an existing superintendent contract may be done only pursuant to the same requirements and in the same manner as the school board may cancel the contract. A chief educational officer employed under this subdivision (2) shall have the powers and duties of a school district superintendent under this Code and such other duties as may be assigned by the Panel in accordance with this Code.

(3) A chief fiscal officer, who may be employed by the Panel. This individual shall be under the direction of the Panel or the chief executive officer employed by the Panel and shall have all of the powers and duties of the district's chief school business official and any other duties regarding budgeting, accounting, and other financial matters that are assigned by the Panel, in accordance with this Code.

(4) A superintendent, who shall be under the direction of the Panel or the chief executive officer employed by the Panel and shall have all of the powers and duties of a school district superintendent under this Code assigned by the Panel and such other duties as may be assigned by the Panel in accordance with this Code.

(5) A chief school business official, who shall have all of the powers and duties of a chief school business official under this Code assigned by the Panel and such other duties as may be assigned by the Panel in accordance with this Code.

An individual employed by the Panel as a superintendent or a chief school business official under this Section must hold the appropriate certification for these positions. Individuals employed by the Panel as a chief executive officer, chief educational officer, or chief fiscal officer under this Section are not required to hold certification. A chief educational officer under his Section must not be employed by the Panel during a period a superintendent is employed by the district and a chief fiscal officer under this

Section must not be employed by the Panel during a period a chief school business official is employed by the district.

Individuals employed under subdivision (2), (3), (4), or (5) of this Section shall report to the Panel or to the chief executive officer under this Section if there is one.

(105 ILCS 5/1H-35 new)

Sec. 1H-35. School treasurer.

(a) In Class I county school units and in each district that forms part of a Class II county school unit but that has withdrawn from the jurisdiction and authority of the trustees of schools of the township in which the district is located and from the jurisdiction and authority of the township treasurer in the Class II county school unit, the Panel may, in its discretion, remove the treasurer appointed or elected by the school board of the district and appoint a new treasurer to succeed the removed treasurer as provided in Section 8-19 of this Code.

(b) In the case of a district located in a Class II county school unit where such district is subject to the jurisdiction and authority of township trustees and the jurisdiction and authority of the township treasurer, the Panel may require production of bank reconciliations and other reports or statements as required under Sections 8-6 and 8-13 through 8-15 of this Code.

(c) All school treasurers appointed or elected pursuant to this Section shall be subject to the provisions of Sections 8-2 through 8-20 and other applicable provisions of the School Code.

(105 ILCS 5/1H-45 new)

Sec. 1H-45. Collective bargaining agreements. In conjunction with the district administration, the Panel shall have the power to negotiate collective bargaining agreements with the district's employees. Upon union ratification, the district and the Panel shall execute the agreements negotiated by the Panel, and the district shall be bound by and shall administer the agreements in all respects as if the agreements had been negotiated by the district itself.

(105 ILCS 5/1H-50 new)

Sec. 1H-50. Deposits and investments.

(a) The Panel shall have the power to establish checking and whatever other banking accounts it may deem appropriate for conducting its affairs.

(b) Subject to the provisions of any contract with or for the benefit of the holders of its obligations, the Panel may invest any funds not required for immediate use or disbursement, as provided in the Public Funds Investment Act.

(105 ILCS 5/1H-55 new)

Sec. 1H-55. Cash accounts and bank accounts.

(a) The Panel shall require the district or any officer of the district, including the district's treasurer, to establish and maintain separate cash accounts and separate bank accounts in accordance with such rules, standards, and procedures as the Panel may prescribe.

(b) The Panel shall have the power to assume exclusive administration of the cash accounts and bank accounts of the district, to establish and maintain whatever new cash accounts and bank accounts it may deem appropriate, and to withdraw funds from these accounts for the lawful expenditures of the district.

(105 ILCS 5/1H-60 new)

Sec. 1H-60. Financial, management, and budgetary structure. Upon direction of the Panel, the district shall reorganize the financial accounts, management, and budgetary systems of the district in a manner consistent with rules adopted by the State Board regarding accounting, budgeting, financial reporting, and auditing as the Panel deems appropriate to remedy the conditions that led the Panel to be created and to achieve greater financial responsibility and to reduce financial inefficiency.

(105 ILCS 5/1H-65 new)

Sec. 1H-65. School District Emergency Financial Assistance Fund; grants and loans.

(a) Moneys in the School District Emergency Financial Assistance Fund established under Section 1B-8 of this Code may be allocated and expended by the State Board for contractual services to provide technical assistance and consultation to districts, as defined in Section 1H-10 of this Code, to assess their financial condition or to Panels established under this Article 1H that petition for emergency financial assistance grants and by the Illinois Finance Authority as loans to school districts that are the subject of an approved petition for emergency financial assistance under this Code. Neither the State Board of Education nor the Illinois Finance Authority may collect any fees for providing these services. From the amount allocated to each such school district, the State Board shall identify a sum sufficient to cover all approved costs of the Panel established for the respective school district. If the State Board and State Superintendent of Education have not approved emergency financial assistance in conjunction with the appointment of a Panel, the Panel's approved costs shall be paid from deductions from the district's general State aid. An emergency financial assistance loan to a Panel or borrowing from sources other

than the State shall not be considered as part of the calculation of a district's debt for purposes of the limitation specified in Section 19-1 of this Code.

(b) The Panel may prepare and file with the State Superintendent a proposal for emergency financial assistance for the school district and for its operations budget. A school district may receive both a loan and a grant. State emergency financial assistance allocated and paid to a Panel under this Article may be applied to any fund or funds from which the Panel is authorized to make expenditures by law. Any State emergency financial assistance proposed by the Panel and approved by the State Superintendent may be paid in its entirety during the initial year of the Panel's existence or spread in equal or variable amounts over a period of years not to exceed the period of the Panel's existence.

(c) The amount of an emergency financial assistance grant that may be allocated to a Panel under this Article must not exceed $1,000 times the number of pupils enrolled in the district during the school year ending June 30 prior to the date of approval of the petition for emergency financial assistance by the State Board. The payment of a State emergency financial assistance grant is subject appropriation by the General Assembly.

(d) The amount of an emergency financial assistance loan that may be allocated to a Panel under this Article, including (i) moneys necessary for the operations of the Panel and (ii) borrowing from sources other than the State shall not exceed, in the aggregate, $4,000 times the number of pupils enrolled in the district during the school year ending June 30 prior to the date of approval of the petition for emergency financial assistance by the State Board. However, this limitation does not apply to borrowing by the district secured by amounts levied by the district prior to establishment of the Panel. The State Superintendent may not approve any loan to the Panel unless the Panel has been unable to borrow sufficient funds to operate the district.

All loan payments made from the School District Emergency Financial Assistance Fund to a Panel must be required to be repaid not later than the date the Panel ceases to exist, with simple interest over the term of the loan at a rate equal to 50% of the one-year Constant Maturity Treasury (CMT) yield as last published by the Board of Governors of the Federal Reserve System before the date on which the Financial Oversight Panel's loan is approved by the State Superintendent.

The Panel shall establish and the Illinois Finance Authority shall approve the terms and conditions of the loan, including the schedule of repayments. The schedule shall provide for repayments commencing July 1 of each year or upon each fiscal year's receipt of moneys from a tax levy for emergency financial assistance. Repayment shall be incorporated into the annual budget of the district and may be made from any fund or funds of the district in which there are moneys available. Default on repayment is subject to the Illinois Grant Funds Recovery Act. When moneys are repaid as provided in this Section, they shall not be made available to the Panel for further use as emergency financial assistance under this Article at any time thereafter. All repayments required to be made by a Panel shall be deposited into the School District Emergency Financial Assistance Fund.

In establishing the terms and conditions for the repayment obligation of the Panel, the Panel shall annually determine whether a separate local property tax levy is required to meet that obligation. The Financial Oversight Panel shall provide for a separate tax levy for emergency financial assistance repayment purposes. This tax levy shall not be subject to referendum approval. The amount of the levy shall not exceed the amount necessary to meet the annual emergency financial repayment obligations of the district, including principal and interest, as established by the Panel, and shall not be subject to the provisions of the Property Tax Extension Limitation Law.

(105 ILCS 5/1H-70 new)

Sec. 1H-70. Tax anticipation warrants, tax anticipation notes, revenue anticipation certificates or notes, general State aid anticipation certificates, and lines of credit. With the approval of the State Superintendent and provided that the district is unable to secure short-term financing after 3 attempts, a Panel shall have the same power as a district to do the following:

(1) issue tax anticipation warrants under the provisions of Section 17-16 of this Code against taxes levied by either the school board or the Panel pursuant to Section 1H-25 of this Code;

(2) issue tax anticipation notes under the provisions of the Tax Anticipation Note Act against taxes levied by either the school board or the Panel pursuant to Section 1H-25 of this Code;

(3) issue revenue anticipation certificates or notes under the provisions of the Revenue Anticipation Act;

(4) issue general State aid anticipation certificates under the provisions of Section 18-18 of this Code; and

(5) establish and utilize lines of credit under the provisions of Section 17-17 of this Code.

Tax anticipation warrants, tax anticipation notes, revenue anticipation certificates or notes, general State aid anticipation certificates, and lines of credit are considered borrowing from sources other than

the State and are subject to Section 1H-65 of this Code.

(105 ILCS 5/1H-75 new)

Sec. 1H-75. Tax for emergency Financial Oversight Panel financial aid. If the Panel is unable to secure short-term borrowing pursuant to Section 1H-70 of this Code, the Panel:

(1) based upon an original or amended budget filed by a Financial Oversight Panel and approved by the State Board of Education, may levy a one-time only tax, in an amount not to exceed 75% of the amount expended by the school district subject to the oversight of the panel in the immediately preceding year for educational, operations and maintenance, transportation, and municipal retirement purposes; as reflected in the most recently filed annual financial report, and as adjusted by the CPI most recently under the Property Tax Extension Limitation Law;

(2) following approval by the State Board of Education, shall file a certificate of tax levy with the county clerk or clerks with whom the school district must file tax levies, such taxes to be extended against all the property of the school district upon the value of the taxable property within its territory, as equalized or assessed by the Department of Revenue; and

(3) may issue warrants, or may provide a fund to meet the expenses by issuing and disposing of warrants, drawn against and in anticipation of the tax levied pursuant to this Section, for the payment of the necessary expenses of the district, either for transportation, educational, or all operations and maintenance purposes or for payments to the Illinois Municipal Retirement Fund, as the case may be, to the extent of 75% of the total amount of the tax so levied. The warrants shall show upon their face that they are payable in the numerical order of their issuance solely from such taxes when collected, and shall be received by any collector of taxes in payment of the taxes against which they are issued, and such taxes shall be set apart and held for their payment; every warrant shall bear interest, payable only out of the taxes against which it is drawn, at a rate not exceeding the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract, if issued before July 1, 1971 and if issued thereafter at the rate of not to exceed the maximum rate authorized by the Bond Authorization Act, as amended at the time of the making of the contract, from the date of its issuance until paid or until notice shall be given by publication in a newspaper or otherwise that the money for its payment is available and that it will be paid on presentation, unless a lower rate of interest is specified therein, in which case the interest shall be computed and paid at the lower rate.

(105 ILCS 5/1H-80 new)

Sec. 1H-80. State or district not liable on obligations. Obligations shall not be deemed to constitute (i) a debt or liability of the State, the district, or any political subdivision of the State or district other than the Panel or (ii) a pledge of the full faith and credit of the State, the district, or any political subdivision of the State or district other than the Panel but shall be payable solely from the funds and revenues provided for in this Article. The issuance of obligations shall not directly, indirectly, or contingently obligate the State, the district, or any political subdivision of the State or district other than the Panel to levy any form of taxation therefor or to make any appropriation for their payment. Nothing in this Section shall prevent or be construed to prevent the Panel from pledging its full faith and credit to the payment of obligations. Nothing in this Article shall be construed to authorize the Panel to create a debt of the State or the district within the meaning of the Constitution or laws of Illinois, and all obligations issued by the Panel pursuant to the provisions of this Article are payable and shall state that they are payable solely from the funds and revenues pledged for their payment in accordance with the resolution authorizing their issuance or any trust indenture executed as security therefor. The State or the district shall not in any event be liable for the payment of the principal of or interest on any obligations of the Panel or for the performance of any pledge, obligation, or agreement of any kind whatsoever that may be undertaken by the Panel. No breach of any such pledge, obligation, or agreement may impose any liability upon the State or the district or any charge upon their general credit or against their taxing power.

(105 ILCS 5/1H-85 new)

Sec. 1H-85. Obligations as legal investments. The obligations issued under the provisions of this Article are hereby made securities in which all public officers and bodies of this State, all political subdivisions of this State, all persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, and savings associations (including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business), and all credit unions, pension funds, administrators, and guardians who are or may be authorized to invest in bonds or in other obligations of the State may properly and legally invest funds, including capital, in their control or belonging to them. The obligations are also hereby made securities that may be deposited with and may be received by all public officers and bodies of the State, all political subdivisions of the State, and public corporations for any purpose for which the deposit of bonds or other obligations of the

State is authorized.

(105 ILCS 5/1H-90 new)

Sec. 1H-90. Reports. The Panel, upon taking office and annually thereafter, shall prepare and submit to the State Superintendent a report that includes the audited financial statement for the preceding fiscal year prepared and audited in compliance with the provisions of Sections 3-7 and 3-15.1 of this Code, an approved financial plan, and a statement of the major steps necessary to accomplish the objectives of the financial plan. This report must be submitting annually by March 1 of each year and must detail information from the previous school year. The school board must be allowed to comment on the annual report of the Panel, and the comments of the school board shall be included as an appendix to such annual report of the Panel.

(105 ILCS 5/1H-95 new)

Sec. 1H-95. Audit of Panel. The State Superintendent may require a separate audit of the Panel, otherwise the activities of the Panel must be included in the scope of the audit of the school district. A copy of the audit report covering the Panel must be submitted to the State Superintendent.

(105 ILCS 5/1H-100 new)

Sec. 1H-100. Assistance by State agencies, units of local government, and school districts. The district shall render such services to and permit the use of its facilities and resources by the Panel at no charge as may be requested by the Panel. Any State agency, unit of local government, or school district may, within its lawful powers and duties, render such services to the Panel as may be requested by the Panel. Upon request of the Panel, any State agency, unit of local government, or school district is authorized and empowered to loan to the Panel such officers and employees as the Panel may deem necessary in carrying out its functions and duties. Officers and employees so transferred shall not lose or forfeit their employment status or rights.

(105 ILCS 5/1H-105 new)

Sec. 1H-105. Property of Panel exempt from taxation. The property of the Panel is exempt from taxation.

(105 ILCS 5/1H-110 new)

Sec. 1H-110. Sanctions.

(a) No member, officer, employee, or agent of the district may commit the district to any contract or other obligation or incur any liability on behalf of the district for any purpose if the amount of the contract, obligation, or liability is in excess of the amount authorized for that purpose then available under the financial plan and budget then in effect.

(b) No member, officer, employee, or agent of the district may commit the district to any contract or other obligation on behalf of the district for the payment of money for any purpose required to be approved by the Panel unless the contract or other obligation has been approved by the Panel.

(c) No member, officer, employee, or agent of the district may take any action in violation of any valid order of the Panel, may fail or refuse to take any action required by any such order, may prepare, present, certify, or report any information, including any projections or estimates, for the Panel or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, may fail promptly to advise the Panel or its agents.

(d) In addition to any penalty or liability under any other law, any member, officer, employee, or agent of the district who violates subsection (a), (b), or (c) of this Section is subject to appropriate administrative discipline as may be imposed by the Panel, including, if warranted, suspension from duty without pay, removal from office, or termination of employment.

(105 ILCS 5/1H-115 new)

Sec. 1H-115. Abolition of Panel.

(a) Except as provided in subsections (b), (c), and (d) of this Section, the Panel shall be abolished 10 years after its creation.

(b) The State Board, upon recommendation of the Panel or petition of the school board, may abolish the Panel at any time after the Panel has been in existence for 3 years if no obligations of the Panel are outstanding or remain undefeased and upon investigation and finding that:

(1) none of the factors specified in Section 1A-8 of this Code remain applicable to the district; and

(2) substantial achievement of the goals and objectives established pursuant to the financial plan and required under Section 1H-15 of this Code.

(c) The panel of a district that otherwise meets all of the requirements for abolition of a Panel under subsection (b) of this Section except for the fact that there are outstanding financial obligations of the Panel may petition the State Board for reinstatement of all of the school boards powers and duties assumed by the Panel; and if approved by the State Board, then:

(1) the panel shall continue in operation, but its powers and duties shall be limited to those

necessary to manage and administer its outstanding obligations;

(2) the school board shall once again begin exercising all of the powers and duties otherwise allowed by statute; and

(3) the Panel shall be abolished as provided in subsection (a) of this Section.

(d) If the Panel of a district that otherwise meets all of the requirements for abolition of a Panel under subsection (b) of this Section, except for outstanding obligations of the Panel; then the district may petition the State board for abolition of the Panel if the district:

(1) establishes an irrevocable trust fund, the purpose of which is to provide moneys to defease the outstanding obligations of the Panel; and

(2) issues funding bonds pursuant to the provisions of Section 19-8 and 19-9 of this Code.

A district with a Panel that falls under these provisions shall be abolished as provided in subsection (a) of this Section.

(105 ILCS 5/1H-120 new)

Sec. 1H-120. Indemnification; legal representation; limitations of actions after abolition.

(a) The Panel may indemnify any member, officer, employee, or agent who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she was a member, officer, employee, or agent of the Panel, against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action, suit, or proceeding) if he or she acted in good faith and in a manner that he or she reasonably believed to be in or not opposed to the best interests of the Panel and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith in a manner that he or she reasonably believed to be in or not opposed to the best interests of the Panel and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

To the extent that a member, officer, employee, or agent of the Panel has been successful, on the merits or otherwise, in the defense of any such action, suit, or proceeding referred to in this subsection (b) or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses, including attorney's fees, actually and reasonably incurred by him or her in connection therewith. Any such indemnification shall be made by the Panel only as authorized in the specific case, upon a determination that indemnification of the member, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct. The determination shall be made (i) by the Panel by a majority vote of a quorum consisting of members who are not parties to the action, suit, or proceeding or (ii) if such a quorum is not obtainable or, even if obtainable, a quorum of disinterested members so directs, by independent legal counsel in a written opinion.

Reasonable expenses incurred in defending an action, suit, or proceeding shall be paid by the Panel in advance of the final disposition of the action, suit, or proceeding, as authorized by the Panel in the specific case, upon receipt of an undertaking by or on behalf of the member, officer, employee, or agent to repay the amount, unless it is ultimately determined that he or she is entitled to be indemnified by the Panel as authorized in this Section.

Any member, officer, employee, or agent against whom any action, suit, or proceeding is brought may employ his or her own attorney to appear on his or her behalf.

The right to indemnification accorded by this Section shall not limit any other right to indemnification to which the member, officer, employee, or agent may be entitled. Any rights under this Section shall inure to the benefit of the heirs, executors, and administrators of any member, officer, employee, or agent of the Panel.

The Panel may purchase and maintain insurance on behalf of any person who is or was a member, officer, employee, or agent of the Panel against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Panel could have the power to indemnify him or her against liability under the provisions of this Section.

(b) The Panel shall be considered a State agency for purposes of receiving representation by the Attorney General. Members, officers, employees, and agents of the Panel shall be entitled to representation and indemnification under the State Employee Indemnification Act.

(c) Abolition of the Panel pursuant to Section 1H-115 of this Code shall bar any remedy available against the Panel, its members, employees, or agents for any right or claim existing or any liability incurred prior to the abolition, unless the action or other proceeding is commenced prior to the expiration of 2 years after the date of the abolition.

(105 ILCS 5/8-6) (from Ch. 122, par. 8-6)

Sec. 8-6. Custody of school funds.

The school treasurer shall have custody of the school funds and shall keep in a cash book separate cash balances. In the cash book he shall enter in separate accounts the balance, total of all moneys received in each fund, and the total of the orders countersigned or checks signed with respect to each fund and extend the balances and the aggregate cash balance for all funds balance at least monthly. The treasurer ~~and~~ shall reconcile such balances ~~balance~~ with the accounting or bookkeeping department of the district in conformity with a template provided by the State Board of Education monthly. School districts on the financial watch or warning list that are required to submit deficit reduction plans in accordance with Section 17-1 of this Code or that are certified in financial difficulty in accordance with Section 1-A8 of this Code must transmit the cash balances as required pursuant to this Section 8-6 of this Code to the State Board of Education quarterly from the Treasurer.

(Source: Laws 1961, p. 31.)

(105 ILCS 5/10-16.9 new)

Sec. 10-16.9. Bank reconciliation reports. School districts on the financial watch or warning list that are required to submit deficit reduction plans pursuant to Section 17-1 of this Code or that are certified in financial difficulty must transmit the bank reconciliation reports from the school treasurer as required pursuant to Section 8-6 of this Code to the State Board of Education quarterly. The State Board of Education shall establish the dates by which the reconciliation reports must be submitted and provide a template for those districts to utilize.

(105 ILCS 5/10-16.11 new)

Sec. 10-16.11. Payment of outstanding obligations of a Financial Oversight Panel. The school board of a district subject to a Financial Oversight Panel pursuant to Article 1H of this Code that, except for the existence of outstanding financial obligations of the Financial Oversight Panel, would be able to seek abolition of the Panel pursuant to Section 1H-115 of this Code may: (1) spend surplus district funds in an amount sufficient to liquidate the outstanding obligations of the Financial Oversight Panel or (2) issue funding bonds for such purpose as authorized by Sections 19-8 and 19-9 of this Code.

(105 ILCS 5/17-1) (from Ch. 122, par. 17-1)

Sec. 17-1. Annual Budget. The board of education of each school district under 500,000 inhabitants shall, within or before the first quarter of each fiscal year, adopt and file with the State Board of Education an annual balanced budget which it deems necessary to defray all necessary expenses and liabilities of the district, and in such annual budget shall specify the objects and purposes of each item and amount needed for each object or purpose.

The budget shall be entered upon a School District Budget form prepared and provided by the State Board of Education and therein shall contain a statement of the cash on hand at the beginning of the fiscal year, an estimate of the cash expected to be received during such fiscal year from all sources, an estimate of the expenditures contemplated for such fiscal year, and a statement of the estimated cash expected to be on hand at the end of such year. The estimate of taxes to be received may be based upon the amount of actual cash receipts that may reasonably be expected by the district during such fiscal year, estimated from the experience of the district in prior years and with due regard for other circumstances that may substantially affect such receipts. Nothing in this Section shall be construed as requiring any district to change or preventing any district from changing from a cash basis of financing to a surplus or deficit basis of financing; or as requiring any district to change or preventing any district from changing its system of accounting.

To the extent that a school district's budget is not balanced, the district shall also adopt and file with the State Board of Education a deficit reduction plan to balance the district's budget within 3 years. The deficit reduction plan must be filed at the same time as the budget, but the State Superintendent of Education may extend this deadline if the situation warrants.

If, as the result of an audit performed in compliance with Section 3-7 of this Code, the resulting Annual Financial Report required to be submitted pursuant to Section 3-15.1 of this Code reflects a deficit as defined for purposes of the preceding paragraph; then the district shall, within 30 days after acceptance of such audit report, submit a deficit reduction plan.

The board of education of each district shall fix a fiscal year therefor. If the beginning of the fiscal year of a district is subsequent to the time that the tax levy due to be made in such fiscal year shall be made, then such annual budget shall be adopted prior to the time such tax levy shall be made. The failure by a board of education of any district to adopt an annual budget, or to comply in any respect with the provisions of this Section, shall not affect the validity of any tax levy of the district otherwise in conformity with the law. With respect to taxes levied either before, on, or after the effective date of this amendatory Act of the 91st General Assembly, (i) a tax levy is made for the fiscal year in which the levy

is due to be made regardless of which fiscal year the proceeds of the levy are expended or are intended to be expended, and (ii) except as otherwise provided by law, a board of education's adoption of an annual budget in conformity with this Section is not a prerequisite to the adoption of a valid tax levy and is not a limit on the amount of the levy.

Such budget shall be prepared in tentative form by some person or persons designated by the board, and in such tentative form shall be made conveniently available to public inspection for at least 30 days prior to final action thereon. At least 1 public hearing shall be held as to such budget prior to final action thereon. Notice of availability for public inspection and of such public hearing shall be given by publication in a newspaper published in such district, at least 30 days prior to the time of such hearing. If there is no newspaper published in such district, notice of such public hearing shall be given by posting notices thereof in 5 of the most public places in such district. It shall be the duty of the secretary of such board to make such tentative budget available to public inspection, and to arrange for such public hearing. The board may from time to time make transfers between the various items in any fund not exceeding in the aggregate 10% of the total of such fund as set forth in the budget. The board may from time to time amend such budget by the same procedure as is herein provided for its original adoption.

Beginning July 1, 1976, the board of education, or regional superintendent, or governing board responsible for the administration of a joint agreement shall, by September 1 of each fiscal year thereafter, adopt an annual budget for the joint agreement in the same manner and subject to the same requirements as are provided in this Section.

The State Board of Education shall exercise powers and duties relating to budgets as provided in Section 2-3.27 of this Code and shall require school districts to submit their annual budgets, deficit reduction plans, and other financial information, including revenue and expenditure reports and borrowing and interfund transfer plans, in such form and within the timelines designated by the State Board of Education.

By fiscal year 1982 all school districts shall use the Program Budget Accounting System.

In the case of a school district receiving emergency State financial assistance under Article 1B, the school board shall also be subject to the requirements established under Article 1B with respect to the annual budget.

(Source: P.A. 94-234, eff. 7-1-06.)

(105 ILCS 5/17-11) (from Ch. 122, par. 17-11)

Sec. 17-11. Certificate of tax levy.

(a) The school board of each district, other than a school district subject to the authority of a Financial Oversight Panel pursuant to Article 1H of this Code, shall ascertain, as near as practicable, annually, how much money must be raised by special tax for transportation purposes if any and for educational and for operations and maintenance purposes for the next ensuing year. In school districts with a population of less than 500,000, these amounts shall be certified and returned to each county clerk on or before the last Tuesday in December, annually. The certificate shall be signed by the president and clerk or secretary, and may be in the following form:

CERTIFICATE OF TAX LEVY

We hereby certify that we require the sum of ..... dollars, to be levied as a special tax for transportation purposes and the sum of ..... dollars to be levied as a special tax for educational purposes, and the sum ..... dollars to be levied as a special tax for operations and maintenance purposes, and the sum of ..... to be levied as a special tax for a working cash fund, on the equalized assessed value of the taxable property of our district, for the year (insert year).

Signed on (insert date).

A ..... B ....., President

C ..... D....., Clerk (Secretary)

Dist. No. ....., ... County

(b) A failure by the school board to file the certificate with the county clerk in the time required shall not vitiate the assessment.

(c) A school district subject to the authority of a Financial Oversight Panel pursuant to Article 1H of this Code shall file a certificate of tax levy as otherwise provided by this Section, except that such certificate shall be certified and returned to each county clerk on or before the first Tuesday in November annually. If, for whatever reason, the district fails to certify and return the certificate of tax levy to each county clerk on or before the first Tuesday in November annually, then the Financial Oversight Panel for such school district shall proceed to adopt, certify, and return a certificate of tax levy for such school district to each county clerk on or before the last Tuesday in December annually.

(Source: P.A. 91-357, eff. 7-29-99.)

(105 ILCS 5/19-8) (from Ch. 122, par. 19-8)

Sec. 19-8. Bonds to pay claims. Any school district or non-high district operating under general law or special charter having a population of 500,000 or less is authorized to issue bonds for the purpose of paying orders issued for the wages of teachers, ~~or~~ for the payment of claims against any such district , or for providing funds to effect liquidation or defeasance of the obligations of a Financial Oversight Panel pursuant to the provisions of Section 1H-115 of this Code.

Such bonds may be issued in an amount, including existing indebtedness, in excess of any statutory limitation as to debt.

(Source: P.A. 94-234, eff. 7-1-06.)

(105 ILCS 5/19-9) (from Ch. 122, par. 19-9)

Sec. 19-9. Resolution to issue bonds - Submission to voters. Before any district as described in Section 19-8 shall avail itself of the provisions of that section the governing body thereof shall examine and consider the several teachers' orders or claims or liabilities of a Financial Oversight Panel established pursuant to Article 1H of the School Code, or any or all of these, ~~or both,~~ proposed to be paid and if it appears that they were authorized and allowed for proper school purposes it shall adopt a resolution so declaring and set forth and describe in detail such teachers' orders and claims and liabilities of a Financial Oversight Panel established pursuant to Article 1H of the School Code and the adoption of the resolution shall establish the validity thereof, notwithstanding the amount of such orders and claims and liabilities of a Financial Oversight Panel established pursuant to Article 1H of the School Code may exceed in whole or in part any applicable statutory debt limit in force at the time the indebtedness evidenced by such orders and claims and liabilities of a Financial Oversight Panel established pursuant to Article 1H of the School Code was incurred. The resolution shall also declare the intention of the district to issue bonds for the purpose of paying such teachers' orders or claims or liabilities of a Financial Oversight Panel established pursuant to Article 1H of the School Code, ~~or both,~~ and direct that notice of such intention be published at least once in a newspaper published within the district and if there be no newspaper published within the district then notice shall be published in a newspaper having general circulation within the district. The notice shall set forth (1) the time within which a petition may be filed requesting the submission of the proposition to issue the bonds as hereinafter in this Section provided; (2) the specific number of voters required to sign the petition; and the date of the prospective referendum. The recording officer of the district shall provide a petition form to any individual requesting one. If within 30 days after such publication of such notice a petition is filed with the recording officer of the district, signed by the voters of the district equal to 10% or more of the registered voters of the district requesting that the proposition to issue bonds as authorized by Section 19-8 be submitted to the voters thereof, then the district shall not be authorized to issue bonds as provided by Section 19-8 until the proposition has been submitted to and approved by a majority of the voters voting on the proposition at a regular scheduled election. The board shall certify the proposition to the proper election authorities for submission in accordance with the general election law. If no such petition with the requisite number of signatures is filed within said 30 days, or if any and all petitions filed are invalid, then the district shall thereafter be authorized to issue bonds for the purposes and as provided in Section 19-8.

(Source: P.A. 87-767.)

Section 20. The Illinois Educational Labor Relations Act is amended by changing Section 2 as follows:

(115 ILCS 5/2) (from Ch. 48, par. 1702)

Sec. 2. Definitions. As used in this Act:

(a) "Educational employer" or "employer" means the governing body of a public school district, including the governing body of a charter school established under Article 27A of the School Code or of a contract school or contract turnaround school established under paragraph 30 of Section 34-18 of the School Code, combination of public school districts, including the governing body of joint agreements of any type formed by 2 or more school districts, public community college district or State college or university, a subcontractor of instructional services of a school district (other than a school district organized under Article 34 of the School Code), combination of school districts, charter school established under Article 27A of the School Code, or contract school or contract turnaround school established under paragraph 30 of Section 34-18 of the School Code, and any State agency whose major function is providing educational services. "Educational employer" or "employer" does not include (1) a Financial Oversight Panel created pursuant to Section 1A-8 of the School Code due to a district violating a financial plan or (2) an approved nonpublic special education facility that contracts with a school district or combination of school districts to provide special education services pursuant to Section

14-7.02 of the School Code, but does include a School Finance Authority created under Article 1E or 1F of the School Code and a Financial Oversight Panel created under Article 1B or 1H of the School Code. The change made by this amendatory Act of the 96th General Assembly to this paragraph (a) to make clear that the governing body of a charter school is an "educational employer" is declaratory of existing law.

(b) "Educational employee" or "employee" means any individual, excluding supervisors, managerial, confidential, short term employees, student, and part-time academic employees of community colleges employed full or part time by an educational employer, but shall not include elected officials and appointees of the Governor with the advice and consent of the Senate, firefighters as defined by subsection (g-1) of Section 3 of the Illinois Public Labor Relations Act, and peace officers employed by a State university. For the purposes of this Act, part-time academic employees of community colleges shall be defined as those employees who provide less than 3 credit hours of instruction per academic semester. In this subsection (b), the term "student" includes graduate students who are research assistants primarily performing duties that involve research or graduate assistants primarily performing duties that are pre-professional, but excludes graduate students who are teaching assistants primarily performing duties that involve the delivery and support of instruction and all other graduate assistants.

(c) "Employee organization" or "labor organization" means an organization of any kind in which membership includes educational employees, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, employee-employer disputes, wages, rates of pay, hours of employment, or conditions of work, but shall not include any organization which practices discrimination in membership because of race, color, creed, age, gender, national origin or political affiliation.

(d) "Exclusive representative" means the labor organization which has been designated by the Illinois Educational Labor Relations Board as the representative of the majority of educational employees in an appropriate unit, or recognized by an educational employer prior to January 1, 1984 as the exclusive representative of the employees in an appropriate unit or, after January 1, 1984, recognized by an employer upon evidence that the employee organization has been designated as the exclusive representative by a majority of the employees in an appropriate unit.

(e) "Board" means the Illinois Educational Labor Relations Board.

(f) "Regional Superintendent" means the regional superintendent of schools provided for in Articles 3 and 3A of The School Code.

(g) "Supervisor" means any individual having authority in the interests of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, reward or discipline other employees within the appropriate bargaining unit and adjust their grievances, or to effectively recommend such action if the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment. The term "supervisor" includes only those individuals who devote a preponderance of their employment time to such exercising authority.

(h) "Unfair labor practice" or "unfair practice" means any practice prohibited by Section 14 of this Act.

(i) "Person" includes an individual, educational employee, educational employer, legal representative, or employee organization.

(j) "Wages" means salaries or other forms of compensation for services rendered.

(k) "Professional employee" means, in the case of a public community college, State college or university, State agency whose major function is providing educational services, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired, (1) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or (2) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (1) of this subsection, and (ii) is performing related work under the supervision of a professional person to qualify himself or herself to become a professional as defined in paragraph (l).

(l) "Professional employee" means, in the case of any public school district, or combination of school districts pursuant to joint agreement, any employee who has a certificate issued under Article 21 or Section 34-83 of the School Code, as now or hereafter amended.

(m) "Unit" or "bargaining unit" means any group of employees for which an exclusive representative is selected.

(n) "Confidential employee" means an employee, who (i) in the regular course of his or her duties, assists and acts in a confidential capacity to persons who formulate, determine and effectuate management policies with regard to labor relations or who (ii) in the regular course of his or her duties has access to information relating to the effectuation or review of the employer's collective bargaining policies.

(o) "Managerial employee" means an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of such management policies and practices.

(p) "Craft employee" means a skilled journeyman, craft person, and his or her apprentice or helper.

(q) "Short-term employee" is an employee who is employed for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable expectation that he or she will be rehired by the same employer for the same service in a subsequent calendar year. Nothing in this subsection shall affect the employee status of individuals who were covered by a collective bargaining agreement on the effective date of this amendatory Act of 1991.

(Source: P.A. 95-331, eff. 8-21-07; 96-104, eff. 1-1-10.)

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

Senator Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2149

AMENDMENT NO. 2. Amend Senate Bill 2149, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 1, line 16, by replacing "reflective" with "necessary to effect the implementation"; and

on page 2, line 7, by replacing "reflective" with "necessary to effect the implementation"; and

on page 4, by replacing lines 7 through 9 with the following: "extension of taxes for the purpose of repaying an emergency financial assistance loan levied pursuant to Section 1H-65 of the School Code."; and

on page 29, line 18, by replacing "loan payments" with "loans ~~loan payments~~"; and

on page 30, line 9, after "available.", by inserting "An emergency financial assistance loan to the Panel or district shall not be considered part of the calculation of a district's debt for purposes of the limitation specified in Section 19-1 of this Code."; and

on page 34, line 5, after "district", by inserting "or the State Board may establish a Panel without a petition from the district"; and

on page 35, line 6, by replacing "administrator" with "superintendent or chief executive officer"; and

on page 36, line 12, by deleting "The State"; and

on page 36, by deleting lines 13 and 14; and

on page 38, line 5, by replacing "powers" with "powers, provided that the Panel shall have no power to terminate an employee without following the statutory procedures for such terminations set forth in this Code"; and

on page 39, by deleting lines 13 and 14; and

on page 44, line 7, by deleting "administration"; and

on page 45, line 24, by replacing "District Emergency Financial Assistance" with "district emergency financial assistance"; and

on page 46, line 1, by deleting "Fund"; and

on page 46, line 1, after the period, by inserting "The Panel may prepare and file with the State"; and

on page 46, by deleting lines 2 through 25; and

on page 47, line 1, by replacing "its" with "the"; and

on page 47, line 1, after "budget", by inserting "of the Panel, in accordance with Section 1B-8 of this Code"; and

on page 47, line 2, by deleting "State emergency"; and

on page 47, by deleting lines 3 through 26; and

by deleting page 48; and

on page 49, by deleting lines 1 through 13; and

on page 52, by deleting lines 13 through 25; and

on page 53, by deleting lines 1 through 18; and

on page 69, line 22, by replacing "the School" with "this"; and

on page 70, lines 4, 8, 12, and 16, by replacing "the School" each time it appears with "this".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Haine, **Senate Bill No. 2256** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 2256

AMENDMENT NO. 1. Amend Senate Bill 2256 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by changing Section 1 as follows:

(215 ILCS 5/1) (from Ch. 73, par. 613)

Sec. 1. Short title. This Act shall be known and ~~and~~ may be cited as the Illinois Insurance Code.

(Source: P.A. 96-328, eff. 8-11-09.)".

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 Harmon, **Senate Bill No. 2268** having been printed, was taken up, read by title a second time.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2268

AMENDMENT NO. 1. Amend Senate Bill 2268 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by adding Section 36-1.5 as follows:

(720 ILCS 5/36-1.5 new)

Sec. 36-1.5. Preliminary Review.

(a) Within 14 days of the seizure, the State shall seek a preliminary determination from the circuit court as to whether there is probable cause that the property may be subject to forfeiture.

(b) The rules of evidence shall not apply to any proceeding conducted under this Section.

(c) The court may conduct the review under subsection (a) simultaneously with a proceeding pursuant to Section 109-1 of the Code of Criminal Procedure of 1963 for a related criminal offense of a prosecution is commenced by information or complaint.

(d) The court may accept a finding of probable cause at a preliminary hearing following the filing of an information or complaint charging a related criminal offense or following the return of indictment by a grand jury charging the related offense as sufficient evidence of probable cause as required under subsection (a).

(e) Upon making a finding of probable cause as required under this Section, the circuit court shall enter a restraining order or injunction, or take other appropriate action, as necessary to ensure that the property is not removed from the court's jurisdiction and is not concealed, destroyed, or otherwise disposed of by the property owner or interest holder before a forfeiture hearing is conducted.

Section 10. The Drug Asset Forfeiture Procedure Act is amended by changing Section 6 and by adding Section 3.5 as follows:

(725 ILCS 150/3.5 new)

Sec. 3.5. Preliminary Review.

(a) Within 14 days of the seizure, the State shall seek a preliminary determination from the circuit court as to whether there is probable cause that the property may be subject to forfeiture.

(b) The rules of evidence shall not apply to any proceeding conducted under this Section.

(c) The court may conduct the review under subsection (a) simultaneously with a proceeding pursuant to Section 109-1 of the Code of Criminal Procedure of 1963 for a related criminal offense of a prosecution is commenced by information or complaint.

(d) The court may accept a finding of probable cause at a preliminary hearing following the filing of an information or complaint charging a related criminal offense or following the return of indictment by a grand jury charging the related offense as sufficient evidence of probable cause as required under subsection (a).

(e) Upon making a finding of probable cause as required under this Section, the circuit court shall enter a restraining order or injunction, or take other appropriate action, as necessary to ensure that the property is not removed from the court's jurisdiction and is not concealed, destroyed, or otherwise disposed of by the property owner or interest holder before a forfeiture hearing is conducted.

(725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

Sec. 6. Non-Judicial Forfeiture. If non-real property that exceeds $150,000 ~~$20,000~~ in value excluding the value of any conveyance, or if real property is seized under the provisions of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act, the State's Attorney shall institute judicial in rem forfeiture proceedings as described in Section 9 of this Act within 45 days from receipt of notice of seizure from the seizing agency under Section 5 of this Act. However, if non-real property that does not exceed $150,000 ~~$20,000~~ in value excluding the value of any conveyance is seized, the following procedure shall be used:

(A) If, after review of the facts surrounding the seizure, the State's Attorney is of the opinion that the seized property is subject to forfeiture, then within 45 days of the receipt of notice of seizure from the seizing agency, the State's Attorney shall cause notice of pending forfeiture to be given to the owner of the property and all known interest holders of the property in accordance with Section 4 of this Act.

(B) The notice of pending forfeiture must include a description of the property, the estimated value of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action.

(C) (1) Any person claiming an interest in property which is the subject of notice under subsection (A) of Section 6 of this Act, may, within 45 days after the effective date of notice as described in Section 4 of this Act, file a verified claim with the State's Attorney expressing his or her interest in the property. The claim must set forth:

(i) the caption of the proceedings as set forth on the notice of pending forfeiture and the name of the claimant;

(ii) the address at which the claimant will accept mail;

(iii) the nature and extent of the claimant's interest in the property;

(iv) the date, identity of the transferor, and circumstances of the claimant's

acquisition of the interest in the property;

(v) the name and address of all other persons known to have an interest in the property;

(vi) the specific provision of law relied on in asserting the property is not subject to forfeiture;

(vii) all essential facts supporting each assertion; and

(viii) the relief sought.

(2) If a claimant files the claim and deposits with the State's Attorney a cost bond, in the form of a cashier's check payable to the clerk of the court, in the sum of 10 percent of the reasonable value of the property as alleged by the State's Attorney or the sum of $100, whichever is greater, upon condition that, in the case of forfeiture, the claimant must pay all costs and expenses of forfeiture proceedings, then the State's Attorney shall institute judicial in rem forfeiture proceedings and deposit the cost bond with the clerk of the court as described in Section 9 of this Act within 45 days after receipt of the claim and cost bond. In lieu of a cost bond, a person claiming interest in the seized property may file, under penalty of perjury, an indigency affidavit.

(3) If none of the seized property is forfeited in the judicial in rem proceeding, the clerk of the court shall return to the claimant, unless the court orders otherwise, 90% of the sum which has been deposited and shall retain as costs 10% of the money deposited. If any of the seized property is forfeited under the judicial forfeiture proceeding, the clerk of the court shall transfer 90% of the sum which has been deposited to the State's Attorney prosecuting the civil forfeiture to be applied to the costs of prosecution and the clerk shall retain as costs 10% of the sum deposited.

(D) If no claim is filed or bond given within the 45 day period as described in subsection (C) of Section 6 of this Act, the State's Attorney shall declare the property forfeited and shall promptly notify the owner and all known interest holders of the property and the Director of the Illinois Department of State Police of the declaration of forfeiture and the Director shall dispose of the property in accordance with law.

(Source: P.A. 94-556, eff. 9-11-05.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Sandack, **Senate Bill No. 2270** having been printed, was taken up, read by title a second time.

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

Senator Sandack offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2270

AMENDMENT NO. 2. Amend Senate Bill 2270 by replacing everything after the enacting clause with the following:

"Section 5. The Child Murderer and Violent Offender Against Youth Registration Act is amended by changing Section 5 as follows:

(730 ILCS 154/5)

Sec. 5. Definitions.

(a) As used in this Act, "violent offender against youth" means any person who is:

(1) charged pursuant to Illinois law, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, with a violent offense against youth set forth in subsection (b) of this Section or the attempt to commit an included violent offense against youth, and:

(A) is convicted of such offense or an attempt to commit such offense; or

(B) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(C) is found not guilty by reason of insanity pursuant to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(D) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to subsection (a) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged commission or attempted commission of such offense; or

(E) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(F) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to subsection (c) of Section 104-25 of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(2) adjudicated a juvenile delinquent as the result of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in subsection (b) or (c-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, or found guilty under Article V of the Juvenile Court Act of 1987 of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in subsection (b) or (c-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Act as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Act.

For purposes of this Section, "convicted" shall have the same meaning as "adjudicated". For the purposes of this Act, a person who is defined as a violent offender against youth as a result of being adjudicated a juvenile delinquent under paragraph (2) of this subsection (a) upon attaining 17 years of age shall be considered as having committed the violent offense against youth on or after the 17th birthday of the violent offender against youth. Registration of juveniles upon attaining 17 years of age shall not extend the original registration of 10 years from the date of conviction.

(b) As used in this Act, "violent offense against youth" means:

(1) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age and the offense was committed on or after January 1, 1996:

10-1 (kidnapping),

10-2 (aggravated kidnapping),

10-3 (unlawful restraint),

10-3.1 (aggravated unlawful restraint). ~~,~~

~~12-3.2 (domestic battery),~~

~~12-3.3 (aggravated domestic battery),~~

~~12-4 (aggravated battery),~~

~~12-4.1 (heinous battery),~~

~~12-4.3 (aggravated battery of a child),~~

~~12-4.4 (aggravated battery of an unborn child),~~

~~12-33 (ritualized abuse of a child).~~

An attempt to commit any of these offenses.

(2) First degree murder under Section 9-1 of the Criminal Code of 1961, when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense.

(3) Child abduction under paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998.

(4) A violation or attempted violation of ~~any of~~ the following Section ~~Sections~~ of the Criminal Code of 1961 when the offense was committed on or after July 1, 1999:

10-4 (forcible detention, if the victim is under 18 years of age).

(4.1) Involuntary manslaughter under Section 9-3 of the Criminal Code of 1961 where baby shaking was the proximate cause of death of the victim of the offense.

(4.2) Endangering the life or health of a child under Section 12-21.6 of the Criminal Code of 1961 that results in the death of the child where baby shaking was the proximate cause of the death of the child.

(4.3) Domestic battery resulting in bodily harm under Section 12-3.2 of the Criminal Code of 1961 when the defendant was 18 years or older and the victim was under 18 years of age and the offense was

committed on or after July 26, 2010.

(4.4) A violation or attempted violation of any of the following Sections or clauses of the Criminal Code of 1961 when the victim was under 18 years of age and the offense was committed on or after (1) July 26, 2000 if the defendant was 18 years of age or older or (2) July 26, 2010 and the defendant was under the age of 18:

12-3.3 (aggravated domestic battery),

12-4 (a), 12-4(b)(1) or 12-4(b)(14) (aggravated battery),

12-4.1 (heinous battery),

12-4.3 (aggravated battery of a child),

12-4.4 (aggravated battery of an unborn child),

12-33 (ritualized abuse of a child).

(4.5) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the victim was under 18 years of age and the offense was committed on or after (1) August 1, 2001 if the defendant was 18 years of age or older or (2) August 1, 2011 and the defendant was under the age of 18:

12-4.2 (aggravated battery with a firearm),

12-4.2-5 (aggravated battery with a machine gun),

12-11 (home invasion).

(5) A violation of any former law of this State substantially equivalent to any offense listed in this subsection (b).

(c) A conviction for an offense of federal law, Uniform Code of Military Justice, or the law of another state or a foreign country that is substantially equivalent to any offense listed in subsections (b) and (c-5) of this Section shall constitute a conviction for the purpose of this Act.

(c-5) A person at least 17 years of age at the time of the commission of the offense who is convicted of first degree murder under Section 9-1 of the Criminal Code of 1961, against a person under 18 years of age, shall be required to register for natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in this subsection (c-5) shall constitute a conviction for the purpose of this Act. This subsection (c-5) applies to a person who committed the offense before June 1, 1996 only if the person is incarcerated in an Illinois Department of Corrections facility on August 20, 2004.

(d) As used in this Act, "law enforcement agency having jurisdiction" means the Chief of Police in each of the municipalities in which the violent offender against youth expects to reside, work, or attend school (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside, work, or attend school in an unincorporated area. "Law enforcement agency having jurisdiction" includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

(e) As used in this Act, "supervising officer" means the assigned Illinois Department of Corrections parole agent or county probation officer.

(f) As used in this Act, "out-of-state student" means any violent offender against youth who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher learning.

(g) As used in this Act, "out-of-state employee" means any violent offender against youth who works in Illinois, regardless of whether the individual receives payment for services performed, for a period of time of 10 or more days or for an aggregate period of time of 30 or more days during any calendar year. Persons who operate motor vehicles in the State accrue one day of employment time for any portion of a day spent in Illinois.

(h) As used in this Act, "school" means any public or private educational institution, including, but not limited to, any elementary or secondary school, trade or professional institution, or institution of higher education.

(i) As used in this Act, "fixed residence" means any and all places that a violent offender against youth resides for an aggregate period of time of 5 or more days in a calendar year.

(j) As used in this Act, "baby shaking" means the vigorous shaking of an infant or a young child that may result in bleeding inside the head and cause one or more of the following conditions: irreversible brain damage; blindness, retinal hemorrhage, or eye damage; cerebral palsy; hearing loss; spinal cord injury, including paralysis; seizures; learning disability; central nervous system injury; closed head injury; rib fracture; subdural hematoma; or death.

(Source: P.A. 96-1115, eff. 1-1-11; 96-1294, eff. 7-26-10; revised 9-2-10.)

Section 99. Effective date. This Act takes effect August 1, 2011.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Hunter, **Senate Bill No. 2271,** 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. 2272,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2315,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2319,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2324,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2332,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2333,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2334,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2335,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2336,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2337,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Lauzen, **Senate Bill No. 2139** 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 2139

AMENDMENT NO. 1. Amend Senate Bill 2139 by replacing everything after the enacting clause with the following:

"Section 5. The Park District Code is amended by changing Sections 2-18, 8-1, and 8-9 and by adding Section 2-17.5 as follows:

(70 ILCS 1205/2-17.5 new)

Sec. 2-17.5. Fox Valley Park District.

(a) The Fox Valley Pleasure Driveway and Park District is reorganized by operation of law as the Fox Valley Park District under this Code on the effective date of this amendatory Act of the 97th General Assembly.

(b) Each Fox Valley Park District commissioner shall be a legal voter and reside within the park district. The proper election authority shall conduct the elections for commissioners at the time and in the manner provided by the general election law.

(c) Beginning with the general election in 2012, 7 commissioners shall be elected for 4-year terms from single-member districts. The number of commissioners who are residents of a county shall be in proportion, as nearly as practicable, to the number of residents of the district who reside in that county in relation to the total population of the district. The county board chairperson and county executive, as applicable, of Kane, Dupage, Kendall, and Will county shall each appoint a member, approved by the respective county board, to a commission to draw the initial districts of the Fox Valley Park District. Each of the 4 members of the commission shall receive a weighted vote based upon the population of the district at the time of the last preceding federal decennial census. The commission shall draw and vote upon a map of single-member districts that shall be compact, contiguous, and respect county boundaries as closely as possible. These districts shall be drawn with preference given to drawing districts in single counties. By no later than July 1, 2012, the districts must be approved by the members of the commission for the initial election of commissioners. In the year following the next decennial census and each decennial census thereafter, the board of commissioners shall reapportion the districts to reflect the results of the census. The term of office for the commissioners elected under this Section shall commence on the first Monday of the month following the month of election. The terms of all appointed trustees serving on the effective date of this amendatory Act of the 97th General Assembly shall end on December 2, 2012.

(d) The Fox Valley Park District board of commissioners shall elect officers of the board at the first meeting of the board following the next general election for park district commissioners.

(e) As of the effective date of this amendatory Act of the 97th General Assembly, each Fox Valley Pleasure Driveway and Park District trustee in office shall, as a member of the board of the Fox Valley Park District, perform the duties and exercise the powers conferred upon park board commissioners under this Code, until his or her successor is elected and has qualified.

(f) Any tax authorized by referendum or other means under this Code and levied by the Fox Valley Pleasure Driveway and Park District before the effective date of this amendatory Act of the 97th General Assembly shall not be affected or abrogated because of the name change, and the Fox Valley Park District may continue to levy and collect that tax.

(70 ILCS 1205/2-18) (from Ch. 105, par. 2-18)

Sec. 2-18. (a) Except for the Fox Valley Park District on and after the effective date of this amendatory Act of the 97th General Assembly, in ~~In~~ any Pleasure Driveway and Park District in which the legal voters have heretofore determined that the governing board shall be appointed, such method shall continue in effect and the board shall consist of 7 trustees. In such case and if the district is wholly contained within a single county the trustees shall be appointed by the presiding officer of the county board with the advice and consent of the county board. If the district is located in more than one county, the number of trustees who are residents of a county shall be in proportion, as nearly as practicable, to the number of residents of the district who reside in that county in relation to the total population of the district, except that the board of trustees may determine that one trustee is to be appointed from each county within the district, such appointment to be made by the appropriate appointing authority as hereinafter provided. Each trustee shall be appointed by the county board of his or her county of residence, or in the case of a home rule county, by the chief executive officer of the county with the advice and consent of the county board.

(b) Upon the expiration of the term of a trustee who is in office at the time of the publication of each decennial Federal census of population, the successor shall be a resident of whichever county is entitled to such representation as determined under subsection (a), and he shall be appointed by the county board of that county, or in the case of a home rule county as defined by Article VII, Section 6 of the Illinois Constitution, the chief executive officer of that county, with the advice and consent of the county board. Thereafter, each trustee shall be succeeded by a resident of the same county who shall be appointed by the same appointing authority. The appropriate appointing authority shall appoint trustees biennially for such district on the first Monday in July, to fill the vacancies on the board of trustees caused by the expiration of the term of office of trustees and the trustees shall be legal voters and reside within the park district; provided, that no more than 4 trustees at any one time shall belong to the same political party. Each of the trustees shall receive a certificate of appointment and qualify within 10 days from the receipt of notice of appointment.

Trustees shall be appointed for a period of 4 years and shall hold their office until their successors are appointed and qualified.

Whenever a vacancy is created other than by the expiration of a trustee's term of office, it shall be filled by the appropriate appointing authority as provided in subsection (a).

All trustees appointed for any park district, as herein provided, shall have and exercise all the powers conferred upon trustees elected under the provisions of this Code.

In a Pleasure Driveway and Park District the trustees of which are appointed as herein provided, whenever a provision in this Code or any other applicable law authorizes a public question of any kind to be submitted to the electors of the district at an election, a petition by electors of the district asking that such question be submitted shall be signed by a number of registered voters of such district equal to not less than 10% of the number of registered voters in the district as of the last preceding regular election. (Source: P.A. 86-694.)

(70 ILCS 1205/8-1) (from Ch. 105, par. 8-1)

Sec. 8-1. General corporate powers. Every park district shall, from the time of its organization, be a body corporate and politic by the ~~such~~ name ~~as~~ set forth in the petition for its organization , the specific name set forth in this Code, or the ~~such~~ name ~~as~~ it may adopt under Section 8-9 ~~8-8 hereof~~ and shall have and exercise the following powers:

(a) To adopt a corporate seal and alter the same at pleasure; to sue and be sued; and to contract in furtherance of any of its corporate purposes.

(b) (1) To acquire by gift, legacy, grant or purchase, or by condemnation in the manner provided for the exercise of the power of eminent domain under the Eminent Domain Act, any and all real estate, or rights therein necessary for building, laying out, extending, adorning and maintaining any such parks, boulevards and driveways, or for effecting any of the powers or purposes granted under this Code as its board may deem proper, whether such lands be located within or without such district; but no park district, except as provided in paragraph (2) of this subsection, shall have any power of condemnation in the manner provided for the exercise of the power of eminent domain under the Eminent Domain Act or otherwise as to any real estate, lands, riparian rights or estate, or other property situated outside of such district, but shall only have power to acquire the same by gift, legacy, grant or purchase, and such district shall have the same control of and power over lands so acquired without the district as over parks, boulevards and driveways within such district.

(2) In addition to the powers granted in paragraph (1) of subsection (b), a park district located in more than one county, the majority of its territory located in a county over 450,000 in population and none of its territory located in a county over 1,000,000 in population, shall have condemnation power in the manner provided for the exercise of the power of eminent domain under the Eminent Domain Act or as otherwise granted by law as to any and all real estate situated up to one mile outside of such district which is not within the boundaries of another park district.

(c) To acquire by gift, legacy or purchase any personal property necessary for its corporate purposes provided that all contracts for supplies, materials or work involving an expenditure in excess of $20,000 shall be let to the lowest responsible bidder after due advertisement. No district shall be required to accept a bid that does not meet the district's established specifications, terms of delivery, quality, and serviceability requirements. Contracts which, by their nature, are not adapted to award by competitive bidding, such as contracts for the services of individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important part, contracts for the printing of finance committee reports and departmental reports, contracts for the printing or engraving of bonds, tax warrants and other evidences of indebtedness, contracts for utility services such as water, light, heat, telephone or telegraph, contracts for the use, purchase, delivery, movement, or installation of data processing equipment, software, or services and telecommunications and interconnect equipment, software, or services, contracts for duplicating machines and supplies, contracts for goods or services procured from another governmental agency, purchases of equipment previously owned by some entity other than the district itself, and contracts for the purchase of magazines, books, periodicals, pamphlets and reports are not subject to competitive bidding. Contracts for emergency expenditures are also exempt from competitive bidding when the emergency expenditure is approved by 3/4 of the members of the board.

All competitive bids for contracts involving an expenditure in excess of $20,000 must be sealed by the bidder and must be opened by a member or employee of the park board at a public bid opening at which the contents of the bids must be announced. Each bidder must receive at least 3 days notice of the time and place of the bid opening.

For purposes of this subsection, "due advertisement" includes, but is not limited to, at least one public notice at least 10 days before the bid date in a newspaper published in the district or, if no newspaper is published in the district, in a newspaper of general circulation in the area of the district.

(d) To pass all necessary ordinances, rules and regulations for the proper management and conduct of the business of the board and district and to establish by ordinance all needful rules and regulations for the government and protection of parks, boulevards and driveways and other property under its jurisdiction, and to effect the objects for which such districts are formed.

(e) To prescribe such fines and penalties for the violation of ordinances as it shall deem proper not

exceeding $1,000 for any one offense, which fines and penalties may be recovered by an action in the name of such district in the circuit court for the county in which such violation occurred. The park district may also seek in the action, in addition to or instead of fines and penalties, an order that the offender be required to make restitution for damage resulting from violations, and the court shall grant such relief where appropriate. The procedure in such actions shall be the same as that provided by law for like actions for the violation of ordinances in cities organized under the general laws of this State, and offenders may be imprisoned for non-payment of fines and costs in the same manner as in such cities. All fines when collected shall be paid into the treasury of such district.

(f) To manage and control all officers and property of such districts and to provide for joint ownership with one or more cities, villages or incorporated towns of real and personal property used for park purposes by one or more park districts. In case of joint ownership, the terms of the agreement shall be fair, just and equitable to all parties and shall be set forth in a written agreement entered into by the corporate authorities of each participating district, city, village or incorporated town.

(g) To secure grants and loans, or either, from the United States Government, or any agency or agencies thereof, for financing the acquisition or purchase of any and all real estate, or rights therein, or for effecting any of the powers or purposes granted under this Code as its Board may deem proper.

(h) To establish fees for the use of facilities and recreational programs of the districts and to derive revenue from non-resident fees from their operations. Fees charged non-residents of such district need not be the same as fees charged to residents of the district. Charging fees or deriving revenue from the facilities and recreational programs shall not affect the right to assert or utilize any defense or immunity, common law or statutory, available to the districts or their employees.

(i) To make contracts for a term exceeding one year, but not to exceed 3 years, notwithstanding any provision of this Code to the contrary, relating to: (1) the employment of a park director, superintendent, administrator, engineer, health officer, land planner, finance director, attorney, police chief, or other officer who requires technical training or knowledge; (2) the employment of outside professional consultants such as engineers, doctors, land planners, auditors, attorneys, or other professional consultants who require technical training or knowledge; and (3) the provision of data processing equipment and services. With respect to any contract made under this subsection (i), the corporate authorities shall include in the annual appropriation ordinance for each fiscal year an appropriation of a sum of money sufficient to pay the amount which, by the terms of the contract, is to become due and payable during that fiscal year.

(j) To enter into licensing or management agreements with not-for-profit corporations organized under the laws of this State to operate park district facilities if the corporation covenants to use the facilities to provide public park or recreational programs for youth.

(Source: P.A. 94-1055, eff. 1-1-07; 95-67, eff. 1-1-08.)

(70 ILCS 1205/8-9) (from Ch. 105, par. 8-9)

Sec. 8-9. Name change.

(a) Whenever two-thirds of the governing board of a park district shall approve an ordinance or resolution to change the name of such park district, a copy of such ordinance or resolution shall be duly certified by the president and secretary of such board and filed in the office of the county clerk of the counties wherein such park district is located. Upon the filing of the aforesaid ordinance or resolution for change of name in the office of said county clerk such change of name of such park district shall be complete.

(b) Whenever a Public Act changes the name of a park district, the secretary of the board of the park district shall, within 30 days after the date upon which the Public Act becomes law, obtain copies of the Public Act that are duly certified by the Secretary of State and file a certified copy of the Public Act in the office of the county clerk of each county in which the park district is located. The change of name of a park district by a Public Act shall be complete upon the Public Act becoming law.

(Source: Laws 1951, p. 113.)

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 Steans, **Senate Bill No. 2348,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2357,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2365,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2370,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2373,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2378,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2390,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2392,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2394,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2403,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2405,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2407,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2408,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2411,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2412,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2413,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2414,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2415,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2420,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2430,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2431,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2434,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2435,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2437,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2444,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2445,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2446,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2447,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2453,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2454,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2458,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 2462,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2468,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 2475,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Silverstein, **Senate Bill No. 59** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 59

AMENDMENT NO. _1__. Amend Senate Bill 59 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Student Transfer Achievement Reform Act.

Section 5. Definitions. In this Act:

"Associate degree for transfer" means an associate of arts or associate of sciences degree, as defined in rules of the Illinois Community College Board.

"Community college" means a public community college in this State.

"State university" means a public university in this State.

Section 10. Associate degree for transfer.

(a) Commencing with the fall term of the 2013-2014 academic year, a community college student who

is eligible to complete an associate degree for transfer granted pursuant to subsection (b) of this Section is deemed eligible for transfer into the baccalaureate program of a State university and shall be considered to have fulfilled all lower division coursework.

(b) As a condition of receipt of State funds, a community college district shall ensure that associate degrees for transfer (i) are from 60 to 67 semester hours or the quarter-hour equivalent; (ii) shall include the following Illinois Articulation Initiative General Education Core Curriculum credits: 9 hours in communication, 4 hours in mathematics, 7 to 8 hours in physical and life sciences, 9 hours in humanities and fine arts, and 9 hours in social and behavioral science, and lower division courses in an identified major field of study as defined in the Illinois Articulation Initiative for that major; and (iii) may include any such additional courses as may be required by the respective community college district board of trustees. An associate of science degree shall be from 60 to 68 semester hours or the quarter-hour equivalent; shall include the following Illinois Articulation Initiative General Education Core Curriculum credits: 9 hours in communication, 8 hours in mathematics, 11 to 12 hours in physical and life sciences, 6 hours in humanities and fine arts, and 6 hours in social and behavioral science, and lower division courses in an identified major field of study; and may include any such additional courses as may be required by the respective community college district board of trustees.

(c) The General Assembly encourages a community college district to consider the articulation agreements and other work between the respective faculties from the affected community college and State universities in implementing the requirements of this Section.

(d) The General Assembly encourages community colleges to facilitate the acceptance of credits earned at other community colleges and from lower division courses completed at 4-year colleges and universities toward an associate degree for transfer pursuant to this Section.

(e) This Section does not preclude students who are assessed below collegiate level from acquiring developmental coursework in preparation for obtaining an associate degree for transfer. Developmental coursework must not be counted as part of the transferable units required pursuant to subsection (b) of this Section.

Section 15. Admission to a State university. Notwithstanding any other provisions of law to the contrary, a State university shall, upon admission to the university, guarantee admission with junior status to any community college student who meets all of the requirements of Section 10 of this Act. Admission to a State university, as provided under this Act, does not guarantee admission for specific majors.

Section 20. Coursework. A State university may require a student transferring pursuant to this Act to take additional courses at the State university, so long as the student is not required to have taken more than 127 semester hours or the equivalent number of quarter hours in combination with the associate degree for transfer and the baccalaureate degree. A State university may not require students transferring pursuant to this Act to repeat courses that are similar to those taken at the community college that counted toward an associate degree for transfer granted pursuant to Section 10 of this Act, regardless of whether the credits earned and the courses required were offered at a different level. Determination of course equivalency or similarity must be made by (i) the Illinois Articulation Initiative major panels or (ii) faculty at the respective institutions from and to which students transfer. Courses certified by the Illinois Articulation Initiative shall transfer as equivalencies and are not subject to individual evaluation by the respective institutions.

Section 25. Board of Higher Education reviews and reports.

(a) The Board of Higher Education shall review the implementation of this Act and file a report on that review with the General Assembly on or before May 31, 2014, as provided in Section 3.1 of the General Assembly Organization Act.

(b) The Board of Higher Education shall review both of the following and file a report on that review with the General Assembly within 4 years after the effective date of this Act, as provided in Section 3.1 of the General Assembly Organization Act:

(1) The outcomes of implementation of this Act, including, but not limited to, all of the following:

(A) The number of community college students who earned bachelor's degrees after transferring with an associate degree for transfer following the effective date of this Act.

(B) The average amount of time and units it takes a community college student earning an associate degree for transfer pursuant to this Act to transfer to and graduate from a State university, as compared to the average amount of time and units it took community college transfer

students prior to the implementation of this Act.

(C) Student progression and completion rates.

(D) Other relevant indicators of student success.

(E) The degree to which the requirements for an associate degree for transfer take into account existing articulation agreements and the degree to which community colleges facilitate the acceptance of credits between community college districts, as outlined in subsections (c) and (d) of Section 10 of this Act.

(F) It is the intent of the General Assembly that student outcome data provided under this subsection (b) include the degree to which State universities were able to accommodate students admitted under this Act in being admitted to the State university of their choice without having to repeat coursework already completed successfully at the community college.

(2) Recommendations for statutory changes necessary to facilitate the goal of a clear and transparent transfer process.

Section 30. Implementation of Act; intent. It is the intent of the General Assembly that the requirements placed on community college districts pursuant to this Act be carried out in the normal course of program development and approval, course scheduling, and degree issuance and do not represent any new activities or a higher level of service on the part of community college districts.

Section 90. The State Mandates Act is amended by adding Section 8.35 as follows:

(30 ILCS 805/8.35 new)

Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by the Student Transfer Achievement Reform 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 Silverstein, **Senate Bill No. 63** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 63

AMENDMENT NO. 1. Amend Senate Bill 63 on page 4, by replacing lines 16 through 19 with the following:

"efficient manner, provided that, no later than 2 business days following the last day to file an objection to a candidate for judicial office, the State Board of Elections shall remove the home residence address of each Supreme, Appellate, or Circuit Judge, and each candidate for Supreme, Appellate, or Circuit Judge, listed on its website; and".

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 Silverstein, **Senate Bill No. 64** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 64

AMENDMENT NO. 1. Amend Senate Bill 64 on page 2, line 19, by inserting "actual" after "another"; and

on page 2, line 23, by inserting "actual" after "some"; and

on page 2, line 26, by inserting "actual" after "another".

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 Silverstein, **Senate Bill No. 71** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 71

AMENDMENT NO. 1. Amend Senate Bill 71 by replacing line 6 on page 1 through line 6 on page 3 with the following:

"(215 ILCS 5/356z.19 new)

Sec. 356z.19. Hearing aid coverage offer.

(a) As used in this Section:

"Audiological services" means those services medically necessary pursuant to accepted professional medical or audiological standards to assess, select, and adjust or fit the hearing instrument to ensure optimal performance, including, but not limited to, audiological exams, replacement ear molds, and repairs to the hearing instrument.

"Hearing aid" means any wearable, non-disposable instrument or device designed to aid or compensate for impaired human hearing in cases where functional ability cannot be restored either medically or surgically and any parts, attachments, or accessories for the instrument or device, including an ear mold but excluding batteries and cords.

(b) On or after the effective date of this Section, every insurer that amends, delivers, issues, or renews group accident and health policies providing coverage for hospital or medical treatment or services on an expense-incurred basis shall offer, for an additional premium and subject to the insurer's standard of insurability, optional coverage for the reasonable and necessary medical treatment for audiological services and hearing aids. This coverage shall only apply to hearing aids that are prescribed, filled, and dispensed by a licensed audiologist or a licensed physician.

(c) Coverage provided under this Section may be subject to all applicable co-payments, co-insurance, deductibles, and out-of-pocket limits, for up to $2,500 per hearing aid per insured's hearing impaired ear subject to the following restrictions:

(1) for all insured individuals, hearing aids may be replaced up to once every 38 months as prescribed and dispensed by a licensed audiologist or licensed physician;

(2) for all insured individuals, any hearing aid may be replaced at any time regardless of the restrictions of item (1) of this subsection (c) if there is a significant change in the insured individual's hearing status; such significant change is defined as a change of 10 decibels HL on the 3-frequency pure-tone average (500 Hz, 1000 Hz, and 2000 Hz) on a valid audiogram provided by a licensed audiologist or licensed physician;

(3) for children up to 2 years of age, additional ear molds may be replaced up to 4 times per year; and

(4) for all insured individuals, audiological services shall be covered at all times when prescribed by a licensed audiologist or licensed physician.

(d) The coverage required by this Section shall be subject to other general exclusions and limitations of the policy, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members, utilization review of health care services, including review of medical necessity, case management, experimental and investigational treatments, and other managed care provisions.".

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 Lightford, **Senate Bill No. 1292,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Lightford, **Senate Bill No. 1310,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Lightford, **Senate Bill No. 1342,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Muñoz, **Senate Bill No. 1587,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Muñoz, **Senate Bill No. 1589,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Lightford, **Senate Bill No. 1794,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Lightford, **Senate Bill No. 1795** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1795

AMENDMENT NO. 1. Amend Senate Bill 1795 in Section 5, in the introductory clause, by deleting "14-8.02,"; and

in Section 5, by deleting Sec. 14-8.02.

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

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 1862**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Collins, A.	Hutchinson	Martinez	Schmidt
Collins, J.	Johnson, C.	McCann	Schoenberg
Crotty	Johnson, T.	McCarter	Silverstein
Cultra	Jones, E.	Mulroe	Steans
Delgado	Jones, J.	Muñoz	Sullivan
Dillard	Koehler	Murphy	Syverson
Duffy	Kotowski	Noland	Trotter
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

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

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

On motion of Senator Koehler, **Senate Bill No. 1865**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 45; NAYS 5; Present 1.

The following voted in the affirmative:

Althoff	Harmon	Lightford	Sandoval
Bivins	Holmes	Link	Schmidt
Bomke	Hunter	Maloney	Schoenberg
Brady	Hutchinson	Martinez	Silverstein
Collins, A.	Johnson, C.	McCann	Steans
Collins, J.	Johnson, T.	Mulroe	Sullivan
Crotty	Jones, E.	Muñoz	Syverson
Delgado	Koehler	Noland	Trotter
Dillard	Kotowski	Pankau	Mr. President
Forby	LaHood	Raoul	
Frerichs	Landek	Righter	
Haine	Lauzen	Sandack	

The following voted in the negative:

Cultra	Garrett	McCarter
Duffy	Jacobs	

The following voted present:

Rezin

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

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

Senator Lauzen asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the negative on **Senate Bill No. 1865**.

On motion of Senator Pankau, **Senate Bill No. 1869**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Raoul
Bivins	Harmon	Lightford	Rezin
Bomke	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President

Garrett	Landek	Radogno

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

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

On motion of Senator Hunter, **Senate Bill No. 1894**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 51; NAYS None.

The following voted in the affirmative:

Althoff	Garrett	Lauzen	Raoul
Bivins	Haine	Lightford	Rezin
Bomke	Harmon	Link	Righter
Brady	Holmes	Luechtefeld	Sandack
Collins, A.	Hunter	Maloney	Sandoval
Collins, J.	Hutchinson	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Trotter
Forby	Kotowski	Noland	Mr. President
Frerichs	LaHood	Radogno	

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

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

On motion of Senator Sullivan, **Senate Bill No. 1913**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Rezin
Bivins	Harmon	Lightford	Righter
Bomke	Holmes	Link	Sandack
Brady	Hunter	Luechtefeld	Sandoval
Collins, A.	Hutchinson	Maloney	Schmidt
Collins, J.	Jacobs	Martinez	Schoenberg
Crotty	Johnson, C.	McCann	Silverstein
Cultra	Johnson, T.	McCarter	Steans
Delgado	Jones, E.	Mulroe	Sullivan
Dillard	Jones, J.	Muñoz	Syverson
Duffy	Koehler	Murphy	Trotter
Forby	Kotowski	Noland	Mr. President
Frerichs	LaHood	Pankau	

Garrett	Landek	Radogno

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

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

On motion of Senator Harmon, **Senate Bill No. 1929**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAYS None; Present 1.

The following voted in the affirmative:

Althoff	Harmon	Lightford	Righter
Bivins	Holmes	Link	Sandack
Bomke	Hunter	Luechtefeld	Schmidt
Collins, A.	Hutchinson	Maloney	Schoenberg
Collins, J.	Jacobs	Martinez	Silverstein
Crotty	Johnson, C.	McCann	Steans
Cultra	Johnson, T.	McCarter	Sullivan
Delgado	Jones, E.	Mulroe	Syverson
Dillard	Jones, J.	Muñoz	Trotter
Duffy	Koehler	Murphy	Mr. President
Forby	Kotowski	Noland	
Frerichs	LaHood	Pankau	
Garrett	Landek	Radogno	
Haine	Lauzen	Rezin	

The following voted present:

Sandoval

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

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

On motion of Senator J. Collins, **Senate Bill No. 1933**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Lightford	Sandack
Bivins	Holmes	Link	Sandoval
Bomke	Hunter	Luechtefeld	Schmidt
Brady	Hutchinson	Maloney	Schoenberg
Collins, A.	Jacobs	Martinez	Silverstein
Collins, J.	Johnson, C.	McCann	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Delgado	Jones, E.	Muñoz	Syverson

Dillard	Jones, J.	Murphy	Trotter
Duffy	Koehler	Noland	Mr. President
Forby	Kotowski	Pankau	
Frerichs	LaHood	Radogno	
Garrett	Landek	Rezin	
Haine	Lauzen	Righter	

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

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

On motion of Senator Delgado, **Senate Bill No. 1943**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Holmes	Luechtefeld	Sandack
Bomke	Hunter	Maloney	Sandoval
Brady	Hutchinson	Martinez	Schmidt
Collins, A.	Johnson, C.	McCann	Schoenberg
Collins, J.	Johnson, T.	McCarter	Silverstein
Crotty	Jones, E.	Mulroe	Steans
Delgado	Jones, J.	Muñoz	Sullivan
Dillard	Koehler	Murphy	Syverson
Duffy	Kotowski	Noland	Trotter
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	
Haine	Lightford	Rezin	
Harmon	Link	Righter	

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

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

On motion of Senator Delgado, **Senate Bill No. 1950**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 53; NAYS None; Present 1.

The following voted in the affirmative:

Althoff	Harmon	Lightford	Righter
Bivins	Holmes	Link	Sandack
Bomke	Hunter	Luechtefeld	Sandoval
Brady	Hutchinson	Maloney	Schmidt
Collins, A.	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Mulroe	Steans

Delgado	Jones, E.	Muñoz	Sullivan
Dillard	Jones, J.	Murphy	Syverson
Duffy	Koehler	Noland	Trotter
Forby	Kotowski	Pankau	Mr. President
Frerichs	LaHood	Radogno	
Garrett	Landek	Raoul	
Haine	Lauzen	Rezin	

The following voted present:

Cultra

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

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

On motion of Senator Maloney, **Senate Bill No. 1967**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Raoul
Bivins	Harmon	Lightford	Rezin
Bomke	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President
Garrett	Landek	Radogno	

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

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

On motion of Senator Dillard, **Senate Bill No. 2007**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAYS None.

The following voted in the affirmative:

Bivins	Holmes	Luechtefeld	Sandack
Bomke	Hunter	Maloney	Sandoval

Collins, A.	Hutchinson	Martinez	Schmidt
Collins, J.	Johnson, C.	McCann	Schoenberg
Crotty	Johnson, T.	McCarter	Silverstein
Cultra	Jones, E.	Mulroe	Steans
Delgado	Jones, J.	Muñoz	Sullivan
Dillard	Koehler	Murphy	Syverson
Duffy	Kotowski	Noland	Trotter
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	
Haine	Lightford	Rezin	
Harmon	Link	Righter	

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

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

On motion of Senator Frerichs, **Senate Bill No. 2009**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Raoul
Bivins	Harmon	Lightford	Rezin
Bomke	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Schmidt
Collins, J.	Jacobs	Martinez	Schoenberg
Crotty	Johnson, C.	McCann	Silverstein
Cultra	Johnson, T.	McCarter	Sullivan
Delgado	Jones, E.	Mulroe	Syverson
Dillard	Jones, J.	Muñoz	Trotter
Duffy	Koehler	Murphy	Mr. President
Forby	Kotowski	Noland	
Frerichs	LaHood	Pankau	
Garrett	Landek	Radogno	

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

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

SENATE BILL RECALLED

On motion of Senator Frerichs, **Senate Bill No. 2010** was recalled from the order of third reading to the order of second reading.

Senator Frerichs offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2010

AMENDMENT NO. 2. Amend Senate Bill 2010, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Fertilizer Act of 1961 is amended by changing Sections 2, 3, 4, 5, 6, 6a, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 18a, 19, 20, and 21 and by adding Section 21.5 as follows:

(505 ILCS 80/2) (from Ch. 5, par. 55.2)

Sec. 2. Enforcing official. The Director of the Department of Agriculture, hereinafter referred to as the "Director", shall administer this Act. ~~This Act shall be administered by the Director of the Department of Agriculture, hereinafter referred to as the "Director".~~

(Source: Laws 1961, p. 3085.)

(505 ILCS 80/3) (from Ch. 5, par. 55.3)

Sec. 3. Definitions of words and terms. When used in this Act unless the context otherwise requires:

"AAPFCO" means the Association of American Plant Food Control Officials.

"Anhydrous ammonia" means the compound formed by the combination of 2 gaseous elements, nitrogen and hydrogen, in the proportion of one part of nitrogen to 3 parts of hydrogen (NH3) by volume. Anhydrous ammonia is a fertilizer of ammonia gas in compressed and liquified form. It is not aqueous ammonia which is a solution of ammonia gas in water and which is considered a low-pressure nitrogen solution.

"Blender" means any person or system engaged in the business of blending fertilizer. This includes both mobile and fixed equipment, excluding application equipment, used to achieve this function.

"Blending" means the physical mixing or combining of: one or more fertilizer materials and one or more filler materials; 2 or more fertilizer materials; 2 or more fertilizer materials and filler materials, including mixing through the simultaneous or sequential application of any of the outlined combinations listed in this definition, to produce a uniform mixture.

"Brand" means a term, design, or trademark used in connection with one or several grades of commercial fertilizers.

"Bulk" means any fertilizer distributed in a non-packaged form.

"Custom blend" means a fertilizer blended according to specifications provided to a blender in a soil test nutrient recommendation or to meet the specific consumer request prior to blending.

~~(a) The term "fertilizer material" means any substance containing nitrogen, phosphorus, potash or any other recognized plant nutrient element or compound which is used primarily for its plant nutrient content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.~~

~~(b) The term "mixed fertilizer" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.~~

~~(c) The term "commercial fertilizer" means mixed fertilizer and/or fertilizer materials except the following natural products: agricultural limestone, marl, sea solids and unprocessed animal manure, which have not been manipulated so as to alter or change them chemically and burnt or hydrated lime, and sewage sludge produced by any sanitary district shall not be subject to the provisions of this Act. Such term does not include "custom mixes" as defined herein.~~

~~(d) The term "anhydrous ammonia" means the compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the proportion of one part of nitrogen to three parts of hydrogen (NH 3) by volume. Anhydrous ammonia is a commercial fertilizer of ammonia gas in compressed and liquified form. It is not aqueous ammonia which is a solution of ammonia gas in water and which is considered a low pressure nitrogen solution.~~

~~(e) The term "specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, green houses and nurseries, and may include commercial fertilizer used for research or experimental purposes.~~

~~(f) The term "bulk fertilizers" means commercial fertilizer or custom mix distributed in a non packaged form.~~

~~(g) The term "custom mix" means a mixture of 2 or more commercial fertilizers mixed at time of shipment to the specific order of the consumer.~~

"Custom blender" ~~(h) The term "custom mixer"~~ means a person who produces and sells custom blends ~~mixes~~.

"Deficiency" means the amount of nutrient found by analysis less than that guaranteed that may result from a lack of nutrient ingredients or from lack of uniformity.

"Department" means the Illinois Department of Agriculture.

"Department rules or regulations" means any rule or regulation implemented by the Department as authorized under Section 14 of this Act.

"Director" means the Director of Agriculture or a duly authorized representative.

"Distribute" means to import, consign, manufacture, produce, store, transport, custom blend, compound, or blend fertilizer or to transfer from one container to another for the purpose of selling, giving away, bartering, or otherwise supplying fertilizer in this State.

"Distributor" means any person who distributes.

"Fertilizer" means any substance containing one or more of the recognized plant nutrient nitrogen, phosphate, potash, or those defined under 8 Ill. Adm. Code 210.20 that is used for its plant nutrient content and that is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, sea solids, marl, lime, limestone, wood ashes, and other products exempted by regulation by the Director.

"Fertilizer material" means a fertilizer that either:

(A) contains important quantities of no more than one of the primary plant nutrients: nitrogen (N), phosphate (P2O5), and potash (K2O);

(B) has 85% or more of its plant nutrient content present in the form of a single chemical compound; or

(C) is derived from a plant or animal residue or by-product or natural material deposit that has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

~~(i) The term "brand" means a term, design, or trade mark used in connection with one or several grades of commercial fertilizers.~~

~~(j) The term "guaranteed analysis" means the minimum percentages of plant nutrients claimed in the following order and form:~~

~~A. Total Nitrogen (N).....%~~

~~Available Phosphoric Acid (P2O5).....%~~

~~Soluble Potash (K2O).....%~~

~~B. For unacidulated mineral phosphatic materials and basic slag, both total and available phosphoric acid and the degree of fineness. For bone, tankage, and other organic phosphatic materials, total phosphoric acid.~~

~~C. Additional plant nutrients expressed as the elements, when permitted by regulation.~~

~~D. Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton, when required by regulation.~~

"Grade" ~~(k) The term "grade"~~ means the minimum percentage of total nitrogen, available ~~phosphoric~~ phosphate ~~acid~~ (P2O5) and soluble potash (K2O)

stated in the whole numbers in the same terms, order, and percentages as in the guaranteed analysis, provided that specialty fertilizers may be guaranteed in fractional units of less than 1% of total nitrogen, available phosphate, and soluble potash and that fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units ~~order given in this definition~~.

"Guaranteed analysis" means the minimum percentages of plant nutrients claimed in the following order and form:

A. Total Nitrogen (N).....%

Available Phosphate (P2O5).....%

Soluble Potash (K2O).....%

B. For unacidulated mineral phosphatic materials and basic slag, both total and available phosphate and the degree of fineness. For bone, tankage, and other organic phosphatic materials, total phosphate.

C. Guarantees for plant nutrients other than nitrogen, phosphate, and potash may be permitted or required by regulation by the Director. The guarantees for such other nutrients shall be expressed in the form of the element.

"Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer.

"Label" means the display of all written, printed, or graphic matter upon the immediate container or a statement accompanying a fertilizer.

"Labeling" means all (i) written, printed, or graphic matter upon or accompanying any fertilizer or (ii) advertisements, Internet, brochures, posters, and television and radio announcements used in promoting the sale of fertilizer.

"Lot" means an identifiable quantity of fertilizer that can be sampled according to AOAC International procedures, such as the amount contained in a single vehicle, the amount delivered under a single invoice, or in the case of bagged fertilizer, not more than 25 tons.

~~(l) The term "official sample" means any sample of commercial fertilizer or custom mix taken by the Director or his agent and designated as "official" by the Director.~~

~~(m) The term "ton" means a net weight of 2000 pounds avoirdupois.~~

~~(n) The term "per cent" or "percentage" means the percentage by weight.~~

~~(o) The term "person" means any individual, partnership, association, firm and corporation.~~

~~(p) The term "distribute" means to offer for sale, sell, barter, store, handle, transport or otherwise~~

~~supply commercial fertilizers or custom mix. The term "distributor" means any person who distributes.~~

~~(q) Words importing the singular number may extend and be applied to several persons or things and words importing the plural number may include the singular.~~

~~(r) The term "registrant" means the person who registers commercial fertilizer or custom mix under the provisions of this Act.~~

~~(s) The term~~ " Low-pressure nitrogen solution" means a ~~low pressure~~ solution containing 2 per cent or more by weight of free ammonia and/or having vapor pressure of 5 pounds or more per square inch gauge at 104° F.

"Mixed fertilizer" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

"Official sample" means any sample of fertilizer taken by the Director or his agent and designated as official by the Director.

"Per cent" or "percentage" means the percentage by weight.

"Person" means any individual, partnership, association, firm and corporation.

"Registrant" means the person who registers fertilizer and obtains a license under the provisions of this Act.

"Specialty fertilizer" means a fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, green houses and nurseries, and may include fertilizer used for research or experimental purposes.

"Ton" means a net weight of 2,000 pounds avoirdupois.

"Unit" means 20 pounds or 1% of a ton of plant nutrient.

~~(t) The term "Department" means the Illinois Department of Agriculture.~~

~~(u) The term "Director" means the Director of the Illinois Department of Agriculture or a duly authorized representative.~~

(Source: P.A. 83-586.)

(505 ILCS 80/4) (from Ch. 5, par. 55.4)

Sec. 4. License and product registration ~~Registration~~.

(a) Each brand and grade of ~~commercial~~ fertilizer shall be registered in the name of that person whose name appears upon the label before being distributed in this State. The application for registration shall be submitted with a label or facsimile of same to the Director on form furnished by the Director, and shall be accompanied by a fee of $20 ~~$10~~ per grade within a brand. Upon approval by the Director a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year.

The application shall include the following information:

(1) The net weight

(2) The brand and grade

(3) The guaranteed analysis

(4) The name and address of the registrant.

(a-5) No person whose name appears on the label shall distribute a fertilizer in the State unless the person has secured a license under this Act on forms provided by the Director. The license application shall be accompanied by a fee of $100. Persons who store anhydrous ammonia as a fertilizer, store bulk fertilizer, or custom blend fertilizer at more than one site under the same distributor's name shall identify each additional site with a complete address and remit a license fee of $50 for each additional site. Persons performing lawn care applications for hire are exempt from obtaining a license under this Act.

(b) A distributor shall not be required to register any brand of ~~commercial~~ fertilizer ~~or custom mix~~ which is already registered under this Act by another person.

(c) The plant nutrient content of each and every ~~commercial~~ fertilizer must remain uniform for the period of registration and, in no case, shall the percentage of any guaranteed plant nutrient element be changed in such a manner that the crop-producing quality of the ~~commercial~~ fertilizer is lowered.

(d) (Blank) ~~Each custom mixer shall register annually with the Director on forms furnished by the Director. The application for registration shall be accompanied by a fee of $50, unless the custom mixer elects to register each mixture, paying a fee of $10 per mixture. Upon approval by the Director, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year~~.

(e) A custom blend ~~mix~~ as defined in Section 3 ~~section 3(f)~~, prepared for one consumer shall not be co-mingled with the custom blended ~~mixed~~ fertilizer prepared for another consumer.

(f) All fees collected pursuant to this Section shall be paid to the Fertilizer Control Fund for activities related to the administration and enforcement of this Act ~~paid into the State treasury~~.

(Source: P.A. 93-32, eff. 7-1-03.)

(505 ILCS 80/5) (from Ch. 5, par. 55.5)

Sec. 5. Labeling.

(a) Any ~~commercial~~ fertilizer ~~or custom mix~~ distributed in this State in non-bulk containers shall have placed on or affixed to the container a label setting forth in clearly legible form the following information~~ required by Items (1), (2), (3), and (4) of paragraph (a) of Section 4.~~

(1) net weight;

(2) brand and grade; provided, that the grade shall not be required when no primary nutrients are claimed;

(3) guaranteed analysis;

(4) directions for use for the fertilizer distributed to the consumer; and

(5) name and address of the registrant.

In the case of bulk shipments as a brand or grade of fertilizer, information required by items (1), (2), (3), and (5) of this subsection (a) in a written or printed form shall accompany delivery of each load and be supplied to the purchaser at the time of delivery.

(b) (Blank). ~~If distributed in bulk as a brand or grade of fertilizer, a written or printed statement of the information required by items (1), (2), (3), and (4) of paragraph (a) of Section 4 shall accompany delivery of each load and be supplied to the purchaser at time of delivery.~~

(c) If distributed in bulk as a custom blend ~~mixed~~ fertilizer, a written or printed statement shall accompany delivery of each load and be supplied to the purchaser at time of delivery and must carry information as follows:

1. Weight of each ~~commercial~~ fertilizer used in the custom blend ~~mixing~~.

2. The guaranteed analysis of each ~~commercial~~ fertilizer used in the custom blend ~~mixing~~.

3. Total weight of fertilizer delivered in each load.

4. Name and address of the person selling the fertilizer.

(d) A custom blend ~~mixed~~ fertilizer shall be intimately and uniformly mixed. The Director, in determining for administrative purposes whether a custom blend ~~mix~~ is intimately and uniformly mixed, shall compute the analysis of the load of custom blend ~~mixed~~ fertilizer from the information required by Items (1), (2), and (3) of paragraph (c) of this section.

(e) Each lot of fertilizer shall display identification in a manner that includes, but is not limited to, numerical, alphabetical, date of manufacture, or a combination that distinguishes it from that of other lots distributed.

(f) Fertilizer materials not defined by AAPFCO may be used if the registrant furnishes an acceptable definition, AOAC International or other appropriate method of analysis, heavy metal analysis, and agronomic data when deemed necessary.

(Source: Laws 1963, p. 2240.)

(505 ILCS 80/6) (from Ch. 5, par. 55.6)

Sec. 6. Inspection fees.

(a) There shall be paid to the Director for all ~~commercial~~ fertilizers ~~or custom mix~~ distributed in this State an inspection fee at the rate of 15¢ ~~25¢~~ per ton. Sales ~~to manufacturers~~ or exchanges between registrants ~~them~~ are hereby exempted from the inspection fee.

On individual packages of ~~commercial or custom mix or specialty~~ fertilizers containing 5 pounds or less, or if in liquid form containers of 4,000 cubic centimeters or less, there shall be paid instead of the 15¢ ~~25¢~~ per ton inspection fee, an annual inspection fee of $50 ~~$25~~ for each grade within a brand sold or distributed. Where a person sells ~~commercial or custom mix or specialty~~ fertilizers in packages of 5 pounds or less, or 4,000 cubic centimeters or less if in liquid form, and also sells in larger packages than 5 pounds or liquid containers larger than 4,000 cubic centimeters, this annual inspection fee of $50 ~~$25~~ applies only to that portion sold in packages of 5 pounds or less or 4,000 cubic centimeters or less, and that portion sold in larger packages or containers shall be subject to the same inspection fee of 15¢ ~~25¢~~ per ton as provided in this Act. ~~The increased fees shall be effective after June 30, 1989.~~

(b) Every person who distributes a ~~commercial~~ fertilizer ~~or custom mix~~ in this State shall file with the Director, on forms furnished by the Director, a semi-annual statement for the periods ending June 30 and December 31, setting forth the number of net tons of each grade of ~~commercial~~ fertilizers within a brand or the net tons of custom blend ~~mix~~ distributed. The report shall be due on or before the 30th ~~15th~~ day of the month following the close of each semi-annual period and upon the statement shall pay the inspection fee at the rate stated in paragraph (a) of this Section.

~~One half of the 25¢ per ton inspection fee shall be paid into the Fertilizer Control Fund and all other fees collected under this Section shall be paid into the State treasury.~~

If the tonnage report is not filed and the payment of inspection fee is not made within 30 days after the end of the semi-annual period, a collection fee amounting to 15% ~~10%~~ (minimum $15 ~~$10~~) of the amount shall be assessed against the registrant. The amount of fees due shall constitute a debt and

become the basis of a judgment against the registrant. Upon the written request to the Director additional time may be granted past the normal date of filing the semi-annual statement.

(c) When more than one person is involved in the distribution of a ~~commercial~~ fertilizer, the last registrant who distributes to the consumer or end-user ~~non-registrant (dealer or consumer)~~ is responsible for reporting the tonnage and paying the inspection fee.

(d) All fees collected under this Section shall be paid to the Fertilizer Control Fund for activities related to the administration and enforcement of this Act.

(Source: P.A. 93-32, eff. 7-1-03.)

(505 ILCS 80/6a) (from Ch. 5, par. 55.6a)

Sec. 6a. Nutrient Research and Education Council. The Director is hereby authorized to ensure that distributors remit a designated fertilizer tonnage assessment to the Nutrient Research and Education Council (NREC) for the purpose of pursuing nutrient research and providing educational programs to ensure the adoption and implementation of practices that optimize nutrient use efficiency, ensure soil fertility, and address environmental concerns with regard to fertilizer use. The NREC may also participate in relevant demonstration and cost-share programs to enhance adoption and meet objectives of nutrient efficiency and stewardship programs supported by the NREC.

The NREC shall be comprised of 9 persons, 3 representing the fertilizer industry, 3 persons representing grower organizations, to include at least one member of the State's largest farm organization, one person representing the specialty fertilizer industry, one person representing a certified agronomy organization, and the Director or his or her designee and 4 non-voting members: 2 persons representing environmental organizations, one person representing a State or federal agriculture experiment station and the Director of the Illinois Environmental Protection Agency or his or her designee. In the appointment of persons to the NREC, the organizations designated in this Section shall nominate, and the Director shall select from these nominations, representatives to this Council. Members of the Council shall receive no compensation for their services, and the terms of the Council members, appointment process, and conduct of the meetings shall be outlined in the bylaws established by this Council on their initial appointment by the Director and made available to the industry organizations.

The responsibilities of the NREC are to:

(1) prioritize nutrient research needs and solicit research proposals to generate findings and make recommendations to the Council based on the findings;

(2) evaluate the proposed budget for each research project and make recommendations as necessary;

(3) arrange for peer review of all research proposals for scientific merit and methods;

(4) report the findings of all research projects at industry conferences, publish the findings and implement educational programs to apply the research recommendations in agricultural production systems and in consumer use markets where appropriate;

(5) engage in outreach and field level trials and educational programs with growers and consumers and publicize these events; and

(6) where practical, cooperate with other programs with similar goals.

The Council shall recommend, and the Director shall set, the fertilizer tonnage assessment for the purpose of funding the NREC at no less than 50 cents per ton and no greater than $3 per ton to fund, administer, publish, and implement the research, education, and outreach programs designated each year by the Council. A minimum of 20% of the funds shall be designated for cost-share programs and on-farm demonstration programs to study and address water quality issues. The Council shall report to the Director by December 31 of each year the recommended amount of annual tonnage assessment to be collected the following year from distributors.

Assessments collected from distributors are payable directly to the NREC on a semi-annual basis. This payment shall coincide with the reporting of the tonnage data and the remittance of the inspection fee to the Department. If the NREC assessment is not made to the Council under this Section, then the Director may rescind the license of the distributor. The Council may enter into an agreement with the Director to establish random audits of distributors to assure accurate remittance of the NREC assessment. The NREC may also enter into contracts with other entities approved by the Council for the purposes of fulfilling the objectives of the NREC.

The NREC shall publish annually an activity and financial report of its activities, funds collected, and expenditures for nutrient programs shall be audited at least annually by a certified public accountant and made available within 30 days after its completion to the Director and each Council member for dissemination to their respective organizations. ~~The Department is hereby authorized to establish a program and expend appropriations for a fertilizer research and education program dealing with the relationship of fertilizer use to soil management, soil fertility, plant nutrition problems, and for research~~

~~on environmental concerns which may be related to fertilizer usage; for the dissemination of the results of such research; and for other designated activities including educational programs to promote the correct and effective usage of fertilizer materials.~~

~~To assist in the development and administration of the fertilizer research and education program, the Director is authorized to establish a Fertilizer Research and Education Council consisting of 9 persons. This council shall be comprised of 3 persons representing the fertilizer industry, 3 persons representing crop production, and 2 persons representing the public at large. In the appointment of persons to the council, the Director shall consult with representative persons and recognized organizations in the respective fields concerning such appointments. The Director or his representative from the Department shall act as chairman of the council. The Director shall call meetings thereof from time to time or when requested by 3 or more appointed members of the council.~~

~~The responsibilities of the Fertilizer Research and Education Council are to:~~

~~(a) solicit research and education projects consistent with the scope of the established fertilizer research and education program;~~

~~(b) review and arrange for peer review of all research proposals for scientific merit and methods, and review or arrange for the review of all proposals for their merit, objective, methods and procedures;~~

~~(c) evaluate the proposed budget for the projects and make recommendations as necessary; and~~

~~(d) monitor the progress of projects and report at least once each 6 months on each project's accomplishments to the Director and Board of Agricultural Advisors.~~

~~The Fertilizer Research and Education Council shall at least annually recommend projects to be approved and funded including recommendations on continuation or cancellation of authorized and ongoing projects to the Board of Agricultural Advisors, which is created in Section 5-525 of the Departments of State Government Law (20 ILCS 5/5-525). The Board of Agricultural Advisors shall review the proposed projects and recommendations of the Fertilizer Research and Education Council and recommend to the Director what projects shall be approved and their priority. In the case of authorized and ongoing projects, the Board of Agricultural Advisors shall recommend to the Director the continuation or cancellation of such projects.~~

~~When the Director, the Board of Agricultural Advisors, and the Fertilizer Research and Education Council approve a project and subject to available appropriations, the Director shall grant funds to the person originating the proposal.~~

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

(505 ILCS 80/7) (from Ch. 5, par. 55.7)

Sec. 7. Inspection, sampling, analysis.

(a) It is the duty of the Director, who may act through his authorized agent, to sample, inspect, make analysis of, and test ~~commercial~~ fertilizers ~~and custom mixes~~ distributed within this State at a time and place and to such an extent as the Director ~~he~~ considers necessary to determine whether such ~~commercial~~ fertilizers ~~or custom mixes~~ are in compliance with the provisions of this Act. The Director, individually or through his agent, is authorized to enter upon any public or private premises during regular business hours in order to have access to ~~commercial~~ fertilizers ~~or custom mixes~~ and to records relating to their distribution subject to the provisions of this Act and the rules and regulations pertaining thereto.

(b) The methods of analysis and sampling shall be those adopted by the official agency from sources such as those of the Association of Official Analytical ~~Agricultural~~ Chemists.

(c) The Director, in determining for administrative purposes whether any ~~commercial~~ fertilizer ~~or custom mix~~ is deficient in plant food, shall be guided solely by the official sample as defined in ~~paragraph (k) of~~ Section 3, and obtained and analyzed as provided for in this Section ~~paragraph (b) of Section 7~~.

(d) The results of official analysis of any ~~commercial~~ fertilizer ~~or custom mix~~ which has been found to be subject to penalty or other legal action shall be forwarded by the Director to the registrant at least 10 days before the report is submitted to the purchaser. If during that period no adequate evidence to the contrary is made available to the Director, the report shall become official. Upon request the Director shall furnish to the registrant a portion of any sample found subject to penalty or other legal action.

(Source: P.A. 77-106.)

(505 ILCS 80/8) (from Ch. 5, par. 55.8)

Sec. 8. Plant food deficiency.

If any ~~commercial~~ fertilizer ~~or custom mix~~ offered for sale in this State proves, upon official analysis, to be deficient from its guaranteed analysis, penalty shall be assessed against the manufacturer or custom blender ~~mixer~~ in accordance with the following provisions:

(1) When the value for a single ingredient fertilizer containing nitrogen, available phosphate, or soluble potash is found to be deficient from the guarantee to the extent of 3% to 5% of the total value

~~For a single ingredient fertilizer containing nitrogen or phosphate or potash: when the value of this ingredient is found to be deficient from the guarantee to the extent of 3% and not over 5% of the total value~~, the registrant shall be liable for the actual deficiency in value. When the deficiency exceeds 5% of the total value, the penalty shall be 3 times the actual value of the shortage.

(2) For multiple ingredient fertilizers containing 2 or more of the single ingredients: nitrogen or phosphate or potash, penalties shall be assessed according to (a) or (b) as herein stated. When a multiple ingredient fertilizer is subject to a penalty under both (a) and (b) only the larger penalty shall be assessed.

(a) When the total combined values of the nitrogen or available phosphate ~~phosphoric acid~~ or potash is found to be deficient to the extent of 3% to 5% ~~3% and not over 5%~~, the registrant shall be liable for the actual deficiency in total value. When the deficiency exceeds 5% of the total value, the penalty shall be 3 times the actual value of the shortage.

(b) When either the nitrogen, available phosphate ~~phosphoric acid~~, or potash value is found deficient from the guarantee to the extent of 20% up to the maximum of 4 units (4% plant food), the registrant shall be liable for the value of such shortages.

(3) Deficiencies in any other constituent or constituents covered under Section 3~~, paragraph (i), items B, C, and D~~ of this Act which the registrant is required to or may guarantee shall be evaluated by the Director and penalties therefor shall be prescribed by the Director.

(a) Nothing contained in this Section shall prevent any person from appealing to a court of competent jurisdiction for judgment as to the justification of such penalties.

(b) All penalties assessed under this Section shall be paid to the consumer of the lot of ~~commercial~~ fertilizer ~~or custom mix~~ purchased, and which is represented by the sample analyzed, within 3 months after the date of notice from the Director to the registrant. Receipts shall be taken therefor and promptly forwarded to the Director. If such consumers cannot be found, the amount of the penalty shall be paid to the Director who shall deposit the same in the General Revenue Fund in the State Treasury.

(Source: Laws 1963, p. 2240.)

(505 ILCS 80/9) (from Ch. 5, par. 55.9)

Sec. 9. Commercial value. On the basis of information secured from persons holding registrant's permit to sell fertilizers in Illinois, the following values will be used for purposes of assessing penalties as provided by Section 8 of this Act:

Nitrogen	$6.00 ~~$3.00~~ per unit (30¢ ~~15¢~~ per pound)
Total P2O5 in Rock	
Phosphate	1.44 ~~.72~~ per unit (7.2¢ ~~3.6¢~~ per pound)
Available P2O5	4.00 ~~2.00~~ per unit (20¢ ~~10¢~~ per pound)
Potash	2.00 ~~1.00~~ per unit (10¢ ~~5¢~~ per pound).

In the event that the actual retail price is substantially greater than the value as calculated at the above rates, the penalty shall be based on the retail price. In addition, the Director may require that any lot subject to penalty be returned to the registrant and all costs involved in the return of such goods shall be borne by the registrant. However, in the case of bulk fertilizers, the person offering fertilizer for sale in bulk shall be responsible for guaranteeing such fertilizer and shall be liable for all penalties assessed under the provisions of Section 8.

(Source: P.A. 89-626, eff. 8-9-96.)

(505 ILCS 80/10) (from Ch. 5, par. 55.10)

Sec. 10. Minimum plant food content.

No superphosphate containing less than 18% available phosphate ~~phosphoric acid~~ nor any mixed fertilizer or custom blend ~~mix~~, other than a custom blend ~~mix~~ consisting in part of unacidulated mineral phosphatic materials, in which the sum of the guarantees for the nitrogen, available phosphate ~~phosphoric acid~~, and soluble potash totals less than 20% shall be distributed in this State. Specialty fertilizers are exempt from minimum plant food requirements for mixed fertilizers and custom blends ~~mixes~~.

(Source: Laws 1961, p. 3085.)

(505 ILCS 80/11) (from Ch. 5, par. 55.11)

Sec. 11. Misbranding or adulteration. ~~False or misleading statements.~~

(a) It is unlawful for any person to distribute a fertilizer that is misbranded or adulterated within this State. A fertilizer shall be deemed misbranded if:

(1) its labeling is false or misleading in any particular;

(2) it is distributed under the name of another fertilizer product;

(3) it is not labeled as required by this Act or its rules; or

(4) it purports to be or is represented as a fertilizer, or is represented as containing a plant nutrient

or fertilizer, unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by regulation of the Director; in adopting such regulations the Director shall give due regard to commonly accepted definitions and official fertilizer terms such as those issued by the Association of American Plant Food Control Officials.

(b) A fertilizer shall be deemed adulterated if:

(1) it contains any deleterious or harmful substance, defined under the provisions of this Act or its rules or regulations, in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label;

(2) its composition falls below or differs from that which it is purported to possess by its labeling; or

(3) it contains unwanted crop seed or weed seed. ~~A commercial fertilizer or custom mix is misbranded if it carries any false or misleading statement upon or attached to the container, or if false or misleading statements concerning its agricultural value are made on the container or in any advertising matter accompanying or associated with the commercial fertilizer or custom mix. It is unlawful to distribute a misbranded commercial fertilizer or custom mix only after a notice of hearing has been issued, served, a hearing held, and opportunity is given for the defendant to appeal to a court of competent jurisdiction from the decision of the hearing, if he so elects, within a period of 10 days after such hearing.~~

(Source: Laws 1961, p. 3085.)

(505 ILCS 80/12) (from Ch. 5, par. 55.12)

Sec. 12. Tonnage reports; records.

(a) Any person distributing fertilizer to a consumer or end-user ~~non-registrant~~ in this State shall provide the Director with a summary report on or before the 10th day of each month covering the shipments made during the preceding month of tonnage on a form, provided by the Director, for that purpose. If requested by the NREC, the distributor who supplies fertilizer to the consumer or end user shall also provide to the NREC additional information relevant to general fertilizer use, practices or sales of products that enhance the stabilization, or efficiency of fertilizer.

Specialty fertilizer sold in packages weighing 5 pounds or less or in container of 4000 cubic centimeters or less, shall be reported but no inspection fee will be charged. No information furnished under this Section shall be disclosed by the Department in such a way as to divulge the operation of any person.

(b) Persons engaged in the sale of ammonium nitrate shall obtain the following information upon its distribution:

(1) the date of distribution;

(2) the quantity purchased;

(3) the license number of the purchaser's valid State or federal driver's license, or an equivalent number taken from another form of picture identification approved for purchaser identification by the Director; and

(4) the purchaser's name, current physical address, and telephone number.

Any retailer of ammonium nitrate may refuse to sell ammonium nitrate to any person attempting to purchase ammonium nitrate (i) out of season, (ii) in unusual quantities, or (iii) under suspect purchase patterns.

(c) Records created under subsection (b) of this Section shall be maintained for a minimum of 2 years. Such records shall be available for inspection, copying, and audit by the Department as provided under this Act.

(Source: P.A. 95-219, eff. 8-16-07.)

(505 ILCS 80/13) (from Ch. 5, par. 55.13)

Sec. 13. Publications.

The Director shall publish at least semi-annually and in such forms as he may deem proper:

(a) Information concerning the distribution of ~~commercial~~ fertilizers ~~and custom mixes~~ by counties.

(b) Results of analysis based on official samples of ~~commercial~~ fertilizers ~~and custom mixes~~ distributed within the state as compared with the analysis guaranteed under Sections 4 and 5.

(Source: Laws 1961, p. 3085.)

(505 ILCS 80/14) (from Ch. 5, par. 55.14)

Sec. 14. Rules and regulations.

(a) For the enforcement of this Act, the Director is authorized, after due notice and public hearing, to prescribe and to enforce such rules and regulations relating to the distribution of fertilizers, the equipment, containers, and storage pertaining to anhydrous ammonia, and low-pressure nitrogen solutions ~~commercial fertilizer or custom mix~~ as ~~he~~ may be ~~find~~ necessary to carry into effect the full

intent and meaning of this Act.

(b) The official definitions of fertilizers and official fertilizer terms as adopted and published by the Association of American Plant Food Control Officials and any amendments or supplements thereto are the official definitions of fertilizers and official fertilizer terms, except insofar as specifically defined in Section 3 or amended, modified, or rejected by a rule adopted by the Director.

(Source: Laws 1961, p. 3085.)

(505 ILCS 80/15) (from Ch. 5, par. 55.15)

Sec. 15. Short weight. If any ~~commercial~~ fertilizer ~~or custom mix~~ in the possession of the consumer is found by the Director to be short in weight, the registrant of such ~~commercial~~ fertilizer ~~or custom mix~~ shall, within 30 days after official notice from the Director, pay to the consumer a penalty equal to 4 times the value of the actual shortage.

(Source: Laws 1961, p. 3085.)

(505 ILCS 80/16) (from Ch. 5, par. 55.16)

Sec. 16. Cancellation, suspension, or refusal of registrations and licenses. ~~Cancellation of registrations.~~

The Director may refuse to register a fertilizer or cancel or suspend a fertilizer registration, custom blend, or fertilizer license if:

(1) the composition of the fertilizer does not warrant the claims made;

(2) the fertilizer does not comply with the provisions of this Act or its rules;

(3) the labeling or other materials required for registration do not comply with the provisions of this Act or its rules;

(4) the registrant used fraudulent or deceptive practices to secure registration;

(5) it is determined that a fertilizer poses a risk of unreasonable adverse effects to man or the environment under the provisions of this Act or its rules; or

(6) the registrant does not comply with the provisions of this Act or its rules.

~~The Director is authorized and empowered to cancel the registration of any brand of commercial fertilizer or custom mix or to refuse to register any brand of commercial fertilizer or custom mix as herein provided, upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of this Act or any rules and regulations promulgated thereunder; however, no registration shall be revoked or refused until the registrant has been given the opportunity to appear for a hearing by the Director.~~

(Source: Laws 1961, p. 3085.)

(505 ILCS 80/17) (from Ch. 5, par. 55.17)

Sec. 17. Stop sale; use or removal order.

(a) Whenever the Director finds that a fertilizer is being distributed in violation of this Act or its rules, he or she may issue and serve a written order to stop sale, stop use, or regulate removal upon an owner, operator, manager, or agent in charge of the fertilizer.

(b) The Director shall provide the registrant, if different from the person served under subsection (a), with a copy of any order when corrective action appears to be the responsibility of the registrant.

(c) If an owner, operator, manager, or agent is not available for service of an order upon him or her, the Director shall attach the order to the fertilizer and notify the registrant.

(d) The Director shall remove or vacate an order by written notice when the violated provisions of this Act or its rules have been complied with, the conditions specified have been met, or the violation has been otherwise disposed of by either administrative or judicial action and all costs and expenses incurred in connection with the withdrawal have been paid.

(e) When the Director finds, under the provisions of this Act or its rules, that a fertilizer being distributed in this State is injurious to plants, animals, or man when used in accordance with label directions, he or she may issue an order to remove the fertilizer from the State and establish requirements to effect the expeditious removal of the fertilizer without adverse effects to man or the environment. "Stop sale" orders.

~~The Director or his authorized agent may issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer or custom mix and to hold such lot at a designated place when the Director finds such commercial fertilizer or custom mix is being offered or exposed for sale in violation of any of the provisions of this Act until the law has been complied with and such commercial fertilizer or custom mix is released in writing by the Director or such violation has been otherwise legally disposed of by written authority.~~

~~The Director shall release the commercial fertilizer or custom mix so withdrawn when the requirements of the provisions of this Act have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.~~

(Source: P.A. 77-106.)

(505 ILCS 80/18) (from Ch. 5, par. 55.18)

Sec. 18. Seizure, condemnation and sale.

Any lot of ~~commercial~~ fertilizer ~~or custom mix~~ not in compliance with the provisions of this Act shall be subject to seizure on complaint of the Director or his authorized agent to the circuit court of the county in which such ~~commercial~~ fertilizer ~~or custom mix~~ is located. In the event the court finds such ~~commercial~~ fertilizer ~~or custom mix~~ to be in violation of this Act and orders the condemnation of such ~~commercial~~ fertilizer ~~or custom mix~~, it shall be disposed of in any manner consistent with the quality of the ~~commercial~~ fertilizer ~~or custom mix~~ and the laws of the State. However, in no instance shall the disposition of such ~~commercial~~ fertilizer ~~or custom mix~~ be ordered by the court without first giving the claimant an opportunity to apply to the court for release of such ~~commercial~~ fertilizer ~~or custom mix~~ or for permission to process or re-label the ~~commercial~~ fertilizer ~~or custom mix~~ to bring it into compliance with this Act.

(Source: P.A. 77-106.)

(505 ILCS 80/18a) (from Ch. 5, par. 55.18a)

Sec. 18a. Location and operation.

(a) Before installing ~~commercial~~ fertilizer facilities for the distribution or storage of anhydrous ammonia or low-pressure nitrogen solutions, the owner shall apply to the Department for approval of the location of the facilities. Distribution and storage facilities shall be in compliance with local zoning ordinances and the minimum distance requirements for safe storage of anhydrous ammonia or low-pressure nitrogen solutions as established by Department rule. Existing storage tanks installed prior to the effective date of this amendatory Act of 1983 shall be exempt from the requirements for location approval. Prior to any expansion or modification of such existing storage tanks, written approval shall be obtained from the Department and such tanks shall meet current requirements as established by Department rule.

(b) Authorized Department personnel may enter upon any public or private premises during reasonable business hours and inspect facilities, equipment and vehicles used in the storage, application, and distribution of anhydrous ammonia and low-pressure nitrogen solutions and observe operations as necessary to determine compliance with the provisions of this Act and the rules promulgated hereunder. Department personnel may enter the premises at any time when the health, safety or welfare of the public is threatened by escaping gas, spills, fire, damaged or faulty equipment, accident or act of God.

(c) The Department shall adopt rules and regulations setting forth minimum safety standards covering the design, construction, location, installation and operation of equipment for storage, handling, use and transportation of anhydrous ammonia and low-pressure ~~low pressure~~ nitrogen solutions. Such rules and regulations shall consist of those reasonably necessary for the safety of the public, including persons handling or using such materials, and shall be in substantial conformity with the current nationally accepted safety standards.

(d) The Director or his authorized agent may issue and enforce a written stop use order to the owner or custodian of the facility upon a violation of this Act or the rules and regulations. The Director shall terminate the stop use order upon compliance with the requirements of this Act and rules and regulations.

(e) The Department may adopt rules and regulations setting forth the requirements for the containment of fertilizer products at commercial facilities, which may include, but would not be limited to, the design, inspection, construction, location, installation, and operation for the storage and handling use of bulk liquid fertilizer, bulk dry fertilizer, and low-pressure nitrogen solutions as may be necessary for the protection of ground water, the environment, and public safety. The Department may establish fees for the inspection of such containment facilities.

(f) Nothing in this Section shall apply to facilities that manufacture anhydrous ammonia subject to the OSHA Process Safety Management regulations cited under 29 CFR 1910.119.

(Source: P.A. 85-1327.)

(505 ILCS 80/19) (from Ch. 5, par. 55.19)

Sec. 19. Violations and prosecutions. ~~Violations.~~

(a) If it appears from the examination of any ~~commercial~~ fertilizer or custom blend ~~mix~~ that any of the provisions of this Act or the rules and regulations issued thereunder have been violated, the Director or his or her authorized agent shall cause notice of the violations to be given to the registrant, distributor or possessor from whom the sample was taken. Any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the Director. If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of this Act or rules and regulations issued thereunder have been violated, the Director may certify the facts to the

proper prosecuting attorney.

It shall be unlawful for any person to distribute, store, transport or use anhydrous ammonia or low-pressure ~~nitrogen~~ solutions in violation of this Act or the rules and regulations promulgated thereunder or to violate a stop use order issued by the Director.

(b) Any person convicted of violating any provisions of this Act or any of the rules or regulations issued thereunder, or who impedes, obstructs, hinders or otherwise prevents or attempts to prevent the Director, or his or her duly authorized agent, in the performance of his or her duty in connection with the provisions of this Act, shall be guilty of a business offense punishable by a fine not less than $1,000 plus all costs for each violation under Section 20 of this Act ~~to exceed $1,000~~. In all prosecutions under this Act involving the composition of a ~~commercial~~ fertilizer or custom blend ~~mix~~, a certified copy of the official analysis signed by the Director shall be accepted as prima facie evidence of the composition.

(c) Nothing in this Act shall be construed as requiring the Director or his or her representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the Act if he or she believes that a suitable notice of warning in writing will serve the public interests ~~that the public interests will be served by a suitable notice of warning in writing~~.

(d) It shall be the duty of each State's attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in the circuit court without delay.

(e) (Blank). ~~The Director is authorized to apply for and the court is authorized to grant a temporary restraining order or a preliminary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Act or any rule or regulation promulgated under the Act notwithstanding the existence of other remedies. The injunction shall be entered without bond.~~

(Source: P.A. 83-1362.)

(505 ILCS 80/20) (from Ch. 5, par. 55.20)

Sec. 20. Hearing; notice; injunction.

(a) The Department, over the signature of the Director, is authorized to issue subpoenas and bring before the Department any person or persons in this State to take testimony orally, by deposition, or by exhibit, in the same manner prescribed by law in judicial proceedings and civil cases in the circuit courts of this State. The Director is authorized to issue subpoenas duces tecum for records relating to a fertilizer distributor's or registrant's business.

(b) The Department, over the signature of the Director, may apply to any court for a temporary restraining order or a preliminary or permanent injunction restraining any person from violating or continuing to violate any provision of this Act or its rules. An injunction issued under this Section shall be issued without bond.

(c) When an administrative hearing is held, the hearing officer, upon determination of a violation of this Act, shall levy and the Department shall collect administrative penalties in addition to any initial penalty levied by this Act on a per occurrence basis as follows:

(1) A penalty of $1000 shall be imposed for the following violations:

(A) neglect or refusal, after notice in writing, to comply with provisions of this Act or its rules or any lawful order of the Director; or

(B) sale, transport, disposal, or distribution of a fertilizer that has been placed under stop-sale order.

(2) A penalty of $500 shall be imposed for the following violations:

(A) thwarting or hindering the Director in the performance of his or her duties by misrepresenting or concealing facts or conditions; or

(B) distribution of a fertilizer that is mislabeled or adulterated.

(3) A penalty of $200 shall be imposed for the following violations:

(A) distribution of a fertilizer that does not have an accompanying label attached or displayed;

(B) failure to comply with any provisions of this Act or its rules; or

(C) distribution in this State of any fertilizer containing noxious weed seed.

When a fertilizer-soil amendment combination labeled in accordance with 8 Ill. Adm. Code 211.40 Subpart (b) is subject to penalties, the larger penalty shall be assessed.

All penalties collected by the Department under this Section shall be deposited into the Fertilizer Control Fund. Any penalty not paid within 60 days after receiving the notice from the Department shall be submitted to the Attorney General's office for collection. ~~Exchanges between manufacturers.~~

~~Nothing in this Act shall be construed to restrict or avoid sales or exchanges of commercial fertilizers to each other by importers, manufacturers or manipulators who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of commercial fertilizer to manufacturers or manipulators who have registered their brands as required by the provisions of this Act.~~

(Source: Laws 1961, p. 3085.)

(505 ILCS 80/21) (from Ch. 5, par. 55.21)

Sec. 21. Exchanges between manufacturers ~~Constitutionality~~. Nothing in this Act shall be construed to restrict or avoid sales or exchanges of fertilizers to each other by importers, manufacturers, or blenders who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of fertilizer to manufacturers or manipulators who have registered their brands as required by the provisions of this Act.

~~If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.~~

(Source: Laws 1961, p. 3085.)

(505 ILCS 80/21.5 new)

Sec. 21.5. Constitutionality. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged invalid by any court of competent jurisdiction, the judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

(505 ILCS 80/6b rep.)

Section 10. The Illinois Fertilizer Act of 1961 is amended by repealing Section 6b.

Section 99. Effective date. This Act takes effect January 1, 2012.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Frerichs, **Senate Bill No. 2012**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 51; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Landek	Radogno
Bivins	Harmon	Lauzen	Rezin
Bomke	Holmes	Lightford	Righter
Brady	Hunter	Link	Sandack
Collins, A.	Hutchinson	Luechtefeld	Sandoval
Collins, J.	Jacobs	Maloney	Schoenberg
Crotty	Johnson, C.	Martinez	Silverstein
Cultra	Johnson, T.	McCann	Steans
Delgado	Jones, E.	McCarter	Sullivan
Dillard	Jones, J.	Muñoz	Syverson
Forby	Koehler	Murphy	Trotter
Frerichs	Kotowski	Noland	Mr. President
Garrett	LaHood	Pankau	

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

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

On motion of Senator Kotowski, **Senate Bill No. 2025**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Righter
Bivins	Harmon	Lightford	Sandack
Bomke	Holmes	Link	Sandoval
Brady	Hunter	Luechtefeld	Schmidt
Collins, A.	Hutchinson	Maloney	Schoenberg
Collins, J.	Jacobs	Martinez	Silverstein
Crotty	Johnson, C.	McCann	Steans
Cultra	Johnson, T.	McCarter	Sullivan
Delgado	Jones, E.	Muñoz	Syverson
Dillard	Jones, J.	Murphy	Trotter
Duffy	Koehler	Noland	Mr. President
Forby	Kotowski	Pankau	
Frerichs	LaHood	Radogno	
Garrett	Landek	Rezin	

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

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

On motion of Senator Kotowski, **Senate Bill No. 2027**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Righter
Bivins	Harmon	Lightford	Sandack
Bomke	Holmes	Link	Sandoval
Brady	Hunter	Luechtefeld	Schmidt
Collins, A.	Hutchinson	Maloney	Schoenberg
Collins, J.	Jacobs	Martinez	Silverstein
Crotty	Johnson, C.	McCann	Steans
Cultra	Johnson, T.	McCarter	Sullivan
Delgado	Jones, E.	Muñoz	Syverson
Dillard	Jones, J.	Murphy	Trotter
Duffy	Koehler	Noland	Mr. President
Forby	Kotowski	Pankau	
Frerichs	LaHood	Radogno	
Garrett	Landek	Rezin	

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

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

On motion of Senator Sandack, **Senate Bill No. 2040**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 50; NAYS 3.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Radogno
Bivins	Harmon	Lightford	Rezin
Bomke	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schoenberg
Cultra	Johnson, C.	McCann	Steans
Delgado	Jones, E.	McCarter	Sullivan
Dillard	Jones, J.	Mulroe	Syverson
Duffy	Koehler	Muñoz	Trotter
Forby	Kotowski	Murphy	Mr. President
Frerichs	LaHood	Noland	
Garrett	Landek	Pankau	

The following voted in the negative:

Johnson, T.
Raoul
Schmidt

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

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

Senator Schmidt asked and obtained unanimous consent for the Journal to reflect her intention to have voted in the affirmative on **Senate Bill No. 2040**.

Senator Raoul asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 2040**.

On motion of Senator Sullivan, **Senate Bill No. 2056**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Rezin
Bivins	Harmon	Lightford	Righter
Bomke	Holmes	Link	Sandack
Brady	Hunter	Luechtefeld	Sandoval
Collins, A.	Hutchinson	Maloney	Schmidt
Collins, J.	Jacobs	Martinez	Schoenberg
Crotty	Johnson, C.	McCann	Silverstein
Cultra	Johnson, T.	McCarter	Steans
Delgado	Jones, E.	Muñoz	Sullivan
Dillard	Jones, J.	Murphy	Syverson
Duffy	Koehler	Noland	Trotter

Forby	Kotowski	Pankau	Mr. President
Frerichs	LaHood	Radogno	
Garrett	Landek	Raoul	

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

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

On motion of Senator Harmon, **Senate Bill No. 2062**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Raoul
Bivins	Harmon	Lightford	Rezin
Bomke	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President
Garrett	Landek	Radogno	

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

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

On motion of Senator Link, **Senate Bill No. 2073**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAY 1.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Sandack
Bomke	Holmes	Luechtefeld	Sandoval
Brady	Hunter	Maloney	Schoenberg
Collins, A.	Hutchinson	Martinez	Silverstein
Collins, J.	Jacobs	McCann	Steans
Crotty	Johnson, C.	McCarter	Sullivan
Cultra	Johnson, T.	Mulroe	Syverson
Delgado	Jones, E.	Muñoz	Trotter
Dillard	Jones, J.	Murphy	Mr. President

Duffy	Koehler	Noland
Forby	Kotowski	Pankau
Frerichs	LaHood	Radogno
Garrett	Lauzen	Raoul

The following voted in the negative:

Landek

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

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

On motion of Senator Pankau, **Senate Bill No. 2083**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Holmes	Luechtefeld	Sandack
Bivins	Hunter	Maloney	Sandoval
Bomke	Hutchinson	Martinez	Schmidt
Brady	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Mulroe	Steans
Cultra	Jones, E.	Muñoz	Sullivan
Delgado	Jones, J.	Murphy	Syverson
Dillard	Koehler	Noland	Trotter
Duffy	LaHood	Pankau	Mr. President
Forby	Landek	Radogno	
Frerichs	Lauzen	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

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

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

On motion of Senator Althoff, **Senate Bill No. 2096**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 51; NAYS None; Present 1.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Collins, J.	Jacobs	McCann	Schmidt

Crotty	Johnson, C.	McCarter	Schoenberg
Cultra	Johnson, T.	Mulroe	Silverstein
Delgado	Jones, J.	Muñoz	Steans
Dillard	Koehler	Murphy	Sullivan
Forby	Kotowski	Noland	Syverson
Frerichs	LaHood	Pankau	Trotter
Garrett	Landek	Radogno	Mr. President
Haine	Lightford	Raoul	

The following voted present:

Lauzen

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

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

Senator Jones, E. III asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 2096**.

On motion of Senator Garrett, **Senate Bill No. 2133**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAYS None; Present 1.

The following voted in the affirmative:

Althoff	Haine	Link	Righter
Bivins	Harmon	Luechtefeld	Sandack
Bomke	Holmes	Maloney	Sandoval
Brady	Hutchinson	Martinez	Schmidt
Collins, A.	Johnson, C.	McCann	Schoenberg
Collins, J.	Johnson, T.	McCarter	Silverstein
Crotty	Jones, E.	Mulroe	Steans
Cultra	Jones, J.	Muñoz	Sullivan
Delgado	Koehler	Murphy	Syverson
Dillard	Kotowski	Noland	Mr. President
Duffy	LaHood	Pankau	
Forby	Landek	Radogno	
Frerichs	Lauzen	Raoul	
Garrett	Lightford	Rezin	

The following voted present:

Trotter

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

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

SENATE BILL RECALLED

On motion of Senator Garrett, **Senate Bill No. 2138** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 2 was postponed in the Committee on Environment.

Senator Garrett offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2138

AMENDMENT NO. 3. Amend Senate Bill 2138, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1 as follows:

on page 3, line 13, by replacing "Nine" with "Ten"; and

on page 3, line 24, by replacing "one representative" with "two representatives".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Sullivan, **Senate Bill No. 2143**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval
Bomke	Hutchinson	Martinez	Schmidt
Brady	Johnson, C.	McCann	Schoenberg
Collins, J.	Johnson, T.	McCarter	Silverstein
Crotty	Jones, E.	Mulroe	Steans
Cultra	Jones, J.	Muñoz	Sullivan
Delgado	Koehler	Murphy	Syverson
Dillard	Kotowski	Noland	Trotter
Duffy	LaHood	Pankau	Mr. President
Forby	Landek	Radogno	
Frerichs	Lauzen	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

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

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

On motion of Senator Jacobs, **Senate Bill No. 2145**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin

Bivins	Harmon	Link	Righter
Bomke	Hunter	Luechtefeld	Sandack
Brady	Hutchinson	Maloney	Sandoval
Collins, A.	Jacobs	Martinez	Schmidt
Collins, J.	Johnson, C.	McCann	Schoenberg
Crotty	Johnson, T.	McCarter	Silverstein
Cultra	Jones, E.	Mulroe	Steans
Delgado	Jones, J.	Muñoz	Sullivan
Dillard	Koehler	Murphy	Syverson
Duffy	Kotowski	Noland	Trotter
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

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

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

On motion of Senator Holmes, **Senate Bill No. 2188**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Holmes	Link	Righter
Bivins	Hunter	Luechtefeld	Sandack
Bomke	Hutchinson	Maloney	Sandoval
Brady	Jacobs	Martinez	Schmidt
Collins, J.	Johnson, C.	McCann	Schoenberg
Crotty	Johnson, T.	McCarter	Silverstein
Cultra	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President
Garrett	Landek	Radogno	
Haine	Lauzen	Raoul	
Harmon	Lightford	Rezin	

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

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

On motion of Senator Frerichs, **Senate Bill No. 2232**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Raoul
Bivins	Harmon	Lightford	Rezin
Bomke	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President
Garrett	Landek	Radogno	

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

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

On motion of Senator Frerichs, **Senate Bill No. 2236**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Lightford	Rezin
Bivins	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President
Garrett	Landek	Radogno	
Haine	Lauzen	Raoul	

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

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

On motion of Senator Althoff, **Senate Bill No. 2293**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Raoul
Bivins	Harmon	Lightford	Rezin
Bomke	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President
Garrett	Landek	Radogno	

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

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

At the hour of 12:02 o'clock p.m., Senator Trotter, presiding.

On motion of Senator J. Collins, **Senate Bill No. 16**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 35; NAYS 17.

The following voted in the affirmative:

Bomke	Harmon	Link	Sandack
Collins, A.	Hunter	Maloney	Sandoval
Collins, J.	Hutchinson	Martinez	Schoenberg
Crotty	Jacobs	McCann	Silverstein
Delgado	Jones, E.	McCarter	Steans
Forby	Koehler	Mulroe	Sullivan
Frerichs	Kotowski	Muñoz	Trotter
Garrett	Landek	Noland	Mr. President
Haine	Lightford	Raoul	

The following voted in the negative:

Althoff	Johnson, C.	Murphy	Schmidt
Bivins	Johnson, T.	Pankau	Syverson
Cultra	Jones, J.	Radogno	
Dillard	LaHood	Rezin	
Duffy	Lauzen	Righter	

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

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

On motion of Senator Lauzen, **Senate Bill No. 35**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 50; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Collins, A.	Hutchinson	Martinez	Schmidt
Collins, J.	Jacobs	McCann	Schoenberg
Crotty	Johnson, C.	McCarter	Silverstein
Cultra	Johnson, T.	Mulroe	Steans
Delgado	Jones, E.	Muñoz	Sullivan
Duffy	Koehler	Noland	Syverson
Forby	Kotowski	Pankau	Trotter
Frerichs	Landek	Radogno	Mr. President
Garrett	Lauzen	Raoul	
Haine	Lightford	Rezin	

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

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

Senator LaHood asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 35**.

Senator Dillard asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 35.**

On motion of Senator Garrett, **Senate Bill No. 40**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 50; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Sandack
Bomke	Holmes	Luechtefeld	Sandoval
Brady	Hunter	Maloney	Schmidt
Collins, A.	Hutchinson	Martinez	Schoenberg
Collins, J.	Jacobs	McCann	Silverstein
Crotty	Johnson, C.	McCarter	Steans
Cultra	Johnson, T.	Mulroe	Sullivan
Delgado	Jones, E.	Muñoz	Syverson
Duffy	Koehler	Murphy	Trotter
Forby	Kotowski	Noland	Mr. President
Frerichs	Landek	Pankau	
Garrett	Lauzen	Raoul	

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

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

On motion of Senator Garrett, **Senate Bill No. 41**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 51; NAY 1.

The following voted in the affirmative:

Althoff	Harmon	Lightford	Raoul
Bivins	Holmes	Link	Rezin
Bomke	Hunter	Luechtefeld	Sandack
Brady	Hutchinson	Maloney	Sandoval
Collins, A.	Jacobs	Martinez	Schmidt
Collins, J.	Johnson, C.	McCann	Schoenberg
Crotty	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Duffy	Koehler	Muñoz	Sullivan
Forby	Kotowski	Murphy	Syverson
Frerichs	LaHood	Noland	Trotter
Garrett	Landek	Pankau	Mr. President
Haine	Lauzen	Radogno	

The following voted in the negative:

Cultra

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

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

Senator Cultra asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 41**.

On motion of Senator Garrett, **Senate Bill No. 42**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 51; NAYS 2.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Mulroe	Silverstein
Delgado	Jones, E.	Muñoz	Steans
Dillard	Koehler	Murphy	Sullivan
Duffy	Kotowski	Noland	Syverson
Forby	LaHood	Pankau	Trotter

Garrett	Landek	Radogno	Mr. President
Haine	Lightford	Raoul	

The following voted in the negative:

Cultra
Lauzen

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

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

On motion of Senator Martinez, **Senate Bill No. 153**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Raoul
Bivins	Harmon	Lightford	Rezin
Bomke	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President
Garrett	Landek	Radogno	

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

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

On motion of Senator Sullivan, **Senate Bill No. 167**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 46; NAYS 4.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Sandack
Bivins	Harmon	Lightford	Sandoval
Bomke	Holmes	Link	Schmidt
Brady	Hunter	Maloney	Schoenberg
Collins, A.	Hutchinson	Martinez	Silverstein
Collins, J.	Jacobs	McCarter	Steans

Crotty	Johnson, C.	Mulroe	Sullivan
Delgado	Johnson, T.	Muñoz	Syverson
Dillard	Jones, E.	Noland	Trotter
Forby	Koehler	Pankau	Mr. President
Frerichs	Kotowski	Radogno	
Garrett	LaHood	Raoul	

The following voted in the negative:

Cultra	Landek
Duffy	McCann

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

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

On motion of Senator Harmon, **Senate Bill No. 262**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Sandack
Bivins	Harmon	Link	Sandoval
Bomke	Holmes	Maloney	Schmidt
Brady	Hunter	Martinez	Schoenberg
Collins, A.	Hutchinson	McCann	Silverstein
Collins, J.	Jacobs	McCarter	Steans
Crotty	Johnson, C.	Mulroe	Sullivan
Cultra	Johnson, T.	Muñoz	Syverson
Delgado	Jones, E.	Murphy	Trotter
Dillard	Koehler	Noland	Mr. President
Duffy	Kotowski	Pankau	
Forby	LaHood	Radogno	
Frerichs	Landek	Raoul	
Garrett	Lauzen	Rezin	

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

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

On motion of Senator Garrett, **Senate Bill No. 541**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval

Bomke	Hunter	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Mulroe	Steans
Cultra	Jones, E.	Muñoz	Sullivan
Delgado	Jones, J.	Murphy	Syverson
Dillard	Koehler	Noland	Trotter
Duffy	Kotowski	Pankau	Mr. President
Forby	LaHood	Radogno	
Frerichs	Landek	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

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

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

On motion of Senator Garrett, **Senate Bill No. 769**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 51; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandoval
Collins, J.	Hutchinson	Martinez	Schmidt
Crotty	Jacobs	McCann	Schoenberg
Cultra	Johnson, C.	McCarter	Silverstein
Delgado	Johnson, T.	Mulroe	Steans
Dillard	Jones, E.	Muñoz	Sullivan
Duffy	Jones, J.	Murphy	Syverson
Forby	Koehler	Noland	Trotter
Frerichs	Kotowski	Pankau	Mr. President
Garrett	LaHood	Radogno	

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

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

On motion of Senator Bivins, **Senate Bill No. 1240**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Lightford	Rezin
Bivins	Holmes	Link	Righter

Bomke	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President
Garrett	Landek	Radogno	
Haine	Lauzen	Raoul	

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

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

On motion of Senator Harmon, **Senate Bill No. 1278**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Rezin
Bivins	Harmon	Lightford	Righter
Bomke	Holmes	Link	Sandack
Brady	Hunter	Luechtefeld	Sandoval
Collins, A.	Hutchinson	Maloney	Schmidt
Collins, J.	Jacobs	Martinez	Schoenberg
Crotty	Johnson, C.	McCann	Silverstein
Cultra	Johnson, T.	McCarter	Steans
Delgado	Jones, E.	Mulroe	Sullivan
Dillard	Jones, J.	Muñoz	Syverson
Duffy	Koehler	Murphy	Trotter
Forby	Kotowski	Pankau	Mr. President
Frerichs	LaHood	Radogno	
Garrett	Landek	Raoul	

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

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

On motion of Senator Frerichs, **Senate Bill No. 1280**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin

Bivins	Harmon	Link	Sandack
Bomke	Holmes	Luechtefeld	Sandoval
Brady	Hunter	Maloney	Schmidt
Collins, A.	Hutchinson	Martinez	Schoenberg
Collins, J.	Jacobs	McCann	Silverstein
Crotty	Johnson, C.	McCarter	Steans
Cultra	Johnson, T.	Mulroe	Sullivan
Delgado	Jones, E.	Muñoz	Syverson
Dillard	Jones, J.	Murphy	Trotter
Duffy	Koehler	Noland	Mr. President
Forby	Kotowski	Pankau	
Frerichs	LaHood	Radogno	
Garrett	Landek	Raoul	

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

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

SENATE BILLS RECALLED

On motion of Senator Mulroe, **Senate Bill No. 1306** was recalled from the order of third reading to the order of second reading.

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

Senator Mulroe offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1306

AMENDMENT NO. 3. Amend Senate Bill 1306 as follows:

on page 6, by replacing lines 19 through 23 with the following:

"(a) The Commission may adopt any rules and procedures necessary to enforce and administer the provisions of this Act."; and

on page 8, line 2, by replacing "$5.50" with "$10"; and

on page 8, by replacing lines 16 and 17 with the following:

"(a) It shall be unlawful for any person or entity to repossess"; and

on page 8, by replacing lines 22 and 23 with the following:

"(b) It shall be unlawful for any person to repossess a vehicle"; and

on page 9, by replacing lines 2 through 3 with the following:

"I It shall be unlawful for any person to repossess a vehicle"; and

on page 13, line 1, after "Commission.", by inserting the following:

"It shall be unlawful for any person or entity to repossess a vehicle or collateral in the State without a recovery ticket issued by the Commission."; and

on page 13, line 9, after "Act.", by inserting the following:

"State, county, and local municipalities shall work in conjunction with the Commission in the enforcement of this Act."; and

on page 21, by replacing lines 17 and 18 with the following:

"(a) The license and permit fees required under this Act are as follows:"; and

on page 35, line 16, by deleting "No fee may be"; and

on page 35, by deleting lines 17 and 18; and

on page 35, by replacing lines 21 through 23 with the following:
"business of collateral recovery in a manner that is less stringent than the standards established under this Act. To the"; and

on page 36, by replacing lines 1 through 2 with the following:
"including a home rule unit, is less stringent than the standards established under this Act, it is superseded by this Act. This".

By replacing line 20 on page 41 through line 1 on page 42 with the following:
"recovery permit. The Commission may take any immediate disciplinary action that the Commission may deem proper if a person or entity repossesses a vehicle or collateral in the State without a valid license and permit. For all other disciplinary actions against a license or recovery permit holder, the Commission shall (i) notify the accused in writhing of any charges made and the time and place for a hearing on the charges a least 30 days before the date set for the hearing, (ii) direct the accused to file a"; and

on page 49, by replacing lines 6 and 7 with the following:
"Section 999. Effective date. This Act takes effect on July 1, 2012.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Sullivan, **Senate Bill No. 1337** was recalled from the order of third reading to the order of second reading.

Senator Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1337

AMENDMENT NO. 1. Amend Senate Bill 1337 as follows:

on page 3, line 1, by deleting "shall be 10 per person per season limit except that this restriction".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 1531**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Collins, A.	Hutchinson	Martinez	Schmidt
Collins, J.	Jacobs	McCann	Schoenberg
Crotty	Johnson, C.	McCarter	Silverstein
Cultra	Johnson, T.	Mulroe	Steans

Delgado	Jones, E.	Muñoz	Sullivan
Dillard	Koehler	Murphy	Syverson
Duffy	Kotowski	Noland	Trotter
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

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

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

SENATE BILL RECALLED

On motion of Senator Frerichs, **Senate Bill No. 1602** was recalled from the order of third reading to the order of second reading.

Senator Frerichs offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1602

AMENDMENT NO. 1. Amend Senate Bill 1602 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Dental Practice Act is amended by changing Sections 4, 16, 16.1, 17, 18, and 50 as follows:

(225 ILCS 25/4) (from Ch. 111, par. 2304)

(Section scheduled to be repealed on January 1, 2016)

Sec. 4. Definitions. As used in this Act:

(a) "Department" means the Illinois Department of Professional Regulation.

(b) "Director" means the Director of Professional Regulation.

I "Board" means the Board of Dentistry established by Section 6 of this Act.

(d) "Dentist" means a person who has received a general license pursuant to paragraph (a) of Section 11 of this Act and who may perform any intraoral and extraoral procedure required in the practice of dentistry and to whom is reserved the responsibilities specified in Section 17.

(e) "Dental hygienist" means a person who holds a license under this Act to perform dental services as authorized by Section 18.

(f) "Dental assistant" means an appropriately trained person who, under the supervision of a dentist, provides dental services as authorized by Section 17.

(g) "Dental laboratory" means a person, firm or corporation which:

(i) engages in making, providing, repairing or altering dental prosthetic appliances and other artificial materials and devices which are returned to a dentist for insertion into the human oral cavity or which come in contact with its adjacent structures and tissues; and

(ii) utilizes or employs a dental technician to provide such services; and

(iii) performs such functions only for a dentist or dentists.

(h) "Supervision" means supervision of a dental hygienist or a dental assistant requiring that a dentist authorize the procedure, remain in the dental facility while the procedure is performed, and approve the work performed by the dental hygienist or dental assistant before dismissal of the patient, but does not mean that the dentist must be present at all times in the treatment room.

(i) "General supervision" means supervision of a dental hygienist requiring that the patient be a patient of record, that the dentist examine the patient in accordance with Section 18 prior to treatment by the dental hygienist, and that the dentist authorize the procedures which are being carried out by a notation in the patient's record, but not requiring that a dentist be present when the authorized procedures are being performed. The issuance of a prescription to a dental laboratory by a dentist does not constitute general supervision.

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

(k) "Dentistry" means the healing art which is concerned with the examination, diagnosis, treatment planning and care of conditions within the human oral cavity and its adjacent tissues and structures, as

further specified in Section 17.

(l) "Branches of dentistry" means the various specialties of dentistry which, for purposes of this Act, shall be limited to the following: endodontics, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, and oral and maxillofacial radiology.

(m) "Specialist" means a dentist who has received a specialty license pursuant to Section 11(b).

(n) "Dental technician" means a person who owns, operates or is employed by a dental laboratory and engages in making, providing, repairing or altering dental prosthetic appliances and other artificial materials and devices which are returned to a dentist for insertion into the human oral cavity or which come in contact with its adjacent structures and tissues.

(o) "Impaired dentist" or "impaired dental hygienist" means a dentist or dental hygienist who is unable to practice with reasonable skill and safety because of a physical or mental disability as evidenced by a written determination or written consent based on clinical evidence, including deterioration through the aging process, loss of motor skills, abuse of drugs or alcohol, or a psychiatric disorder, of sufficient degree to diminish the person's ability to deliver competent patient care.

(p) "Nurse" means a registered professional nurse, a certified registered nurse anesthetist licensed as an advanced practice nurse, or a licensed practical nurse licensed under the Nurse Practice Act.

(q) "Patient of record" means a patient for whom the patient's most recent dentist has obtained a relevant medical and dental history and on whom the dentist has performed an examination and evaluated the condition to be treated.

I "Dental emergency responder" means a dentist or dental hygienist who is appropriately certified in emergency medical response, as defined by the Department of Public Health.

(s) "Mobile dental van or portable dental unit" means any self-contained or portable dental unit in which dentistry is practiced that can be moved, towed, or transported from one location to another in order to establish a location where dental services can be provided.

(Source: P.A. 94-409, eff. 12-31-05; 95-639, eff. 10-5-07.)

(225 ILCS 25/16) (from Ch. 111, par. 2316)

(Section scheduled to be repealed on January 1, 2016)

Sec. 16. Expiration, renewal and restoration of licenses. The expiration date and renewal date for each license issued under this Act shall be set by rule. The renewal period for each license issued under this Act shall be 3 years. A dentist or dental hygienist may renew a license during the month preceding its expiration date by paying the required fee. A dentist or dental hygienist shall provide proof of current Basic Life Support (BLS) ~~cardiopulmonary resuscitation~~ certification by an organization that has adopted the American Heart Association's guidelines on BLS intended for health care providers at the time of renewal. Basic Life Support ~~Cardiopulmonary resuscitation~~ certification training taken as a requirement of this Section shall be counted for no more than 4 hours during each licensure period towards the continuing education hours under Section 16.1 of this Act. The Department shall provide by rule for exemptions from this requirement for a dentist or dental hygienist with a physical disability that would preclude him or her from performing BLS.

Any dentist or dental hygienist whose license has expired or whose license is on inactive status may have his license restored at any time within 5 years after the expiration thereof, upon payment of the required fee and a showing of proof of compliance with current continuing education requirements, as provided by rule.

Any person whose license has been expired for more than 5 years or who has had his license on inactive status for more than 5 years may have his license restored by making application to the Department and filing proof acceptable to the Department of taking continuing education and of his fitness to have the license restored, including sworn evidence certifying to active practice in another jurisdiction, and by paying the required restoration fee. A person practicing on an expired license is deemed to be practicing without a license. However, a holder of a license may renew the license within 90 days after its expiration by complying with the requirements for renewal and payment of an additional fee. A license renewal within 90 days after expiration shall be effective retroactively to the expiration date.

If a person whose license has expired or who has had his license on inactive status for more than 5 years has not maintained an active practice satisfactory to the department, the Department shall determine, by an evaluation process established by rule, his or her fitness to resume active status and may require the person to complete a period of evaluated clinical experience and may require successful completion of a practical examination.

However, any person whose license has expired while he has been engaged (1) in federal or state service active duty, or (2) in training or education under the supervision of the United States preliminary

to induction into the military service, may have his license restored without paying any lapsed renewal or restoration fee, if within 2 years after termination of such service, training or education other than by dishonorable discharge, he furnishes the Department with satisfactory proof that he has been so engaged and that his service, training or education has been so terminated.
(Source: P.A. 96-617, eff. 8-24-09.)

(225 ILCS 25/16.1) (from Ch. 111, par. 2316.1)

(Section scheduled to be repealed on January 1, 2016)

Sec. 16.1. Continuing education. The Department shall promulgate rules of continuing education for persons licensed under this Act. In establishing rules, the Department shall require a minimum of 48 hours of study in approved courses for dentists during each 3-year licensing period and a minimum of 36 hours of study in approved courses for dental hygienists during each 3-year licensing period.

The Department shall approve only courses that are relevant to the treatment and care of patients, including, but not limited to, clinical courses in dentistry and dental hygiene and nonclinical courses such as patient management, legal and ethical responsibilities, and stress management. The Department shall allow up to 4 hours of continuing education credit hours per license renewal period for volunteer hours spent providing clinical services at, or sponsored by, a nonprofit community clinic, local or state health department, or a charity event. Courses shall not be approved in such subjects as estate and financial planning, investments, or personal health. Approved courses may include, but shall not be limited to, courses that are offered or sponsored by approved colleges, universities, and hospitals and by recognized national, State, and local dental and dental hygiene organizations.

No license shall be renewed unless the renewal application is accompanied by an affidavit indicating that the applicant has completed the required minimum number of hours of continuing education in approved courses as required by this Section. The affidavit shall not require a listing of courses. The affidavit shall be a prima facie evidence that the applicant has obtained the minimum number of required continuing education hours in approved courses. The Department shall not be obligated to conduct random audits or otherwise independently verify that an applicant has met the continuing education requirement. The Department, however, may not conduct random audits of more than 10% of the licensed dentists and dental hygienists in any one licensing cycle to verify compliance with continuing education requirements. If the Department, however, receives a complaint that a licensee has not completed the required continuing education or if the Department is investigating another alleged violation of this Act by a licensee, the Department may demand and shall be entitled to receive evidence from any licensee of completion of required continuing education courses for the most recently completed 3-year licensing period. Evidence of continuing education may include, but is not limited to, canceled checks, official verification forms of attendance, and continuing education recording forms, that demonstrate a reasonable record of attendance. The Illinois State Board of Dentistry shall determine, in accordance with rules adopted by the Department, whether a licensee or applicant has met the continuing education requirements. Any dentist who holds more than one license under this Act shall be required to complete only the minimum number of hours of continuing education required for renewal of a single license. The Department may provide exemptions from continuing education requirements. The exemptions shall include, but shall not be limited to, dentists and dental hygienists who agree not to practice within the State during the licensing period because they are retired from practice.
(Source: P.A. 94-409, eff. 12-31-05.)

(225 ILCS 25/17) (from Ch. 111, par. 2317)

(Section scheduled to be repealed on January 1, 2016)

Sec. 17. Acts Constituting the Practice of Dentistry. A person practices dentistry, within the meaning of this Act:

(1) Who represents himself as being able to diagnose or diagnoses, treats, prescribes, or operates for any disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaw; or

(2) Who is a manager, proprietor, operator or conductor of a business where dental operations are performed; or

(3) Who performs dental operations of any kind; or

(4) Who uses an X-Ray machine or X-Ray films for dental diagnostic purposes; or

(5) Who extracts a human tooth or teeth, or corrects or attempts to correct malpositions of the human teeth or jaws; or

(6) Who offers or undertakes, by any means or method, to diagnose, treat or remove stains, calculus, and bonding materials from human teeth or jaws; or

(7) Who uses or administers local or general anesthetics in the treatment of dental or oral diseases or in any preparation incident to a dental operation of any kind or character; or

(8) Who takes impressions of the human tooth, teeth, or jaws or performs any phase of any operation incident to the replacement of a part of a tooth, a tooth, teeth or associated tissues by means of a filling, crown, a bridge, a denture or other appliance; or

(9) Who offers to furnish, supply, construct, reproduce or repair, or who furnishes, supplies, constructs, reproduces or repairs, prosthetic dentures, bridges or other substitutes for natural teeth, to the user or prospective user thereof; or

(10) Who instructs students on clinical matters or performs any clinical operation included in the curricula of recognized dental schools and colleges; or

(11) Who takes impressions of human teeth or places his or her hands in the mouth of any person for the purpose of applying teeth whitening materials, or who takes impressions of human teeth or places his or her hands in the mouth of any person for the purpose of assisting in the application of teeth whitening materials. A person does not practice dentistry when he or she discloses to the consumer that he or she is not licensed as a dentist under this Act and (i) discusses the use of teeth whitening materials with a consumer purchasing these materials; (ii) provides instruction on the use of teeth whitening materials with a consumer purchasing these materials; or (iii) provides appropriate equipment on-site to the consumer for the consumer to self-apply teeth whitening materials.

The fact that any person engages in or performs, or offers to engage in or perform, any of the practices, acts, or operations set forth in this Section, shall be prima facie evidence that such person is engaged in the practice of dentistry.

The following practices, acts, and operations, however, are exempt from the operation of this Act:

(a) The rendering of dental relief in emergency cases in the practice of his or her profession by a physician or surgeon, licensed as such under the laws of this State, unless he undertakes to reproduce or reproduces lost parts of the human teeth in the mouth or to restore or replace lost or missing teeth in the mouth; or

(b) The practice of dentistry in the discharge of their official duties by dentists in any branch of the Armed Services of the United States, the United States Public Health Service, or the United States Veterans Administration; or

I The practice of dentistry by students in their course of study in dental schools or colleges approved by the Department, when acting under the direction and supervision of dentists acting as instructors; or

(d) The practice of dentistry by clinical instructors in the course of their teaching duties in dental schools or colleges approved by the Department:

(i) when acting under the direction and supervision of dentists, provided that such clinical instructors have instructed continuously in this State since January 1, 1986; or

(ii) when holding the rank of full professor at such approved dental school or college and possessing a current valid license or authorization to practice dentistry in another country; or

(e) The practice of dentistry by licensed dentists of other states or countries at meetings of the Illinois State Dental Society or component parts thereof, alumni meetings of dental colleges, or any other like dental organizations, while appearing as clinicians; or

(f) The use of X-Ray machines for exposing X-Ray films of dental or oral tissues by dental hygienists or dental assistants; or

(g) The performance of any dental service by a dental assistant, if such service is performed under the supervision and full responsibility of a dentist.

For purposes of this paragraph (g), "dental service" is defined to mean any intraoral procedure or act which shall be prescribed by rule or regulation of the Department. Dental service, however, shall not include:

(1) Any and all diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws, or adjacent structures.

(2) Removal of, or restoration of, or addition to the hard or soft tissues of the oral cavity, except for the placing, carving, and finishing of amalgam restorations by dental assistants who have had additional formal education and certification as determined by the Department.

(3) Any and all correction of malformation of teeth or of the jaws.

(4) Administration of anesthetics, except for application of topical anesthetics and monitoring of nitrous oxide. Monitoring of nitrous oxide may be performed after successful completion of a training program approved by the Department.

(5) Removal of calculus from human teeth.

(6) Taking of impressions for the fabrication of prosthetic appliances, crowns, bridges, inlays, onlays, or other restorative or replacement dentistry.

(7) The operative procedure of dental hygiene consisting of oral prophylactic procedures, except for coronal polishing, which may be performed by a dental assistant who has successfully completed a training program approved by the Department. Dental assistants may perform coronal polishing under the following circumstances: (i) the coronal polishing shall be limited to polishing the clinical crown of the tooth and existing restorations, supragingivally; (ii) the dental assistant performing the coronal polishing shall be limited to the use of rotary instruments using a rubber cup or brush polishing method (air polishing is not permitted); and (iii) the supervising dentist shall not supervise more than 4 dental assistants at any one time for the task of coronal polishing.

(h) The practice of dentistry by an individual who:

(i) has applied in writing to the Department, in form and substance satisfactory to the Department, for a general dental license and has complied with all provisions of Section 9 of this Act, except for the passage of the examination specified in subsection (e), of Section 9, of this Act; or

(ii) has applied in writing to the Department, in form and substance satisfactory to the Department, for a temporary dental license and has complied with all provisions of subsection I, of Section 11, of this Act; and

(iii) has been accepted or appointed for specialty or residency training by a hospital situated in this State; or

(iv) has been accepted or appointed for specialty training in an approved dental program situated in this State; or

(v) has been accepted or appointed for specialty training in a dental public health agency situated in this State.

The applicant shall be permitted to practice dentistry for a period of 3 months from the starting date of the program, unless authorized in writing by the Department to continue such practice for a period specified in writing by the Department.

The applicant shall only be entitled to perform such acts as may be prescribed by and incidental to their program of residency or specialty training and shall not otherwise engage in the practice of dentistry in this State.

The authority to practice shall terminate immediately upon:

(1) the decision of the Department that the applicant has failed the examination; or

(2) denial of licensure by the Department; or

(3) withdrawal of the application.

(Source: P.A. 96-617, eff. 8-24-09.)

(225 ILCS 25/18) (from Ch. 111, par. 2318)

(Section scheduled to be repealed on January 1, 2016)

Sec. 18. Acts constituting the practice of dental hygiene; limitations.

(a) A person practices dental hygiene within the meaning of this Act when he or she performs the following acts under the supervision of a dentist:

(i) the operative procedure of dental hygiene, consisting of oral prophylactic procedures;

(ii) the exposure and processing of X-Ray films of the teeth and surrounding structures;

(iii) the application to the surfaces of the teeth or gums of chemical compounds designed to be desensitizing agents or effective agents in the prevention of dental caries or periodontal disease;

(iv) all services which may be performed by a dental assistant as specified by rule pursuant to Section 17, and a dental hygienist may engage in the placing, carving, and finishing of amalgam restorations only after obtaining formal education and certification as determined by the Department;

(v) administration and monitoring of nitrous oxide upon successful completion of a training program approved by the Department;

(vi) administration of local anesthetics upon successful completion of a training program approved by the Department; and

(vii) such other procedures and acts as shall be prescribed by rule or regulation of the Department.

(b) A dental hygienist may be employed or engaged only:

(1) by a dentist;
(2) by a federal, State, county, or municipal agency or institution;
(3) by a public or private school; or
(4) by a public clinic operating under the direction of a hospital or federal, State, county, municipal, or other public agency or institution.

I When employed or engaged in the office of a dentist, a dental hygienist may perform, under general supervision, those procedures found in items (i) through (iv) of subsection (a) of this Section, provided the patient has been examined by the dentist within one year of the provision of dental hygiene services, the dentist has approved the dental hygiene services by a notation in the patient's record and the patient has been notified that the dentist may be out of the office during the provision of dental hygiene services.

(d) If a patient of record is unable to travel to a dental office because of illness, infirmity, or imprisonment, a dental hygienist may perform, under the general supervision of a dentist, those procedures found in items (i) through (iv) of subsection (a) of this Section, provided the patient is located in a long-term care facility licensed by the State of Illinois, a mental health or developmental disability facility, or a State or federal prison. The dentist shall personally examine and diagnose the patient and determine which services are necessary to be performed, which shall be contained in an order to the hygienist and a notation in the patient's record. Such order must be implemented within 120 days of its issuance, and an updated medical history and observation of oral conditions must be performed by the hygienist immediately prior to beginning the procedures to ensure that the patient's health has not changed in any manner to warrant a reexamination by the dentist.

(e) School-based oral health care, consisting of and limited to oral prophylactic procedures, sealants, and fluoride treatments, may be provided by a dental hygienist under the general supervision of a dentist. A dental hygienist may not provide other dental hygiene treatment in a school-based setting, including but not limited to administration or monitoring of nitrous oxide or administration of local anesthetics. The school-based procedures may be performed provided the patient is located at a public or private school and the program is being conducted by a State, county or local public health department initiative or in conjunction with a dental school or dental hygiene program. The dentist shall personally examine and diagnose the patient and determine which services are necessary to be performed, which shall be contained in an order to the hygienist and a notation in the patient's record. Any such order for sealants must be implemented within 120 days after its issuance. Any such order for oral prophylactic procedures or fluoride treatments must be implemented within 180 days after its issuance. An updated medical history and observation of oral conditions must be performed by the hygienist immediately prior to beginning the procedures to ensure that the patient's health has not changed in any manner to warrant a reexamination by the dentist.

(f) Without the supervision of a dentist, a dental hygienist may perform dental health education functions and may record case histories and oral conditions observed.

(g) The number of dental hygienists practicing in a dental office shall not exceed, at any one time, 4 times the number of dentists practicing in the office at the time.

(Source: P.A. 93-113, eff. 1-1-04; 93-821, eff. 7-28-04.)

(225 ILCS 25/50) (from Ch. 111, par. 2350)

(Section scheduled to be repealed on January 1, 2016)

Sec. 50. Patient Records. Every dentist shall make a record of all dental work performed for each patient. The record shall be made in a manner and in sufficient detail that it may be used for identification purposes.

Dental records required by this Section shall be maintained for 10 years. Dental records required to be maintained under this Section, or copies of those dental records, shall be made available upon request to the patient or the patient's guardian. A dentist shall be entitled to reasonable reimbursement for the cost of reproducing these records, which shall not exceed the cost allowed under Section 8-2003 of the Code of Civil Procedure. A dentist providing services through a mobile dental van or portable dental unit shall provide to the patient or the patient's parent or guardian, in writing, the dentist's name, license number, address, and information on how the patient or the patient's parent or guardian may obtain the patient's dental records, as provided by law.

(Source: P.A. 94-409, eff. 12-31-05.)

Section 99. Effective date. This Act takes effect January 1, 2012.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 1653**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Raoul
Bivins	Harmon	Lightford	Rezin
Bomke	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President
Garrett	Landek	Radogno	

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

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

On motion of Senator Harmon, **Senate Bill No. 1654**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Raoul
Bivins	Harmon	Lightford	Rezin
Bomke	Holmes	Link	Righter
Brady	Hunter	Luechtefeld	Sandack
Collins, A.	Hutchinson	Maloney	Sandoval
Collins, J.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Mulroe	Steans
Dillard	Jones, J.	Muñoz	Sullivan
Duffy	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Mr. President
Garrett	Landek	Radogno	

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

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

On motion of Senator Link, **Senate Bill No. 1681**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAY 1.

The following voted in the affirmative:

Althoff	Haine	Lightford	Sandack
Bivins	Harmon	Link	Sandoval
Bomke	Holmes	Luechtefeld	Schmidt
Brady	Hunter	Maloney	Schoenberg
Collins, A.	Hutchinson	Martinez	Silverstein
Collins, J.	Jacobs	McCann	Steans
Crotty	Johnson, C.	McCarter	Sullivan
Cultra	Johnson, T.	Mulroe	Syverson
Delgado	Jones, J.	Muñoz	Trotter
Dillard	Koehler	Murphy	Mr. President
Duffy	Kotowski	Noland	
Forby	LaHood	Pankau	
Frerichs	Landek	Raoul	
Garrett	Lauzen	Righter	

The following voted in the negative:

Radogno

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

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

On motion of Senator Hunter, **Senate Bill No. 1784**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Luechtefeld	Sandack
Bivins	Harmon	Maloney	Sandoval
Bomke	Holmes	Martinez	Schmidt
Brady	Hunter	McCann	Schoenberg
Collins, A.	Jacobs	McCarter	Silverstein
Collins, J.	Johnson, C.	Mulroe	Steans
Crotty	Johnson, T.	Muñoz	Sullivan
Cultra	Jones, J.	Murphy	Syverson
Delgado	Kotowski	Noland	Trotter

Dillard	LaHood	Pankau	Mr. President
Duffy	Landek	Radogno	
Forby	Lauzen	Raoul	
Frerichs	Lightford	Rezin	
Garrett	Link	Righter	

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

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

Senator Hutchinson asked and obtained unanimous consent for the Journal to reflect her intention to have voted in the affirmative on **Senate Bill No. 1784**.

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator J. Collins, **Senate Bill No. 87** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 87

AMENDMENT NO. 1. Amend Senate Bill 87 by replacing everything after the enacting clause with the following:

"Section 5. The Currency Exchange Act is amended by changing Sections 1, 2, 3, 3.1, 3.2, 3.3, 4, 4.1, 4.2, 4.3, 5, 6, 7, 10, 11, 12, 13, 13.1, 14, 14.1, 15, 15.1, 15.1a, 15.1b, 15.1d, 15.2, 16, 17, 18, 19, 19.3, 19.4, 20, 21, and 22.01 and by adding Section 29.5 as follows:

(205 ILCS 405/1) (from Ch. 17, par. 4802)

Sec. 1. Definitions; application of Act.

(a) For the purposes of this Act:

"Community currency exchange" means any person, firm, association, partnership, limited liability company, or corporation, except an ambulatory currency exchange as hereinafter defined, banks incorporated under the laws of this State and National Banks organized pursuant to the laws of the United States, engaged in the business or service of, and providing facilities for, cashing checks, drafts, money orders or any other evidences of money acceptable to such community currency exchange, for a fee or service charge or other consideration, or engaged in the business of selling or issuing money orders under his or their or its name, or any other money orders (other than United States Post Office money orders, Postal Telegraph Company money orders, or Western Union Telegraph Company money orders), or engaged in both such businesses, or engaged in performing any one or more of the foregoing services.

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

"Director" means the Director of the Division of Financial Institutions of the Department of Financial and Professional Regulation.

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

"Ambulatory Currency Exchange" means any person, firm, association, partnership, limited liability company, or corporation, except banks organized under the laws of this State and National Banks organized pursuant to the laws of the United States, engaged in one or both of the foregoing businesses, or engaged in performing any one or more of the foregoing services, solely on the premises of the employer whose employees are being served.

"Location" when used with reference to an ambulatory currency exchange means the premises of the employer whose employees are or are to be served by an ambulatory currency exchange.

"Secretary ~~Director~~" means the Secretary ~~Director~~ of Financial and Professional Regulation or a person authorized by the Secretary or this Act to act in the Secretary's stead ~~Financial Institutions~~. All references in this Act to the Secretary shall be deemed to include the Director, as a person authorized by the Secretary or this Act to assume responsibility for the oversight of the functions of the Department relation to the regulatory supervision of community currency exchanges and ambulatory currency exchanges under this Act.

(b) Nothing in this Act shall be held to apply to any person, firm, association, partnership, limited liability company, or corporation who is engaged primarily in the business of transporting for hire, bullion, currency, securities, negotiable or non-negotiable documents, jewels or other property of great monetary value and who in the course of such business and only as an incident thereto, cashes checks, drafts, money orders or other evidences of money directly for, or for the employees of and with the funds of and at a cost only to, the person, firm, association, partnership, limited liability company, or corporation for whom he or it is then actually transporting such bullion, currency, securities, negotiable or non-negotiable documents, jewels, or other property of great monetary value, pursuant to a written contract for such transportation and all incidents thereof, nor shall it apply to any person, firm, association, partnership, limited liability company, or corporation engaged in the business of selling tangible personal property at retail who, in the course of such business and only as an incident thereto, cashes checks, drafts, money orders or other evidences of money.
(Source: P.A. 90-545, eff. 1-1-98.)

(205 ILCS 405/2) (from Ch. 17, par. 4803)

Sec. 2. License required; violation; injunction. No person, firm, association, partnership, limited liability company, or corporation shall engage in the business of a community currency exchange or in the business of an ambulatory currency exchange without first securing a license to do so from the Secretary ~~Director~~.

Any person, firm, association, partnership, limited liability company, or corporation issued a license to do so by the Secretary ~~Director~~ shall have authority to operate a community currency exchange or an ambulatory currency exchange, as defined in Section 1 hereof.

Any person, firm, association, partnership, limited liability company, or corporation licensed as and engaged in the business of a community currency exchange shall at a minimum offer the service of cashing checks, or drafts, or money orders, or any other evidences of money acceptable to such currency exchange.

No ambulatory currency exchange and no community currency exchange shall be conducted on any street, sidewalk or highway used by the public, and no license shall be issued therefor. An ambulatory currency exchange shall be required to and shall secure a license or licenses for the conduct of its business at each and every location served by it, as provided in Section 4 hereof, whether the services at any such location are rendered for or without a fee, service charge or other consideration. Each plant or establishment is deemed a separate location. No license issued for the conduct of its business at one location shall authorize the conduct of its business at any other location, nor shall any license authorize the rendering of services by an ambulatory currency exchange to persons other than the employees of the employer named therein. If the employer named in such license shall move his business from the address therein set forth, such license shall thereupon expire, unless the Secretary ~~Director~~ has approved a change of address for such location, as provided in Section 13.

Any person, firm, association, partnership, limited liability company, or corporation that violates this Section shall be guilty of a Class A misdemeanor, and the Attorney General or the State's Attorney of the county in which the violation occurs shall file a complaint in the Circuit Court of the county to restrain the violation.
(Source: P.A. 90-545, eff. 1-1-98.)

(205 ILCS 405/3) (from Ch. 17, par. 4804)

Sec. 3. Powers of community currency exchanges. No community or ambulatory currency exchange shall be permitted to accept money or evidences of money as a deposit to be returned to the depositor or upon the depositor's order. ~~; and no~~ No community or ambulatory currency exchange shall be permitted to act as bailee or agent for persons, firms, partnerships, limited liability companies, associations or corporations to hold money or evidences thereof or the proceeds therefrom for the use and benefit of the owners thereof, and deliver such money or proceeds of evidence of money upon request and direction of such owner or owners. A community or ambulatory currency exchange is permitted to engage in, and charge a fee for, the following activities, either directly or as a third-party agent: (i) cashing of checks, drafts, money orders, or any other evidences of money acceptable to the currency exchange, (ii) selling or issuing money orders, (iii) obtaining reports, certificates, governmental permits licenses, and vital statistics and the preparation of necessary applications to obtain the same, (iv) the sale and distribution of bond cards, (v) obtaining, distributing, providing, or selling: State vehicle registration renewals, title transfers and tax remittance forms, city vehicle licenses, and other governmental services, (vi) photocopying and sending and receiving facsimile transmissions, (vii) notary service either by the proprietor of the currency exchange or any currency exchange employee, authorized by the State to act as a notary public, (viii) issuance of travelers checks obtained by the currency exchange from a banking institution under a trust receipt, (ix) accepting for payment utility and other companies' bills, (x) issuance

and acceptance of any third-party debit, credit, or stored value card and loading or unloading, (xi) on-premises automated cash dispensing machines, (xii) sale of rolled coin and paper money, (xiii) exchange of foreign currency through a third-party, (xiv) sale of cards, passes, or tokens for public transit, (xv) providing mail box service, (xvi) sale of phone cards and other pre-paid telecommunication services, (xvii) on-premises public telephone, (xviii) sale of U.S. postage, (xix) money transmission through a licensed third-party money transmitter, (xx) sale of candy, gum, other packaged foods, soft drinks, and other products and services by means of on-premises vending machines, and (xxi) other products and services as may be approved by the Secretary. ~~; provided, that nothing contained herein shall prevent a community or an ambulatory currency exchange from obtaining state automobile and city vehicle licenses for a fee or service charge, or from rendering a photostat service, or from rendering a notary service either by the proprietor of the currency exchange or any one of its employees, authorized by the State of Illinois to act as a notary public, or from selling travelers cheques obtained by the currency exchange from a banking institution under a trust receipt, or from issuing money orders or from accepting for payment utility bills.~~ Any community or ambulatory currency exchange may enter into ~~an~~ agreement s with any utility and other companies to act as ~~its~~ the companies' agent for the acceptance of payment of utility and other companies' bills without charge to the ~~utility~~ customer and, acting under such agreement, may receipt for payments in the names of the utility and other companies. Any community or ambulatory currency exchange may also receive payment of utility and other companies' bills for remittance to companies with which it has no such agency agreement and may charge a fee for such service but may not, in such cases, issue a receipt for such payment in the names of the utility and other companies. However, funds received by currency exchanges for remittance to utility and other companies with which the currency exchange has no agency agreement shall be forwarded to the appropriate utility and other companies by the currency exchange before the end of the next business day.

For the purpose of this Section, "utility and other companies" means any utility company and other company with which the currency exchange may or may not have a contractual agreement and for which the currency exchange accepts payments from consumers for remittance to the utility or other company for the payment of bills.

(Source: P.A. 90-545, eff. 1-1-98.)

(205 ILCS 405/3.1) (from Ch. 17, par. 4805)

Sec. 3.1. Nothing in this Act shall prevent a currency exchange from rendering State or Federal income tax service; nor shall the rendering of such service be considered a violation of this Act if such service be rendered either by the proprietor or any of his employees. For the purposes of this Section, "tax service" does not include making or offering to make a refund anticipation loan as defined by the Tax Refund Anticipation Loan Disclosure Act.

(Source: Laws 1949, p. 336.)

(205 ILCS 405/3.2) (from Ch. 17, par. 4806)

Sec. 3.2. Community currency exchanges and ambulatory currency exchanges may engage in the distribution of Supplemental Nutrition Assistance Program (SNAP) benefits ~~food stamps~~ in accordance with such regulations as are made by the Secretary ~~Director~~.

(Source: P.A. 80-439.)

(205 ILCS 405/3.3) (from Ch. 17, par. 4807)

Sec. 3.3. Additional public services.

(a) Nothing in this Act shall prevent the Secretary ~~Director~~ from authorizing currency exchanges to render additional services to the public if the services are consistent with the provisions of this Act, are within its meaning, are in the best interest of the public, and benefit the general welfare. The currency exchange must request, in writing, the Secretary's approval of the additional service prior to rendering such additional service to the public. The Secretary may charge an additional service investigation fee of $100 per application. The Secretary may, at his or her discretion, revoke any authorization under this Section on 30 days written notice to the currency exchange.

(b) Nothing in this Act shall prevent a community currency exchange from selling candy, gum, other packaged foods, and soft drinks by means of vending machines on its premises.

(Source: P.A. 87-258; 88-583, eff. 8-12-94.)

(205 ILCS 405/4) (from Ch. 17, par. 4808)

Sec. 4. License application; contents; fees. Application for such license shall be in writing under oath and in the form prescribed and furnished by the Secretary ~~Director~~. Each application shall contain the following:

(a) The full name and address (both of residence and place of business) of the applicant, and if the applicant is a partnership, limited liability company, or association, of every member thereof, and the

name and business address if the applicant is a corporation;

(b) The county and municipality, with street and number, if any, where the community currency exchange is to be conducted, if the application is for a community currency exchange license;

(c) If the application is for an ambulatory currency exchange license, the name and address of the employer at each location to be served by it; and

(d) The applicant's occupation or profession; a detailed statement of his business experience for the 10 years immediately preceding his application; a detailed statement of his finances; his present or previous connection with any other currency exchange; whether he has ever been involved in any civil or criminal litigation, and the material facts pertaining thereto; whether he has ever been committed to any penal institution or admitted to an institution for the care and treatment of mentally ill persons; and the nature of applicant's occupancy of the premises to be licensed where the application is for a community currency exchange license. If the applicant is a partnership, the information specified herein shall be required of each partner. If the applicant is a corporation, the said information shall be required of each officer, director and stockholder thereof along with disclosure of their ownership interests. If the applicant is a limited liability company, the information required by this Section shall be provided with respect to each member and manager along with disclosure of their ownership interests.

A community currency exchange license application shall be accompanied by a fee of $1,000 ~~$500~~ for the cost of investigating the applicant. If the ownership of a licensee changes, in whole or in part, a new application must be filed pursuant to this Section along with a $500 fee if the licensee's ownership interests have been transferred or sold to a new person or entity or a fee of $300 if the licensee's ownership interests have been transferred or sold to a current holder or holders of the licensee's ownership interests. When the application for a community currency exchange license has been approved by the Secretary ~~Director~~ and the applicant so advised, an additional sum of $400 ~~$200~~ as an annual license fee for a period terminating on the last day of the current calendar year shall be paid to the Secretary ~~Director~~ by the applicant; provided, that the license fee for an applicant applying for such a license after July 1st of any year shall be $250 ~~$100~~ for the balance of such year.

An application for an ambulatory currency exchange license shall be accompanied by a fee of $100, which fee shall be for the cost of investigating the applicant. An approved applicant shall not be required to pay the initial investigation fee of $100 more than once. When the application for an ambulatory currency exchange license has been approved by the Secretary ~~Director~~, and such applicant so advised, such applicant shall pay an annual license fee of $25 for each and every location to be served by such applicant; provided that such license fee for an approved applicant applying for such a license after July 1st of any year shall be $12 for the balance of such year for each and every location to be served by such applicant. Such an approved applicant for an ambulatory currency exchange license, when applying for a license with respect to a particular location, shall file with the Secretary ~~Director~~, at the time of filing an application, a letter of memorandum, which shall be in writing and under oath, signed by the owner or authorized representative of the business whose employees are to be served; such letter or memorandum shall contain a statement that such service is desired, and that the person signing the same is authorized so to do. The Secretary ~~Director~~ shall thereupon verify the authenticity of the letter or memorandum and the authority of the person who executed it, to do so.

(Source: P.A. 92-398, eff. 1-1-02.)

(205 ILCS 405/4.1) (from Ch. 17, par. 4809)

Sec. 4.1. The General Assembly finds and declares that community currency exchanges provide important and vital services to Illinois citizens, that the number of community currency exchanges should be limited in accordance with the needs of the communities they are to serve, and that it is in the public interest to promote and foster the community currency exchange business and to insure the financial stability thereof. Upon receipt of an application for a license for a community currency exchange, the Secretary ~~Director~~ shall cause an investigation of the need of the community for the establishment of a community currency exchange at the location specified in the application and the effect that granting the license will have on the financial stability of other community currency exchanges that may be serving the community in which the business of the applicant is proposed to be conducted.

"Community", as used in this Act, means a locality where there may or can be available to the people thereof the services of a community currency exchange reasonably accessible to them. If the issuance of a license to engage in the community currency exchange business at the location specified will not promote the needs and the convenience and advantage of the community in which the business of the applicant is proposed to be conducted, then the application shall be denied.

(Source: P.A. 83-652.)

(205 ILCS 405/4.2) (from Ch. 17, par. 4810)

Sec. 4.2. Whensoever the ownership of any Currency Exchange, theretofore licensed under the provisions of this Act, shall be held or contained in any estate subject to the control and supervision of any Administrator, Executor or Guardian appointed, approved or qualified by any Court of the State of Illinois, having jurisdiction so to do, such Administrator, Executor or Guardian may, upon the entry of an order by such Court granting leave to continue the operation of such Currency Exchange, apply to the Secretary ~~Director of Financial Institutions~~ for a license under the provisions of this Act. When any such Administrator, Executor or Guardian shall apply for a Currency Exchange License pursuant to the provisions of this Section, and shall otherwise fully comply with all of the provisions of this Act relating to the application for a Currency Exchange license, the Secretary ~~Director~~ may issue to such applicant a Currency Exchange license. Any Currency Exchange license theretofore issued to a Currency Exchange, for which an application for a license shall be sought under the provisions of this Section, if not previously surrendered, lapsed, or revoked, shall be surrendered, revoked or otherwise terminated before a license shall be issued pursuant to application made therefor under this Section.
(Source: P.A. 92-16, eff. 6-28-01.)

(205 ILCS 405/4.3) (from Ch. 17, par. 4811)

Sec. 4.3. Upon receipt of an application from an ambulatory currency exchange for the conduct of its business at a location to be served by it, the Secretary ~~Director of Financial Institutions~~ shall cause an investigation to be made to determine whether to issue said license. No fee shall be charged for the investigation of an application for a location license. The Secretary ~~Director~~ shall employ the following criteria in making his determination:

(1) the economic benefit and convenience to the persons to be served at the location for which a license has been requested;

(2) the effect that granting a license will have on the financial stability of community currency exchanges;

(3) safety benefits, if any, which may accrue from the granting of the location license;

(4) the effects, if any, which granting of a license will have on traffic, and traffic congestion in the immediate area of the location to be served;

(5) such other factors as the Secretary ~~Director~~ shall deem proper and relevant.
(Source: P.A. 85-1356.)

(205 ILCS 405/5) (from Ch. 17, par. 4812)

Sec. 5. Bond; condition; amount.

(a) Before any license shall be issued to a community currency exchange the applicant shall file annually with and have approved by the Secretary ~~Director~~ a surety bond, issued by a bonding company authorized to do business in this State in the principal sum of $25,000 ~~$10,000~~. Such bond shall run to the Secretary ~~Director~~ and shall be for the benefit of any creditors of such currency exchange for any liability incurred by the currency exchange on any money orders , including any fees and penalties incurred by the remitter should the money order be returned unpaid, issued or sold by the currency exchange and for any liability incurred by the currency exchange for any sum or sums due to any payee or endorsee of any check, draft or money order left with the currency exchange for collection, and for any liability incurred by the currency exchange in connection with the rendering of any of the services referred to in Section 3 of this Act.

From time to time the Secretary ~~Director~~ may determine the amount of liabilities as described herein and shall require the licensee to file a bond in an additional sum if the same is determined to be necessary in accordance with the requirements of this Section. In no case shall the bond be less than the initial $25,000 ~~$10,000~~, nor more than the outstanding liabilities.

(b) In lieu of the surety bond requirements of subsection (a), a community currency exchange licensee may submit evidence satisfactory to the Secretary ~~Director~~ that the community currency exchange licensee is covered by a blanket bond that covers multiple licensees who are members of a statewide association of community currency exchanges. Such a blanket bond must be issued by a bonding company authorized to do business in this State and in a principal aggregate sum of not less than $4,000,000 ~~$2,000,000~~.

(c) An ambulatory currency exchange may sell or issue money orders at any location with regard to which it is issued a license pursuant to this Act, including existing licensed locations, without the necessity of a further application or hearing and without regard to any exceptions contained in existing licenses, upon the filing with the Secretary ~~Director~~ of a surety bond approved by the Secretary ~~Director~~ and issued by a bonding company or insurance company authorized to do business in Illinois, in the principal sum of $100,000. Such bond may be a blanket bond covering all locations at which the ambulatory currency exchange may sell or issue money orders, and shall run to the Secretary ~~Director~~ for the use and benefit of any creditors of such ambulatory currency exchange for any liability incurred

by the ambulatory currency exchange on any money orders issued or sold by it. Such bond shall be renewed annually. If after the expiration of one year from the date of approval of such bond by the Secretary ~~Director~~, it shall appear that the average amount of such liability during the year has exceeded $100,000, the Secretary ~~Director~~ shall require the licensee to furnish a bond for the ensuing year, to be approved by the Secretary ~~Director~~, for an additional principal sum of $1,000 for each $1,000 of such liability or fraction thereof in excess of the original $100,000, except that the maximum amount of such bond shall not be required to exceed $250,000.

(Source: P.A. 93-614, eff. 11-18-03.)

(205 ILCS 405/6) (from Ch. 17, par. 4813)

Sec. 6. Insurance against loss.

(a) Every applicant for a license hereunder shall, after his application for a license has been approved, file with and have approved by the Secretary ~~of Financial and Professional Regulation~~, a policy or policies of insurance issued by an insurance company or indemnity company authorized to do business under the law of this State, which shall insure the applicant against loss by theft, burglary, robbery or forgery in a principal sum as hereinafter provided; if the average amount of cash and liquid funds to be kept on hand in the office of the community currency exchange during the year will not be in excess of $10,000 the policy or policies shall be in the principal sum of $10,000. If such average amount will be in excess of $10,000, the policy or policies shall be for an additional principal sum of $500 for each $1,000 or fraction thereof of such excess over the original $10,000. From time to time, the Secretary may determine the amount of cash and liquid funds on hand in the office of any community currency exchange and shall require the licensee to submit additional policies if the same are determined to be necessary in accordance with the requirements of this Section.

However, any community currency exchange licensed under this Act may meet the insurance ~~bonding~~ requirements of this subsection (a) by submitting evidence satisfactory to the Secretary that the licensee is covered by a blanket insurance policy ~~bond~~ that covers multiple licensees. The blanket insurance policy ~~bond~~: (i) shall insure the licensee against loss by theft, robbery, or forgery; (ii) shall be issued by an insurance ~~a bonding~~ company authorized to do business in this State; and (iii) shall be in the principal sum of an amount equal to the maximum amount required under this Section for any one licensee covered by the insurance policy ~~bond~~.

Any such policy or policies, with respect to forgery, may carry a condition that the community currency exchange assumes the first $1,000 of each claim thereunder.

(b) Before an ambulatory currency exchange shall sell or issue money orders, it shall file with and have approved by the Secretary, a policy or policies of insurance issued by an insurance company or indemnity company authorized to do business under the laws of this State, which shall insure such ambulatory currency exchange against loss by theft, burglary, robbery, forgery or embezzlement in the principal sum of not less than $500,000. If the average amount of cash and liquid funds to be kept on hand during the year will exceed $500,000, the policy or policies shall be for an additional principal sum of $500 for each $1,000 or fraction thereof in excess of $500,000. From time to time the Secretary may determine the amount of cash and liquid funds kept on hand by an ambulatory currency exchange and shall require it to submit such additional policies as are determined to be required within the limits of this Section. No ambulatory currency exchange subject to this Section shall be required to furnish more than one policy of insurance if the policy furnished insures it against the foregoing losses at all locations served by it.

Any such policy may contain a condition that the insured assumes a portion of the loss, provided the insured shall file with such policy a sworn financial statement indicating its ability to act as self-insurer in the amount of such deductible portion of the policy without prejudice to the safety of any funds belonging to its customers. If the Secretary is not satisfied as to the financial ability of the ambulatory currency exchange, he may require it to deposit cash or United States Government Bonds in the amount of part or all of the deductible portion of the policy.

(Source: P.A. 94-538, eff. 1-1-06.)

(205 ILCS 405/7) (from Ch. 17, par. 4814)

Sec. 7. Available funds; minimum amount. Each community currency exchange shall have, at all times, a minimum of $5,000 ~~sum~~ of its own cash funds available for the uses and purposes of its business and said minimum sum shall be exclusive of and in addition to funds received for exchange or transfer; and in addition thereto each such licensee shall at all times have on hand an amount of liquid funds sufficient to pay on demand all outstanding money orders issued by it. ~~Prior to January 1, 1979, this minimum sum shall be $4,000. After January 1, 1979, this minimum sum shall be $5,000.~~

In the event a receiver is appointed in accordance with Section 15.1 of this Act, and the Secretary ~~Director~~ determines that the business of the currency exchange should be liquidated, and if it shall

appear that the said minimum sum was not on hand or available at the time of the appointment of the receiver, then the receiver shall have the right to recover in any court of competent jurisdiction from the owner or owners of such currency exchange, or from the stockholders and directors thereof if such currency exchange was operated by a corporation, or from the members if the currency exchange was operated as a limited liability company, said sum or that part thereof which was not on hand or available at the time of the appointment of such receiver. Nothing contained in this Section shall limit or impair the liability of any bonding or insurance company on any bond or insurance policy relating to such community currency exchange issued pursuant to the requirements of this Act, nor shall anything contained herein limit or impair such other rights or remedies as the receiver may otherwise have.
(Source: P.A. 90-545, eff. 1-1-98.)

(205 ILCS 405/10) (from Ch. 17, par. 4817)

Sec. 10. Qualifications of applicant; denial of license; review. The applicant, and its officers, directors and stockholders, if a corporation, and its managers and members, if a liability company, shall be vouched for by 2 reputable citizens of this State setting forth that the individual mentioned is (a) personally known to them to be trustworthy and reputable, (b) that he has business experience qualifying him to competently conduct, operate, own or become associated with a currency exchange, (c) that he has a good business reputation and is worthy of a license. Thereafter, the Secretary ~~Director~~ shall, upon approval of the application filed with him, issue to the applicant, qualifying under this Act, a license to operate a currency exchange. If it is a license for a community currency exchange, the same shall be valid only at the place of business specified in the application. If it is a license for an ambulatory currency exchange, it shall entitle the applicant to operate only at the location or locations specified in the application, provided the applicant shall secure separate and additional licenses for each of such locations. Such licenses shall remain in full force and effect, until they are surrendered by the licensee, or revoked, or expire, as herein provided. If the Secretary ~~Director~~ shall not so approve, he shall not issue such license or licenses and shall notify the applicant of such denial, retaining the full investigation fee to cover the cost of investigating the community currency exchange applicant. The Secretary ~~Director~~ shall approve or deny every application hereunder within 90 days from the filing of a complete application ~~thereof~~; except that in respect to an application by an approved ambulatory currency exchange for a license with regard to a particular location to be served by it, the same shall be approved or denied within 20 days from the filing thereof. If the application is denied, the Secretary ~~Director~~ shall send by United States mail notice of such denial to the applicant at the address set forth in the application.

If an application is denied, the applicant may, within 10 days from the date of the notice of denial, make written request to the Secretary ~~Director~~ for a hearing on the application, and the Secretary ~~Director~~ shall set a time and place for the hearing. The hearing shall be set for a date after the receipt by the Secretary ~~Director~~ of the request for hearing, and written notice of the time and place of the hearing shall be mailed to the applicant at least 15 days before the date of the hearing. The applicant shall pay the actual cost of making the transcript of the hearing prior to the Secretary's ~~Director's~~ issuing his decision following the hearing. If, following the hearing, the application is denied, the Secretary ~~Director~~ shall, within 20 days thereafter prepare and keep on file in his office a written order of denial thereof, which shall contain his findings with respect thereto and the reasons supporting the denial, and shall send by United States Mail a copy thereof to the applicant at the address set forth in the application, within 5 days after the filing of such order. A review of any such decision may be had as provided in Section 22.01 of this Act.
(Source: P.A. 90-545, eff. 1-1-98.)

(205 ILCS 405/11) (from Ch. 17, par. 4819)

Sec. 11. Such license, if issued for a community currency exchange, shall state the name of the licensee and the address at which the business is to be conducted. Such license, and its annual renewal, shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable. If issued for an ambulatory currency exchange, it shall so state, and shall state the name and office address of the licensee, and the name and address of the location or locations to be served by the licensee, and shall not be transferable and assignable.
(Source: Laws 1951, p. 562.)

(205 ILCS 405/12) (from Ch. 17, par. 4820)

Sec. 12. If the Secretary ~~Director~~ shall find at any time that the bond required by Section 5 is insecure or exhausted or otherwise doubtful, an additional bond in like amount to be approved by the Secretary ~~Director~~ shall be filed by the licensee within 30 days after written demand therefor upon the licensee by the Secretary ~~Director~~.
(Source: Laws 1957, p. 320.)

(205 ILCS 405/13) (from Ch. 17, par. 4821)

Sec. 13. No more than one place of business shall be maintained under the same community currency exchange license, but the Secretary ~~Director~~ may issue more than one license to the same licensee upon compliance with the provisions of this Act governing an original issuance of a license, for each new license.

Whenever a community currency exchange or an ambulatory currency exchange shall wish to change its name in its license, it shall file an application for approval thereof with the Secretary ~~Director~~, and if the change is approved by the Secretary ~~Director~~ he shall attach to the license, in writing, a rider stating the licensee's new name.

If an ambulatory currency exchange has serviced a licensed location for 2 years or longer and the employer whose employees are served at that location has moved his place of business, the currency exchange may continue its service to the employees of that employer at the new address of that employer's place of business by filing a notice of the change of address with the Secretary ~~Director~~ and by relinquishing its license to conduct its business at the employer's old address upon receipt of a license to conduct its business at the employer's new address. Nothing in this Act shall preclude or prevent an ambulatory currency exchange from filing an application to conduct its business at the old address of an employer who moved his place of business after the ambulatory currency exchange receives a license to conduct its business at the employer's new address through the filing of a notice of its change of address with the Secretary ~~Director~~ and the relinquishing of its license to conduct its business at the employer's old address.

Whenever a currency exchange wishes to make any other change in the address set forth in any of its licenses, it shall apply to the Secretary ~~Director~~ for approval of such change of address. Every application for approval of a change of address shall be treated by the Secretary ~~Director~~ in the same manner as is otherwise provided in this Act for the treatment of proposed places of business or locations as contained in new applications for licenses; and if any fact or condition then exists with respect to the application for change of address, which fact or condition would otherwise authorize denial of a new application for a license because of the address of the proposed location or place of business, then such application for change of address shall not be approved. Whenever a community currency exchange wishes to sell its physical assets, it may do so, however, if the assets are sold with the intention of continuing the operation of a community currency exchange, the purchaser or purchasers must first make application to the Secretary ~~Director~~ for licensure in accordance with Sections 4 and 10 of this Act. If the Secretary ~~Director~~ shall not so approve, he shall not issue such license and shall notify the applicant or applicants of such denial. The investigation fee for a change of location is $500. ~~shall be $75 on September 22, 1987 and until July 1, 1988, and $125 on July 1, 1988 and until July 1, 1989, and $150 on and after July 1, 1989.~~

The provisions of Section 10 with reference to notice, hearing and review apply to applications filed pursuant to this Section.

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

(205 ILCS 405/13.1) (from Ch. 17, par. 4822)

Sec. 13.1. Consolidation of business locations. Whenever 2 or more licensees desire to consolidate their places of business, they shall make application for such consolidation to the Secretary ~~Director~~ upon a form provided by him or her. This application shall state: (a) the name to be adopted and the location at which the business is to be located, which name and location shall be the same as one of the consolidating licensees; (b) that the owners or all partners or all stockholders or all members, as the case may be, of the licensees involved in the contemplated consolidation, have approved the application; (c) a certification by the secretary, if any of the licensees be corporations, that the contemplated consolidation has been approved by all of the stockholders at a properly convened stockholders meeting; (d) other relevant information the Secretary ~~Director~~ may require. Simultaneously with the approval of the application by the Secretary ~~Director~~, the licensee or licensees who will cease doing business shall: (a) surrender their license or licenses to the Secretary ~~Director~~; (b) transfer all of their assets and liabilities to the licensee continuing to operate by virtue of the application; (c) apply to the Secretary of State, if they be corporations, for surrender of their corporate charter in accordance with the provisions of the Business Corporation Act of 1983.

An application for consolidation shall be approved or rejected by the Secretary ~~Director~~ within 30 days after receipt by him of such application and supporting documents required thereunder. The Secretary may impose a consolidation fee of $100 per application.

Such consolidation shall not affect suits pending in which the surrendering licensees are parties; nor shall such consolidation affect causes of action nor the rights of persons in particular; nor shall suits brought against such licensees in their former names be abated for that cause.

Nothing contained herein shall limit or prohibit any action or remedy available to a licensee or to the Secretary ~~Director~~ under Sections 15, 15.1 to 15.1e or 15.2 of this Act.
(Source: P.A. 90-545, eff. 1-1-98.)

(205 ILCS 405/14) (from Ch. 17, par. 4823)

Sec. 14. Every licensee, shall, on or before November 15, pay to the Secretary ~~Director~~ the annual license fee or fees for the next succeeding calendar year and shall at the same time file with the Secretary ~~Director~~ the annual report required by Section 16 of this Act, and the annual bond or bonds, and the insurance policy or policies as and if required by this Act. The annual license fee for each community currency exchange is $400. ~~shall be $150 on the effective date of this amendatory Act of 1987 and until January 1, 1989, and $180 on January 1, 1989 and until January 1, 1990, and $200 on and after January 1, 1990.~~ The annual license fee for each location served by an ambulatory currency exchange shall be $25.
(Source: P.A. 85-708.)

(205 ILCS 405/14.1)

Sec. 14.1. All moneys received by the Department ~~of Financial Institutions~~ under this Act shall be deposited in the Financial Institutions Fund created under Section 6z-26 of the State Finance Act.
(Source: P.A. 88-13.)

(205 ILCS 405/15) (from Ch. 17, par. 4824)

Sec. 15. The Secretary may, after 15 days notice by registered or certified mail to the licensee at the address set forth in the license stating the contemplated action and in general the grounds therefore, fine the licensee an amount not exceeding $1,000 per violation or revoke or suspend any license issued if he or she finds that ~~Director may, upon 10 days notice to the licensee by United States mail directed to the licensee at the address set forth in the license, stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard prior to such action, fine, suspend or revoke any license issued hereunder if he shall find that~~:

(a) the ~~The~~ licensee has failed to pay the annual license fee or to maintain in effect the required bond or bonds or insurance policy or policies ~~or to comply with any order, decision, or finding of the Director made pursuant to this Act~~; or ~~that~~

(b) the licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made under the authority of this Act; or

(c) the ~~The~~ licensee has violated any provision of this Act or any regulation or direction made by the Secretary ~~Director~~ under this Act; or ~~that~~

(d) any ~~(c) Any~~ fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the Secretary ~~Director~~ in refusing the issuance of the license; or ~~that~~

(e) the ~~(d) The~~ licensee has not operated the currency exchange or at the location licensed, for a period of 60 ~~sixty~~ consecutive days, unless the licensee was prevented from operating during such period by reason of events or acts beyond the licensee's control.

Prior to suspension or revocation of the licenses issued hereunder, the Director may but is not required to fine a licensee up to a maximum of $1,000 ~~$100~~ a day.

The Secretary ~~Director~~ may fine, suspend or revoke only the particular license or licenses for particular places of business or locations with respect to which grounds for revocation may occur or exist; except that if he shall find that such grounds for revocation are of general application to all places of business or locations, or that such grounds for fines, suspension or revocation have occurred or exist with respect to a substantial number of places of business or locations, he may fine, suspend or revoke all of the licenses issued to such licensee.

An order assessing a fine, an order revoking or suspending a license, or an order denying renewal of a license shall take effect on service of the order unless the licensee requests a hearing, in writing, within 10 days after the date of service. In the event a hearing is requested, the order shall be stayed until a final administrative order is entered. If the licensee requests a hearing, the Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties. The hearing shall be held at the time and place designated by the Secretary.

The Secretary and any administrative law judge designated by him or her shall have the power to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of books, papers, correspondence, and other records or information that he or she considers relevant or material to the inquiry.

In case of contumacy or refusal of a witness to obey a subpoena, any circuit court of this State whose jurisdiction encompasses where the hearing is located may issue an order requiring such witness to appear before the Secretary or the hearing officer, to produce documentary evidence, or to give

testimony touching the matter in question; and the court may punish any failures to obey such orders of the court as contempt.

A licensee may surrender any license by delivering to the Secretary ~~Director~~ written notice that he, they or it thereby surrenders such license, but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender, or affect the liability on his, their or its bond or bonds, or his, their or its policy or policies of insurance, required by this Act, or entitle such licensee to a return of any part of the annual license fee or fees.

Every license issued hereunder shall remain in force until the same shall expire, or shall have been surrendered, suspended or revoked in accordance with this Act, but the Secretary ~~Director~~ may on his own motion, issue new licenses to a licensee whose license or licenses shall have been revoked if no fact or condition then exists which clearly would have warranted the Secretary ~~Director~~ in refusing originally the issuance of such license under this Act.

~~No license shall be revoked until the licensee has had notice of a hearing thereon and an opportunity to be heard. When any license is so revoked, the Director shall within twenty (20) days thereafter, prepare and keep on file in his office, a written order or decision of revocation which shall contain his findings with respect thereto and the reasons supporting the revocation and shall send by United States mail a copy thereof to the licensee at the address set forth in the license within five (5) days after the filing in his office of such order, finding or decision. A review of any such order, finding or decision may be had as provided in Section 22.01 of this Act.~~

(Source: P.A. 80-1101.)

(205 ILCS 405/15.1) (from Ch. 17, par. 4825)

Sec. 15.1. If the Secretary ~~Director~~ determines that any licensee is insolvent or is violating this Act, or if the owner, executor, or successor in interest of a currency exchange abandons the currency exchange, he or she shall appoint a receiver, who shall, under his or her direction, for the purpose of receivership, take possession of and title to the books, records, and assets of every description of the community currency exchange. The Secretary may ~~Director shall~~ require of the receiver such security as he or she deems proper and, upon appointment of the receiver, shall have published, once each week for 4 consecutive weeks in a newspaper having a general circulation in the community, a notice calling on all persons who have claims against the community currency exchange, to present them to the receiver.

Within 10 days after the receiver takes possession of the property, the licensee may apply to the Circuit Court of the county where the community currency exchange is located ~~Sangamon County~~ to enjoin further proceedings in the premises.

The receiver may operate the community currency exchange until the Secretary ~~Director~~ determines that possession should be restored to the licensee or that the business should be liquidated.

(Source: Laws 1961, p. 3522.)

(205 ILCS 405/15.1a) (from Ch. 17, par. 4826)

Sec. 15.1a. If the Secretary ~~Director~~ determines that a business in receivership should be liquidated, he shall direct the Attorney General to file a complaint in the Circuit Court of the county in which such community currency exchange is located, in the name of the People of the State of Illinois, for the orderly liquidation and dissolution of the community currency exchange and for an injunction restraining the licensee or the officers and directors thereof from continuing the operation of the community currency exchange.

The receiver shall, 30 days from the day the Secretary ~~Director~~ determines that the business should be liquidated, file with the Secretary ~~Director~~ and with the clerk of such court as has charge of the liquidation, a correct list of all creditors who have not presented their claims. The list shall show the amount of the claim after allowing all just credits, deductions and set-offs as shown by the books of the currency exchange. These claims shall be deemed proven unless objections are filed by some interested party within the time fixed by the Secretary ~~Director~~ or court that has charge of the liquidation.

(Source: P.A. 79-1361.)

(205 ILCS 405/15.1b) (from Ch. 17, par. 4827)

Sec. 15.1b. Liquidation; distribution; priority. The General Assembly finds and declares that community currency exchanges provide important and vital services to Illinois citizens. The General Assembly also finds that in providing such services, community currency exchanges transact extensive business involving check cashing and the writing of money orders in communities in which banking services are generally unavailable. It is therefore declared to be the policy of this State that customers who receive these services must be protected from insolvencies of currency exchanges and interruptions of services. To carry out this policy and to insure that customers of community currency exchanges are protected in the event it is determined that a community currency exchange in receivership should be liquidated in accordance with Section 15.1a of this Act, the Secretary ~~Director~~ shall make a distribution

of moneys collected by the receiver in the following order of priority: First, allowed claims for the actual necessary expenses of the receivership of the community currency exchange being liquidated, including (a) reasonable receiver fees and receiver's attorney's fees approved by the Secretary ~~Director~~, (b) all expenses of any preliminary or other examinations into the condition of the community currency exchange or receivership, (c) all expenses incurred by the Secretary ~~Director~~ which are incident to possession and control of any property or records of the community currency exchange, and (d) reasonable expenses incurred by the Secretary ~~Director~~ as the result of business agreements or contractual arrangements necessary to insure that the services of the community currency exchanges are delivered to the community without interruption. Said business agreements or contractual arrangements may include, but are not limited to, agreements made by the Secretary ~~Director~~, or by the Receiver with the approval of the Secretary ~~Director~~, with banks, money order companies, bonding companies and other types of financial institutions; Second, allowed claims by a purchaser of money orders issued on demand of the community currency exchange being liquidated; Third, allowed claims arising by virtue of and to the extent of the amount a utility customer deposits with the community currency exchange being liquidated which are not remitted to the utility company; Fourth, allowed claims arising by virtue of and to the extent of the amount paid by a purchaser of Illinois license plates, vehicle stickers sold for State and municipal governments in Illinois, and temporary Illinois registration permits purchased at the currency exchange being liquidated; Fifth, allowed unsecured claims for wages or salaries, excluding vacation, severance and sick leave pay earned by employee earned within 90 days prior to the appointment of a Receiver; Sixth, secured claims; Seventh, allowed unsecured claims of any tax, and interest and penalty on the tax; Eighth ~~Seventh~~, allowed unsecured claims other than a kind specified in paragraph one, two and three of this Section, filed with the Secretary ~~Director~~ within the time the Secretary ~~Director~~ fixes for filing claims; Ninth ~~Eighth~~, allowed unsecured claims, other than a kind specified in paragraphs one, two and three of this Section filed with the Secretary ~~Director~~ after the time fixed for filing claims by the Secretary ~~Director~~; Tenth ~~Ninth~~, allowed creditor claims asserted by an owner, member, or stockholder of the community currency exchange in liquidation; Eleventh ~~Tenth~~, after one year from the final dissolution of the currency exchange, all assets not used to satisfy allowed claims shall be distributed pro rata to the owner, owners, members, or stockholders of the currency exchange.

The Secretary ~~Director~~ shall pay all claims of equal priority according to the schedule set out above, and shall not pay claims of lower priority until all higher priority claims are satisfied. If insufficient assets are available to meet all claims of equal priority, those assets shall be distributed pro rata among those claims. All unclaimed assets of a currency exchange shall be deposited with the Secretary ~~Director~~ to be paid out by him when proper claims therefor are presented to the Secretary ~~Director~~. If there are funds remaining after the conclusion of a receivership of an abandoned currency exchange, the remaining funds shall be considered unclaimed property and remitted to the State Treasurer under the Uniform Disposition of Unclaimed Property Act.

(Source: P.A. 90-545, eff. 1-1-98.)

(205 ILCS 405/15.1d) (from Ch. 17, par. 4829)

Sec. 15.1d. At the close of a receivership, the receiver shall turn over to the Secretary ~~Director~~ all books of account and ledgers of such currency exchange for preservation. All records of such receiverships heretofore and hereafter received by the Secretary ~~Director~~ shall be held by him or her for a period of 2 years after the close of the receivership and at the termination of the 2 year period may then be destroyed.

All expenses of the receivership, including reasonable receiver's and attorney's fees approved by the Secretary ~~Director~~, and all expenses of any preliminary or other examinations into the condition of the community currency exchange or receivership, and all expenses incident to the possession and control of any property or records of the community currency exchange incurred by the Secretary ~~Director~~ shall be paid out of the assets of the community currency exchange. The foregoing expenses shall be paid prior to and ahead of all claims.

(Source: P.A. 83-345.)

(205 ILCS 405/15.2) (from Ch. 17, par. 4831)

Sec. 15.2. No community currency exchange shall determine its affairs and close up its business unless it shall first deposit with the Secretary ~~Director~~ an amount of money equal to the whole of its debts, liabilities and lawful demands against it including the costs and expenses of this proceeding, and shall surrender to the Secretary ~~Director~~ its community currency exchange license, and shall file with the Secretary ~~Director~~ a statement of termination signed by the licensee of such community currency exchange, containing a pronouncement of intent to close up its business and liquidate its liabilities, and also containing a sworn list itemizing in full all such debts, liabilities and lawful demands against it.

Corporate licensees shall attach to, and make a part of such statement of termination, a copy of a resolution providing for the determination and closing up of the licensee's affairs, certified by the secretary of such licensee and duly adopted at a shareholders' meeting by the holders of at least two-thirds of the outstanding shares entitled to vote at such meeting. Upon the filing with the Secretary ~~Director~~ of a statement of termination the Secretary ~~Director~~ shall cause notice thereof to be published once each week for three consecutive weeks in a public newspaper of general circulation published in the city or village where such community currency exchange is located, and if no newspaper shall be there published, then in a public newspaper of general circulation nearest to said city or village; and such publication shall give notice that the debts, liabilities and lawful demands against such community currency exchange will be redeemed by the Secretary ~~Director~~ on demand in writing made by the owner thereof, at any time within three years from the date of first publication. After the expiration of such three year period, the Secretary ~~Director~~ shall return to the person or persons designated in the statement of termination to receive such repayment and in the proportion therein specified, any balance of money then remaining in his possession, if any there be, after first deducting therefrom all unpaid costs and expenses incurred in connection with this proceeding. The Secretary ~~Director~~ shall receive for his services, exclusive of costs and expenses, two per cent of any amount up to $5,000.00, and one per cent of any amount in excess of $5,000.00, deposited with him hereunder by any one community currency exchange. Nothing contained herein shall affect or impair the liability of any bonding or insurance company on any bond or insurance policy issued under this Act relating to such community currency exchange.

(Source: Laws 1957, p. 320.)

(205 ILCS 405/16) (from Ch. 17, par. 4832)

Sec. 16. Annual report; investigation; costs.

(a) Each licensee shall annually, on or before the 1st day of March, file a report with the Secretary ~~Director~~ for the calendar year period from January 1st through December 31st, ~~except that the report filed on or before March 15, 1990 shall cover the period from October 1, 1988 through December 31, 1989, (which shall be used only for the official purposes of the Director)~~ giving such relevant information as the Secretary ~~Director~~ may reasonably require concerning, and for the purpose of examining, the business and operations during the preceding fiscal year period of each licensed currency exchange conducted by such licensee within the State. Such report shall be made under oath and shall be in the form prescribed by the Secretary. The Secretary ~~Director and the Director~~ may at any time , and shall at least once in each year, investigate the currency exchange business of any licensee and of every person, partnership, association, limited liability company, and corporation who or which shall be engaged in the business of operating a currency exchange. For that purpose, the Secretary ~~Director~~ shall have free access to the offices and places of business and to such records of all such persons, firms, partnerships, associations, limited liability companies and members thereof, and corporations and to the officers and directors thereof that shall relate to such currency exchange business. The investigation may be conducted in conjunction with representatives of other State agencies or agencies of another state or of the United States as determined by the Secretary ~~Director~~. The Secretary ~~Director~~ may at any time inspect the locations served by an ambulatory currency exchange, for the purpose of determining whether such currency exchange is complying with the provisions of this Act at each location served. The Secretary ~~Director~~ may require by subpoena the attendance of and examine under oath all persons whose testimony he may require relative to such business, and in such cases the Secretary ~~Director~~, or any qualified representative of the Secretary ~~Director~~ whom the Secretary ~~Director~~ may designate, may administer oaths to all such persons called as witnesses, and the Secretary ~~Director~~, or any such qualified representative of the Secretary ~~Director~~, may conduct such examinations, and there shall be paid to the Secretary ~~Director~~ for each such examination a fee of $250 ~~$225~~ for each day or part thereof for each qualified representative designated and required to conduct the examination; provided, however, that in the case of an ambulatory currency exchange, such fee shall be $150 ~~$75~~ for each day or part thereof ~~and shall not be increased by reason of the number of locations served by it~~.

(b) All information collected by the Department under an examination or investigation of an ambulatory or community currency exchange, including, but not limited to, information collected to investigate any complaint against an ambulatory or community currency exchange filed with the Department, shall be maintained for the confidential use of the Department and shall not be disclosed. The Department may not disclose such information to anyone other than the licensee, 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. An order issued by the Department against an

ambulatory or community currency exchange shall be a public record and any documents produced in discovery, filed with the administrative law judge, or introduced at a hearing shall be a public record, except as otherwise prohibited by law.
(Source: P.A. 92-398, eff. 1-1-02; 93-32, eff. 7-1-03.)

(205 ILCS 405/17) (from Ch. 17, par. 4833)

Sec. 17. ~~A.~~ Every licensee shall keep and use in his business such books, accounts and records as will enable the Secretary ~~Director~~ to determine whether such licensee is complying with the provisions of this Act and with the rules, regulations and directions made by the Secretary ~~Director~~ hereunder.

~~B.~~ Each licensee shall record or cause to be recorded the following information with respect to each money order it sells or issues: (1) The amount; (2) the month and year of sale or issuance; and (3) the serial number.

Each licensee shall preserve the record required by this subsection for at least 7 ~~17~~ years or until the money order to which it pertains is returned to the licensee. Each money order returned to the licensee shall be preserved for not less than 3 years from the month and year of sale or issuance by the licensee. The licensee shall keep the record, or an authentic microfilm copy thereof, required to be preserved by this subsection within this state at a place readily accessible to the Secretary ~~Director~~ and his representatives. If a licensee sells or transfers his business at a location or an address, his obligations under this paragraph devolve upon the successor licensee and subsequent successor licensees, if any, at such location or address. If a licensee ceases to do business in this state, he shall deposit the records and money orders he is required to preserve, with the Secretary ~~Director~~.
(Source: Laws 1963, p. 1634.)

(205 ILCS 405/18) (from Ch. 17, par. 4834)

Sec. 18. The applicant for a community currency exchange license shall have a permanent address as evidenced by a lease of at least six months duration or other suitable evidence of permanency, and the license issued, pursuant to the application shall be valid only at that address or any new address approved by the Secretary ~~Director~~.
(Source: Laws 1957, p. 320.)

(205 ILCS 405/19) (from Ch. 17, par. 4835)

Sec. 19. The Department ~~Director~~ may make and enforce such reasonable rules ~~, relevant regulations~~, directions, orders, decisions and findings as the execution and enforcement of the provisions of this Act require, and as are not inconsistent within this Act. ~~may be necessary for the execution and enforcement of this Act and the purposes sought to be attained herein.~~ All such rules ~~regulations~~, directions, orders, decisions and findings shall be filed and entered by the Secretary ~~Director~~ in an indexed permanent book or record, or electronic record, with the effective date thereof suitably indicated, and such book or record shall be a public document. All rules ~~regulations~~ and directions, which are of a general character, shall be made available in electronic form to all licensees within 10 days after filing and all licenses shall receive by mail notice of any changes. ~~printed and copies thereof mailed to all licensees within 10 days after filing as aforesaid.~~ Copies of all findings, orders and decisions shall be mailed to the parties affected thereby by United States mail within 5 days of such filing.
(Source: Laws 1957, p. 320.)

(205 ILCS 405/19.3) (from Ch. 17, par. 4838)

Sec. 19.3. (A) The General Assembly hereby finds and declares: community currency exchanges and ambulatory currency exchanges provide important and vital services to Illinois citizens. In so doing, they transact extensive business involving check cashing and the writing of money orders in communities in which banking services are generally unavailable. Customers of currency exchanges who receive these services must be protected from being charged unreasonable and unconscionable rates for cashing checks and purchasing money orders. The Illinois Department of Financial and Professional Regulation ~~Institutions~~ has the responsibility for regulating the operations of currency exchanges and has the expertise to determine reasonable maximum rates to be charged for check cashing and money order purchases. Therefore, it is in the public interest, convenience, welfare and good to have the Department establish reasonable maximum rate schedules for check cashing and the issuance of money orders and to require community and ambulatory currency exchanges to prominently display to the public the fees charged for all services. The Secretary ~~Director~~ shall review, each year, the cost of operation of the Currency Exchange Section ~~Division~~ and the revenue generated from currency exchange examinations and report to the General Assembly if the need exists for an increase in the fees mandated by this Act to maintain the Currency Exchange Section ~~Division~~ at a fiscally self-sufficient level. The Secretary ~~Director~~ shall include in such report the total amount of funds remitted to the State and delivered to the State Treasurer by currency exchanges pursuant to the Uniform Disposition of Unclaimed Property Act.

(B) The Secretary ~~Director~~ shall, by rules adopted in accordance with the Illinois Administrative

Procedure Act, expeditiously formulate and issue schedules of reasonable maximum rates which can be charged for check cashing and writing of money orders by community currency exchanges and ambulatory currency exchanges.

(1) In determining the maximum rate schedules for the purposes of this Section the Secretary ~~Director~~ shall take into account:

(a) Rates charged in the past for the cashing of checks and the issuance of money orders by community and ambulatory currency exchanges.

(b) Rates charged by banks or other business entities for rendering the same or similar services and the factors upon which those rates are based.

(c) The income, cost and expense of the operation of currency exchanges.

(d) Rates charged by currency exchanges or other similar entities located in other states for the same or similar services and the factors upon which those rates are based.

(e) Rates charged by the United States Postal Service for the issuing of money orders and the factors upon which those rates are based.

(f) A reasonable profit for a currency exchange operation.

(2) (a) The schedule of reasonable maximum rates established pursuant to this Section may be modified by the Secretary ~~Director~~ from time to time pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act.

(b) Upon the filing of a verified petition setting forth allegations demonstrating reasonable cause to believe that the schedule of maximum rates previously issued and promulgated should be adjusted, the Secretary ~~Director~~ shall expeditiously:

(i) reject the petition if it fails to demonstrate reasonable cause to believe that an adjustment is necessary; or

(ii) conduct such hearings, in accordance with this Section, as may be necessary to determine whether the petition should be granted in whole or in part.

(c) No petition may be filed pursuant to subparagraph (a) of paragraph (2) of subsection (B) unless:

(i) at least nine months have expired since the last promulgation of schedules of maximum rates; and

(ii) at least one-fourth of all community currency exchange licensees join in a petition or, in the case of ambulatory currency exchanges, a licensee or licensees authorized to serve at least 100 locations join in a petition.

(3) Any currency exchange may charge lower fees than those of the applicable maximum fee schedule after filing with the Secretary ~~Director~~ a schedule of fees it proposes to use.

(Source: P.A. 91-16, eff. 7-1-99.)

(205 ILCS 405/19.4) (from Ch. 17, par. 4839)

Sec. 19.4. The fees charged by community and ambulatory currency exchanges for rendering any service authorized by this Act shall be prominently displayed on the premises of the community currency exchange or at the location served by the ambulatory currency exchange in such fashion as shall be required by the Secretary ~~Director~~.

(Source: P.A. 81-964.)

(205 ILCS 405/20) (from Ch. 17, par. 4840)

Sec. 20. Every person having taken an oath in any proceeding or matter wherein an oath is required by this Act, who shall swear willfully ~~wilfully~~, corruptly or falsely in a matter material to the issue or point in question, or shall suborn any other person to swear as aforesaid, shall be guilty of perjury or subornation of perjury, as the case may be.

(Source: Laws 1943, vol. 1, p. 233.)

(205 ILCS 405/21) (from Ch. 17, par. 4841)

Sec. 21. Except as otherwise provided for in this Act, whenever the Secretary ~~Director~~ is required to give notice to any applicant or licensee, such requirement shall be complied with if, within the time fixed herein, such notice shall be enclosed in an envelope plainly addressed to such applicant or licensee, as the case may be, at the address set forth in the application or license, as the case may be, United States postage fully prepaid, and deposited, registered or certified, in the United States mail.

Notice may also be provided to an applicant or licensee by telephone facsimile to the person or electronically via email to the telephone number or email address designated by an applicant or licensee in writing.

(Source: Laws 1957, p. 320.)

(205 ILCS 405/22.01) (from Ch. 17, par. 4843)

Sec. 22.01. All final administrative decisions of the Secretary ~~Director~~ hereunder shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. The person seeking judicial review shall pay to the Secretary ~~Director~~ the costs of preparing and certifying the record of proceedings before the Secretary ~~Director~~.

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

(205 ILCS 405/29.5 new)

Sec. 29.5. Cease and desist. The Secretary may issue a cease and desist order to any currency exchange or other person doing business without the require license, when in the opinion of the Secretary, the currency exchange or other person is violating or is about to violate any provision of this Act or any rule or requirement imposed in writing by the Department.

The cease and desist order permitted by this Section may be issued prior to a hearing.

The Secretary shall serve notice of his or her action, including, but not limited to, a statement of reasons for the action, either personally or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the U.S. mail.

Within 10 days after service of a cease and desist order, the licensee or other person may request, in writing, a hearing. The Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

If it is determined that the Secretary has the authority to issue the cease and desist order, he or she may issue such orders as reasonably necessary to correct, eliminate, or remedy such conduct.

The powers vested in the Secretary by this Section are additional to any and all other powers and remedies vested in the Secretary by law, and nothing in this Section shall be construed as requiring that the Secretary shall employ the power conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.

The currency exchange, or other person doing business without the required license, shall pay the actual costs of the hearing.

(205 ILCS 405/10.1 rep.) (205 ILCS 405/22.03 rep.) (205 ILCS 405/25 rep.)

Section 10. The Currency Exchange Act is amended by repealing Sections 10.1, 22.03, and 25.

Section 99. Effective date. This Act takes effect January 1, 2012.".

Senate Floor Amendment No. 2 was tabled in the Committee on Financial Institutions.

Senator J. Collins offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 87

AMENDMENT NO. 3. Amend Senate Bill 87, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1 as follows:

on page 9, by replacing lines 9 and 10 with the following:
"proprietor, ~~or~~ any of his employees , or a licensed, regulated tax service approved by the Internal Revenue Service. For the purpose of this Section, "tax service" does not mean to make or offer to"; and

on page 10, line 1, by replacing "currency exchanges" with "a currency exchange, group of currency exchanges, or association of currency exchanges ~~currency exchanges~~"; and

on page 10, line 5, by replacing "The currency exchange" with "A currency exchange, group of currency exchanges, or association of currency exchanges"; and

on page 10, line 7, after "public." by inserting the following:
"Any approval under this Section shall be deemed an approval for all currency exchanges. Any currency exchange wishing to provide an additional service as approved by the Secretary must provide notice to the Secretary 30 days prior to offering the approved additional service to the public."; and

on page 10, line 9, by replacing "$100" with "$500"; and

on page 10, line 10, by replacing "30" with "60"; and

on page 10, by replacing lines 12 through 14 with the following:

"(b) (Blank). ~~Nothing in this Act shall prevent a community currency exchange from selling candy, gum, other packaged foods, and soft drinks by means of vending machines on its premises.~~"; and

on page 12, line 2, by replacing "$1,000 ~~$500~~" with the following:
"$500, prior to January 1, 2012. After January 1, 2012 the fee shall be $750. After January 1, 2014 the fee shall be $1,000."; and

on page 12, line 17, by replacing "$250" with "$200"; and

on page 17, line 23, by replacing "$4,000,000" with "$3,000,000 as of May 1, 2012, and not less than $4,000,000 as of May 1, 2014"; and

on page 29, line 5, by replacing "may" with "shall"; and

on page 29, line 24, by replacing "is $400" with "is $200, prior to January 1, 2012. After January 1, 2012 the fee shall be $300. After January 1, 2014 the fee shall be $400."; and

on page 31, by replacing lines 21 through 23 with the following:
"~~Prior to suspension or revocation of the license issued hereunder, the Director may but is not required to fine a licensee up to a maximum of $100 a day.~~"; and

on page 32, line 11, by replacing "10" with "15"; and

on page 43, by replacing line 16 with the following:
"(b) Confidentiality. All information collected by the Department in the course of an"; and

on page 43, by replacing lines 18 through 20 with the following:
"currency exchange or applicant, including, by not limited to, any complaint against an ambulatory or community currency exchange filed with the Department, and information collected to investigate any such complaint shall be"; and

on page 43, line 23, by deleting "the licensee,"; and

on page 44, by replacing lines 3 through 8 with the following:
"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 shall be a public record, except as otherwise prohibited by law."; and

on page 51, line 24, after "Department." by inserting "The cease and desist order shall specify the activity or activities that the Department is seeking the currency exchange or other person doing business without the required license to cease and desist.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Raoul, **Senate Bill No. 150,** having been printed, was taken up, read by title a second time.

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

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

On motion of Senator Sullivan, **Senate Bill No. 168** 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 Agriculture and Conservation, adopted and ordered printed:

AMENDMENT NO. 2 TO SENATE BILL 168

AMENDMENT NO. 2. Amend Senate Bill 168 by replacing everything after the enacting clause with the following:

"Section 5. The Mississippi River Coordinating Council Act is amended by changing Sections 10, 15, and 20 as follows:

(20 ILCS 4003/10)

Sec. 10. Mississippi River Coordinating Council.

(a) There is established the Mississippi River Coordinating Council (Council), consisting of 16 ~~13~~ voting members to be appointed by the Governor. One member shall be the Lieutenant Governor who shall serve as a voting member and as chairperson of the Council. The agency members of the Council shall include the Directors, or their designees, of the following: the Department of Agriculture, the Department of Commerce and Economic Opportunity, the Illinois Environmental Protection Agency, the Department of Natural Resources, the Historic Preservation Agency, and the Department of Transportation. In addition, the Council shall include one member representing Soil and Water Conservation Districts located in the proximity of the Mississippi River and its tributaries, and 8 ~~6~~ members representing local communities, not-for-profit organizations working to protect the Mississippi River and its tributaries, businesses, agriculture, recreation, conservation, and the environment , 2 of which must reside within a county that is adjacent to the Mississippi River.

(b) The Governor may appoint, as ex-officio members, individuals representing the interests of the states who border the Mississippi River and individuals representing federal agencies.

(c) Members of the Council shall serve 2-year terms, except that of the initial appointments, 5 members shall be appointed to serve 3-year terms and 4 members to serve one-year terms.

(d) The Council shall meet at least quarterly.

(e) The Office of the Lieutenant Governor shall be responsible for the operations of the Council, including, without limitation, funding and oversight of the Council's activities. The Office may reimburse members of the Council for travel expenses.

(f) This Section is subject to the provisions of Section 405-500 of the Department of Central Management Services Law.

(g) The members of the Council shall appoint one member of the Council to serve as the Illinois representative to the National Mississippi River Parkway Commission.

(Source: P.A. 94-996, eff. 1-1-07.)

(20 ILCS 4003/15)

Sec. 15. Duties of the Council.

(a) The Council shall:

(1) periodically review activities and programs administered by State and federal agencies that directly impact the Mississippi River and its tributaries;

(2) work with local communities and organizations to encourage partnerships that enhance awareness and capabilities to address watershed and water resource concerns and to encourage strategies that protect, restore, and expand critical habitats and soil conservation and water quality practices;

(3) work with State and federal agencies to optimize the expenditure of funds affecting the Mississippi River and its tributaries;

(4) advise and make recommendations to the Governor and State agencies on ways to better coordinate the expenditure of appropriated funds affecting the Mississippi River and its tributaries;

(5) encourage local communities to develop water management plans to address stormwater, erosion, flooding, sedimentation, and pollution problems and encourage projects for the natural conveyance and storage of floodwaters, the enhancement of wildlife habitat and outdoor recreation opportunities, the recovery, management, and conservation of the Mississippi River and its tributaries, the preservation of farmland, prairies, and forests, and the use of measurable economic development efforts that are compatible with the ecological health of the State; and

(6) help identify possible sources of additional funding for Mississippi River water management projects and projects and activities related to the Great River Road, a national scenic and recreational highway.

(b) Subject to appropriation, the Council may pay for a membership to the National Mississippi River Commission.

(Source: P.A. 94-996, eff. 1-1-07.)

(20 ILCS 4003/20)

Sec. 20. Agency duties. State agencies represented on the Council shall provide to the Council, on

request, information concerning agency programs, data, and activities that impact the restoration and preservation of the Mississippi River and its tributaries. The Secretary of Transportation, the Director of Agriculture, the Director of the Environmental Protection Agency, the Director of Historic Preservation, the Director of Natural Resources, and the Director of Commerce and Economic Opportunity shall each designate at least one employee from his or her respective agency to assist the Council.
(Source: P.A. 94-996, eff. 1-1-07.)

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 Frerichs, **Senate Bill No. 664** 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 Agriculture and Conservation, adopted and ordered printed:

AMENDMENT NO. 2 TO SENATE BILL 664

AMENDMENT NO. 2. Amend Senate Bill 664 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Oil and Gas Act is amended by adding Section 6.5 as follows:
(225 ILCS 725/6.5 new)
Sec. 6.5. Extraction of natural gas using hydraulic fracturing.
(a) The Department shall adopt rules requiring each owner or operator that begins extracting natural gas from shale to report the information specified in subsections (b), (c), and (d) within 30 days after the beginning of extraction. The Director shall adopt rules that require, prior to such extraction, the owner or operator to perform a suitable mechanical integrity test of the casing or of the casing-tubing annulus or other mechanical integrity test methods using procedures that are established by administrative rule.
(b) The owner or operator shall provide geological names, a geological description, and the depth of the formation into which well stimulation fluids are to be injected.
(c) The owner or operator shall provide detailed information to the Director concerning the base stimulation fluid source. The owner, operator, or service company shall also provide to the Director, for each stage of the well stimulation program, the following:
(1) each stimulation fluid identified by additive type; and
(2) the chemical compound name and Chemical Abstracts Service (CAS) number for each additive used.
(d) The owner or operator shall also provide a detailed description of the proposed well stimulation design, which shall include:
(1) the anticipated surface treating pressure range;
(2) the maximum injection treating pressure; and
(3) the estimated or calculated fracture length and fracture height.
(e) The Department shall post the information that it receives under subsections (b), (c), and (d) on its Internet website for a period of not less than 5 years.
(f) The injection of volatile organic compounds, such as benzene, toluene, ethylbenzene, and xylene, also known as BTEX compounds, or any petroleum distillates, into an underground source of drinking water is prohibited without exception. The proposed use of volatile organic compounds, such as benzene, toluene, ethylbenzene, and xylene, also known as BTEX compounds, or any petroleum distillates, for well stimulation into hydrocarbon bearing zones is only authorized with prior written approval of the Director. Produced water containing trace amounts of naturally occurring petroleum distillates may be used as a stimulation fluid in hydrocarbon-bearing zones.
(g) In addition to any other information that it must provide, the owner, operator, or service company shall provide the Director the following post well stimulation detail:
(1) the actual total well stimulation treatment volume pumped;
(2) detail as to each fluid stage pumped, including actual volume by fluid stage, proppant rate or concentration, actual chemical additive name and type;
(3) the actual surface pressure and rate at the end of each fluid stage and the actual flush volume, rate, and final pump pressure; and

(4) the instantaneous shut-in pressure, and the actual 15-minute and 30-minute shut-in pressures when these pressure measurements are available.

(h) During the well stimulation operation, the owner or operator shall monitor and record the annulus pressure at the bradenhead. If intermediate casing has been set on the well being stimulated, the pressure in the annulus between the intermediate casing and the production casing shall also be monitored and recorded. A continuous record of the annulus pressure during the well stimulation shall be submitted.

(i) If, during the stimulation, the annulus pressure increases by more than 500 pounds per square inch gauge (psig) compared to the pressure immediately preceding the stimulation, the owner or operator shall verbally notify the Director as soon as practical but no later than 24 hours following the incident and must complete in a timely manner any corrective action identified by the Department. The owner or operator shall include a report containing all details pertaining to the incident, including corrective actions taken.

(j) The owner or operator shall provide information to the Director as to the amounts, handling, and, if necessary, disposal at an identified appropriate disposal facility, or reuse of the well stimulation fluid load recovered during flow back, swabbing, or recovery from production facility vessels. Storage of that fluid shall be protective of an underground source of drinking water as demonstrated by the use of either tanks or lined pits.

(k) Nothing in this Section shall be construed to allow the Director to require the disclosure of trade secrets as defined in the Illinois Trade Secrets Act.".

Senate Committee Amendment No. 3 was held in the Committee on Assignments.

Senator Frerichs offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 664

AMENDMENT NO. 4. Amend Senate Bill 664, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Oil and Gas Act is amended by adding Section 6.5 as follows:

(225 ILCS 725/6.5 new)

Sec. 6.5. Extraction of natural gas from shale using hydraulic fracturing.

(a) Each owner or operator that begins extracting natural gas from shale shall report to the Department the information specified in subsections (b), (c), and (d) within 30 days after hydraulic fracturing stimulation. The Director shall adopt rules that require, prior to such hydraulic fracturing, the owner or operator to perform a suitable mechanical integrity test of the casing or of the casing-tubing annulus or other mechanical integrity test methods using procedures that are established by administrative rule.

(b) The owner or operator shall provide geological names, a geological description, and the depth of the formation into which well stimulation fluids were injected.

(c) The owner or operator shall provide detailed information to the Director concerning the base stimulation fluid source. The owner, operator, or service company shall also provide to the Director, for each stage of the well stimulation program, the following:

(1) each stimulation fluid identified by additive type; and

(2) the chemical compound name and Chemical Abstracts Service (CAS) number for each additive used.

(d) The owner or operator shall also provide a detailed description of the well stimulation design, which shall include:

(1) the surface treating pressure range;

(2) the maximum injection treating pressure; and

(3) the estimated or calculated fracture length and fracture height.

(e) The Department shall post the information that it receives under subsections (b), (c), and (d) on its Internet website for a period of not less than 5 years.

(f) The injection of volatile organic compounds, such as benzene, toluene, ethylbenzene, and xylene, also known as BTEX compounds, or any petroleum distillates, into an underground source of drinking water is prohibited without exception. The proposed use of volatile organic compounds, such as benzene, toluene, ethylbenzene, and xylene, also known as BTEX compounds, or any petroleum distillates, for shale gas extraction using hydraulic fracturing into hydrocarbon bearing zones is only authorized with prior written approval of the Director. Produced water containing trace amounts of naturally occurring petroleum distillates may be used as a stimulation fluid in hydrocarbon-bearing zones. Criteria for the authorization shall be established by the Department by rule.

(g) In addition to any other information that it must provide, the owner, operator, or service company

shall provide the Director the following post well stimulation detail:

(1) the actual total well stimulation treatment volume pumped;

(2) detail as to each fluid stage pumped, including actual volume by fluid stage, proppant rate or concentration, actual chemical additive name and type;

(3) the actual surface pressure and rate at the end of each fluid stage and the actual flush volume, rate, and final pump pressure; and

(4) the instantaneous shut-in pressure, and the actual 15-minute and 30-minute shut-in pressures when these pressure measurements are available.

(h) During the well stimulation operation, the owner or operator shall monitor and record the annulus pressure at the bradenhead. If intermediate casing has been set on the well being stimulated, then the pressure in the annulus between the intermediate casing and the production casing shall also be monitored and recorded. A continuous record of the annulus pressure during the well stimulation shall be submitted.

(i) If, during the stimulation, the annulus pressure increases by more than 500 pounds per square inch gauge (psig) compared to the pressure immediately preceding the stimulation, then the owner or operator shall verbally notify the Director as soon as practical but no later than 24 hours following the incident and must complete in a timely manner any corrective action identified by the Department. The owner or operator shall include a report containing all details pertaining to the incident, including corrective actions taken.

(j) The owner or operator shall provide information to the Director as to the amounts, handling, and, if necessary, disposal at an identified appropriate disposal facility, or reuse of the well stimulation fluid load recovered during flow back, swabbing, or recovery from production facility vessels. Storage of that fluid shall be protective of an underground source of drinking water as demonstrated by the use of either tanks or lined pits.

(k) Nothing in this Section shall be construed to allow the Director to require the disclosure of trade secrets as defined in the Illinois Trade Secrets Act.

(l) The Department shall adopt all rules necessary to enforce this Section.

(m) This Section applies only to the extraction of natural gas from shale.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 2 and 4 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator J. Collins, **Senate Bill No. 1034** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1034

AMENDMENT NO. 1. Amend Senate Bill 1034 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Controlled Substances Act is amended by changing Section 204 as follows:

(720 ILCS 570/204) (from Ch. 56 1/2, par. 1204)

Sec. 204. (a) The controlled substances listed in this Section are included in Schedule I.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetylmethadol;

(1.1) Acetyl-alpha-methylfentanyl
(N-[1-(1-methyl-2-phenethyl)-
4-piperidinyl]-N-phenylacetamide);

(2) Allylprodine;

(3) Alphacetylmethadol, except
levo-alphacetylmethadol (also known as levo-alpha-
acetylmethadol, levomethadyl acetate, or LAAM);

(4) Alphameprodine;

(5) Alphamethadol;

(6) Alpha-methylfentanyl (N-(1-alpha-methyl-beta-phenyl) ethyl-4-piperidyl) propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine;

(6.1) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(7) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP);

(7.1) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(8) Benzethidine;

(9) Betacetylmethadol;

(9.1) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(10) Betameprodine;

(11) Betamethadol;

(12) Betaprodine;

(13) Clonitazene;

(14) Dextromoramide;

(15) Diampromide;

(16) Diethylthiambutene;

(17) Difenoxin;

(18) Dimenoxadol;

(19) Dimepheptanol;

(20) Dimethylthiambutene;

(21) Dioxaphetylbutyrate;

(22) Dipipanone;

(23) Ethylmethylthiambutene;

(24) Etonitazene;

(25) Etoxeridine;

(26) Furethidine;

(27) Hydroxpethidine;

(28) Ketobemidone;

(29) Levomoramide;

(30) Levophenacylmorphan;

(31) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

(31.1) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(32) Morpheridine;

(33) Noracymethadol;

(34) Norlevorphanol;

(35) Normethadone;

(36) Norpipanone;

(36.1) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide);

(37) Phenadoxone;

(38) Phenampromide;

(39) Phenomorphan;

(40) Phenoperidine;

(41) Piritramide;

(42) Proheptazine;

(43) Properidine;

(44) Propiram;

(45) Racemoramide;

(45.1) Thiofentanyl
(N-phenyl-N-[1-(2-thienyl)ethyl-
4-piperidinyl]-propanamide);
(46) Tilidine;
(47) Trimeperidine;
(48) Beta-hydroxy-3-methylfentanyl (other name:
N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-
N-phenylpropanamide).

(c) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers and salts of isomers, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Diacetyldihydromorphine (Dihydroheroin);
(9) Dihydromorphine;
(10) Drotebanol;
(11) Etorphine (except hydrochloride salt);
(12) Heroin;
(13) Hydromorphinol;
(14) Methyldesorphine;
(15) Methyldihydromorphine;
(16) Morphine methylbromide;
(17) Morphine methylsulfonate;
(18) Morphine-N-Oxide;
(19) Myrophine;
(20) Nicocodeine;
(21) Nicomorphine;
(22) Normorphine;
(23) Pholcodine;
(24) Thebacon.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for the purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(1) 3,4-methylenedioxyamphetamine
(alpha-methyl,3,4-methylenedioxyphenethylamine,
methylenedioxyamphetamine, MDA);
(1.1) Alpha-ethyltryptamine
(some trade or other names: etryptamine;
MONASE; alpha-ethyl-1H-indole-3-ethanamine;
3-(2-aminobutyl)indole; a-ET; and AET);
(2) 3,4-methylenedioxymethamphetamine (MDMA);
(2.1) 3,4-methylenedioxy-N-ethylamphetamine
(also known as: N-ethyl-alpha-methyl-
3,4(methylenedioxy) Phenethylamine, N-ethyl MDA, MDE,
and MDEA);
(2.2) N-Benzylpiperazine (BZP);
(3) 3-methoxy-4,5-methylenedioxyamphetamine, (MMDA);
(4) 3,4,5-trimethoxyamphetamine (TMA);
(5) (Blank);
(6) Diethyltryptamine (DET);
(7) Dimethyltryptamine (DMT);
(8) 4-methyl-2,5-dimethoxyamphetamine (DOM, STP);

(9) Ibogaine (some trade and other names: 7-ethyl-6,6,beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernanthe iboga);

(10) Lysergic acid diethylamide;

(10.5) Salvia divinorum (meaning all parts of the plant presently classified botanically as Salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, derivative, mixture, or preparation of that plant, its seeds or extracts);

(11) 3,4,5-trimethoxyphenethylamine (Mescaline);

(12) Peyote (meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, salts, derivative, mixture, or preparation of that plant, its seeds or extracts);

(13) N-ethyl-3-piperidyl benzilate (JB 318);

(14) N-methyl-3-piperidyl benzilate;

(14.1) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine and N-hydroxy MDA);

(15) Parahexyl; some trade or other names: 3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo (b,d) pyran; Synhexyl;

(16) Psilocybin;

(17) Psilocyn;

(18) Alpha-methyltryptamine (AMT);

(19) 2,5-dimethoxyamphetamine (2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA);

(20) 4-bromo-2,5-dimethoxyamphetamine (4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);

(20.1) 4-Bromo-2,5 dimethoxyphenethylamine. Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB, 2CB, Nexus;

(21) 4-methoxyamphetamine (4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

(22) (Blank);

(23) Ethylamine analog of phencyclidine. Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(24) Pyrrolidine analog of phencyclidine. Some trade or other names: 1-(1-phenylcyclohexyl) pyrrolidine, PCPy, PHP;

(25) 5-methoxy-3,4-methylenedioxy-amphetamine;

(26) 2,5-dimethoxy-4-ethylamphetamine (another name: DOET);

(27) 1-[1-(2-thienyl)cyclohexyl] pyrrolidine (another name: TCPy);

(28) (Blank);

(29) Thiophene analog of phencyclidine (some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP);

(30) Bufotenine (some trade or other names: 3-(Beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; 5-hydroxy-N,N-dimethyltryptamine;

N,N-dimethylserotonin; mappine);
(31) 1-Pentyl-3-(1-naphthoyl)indole
Some trade or other names: JWH-018;
(32) 1-Butyl-3-(1-naphthoyl)indole
Some trade or other names: JWH-073; -
(33) 3,4-Methylenedioxymethcathinone
Some trade or other names: Methylone;
(34) 3,4-Methyenedioxypyrovalerone
Some trade or other names: MDPV;
(35) 4-Methylmethcathinone
Some trade or other names: Mephedrone;
(36) 4-methoxymethcathinone;
(37) 4-Fluoromethcathinone;
(38) 3-Fluoromethcathinone.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) mecloqualone;
(2) methaqualone; and
(3) gamma hydroxybutyric acid.

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Fenethylline;
(2) N-ethylamphetamine;
(3) Aminorex (some other names:
2-amino-5-phenyl-2-oxazoline; aminoxaphen;
4-5-dihydro-5-phenyl-2-oxazolamine) and its
salts, optical isomers, and salts of optical isomers;
(4) Methcathinone (some other names:
2-methylamino-1-phenylpropan-1-one;
Ephedrone; 2-(methylamino)-propiophenone;
alpha-(methylamino)propiophenone; N-methylcathinone;
methycathinone; Monomethylpropion; UR 1431) and its
salts, optical isomers, and salts of optical isomers;
(5) Cathinone (some trade or other names:
2-aminopropiophenone; alpha-aminopropiophenone;
2-amino-1-phenyl-propanone; norephedrone);
(6) N,N-dimethylamphetamine (also known as:
N,N-alpha-trimethyl-benzeneethanamine;
N,N-alpha-trimethylphenethylamine);
(7) (+ or -) cis-4-methylaminorex ((+ or -) cis-
4,5-dihydro-4-methyl-4-5-phenyl-2-oxazolamine).

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture, or preparation that contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide
(benzylfentanyl), its optical isomers, isomers, salts,
and salts of isomers;
(2) N-[1(2-thienyl)
methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl),
its optical isomers, salts, and salts of isomers.

(Source: P.A. 95-239, eff. 1-1-08; 95-331, eff. 8-21-07; 96-347, eff. 1-1-10; 96-1285, eff. 1-1-11.)

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 J. Collins, **Senate Bill No. 1259** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1259

AMENDMENT NO. 1. Amend Senate Bill 1259 on page 2, line 16, after "mortgage.", by inserting the following:

"Nothing in this Section shall be construed to extinguish, limit, or otherwise affect any lien created by a condominium association, master association, or common interest community association.".

AMENDMENT NO. 2 TO SENATE BILL 1259

AMENDMENT NO. 2. Amend Senate Bill 1259, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Code of Civil Procedure is amended by adding Section 15-1401.1 as follows:
(735 ILCS 5/15-1401.1 new)
Sec. 15-1401.1. Short sale in foreclosure.
(a) For purposes of this Section, "short sale" means the sale of real estate that is subject to a mortgage for an amount that is less than the amount owed to the mortgagee on the outstanding mortgage note.
(b) In a foreclosure of residential property, if (i) the mortgagor presents to the mortgagee, which is a banking organization or corporation, a bona fide written offer from a third party to purchase the property that is the subject of the foreclosure proceeding, (ii) the written offer to purchase is for an amount which constitutes a short sale of the property, and (iii) the mortgagor makes a written request to the mortgagee to approve the sale on the terms of the offer to purchase, the mortgagee must respond to the mortgagor within 90 days after receipt of the written offer and written request.

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

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

Senator J. Collins offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 1259

AMENDMENT NO. 4. Amend Senate Bill 1259, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Code of Civil Procedure is amended by adding Section 15-1401.1 as follows:
(735 ILCS 5/15-1401.1 new)
Sec. 15-1401.1. Short sale in foreclosure.
(a) For purposes of this Section, "short sale" means the sale of real estate that is subject to a mortgage for an amount that is less than the amount owed to the mortgagee on the outstanding mortgage note.
(b) In a foreclosure of residential real estate, if (i) the mortgagor presents to the mortgagee a bona fide written offer from a third party to purchase the property that is the subject of the foreclosure proceeding, (ii) the written offer to purchase is for an amount which constitutes a short sale of the property, and (iii) the mortgagor makes a written request to the mortgagee to approve the sale on the terms of the offer to purchase, the mortgagee must respond to the mortgagor within 90 days after receipt of the written offer and written request.
(c) The mortgagee shall determine whether to accept the mortgagor's short sale offer. Failure to accept the offer shall not impair or abrogate in any way the rights of the mortgagee or affect the status of the foreclosure proceedings. The 90-day period shall not operate as a stay of the proceedings.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 1, 2 and 4 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Crotty, **Senate Bill No. 1270** 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 State Government and Veterans Affairs, adopted and ordered printed:

AMENDMENT NO. 2 TO SENATE BILL 1270

AMENDMENT NO. 2. Amend Senate Bill 1270 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Procurement Code is amended by changing Section 45-57 as follows:

(30 ILCS 500/45-57)

Sec. 45-57. Veterans ~~Disabled veterans~~.

(a) Set-aside goal. It is the goal of the State to promote and encourage the continued economic development of small businesses owned and controlled by qualified ~~service-disabled~~ veterans and that qualified service-disabled ~~service-disabled~~ veteran-owned small businesses (referred to as SDVOSB ~~SDVOB~~) and veteran-owned small businesses (referred to as VOSB) participate in the State's procurement process as both prime contractors and subcontractors. Not less than 3% of the total dollar amount of State contracts, as defined by the Director of Central Management Services, shall be established as a goal to be awarded to SDVOSB and VOSB. ~~A Task Force shall be established, appointed by the Directors or Secretaries of, and made up of representatives of, the Illinois Department of Veterans' Affairs, the Illinois Department of Transportation, the Department of Central Management Services, the Business Enterprise Program, and the Business Enterprise Council. The Department of Central Management Services shall provide administrative support to the Task Force. The purpose of this Task Force shall be to determine the appropriate percentage goal for award each fiscal year of the State's total expenditures for contracts awarded under this Code to SDVOB.~~ That portion of a contract under which the contractor subcontracts with a SDVOSB or VOSB ~~SDVOB~~ may be counted toward the goal of this subsection. The Department of Central Management Services shall adopt rules to implement compliance with this subsection by all State agencies. ~~In making that determination the Task Force shall consult with statewide veterans' service organizations and the business community, including businesses owned by qualified disabled veterans. The Task Force shall submit its report to the General Assembly concerning its recommendations regarding the appropriate percentage goal for award each fiscal year of the State's total expenditures for contracts awarded under this Code to qualified service disabled veterans no later than 90 days after the effective date of this amendatory Act of the 96th General Assembly.~~

(b) Fiscal year reports. By ~~Once the appropriate goal is established, then by~~ each September 1, each chief procurement officer shall report to the Department of Central Management Services on all of the following for the immediately preceding fiscal year, and by each October 1 the Department of Central Management Services shall compile and report that information to the General Assembly:

(1) The total number of VOSB, and the number of SDVOSB, ~~SDVOB~~ who submitted bids ~~a bid~~ for contracts ~~a contract~~ under this Code.

(2) The total number of VOSB, and the number of SDVOSB, ~~SDVOB~~ who entered into contracts with the State under this Code and the

total value of those contracts.

(c) Yearly review and recommendations. Each year, each chief procurement officer shall review the progress of all State

agencies under its jurisdiction in meeting the goal described in subsection (a), with input from statewide veterans' service organizations and from the business community, including businesses owned by qualified ~~disabled~~ veterans, and shall make recommendations to be included in the Department of Central Management Services' report to the General Assembly regarding continuation, increases, or decreases of the percentage goal. The recommendations shall be based upon the number of businesses that are owned by qualified ~~disabled~~ veterans and on the continued need to encourage and promote businesses owned by qualified ~~disabled~~ veterans.

(d) Governor's recommendations. To assist the State in reaching the goal described in subsection (a), the Governor

shall recommend to the General Assembly changes in programs to assist businesses owned by qualified ~~disabled~~ veterans.

(e) Definitions. As used in this Section:

"Armed forces of the United States" means the United States Army, Navy, Air Force, Marine Corps, or Coast Guard. Service in the Merchant Marine that constitutes active duty under Section 401 of federal

Public Act 95-202 shall also be considered service in the armed forces for purposes of this Section.

~~"Business" means a business that has average annual gross sales over the 3 most recent calendar years of less than $31,000,000 as evidenced by the federal income tax returns of the business.~~

"Certification" means a determination made by the Illinois Department of Veterans' Affairs and the Department of Central Management Services that a business entity is a qualified service-disabled veteran-owned small business or a qualified veteran-owned small business for whatever purpose. A SDVOSB or VOSB owned and controlled by females, minorities, or persons with disabilities, as those terms are defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, shall select and designate whether that business is to be certified as a "female-owned business", "minority-owned business", or "business owned by a person with a disability", as defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, or as a qualified SDVOSB or qualified VOSB under this Section.

"Control" means the exclusive, ultimate, majority, or sole control of the business,

including but not limited to capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operation responsibilities, cost-control matters, income and dividend matters, financial transactions, and rights of other shareholders or joint partners. Control shall be real, substantial, and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management, and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business, and control shall not include simple majority or absentee ownership.

"Qualified service-disabled ~~service-disabled~~ veteran" means a veteran who has been found to have 10% or more ~~a~~ service-connected

disability by the United States Department of Veterans Affairs or the United States Department of Defense.

"Qualified service-disabled veteran-owned small business" or "SDVOSB" means a small business (i) that is at least 51% owned by one or more qualified service-disabled veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified service-disabled veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Department of Central Management Services.

"Qualified veteran-owned small business" or "VOSB" means a small business (i) that is at least 51% owned by one or more qualified veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Department of Central Management Services.

~~"Qualified disabled veteran-owned business" means a business entity that is at least 51% owned by one or more qualified disabled veterans, or in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified disabled veterans; and the management and daily business operations of which are controlled by one or more of the qualified disabled veterans who own it.~~

"Service-connected disability" means a disability incurred in the line of duty in the active military, naval, or air service as described in 38 U.S.C. 101(16).

"Small business" means a business that has annual gross sales of less than $75,000,000 as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Department of Central Management Services for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on SDVOSB or VOSB as suppliers or subcontractors or in employment of veterans or service-disabled veterans.

"State agency" has the same meaning as in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

"Time of hostilities with a foreign country" means any period of time in the past, present, or future during which a declaration of war by the United States Congress has been or is in effect or during which an emergency condition has been or is in effect that is recognized by the issuance of a Presidential proclamation or a Presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to Presidential executive order.

"Veteran" means a person who (i) has been a member of the armed forces of the United States or, while a citizen of the United States, was a member of the armed forces of allies of the United States in time of hostilities with a foreign country and (ii) has served under one or more of the following conditions: (a) the veteran served a total of at least 6 months; (b) the veteran served for the duration of hostilities regardless of the length of the engagement; (c) the veteran was discharged on the basis of

hardship; or (d) the veteran was released from active duty because of a service connected disability and was discharged under honorable conditions. ~~served in the active military, naval, or air service and who was discharged or released from his or her service under conditions other than dishonorable.~~

(f) Certification program. The Illinois Department of Veterans' Affairs and the Department of Central Management

Services ~~Business Enterprise Program~~ shall work together to devise a certification procedure to assure that businesses taking advantage of this Section ~~Act~~ are legitimately classified as qualified service-disabled ~~service-disabled~~ veteran-owned small businesses or qualified veteran-owned small businesses.

(g) VOSBA network. The Director of Central Management Services shall administer a State network of Veteran-Owned Small Business Advocates (VOSBA), who shall report to the Director's appointee and shall do all of the following:

(1) Oversee, promote, and coordinate the VOSBA program.

(2) Manage appointment and oversight of all VOSBA members.

(3) Submit to the Director's appointee an annual report to document the VOSBA program.

(4) Coordinate with State agencies and with existing and potential veteran-owned small businesses to achieve the goal described in subsection (a).

(h) State agency VOSBA. Each State agency shall appoint and support at least one State agency VOSBA. The Department of Central Management Services shall maintain an online database of all VOSBA, including their telephone numbers, facsimile numbers, electronic mail addresses, and postal addresses. Each State agency VOSBA shall do all of the following:

(1) Assist certified veteran-owned small businesses in participating in the State agency's contracting process.

(2) Assist the State agency's State purchasing officer in seeking veteran-owned small businesses to participate in the State agency's contract and procurement activities by any feasible means, including without limitation by performing outreach efforts to recruit veteran-owned small businesses to be prime contractors or subcontractors on contracts proposed by the State agency that require veteran-owned small business participation.

(3) Meet regularly with the contract and procurement staffs of his or her State agency to disseminate information about the veteran-owned small business set-aside program.

(4) Advocate for the veteran-owned small businesses that are used as the State agency's contractors or subcontractors.

(5) Report to the Department of Central Management Services regarding any violation of this Section.

(6) Coordinate and meet, on a regular basis, with the Illinois Department of Veterans' Affairs in an effort to meet the goal described in subsection (a).

(i) Penalties.

(1) Administrative penalties. The Department of Central Management Services shall suspend any person who commits a violation of Article 33C or subsection (d) of Section 33E-6 of the Criminal Code of 1961 relating to this Section from bidding on, or participating as a contractor, subcontractor, or supplier in, any State contract or project for a period of not less than 3 years, and, if the person is certified as a service-disabled veteran-owned small business or a veteran-owned small business, then the Department shall revoke the business' certification for a period of not less than 3 years. An additional or subsequent violation shall extend the periods of suspension and revocation for a period of not less than 5 years. The suspension and revocation shall apply to the principals of the business and any subsequent business formed or financed by, or affiliated with, those principals.

(2) Reports of violations. Each State agency shall report any alleged violation of Article 33C or subsection (d) of Section 33E-6 of the Criminal Code of 1961 relating to this Section to the Department of Central Management Services. The Department of Central Management Services shall subsequently report all such alleged violations to the Attorney General, who shall determine whether to bring a civil action against any person for the violation.

(3) List of suspended persons. The Department of Central Management Services shall monitor the status of all reported violations of Article 33C or subsection (d) of Section 33E-6 of the Criminal Code of 1961 relating to this Section and shall maintain and make available to all State agencies a central listing of all persons that committed violations resulting in suspension.

(4) Use of suspended persons. During the period of a person's suspension under paragraph (1) of this subsection, a State agency shall not enter into any contract with that person or with any contractor using the services of that person as a subcontractor.

(5) Duty to check list. Each State agency shall check the central listing provided by the Department

of Central Management Services under paragraph (3) of this subsection to verify that a person being awarded a contract by that State agency, or to be used as a subcontractor or supplier on a contract being awarded by that State agency, is not under suspension pursuant to paragraph (1) of this subsection.
(Source: P.A. 96-96, eff. 1-1-10.)

Section 10. The Criminal Code of 1961 is amended by changing Sections 33C-1, 33C-2, 33C-3, 33C-4, 33C-5, 33E-2, and 33E-6 as follows:

(720 ILCS 5/33C-1) (from Ch. 38, par. 33C-1)

Sec. 33C-1. Fraudulently obtaining or retaining certification. A person who, in the course of business, fraudulently obtains or retains certification as a minority owned business, ~~or~~ female owned business , service-disabled veteran-owned small business, or veteran-owned small business commits a Class 2 felony.
(Source: P.A. 84-192.)

(720 ILCS 5/33C-2) (from Ch. 38, par. 33C-2)

Sec. 33C-2. Willfully making a false statement. A person who, in the course of business, willfully makes a false statement whether by affidavit, report or other representation, to an official or employee of a State agency or the Minority and Female Business Enterprise Council for the purpose of influencing the certification or denial of certification of any business entity as a minority owned business, ~~or~~ female owned business , service-disabled veteran-owned small business, or veteran-owned small business commits a Class 2 felony.
(Source: P.A. 84-192.)

(720 ILCS 5/33C-3) (from Ch. 38, par. 33C-3)

Sec. 33C-3. Willfully obstructing or impeding an official or employee of any agency in his investigation. Any person who, in the course of business, willfully obstructs or impedes an official or employee of any State agency or the Minority and Female Business Enterprise Council who is investigating the qualifications of a business entity which has requested certification as a minority owned business, ~~or a~~ female owned business , service-disabled veteran-owned small business, or veteran-owned small business commits a Class 2 felony.
(Source: P.A. 84-192.)

(720 ILCS 5/33C-4) (from Ch. 38, par. 33C-4)

Sec. 33C-4. Fraudulently obtaining public moneys reserved for disadvantaged business enterprises. Any person who, in the course of business, fraudulently obtains public moneys reserved for, or allocated or available to, minority owned businesses, ~~or~~ female owned businesses , service-disabled veteran-owned small businesses, or veteran-owned small businesses commits a Class 2 felony.
(Source: P.A. 84-192.)

(720 ILCS 5/33C-5) (from Ch. 38, par. 33C-5)

Sec. 33C-5. Definitions. As used in this Article, "minority owned business", "female owned business", "State agency" with respect to minority owned businesses and female owned businesses, and "certification" with respect to minority owned businesses and female owned businesses shall have the meanings ascribed to them in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. As used in this Article, "service-disabled veteran-owned small business", "veteran-owned small business", "State agency" with respect to service-disabled veteran-owned small businesses and veteran-owned small businesses, and "certification" with respect to service-disabled veteran-owned small businesses and veteran-owned small businesses have the same meanings as in Section 45-57 of the Illinois Procurement Code.
(Source: P.A. 92-16, eff. 6-28-01.)

(720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

Sec. 33E-2. Definitions. In this Act:

(a) "Public contract" means any contract for goods, services or construction let to any person with or without bid by any unit of State or local government.

(b) "Unit of State or local government" means the State, any unit of state government or agency thereof, any county or municipal government or committee or agency thereof, or any other entity which is funded by or expends tax dollars or the proceeds of publicly guaranteed bonds.

(c) "Change order" means a change in a contract term other than as specifically provided for in the contract which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion.

(d) "Person" means any individual, firm, partnership, corporation, joint venture or other entity, but does not include a unit of State or local government.

(e) "Person employed by any unit of State or local government" means any employee of a unit of State

or local government and any person defined in subsection (d) who is authorized by such unit of State or local government to act on its behalf in relation to any public contract.

(f) "Sheltered market" has the meaning ascribed to it in Section 8b of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; except that, with respect to State contracts set aside for award to service-disabled veteran-owned small businesses and veteran-owned small businesses pursuant to Section 45-57 of the Illinois Procurement Code, "sheltered market" means procurements pursuant to that Section.

(g) "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

(h) "Prime contractor" means any person who has entered into a public contract.

(i) "Prime contractor employee" means any officer, partner, employee, or agent of a prime contractor.

(i-5) "Stringing" means knowingly structuring a contract or job order to avoid the contract or job order being subject to competitive bidding requirements.

(j) "Subcontract" means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining goods or services of any kind under a prime contract.

(k) "Subcontractor" (1) means any person, other than the prime contractor, who offers to furnish or furnishes any goods or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and (2) includes any person who offers to furnish or furnishes goods or services to the prime contractor or a higher tier subcontractor.

(l) "Subcontractor employee" means any officer, partner, employee, or agent of a subcontractor.

(Source: P.A. 92-16, eff. 6-28-01.)

(720 ILCS 5/33E-6) (from Ch. 38, par. 33E-6)

Sec. 33E-6. Interference with contract submission and award by public official. (a) Any person who is an official of or employed by any unit of State or local government who knowingly conveys, either directly or indirectly, outside of the publicly available official invitation to bid, pre-bid conference, solicitation for contracts procedure or such procedure used in any sheltered market procurement adopted pursuant to law or ordinance by that unit of government, to any person any information concerning the specifications for such contract or the identity of any particular potential subcontractors, when inclusion of such information concerning the specifications or contractors in the bid or offer would influence the likelihood of acceptance of such bid or offer, commits a Class 4 felony. It shall not constitute a violation of this subsection to convey information intended to clarify plans or specifications regarding a public contract where such disclosure of information is also made generally available to the public.

(b) Any person who is an official of or employed by any unit of State or local government who, either directly or indirectly, knowingly informs a bidder or offeror that the bid or offer will be accepted or executed only if specified individuals are included as subcontractors commits a Class 3 felony.

(c) It shall not constitute a violation of subsection (a) of this Section where any person who is an official of or employed by any unit of State or local government follows procedures established (i) by federal, State or local minority or female owned business enterprise programs or (ii) pursuant to Section 45-57 of the Illinois Procurement Code.

(d) Any bidder or offeror who is the recipient of communications from the unit of government which he reasonably believes to be proscribed by subsections (a) or (b), and fails to inform either the Attorney General or the State's Attorney for the county in which the unit of government is located, commits a Class A misdemeanor.

(e) Any public official who knowingly awards a contract based on criteria which were not publicly disseminated via the invitation to bid, when such invitation to bid is required by law or ordinance, the pre-bid conference, or any solicitation for contracts procedure or such procedure used in any sheltered market procurement procedure adopted pursuant to statute or ordinance, commits a Class 3 felony.

(f) It shall not constitute a violation of subsection (a) for any person who is an official of or employed by any unit of State or local government to provide to any person a copy of the transcript or other summary of any pre-bid conference where such transcript or summary is also made generally available to the public.

(Source: P.A. 86-150.)

Section 99. Effective date. This Act takes effect July 1, 2011.".

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1270

AMENDMENT NO. 3. Amend Senate Bill 1270, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, as follows:

on page 8, by deleting lines 16 through 26; and

on page 9, by deleting lines 1 through 26; and

on page 10, by deleting lines 1 through 4; and

on page 10, line 5, by replacing "(i)" with "(g)".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 1270

AMENDMENT NO. 4. Amend Senate Bill 1270, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, as follows:

on page 1, by replacing lines 14 and 15 with the following:

"participate in the State's procurement process as ~~both~~ prime contractors, ~~and~~ subcontractors , and businesses contracted by the State to perform professional services in architecture or engineering. Not less than 3% of the total"; and

on page 4, by replacing line 8 with the following:

"Army, Navy, Air Force, Marine Corps, Coast Guard, or service in active duty as defined under 38 U.S.C. Section 101. Service in".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments Numbered 2, 3 and 4 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Schoenberg, **Senate Bill No. 1311** having been printed, was taken up, read by title a second time.

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

Senator Schoenberg offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1311

AMENDMENT NO. 2. Amend Senate Bill 1311 as follows:

on page 3, line 16, by deleting "13% of"; and

on page 3, on line 18, by deleting "and 67% of proceeds of fees collected for"; and

on page 3, by deleting line 19; and

on page 3, line 22, after the period, by inserting the following:

"In any month when deposits fall below $1,742,000, the shortfall shall be made up from proceeds collected in subsequent months. Any proceeds in excess of $20,904,000 in a fiscal year shall be deposited into the General Revenue Fund.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Schoenberg, **Senate Bill No. 1313** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1313

AMENDMENT NO. 1. Amend Senate Bill 1313 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by changing Section 1 as follows:

(215 ILCS 5/1) (from Ch. 73, par. 613)

Sec. 1. Short title. This Act shall be known and ~~and~~ may be cited as the Illinois Insurance Code.

(Source: P.A. 96-328, eff. 8-11-09.)".

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 Dillard, **Senate Bill No. 1338,** 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. 1341,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Murphy, **Senate Bill No. 1344,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Schoenberg, **Senate Bill No. 1352,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1377,** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Public Health.

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

On motion of Senator Radogno, **Senate Bill No. 1400,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1401,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1402,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1403,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1404,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1405,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1406,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1408,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1409,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1410,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1411,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1412,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1413,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1414,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1415,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1416,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1417,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1418,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1419,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1420,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1421,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1422,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1423,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1424,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1425,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1426,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1428,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1429,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1430,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1431,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1432,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1433,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1434,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Righter, **Senate Bill No. 1435** having been printed, was taken up, read by title a second time.

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

Senator Righter offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1435

AMENDMENT NO. 2. Amend Senate Bill 1435 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Section 11-74.4-3.5 as follows:

(65 ILCS 5/11-74.4-3.5)

Sec. 11-74.4-3.5. Completion dates for redevelopment projects.

(a) Unless otherwise stated in this Section, the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer, as provided in subsection (b) of Section 11-74.4-8 of this Act, is to be made with respect to ad valorem taxes levied in the 23rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted if the ordinance was adopted on or after January 15, 1981.

(b) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 32nd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on September 9, 1999 by the Village of Downs.

The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 33rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on May 20, 1985 by the Village of Wheeling.

The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 28th calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on October 12, 1989 by the City of Lawrenceville.

(c) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in

subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 35th calendar year after the year in which the ordinance approving the redevelopment project area was adopted:

(1) if the ordinance was adopted before January 15, 1981;

(2) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989;

(3) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport;

(4) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County;

(5) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law;

(6) if the ordinance was adopted in December 1984 by the Village of Rosemont;

(7) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least $250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least $250,000 of tax increment bonds were authorized on June 17, 1997;

(8) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis;

(9) if the ordinance was adopted on November 12, 1991 by the Village of Sauget;

(10) if the ordinance was adopted on February 11, 1985 by the City of Rock Island;

(11) if the ordinance was adopted before December 18, 1986 by the City of Moline;

(12) if the ordinance was adopted in September 1988 by Sauk Village;

(13) if the ordinance was adopted in October 1993 by Sauk Village;

(14) if the ordinance was adopted on December 29, 1986 by the City of Galva;

(15) if the ordinance was adopted in March 1991 by the City of Centreville;

(16) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis;

(17) if the ordinance was adopted on December 22, 1986 by the City of Aledo;

(18) if the ordinance was adopted on February 5, 1990 by the City of Clinton;

(19) if the ordinance was adopted on September 6, 1994 by the City of Freeport;

(20) if the ordinance was adopted on December 22, 1986 by the City of Tuscola;

(21) if the ordinance was adopted on December 23, 1986 by the City of Sparta;

(22) if the ordinance was adopted on December 23, 1986 by the City of Beardstown;

(23) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville;

(24) if the ordinance was adopted on December 29, 1986 by the City of Collinsville;

(25) if the ordinance was adopted on September 14, 1994 by the City of Alton;

(26) if the ordinance was adopted on November 11, 1996 by the City of Lexington;

(27) if the ordinance was adopted on November 5, 1984 by the City of LeRoy;

(28) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham;

(29) if the ordinance was adopted on November 11, 1986 by the City of Pekin;

(30) if the ordinance was adopted on December 15, 1981 by the City of Champaign;

(31) if the ordinance was adopted on December 15, 1986 by the City of Urbana;

(32) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth;

(33) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth;

(34) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth;

(35) if the ordinance was adopted on December 23, 1986 by the Town of Cicero;

(36) if the ordinance was adopted on December 30, 1986 by the City of Effingham;

(37) if the ordinance was adopted on May 9, 1991 by the Village of Tilton;

(38) if the ordinance was adopted on October 20, 1986 by the City of Elmhurst;

(39) if the ordinance was adopted on January 19, 1988 by the City of Waukegan;

(40) if the ordinance was adopted on September 21, 1998 by the City of Waukegan;

(41) if the ordinance was adopted on December 31, 1986 by the City of Sullivan;

(42) if the ordinance was adopted on December 23, 1991 by the City of Sullivan;

(43) if the ordinance was adopted on December 31, 1986 by the City of Oglesby;

(44) if the ordinance was adopted on July 28, 1987 by the City of Marion;

(45) if the ordinance was adopted on April 23, 1990 by the City of Marion;

(46) if the ordinance was adopted on August 20, 1985 by the Village of Mount Prospect;
(47) if the ordinance was adopted on February 2, 1998 by the Village of Woodhull;
(48) if the ordinance was adopted on April 20, 1993 by the Village of Princeville;
(49) if the ordinance was adopted on July 1, 1986 by the City of Granite City;
(50) if the ordinance was adopted on February 2, 1989 by the Village of Lombard;
(51) if the ordinance was adopted on December 29, 1986 by the Village of Gardner;
(52) if the ordinance was adopted on July 14, 1999 by the Village of Paw Paw;
(53) if the ordinance was adopted on November 17, 1986 by the Village of Franklin Park;
(54) if the ordinance was adopted on November 20, 1989 by the Village of South Holland;
(55) if the ordinance was adopted on July 14, 1992 by the Village of Riverdale;
(56) if the ordinance was adopted on December 29, 1986 by the City of Galesburg;
(57) if the ordinance was adopted on April 1, 1985 by the City of Galesburg;
(58) if the ordinance was adopted on May 21, 1990 by the City of West Chicago;
(59) if the ordinance was adopted on December 16, 1986 by the City of Oak Forest;
(60) if the ordinance was adopted in 1999 by the City of Villa Grove;
(61) if the ordinance was adopted on January 13, 1987 by the Village of Mt. Zion;
(62) if the ordinance was adopted on December 30, 1986 by the Village of Manteno;
(63) if the ordinance was adopted on April 3, 1989 by the City of Chicago Heights;
(64) if the ordinance was adopted on January 6, 1999 by the Village of Rosemont;
(65) if the ordinance was adopted on December 19, 2000 by the Village of Stone Park;
(66) if the ordinance was adopted on December 22, 1986 by the City of DeKalb;
(67) if the ordinance was adopted on December 2, 1986 by the City of Aurora;
(68) if the ordinance was adopted on December 31, 1986 by the Village of Milan;
(69) if the ordinance was adopted on September 8, 1994 by the City of West Frankfort;
(70) if the ordinance was adopted on December 23, 1986 by the Village of Libertyville;
(71) if the ordinance was adopted on December 22, 1986 by the Village of Hoffman Estates;
(72) if the ordinance was adopted on September 17, 1986 by the Village of Sherman;
(73) if the ordinance was adopted on December 16, 1986 by the City of Macomb;
(74) if the ordinance was adopted on June 11, 2002 by the City of East Peoria to create the West Washington Street TIF;
(75) if the ordinance was adopted on June 11, 2002 by the City of East Peoria to create the Camp Street TIF;
(76) if the ordinance was adopted on August 7, 2000 by the City of Des Plaines;
(77) if the ordinance was adopted on December 22, 1986 by the City of Washington to create the Washington Square TIF #2;
(78) if the ordinance was adopted on December 29, 1986 by the City of Morris;
(79) if the ordinance was adopted on July 6, 1998 by the Village of Steeleville;
(80) if the ordinance was adopted on December 29, 1986 by the City of Pontiac to create TIF I (the Main St TIF);
(81) if the ordinance was adopted on December 29, 1986 by the City of Pontiac to create TIF II (the Interstate TIF);
(82) if the ordinance was adopted on November 6, 2002 by the City of Chicago to create the Madden/Wells TIF District;
(83) if the ordinance was adopted on November 4, 1998 by the City of Chicago to create the Roosevelt/Racine TIF District;
(84) if the ordinance was adopted on June 10, 1998 by the City of Chicago to create the Stony Island Commercial/Burnside Industrial Corridors TIF District;
(85) if the ordinance was adopted on November 29, 1989 by the City of Chicago to create the Englewood Mall TIF District;
(86) if the ordinance was adopted on December 27, 1986 by the City of Mendota;
(87) if the ordinance was adopted on December 31, 1986 by the Village of Cahokia;
(88) if the ordinance was adopted on September 20, 1999 by the City of Belleville;
(89) if the ordinance was adopted on December 30, 1986 by the Village of Bellevue to create the Bellevue TIF District 1;
(90) if the ordinance was adopted on December 13, 1993 by the Village of Crete;
(91) if the ordinance was adopted on February 12, 2001 by the Village of Crete;
(92) if the ordinance was adopted on April 23, 2001 by the Village of Crete;
(93) if the ordinance was adopted on December 16, 1986 by the City of Champaign; or

(94) if the ordinance was adopted on December 20, 1986 by the City of Charleston.

(d) For redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by Public Act 87-1272 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

(e) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least $8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(f) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least $1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(g) In consolidating the material relating to completion dates from Sections 11-74.4-3 and 11-74.4-7 into this Section, it is not the intent of the General Assembly to make any substantive change in the law, except for the extension of the completion dates for the City of Aurora, the Village of Milan, the City of West Frankfort, the Village of Libertyville, and the Village of Hoffman Estates set forth under items (67), (68), (69), (70), and (71) of subsection (c) of this Section.

(Source: P.A. 95-932, eff. 8-26-08; 95-964, eff. 9-23-08; incorporates P.A. 95-777, eff. 9-22-08, and 95-1028, eff. 8-25-09 (see Section 5 of P.A. 96-717 for the effective date of changes made by P.A. 95-1028); 96-127, eff. 8-4-09; 96-182, eff. 8-10-09; 96-208, eff. 8-10-09; 96-209, eff. 1-1-10; 96-213, eff. 8-10-09; 96-264, eff. 8-11-09; 96-328, eff. 8-11-09; 96-439, eff. 8-14-09; 96-454, eff. 8-14-09; 96-722, eff. 8-25-09; 96-773, eff. 8-28-09; 96-830, eff. 12-4-09; 96-837, eff. 12-16-09; 96-1000, eff. 7-2-10; 96-1359, eff. 7-28-10; 96-1494, eff. 12-30-10.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Radogno, **Senate Bill No. 1436,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1437,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1438,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1439,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1440,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1441,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1442,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1443,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1444,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1445,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1446,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1447,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1448,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1449** having been printed, was taken up, read by title a second time.

Senator Radogno offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1449

AMENDMENT NO. 1. Amend Senate Bill 1449 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 11-74.4-5 and 11-74.6-22 as follows:

(65 ILCS 5/11-74.4-5) (from Ch. 24, par. 11-74.4-5)

Sec. 11-74.4-5. Public hearing; joint review board.

(a) The changes made by this amendatory Act of the 91st General Assembly do not apply to a municipality that, (i) before the effective date of this amendatory Act of the 91st General Assembly, has adopted an ordinance or resolution fixing a time and place for a public hearing under this Section or (ii) before July 1, 1999, has adopted an ordinance or resolution providing for a feasibility study under Section 11-74.4-4.1, but has not yet adopted an ordinance approving redevelopment plans and redevelopment projects or designating redevelopment project areas under Section 11-74.4-4, until after that municipality adopts an ordinance approving redevelopment plans and redevelopment projects or designating redevelopment project areas under Section 11-74.4-4; thereafter the changes made by this amendatory Act of the 91st General Assembly apply to the same extent that they apply to redevelopment plans and redevelopment projects that were approved and redevelopment projects that were designated before the effective date of this amendatory Act of the 91st General Assembly.

Prior to the adoption of an ordinance proposing the designation of a redevelopment project area, or approving a redevelopment plan or redevelopment project, the municipality by its corporate authorities, or as it may determine by any commission designated under subsection (k) of Section 11-74.4-4 shall adopt an ordinance or resolution fixing a time and place for public hearing. At least 10 days prior to the adoption of the ordinance or resolution establishing the time and place for the public hearing, the municipality shall make available for public inspection a redevelopment plan or a separate report that provides in reasonable detail the basis for the eligibility of the redevelopment project area. The report along with the name of a person to contact for further information shall be sent within a reasonable time after the adoption of such ordinance or resolution to the affected taxing districts by certified mail. On and after the effective date of this amendatory Act of the 91st General Assembly, the municipality shall print in a newspaper of general circulation within the municipality a notice that interested persons may register with the municipality in order to receive information on the proposed designation of a

redevelopment project area or the approval of a redevelopment plan. The notice shall state the place of registration and the operating hours of that place. The municipality shall have adopted reasonable rules to implement this registration process under Section 11-74.4-4.2. The municipality shall provide notice of the availability of the redevelopment plan and eligibility report, including how to obtain this information, by mail within a reasonable time after the adoption of the ordinance or resolution, to all residential addresses that, after a good faith effort, the municipality determines are located outside the proposed redevelopment project area and within 750 feet of the boundaries of the proposed redevelopment project area. This requirement is subject to the limitation that in a municipality with a population of over 100,000, if the total number of residential addresses outside the proposed redevelopment project area and within 750 feet of the boundaries of the proposed redevelopment project area exceeds 750, the municipality shall be required to provide the notice to only the 750 residential addresses that, after a good faith effort, the municipality determines are outside the proposed redevelopment project area and closest to the boundaries of the proposed redevelopment project area. Notwithstanding the foregoing, notice given after August 7, 2001 (the effective date of Public Act 92-263) and before the effective date of this amendatory Act of the 92nd General Assembly to residential addresses within 750 feet of the boundaries of a proposed redevelopment project area shall be deemed to have been sufficiently given in compliance with this Act if given only to residents outside the boundaries of the proposed redevelopment project area. The notice shall also be provided by the municipality, regardless of its population, to those organizations and residents that have registered with the municipality for that information in accordance with the registration guidelines established by the municipality under Section 11-74.4-4.2.

At the public hearing any interested person or affected taxing district may file with the municipal clerk written objections to and may be heard orally in respect to any issues embodied in the notice. The municipality shall hear all protests and objections at the hearing and the hearing may be adjourned to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the subsequent hearing. At the public hearing or at any time prior to the adoption by the municipality of an ordinance approving a redevelopment plan, the municipality may make changes in the redevelopment plan. Changes which (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of or extend the life of the redevelopment project, or (4) increase the number of inhabited residential units to be displaced from the redevelopment project area, as measured from the time of creation of the redevelopment project area, to a total of more than 10, shall be made only after the municipality gives notice, convenes a joint review board, and conducts a public hearing pursuant to the procedures set forth in this Section and in Section 11-74.4-6 of this Act. Changes which do not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of or extend the life of the redevelopment project, or (4) increase the number of inhabited residential units to be displaced from the redevelopment project area, as measured from the time of creation of the redevelopment project area, to a total of more than 10, may be made without further hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested parties registry, provided for under Section 11-74.4-4.2, and by publication in a newspaper of general circulation within the affected taxing district. Such notice by mail and by publication shall each occur not later than 10 days following the adoption by ordinance of such changes. Hearings with regard to a redevelopment project area, project or plan may be held simultaneously.

(b) Prior to holding a public hearing to approve or amend a redevelopment plan or to designate or add additional parcels of property to a redevelopment project area, the municipality shall convene a joint review board. The board shall consist of a representative selected by each community college district, local elementary school district and high school district or each local community unit school district, park district, library district, township, fire protection district, and county that will have the authority to directly levy taxes on the property within the proposed redevelopment project area at the time that the proposed redevelopment project area is approved, a representative selected by the municipality and a public member. The public member shall first be selected and then the board's chairperson shall be selected by a majority of the board members present and voting.

For redevelopment project areas with redevelopment plans or proposed redevelopment plans that would result in the displacement of residents from 10 or more inhabited residential units or that include 75 or more inhabited residential units, the public member shall be a person who resides in the redevelopment project area. If, as determined by the housing impact study provided for in paragraph (5) of subsection (n) of Section 11-74.4-3, or if no housing impact study is required then based on other

reasonable data, the majority of residential units are occupied by very low, low, or moderate income households, as defined in Section 3 of the Illinois Affordable Housing Act, the public member shall be a person who resides in very low, low, or moderate income housing within the redevelopment project area. Municipalities with fewer than 15,000 residents shall not be required to select a person who lives in very low, low, or moderate income housing within the redevelopment project area, provided that the redevelopment plan or project will not result in displacement of residents from 10 or more inhabited units, and the municipality so certifies in the plan. If no person satisfying these requirements is available or if no qualified person will serve as the public member, then the joint review board is relieved of this paragraph's selection requirements for the public member.

Within 90 days of the effective date of this amendatory Act of the 91st General Assembly, each municipality that designated a redevelopment project area for which it was not required to convene a joint review board under this Section shall convene a joint review board to perform the duties specified under paragraph (e) of this Section.

All board members shall be appointed and the first board meeting shall be held at least 14 days but not more than 28 days after the mailing of notice by the municipality to the taxing districts as required by Section 11-74.4-6(c). Notwithstanding the preceding sentence, a municipality that adopted either a public hearing resolution or a feasibility resolution between July 1, 1999 and July 1, 2000 that called for the meeting of the joint review board within 14 days of notice of public hearing to affected taxing districts is deemed to be in compliance with the notice, meeting, and public hearing provisions of the Act. Such notice shall also advise the taxing bodies represented on the joint review board of the time and place of the first meeting of the board. Additional meetings of the board shall be held upon the call of any member. The municipality seeking designation of the redevelopment project area shall provide administrative support to the board.

The board shall review (i) the public record, planning documents and proposed ordinances approving the redevelopment plan and project and (ii) proposed amendments to the redevelopment plan or additions of parcels of property to the redevelopment project area to be adopted by the municipality. As part of its deliberations, the board may hold additional hearings on the proposal. A board's recommendation shall be an advisory, non-binding recommendation. The recommendation shall be adopted by a majority of those members present and voting. The recommendations shall be submitted to the municipality within 30 days after convening of the board. Failure of the board to submit its report on a timely basis shall not be cause to delay the public hearing or any other step in the process of designating or amending the redevelopment project area but shall be deemed to constitute approval by the joint review board of the matters before it.

The board shall base its recommendation to approve or disapprove the redevelopment plan and the designation of the redevelopment project area or the amendment of the redevelopment plan or addition of parcels of property to the redevelopment project area on the basis of the redevelopment project area and redevelopment plan satisfying the plan requirements, the eligibility criteria defined in Section 11-74.4-3, and the objectives of this Act.

The board shall issue a written report describing why the redevelopment plan and project area or the amendment thereof meets or fails to meet one or more of the objectives of this Act and both the plan requirements and the eligibility criteria defined in Section 11-74.4-3. In the event the Board does not file a report it shall be presumed that these taxing bodies find the redevelopment project area and redevelopment plan satisfy the objectives of this Act and the plan requirements and eligibility criteria.

If the board recommends rejection of the matters before it, the municipality will have 30 days within which to resubmit the plan or amendment. During this period, the municipality will meet and confer with the board and attempt to resolve those issues set forth in the board's written report that led to the rejection of the plan or amendment.

Notwithstanding the resubmission set forth above, the municipality may commence the scheduled public hearing and either adjourn the public hearing or continue the public hearing until a date certain. Prior to continuing any public hearing to a date certain, the municipality shall announce during the public hearing the time, date, and location for the reconvening of the public hearing. Any changes to the redevelopment plan necessary to satisfy the issues set forth in the joint review board report shall be the subject of a public hearing before the hearing is adjourned if the changes would (1) substantially affect the general land uses proposed in the redevelopment plan, (2) substantially change the nature of or extend the life of the redevelopment project, or (3) increase the number of inhabited residential units to be displaced from the redevelopment project area, as measured from the time of creation of the redevelopment project area, to a total of more than 10. Changes to the redevelopment plan necessary to satisfy the issues set forth in the joint review board report shall not require any further notice or convening of a joint review board meeting, except that any changes to the redevelopment plan that

would add additional parcels of property to the proposed redevelopment project area shall be subject to the notice, public hearing, and joint review board meeting requirements established for such changes by subsection (a) of Section 11-74.4-5.

In the event that the municipality and the board are unable to resolve these differences, or in the event that the resubmitted plan or amendment is rejected by the board, the municipality may proceed with the plan or amendment, but only upon a three-fifths vote of the corporate authority responsible for approval of the plan or amendment, excluding positions of members that are vacant and those members that are ineligible to vote because of conflicts of interest.

(c) After a municipality has by ordinance approved a redevelopment plan and designated a redevelopment project area, the plan may be amended and additional properties may be added to the redevelopment project area only as herein provided. Amendments which (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted, (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan, or (6) increase the number of inhabited residential units to be displaced from the redevelopment project area, as measured from the time of creation of the redevelopment project area, to a total of more than 10, shall be made only after the municipality gives notice, convenes a joint review board, and conducts a public hearing pursuant to the procedures set forth in this Section and in Section 11-74.4-6 of this Act. Changes which do not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project cost set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted, (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan, or (6) increase the number of inhabited residential units to be displaced from the redevelopment project area, as measured from the time of creation of the redevelopment project area, to a total of more than 10, may be made without further public hearing and related notices and procedures including the convening of a joint review board as set forth in Section 11-74.4-6 of this Act, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and registrant on the interested parties registry, provided for under Section 11-74.4-4.2, and by publication in a newspaper of general circulation within the affected taxing district. Such notice by mail and by publication shall each occur not later than 10 days following the adoption by ordinance of such changes.

(d) After the effective date of this amendatory Act of the 91st General Assembly, a municipality shall submit in an electronic format the following information for each redevelopment project area (i) to the State Comptroller under Section 8-8-3.5 of the Illinois Municipal Code and (ii) to all taxing districts overlapping the redevelopment project area no later than 180 days after the close of each municipal fiscal year or as soon thereafter as the audited financial statements become available and, in any case, shall be submitted before the annual meeting of the Joint Review Board to each of the taxing districts that overlap the redevelopment project area:

(1) Any amendments to the redevelopment plan, the redevelopment project area, or the State Sales Tax Boundary.

(1.5) A list of the redevelopment project areas administered by the municipality and, if applicable, the date each redevelopment project area was designated or terminated by the municipality.

(2) Audited financial statements of the special tax allocation fund once a cumulative total of $100,000 has been deposited in the fund.

(3) Certification of the Chief Executive Officer of the municipality that the municipality has complied with all of the requirements of this Act during the preceding fiscal year.

(4) An opinion of legal counsel that the municipality is in compliance with this Act.

(5) An analysis of the special tax allocation fund which sets forth:

(A) the balance in the special tax allocation fund at the beginning of the fiscal year;

(B) all amounts deposited in the special tax allocation fund by source;

(C) an itemized list of all expenditures from the special tax allocation fund by category of permissible redevelopment project cost; and

(D) the balance in the special tax allocation fund at the end of the fiscal year including a breakdown of that balance by source and a breakdown of that balance identifying any

portion of the balance that is required, pledged, earmarked, or otherwise designated for payment of or securing of obligations and anticipated redevelopment project costs. Any portion of such ending balance that has not been identified or is not identified as being required, pledged, earmarked, or otherwise designated for payment of or securing of obligations or anticipated redevelopment projects costs shall be designated as surplus as set forth in Section 11-74.4-7 hereof.

(6) A description of all property purchased by the municipality within the redevelopment project area including:

(A) Street address.

(B) Approximate size or description of property.

(C) Purchase price.

(D) Seller of property.

(7) A statement setting forth all activities undertaken in furtherance of the objectives of the redevelopment plan, including:

(A) Any project implemented in the preceding fiscal year.

(B) A description of the redevelopment activities undertaken.

(C) A description of any agreements entered into by the municipality with regard to the disposition or redevelopment of any property within the redevelopment project area or the area within the State Sales Tax Boundary.

(D) Additional information on the use of all funds received under this Division and steps taken by the municipality to achieve the objectives of the redevelopment plan.

(E) Information regarding contracts that the municipality's tax increment advisors or consultants have entered into with entities or persons that have received, or are receiving, payments financed by tax increment revenues produced by the same redevelopment project area.

(F) Any reports submitted to the municipality by the joint review board.

(G) A review of public and, to the extent possible, private investment actually undertaken to date after the effective date of this amendatory Act of the 91st General Assembly and estimated to be undertaken during the following year. This review shall, on a project-by-project basis, set forth the estimated amounts of public and private investment incurred after the effective date of this amendatory Act of the 91st General Assembly and provide the ratio of private investment to public investment to the date of the report and as estimated to the completion of the redevelopment project.

(8) With regard to any obligations issued by the municipality:

(A) copies of any official statements; and

(B) an analysis prepared by financial advisor or underwriter setting forth: (i) nature and term of obligation; and (ii) projected debt service including required reserves and debt coverage.

(9) For special tax allocation funds that have experienced cumulative deposits of incremental tax revenues of $100,000 or more, a certified audit report reviewing compliance with this Act performed by an independent public accountant certified and licensed by the authority of the State of Illinois. The financial portion of the audit must be conducted in accordance with Standards for Audits of Governmental Organizations, Programs, Activities, and Functions adopted by the Comptroller General of the United States (1981), as amended, or the standards specified by Section 8-8-5 of the Illinois Municipal Auditing Law of the Illinois Municipal Code. The audit report shall contain a letter from the independent certified public accountant indicating compliance or noncompliance with the requirements of subsection (q) of Section 11-74.4-3. For redevelopment plans or projects that would result in the displacement of residents from 10 or more inhabited residential units or that contain 75 or more inhabited residential units, notice of the availability of the information, including how to obtain the report, required in this subsection shall also be sent by mail to all residents or organizations that operate in the municipality that register with the municipality for that information according to registration procedures adopted under Section 11-74.4-4.2. All municipalities are subject to this provision.

(10) A list of all intergovernmental agreements in effect during the fiscal year to which the municipality is a party and an accounting of any moneys transferred or received by the municipality during that fiscal year pursuant to those intergovernmental agreements.

(11) A detailed list of jobs created during the fiscal year, both temporary and permanent, along with a description of whether the jobs are in the public or private sector.

(d-1) Prior to the effective date of this amendatory Act of the 91st General Assembly, municipalities with populations of over 1,000,000 shall, after adoption of a redevelopment plan or project, make available upon request to any taxing district in which the redevelopment project area is located the

following information:

(1) Any amendments to the redevelopment plan, the redevelopment project area, or the State Sales Tax Boundary; and

(2) In connection with any redevelopment project area for which the municipality has outstanding obligations issued to provide for redevelopment project costs pursuant to Section 11-74.4-7, audited financial statements of the special tax allocation fund.

(e) The joint review board shall meet annually 180 days after the close of the municipal fiscal year or as soon as the redevelopment project audit for that fiscal year becomes available to review the effectiveness and status of the redevelopment project area up to that date.

(f) (Blank).

(g) In the event that a municipality has held a public hearing under this Section prior to March 14, 1994 (the effective date of Public Act 88-537), the requirements imposed by Public Act 88-537 relating to the method of fixing the time and place for public hearing, the materials and information required to be made available for public inspection, and the information required to be sent after adoption of an ordinance or resolution fixing a time and place for public hearing shall not be applicable.

(h) On and after the effective date of this amendatory Act of the 96th General Assembly, the State Comptroller must post on the State Comptroller's official website the information submitted by a municipality pursuant to subsection (d) of this Section. The information must be posted no later than 45 days after the State Comptroller receives the information from the municipality. The State Comptroller must also post a list of the municipalities not in compliance with the reporting requirements set forth in subsection (d) of this Section.

(i) No later than 10 years after the corporate authorities of a municipality adopt an ordinance to establish a redevelopment project area, the municipality must compile a status report concerning the redevelopment project area. The status report must detail without limitation the following: (i) the amount of revenue generated within the redevelopment project area, (ii) any expenditures made by the municipality for the redevelopment project area including without limitation expenditures from the special tax allocation fund, (iii) the status of planned activities, goals, and objectives set forth in the redevelopment plan including details on new or planned construction within the redevelopment project area, (iv) the amount of private and public investment within the redevelopment project area, and (v) any other relevant evaluation or performance data. Within 30 days after the municipality compiles the status report, the municipality must hold at least one public hearing concerning the report. The municipality must provide 20 days' public notice of the hearing.

(j) Beginning in fiscal year 2011 and in each fiscal year thereafter, a municipality must detail in its annual budget (i) the revenues generated from redevelopment project areas by source and (ii) the expenditures made by the municipality for redevelopment project areas.

(Source: P.A. 96-1335, eff. 7-27-10.)

(65 ILCS 5/11-74.6-22)

Sec. 11-74.6-22. Adoption of ordinance; requirements; changes.

(a) Before adoption of an ordinance proposing the designation of a redevelopment planning area or a redevelopment project area, or both, or approving a redevelopment plan or redevelopment project, the municipality or commission designated pursuant to subsection (l) of Section 11-74.6-15 shall fix by ordinance or resolution a time and place for public hearing. Prior to the adoption of the ordinance or resolution establishing the time and place for the public hearing, the municipality shall make available for public inspection a redevelopment plan or a report that provides in sufficient detail, the basis for the eligibility of the redevelopment project area. The report along with the name of a person to contact for further information shall be sent to the affected taxing district by certified mail within a reasonable time following the adoption of the ordinance or resolution establishing the time and place for the public hearing.

At the public hearing any interested person or affected taxing district may file with the municipal clerk written objections to the ordinance and may be heard orally on any issues that are the subject of the hearing. The municipality shall hear and determine all alternate proposals or bids for any proposed conveyance, lease, mortgage or other disposition of land and all protests and objections at the hearing and the hearing may be adjourned to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the later hearing. At the public hearing or at any time prior to the adoption by the municipality of an ordinance approving a redevelopment plan, the municipality may make changes in the redevelopment plan. Changes which (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, or (3) substantially change the nature of or extend the life of the redevelopment project shall be made only after the municipality gives notice, convenes a joint review

board, and conducts a public hearing pursuant to the procedures set forth in this Section and in Section 11-74.6-25. Changes which do not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, or (3) substantially change the nature of or extend the life of the redevelopment project may be made without further hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and by publication in a newspaper of general circulation within the affected taxing district. Such notice by mail and by publication shall each occur not later than 10 days following the adoption by ordinance of such changes.

(b) Before adoption of an ordinance proposing the designation of a redevelopment planning area or a redevelopment project area, or both, or amending the boundaries of an existing redevelopment project area or redevelopment planning area, or both, the municipality shall convene a joint review board to consider the proposal. The board shall consist of a representative selected by each taxing district that has authority to levy real property taxes on the property within the proposed redevelopment project area and that has at least 5% of its total equalized assessed value located within the proposed redevelopment project area, a representative selected by the municipality and a public member. The public member and the board's chairperson shall be selected by a majority of other board members.

All board members shall be appointed and the first board meeting held within 14 days following the notice by the municipality to all the taxing districts as required by subsection (c) of Section 11-74.6-25. The notice shall also advise the taxing bodies represented on the joint review board of the time and place of the first meeting of the board. Additional meetings of the board shall be held upon the call of any 2 members. The municipality seeking designation of the redevelopment project area may provide administrative support to the board.

The board shall review the public record, planning documents and proposed ordinances approving the redevelopment plan and project to be adopted by the municipality. As part of its deliberations, the board may hold additional hearings on the proposal. A board's recommendation, if any, shall be a written recommendation adopted by a majority vote of the board and submitted to the municipality within 30 days after the board convenes. A board's recommendation shall be binding upon the municipality. Failure of the board to submit its recommendation on a timely basis shall not be cause to delay the public hearing or the process of establishing or amending the redevelopment project area. The board's recommendation on the proposal shall be based upon the area satisfying the applicable eligibility criteria defined in Section 11-74.6-10 and whether there is a basis for the municipal findings set forth in the redevelopment plan as required by this Act. If the board does not file a recommendation it shall be presumed that the board has found that the redevelopment project area satisfies the eligibility criteria.

(c) After a municipality has by ordinance approved a redevelopment plan and designated a redevelopment planning area or a redevelopment project area, or both, the plan may be amended and additional properties may be added to the redevelopment project area only as herein provided. Amendments which (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted, or (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan shall be made only after the municipality gives notice, convenes a joint review board, and conducts a public hearing pursuant to the procedures set forth in this Section and in Section 11-74.6-25. Changes which do not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project cost set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted, or (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan may be made without further hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and by publication in a newspaper of general circulation within the affected taxing district. Such notice by mail and by publication shall each occur not later than 10 days following the adoption by ordinance of such changes.

(d) After the effective date of this amendatory Act of the 91st General Assembly, a municipality shall submit the following information for each redevelopment project area (i) to the State Comptroller under Section 8-8-3.5 of the Illinois Municipal Code and (ii) to all taxing districts overlapping the redevelopment project area no later than 180 days after the close of each municipal fiscal year or as soon thereafter as the audited financial statements become available and, in any case, shall be submitted before the annual meeting of the joint review board to each of the taxing districts that overlap the

redevelopment project area:

(1) Any amendments to the redevelopment plan, or the redevelopment project area.

(1.5) A list of the redevelopment project areas administered by the municipality and, if applicable, the date each redevelopment project area was designated or terminated by the municipality.

(2) Audited financial statements of the special tax allocation fund once a cumulative total of $100,000 of tax increment revenues has been deposited in the fund.

(3) Certification of the Chief Executive Officer of the municipality that the municipality has complied with all of the requirements of this Act during the preceding fiscal year.

(4) An opinion of legal counsel that the municipality is in compliance with this Act.

(5) An analysis of the special tax allocation fund which sets forth:

(A) the balance in the special tax allocation fund at the beginning of the fiscal year;

(B) all amounts deposited in the special tax allocation fund by source;

(C) an itemized list of all expenditures from the special tax allocation fund by category of permissible redevelopment project cost; and

(D) the balance in the special tax allocation fund at the end of the fiscal year including a breakdown of that balance by source and a breakdown of that balance identifying any portion of the balance that is required, pledged, earmarked, or otherwise designated for payment of or securing of obligations and anticipated redevelopment project costs. Any portion of such ending balance that has not been identified or is not identified as being required, pledged, earmarked, or otherwise designated for payment of or securing of obligations or anticipated redevelopment project costs shall be designated as surplus as set forth in Section 11-74.6-30 hereof.

(6) A description of all property purchased by the municipality within the redevelopment project area including:

(A) Street address.

(B) Approximate size or description of property.

(C) Purchase price.

(D) Seller of property.

(7) A statement setting forth all activities undertaken in furtherance of the objectives of the redevelopment plan, including:

(A) Any project implemented in the preceding fiscal year.

(B) A description of the redevelopment activities undertaken.

(C) A description of any agreements entered into by the municipality with regard to the disposition or redevelopment of any property within the redevelopment project area.

(D) Additional information on the use of all funds received under this Division and steps taken by the municipality to achieve the objectives of the redevelopment plan.

(E) Information regarding contracts that the municipality's tax increment advisors or consultants have entered into with entities or persons that have received, or are receiving, payments financed by tax increment revenues produced by the same redevelopment project area.

(F) Any reports submitted to the municipality by the joint review board.

(G) A review of public and, to the extent possible, private investment actually undertaken to date after the effective date of this amendatory Act of the 91st General Assembly and estimated to be undertaken during the following year. This review shall, on a project-by-project basis, set forth the estimated amounts of public and private investment incurred after the effective date of this amendatory Act of the 91st General Assembly and provide the ratio of private investment to public investment to the date of the report and as estimated to the completion of the redevelopment project.

(8) With regard to any obligations issued by the municipality:

(A) copies of any official statements; and

(B) an analysis prepared by financial advisor or underwriter setting forth: (i) nature and term of obligation; and (ii) projected debt service including required reserves and debt coverage.

(9) For special tax allocation funds that have received cumulative deposits of incremental tax revenues of $100,000 or more, a certified audit report reviewing compliance with this Act performed by an independent public accountant certified and licensed by the authority of the State of Illinois. The financial portion of the audit must be conducted in accordance with Standards for Audits of Governmental Organizations, Programs, Activities, and Functions adopted by the Comptroller General of the United States (1981), as amended, or the standards specified by Section

8-8-5 of the Illinois Municipal Auditing Law of the Illinois Municipal Code. The audit report shall contain a letter from the independent certified public accountant indicating compliance or noncompliance with the requirements of subsection (o) of Section 11-74.6-10.

(10) A detailed list of jobs created during the fiscal year, both temporary and permanent, along with a description of whether the jobs are in the public or private sector.

(e) The joint review board shall meet annually 180 days after the close of the municipal fiscal year or as soon as the redevelopment project audit for that fiscal year becomes available to review the effectiveness and status of the redevelopment project area up to that date.

(Source: P.A. 91-474, eff. 11-1-99; 91-900, eff. 7-6-00.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Radogno, **Senate Bill No. 1450,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1451,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1452,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1453,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1454,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1455,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1456,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1457,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1458,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1459,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1460,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1461,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1462,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1463,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Righter, **Senate Bill No. 1464,** 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. 1465,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1466,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1467,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1468,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1469,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1472,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1473,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1474,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1475,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1476,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1482,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1483,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1484,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1485,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Righter, **Senate Bill No. 2046,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **Senate Bill No. 79** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 79

AMENDMENT NO. __1__. Amend Senate Bill 79 as follows:

on page 1, line 1, after "education", by inserting ", which may be referred to as the Charter School Quality Law"; and

on page 1, immediately below line 3, by inserting the following:

"Section 3. The State Finance Act is amended by adding Section 5.786 as follows:
(30 ILCS 105/5.786 new)
Sec. 5.786. The State Charter School Commission Fund."; and

on page 6, line 18, by replacing "on the recommendation of a" with "from"; and

on page 6, line 19, after "Governor", by inserting ", within 60 days after the effective date of this amendatory Act of the 97th General Assembly with respect to the initial Commission members"; and

on page 6, line 21, after the period, by inserting "The Governor shall propose a slate of candidates to the State Board within 60 days after the effective date of this amendatory Act of the 97th General Assembly and 60 days prior to the expiration of the term of a member thereafter. If the Governor fails to timely propose a slate of candidates according to the provisions of this subsection (c), then the State Board may appoint the member or members of the Commission."; and

on page 7, by replacing lines 2 and 3 with the following:
"demonstrated understanding of and a commitment to public education, including without limitation charter schooling."; and

on page 7, line 15, by replacing "The" with "Subject to the State Officials and Employees Ethics Act, the"; and

on page 7, line 20, after the period, by inserting "Funds received under this subsection (g) must be deposited into the State Charter School Commission Fund."; and

on page 7, immediately below line 20, by inserting the following:
"The State Charter School Commission Fund is created as a special fund in the State treasury. All money in the Fund shall be used, subject to appropriation, by the Commission for operational and administrative costs of the Commission."; and

on page 8, line 7, after the period, by inserting "This fee must be deposited into the State Charter School Commission Fund."; and

on page 8, by replacing line 10 with the following:
"its authorization transferred to the Commission upon a vote of the State Board,"; and

on page 8, line 12, after "Article.", by inserting "However, in no case shall such transfer take place later than July 1, 2012."; and

on page 8, by replacing line 16 with the following:
"authorized by a local school board or boards may seek transfer of authorization to the"; and

on page 8, line 18, after "board", by inserting "or boards"; and

on page 8, line 19, after "board", by inserting "or boards"; and

on page 8, line 20, by replacing "that board" with "the board or boards"; and

on page 8, immediately below line 22, by inserting the following:
"On the effective date of this amendatory Act of the 97th General Assembly, all rules of the State Board applicable to matters falling within the responsibility of the Commission shall be applicable to the actions of the Commission. The Commission shall thereafter have the authority to propose to the State Board modifications to all rules applicable to matters falling within the responsibility of the Commission. The State Board shall retain rulemaking authority for the Commission, but shall work jointly with the Commission on any proposed modifications. Upon recommendation of proposed rule modifications by the Commission and pursuant to the Illinois Administrative Procedure Act, the State Board shall consider such changes within the intent of this amendatory Act of the 97th General Assembly and grant any and all changes consistent with that intent.
(l) The Commission shall have the responsibility to consider appeals under this Article immediately

upon appointment of the initial members of the Commission under subsection (c) of this Section. Appeals pending at the time of initial appointment shall be determined by the Commission; the Commission may extend the time for review as necessary for thorough review, but in no case shall the extension exceed the time that would have been available had the appeal been submitted to the Commission on the date of appointment of its initial members. In any appeal filed with the Commission under this Article, both the applicant and the school district in which the charter school plans to locate shall have the right to request a hearing before the Commission. If more than one entity requests a hearing, then the Commission may hold only one hearing, wherein the applicant and the school district shall have an equal opportunity to present their respective positions."; and

on page 9, line 26, after "authorize", by inserting ", except for willful or wanton misconduct"; and

on page 14, immediately below line 6, by inserting the following:

"(h) The Commission may reverse a local school board's decision to deny a charter school proposal if the Commission finds that the proposal (i) is in compliance with this Article and (ii) is in the best interests of the students the charter school is designed to serve. Final decisions of the Commission are subject to judicial review under the Administrative Review Law.

(i) In the case of a charter school proposed to be jointly authorized by 2 or more school districts, the local school boards may unanimously deny the charter school proposal with a statement that the local school boards are not opposed to the charter school, but that they yield to the Commission in light of the complexities of joint administration."; and

on page 16, by replacing lines 16 through 19 with the following:
"interests of the students it is designed to serve. The State Board may condition the granting of an appeal on the acceptance by the charter school of funding in an amount less than that requested in the proposal submitted to the local school board."; and

on page 17, by replacing lines 15 through 19 with the following:
"regarding hours of instruction and teacher certification. The State Board shall withhold from funds otherwise due the district the funds authorized by this Article to be paid to the charter school and shall pay such amounts to the charter school."; and

on page 17, by deleting lines 23 through 26; and

on page 18, by deleting lines 1 through 12; and

on page 18, line 13, by replacing "(j)" with "(h)".

Senator Steans offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 79

AMENDMENT NO. 2. Amend Senate Bill 79, AS AMENDED, in Section 5, Sec. 27A-7.5, subsec. (d), after the sentence beginning "All members of", by inserting "At least 3 members must have past experience with urban charter schools."; and

in Section 5, Sec. 27A-8, subsec. (c), after the sentence beginning "Within", by inserting "A local school board may develop its own process for receiving charter school proposals on an annual basis that follows the same timeframes as set forth in this Article. Only after the local school board process is followed may a charter school applicant appeal to the Commission.".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Radogno, **Senate Bill No. 1486,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1487,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1488,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1489,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1491,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1492,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1493,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1494,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1495,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1496,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1497,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1498,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1499,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1500,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1501,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1502,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1503,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1504,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1505,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1506,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1507,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1508,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1509,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1510,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1512,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1513,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1514,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1515,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1516,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1517,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1518,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1519,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1520,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1521,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1522,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1523,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1524,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1525,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1526,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1528,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1529,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 1530,** 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. 1562,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Crotty, **Senate Bill No. 1586,** 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. 1603** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1603

AMENDMENT NO. __1__. Amend Senate Bill 1603 as follows:

on page 1, line 21, by replacing "~~items (1) and (1.5) of~~" with "items (1) and (1.5) of"; and

on page 2, immediately below line 4, by inserting the following:

"Effective January 1, 2011, no provision of this Act shall apply to an exempt person or entity as defined in item (1.8) of subsection (d) of Section 1-4 of this Act. Notwithstanding anything to the contrary in the preceding sentence, an individual acting as a mortgage loan originator who is not employed by and acting for an entity described in item (1) of subsection (tt) of Section 1-4 of this Act shall be subject to the mortgage loan originator licensing requirements of Article VII of this Act, and provided that an individual acting as a mortgage loan originator under item 1.8 of subsection (d) of Section 1-4 of this Act shall be further subject to a determination by the U.S. Department of Housing and Urban Development through final rulemaking or other authorized agency determination under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.".

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 Frerichs, **Senate Bill No. 1656** 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 1656

AMENDMENT NO. __1__. Amend Senate Bill 1656 as follows:

on page 1, line 11, by replacing "prior to" with "at the request of a member while on"; and

on page 2, line 11, by replacing "may" with "shall"; and

on page 2, line 12, by replacing "associations representing" with "associations and organizations representing"; and

on page 4, line 22, by replacing "no" with "a majority of such house may propose that no".

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. 1728,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Jones, E. III, **Senate Bill No. 1853** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1853

AMENDMENT NO. 1. Amend Senate Bill 1853 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by changing Section 3-3034 as follows:

(55 ILCS 5/3-3034) (from Ch. 34, par. 3-3034)

Sec. 3-3034. Disposition of body. After the inquest the coroner may deliver the body or human remains of the deceased to the family of the deceased or, if there are no family members to accept the body or the remains, then to friends of the deceased, if there be any, but if not, the coroner shall cause the body or the remains to be decently buried, cremated, or donated for medical science purposes, the expenses to be paid from the property of the deceased, if there is sufficient, if not, by the county. The coroner may not approve the cremation or donation of the body if it is necessary to preserve the body for law enforcement purposes. If the State Treasurer, pursuant to the Uniform Disposition of Unclaimed Property Act, delivers human remains to the coroner, the coroner shall cause the human remains to be disposed of as provided in this Section. If the police department of any city, town, or county investigates abandoned cremated remains and can not locate the owner of the cremated remains that are also considered as human remains, then the police shall deliver such human remains to the coroner, and the coroner shall cause the human remains to be disposed of as provided in this Section.

(Source: P.A. 96-1339, eff. 7-27-10.)

Section 10. The Cemetery Oversight Act is amended by changing Section 5-15 as follows:

(225 ILCS 411/5-15)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5-15. Definitions. In this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file. It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days either through the Department's website or by contacting the Department's licensure maintenance unit. The address of record for a cemetery authority shall be the permanent street address of the cemetery.

"Applicant" means a person applying for licensure under this Act as a cemetery authority, cemetery manager, or customer service employee. Any applicant or any person who holds himself or herself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Burial permit" means a permit for the disposition of a dead human body that is filed with the Illinois Department of Public Health.

"Care" means the maintenance of a cemetery and of the lots, graves, crypts, niches, family mausoleums, memorials, and markers therein, including: (i) the cutting and trimming of lawn, shrubs, and trees at reasonable intervals; (ii) keeping in repair the drains, water lines, roads, buildings, fences, and other structures, in keeping with a well-maintained cemetery as provided for in Section 20-5 of this Act and otherwise as required by rule; (iii) maintenance of machinery, tools, and equipment for such care; (iv) compensation of cemetery workers, any discretionary payment of insurance premiums, and any reasonable payments for workers' pension and other benefits plans; and (v) the payment of expenses necessary for such purposes and for maintaining necessary records of lot ownership, transfers, and burials.

"Care funds", as distinguished from receipts from annual charges or gifts for current or annual care, means any realty or personalty impressed with a trust by the terms of any gift, grant, contribution, payment, legacy, or pursuant to contract, accepted by any cemetery authority or by any trustee, licensee, agent, or custodian for the same, under Article 15 of this Act, and any income accumulated therefrom, where legally so directed by the terms of the transaction by which the principal was established.

"Cemetery" means any land or structure in this State dedicated to and used, or intended to be used, for the interment, inurnment, or entombment of human remains.

"Cemetery association" means an association of 6 or more persons, and their successors in trust, who have received articles of organization from the Secretary of State to operate a cemetery; the articles of organization shall be in perpetuity and in trust for the use and benefit of all persons who may acquire

burial lots in a cemetery.

"Cemetery authority" means any individual or legal entity that owns or controls cemetery lands or property.

"Cemetery manager" means an individual who is engaged in, or responsible for, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property. This definition includes, without limitation, an employee, an individual that is an independent contractor, an individual employed or contracted by an independent contractor, a third-party vendor, or an individual employed or contracted by a third-party vendor who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property.

"Cemetery operation" means to engage or attempt to engage in the interment, inurnment, or entombment of human remains or to engage in or attempt to engage in the care of a cemetery.

"Cemetery Oversight Database" means a database certified by the Department as effective in tracking the interment, entombment, or inurnment of human remains.

"Cemetery worker" means an individual, including an independent contractor or third-party vendor, who performs any work at the cemetery that is customarily performed by one or more cemetery employees, including openings and closings of vaults and graves, stone settings, inurnments, interments, entombments, administrative work, handling of any official burial records, the preparation of foundations for memorials, and routine cemetery maintenance. This definition does not include uncompensated, volunteer workers.

"Certificate of organization" means the document received by a cemetery association from the Secretary of State that indicates that the cemetery association shall be deemed fully organized as a body corporate under the name adopted and in its corporate name may sue and be sued.

"Comptroller" means the Comptroller of the State of Illinois.

"Consumer" means a person, or the persons given priority for the disposition of an individual's remains under the Disposition of Remains Act, who purchases or is considering purchasing cemetery, burial, or cremation products or services from a cemetery authority or crematory authority, whether for themselves or for another person.

"Customer service employee" means an individual who has direct contact with consumers and explains cemetery merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition includes, without limitation, an employee, an individual that is an independent contractor, an individual that is employed or contracted by an independent contractor, a third-party vendor, or an individual that is employed or contracted by a third-party vendor, who has direct contact with consumers and explains cemetery merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition does not include an employee, an individual that is an independent contractor or an individual that is employed or contracted by an independent contractor, a third party vendor, or an individual that is employed or contracted by a third party vendor, who merely provides a printed cemetery list to a consumer, processes payment from a consumer, or performs sales functions related solely to incidental merchandise like flowers, souvenirs, or other similar items.

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

"Employee" means an individual who works for a cemetery authority where the cemetery authority has the right to control what work is performed and the details of how the work is performed regardless of whether federal or State payroll taxes are withheld.

"Entombment right" means the right to place individual human remains or individual cremated human remains in a specific mausoleum crypt or lawn crypt selected by a consumer for use as a final resting place.

"Family burying ground" means a cemetery in which no lots are sold to the public and in which substantially all interments are restricted to the immediate family or a group of individuals related to each other by blood or marriage.

"Full exemption" means an exemption granted to a cemetery authority pursuant to subsection (a) of Section 5-20.

"Funeral director" means a funeral director as defined by the Funeral Directors and Embalmers Licensing Code.

"Grave" means a space of ground in a cemetery used or intended to be used for burial.

"Green burial or cremation disposition" means burial or cremation practices that reduce the greenhouse gas emissions, waste, and toxic chemicals ordinarily created in burial or cremation or, in the

case of greenhouse gas emissions, mitigate or offset emissions. Such practices include standards for burial or cremation certified by the Green Burial Council or any other organization or method that the Department may name by rule.

"Immediate family" means the designated agent of a person or the persons given priority for the disposition of a person's remains under the Disposition of Remains Act and shall include a person's spouse, parents, grandparents, children, grandchildren and siblings.

"Imputed value" means the retail price of comparable rights within the same or similar area of the cemetery.

"Independent contractor" means a person who performs work for a cemetery authority where the cemetery authority has the right to control or direct only the result of the work and not the means and methods of accomplishing the result.

"Individual" means a natural person.

"Interment right" means the right to place individual human remains or cremated human remains in a specific underground location selected by a consumer for use as a final resting place.

"Inurnment right" means the right to place individual cremated human remains in a specific niche selected by the consumer for use as a final resting place.

"Investment Company Act of 1940" means Title 15 of the United States Code, Sections 80a-1 to 80a-64, inclusive, as amended.

"Investment company" means any issuer (a) whose securities are purchasable only with care funds or trust funds, or both; (b) that is an open and diversified management company as defined in and registered under the Investment Company Act of 1940; and (c) that has entered into an agreement with the Department containing such provisions as the Department by regulation requires for the proper administration of this Act.

"Lawn crypt" means a permanent underground crypt installed in multiple units for the entombment ~~interment~~ of human remains.

"Licensee" means a person licensed under this Act as a cemetery authority, cemetery manager, or customer service employee. Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act. This definition does not include a cemetery worker.

"Mausoleum crypt" means a space in a mausoleum used or intended to be used, above or underground, to entomb human remains.

"Niche" means a space in a columbarium or mausoleum used, or intended to be used, for inurnment of cremated human remains.

"Partial exemption" means an exemption granted to a cemetery authority pursuant to subsection (b) of Section 5-20.

"Parcel identification number" means a unique number assigned to a grave, plot, crypt, or niche that enables the Department to ascertain the precise location of a decedent's remains interred, entombed, or inurned after the effective date of this Act.

"Person" means any individual, firm, partnership, association, corporation, limited liability company, trustee, government or political subdivision, or other entity.

"Public cemetery" means a cemetery owned, operated, controlled, or managed by the federal government, by any state, county, city, village, incorporated town, township, multi-township, public cemetery district, or other municipal corporation, political subdivision, or instrumentality thereof authorized by law to own, operate, or manage a cemetery.

"Religious cemetery" means a cemetery owned, operated, controlled, or managed by any recognized church, religious society, association, or denomination, or by any cemetery authority or any corporation administering, or through which is administered, the temporalities of any recognized church, religious society, association, or denomination.

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

"Term burial" means a right of interment sold to a consumer in which the cemetery authority retains the right to disinter and relocate the remains, subject to the provisions of subsection (d) of Section 35-15 of this Act.

"Trustee" means any person authorized to hold funds under this Act.

"Unique personal identifier" means the parcel identification number in addition to the term of burial in years; the numbered level or depth in the grave, plot, crypt, or niche; and the year of death for human remains interred, entombed, or inurned after the effective date of this Act.

(Source: P.A. 96-863, eff. 3-1-10.)

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

Senator Jones, E. III offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1853

AMENDMENT NO. _2__. Amend Senate Bill 1853, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Cemetery Consumer Bill of Rights Act.

Section 5. Definitions.

"Cemetery authority" means any individual or legal entity that owns or controls cemetery lands or property.

"Cemetery merchandise" means items of personal property normally sold by a cemetery authority not covered under the Illinois Funeral or Burial Funds Act, including, but not limited to: (1) memorials, (2) markers, (3) monuments, (4) foundations and installations, and (5) outer burial containers.

"Cemetery services" means those services customarily performed by cemetery or crematory personnel in connection with the interment, entombment, inurnment, or cremation of a dead human body.

"Term burial" means a right of interment sold to a consumer in which the cemetery authority retains the right to disinter and relocate the remains.

Section 10. Consumer privileges.

(a) A record of decedent's grave location shall be open to public inspection consistent with State and federal law. The cemetery authority shall make available, consistent with State and federal law, a true copy of the grave location of a decedent currently in the cemetery authorities records, upon written request and payment of reasonable copy costs. At the time of the interment, entombment, or inurnment, the cemetery authority shall provide the record of the deceased's grave location to the person who would have authority to dispose of the decedent's remains under the Disposition of Remains Act.

(b) Consumers have the right to purchase cemetery merchandise or cemetery services directly from the cemetery authority when available or through a third-party vendor of the consumer's choice, other than opening and closing services, without incurring a penalty or additional charge by the cemetery authority; provided, however, that consumers do not have the right to purchase types of cemetery merchandise or cemetery services that would violate applicable law, any collective bargaining agreement, or the cemetery authority's rules and regulations.

(c) Consumers have the right to complain to the cemetery authority regarding cemetery-related products purchased from the cemetery and services as well as issues with customer service, maintenance, or other cemetery activities for which they have paid for.

Section 15. Cemetery duties for all cemetery authorities.

(a) Prices for all cemetery merchandise and cemetery services offered for sale by the cemetery authority must be disclosed to the consumer in writing on a standardized price list. Memorialization pricing may be disclosed in price ranges. The price list shall include the effective dates of the prices. The price list shall include not only the range of interment, inurnment, and entombment rights and the cost of extending the term of any term burial, but also any related cemetery merchandise or cemetery services offered by the cemetery authority that are standard but are not incidentals, such as flowers and later date inscriptions or any items that are specialty items that need to be priced separately. Charges for installation of markers, monuments, and vaults in cemeteries must be the same without regard to where the item is purchased.

(b) Both the consumer and the cemetery authority or its representative must sign a contract for the interment, inurnment, or entombment of human remains. Before a contract is signed, the prices for the purchased cemetery services and cemetery merchandise must be disclosed on the contract and in plain language. If a contract is for a term burial, the term, the option to extend the term, and the subsequent disposition of the human remains post-term must be in bold print and discussed with the consumer. Any contract for the sale of an interment right, entombment right, or inurnment right, when designated, must disclose the exact location of the burial plot based on the survey of the cemetery map or plat on file with the cemetery authority.

(c) A cemetery authority that has the legal right to extend a term burial shall, prior to disinterment, provide the family or other authorized agent under the Disposition of Remains Act the opportunity to extend the term of a term burial for the cost as stated on the cemetery authority's current price list. Regardless of whether the family or other authorized agent chooses to extend the term burial, the

cemetery authority shall, prior to disinterment, provide notice to the family or other authorized agent under the Disposition of Remains Act of the cemetery authority's intention to disinter the remains and to inter different human remains in that space.

(d) The cemetery authority is hereby authorized to make bylaws or rules and regulations for the government thereof, and to make rules regarding the driving of cars, motorcycles, carriages, processions, teams, and the speed thereof, the use of avenues, lots, walks, ponds, water courses, vaults, buildings, or other places within such cemetery, the operations and good management in such cemetery, the protection of visitors, the protection of employees, and for the maintenance of good order and quiet in such cemetery. All such rules shall be subject to the rights of interment, entombment, or inurnment right owners or others, owning any interest in such cemetery. The rules and regulations must be reasonable.

(e) No cemetery authority or its agent may engage in deceptive or unfair practices. The cemetery authority and its agents may not intentionally misrepresent legal or cemetery requirements.

(f) When a consumer purchases a grave liner or outer burial container the consumer shall be notified that neither grave liners nor outer burial containers are designed to prevent the eventual decomposition of human remains. When selling an outer burial container or grave liner a cemetery may not claim that an outer burial container will not crack or keep water, dirt, or other debris from penetrating into the casket.

(g) No cemetery authority shall disclose financial or other confidential information consisting of social security number, date of birth, driver's license number, home or employer address, phone number, e-mail address, or any other information protected by State and federal laws regarding the deceased or the person providing for the burial.

(h) All cemetery authorities shall maintain cemetery property adequately pursuant to the standard of care provided for in this Section 10 to ensure visitors the opportunity to visit decedents during cemetery hours. Gravesite grass levels shall not exceed 8 inches. Consideration shall be given in the event of severe weather, earthquakes, acts of terrorism, acts of war, or acts of God that prevent visitation, mowing of the grass, or any other maintenance.

(i) The cemetery authority shall provide a standard of care as provided for in its contracts and based upon expenditures from the income derived from the principal amount of care funds to be used for the maintenance of a cemetery and of the lots, graves, crypts, niches, family mausoleums, memorials, and markers in the cemetery, including: (i) the cutting and trimming of lawn, shrubs, and trees at reasonable intervals; (ii) keeping in repair the drains, water lines, roads, buildings, fences, and other structures in keeping with a well maintained cemetery; (iii) maintenance of machinery, tools, and equipment for such care; (iv) compensation of employees, payment of insurance premiums, and reasonable payments for employees pension and other benefits plans; and (v) to the extent surplus income from the care fund is available, the payment of overhead expenses necessary for such purposes and for maintaining necessary records of lot ownership, transfers, and burials.

(j) No cemetery authority shall require payment for any goods, services, or easement by cash only. Each cemetery authority subject to this Section shall permit payment by at least one other option, including, but not limited to, personal check, cashier's check, money order, or credit or debit card. In addition to the contract for the sale of cemetery goods, services, or easements, the cemetery authority shall provide a receipt to the consumer upon payment in part or full, whatever the case may be, except when a payment is made by check or money order by mail on an open account, then the check or money order receipt shall serve as a receipt.

(k) No cemetery authority shall interfere with a licensed funeral director or his or her designated agent observing the final burial or disposition of human remains for which the funeral director has a contract for services related to that deceased individual. No funeral director or his or her designated agent shall interfere with a cemetery authority or its designated agent's rendering of burial or other disposition services for human remains for which the cemetery authority has a contract for goods, services, or property related to that deceased individual.

Section 20. Whistleblower protection.

(a) "Retaliatory action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms and conditions of employment of any cemetery employee that is taken in retaliation for an employee's participation in protected activity, as set forth in this Section.

(b) A cemetery authority shall not take any retaliatory action against any cemetery personnel because they have:

(1) disclosed or threatened to disclose to a supervisor or to a public body an activity, policy, or practice of a supervisor, any cemetery employee, or the cemetery authority that the supervisor or cemetery employee reasonably believes is in violation of a law, rule, or regulation;

(2) provided information to or testified before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by a supervisor or cemetery authority; or

(3) assisted or participated in a proceeding to enforce the provisions of this Act.

(c) A violation of this Section may be established only upon a finding that (i) the cemetery supervisor or cemetery employee engaged in conduct described in subsection (b) of this Section and (ii) that this conduct was a contributing factor in the retaliatory action alleged by the cemetery supervisor or cemetery employee. It is not a violation, however, if it is demonstrated by clear and convincing evidence that the cemetery authority would have taken the same unfavorable personnel action in the absence of that conduct.

(d) The cemetery employee or cemetery supervisor may be awarded all remedies necessary to make the cemetery employee or cemetery supervisor whole and to prevent future violations of this Section. Remedies imposed by the court may include, but are not limited to, all of the following:

(1) reinstatement of the individual to either the same position held before the retaliatory action or to an equivalent position;

(2) two times the amount of back pay;

(3) interest on the back pay;

(4) the reinstatement of full fringe benefits and seniority rights; and

(5) the payment of reasonable costs and attorneys' fees.

(e) Nothing in this Section shall be deemed to diminish the rights, privileges, or remedies of a cemetery employee or cemetery supervisor under any other federal or State law, rule, or regulation or under any employment contract.

Section 25. Rights of consumers.

(a) All cemetery authorities shall respect the rights of consumers of cemetery products and services as provided in this Act. When it is found that there is a failure to abide by the cemetery authorities' duties listed in this Act or to comply with a request by a consumer based on a consumer's privileges under this Section, the aggrieved may bring suit against the cemetery authority in the circuit court of the county in which the contract became binding for any remedy provided by the common or statute law of this State.

(b) An action to enjoin any person subject to this Act from engaging in activity in violation of this Act may be maintained in the name of the people of the State of Illinois by the Attorney General or by the State's Attorney of the county in which the action is brought.

Section 30. Consumer complaints.

(a) A consumer may contact the State of Illinois Attorney General to register a complaint about any violation of this Act.

(b) With the exception of a Cemetery Association that is operated by volunteers and the cemetery has no office, the following sign must be posted in 18-point, bold font, on a page that is 8 X 10 minimum, in the cemetery authority office when there is a cemetery office on the site of the cemetery:

"ILLINOIS ATTORNEY GENERAL CONSUMER FRAUD HOTLINES:
Chicago: 1-866-310-8393 / TTY 877-675-9339
Spanish Language Hotline: 1-800-386-5438
Springfield: TTY 1-877-844-5461
Carbondale: TTY 1-800-243-0618 / 800-243-0607".

Section 35. Enforcement. The Attorney General or the State's Attorney of any county in this State may bring an action in the name of the State against any person to restrain and prevent any violation of this Act. In the enforcement of this Act, the Attorney General or the State's Attorney may accept an assurance of discontinuance of any act or practice deemed in violation of this Act from any person engaging in, or who has engaged in, that act or practice. Failure to perform the terms of any such assurance constitutes prima facie proof of a violation of this Act.

Section 40. Violations. Any person, who knowingly violates any of the provisions of this Act shall be guilty of a business offense and shall be required to pay a penalty of no less than $500 or more than $1,000, for each offense, to be recovered in the name of the People of the State of Illinois by the State's Attorney of the county in which the violation occurs, and the penalty so recovered shall be paid into the county treasury.

Section 910. The Counties Code is amended by changing Section 3-3034 as follows:

(55 ILCS 5/3-3034) (from Ch. 34, par. 3-3034)

Sec. 3-3034. Disposition of body. After the inquest the coroner may deliver the body or human remains of the deceased to the family of the deceased or, if there are no family members to accept the body or the remains, then to friends of the deceased, if there be any, but if not, the coroner shall cause the body or the remains to be decently buried, cremated, or donated for medical science purposes, the expenses to be paid from the property of the deceased, if there is sufficient, if not, by the county. The coroner may not approve the cremation or donation of the body if it is necessary to preserve the body for law enforcement purposes. If the State Treasurer, pursuant to the Uniform Disposition of Unclaimed Property Act, delivers human remains to the coroner, the coroner shall cause the human remains to be disposed of as provided in this Section. If the police department of any city, town, or county investigates abandoned cremated remains and can not locate the owner of the cremated remains that are also considered as human remains, then the police shall deliver such human remains to the coroner, and the coroner shall cause the human remains to be disposed of as provided in this Section.

(Source: P.A. 96-1339, eff. 7-27-10.)

Section 912. The Funeral Directors and Embalmers Licensing Code is amended by changing Section 15-75 as follows:

(225 ILCS 41/15-75)

(Section scheduled to be repealed on January 1, 2013)

Sec. 15-75. Violations; grounds for discipline; penalties.

(a) Each of the following acts is a Class A misdemeanor for the first offense, and a Class 4 felony for each subsequent offense. These penalties shall also apply to unlicensed owners of funeral homes.

(1) Practicing the profession of funeral directing and embalming or funeral directing, or attempting to practice the profession of funeral directing and embalming or funeral directing without a license as a funeral director and embalmer or funeral director.

(2) Serving as an intern under a licensed funeral director and embalmer or attempting to serve as an intern under a licensed funeral director and embalmer without a license as a licensed funeral director and embalmer intern.

(3) Obtaining or attempting to obtain a license, practice or business, or any other thing of value, by fraud or misrepresentation.

(4) Permitting any person in one's employ, under one's control or in or under one's service to serve as a funeral director and embalmer, funeral director, or funeral director and embalmer intern when the person does not have the appropriate license.

(5) Failing to display a license as required by this Code.

(6) Giving false information or making a false oath or affidavit required by this Code.

(b) The Department may refuse to issue or renew a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department may deem appropriate, including imposing fines not to exceed $10,000 for each violation, with regard to any license under the Code for any one or combination of the following:

(1) Obtaining or attempting to obtain a license by fraud or misrepresentation.

(2) Conviction in this State or another state of any crime that is a felony or misdemeanor under the laws of this State or conviction of a felony or misdemeanor in a federal court.

(3) Violation of the laws of this State relating to the funeral, burial or disposal of deceased human bodies or of the rules and regulations of the Department, or the Department of Public Health.

(4) Directly or indirectly paying or causing to be paid any sum of money or other valuable consideration for the securing of business or for obtaining authority to dispose of any deceased human body.

(5) Professional incompetence, gross malpractice, or untrustworthiness in the practice of funeral directing and embalming or funeral directing.

(6) False or misleading advertising as a funeral director and embalmer or funeral director, or advertising or using the name of a person other than the holder of a license in connection with any service being rendered in the practice of funeral directing and embalming or funeral directing. Nothing in this paragraph shall prevent including the name of any owner, officer or corporate director of a funeral business who is not a licensee in any advertisement used by a funeral home with which the individual is affiliated if the advertisement specifies the individual's affiliation with the funeral home.

(7) Engaging in, promoting, selling, or issuing burial contracts, burial certificates, or burial insurance policies in connection with the profession as a funeral director and embalmer,

funeral director, or funeral director and embalmer intern in violation of any laws of the State of Illinois.

(8) Refusing, without cause, to surrender the custody of a deceased human body upon the proper request of the person or persons lawfully entitled to the custody of the body.

(9) Taking undue advantage of a client or clients as to amount to the perpetration of fraud.

(10) Engaging in funeral directing and embalming or funeral directing without a license.

(11) Encouraging, requesting, or suggesting by a licensee or some person working on his behalf and with his consent for compensation that a person utilize the services of a certain funeral director and embalmer, funeral director, or funeral establishment unless that information has been expressly requested by the person. This does not prohibit general advertising or pre-need solicitation.

(12) Making or causing to be made any false or misleading statements about the laws concerning the disposal of human remains, including, but not limited to, the need to embalm, the need for a casket for cremation or the need for an outer burial container.

(13) (Blank).

(14) Embalming or attempting to embalm a deceased human body without express prior authorization of the person responsible for making the funeral arrangements for the body. This does not apply to cases where embalming is directed by local authorities who have jurisdiction or when embalming is required by State or local law.

(15) Making a false statement on a Certificate of Death where the person making the statement knew or should have known that the statement was false.

(16) Soliciting human bodies after death or while death is imminent.

(17) Performing any act or practice that is a violation of this Code, the rules for the administration of this Code, or any federal, State or local laws, rules, or regulations governing the practice of funeral directing or embalming.

(18) Performing any act or practice that is a violation of Section 2 of the Consumer Fraud and Deceptive Business Practices Act.

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

(20) Taking possession of a dead human body without having first obtained express permission from next of kin or a public agency legally authorized to direct, control or permit the removal of deceased human bodies.

(21) Advertising in a false or misleading manner or advertising using the name of an unlicensed person in connection with any service being rendered in the practice of funeral directing or funeral directing and embalming. The use of any name of an unlicensed or unregistered person in an advertisement so as to imply that the person will perform services is considered misleading advertising. Nothing in this paragraph shall prevent including the name of any owner, officer or corporate director of a funeral home, who is not a licensee, in any advertisement used by a funeral home with which the individual is affiliated, if the advertisement specifies the individual's affiliation with the funeral home.

(22) Directly or indirectly receiving compensation for any professional services not actually performed.

(23) Failing to account for or remit any monies, documents, or personal property that belongs to others that comes into a licensee's possession.

(24) Treating any person differently to his detriment because of race, color, creed, gender, religion, or national origin.

(25) Knowingly making any false statements, oral or otherwise, of a character likely to influence, persuade or induce others in the course of performing professional services or activities.

(26) Knowingly making or filing false records or reports in the practice of funeral directing and embalming.

(27) Failing to acquire continuing education required under this Code.

(28) Violations of this Code or of the rules adopted pursuant to this Code.

(29) Aiding or assisting another person in violating any provision of this Code or rules adopted pursuant to this Code.

(30) Failing within 10 days, to provide information in response to a written request made by the Department.

(31) 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.

(32) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

(33) Inability to practice the profession with reasonable judgment, skill, or safety.

(34) Gross, willful, or continued charging ~~overcharging~~ for professional services, including filing false statements for collection of fees for which services are not rendered.

(35) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Code.

(36) Failing to comply with any of the following required activities:

(A) When reasonably possible, a funeral director licensee or funeral director and embalmer licensee or anyone acting on his or her behalf shall obtain the express authorization of the person or persons responsible for making the funeral arrangements for a deceased human body prior to removing a body from the place of death or any place it may be or embalming or attempting to embalm a deceased human body, unless required by State or local law. This requirement is waived whenever removal or embalming is directed by local authorities who have jurisdiction. If the responsibility for the handling of the remains lawfully falls under the jurisdiction of a public agency, then the regulations of the public agency shall prevail.

(B) A licensee shall clearly mark the price of any casket offered for sale or the price of any service using the casket on or in the casket if the casket is displayed at the funeral establishment. If the casket is displayed at any other location, regardless of whether the licensee is in control of that location, the casket shall be clearly marked and the registrant shall use books, catalogues, brochures, or other printed display aids to show the price of each casket or service.

(C) At the time funeral arrangements are made and prior to rendering the funeral services, a licensee shall furnish a written statement of services to be retained by the person or persons making the funeral arrangements, signed by both parties, that shall contain: (i) the name, address and telephone number of the funeral establishment and the date on which the arrangements were made; (ii) the price of the service selected and the services and merchandise included for that price; (iii) a clear disclosure that the person or persons making the arrangement may decline and receive credit for any service or merchandise not desired and not required by law or the funeral director or the funeral director and embalmer; (iv) the supplemental items of service and merchandise requested and the price of each item; (v) the terms or method of payment agreed upon; and (vi) a statement as to any monetary advances made by the registrant on behalf of the family. The licensee shall maintain a copy of the written statement of services in its permanent records. All written statements of services are subject to inspection by the Department.

(D) (Blank). ~~In all instances where the place of final disposition of a deceased human body or the cremated remains of a deceased human body is a cemetery, the licensed funeral director and embalmer, or licensed funeral director, who has been engaged to provide funeral or embalming services shall remain at the cemetery and personally witness the placement of the human remains in their designated grave or the sealing of the above ground depository, crypt, or urn. The licensed funeral director or licensed funeral director and embalmer may designate a licensed funeral director and embalmer intern or representative of the funeral home to be his or her witness to the placement of the remains. If the cemetery authority, cemetery manager, or any other agent of the cemetery takes any action that prevents compliance with this paragraph (D), then the funeral director and embalmer or funeral director shall provide written notice to the Department within 5 business days after failing to comply. If the Department receives this notice, then the Department shall not take any disciplinary action against the funeral director and embalmer or funeral director for a violation of this paragraph (D) unless the Department finds that the cemetery authority, manager, or any other agent of the cemetery did not prevent the funeral director and embalmer or funeral director from complying with this paragraph (D) as claimed in the written notice~~.

(E) A funeral director or funeral director and embalmer shall fully complete the portion of the Certificate of Death under the responsibility of the funeral director or funeral director and embalmer and provide all required information. In the event that any reported information subsequently changes or proves incorrect, a funeral director or funeral director and embalmer shall immediately upon learning the correct information correct the Certificate of Death.

(37) A finding by the Department that the licensee ~~license~~, after having his or her license placed on probationary status or subjected to conditions or restrictions, violated the terms of the probation or failed to comply with such terms or conditions.

(38) Violation of any final administrative action of the Secretary.

(39) Being named as a perpetrator in an indicated report by the Department of Children and Family Services pursuant to the Abused and Neglected Child Reporting Act and, upon proof by clear and convincing evidence, being found to have caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(c) The Department may refuse to issue or renew, or may suspend, the license of any person who fails to file a return, to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest as required by any tax Act administered by the Illinois Department of Revenue, until the time as the requirements of the tax Act are satisfied.

(d) No action may be taken under this Code against a person licensed under this Code unless the action is commenced within 5 years after the occurrence of the alleged violations. A continuing violation shall be deemed to have occurred on the date when the circumstances last existed that give rise to the alleged violation.

(e) Nothing in this Section shall be construed or enforced to give a funeral director and embalmer, or his or her designees, authority over the operation of a cemetery or over cemetery employees. Nothing in this Section shall be construed or enforced to impose duties or penalties on cemeteries with respect to the timing of the placement of human remains in their designated grave or the sealing of the above ground depository, crypt, or urn due to patron safety, the allocation of cemetery staffing, liability insurance, a collective bargaining agreement, or other such reasons.

(Source: P.A. 96-863, eff. 3-1-10; 96-1463, eff. 1-1-11.)

Section 915. The Cemetery Oversight Act is amended by changing Sections 5-15, 5-20, 5-25, 10-5, 10-15, 10-20, 10-21, 10-23, 10-25, 10-40, 10-55, 20-5, 20-10, 20-11, 20-20, 20-30, 25-1, 25-5, 25-10, 25-14, 25-15, 25-25, 25-70, 25-85, 25-105, 25-110, 25-125, 75-20, 75-25, 75-45, and 75-50 and by adding Sections 10-39 and 25-13.1 as follows:

(225 ILCS 411/5-15)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5-15. Definitions. In this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file. It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days either through the Department's website or by contacting the Department's licensure maintenance unit. The address of record for a cemetery authority shall be the permanent street address of the cemetery.

"Applicant" means a person applying for licensure under this Act as a cemetery authority or ~~,~~ cemetery manager~~, or customer service employee~~. Any applicant or any person who holds himself or herself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Burial permit" means a permit for the disposition of a dead human body that is filed with the Illinois Department of Public Health.

"Care" means the maintenance of a cemetery and of the lots, graves, crypts, niches, family mausoleums, memorials, and markers therein, including: (i) the cutting and trimming of lawn, shrubs, and trees at reasonable intervals; (ii) keeping in repair the drains, water lines, roads, buildings, fences, and other structures, in keeping with a well-maintained cemetery as provided for in Section 20-5 of this Act and otherwise as required by rule; (iii) maintenance of machinery, tools, and equipment for such care; (iv) compensation of cemetery workers, any discretionary payment of insurance premiums, and any reasonable payments for workers' pension and other benefits plans; and (v) the payment of expenses necessary for such purposes and for maintaining necessary records of lot ownership, transfers, and burials.

~~"Care funds", as distinguished from receipts from annual charges or gifts for current or annual care, means any realty or personalty impressed with a trust by the terms of any gift, grant, contribution, payment, legacy, or pursuant to contract, accepted by any cemetery authority or by any trustee, licensee, agent, or custodian for the same, under Article 15 of this Act, and any income accumulated therefrom, where legally so directed by the terms of the transaction by which the principal was established.~~

"Cemetery" means any land or structure in this State dedicated to and used, or intended to be used, for the interment, inurnment, or entombment of human remains.

~~"Cemetery association" means an association of 6 or more persons, and their successors in trust, who have received articles of organization from the Secretary of State to operate a cemetery; the articles of organization shall be in perpetuity and in trust for the use and benefit of all persons who may acquire burial lots in a cemetery.~~

"Cemetery authority" means any individual or legal entity that owns or controls cemetery lands or

property.

"Cemetery manager" means an individual who is engaged in, or responsible for, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property. The cemetery manager is responsible for supervising all employees and independent contractors of third-party vendors working within the cemetery. ~~This definition includes, without limitation, an employee, an individual that is an independent contractor, an individual employed or contracted by an independent contractor, a third party vendor, or an individual employed or contracted by a third party vendor who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property.~~

"Cemetery merchandise" means items of personal property normally sold by a cemetery authority not covered under the Illinois Funeral or Burial Funds Act, including, but not limited to:

(1) memorials;

(2) markers;

(3) monuments;

(4) foundations and installations; and

(5) outer burial containers.

"Cemetery operation" means to engage or attempt to engage in the interment, inurnment, or entombment of human remains or to engage in or attempt to engage in the maintenance ~~care~~ of a cemetery.

~~"Cemetery Oversight Database" means a database certified by the Department as effective in tracking the interment, entombment, or inurnment of human remains.~~

"Cemetery services" means those services customarily performed by cemetery or crematory personnel in connection with the interment, entombment, inurnment, or cremation of a dead human body.

~~"Cemetery worker" means an individual, including an independent contractor or third party vendor, who performs any work at the cemetery that is customarily performed by one or more cemetery employees, including openings and closings of vaults and graves, stone settings, inurnments, interments, entombments, administrative work, handling of any official burial records, the preparation of foundations for memorials, and routine cemetery maintenance. This definition does not include uncompensated, volunteer workers.~~

~~"Certificate of organization" means the document received by a cemetery association from the Secretary of State that indicates that the cemetery association shall be deemed fully organized as a body corporate under the name adopted and in its corporate name may sue and be sued.~~

"Comptroller" means the Comptroller of the State of Illinois.

"Consumer" means a person, or the persons given priority for the disposition of an individual's remains under the Disposition of Remains Act, who purchases or is considering purchasing cemetery, burial, or cremation products or services from a cemetery authority or crematory authority, whether for themselves or for another person.

"Consumer's agent" means a person designated in writing by the consumer.

~~"Customer service employee" means an individual who has direct contact with consumers and explains cemetery merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition includes, without limitation, an employee, an individual that is an independent contractor, an individual that is employed or contracted by an independent contractor, a third party vendor, or an individual that is employed or contracted by a third party vendor, who has direct contact with consumers and explains cemetery merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition does not include an employee, an individual that is an independent contractor or an individual that is employed or contracted by an independent contractor, a third party vendor, or an individual that is employed or contracted by a third party vendor, who merely provides a printed cemetery list to a consumer, processes payment from a consumer, or performs sales functions related solely to incidental merchandise like flowers, souvenirs, or other similar items.~~

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

"Employee" means an individual who works for a cemetery authority where the cemetery authority has the right to control what work is performed and the details of how the work is performed regardless of whether federal or State payroll taxes are withheld.

"Entombment right" means the right to place individual human remains or individual cremated human remains in a specific mausoleum crypt or lawn crypt selected by a consumer for use as a final resting

place.

"Family burying ground" means a cemetery in which no lots are sold to the public and in which substantially all interments are restricted to the immediate family or a group of individuals related to each other by blood or marriage.

~~"Full exemption" means an exemption granted to a cemetery authority pursuant to subsection (a) of Section 5-20.~~

"Fraternal cemetery" means a cemetery owned, operated, controlled, or managed by any fraternal organization or auxiliary organization, in which the sale of lots, graves, crypts, or niches is restricted principally to its members.

"Funeral director" means a funeral director as defined by the Funeral Directors and Embalmers Licensing Code.

"Grave" means a space of ground in a cemetery used or intended to be used for burial.

"Green burial or cremation disposition" means burial or cremation practices that reduce the greenhouse gas emissions, waste, and toxic chemicals ordinarily created in burial or cremation or, in the case of greenhouse gas emissions, mitigate or offset emissions. Such practices include standards for burial or cremation certified by the Green Burial Council or any other organization or method that the Department may name by rule.

"Immediate family" means the designated agent of a person or the persons given priority for the disposition of a person's remains under the Disposition of Remains Act and shall include a person's spouse, parents, grandparents, children, grandchildren and siblings.

~~"Imputed value" means the retail price of comparable rights within the same or similar area of the cemetery.~~

~~"Independent contractor" means a person who performs work for a cemetery authority where the cemetery authority has the right to control or direct only the result of the work and not the means and methods of accomplishing the result.~~

"Individual" means a natural person.

"Interment right" means the right to place individual human remains or cremated human remains in a specific underground location selected by a consumer for use as a final resting place.

"Inurnment right" means the right to place individual cremated human remains in a specific niche selected by the consumer for use as a final resting place.

~~"Investment Company Act of 1940" means Title 15 of the United States Code, Sections 80a-1 to 80a-64, inclusive, as amended.~~

~~"Investment company" means any issuer (a) whose securities are purchasable only with care funds or trust funds, or both; (b) that is an open and diversified management company as defined in and registered under the Investment Company Act of 1940; and (c) that has entered into an agreement with the Department containing such provisions as the Department by regulation requires for the proper administration of this Act.~~

"Lawn crypt" means a permanent underground crypt installed in multiple units for the entombment ~~interment~~ of human remains.

"Licensee" means a person licensed under this Act as a cemetery authority or ~~,~~ cemetery manager~~, or customer service employee.~~ Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act. This definition does not include a cemetery worker.

"Mausoleum crypt" means a grouping of spaces constructed of reinforced concrete or similar material constructed or assembled above the ground for entombing human remains. ~~space in a mausoleum used or intended to be used, above or underground, to entomb human remains.~~

"Municipal cemetery" means a cemetery owned, operated, controlled, or managed by any city, village, incorporated town, township, county, or other municipal corporation, political subdivision, or instrumentality authorized by law to own, operate, or manage a cemetery.

"Niche" means a space in a columbarium or mausoleum used, or intended to be used, for inurnment of cremated human remains.

~~"Partial exemption" means an exemption granted to a cemetery authority pursuant to subsection (b) of Section 5-20.~~

~~"Parcel identification number" means a unique number assigned to a grave, plot, crypt, or niche that enables the Department to ascertain the precise location of a decedent's remains interred, entombed, or inurned after the effective date of this Act.~~

"Person" means any individual, firm, partnership, association, corporation, limited liability company, trustee, government or political subdivision, or other entity.

"Privately held cemetery" means a cemetery that is owned by a corporation, individual, or trust that is

for profit.

~~"Public cemetery" means a cemetery owned, operated, controlled, or managed by the federal government, by any state, county, city, village, incorporated town, township, multi-township, public cemetery district, or other municipal corporation, political subdivision, or instrumentality thereof authorized by law to own, operate, or manage a cemetery.~~

"Religious cemetery" means a cemetery owned, operated, controlled, or managed by any recognized church, religious society, association, or denomination, or by any cemetery authority or any corporation administering, or through which is administered, the temporalities of any recognized church, religious society, association, or denomination.

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

~~"Term burial" means a right of interment sold to a consumer in which the cemetery authority retains the right to disinter and relocate the remains, subject to the provisions of subsection (d) of Section 35-15 of this Act.~~

~~"Trustee" means any person authorized to hold funds under this Act.~~

~~"Unique personal identifier" means the parcel identification number in addition to the term of burial in years; the numbered level or depth in the grave, plot, crypt, or niche; and the year of death for human remains interred, entombed, or inurned after the effective date of this Act.~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/5-20)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5-20. Exemptions.

(a) Notwithstanding any provision of law to the contrary, this Act does not apply to (1) any cemetery authority operating as a family burying ground, (2) any cemetery authority that has not engaged in an interment, inurnment, or entombment of human remains within the last 10 years and does not accept or maintain care funds, or (3) any religious cemetery, (4) any municipal cemetery, (5) any fraternal cemetery, (6) any cemetery association organized under "AN ACT to provide for the incorporation of cemetery associations by general law", approved February 14, 1855, or the Cemetery Association Act, or (7) any privately held cemetery ~~authority~~ that is less than 3 ~~2~~ acres ~~and does not accept or maintain care funds~~. For purposes of determining the applicability of this subsection, the Department may rely on any list of registered and licensed cemeteries maintained by the Office of the Illinois Comptroller. ~~the number of interments, inurnments, and entombments shall be aggregated for each calendar year. A cemetery authority claiming a full exemption shall apply for exempt status as provided for in Article 10 of this Act. A cemetery authority that performs activities that would disqualify it from a full exemption is required to apply for licensure within one year following the date on which its activities would disqualify it for a full exemption. A cemetery authority that previously qualified for and maintained a full exemption that fails to timely apply for licensure shall be deemed to have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.~~

(b) (Blank). ~~Notwithstanding any provision of law to the contrary, a cemetery authority that does not qualify for a full exemption that is operating as a cemetery authority (i) that engages in 25 or fewer interments, inurnments, or entombments of human remains for each of the preceding 2 calendar years and does not accept or maintain care funds, (ii) that is operating as a public cemetery, or (iii) that is operating as a religious cemetery is exempt from this Act, but is required to comply with Sections 20-5(a), 20-5(b), 20-5(b-5), 20-5(c), 20-5(d), 20-6, 20-8, 20-10, 20-11, 20-12, 20-30, 25-3, and 25-120 and Article 35 of this Act. Cemetery authorities claiming a partial exemption shall apply for the partial exemption as provided in Article 10 of this Act. A cemetery authority that changes to a status that would disqualify it from a partial exemption is required to apply for licensure within one year following the date on which it changes its status. A cemetery authority that maintains a partial exemption that fails to timely apply for licensure shall be deemed to have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.~~

(c) Nothing in this Act applies to the City of Chicago in its exercise of its powers under the O'Hare Modernization Act or limits the authority of the City of Chicago to acquire property or otherwise exercise its powers under the O'Hare Modernization Act, or requires the City of Chicago, or any person acting on behalf of the City of Chicago, to comply with the licensing, regulation, investigation, or mediation requirements of this Act in exercising its powers under the O'Hare Modernization Act.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/5-25)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5-25. Powers and responsibilities of the Department. Subject to the provisions of this Act, the Department may exercise the following powers:

(1) Authorize a certification program ~~written examinations~~ to ascertain the qualifications and fitness of applicants for licensing

as a licensed cemetery manager ~~or as a customer service employee~~ to ascertain whether they possess the requisite level of knowledge for such position.

(2) Work with the Office of the Comptroller and the Department of Vital Records to exchange information relating to a licensed cemetery authority and to request additional information relating to a licensed cemetery authority from the Office of the Comptroller in order for the Department to effectively enforce this Act. ~~Examine and audit a licensed cemetery authority's care funds, records from any year, and records of care funds from any year, or any other aspects of cemetery operation as the Department deems appropriate.~~

(3) Investigate cemetery contracts, grounds, or employee records to determine whether or not a consumer complaint is material and alleges fraud. ~~Investigate any and all cemetery related activity.~~

(4) Conduct hearings on proceedings to refuse to issue or renew licenses or to revoke,

suspend, place on probation, reprimand, or otherwise discipline a license under this Act or take other non-disciplinary action.

(5) Adopt reasonable rules required for the administration of this Act.

(6) Prescribe forms to be issued for the administration and enforcement of this Act.

(7) Maintain rosters of the names and addresses of all licensees and all persons whose

licenses have been suspended, revoked, denied renewal, or otherwise disciplined within the previous calendar year. These rosters shall be available upon written request and payment of the required fee as established by rule.

The Department shall upon the request of the licensee provide a copy of any non-frivolous consumer complaint from the complaining consumer with the following statement:

"This information may only be used by the licensee in its effort to address the complaint in a respectful manner.".

The copy of the complaint shall include the following:

(1) the consumer's name, address, and telephone number;

(2) the decedent's name if applicable;

(3) the consumer contract that the consumer is complaining about; and

(4) the name, address, and telephone number of the consumer's agent and the instrument designating the agent from the consumer.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-5)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-5. Restrictions and limitations. No person shall, without a valid license issued by the Department, (i) hold himself or herself out in any manner to the public as a licensed cemetery authority or ~~,~~ licensed cemetery manager~~, or customer service employee~~; (ii) attach the title "licensed cemetery authority" or ~~,~~ "licensed cemetery manager"~~, or "licensed customer service employee"~~ to his or her name; or (iii) render or offer to render services constituting the practice of privately held cemetery operation ~~; or (iv) accept care funds within the meaning of this Act or otherwise hold funds for care and maintenance unless such person is holding and managing funds on behalf of a cemetery authority and is authorized to conduct a trust business under the Corporate Fiduciary Act or the federal National Bank Act~~.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-15)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-15. Privately held cemetery authority license ~~Persons not licensed under the Cemetery Care Act or the Cemetery Association Act. A cemetery manager, a customer service employee, or a person acting as a cemetery authority who was not required to obtain licensure prior to the effective date of this Act need not comply with the licensure requirement in this Article until the Department takes action on the person's application for a license.~~ The application for a privately held cemetery authority license must be submitted to the Department within 6 months after the adoption of administrative rules ~~effective date of this Act~~. For cemetery managers already working for a privately held cemetery authority at the time of privately held cemetery authority application for licensure, the application for a cemetery manager license must be submitted at the same time as the original application for licensure as a privately held cemetery authority pursuant to this Section or Section 10-10, whichever the case may be. Any applicant for licensure as a cemetery manager of a cemetery authority that is already licensed under this Act or that has a pending application for licensure under this Act must submit his or her application to the Department on or before his or her first day of work. ~~The application for a customer service~~

~~employee license must be submitted to the Department within 10 days after the cemetery authority for which he or she works becomes licensed under this Act or on or before his or her first day of work, whichever the case may be.~~ If the person fails to submit the application within the required period, the person shall be considered to be engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-20)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-20. Application for original license ~~or exemption~~.

(a) Applications for original licensure as a privately held cemetery authority or a privately held cemetery manager ~~, cemetery manager, or customer service employee~~ authorized by this Act~~, or application for exemption from licensure as a cemetery authority,~~ shall be made to the Department on forms prescribed by the Department, which shall include the applicant's Social Security number or FEIN number, or both, and shall be accompanied by the required fee as set by rule. ~~Applications for partial or full exemption from licensure as a cemetery authority shall be submitted to the Department within 12 months after the Department adopts rules under this Act. If the person fails to submit the application for partial or full exemption within this period, the person shall be subject to discipline in accordance with Article 25 of this Act. If a cemetery authority seeks to practice at more than one location, it shall meet all licensure requirements at each location as required by this Act and by rule, including submission of an application and fee. A person licensed as a cemetery manager or customer service employee need not submit a Worker's Statement in accordance with Section 10-22 of this Act.~~

(b) (Blank). ~~If the application for licensure as a cemetery authority does not claim a full exemption or partial exemption, then the cemetery authority license application shall be accompanied by a fidelity bond, proof of self-insurance, or letter of credit in the amount required by rule. Such bond, self-insurance, or letter of credit shall run to the Department for the benefit of the care funds held by such cemetery authority or by the trustee of the care funds of such cemetery authority. If care funds of a cemetery authority are held by any entity authorized to do a trust business under the Corporate Fiduciary Act or held by an investment company, then the Department shall waive the requirement of a bond, self-insurance, or letter of credit as established by rule. If the Department finds at any time that the bond, self-insurance or letter of credit is insecure or exhausted or otherwise doubtful, then an additional bond, form of self-insurance, or letter of credit in like amount to be approved by the Department shall be filed by the cemetery authority applicant or licensee within 30 days after written demand is served upon the applicant or licensee by the Department. In addition, if the cemetery authority application does not claim a full exemption or partial exemption, then the license application shall be accompanied by proof of liability insurance, proof of self-insurance, or a letter of credit in the amount required by rule. The procedure by which claims on the liability insurance, self-insurance, or letter of credit are made and paid shall be determined by rule. Any bond obtained pursuant to this subsection shall be issued by a bonding company authorized to do business in this State. Any letter of credit obtained pursuant to this subsection shall be issued by a financial institution authorized to do business in this State. Maintaining the bonds, self-insurance, or letters of credit required under this subsection is a continuing obligation for licensure. A bonding company may terminate a bond, a financial institution may terminate a letter of credit, or an insurance company may terminate liability insurance and avoid further liability by filing a 60-day notice of termination with the Department and at the same time sending the same notice to the cemetery authority.~~

(c) After initial licensure, if any person comes to obtain at least 51% of the ownership over the licensed privately held cemetery authority, then the privately held cemetery authority shall have to apply for a new license and receive licensure in the required time as set by rule. The current license remains in effect until the Department takes action on the application for a new license.

(d) 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 for ~~an exemption from licensure or for~~ a license to practice as a privately held cemetery authority or ~~,~~ cemetery manager~~, or customer service employee as set by rule~~.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-21)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-21. Qualifications for licensure.

(a) A privately held cemetery authority shall apply for licensure on forms prescribed by the Department and pay the required fee. An applicant is qualified for licensure as a privately held cemetery authority if the applicant meets all of the following qualifications:

(1) The applicant is of good moral character and has not committed any act or offense in any jurisdiction that would constitute the basis for discipline under this Act. When considering such license ~~In determining good moral character~~, the Department shall take into consideration the following:

(A) the applicant's record of compliance with the Code of Professional Conduct and Ethics, and whether the applicant has been found to have engaged in any unethical or dishonest practices in the cemetery business by a government authority;

(B) whether the applicant has been adjudicated, civilly or criminally, to have committed fraud or to have violated any law of any state involving unfair trade or business practices, has been convicted of a misdemeanor of which fraud is an essential element or which involves any aspect of the cemetery business, or has been convicted of any felony;

(C) whether the applicant has willfully violated any provision of this Act or a predecessor law or any regulations relating thereto;

(D) whether the applicant has been permanently or temporarily suspended, enjoined, or barred by any court of competent jurisdiction in any state from engaging in or continuing any conduct or practice involving any aspect of the cemetery or funeral business; and

(E) whether the applicant has ever had any license to practice any profession or occupation suspended, denied, fined, or otherwise acted against or disciplined by the applicable licensing authority.

If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 51% ~~25%~~ or more of corporate stock is to be of good moral character. Good moral character is a continuing requirement of licensure.

(2) When the applicant is already an existing licensed privately held cemetery authority, the ~~The~~ applicant provides a copy of a statement of it's assets and liabilities. Any new cemetery with a new privately held cemetery authority shall have the applicant provide evidence satisfactory to the Department that the applicant has financial resources sufficient to comply with the maintenance and record-keeping provisions in Section 20-5 of this Act. ~~Maintaining sufficient financial resources is a continuing requirement for licensure.~~

(3) The applicant has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction. If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction.

(4) (Blank). ~~The applicant submits his or her fingerprints in accordance with subsection (c) of this Section.~~

(5) (Blank). ~~The applicant has complied with all other requirements of this Act and the rules adopted for the implementation of this Act.~~

(b) The cemetery manager ~~and customer service employees~~ of a licensed privately held cemetery authority shall apply for licensure as a cemetery manager ~~or customer service employee~~ on forms prescribed by the Department and pay the required fee. A person is qualified for licensure as a cemetery manager ~~or customer service employee~~ if he or she meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Has acted in an ethical manner as outlined in Section 10-23 of this Act and is ~~Is~~ of good moral character. ~~Good moral character is a continuing requirement of licensure.~~ In determining qualifications of licensure ~~good moral character~~, the Department shall take into consideration the factors outlined in item (1) of subsection (a) of this Section.

(3) Submits proof of successful completion of a high school education or its equivalent as established by rule.

(4) (Blank). ~~Submits his or her fingerprints in accordance with subsection (c) of this Section.~~

(5) Has not committed a violation of this Act or any rules adopted under this Act that, in the opinion of the Department, renders the applicant unqualified to be a cemetery manager.

(6) Submits proof of successful completion of a certification course ~~Successfully passes the examination~~ authorized by the Department for cemetery managers ~~manager or customer service employee, whichever is applicable~~.

(7) Has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction.

(8) (Blank). ~~Can be reasonably expected to treat consumers professionally, fairly, and ethically.~~

(9) Has complied with all other requirements of this Act and the rules adopted for implementation of this Act.

(c) (Blank). ~~Each applicant for a cemetery authority, cemetery manager, or customer service employee license shall have his or her fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information that is prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or directly to a designated fingerprint vendor. The Department, in its discretion, may allow an applicant who does not have reasonable access to a designated fingerprint vendor to provide his or her fingerprints in an alternative manner. The Department, in its discretion, may also use other procedures in performing or obtaining criminal background checks of applicants. Instead of submitting his or her fingerprints, an individual may submit proof that is satisfactory to the Department that an equivalent security clearance has been conducted. If the applicant for a cemetery authority license is a corporation, limited liability company, partnership, or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock shall have his or her fingerprints submitted in accordance with this subsection (c).~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-23)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-23. Code of Professional Conduct and Ethics. The Department shall adopt a Code of Professional Conduct and Ethics by rule. Cemetery ~~authorities, cemetery~~ managers~~, and customer service employees~~ shall abide by the Code of Professional Conduct and Ethics.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-25)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-25. Certification. ~~Examination; failure or refusal to take the examination.~~

(a) The Department shall authorize certification programs for ~~examinations of~~ cemetery ~~manager~~ managers of privately held cemeteries ~~and customer service employee applicants at such times and places as it may determine~~. The certification program shall consist of cemetery ethics, cemetery law, and cemetery practices. Cemetery law shall include the Cemetery Oversight Act, the Cemetery Care Act, the Disposition of Remains Act, and the Cemetery Protection Act. Cemetery practices shall include treating the dead and their family members with dignity and respect. The certification program shall consist of an examination by the entity providing the certification. ~~examinations shall fairly test an applicant's qualifications to practice as cemetery manager or customer service employee, whatever the case may be, and knowledge of the theory and practice of cemetery operation and management or cemetery customer service, whichever is applicable. The examination shall further test the extent to which the applicant understands and appreciates that the final disposal of a deceased human body should be attended with appropriate observance and understanding, having due regard and respect for the reverent care of the human body and for those bereaved and for the overall spiritual dignity of an individual.~~

(a-5) The cemetery manager applicant may choose any entity that has been approved by the Department from which to obtain certification. ~~The examinations for cemetery manager and customer service employee shall be appropriate for cemetery professionals and shall not cover mortuary science.~~

(a-10) (Blank). ~~The examinations for cemetery manager and customer service employee applicants shall be tiered, as determined by rule, to account for the different amount of knowledge needed by such applicants depending on their job duties and the number of interments, inurnments, and entombments per year at the cemetery at which they work.~~

(b) Cemetery managers of a privately held cemetery who apply for certification ~~Applicants for examinations~~ shall pay~~, either to the Department or~~ to the designated entity ~~testing service,~~ a fee covering the cost of providing the certification ~~examination~~. ~~Failure to appear for the examination on the~~

~~scheduled date at the time and place specified after the application for examination has been received and acknowledged by the Department or the designated testing service shall result in forfeiture of the examination fee.~~

(c) If the privately held cemetery manager applicant neglects, fails, or refuses to become certified ~~take an examination~~ or fails to pass an examination for a certification ~~license~~ under this Act within one year after filing an application, then the application shall be denied. However, the applicant may thereafter submit a new application accompanied by the required fee. The applicant shall meet the requirements in force at the time of making the new application.

(d) (Blank). ~~The Department may employ consultants for the purpose of preparing and conducting examinations.~~

(e) The Department shall recognize any certification program that is conducted by a death care trade association in Illinois that has been in existence for more than 5 years that, in the determination of the Department, adequately covers required provisions in this Act. ~~The Department shall have the authority to adopt or recognize, in part or in whole, examinations prepared, administered, or graded by other organizations in the cemetery industry that are determined appropriate to measure the qualifications of an applicant for licensure.~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-39 new)

Sec. 10-39. Cemetery manager; display of certification and license. The cemetery manager must conspicuously display the certification, and the license after it is received, at the privately held cemetery authority's place of business. Any new cemetery manager shall have a reasonable time period, not to exceed one year, to attend a recognized certification program. In the interim, the new cemetery manager may manage the privately held cemetery if he or she has received training from another person, as verified by an appropriate form approved by the Department, who has received certification by a program recognized by the Department.

(225 ILCS 411/10-40)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-40. Expiration and renewal of license. The expiration date, renewal period not to be less than every 3 years, a reasonable renewal fee, and other requirements for each license shall be set by rule.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-55)

(Section scheduled to be repealed on January 1, 2021)

Sec. 10-55. Fees.

(a) The ~~Except as provided in subsection (b) of this Section, the~~ fees for the administration and enforcement of this Act, including, but not limited to, original licensure, renewal, and restoration fees, shall be set by the Department by rule. ~~The fees shall be reasonable and shall not be refundable.~~ Fees shall be reasonable and shall avoid creating competitive disadvantages for licensed cemeteries in comparison to exempt cemeteries. The Secretary, upon recommendation of the Cemetery Oversight Board, may waive fees based upon hardship.

(b) Applicants for certification ~~examination~~ shall be required to pay~~, either to the Department or the designated testing service,~~ a fee covering the cost of providing the certification to the entity providing the certification of the cemetery manager ~~examination~~.

(c) All fees and other moneys collected under this Act shall be deposited in the Cemetery Oversight Licensing and Disciplinary Fund.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-5)

(Section scheduled to be repealed on January 1, 2021)

Sec. 20-5. Maintenance and records.

(a) ~~A cemetery authority shall provide reasonable maintenance of the cemetery property and of all lots, graves, crypts, and columbariums in the cemetery based on the type and size of the cemetery, topographic limitations, and contractual commitments with consumers. Subject to the provisions of this subsection (a), reasonable maintenance includes:~~

~~(1) the laying of seed, sod, or other suitable ground cover as soon as practical following an interment given the weather conditions, climate, and season and the interment's proximity to ongoing burial activity;~~

~~(2) the cutting of lawn throughout the cemetery at reasonable intervals to prevent an overgrowth of grass and weeds given the weather conditions, climate, and season;~~

~~(3) the trimming of shrubs to prevent excessive overgrowth;~~

~~(4) the trimming of trees to remove dead limbs;~~

~~(5) keeping in repair the drains, water lines, roads, buildings, fences, and other structures; and~~
~~(6) keeping the cemetery premises free of trash and debris.~~

~~Reasonable maintenance by the cemetery authority shall not preclude the exercise of lawful rights by the owner of an interment, inurnment, or entombment right, or by the decedent's immediate family or other heirs, in accordance with reasonable rules and regulations of the cemetery or other agreement of the cemetery authority.~~

In the case of a cemetery dedicated as a nature preserve under the Illinois Natural Areas Preservation Act, reasonable maintenance by the cemetery authority shall be in accordance with the rules and master plan governing the dedicated nature preserve.

~~The Department shall adopt rules to provide greater detail as to what constitutes the reasonable maintenance required under this Section. The rules shall differentiate between cemeteries based on, among other things, the size and financial strength of the cemeteries. The rules shall also provide a reasonable opportunity for a cemetery authority accused of violating the provisions of this Section to cure any such violation in a timely manner given the weather conditions, climate, and season before the Department initiates formal proceedings.~~

(b) A privately held cemetery authority, before commencing cemetery operations or within 6 months after the effective date of this Act, shall cause an overall map of its cemetery property, delineating all lots or plots, blocks, sections, avenues, walks, alleys, and paths and their respective designations, to be filed at its on-site office, or if it does not maintain an on-site office, at its principal place of business. A cemetery manager's certificate acknowledging, accepting, and adopting the map shall also be included with the map. The Department may order that the privately held cemetery authority obtain a cemetery plat and that it be filed at its on-site office, or if it does not maintain an on-site office, at its principal place of business only if ~~in the following circumstances: (1) the cemetery authority is expanding or altering the cemetery grounds; or (2)~~ a human body that should have been interred, entombed, or inurned at the cemetery after the effective date of this Amendatory Act of the 97th General Assembly is missing ~~, displaced,~~ or dismembered and the cemetery map contains serious discrepancies.

In exercising this discretion, the Department shall consider whether the privately held cemetery authority would experience an undue hardship as a result of obtaining the plat. The cemetery plat, as with all plats prepared under this Act, shall comply with the Illinois Professional Land Surveyor Act of 1989 and shall delineate, describe, and set forth all lots or plots, blocks, sections, avenues, walks, alleys, and paths and their respective designations. A cemetery manager's certificate acknowledging, accepting, and adopting the plat shall also be included with the plat.

(b-5) A privately held cemetery authority shall maintain an index that associates the identity of deceased persons interred, entombed, or inurned after the effective date of this Act with their respective place of interment, entombment, or inurnment. If a person may be located in a cemetery database by name, then the privately held cemetery authority shall be considered in compliance with the requirement of this subsection (b-5).

(c) The privately held cemetery authority shall open the cemetery map or plat to public inspection. The cemetery authority shall make available a copy of the overall cemetery map or plat upon written request and shall, if practical, provide a copy of a segment of the cemetery plat where interment rights are located upon the payment of reasonable photocopy fees. Any unsold lots, plots, or parts thereof, in which there are not human remains, may be resurveyed and altered in shape or size and properly designated on the cemetery map or plat. However, sold lots, plots, or parts thereof in which there are human remains may not be renumbered or renamed. Nothing contained in this subsection, however, shall prevent the privately held cemetery authority from enlarging an interment right by selling to its owner the excess space next to the interment right and permitting interments therein, provided reasonable access to the interment right and to adjoining interment rights is not thereby eliminated.

(d) A privately held cemetery authority shall keep a record of every interment, entombment, and inurnment completed after the effective date of this Act. The record shall include the deceased's name, age, date of burial, and the location ~~parcel identification number identifying~~ where the human remains are interred, entombed, or inurned. ~~The record shall also include the unique personal identifier as may be further defined by rule, which is the parcel identification number in addition to the term of burial in years; the numbered level or depth in the grave, plot, crypt, or niche; and the year of death.~~

(e) (Blank).

(f) A privately held cemetery authority shall make available for inspection and, upon reasonable request and the payment of a reasonable copying fee, provide a copy of its rules and regulations. A privately held cemetery authority shall make available for viewing and provide a copy of its current prices of interment, inurnment, or entombment rights.

(g) A privately held cemetery authority shall provide access to the cemetery under the privately held

cemetery authority's reasonable rules and regulations.

(h) A privately held cemetery authority shall be responsible for the proper opening and closing of all graves, crypts, or niches for human remains in any cemetery property it owns.

(i) (Blank). ~~Any corporate or other business organization trustee of the care funds of every licensed cemetery authority shall be located in or a resident of this State. The licensed cemetery authority and the trustee of care funds shall keep in this State and use in its business such books, accounts, and records as will enable the Department to determine whether such licensee or trustee is complying with the provisions of this Act and with the rules, regulations, and directions made by the Department under this Act. The licensed cemetery authority shall keep the books, accounts, and records in electronic or written format at the location identified in the license issued by the Department or as otherwise agreed by the Department in writing. The books, accounts, and records shall be accessible for review upon demand of the Department.~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-10)

(Section scheduled to be repealed on January 1, 2021)

Sec. 20-10. Contract. At the time cemetery arrangements are made and prior to rendering the cemetery services, a licensed privately held cemetery authority shall create a written contract to be provided to the consumer, signed by both parties, that shall contain: (i) contact information, as set out in Section 20-11, and the date on which the arrangements were made; (ii) the price of the cemetery service selected and the cemetery services and cemetery merchandise included for that price; (iii) the supplemental items of cemetery service and cemetery merchandise requested and the price of each item; (iv) the terms or method of payment agreed upon; and (v) a statement as to any monetary advances made on behalf of the family. The privately held cemetery authority shall maintain a copy of such written contract in its permanent records.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-11)

(Section scheduled to be repealed on January 1, 2021)

Sec. 20-11. Contact information in a contract. All privately held cemetery authorities shall include in the contract described in Section 20-10 the name, office address, and office telephone number of the licensed privately held cemetery authority ~~, except for a cemetery authority that is operating as a religious cemetery or public cemetery, which shall include in the contract described in Section 20-10 the name, address, and telephone number of the cemetery manager. Upon written request to a cemetery authority by a consumer, the cemetery authority shall provide: (1) the cemetery authority's registered agent, if any; (2) the cemetery authority's proprietor, if the cemetery authority is an individual; (3) every partner, if the cemetery authority is a partnership; (4) the president, secretary, executive and senior vice presidents, directors, and individuals owning 25% or more of the corporate stock, if the cemetery authority is a corporation; and (5) the manager, if the cemetery authority is a limited liability company~~.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-20)

(Section scheduled to be repealed on January 1, 2021)

Sec. 20-20. Display of license. Every privately held cemetery authority and ~~,~~ cemetery manager~~, and customer service employee~~ license issued by the Department shall state the number of the license and the address at which the business is to be conducted. Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable. Nothing in this amendatory Act of the 97th General Assembly shall prevent an individual from acting as a licensed cemetery manager ~~or customer service employee~~ for more than one cemetery. A cemetery manager ~~or customer service employee~~ who works at more than one cemetery shall display an original version of his or her license at each location for which the individual serves as a cemetery manager ~~or customer service employee~~.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-30)

(Section scheduled to be repealed on January 1, 2021)

Sec. 20-30. Signage. The Department shall create, and each licensed privately held cemetery authority shall conspicuously post signs in English and Spanish in each cemetery office that contain the Department's consumer hotline number, information on how to file a complaint, and whatever other information that the Department deems appropriate.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-1)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-1. Denial of license ~~or exemption from licensure~~. If the Department determines that an application for licensure ~~or exemption from licensure~~ should be denied pursuant to Section 25-10, then the applicant shall be sent a notice of intent to deny license ~~or exemption from licensure~~ and the applicant shall be given the opportunity to request, within 20 days of the notice, a hearing on the denial. If the applicant requests a hearing, then the Secretary shall schedule a hearing within 30 days after the request for a hearing, unless otherwise agreed to by the parties. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer. The hearing officer shall have full authority to conduct the hearing. The hearing shall be held at the time and place designated by the Secretary. The Secretary shall have the authority to prescribe rules for the administration of this Section.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-5)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-5. Citations.

(a) The Department may adopt rules to permit the issuance of citations for non-frivolous complaints. The citation shall be issued to the licensee and shall contain the licensee's name and address, the licensee's license number, a brief factual statement, the Sections of the law allegedly violated, and the penalty imposed. When issuing a citation that proposes a suspension or revocation of the license of a privately held cemetery authority or cemetery manager, the Department must consider recommendations of the Cemetery Oversight Board. The citation must clearly state that the licensee has the option ~~may choose~~, in lieu of accepting the citation, to request a hearing. If the licensee does not dispute the matter in the citation with the Department within 30 days after the citation is served, then the citation shall become a final order and shall constitute discipline. The penalty shall be a fine or other conditions as established by rule.

(b) The Department shall adopt rules and must consider recommendations of the Cemetery Oversight Board when designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare. Citations shall not be utilized if there was any significant consumer harm resulting from the violation.

(c) A citation must be issued within 6 months after the reporting of a violation that is the basis for the citation.

(d) Service of a citation may be made by personal service, ~~or~~ certified mail with confirmation of receipt, or other delivery service with confirmation of receipt to the licensee at the licensee's address of record.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-10)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-10. Grounds for disciplinary action.

(a) The Department may refuse to issue or renew a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department may deem appropriate and must consider recommendations of the Cemetery Oversight Board, including imposing fines not to exceed $1,000 ~~$10,000~~ for each violation, with regard to any license issued under this Act, for any one or combination of the following:

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

(2) Violations of this Act, except for Section 20-8, or of the rules adopted under this Act.

(3) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime within the last 10 years that is a Class X felony or is a felony involving fraud and dishonesty under the laws of the United States or any state or territory thereof.

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

(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 10 business days, 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) Inability to practice with reasonable judgment, skill, or safety as a result of habitual or excessive use of alcohol, narcotics, stimulants, or any other chemical agent or drug.

(11) 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.

(12) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

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

(14) Willfully making or filing false records or reports in his or her practice, including, but not limited to, false records filed with any governmental agency or department.

(15) Inability to practice the profession with reasonable judgment, skill, or safety.

(16) Failure to ~~file an annual report or to maintain in effect the required bond or to~~ comply with an order, decision, or finding of the Department made pursuant to this Act.

(17) Directly or indirectly receiving compensation for any professional services not actually performed.

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

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

(20) (Blank) ~~Cheating on or attempting to subvert the licensing examination administered under this Act~~.

(21) Unjustified failure to honor its contracts.

(22) Negligent supervision of a cemetery manager~~, customer service employee, cemetery worker, or independent contractor~~.

(23) A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under this Act.

(24) Allowing an individual who is not, but is required to be, licensed under this Act to perform work for the privately held cemetery authority.

(25) (Blank). ~~Allowing an individual who has not, but is required to, submit a Worker's Statement in accordance with Section 10-22 of this Act to perform work at the cemetery.~~

(b) No action may be taken under this Act against a person licensed under this Act unless the action is commenced within 5 years after the occurrence of the alleged violations, except for item (3) of subsection (a) of this Section in which case the action may commence within 10 years after the occurrence of the alleged violations. A continuing violation shall be deemed to have occurred on the date when the circumstances last existed that give rise to the alleged violation.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-13.1 new)

Sec. 25-13.1. Renewal.

(a) Beginning with the August 2012 renewal, every privately held cemetery authority and cemetery manager of a privately held cemetery issued under this Act shall expire on August 31 every 3 years.

(b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to renew one's license or to pay the renewal fee.

(c) Practicing on an expired license is unlicensed practice and subject to discipline under Section 25-10 of this Act.

(d) No privately held cemetery authority shall, after the expiration of a cemetery manager employee license, permit the holder of the expired license to do any work requiring licensure.

(225 ILCS 411/25-14)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-14. Mandatory reports.

(a) If a privately held cemetery authority receives a ~~consumer~~ complaint alleging fraud that is not resolved to the satisfaction of the consumer within 60 days of the complaint, the privately held cemetery authority shall advise the consumer of the right to seek investigation by the Department referring the consumer to the signage ~~and shall report the consumer complaint to the Department within the next 30 days. Cemetery authorities shall report to the Department within 30 days after the settlement of any liability insurance claim or cause of action, or final judgment in any cause of action, that alleges negligence, fraud, theft, misrepresentation, misappropriation, or breach of contract~~.

(b) The State's Attorney of each county shall report to the Department all instances in which an individual licensed as a cemetery manager of a privately held cemetery ~~or customer service employee,~~ or any individual listed on a licensed privately held cemetery authority's application under this Act, is convicted or otherwise found guilty of the commission of any felony. The report shall be submitted to the Department within 60 days after conviction or finding of guilty.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-15)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-15. Cease and desist.

(a) The Secretary may issue an order to cease and desist to any licensee or other person doing business without the required license when, in the opinion of the Secretary, the licensee or other person is violating or is about to violate any provision of this Act or any rule or requirement imposed in writing by the Department.

(b) The Secretary may issue an order to cease and desist prior to a hearing and such order shall be in full force and effect until a final administrative order is entered.

(c) The Secretary shall serve notice of his or her action, designated as an order to cease and desist made pursuant to this Section, including a statement of the reasons for the action, either personally or by certified mail, return receipt requested or by other delivery service that provides a confirmation of receipt. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail and sent to the address of record or, in the case of unlicensed activity, the address known to the Department.

(d) Within 15 days after service of the order to cease and desist, the licensee or other person may request, in writing, a hearing.

(e) The Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

(f) The Secretary shall have the authority to prescribe rules for the administration of this Section.

(g) If, after hearing, it is determined that the Secretary has the authority to issue the order to cease and desist, he or she may issue such orders as may be reasonably necessary to correct, eliminate, or remedy such conduct.

(h) The powers vested in the Secretary by this Section are additional to any and all other powers and remedies vested in the Secretary by law and nothing in this Section shall be construed as requiring that the Secretary shall employ the power conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-25)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-25. Investigations, notice, hearings.

(a) The Department may at any time investigate the actions of any applicant or of any person or persons rendering or offering to render services as a privately held cemetery authority, cemetery manager of a privately held cemetery ~~, or customer service employee of~~ or any person holding or claiming to hold a license as a licensed privately held cemetery authority, cemetery manager of a privately held cemetery ~~, or customer service employee~~. If it appears to the Department that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this Act, then the Department may: (1) require that person to file on such terms as the Department prescribes a statement or report in writing, under oath or otherwise, containing all information the Department may consider necessary to ascertain whether a licensee is in compliance with this Act, or whether an unlicensed person is engaging in activities for which a license is required; (2) examine under oath any individual in connection with the books and records pertaining to or having an impact upon the operation of a cemetery ~~or trust funds required to be maintained pursuant to this Act~~; (3) examine any books and records of the licensee~~, trustee, or investment advisor~~ that the Department may consider necessary to ascertain compliance with this Act; and (4) require the production of a copy of any record, book, document, account, or paper that is produced in accordance with this Act and retain it in his or her possession until the completion of all proceedings in connection with which it is produced.

(b) The Secretary may, with consideration of the recommendations of the Cemetery Oversight Board and after 10 days notice by personal service, certified mail with return receipt requested, or by any delivery service that provides a confirmation of receipt to the licensee at the address of record or to the last known address of any other person stating the contemplated action and in general the grounds therefor, fine such licensee an amount not exceeding $1,000 ~~$10,000~~ per violation or revoke, suspend, refuse to renew, place on probation, or reprimand any license issued under this Act if he or she finds

that:

(1) the licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made pursuant to the authority of this Act; or

(2) any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the Secretary in refusing to issue the license.

(c) The Secretary, with consideration and recommendations of the Cemetery Oversight Board, may fine, revoke, suspend, refuse to renew, place on probation, reprimand, or take any other disciplinary action as to the particular license with respect to which grounds for the fine, revocation, suspension, refuse to renew, probation, or reprimand, or other disciplinary action occur or exist, but if the Secretary finds that grounds for revocation are of general application to all offices or to more than one office of the licensee, the Secretary shall fine, revoke, suspend, refuse to renew, place on probation, reprimand, or otherwise discipline every license to which such grounds apply.

(d) In every case in which a license is revoked, suspended, placed on probation, reprimanded, or otherwise disciplined, the Secretary shall serve the licensee with notice of his or her action, including a statement of the reasons for his or her actions, either personally or by certified mail, return receipt requested or by any delivery service that provides a confirmation of receipt. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail and sent to the address of record.

(e) An order assessing a fine, an order revoking, suspending, placing on probation, or reprimanding a license or, an order denying renewal of a license shall take effect upon service of the order unless the licensee requests, in writing, within 20 days after the date of service, a hearing. In the event a hearing is requested, an order issued under this Section shall be stayed until a final administrative order is entered.

(f) If the licensee requests a hearing, then the Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any disciplinary action with regard to a license. The hearing officer shall have full authority to conduct the hearing.

(g) The hearing shall be held at the time and place designated by the Secretary.

(h) The Secretary shall have the authority to prescribe rules, with consideration and recommendations of the Cemetery Oversight Board, for the administration of this Section.

(i) Fines imposed and any costs assessed shall be paid within 60 days.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-70)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-70. Receivership. In the event a privately held cemetery authority license is suspended or revoked or where an unlicensed person has conducted activities requiring privately held cemetery authority licensure under this Act, the Department, through the Attorney General, may petition the circuit courts of this State for appointment of a receiver ~~to administer the care funds of such licensee or unlicensed person or~~ to operate the cemetery.

(a) The court shall appoint a receiver if the court determines that a receivership is necessary or advisable:

(1) to ensure the orderly and proper conduct of a licensee's professional business and affairs during or in the aftermath of the administrative proceeding to revoke or suspend the privately held cemetery authority's license;

(2) for the protection of the public's interest and rights in the business, premises, or activities of the person sought to be placed in receivership;

(3) upon a showing of actual or constructive abandonment of premises or business licensed or which was not but should have been licensed under this Act;

(4) upon a showing of serious and repeated violations of this Act demonstrating an inability or unwillingness of a licensee to comply with the requirements of this Act;

(5) to prevent loss, wasting, dissipation, theft, or conversion of assets that should be marshaled and held available for the honoring of obligations under this Act; or

(6) upon proof of other grounds that the court deems good and sufficient for instituting receivership action concerning the respondent sought to be placed in receivership.

(b) A receivership under this Section may be temporary, or for the winding up and dissolution of the business, as the Department may request and the court determines to be necessary or advisable in the circumstances. Venue of receivership proceedings may be, at the Department's election, in Cook County or the county where the subject of the receivership is located. The appointed receiver shall be the

Department or such person as the Department may nominate and the court shall approve.

(c) The Department may adopt rules for the implementation of this Section.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-85)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-85. Inactive status.

(a) Any licensed manager of a privately held cemetery ~~or customer service employee~~ who notifies the Department in writing on forms prescribed by the Department as determined by rule, may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status. Any licensed cemetery manager of a privately held cemetery ~~or licensed customer service employee~~ requesting restoration from inactive status shall pay the current renewal fee and meet requirements as provided by rule. Any licensee whose license is in inactive status shall not practice in the State of Illinois.

(b) A privately held cemetery authority license may only go on inactive status by following the provisions for dissolution set forth in Section 10-50 or transfer in Section 10-45.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-105)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-105. Violations. Any person who is found to have engaged in unlicensed practices under this Act ~~violated any provision of this Act or any applicant for licensure who files with the Department the fingerprints of an individual other than himself or herself~~ is guilty of a Class A misdemeanor. Upon conviction of a second or subsequent offense the violator shall be guilty of a Class 4 felony. ~~However, whoever intentionally fails to deposit the required amounts into a trust provided for in this Act or intentionally and improperly withdraws or uses trust funds for his or her own benefit shall be guilty of a Class 4 felony and each day such provisions are violated shall constitute a separate offense.~~

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-110)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-110. Civil action and civil penalties. In addition to the other penalties and remedies provided in this Act, the Department may bring a civil action in the county in which the cemetery is located against a licensee or any other person to enjoin any violation or threatened violation of this Act. 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 $1,000 ~~$10,000~~ 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. Any 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. All moneys collected under this Section shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-125)

(Section scheduled to be repealed on January 1, 2021)

Sec. 25-125. Cemetery Oversight Board. The Cemetery Oversight Board ~~is created and~~ shall consist of 7 ~~the Secretary, who shall serve as its chairperson, and 8~~ members appointed by the Secretary. Appointments shall be made within 90 days after the effective date of this Act. Five ~~Three~~ members shall represent the segment of the privately held cemetery industry licensed under this Act, and the chairman shall be annually selected from within this group by their majority vote. One member ~~that does not maintain a partial exemption or full exemption, one member shall represent the segment of the cemetery industry that maintains a partial exemption as a public cemetery, one member shall represent the segment of the cemetery industry that maintains a partial exemption as a religious cemetery, 2 members~~ shall be a consumer ~~consumers~~ as defined in this Act, and one member shall represent the general public. No member shall be a licensed professional from a non-cemetery segment of the death care industry. No member of the Board shall be appointed who works for an exempt cemetery authority or at multiple categories of cemeteries. Board members shall serve 5-year terms and until their successors are appointed and qualified. The membership of the Board should reasonably reflect representation from the geographic areas in this State. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 10 successive years. Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term. Four ~~Five~~ members of the Board shall constitute a quorum. A

quorum is required for Board decisions. The Secretary may remove any member of the Board for misconduct, incompetence, neglect of duty, conflict of interest, or for reasons prescribed by law for removal of State officials. The Secretary may remove a member of the Board who does not attend 2 consecutive meetings. The Department may, at any time, seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act. The Secretary shall consider the recommendations of the Board in the development of proposed rules or disciplinary action under this Act and for establishing guidelines and examinations as may be required under this Act. Notice of any proposed rulemaking under this Act shall be transmitted to the Board and the Department shall consider ~~review~~ the response of the Board and any recommendations made therein. The Secretary may retain any Board member currently serving who qualifies under the changes made to this Section by this amendatory Act of the 97th General Assembly.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-20)

(Section scheduled to be repealed on January 1, 2021)

Sec. 75-20. Rules. The Department may adopt rules for the administration and enforcement of this Act with consideration of recommendations of the Cemetery Oversight Board. The rules shall include standards for licensure, professional conduct, and discipline.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-25)

(Section scheduled to be repealed on January 1, 2021)

Sec. 75-25. Home rule. The regulation and licensing as provided for in this Act are exclusive powers and functions of the State. A home rule unit may not regulate or license privately held cemetery authorities, cemetery managers, employees, or workers employed or hired on behalf of the privately held cemetery authority ~~customer service employees, cemetery workers,~~ or any activities relating to the operation of a cemetery. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-45)

(Section scheduled to be repealed on January 1, 2021)

Sec. 75-45. Fees. The Department shall by rule provide for fees for the administration and enforcement of this Act other than as specifically provided in Section 10-55, and those fees are nonrefundable. All of the fees and fines collected under this Act shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund and be appropriated to the Department for the ordinary and contingent expenses of the Department in the administration and enforcement of this Act. Fees shall be reasonable and shall avoid creating competitive disadvantages for licensed cemetery authorities in comparison to exempt cemetery authorities. The Secretary, upon recommendation of the Cemetery Oversight Board, may waive fees based upon hardship.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-50)

(Section scheduled to be repealed on January 1, 2021)

Sec. 75-50. Burial permits. After the effective date of this amendatory Act of the 97th General Assembly, notwithstanding ~~Notwithstanding~~ any law to the contrary, ~~a cemetery authority shall ensure that~~ every burial permit maintained at the cemetery shall contain ~~applicable to that cemetery authority contains the decedent's parcel identification number or other~~ information ~~as provided by rule~~ regarding the location of the interment, entombment, or inurnment of the deceased that would enable the Department to determine the ~~precise~~ location of the decedent.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-10 rep.) (225 ILCS 411/10-22 rep.) (225 ILCS 411/10-30 rep.) (225 ILCS 411/10-45 rep.) (225 ILCS 411/10-50 rep.) (225 ILCS 411/Art. 15 rep.) (225 ILCS 411/20-6 rep.) (225 ILCS 411/20-8 rep.) (225 ILCS 411/20-12 rep.) (225 ILCS 411/20-15 rep.) (225 ILCS 411/20-25 rep.) (225 ILCS 411/Art. 22 rep.) (225 ILCS 411/25-3 rep.) (225 ILCS 411/25-13 rep.) (225 ILCS 411/25-75 rep.) (225 ILCS 411/25-120 rep.) (225 ILCS 411/Art. 35 rep.) (225 ILCS 411/75-55 rep.) (225 ILCS 411/90-90 rep.) (225 ILCS 411/90-95 rep.)

Section 920. The Cemetery Oversight Act is amended by repealing Articles 15, 22, and 35 and Sections 10-10, 10-22, 10-30, 10-45, 10-50, 20-6, 20-8, 20-12, 20-15, 20-25, 25-3, 25-13, 25-75, 25-120, 75-55, 90-90, and 90-95.

Section 925. The Crematory Regulation Act is amended by changing Sections 5 and 35 as follows:

(410 ILCS 18/5)

(Text of Section before amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5. Definitions. As used in this Act:

"Alternative container" means a receptacle, other than a casket, in which human remains are transported to the crematory and placed in the cremation chamber for cremation. An alternative container shall be (i) composed of readily combustible materials suitable for cremation, (ii) able to be closed in order to provide a complete covering for the human remains, (iii) resistant to leakage or spillage, (iv) rigid enough for handling with ease, and (v) able to provide protection for the health, safety, and personal integrity of crematory personnel.

"Authorizing agent" means a person legally entitled to order the cremation and final disposition of specific human remains.

"Body parts" means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion of bodies that have been donated to science for medical research purposes.

"Burial transit permit" means a permit for disposition of a dead human body as required by Illinois law.

"Casket" means a rigid container that is designed for the encasement of human remains, is usually constructed of wood, metal, or like material and ornamented and lined with fabric, and may or may not be combustible.

"Change of ownership" means a transfer of more than 50% of the stock or assets of a crematory authority.

"Comptroller" means the Comptroller of the State of Illinois.

"Cremated remains" means all human remains recovered after the completion of the cremation, which may possibly include the residue of any foreign matter including casket material, bridgework, or eyeglasses, that was cremated with the human remains.

"Cremation" means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

"Cremation chamber" means the enclosed space within which the cremation takes place.

"Cremation interment container" means a rigid outer container that, subject to a cemetery's rules and regulations, is composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground, and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.

"Cremation room" means the room in which the cremation chamber is located.

"Crematory" means the building or portion of a building that houses the cremation room and the holding facility.

"Crematory authority" means the legal entity which is licensed by the Comptroller to operate a crematory and to perform cremations.

~~"Department" means the Illinois Department of Public Health.~~

"Final disposition" means the burial, cremation, or other disposition of a dead human body or parts of a dead human body.

"Funeral director" means a person known by the title of "funeral director", "funeral director and embalmer", or other similar words or titles, licensed by the State to practice funeral directing or funeral directing and embalming.

"Funeral establishment" means a building or separate portion of a building having a specific street address and location and devoted to activities relating to the shelter, care, custody, and preparation of a deceased human body and may contain facilities for funeral or wake services.

"Holding facility" means an area that (i) is designated for the retention of human remains prior to cremation, (ii) complies with all applicable public health law, (iii) preserves the health and safety of the crematory authority personnel, and (iv) is secure from access by anyone other than authorized persons. A holding facility may be located in a cremation room.

"Human remains" means the body of a deceased person, including any form of body prosthesis that has been permanently attached or implanted in the body.

"Niche" means a compartment or cubicle for the memorialization and permanent placement of an urn containing cremated remains.

"Processing" means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual or mechanical means.

"Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation process to granulated particles by manual or mechanical means.

"Scattering area" means an area which may be designated by a cemetery and located on dedicated cemetery property where cremated remains, which have been removed from their container, can be mixed with, or placed on top of, the soil or ground cover.

"Temporary container" means a receptacle for cremated remains, usually composed of cardboard, plastic or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains or the entrance of foreign material, and is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered.

"Urn" means a receptacle designed to encase the cremated remains.

(Source: P.A. 92-675, eff. 7-1-03.)

(Text of Section after amendment by P.A. 96-863)

(Section scheduled to be repealed on January 1, 2021)

Sec. 5. Definitions. As used in this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file. It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit. The address of record shall be the permanent street address of the crematory.

"Alternative container" means a receptacle, other than a casket, in which human remains are transported to the crematory and placed in the cremation chamber for cremation. An alternative container shall be (i) composed of readily combustible materials suitable for cremation, (ii) able to be closed in order to provide a complete covering for the human remains, (iii) resistant to leakage or spillage, (iv) rigid enough for handling with ease, and (v) able to provide protection for the health, safety, and personal integrity of crematory personnel.

"Authorizing agent" means a person legally entitled to order the cremation and final disposition of specific human remains.

"Body parts" means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion of bodies that have been donated to science for medical research purposes.

"Burial transit permit" means a permit for disposition of a dead human body as required by Illinois law.

"Casket" means a rigid container that is designed for the encasement of human remains, is usually constructed of wood, metal, or like material and ornamented and lined with fabric, and may or may not be combustible.

"Comptroller" means the Comptroller of the State of Illinois.

"Cremated remains" means all human remains recovered after the completion of the cremation, which may possibly include the residue of any foreign matter including casket material, bridgework, or eyeglasses, that was cremated with the human remains.

"Cremation" means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

"Cremation chamber" means the enclosed space within which the cremation takes place.

"Cremation interment container" means a rigid outer container that, subject to a cemetery's rules and regulations, is composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground, and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.

"Cremation room" means the room in which the cremation chamber is located.

"Crematory" means the building or portion of a building that houses the cremation room and the holding facility.

"Crematory authority" means the legal entity which is licensed by the Department to operate a crematory and to perform cremations.

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

"Final disposition" means the burial, cremation, or other disposition of a dead human body or parts of a dead human body.

"Funeral director" means a person known by the title of "funeral director", "funeral director and embalmer", or other similar words or titles, licensed by the State to practice funeral directing or funeral directing and embalming.

"Funeral establishment" means a building or separate portion of a building having a specific street address and location and devoted to activities relating to the shelter, care, custody, and preparation of a

deceased human body and may contain facilities for funeral or wake services.

"Holding facility" means an area that (i) is designated for the retention of human remains prior to cremation, (ii) complies with all applicable public health law, (iii) preserves the health and safety of the crematory authority personnel, and (iv) is secure from access by anyone other than authorized persons. A holding facility may be located in a cremation room.

"Human remains" means the body of a deceased person, including any form of body prosthesis that has been permanently attached or implanted in the body.

"Licensee" means an entity licensed under this Act. An entity that holds itself as a licensee or that is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Niche" means a compartment or cubicle for the memorialization and permanent placement of an urn containing cremated remains.

"Person" means any person, partnership, association, corporation, limited liability company, or other entity, and in the case of any such business organization, its officers, partners, members, or shareholders possessing 25% or more of ownership of the entity.

"Processing" means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual or mechanical means.

"Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation process to granulated particles by manual or mechanical means.

"Scattering area" means an area which may be designated by a cemetery and located on dedicated cemetery property where cremated remains, which have been removed from their container, can be mixed with, or placed on top of, the soil or ground cover.

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

"Temporary container" means a receptacle for cremated remains, usually composed of cardboard, plastic or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains or the entrance of foreign material, and is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered.

"Urn" means a receptacle designed to encase the cremated remains.

(Source: P.A. 96-863, eff. 3-1-12.)

(410 ILCS 18/35)

(Section scheduled to be repealed on January 1, 2021)

Sec. 35. Cremation procedures.

(a) Human remains shall not be cremated within 24 hours after the time of death, as indicated on the Medical Examiner's/Coroner's Certificate of Death. In any death, the human remains shall not be cremated by the crematory authority until a cremation permit has been received from the coroner or medical examiner of the county in which the death occurred and the crematory authority has received a cremation authorization form, executed by an authorizing agent, in accordance with the provisions of Section 15 of this Act. In no instance, however, shall the lapse of time between the death and the cremation be less than 24 hours, unless (i) it is known the deceased has an infectious or dangerous disease and that the time requirement is waived in writing by the medical examiner or coroner where the death occurred or (ii) because of a religious requirement.

(b) Except as set forth in subsection (a) of this Section, a crematory authority shall have the right to schedule the actual cremation to be performed at its own convenience, at any time after the human remains have been delivered to the crematory authority, unless the crematory authority has received specific instructions to the contrary on the cremation authorization form.

(c) No crematory authority shall cremate human remains when it has actual knowledge that human remains contain a pacemaker or any other material or implant that may be potentially hazardous to the person performing the cremation.

(d) No crematory authority shall refuse to accept human remains for cremation because such human remains are not embalmed.

(e) Whenever a crematory authority is unable or unauthorized to cremate human remains immediately upon taking custody of the remains, the crematory authority shall place the human remains in a holding facility in accordance with the crematory authority's rules and regulations. The crematory authority must notify the authorizing agent of the reasons for delay in cremation if a properly authorized cremation is not performed within any time period expressly contemplated in the authorization.

(f) A crematory authority shall not accept a casket or alternative container from which there is any evidence of the leakage of body fluids.

(g) The casket or the alternative container shall be cremated with the human remains or destroyed, unless the crematory authority has notified the authorizing agent to the contrary on the cremation

authorization form and obtained the written consent of the authorizing agent.

(h) The simultaneous cremation of the human remains of more than one person within the same cremation chamber, without the prior written consent of the authorizing agent, is prohibited except for common cremation pursuant to Section 11.4 of the Hospital Licensing Act. Nothing in this subsection, however, shall prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the crematory authority from multiple sources, or the use of cremation equipment that contains more than one cremation chamber.

(i) No unauthorized person shall be permitted in the holding facility or cremation room while any human remains are being held there awaiting cremation, being cremated, or being removed from the cremation chamber.

(j) A crematory authority shall not remove any dental gold, body parts, organs, or any item of value prior to or subsequent to a cremation without previously having received specific written authorization from the authorizing agent and written instructions for the delivery of these items to the authorizing agent. Under no circumstances shall a crematory authority profit from making or assisting in any removal of valuables.

(k) Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process shall be removed from the cremation chamber.

(l) If all of the recovered cremated remains will not fit within the receptacle that has been selected, the remainder of the cremated remains shall be returned to the authorizing agent or the agent's designee in a separate container. The crematory authority shall not return to an authorizing agent or the agent's designee more or less cremated remains than were removed from the cremation chamber.

(m) A crematory authority shall not knowingly represent to an authorizing agent or the agent's designee that a temporary container or urn contains the cremated remains of a specific decedent when it does not.

(n) Cremated remains shall be shipped only by a method that has an internal tracing system available and that provides a receipt signed by the person accepting delivery.

(o) A crematory authority shall maintain an identification system that shall ensure that it shall be able to identify the human remains in its possession throughout all phases of the cremation process.

(p) The cremation authorization form shall also contain the following statement in 12-point, bold font and be initialed by the authorizing agent:

"IT IS ILLEGAL TO ABANDON CREMATED REMAINS IN A CEMETERY OR ON PRIVATE PROPERTY WITHOUT THE CONSENT OF THE PROPERTY OWNER. YOU CAN BE CHARGED WITH A MISDEMEANOR IF THE CREMATED REMAINS OF YOUR LOVED ONE ARE ABANDONED IN ANY PLACE WHERE YOU HAVE NOT BEEN GRANTED PERMISSION TO DISPOSE OF THEM.

INITIALS".

(Source: P.A. 96-338, eff. 1-1-10.)

(410 ILCS 18/7 rep.) (410 ILCS 18/10 rep.) (410 ILCS 18/11 rep.) (410 ILCS 18/11.5 rep.) (410 ILCS 18/12 rep.) (410 ILCS 18/13 rep.) (410 ILCS 18/20 rep.) (410 ILCS 18/22 rep.) (410 ILCS 18/25 rep.) (410 ILCS 18/40 rep.) (410 ILCS 18/55 rep.) (410 ILCS 18/60 rep.) (410 ILCS 18/62 rep.) (410 ILCS 18/62.5 rep.) (410 ILCS 18/62.10 rep.) (410 ILCS 18/62.15 rep.) (410 ILCS 18/62.20 rep.) (410 ILCS 18/65 rep.) (410 ILCS 18/80 rep.) (410 ILCS 18/85 rep.) (410 ILCS 18/87 rep.) (410 ILCS 18/88 rep.) (410 ILCS 18/89 rep.) (410 ILCS 18/90 rep.) (410 ILCS 18/91 rep.) (410 ILCS 18/92 rep.) (410 ILCS 18/93 rep.) (410 ILCS 18/94 rep.) (410 ILCS 18/95 rep.)

Section 927. The Crematory Regulation Act is amended by repealing Sections 7, 10, 11, 11.5, 12, 13, 20, 22, 25, 40, 55, 60, 62, 62.5, 62.10, 62.15, 62.20, 65, 80, 85, 87, 88, 89, 90, 91, 92, 93, 94, and 95.

Section 930. The Vital Records Act is amended by changing Section 21 as follows:

(410 ILCS 535/21) (from Ch. 111 1/2, par. 73-21)

Sec. 21. (1) The funeral director or person acting as such who first assumes custody of a dead body or fetus shall make a written report to the registrar of the district in which death occurred or in which the body or fetus was found within 24 hours after taking custody of the body or fetus on a form prescribed and furnished by the State Registrar and in accordance with the rules promulgated by the State Registrar. Except as specified in paragraph (2) of this Section, the written report shall serve as a permit to transport, bury or entomb the body or fetus within this State, provided that the funeral director or person acting as such shall certify that the physician in charge of the patient's care for the illness or condition which resulted in death has been contacted and has affirmatively stated that he will sign the medical certificate

of death or the fetal death certificate. If a funeral director fails to file written reports under this Section in a timely manner, the local registrar may suspend the funeral director's privilege of filing written reports by mail. In a county with a population greater than 3,000,000, if a funeral director or person acting as such inters or entombs a dead body without having previously certified that the physician in charge of the patient's care for the illness or condition that resulted in death has been contacted and has affirmatively stated that he or she will sign the medical certificate of death, then that funeral director or person acting as such is responsible for payment of the specific costs incurred by the county medical examiner in disinterring and reinterring or reentombing the dead body.

(2) The written report as specified in paragraph (1) of this Section shall not serve as a permit to:

(a) Remove body or fetus from this State;

(b) Cremate the body or fetus; or

(c) Make disposal of any body or fetus in any manner when death is subject to the coroner's or medical examiner's investigation.

(3) In accordance with the provisions of paragraph (2) of this Section the funeral director or person acting as such who first assumes custody of a dead body or fetus shall obtain a permit for disposition of such dead human body prior to final disposition or removal from the State of the body or fetus. Such permit shall be issued by the registrar of the district where death occurred or the body or fetus was found. No such permit shall be issued until a properly completed certificate of death has been filed with the registrar. The registrar shall insure the issuance of a permit for disposition within an expedited period of time to accommodate Sunday or holiday burials of decedents whose time of death and religious tenets or beliefs necessitate Sunday or holiday burials.

(4) A permit that accompanies a dead body, fetus, or cremated remains brought into this State shall be authority for final disposition of the body, fetus, or cremated remains in this State, except in municipalities where local ordinance requires the issuance of a local permit prior to disposition. If there is no permit for cremated remains brought into this State by a family member, a funeral director, an officer, or manager of a cemetery authority may hand write or print the permit or use the certificate of cremation as the permit ~~A permit which accompanies a dead body or fetus brought into this State shall be authority for final disposition of the body or fetus in this State, except in municipalities where local ordinance requires the issuance of a local permit prior to disposition~~.

(5) A permit for disposition of a dead human body shall be required prior to disinterment of a dead body or fetus, and when the disinterred body is to be shipped by a common carrier. Such permit shall be issued to a licensed funeral director or person acting as such, upon proper application, by the local registrar of the district in which disinterment is to be made. In the case of disinterment, proper application shall include a statement providing the name and address of any surviving spouse of the deceased, or, if none, any surviving children of the deceased, or if no surviving spouse or children, a parent, brother, or sister of the deceased. The application shall indicate whether the applicant is one of these parties and, if so, whether the applicant is a surviving spouse or a surviving child. Prior to the issuance of a permit for disinterment, the local registrar shall, by certified mail, notify the surviving spouse, unless he or she is the applicant, or if there is no surviving spouse, all surviving children except for the applicant, of the application for the permit. The person or persons notified shall have 30 days from the mailing of the notice to object by obtaining an injunction enjoining the issuance of the permit. After the 30-day period has expired, the local registrar shall issue the permit unless he or she has been enjoined from doing so or there are other statutory grounds for refusal. The notice to the spouse or surviving children shall inform the person or persons being notified of the right to seek an injunction within 30 days. Notwithstanding any other provision of this subsection (5), a court may order issuance of a permit for disinterment without notice or prior to the expiration of the 30-day period where the petition is made by an agency of any governmental unit and good cause is shown for disinterment without notice or for the early order. Nothing in this subsection (5) limits the authority of the City of Chicago to acquire property or otherwise exercise its powers under the O'Hare Modernization Act or requires that City, or any person acting on behalf of that City, to obtain a permit under this subsection (5) when exercising powers under the O'Hare Modernization Act.

(Source: P.A. 93-450, eff. 8-6-03.)

Section 995. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 997. Severability. The provisions of this Act (including both new and amendatory provisions)

are severable under Section 1.31 of the Statute on Statutes.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 3 was postponed in the Committee on State Government and Veterans Affairs.

Senate Floor Amendment No. 4 was referred to the Committee on Assignments earlier today.

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

On motion of Senator Garrett, **Senate Bill No. 2123** 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:

AMENDM**ENT NO. 1 TO SENATE BILL 2123**

AMENDMENT NO. 1. Amend Senate Bill 2123 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by adding Section 605-750 as follows:

(20 ILCS 605/605-750 new)

Sec. 605-750. Posting requirements; Illinois Workforce Investment Board. The Department must comply with the Internet posting requirements set forth in Section 7.2 of the Illinois Workforce Investment Board Act. The information must be posted on the Department's Internet website no later than 30 days after the Department receives the information from the Illinois Workforce Investment Board.

Section 10. The Illinois Workforce Investment Board Act is amended by adding Sections 7.2 and 7.5 as follows:

(20 ILCS 3975/7.2 new)

Sec. 7.2. Posting requirements; Department of Commerce and Economic Opportunity's website. On and after the effective date of this amendatory Act of the 97th General Assembly, the Illinois Workforce Investment Board must annually submit to the Department of Commerce and Economic Opportunity the following information to be posted on the Department's official Internet website:

(1) All agendas and meeting minutes for meetings of the Illinois Workforce Investment Board.

(2) All line-item budgets for the local workforce investment areas located within the State.

(3) A listing of all contracts and contract values for all workforce development training and service providers.

The information required under this Section must be posted on the Department of Commerce and Economic Opportunity's Internet website no later than 30 days after the Department receives the information from the Illinois Workforce Investment Board.

(20 ILCS 3975/7.5 new)

Sec. 7.5. Procurement. The Illinois Workforce Investment Board is subject to the Illinois Procurement Code, to the extent consistent with all applicable federal laws.".

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 Jones, E. III, **Senate Bill No. 2148,** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Jones, E. III, **Senate Bill No. 2267** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 2267

AMENDMENT NO. 1. Amend Senate Bill 2267 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Sections 12-7.3, 12-7.4, 12-7.5, and 12-30 as follows:

(720 ILCS 5/12-7.3) (from Ch. 38, par. 12-7.3)

Sec. 12-7.3. Stalking.

(a) A person commits stalking when he or she knowingly engages in a course of conduct directed at a specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to:

(1) fear for his or her safety or the safety of a third person; or

(2) suffer other emotional distress.

(a-3) A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and:

(1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person; or

(2) places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint; or

(3) places that person in reasonable apprehension that a family member will receive immediate or future bodily harm, sexual assault, confinement, or restraint.

(a-5) A person commits stalking when he or she has previously been convicted of stalking another person and knowingly and without lawful justification on one occasion:

(1) follows that same person or places that same person under surveillance; and

(2) transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint; and

(3) the threat is directed towards that person or a family member of that person.

(b) Sentence. Stalking is a Class 4 felony. A second or subsequent conviction for stalking is a Class 3 felony.

(c) Definitions. For purposes of this Section:

(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. A course of conduct may include contact via electronic communications.

(2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(3) "Emotional distress" means significant mental suffering, anxiety or alarm.

(4) "Family member" means a parent, grandparent, brother, sister, or child, whether by whole blood, half-blood, or adoption and includes a step-grandparent, step-parent, step-brother, step-sister or step-child. "Family member" also means any other person who regularly resides in the household, or who, within the prior 6 months, regularly resided in the household.

(5) "Follows another person" means (i) to move in relative proximity to a person as that person moves from place to place or (ii) to remain in relative proximity to a person who is stationary or whose movements are confined to a small area. "Follows another person" does not include a following within the residence of the defendant.

(6) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(7) "Places a person under surveillance" means: (1) remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; or (2) placing an electronic tracking device on the person or the

person's property.

(8) "Reasonable person" means a person in the victim's situation.

(9) "Transmits a threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements or conduct.

(d) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right to free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(d-5) The incarceration of a person in a penal institution who commits the course of conduct or transmits a threat is not a bar to prosecution under this Section.

(d-10) A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant.

(Source: P.A. 95-33, eff. 1-1-08; 96-686, eff. 1-1-10.)

(720 ILCS 5/12-7.4) (from Ch. 38, par. 12-7.4)

Sec. 12-7.4. Aggravated stalking.

(a) A person commits aggravated stalking when he or she, in conjunction with committing the offense of stalking, also does any of the following:

(1) causes bodily harm to the victim;

(2) confines or restrains the victim; or

(3) violates a temporary restraining order, an order of protection, a stalking no contact order, a civil no contact order, or an injunction prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986.

(b) Sentence. Aggravated stalking is a Class 3 felony. A second or subsequent conviction for aggravated stalking is a Class 2 felony.

(c) Exemptions.

(1) This Section does not apply to any individual or organization (i) monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements, or (ii) picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements.

(2) This Section does not apply to an exercise of the right of free speech or assembly that is otherwise lawful.

(3) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(d) A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant.

(Source: P.A. 96-686, eff. 1-1-10.)

(720 ILCS 5/12-7.5)

Sec. 12-7.5. Cyberstalking.

(a) A person commits cyberstalking when he or she engages in a course of conduct using electronic communication directed at a specific person, and he or she knows or should know that would cause a reasonable person to:

(1) fear for his or her safety or the safety of a third person; or

(2) suffer other emotional distress.

(a-3) A person commits cyberstalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication and:

(1) at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person; or

(2) places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or

(3) at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(a-5) A person commits cyberstalking when he or she, knowingly and without lawful justification, creates and maintains an Internet website or webpage which is accessible to one or more third parties for a period of at least 24 hours, and which contains statements harassing another person and:

(1) which communicates a threat of immediate or future bodily harm, sexual assault, confinement, or restraint, where the threat is directed towards that person or a family member of that person, or

(2) which places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint, or

(3) which knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

(b) Sentence. Cyberstalking is a Class 4 felony. A second or subsequent conviction for cyberstalking is a Class 3 felony.

(c) For purposes of this Section:

(1) "Course of conduct" means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. The incarceration in a penal institution of a person who commits the course of conduct is not a bar to prosecution under this Section.

(2) "Electronic communication" means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

(3) "Emotional distress" means significant mental suffering, anxiety or alarm.

(4) "Harass" means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.

(5) "Non-consensual contact" means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

(6) "Reasonable person" means a person in the victim's circumstances, with the victim's knowledge of the defendant and the defendant's prior acts.

(7) "Third party" means any person other than the person violating these provisions and the person or persons towards whom the violator's actions are directed.

(d) Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

(e) A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant.

(Source: P.A. 95-849, eff. 1-1-09; 96-328, eff. 8-11-09; 96-686, eff. 1-1-10; 96-1000, eff. 7-2-10.)

(720 ILCS 5/12-30) (from Ch. 38, par. 12-30)

Sec. 12-30. Violation of an order of protection.

(a) A person commits violation of an order of protection if:

(1) He or she commits an act which was prohibited by a court or fails to commit an act which was ordered by a court in violation of:

(i) a remedy in a valid order of protection authorized under paragraphs (1), (2), (3), (14), or (14.5) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986,

(ii) a remedy, which is substantially similar to the remedies authorized under paragraphs (1), (2), (3), (14) or (14.5) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986, in a valid order of protection, which is authorized under the laws of another state, tribe or United States territory,

(iii) any other remedy when the act constitutes a crime against the protected parties as the term protected parties is defined in Section 112A-4 of the Code of Criminal Procedure of 1963; and

(2) Such violation occurs after the offender has been served notice of the contents of the order, pursuant to the Illinois Domestic Violence Act of 1986 or any substantially similar statute of another state, tribe or United States territory, or otherwise has acquired actual knowledge of the contents of the order.

An order of protection issued by a state, tribal or territorial court related to domestic or family violence shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe or territory. There shall be a presumption of validity where an order is certified and appears authentic on its face.

(a-5) Failure to provide reasonable notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of a foreign order of protection.

(b) For purposes of this Section, an "order of protection" may have been issued in a criminal or civil proceeding.

(c) Nothing in this Section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through civil or criminal contempt proceedings.

(d) Violation of an order of protection under subsection (a) of this Section is a Class A misdemeanor. Violation of an order of protection under subsection (a) of this Section is a Class 4 felony if the defendant has any prior conviction under this Code for domestic battery (Section 12-3.2) or violation of an order of protection (Section 12-30). Violation of an order of protection is a Class 4 felony if the defendant has any prior conviction under this Code for first degree murder (Section 9-1), attempt to commit first degree murder (Section 8-4), aggravated domestic battery (Section 12-3.3), aggravated battery (Section 12-4), heinous battery (Section 12-4.1), aggravated battery with a firearm (Section 12-4.2), aggravated battery of a child (Section 12-4.3), aggravated battery of an unborn child (Section 12-4.4), aggravated battery of a senior citizen (Section 12-4.6), stalking (Section 12-7.3), aggravated stalking (Section 12-7.4), criminal sexual assault (Section 12-13), aggravated criminal sexual assault (12-14), kidnapping (Section 10-1), aggravated kidnapping (Section 10-2), predatory criminal sexual assault of a child (Section 12-14.1), aggravated criminal sexual abuse (Section 12-16), unlawful restraint (Section 10-3), aggravated unlawful restraint (Section 10-3.1), aggravated arson (Section 20-1.1), or aggravated discharge of a firearm (Section 24-1.2), when any of these offenses have been committed against a family or household member as defined in Section 112A-3 of the Code of Criminal Procedure of 1963. The court shall impose a minimum penalty of 24 hours imprisonment for defendant's second or subsequent violation of any order of protection; unless the court explicitly finds that an increased penalty or such period of imprisonment would be manifestly unjust. In addition to any other penalties, the court may order the defendant to pay a fine as authorized under Section 5-9-1 of the Unified Code of Corrections or to make restitution to the victim under Section 5-5-6 of the Unified Code of Corrections. In addition to any other penalties, including those imposed by Section 5-9-1.5 of the Unified Code of Corrections, the court shall impose an additional fine of $20 as authorized by Section 5-9-1.11 of the Unified Code of Corrections upon any person convicted of or placed on supervision for a violation of this Section. The additional fine shall be imposed for each violation of this Section.

(e) The limitations placed on law enforcement liability by Section 305 of the Illinois Domestic Violence Act of 1986 apply to actions taken under this Section.

(f) A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant.
(Source: P.A. 91-112, eff. 10-1-99; 91-357, eff. 7-29-99; 92-827, eff. 8-22-02.)

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.

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 2 to Senate Bill 64
Senate Floor Amendment No. 2 to Senate Bill 71
Senate Floor Amendment No. 2 to Senate Bill 92
Senate Floor Amendment No. 1 to Senate Bill 173
Senate Floor Amendment No. 1 to Senate Bill 267
Senate Floor Amendment No. 1 to Senate Bill 397
Senate Floor Amendment No. 2 to Senate Bill 542
Senate Floor Amendment No. 2 to Senate Bill 621
Senate Floor Amendment No. 1 to Senate Bill 628
Senate Floor Amendment No. 1 to Senate Bill 673
Senate Floor Amendment No. 1 to Senate Bill 745
Senate Floor Amendment No. 1 to Senate Bill 746
Senate Floor Amendment No. 1 to Senate Bill 770
Senate Floor Amendment No. 1 to Senate Bill 1132
Senate Floor Amendment No. 1 to Senate Bill 1150
Senate Floor Amendment No. 1 to Senate Bill 1263
Senate Floor Amendment No. 1 to Senate Bill 1279
Senate Floor Amendment No. 3 to Senate Bill 1286
Senate Floor Amendment No. 2 to Senate Bill 1360
Senate Floor Amendment No. 1 to Senate Bill 1613
Senate Floor Amendment No. 3 to Senate Bill 1702
Senate Floor Amendment No. 1 to Senate Bill 1809
Senate Floor Amendment No. 3 to Senate Bill 2149
Senate Floor Amendment No. 1 to Senate Bill 2301

RESOLUTIONS CONSENT CALENDAR

SENATE RESOLUTION NO. 157

Offered by Senator Dillard and all Senators:
Mourns the death of Everett Barlow of Burr Ridge, formerly of Clarendon Hills.

SENATE RESOLUTION NO. 160

Offered by Senator McCarter and all Senators:
Mourns the death of Denene V. “Mazoo” Wilmeth of Springfield.

SENATE RESOLUTION NO. 161

Offered by Senator Mulroe and all Senators:
Mourns the death of Catherine Wells of Chicago.

SENATE RESOLUTION NO. 162

Offered by Senator Mulroe and all Senators:

Mourns the death of Henry Joseph Kilian.

SENATE RESOLUTION NO. 163

Offered by Senator Haine and all Senators:
Mourns the death of U.S. Air Force Airman Zachary Ryan Cuddeback.

SENATE RESOLUTION NO. 164

Offered by Senator Haine and all Senators:
Mourns the death of Frank John Cogan.

SENATE RESOLUTION NO. 165

Offered by Senator Haine and all Senators:
Mourns the death of John Perry of Collinsville.

SENATE RESOLUTION NO. 166

Offered by Senator Haine and all Senators:
Mourns the death of Maurice P. Theisen.

The Chair moved the adoption of the Resolutions Consent Calendar. The motion prevailed, and the resolutions were adopted.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 139
A bill for AN ACT concerning education.
HOUSE BILL NO. 1937
A bill for AN ACT concerning public health.
HOUSE BILL NO. 2936
A bill for AN ACT concerning health.
HOUSE BILL NO. 3276
A bill for AN ACT concerning veterans.
HOUSE BILL NO. 3431
A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 3500
A bill for AN ACT concerning safety.
Passed the House, April 8, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 139, 1937, 2936, 3276, 3431 and 3500** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 785
A bill for AN ACT concerning health.
HOUSE BILL NO. 1279
A bill for AN ACT concerning regulation.
HOUSE BILL NO. 1857
A bill for AN ACT concerning local government.

HOUSE BILL NO. 2270

A bill for AN ACT concerning transportation.

HOUSE BILL NO. 3611

A bill for AN ACT concerning State government.

Passed the House, April 8, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 785, 1279, 1857, 2270 and 3611** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 1152

A bill for AN ACT concerning State government.

HOUSE BILL NO. 2401

A bill for AN ACT concerning education.

HOUSE BILL NO. 3019

A bill for AN ACT concerning wildlife.

HOUSE BILL NO. 3365

A bill for AN ACT concerning firearms.

Passed the House, April 8, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 1152, 2401, 3019 and 3365** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 1297

A bill for AN ACT concerning safety.

HOUSE BILL NO. 1394

A bill for AN ACT concerning regulation.

HOUSE BILL NO. 2836

A bill for AN ACT concerning transportation.

HOUSE BILL NO. 3274

A bill for AN ACT concerning wildlife.

HOUSE BILL NO. 3414

A bill for AN ACT concerning State government.

Passed the House, April 8, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 1297, 1394, 2836, 3274 and 3414** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 3109

A bill for AN ACT concerning education.
Passed the House, April 8, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bill No. 3109** was taken up, ordered printed and placed on first reading.

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

SENATE BILL NO. 398

A bill for AN ACT concerning revenue.
Passed the House, April 8, 2011.

MARK MAHONEY, Clerk of the House

At the hour of 2:13 o'clock p.m., the Chair announced the Senate stand adjourned until Monday, April 11, 2011, at 3:00 o'clock p.m.