SENATE JOURNAL

STATE OF ILLINOIS

NINETY-EIGHTH GENERAL ASSEMBLY

40TH LEGISLATIVE DAY

WEDNESDAY, APRIL 24, 2013

10:50 O'CLOCK A.M.

NO. 40
[April 24, 2013]

SENATE
Daily Journal Index
40th Legislative Day

The Senate met pursuant to adjournment.
Senator John M. Sullivan, Rushville, Illinois, presiding.
Prayer by Paula Gentry, Athens Christian Church, Athens, Illinois.
Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Tuesday, April 23, 2013, be postponed, pending arrival of the printed Journal.
The motion prevailed.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

LIG Quarterly Report for the period from 1/1/13 through 3/31/13, submitted by the Office of the Legislative Inspector General.

Commission on High School Graduation Achievement and Success Report, submitted by the Commission on High School Graduation Achievement and Success.

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

LEGISLATIVE MEASURES FILED

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

Senate Committee Amendment No. 1 to Senate Bill 1762

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 1006
Senate Floor Amendment No. 3 to Senate Bill 1245
Senate Floor Amendment No. 1 to Senate Bill 1680
Senate Floor Amendment No. 4 to Senate Bill 1708
Senate Floor Amendment No. 3 to Senate Bill 1961
Senate Floor Amendment No. 2 to Senate Bill 2187
Senate Floor Amendment No. 4 to Senate Bill 2194
Senate Floor Amendment No. 4 to Senate Bill 2365

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

Senate Floor Amendment No. 1 to House Bill 1191

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 244

Offered by Senator Link and all Senators:
Mourns the death of John H. VanGeem of Gurnee, formerly of Waukegan.

SENATE RESOLUTION NO. 245

Offered by Senator Link and all Senators:
Mourns the death of Stephen E. Walter of Grayslake.

SENATE RESOLUTION NO. 246

Offered by Senator Koehler and all Senators:
Mourns the death of Royce W. Elliott of East Peoria.

SENATE RESOLUTION NO. 247

Offered by Senator Frerichs and all Senators:
Mourns the death of Edward J. Layden, Sr., of Hoopeston.

SENATE RESOLUTION NO. 248

Offered by Senator Frerichs and all Senators:
Mourns the death of Lyle E. Shields of Dewey.

SENATE RESOLUTION NO. 249

Offered by Senator Althoff and all Senators:
Mourns the death of Dr. James "Jim" O'Donnell of Woodstock.

SENATE RESOLUTION NO. 250

Offered by Senator Althoff and all Senators:
Mourns the death of Sandra "Sandy" Huff of Woodstock, formerly of Richmond and Crystal Lake.

SENATE RESOLUTION NO. 251

Offered by Senator LaHood and all Senators:
Mourns the death of Frederick J. "Fritz" Campbell of Wenona.

SENATE RESOLUTION NO. 252

Offered by Senator LaHood and all Senators:
Mourns the death of Royce W. Elliott of East Peoria.

SENATE RESOLUTION NO. 253

Offered by Senator Haine and all Senators:
Mourns the death of George Georgevits of Alton.

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

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

SENATE JOINT RESOLUTION NO. 35

WHEREAS, Veterans of the United States Armed Forces served their country selflessly and honorably; and

WHEREAS, Veterans face numerous barriers to stable employment and stable environments; and

WHEREAS, Returning veterans who have served since 2001 have an unemployment rate 3.2% higher than the general population, which is just one contributing factor to many economic hardships they may face; and

WHEREAS, All veterans have a higher risk of mental health issues, which may include, but is not limited to, post-traumatic stress disorder, anxiety, depression, and substance abuse; and

WHEREAS, Many contributing factors lead to veterans, who comprise 7% of the total population, being 13% of the homeless population; and

WHEREAS, The members of the Illinois State Senate and the Illinois House of Representatives recognize the need to ensure for the well-being of all veterans, to better protect homeless veterans, and to

help homeless veterans reenter society as productive citizens; and

WHEREAS, The licensing of halfway houses, shelters, and transitional housing programs that service homeless veterans, and oversight of such facilities and programs by local housing and community mental health boards, should be provided to protect the rights of homeless veterans; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there is created the Homeless Veteran Protection Task Force; and be it further

RESOLVED, That the Task Force shall consist of one representative from the Department of Veterans' Affairs, chosen by the Director of Veterans' Affairs; one representative from homeless shelters, chosen by the Governor; one representative from the Department of Human Services, chosen by the Secretary of Human Services; one representative from the Department of Public Health, chosen by the Director of Public Health; and one representative from local governments, chosen by the Governor; and be it further

RESOLVED, That the Task Force shall conduct a comprehensive study with the goal of determining necessary protections and oversights of homeless shelters to better protect the rights of homeless veterans; and be it further

RESOLVED, That the members of the Task Force shall serve without compensation; and be it further

RESOLVED, That the Department of Veterans' Affairs shall provide staffing and administrative services to the Task Force upon request; and be it further

RESOLVED, That the Task Force shall submit a report of its findings to the Governor and the four legislative leaders no later than January 15, 2014.

REPORTS FROM STANDING COMMITTEES

Senator Mulroe, Chairperson of the Committee on Public Health, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 2187

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

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

Senate Amendment No. 2 to Senate Bill 1194
Senate Amendment No. 3 to Senate Bill 1194
Senate Amendment No. 2 to Senate Bill 2178
Senate Amendment No. 3 to Senate Bill 2178

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

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

Senate Amendment No. 2 to Senate Bill 1190

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

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

Senate Amendment No. 3 to Senate Bill 1572

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

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

Senate Amendment No. 2 to Senate Bill 338
Senate Amendment No. 3 to Senate Bill 2194
Senate Amendment No. 2 to Senate Bill 2345

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

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

Senate Amendment No. 1 to Senate Bill 1004
Senate Amendment No. 2 to Senate Bill 1005
Senate Amendment No. 1 to Senate Bill 1006

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

Senator Hutchinson, Vice-Chairperson of the Committee on Transportation, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 4 to Senate Bill 1346
Senate Amendment No. 3 to Senate Bill 1479

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

Senator Steans, Chairperson of the Committee on Appropriations I, to which was referred **House Bills Numbered 207 and 2275,** reported the same back with the recommendation that the bills do pass.
Under the rules, the bills were ordered to a second reading.

Senator Silverstein asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator Althoff asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 962, sponsored by Senator Connelly, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 996, sponsored by Senator Clayborne, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1047, sponsored by Senator Connelly, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1446, sponsored by Senator Cunningham, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2322, sponsored by Senator Mulroe, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2659, sponsored by Senator Harris, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2617, sponsored by Senator Morrison, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2993, sponsored by Senator Biss, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3049, sponsored by Senator Martinez, was taken up, read by title a first time and referred to the Committee on Assignments.

At the hour of 11:00 o'clock a.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 1:11 o'clock p.m., the Senate resumed consideration of business.
Senator Sullivan, presiding.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 1650, sponsored by Senator Koehler, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1709, sponsored by Senator Bivins, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1816, sponsored by Senator Connelly, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2423, sponsored by Senator Hunter, 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 Noland, **Senate Bill No. 31** 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 31

AMENDMENT NO. 1. Amend Senate Bill 31 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Uniform Collaborative Law Act.

Section 2. Definitions. In this Act:

(1) "Collaborative law communication" means a statement, whether oral or in a record, or verbal or

nonverbal, that:

(A) is made to conduct, participate in, continue, or reconvene a collaborative law process; and

(B) occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.

(2) "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

(3) "Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons:

(A) sign a collaborative law participation agreement; and

(B) are represented by collaborative lawyers.

(4) "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

(5) "Collaborative matter" means a dispute, transaction, claim, problem, or issue for resolution, including a dispute, claim, or issue in a proceeding, which is described in a collaborative law participation agreement and arises under the family or domestic relations law of this State, including:

(A) marriage, divorce, dissolution, annulment, and property distribution;

(B) child custody, visitation, and parenting time;

(C) alimony, maintenance, and child support;

(D) adoption;

(E) parentage; and

(F) premarital, marital, and post-marital agreements.

(6) "Law firm" means:

(A) lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or association; and

(B) lawyers employed in a legal services organization, or the legal department of a corporation or other organization.

(7) "Nonparty participant" means a person, other than a party and the party's collaborative lawyer, that participates in a collaborative law process.

(8) "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(10) "Proceeding" means:

(A) a judicial, administrative, arbitral, or other adjudicative process before a tribunal, including related prehearing and post-hearing motions, conferences, and discovery; or

(B) a legislative hearing or similar process.

(11) "Prospective party" means a person that discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

(14) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(15) "Tribunal" means:

(A) a court, arbitrator, administrative agency, or other body acting in an adjudicative capacity which, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter; or

(B) a legislative body conducting a hearing or similar process.

Section 3. Applicability. This Act applies to a collaborative law participation agreement that meets the requirements of Section 4 signed on or after the effective date of this Act.

Section 4. Collaborative law participation agreement; requirements.

(a) A collaborative law participation agreement must:

(1) be in a record;

(2) be signed by the parties;
(3) state the parties' intention to resolve a collaborative matter through a collaborative law process under this Act;
(4) describe the nature and scope of the matter;
(5) identify the collaborative lawyer who represents each party in the process; and
(6) contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process.

(b) Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with this Act.

Section 5. Beginning and concluding collaborative law process.

(a) A collaborative law process begins when the parties sign a collaborative law participation agreement.

(b) A tribunal may not order a party to participate in a collaborative law process over that party's objection.

(c) A collaborative law process is concluded by a:
(1) resolution of a collaborative matter as evidenced by a signed record;
(2) resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the matter will not be resolved in the process; or
(3) termination of the process.

(d) A collaborative law process terminates:
(1) when a party gives notice to other parties in a record that the process is ended;
(2) when a party:
(A) begins a proceeding related to a collaborative matter without the agreement of all parties; or
(B) in a pending proceeding related to the matter:
(i) initiates a pleading, motion, order to show cause, or request for a conference with the tribunal;
(ii) requests that the proceeding be put on the tribunal's active calendar; or
(iii) takes similar action requiring notice to be sent to the parties; or
(3) except as otherwise provided by subsection (g), when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

(e) A party's collaborative lawyer shall give prompt notice to all other parties in a record of a discharge or withdrawal.

(f) A party may terminate a collaborative law process with or without cause.

(g) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues, if not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by subsection (e) is sent to the parties:
(1) the unrepresented party engages a successor collaborative lawyer; and
(2) in a signed record:
(A) the parties consent to continue the process by reaffirming the collaborative law participation agreement;
(B) the agreement is amended to identify the successor collaborative lawyer; and
(C) the successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative process.

(h) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part thereof as evidenced by a signed record.

(i) A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

Section 6. Proceedings pending before tribunal; status report.

(a) Persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. The parties shall file promptly with the tribunal a notice of the agreement after it is signed. Subject to subsection (c) and Sections 7 and 8, the filing operates as an application for a stay of the proceeding.

(b) The parties shall file promptly with the tribunal notice in a record when a collaborative law process concludes. The stay of the proceeding under subsection (a) is lifted when the notice is filed. The notice may not specify any reason for termination of the process.

(c) A tribunal in which a proceeding is stayed under subsection (a) may require the parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the process is ongoing or concluded. It may not include a report, assessment, evaluation, recommendation, finding, or other communication regarding a collaborative law process or collaborative law matter.

(d) A tribunal may not consider a communication made in violation of subsection (c).

(e) A tribunal shall provide parties notice and an opportunity to be heard before dismissing a proceeding in which a notice of collaborative process is filed based on delay or failure to prosecute.

Section 7. Emergency order. During a collaborative law process, a tribunal may issue emergency orders to protect the health, safety, welfare, or interest of a party or person identified as protected in Section 201 of the Illinois Domestic Violence Act of 1986.

Section 8. Approval of agreement by tribunal. A tribunal may approve an agreement resulting from a collaborative law process.

Section 9. Disqualification of collaborative lawyer and lawyers in associated law firm.

(a) Except as otherwise provided in subsection (c), a collaborative lawyer is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter.

(b) Except as otherwise provided in subsection (c) and Sections 10 and 11, a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative lawyer is disqualified from doing so under subsection (a).

(c) A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party:

(1) to ask a tribunal to approve an agreement resulting from the collaborative law process; or

(2) to seek or defend an emergency order to protect the health, safety, welfare, or interest of a party or person identified in Section 201 of the Illinois Domestic Violence Act of 1986 if a successor lawyer is not immediately available to represent that person.

(d) If subsection (c)(2) applies, a collaborative lawyer, or lawyer in a law firm with which the collaborative lawyer is associated, may represent a party or person identified in Section 201 of the Illinois Domestic Violence Act of 1986 only until the person is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.

Section 10. Low income parties.

(a) The disqualification of Section 9(a) applies to a collaborative lawyer representing a party with or without fee.

(b) After a collaborative law process concludes, another lawyer in a law firm with which a collaborative lawyer disqualified under Section 9(a) is associated may represent a party without fee in the collaborative matter or a matter related to the collaborative matter if:

(1) the party has an annual income that qualifies the party for free legal representation under the criteria established by the law firm for free legal representation;

(2) the collaborative law participation agreement so provides; and

(3) the collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm which are reasonably calculated to isolate the collaborative lawyer from such participation.

Section 11. (Blank).

Section 12. Disclosure of information. Except as provided by law other than this Act, during the collaborative law process, on the request of another party, a party shall make timely, full, candid, and informal disclosure of information related to the collaborative matter without formal discovery. A party also shall update promptly previously disclosed information that has materially changed. The parties may define the scope of disclosure during the collaborative law process.

Section 13. Standards of professional responsibility and mandatory reporting not affected. This Act does not affect:

(1) the professional responsibility obligations and standards applicable to a lawyer or other licensed professional; or

(2) the obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or adult under the law of this State.

Section 14. Appropriateness of collaborative law process. Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall:

(1) assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter;

(2) provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert evaluation; and

(3) advise the prospective party that:

(A) after signing an agreement if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates;

(B) participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause; and

(C) the collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by Section 9(c), 10(b), or 11(b).

Section 15. Coercive or violent relationship.

(a) Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall make reasonable inquiry whether the prospective party has a history of a coercive or violent relationship with another prospective party.

(b) Throughout a collaborative law process, a collaborative lawyer reasonably and continuously shall assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.

(c) If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer may not begin or continue a collaborative law process unless:

(1) the party or the prospective party requests beginning or continuing a process; and

(2) the collaborative lawyer reasonably believes that the safety of the party or prospective party can be protected adequately during a process.

Section 16. Confidentiality of collaborative law communication. A collaborative law communication is confidential to the extent agreed by the parties in a signed record or as provided by law of this State other than this Act.

Section 17. Privilege against disclosure for collaborative law communication; admissibility; discovery.

(a) Subject to Sections 18 and 19, a collaborative law communication is privileged under subsection (b), is not subject to discovery, and is not admissible in evidence.

(b) In a proceeding, the following privileges apply:

(1) A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication.

(2) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication of the nonparty participant.

(c) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

Section 18. Waiver and preclusion of privilege.

(a) A privilege under Section 17 may be waived in a record or orally during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant, it is also expressly waived by the nonparty participant.

(b) A person that makes a disclosure or representation about a collaborative law communication which prejudices another person in a proceeding may not assert a privilege under Section 17, but this preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

Section 19. Limits of privilege.

(a) There is no privilege under Section 17 for a collaborative law communication that is:

(1) available to the public under the Freedom of Information Act or made during a session of a collaborative law process that is open, or is required by law to be open, to the public;

(2) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(3) intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

(4) in an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

(b) The privileges under Section 17 for a collaborative law communication do not apply to the extent that a communication is:

(1) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process; or

(2) sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult, unless a child protective services agency or adult protective services agency is a party to or otherwise participates in the process.

(c) There is no privilege under Section 17 if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered in:

(1) a court proceeding involving a felony or misdemeanor; or

(2) a proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

(d) If a collaborative law communication is subject to an exception under subsection (b) or (c), only the part of the communication necessary for the application of the exception may be disclosed or admitted.

(e) Disclosure or admission of evidence excepted from the privilege under subsection (b) or (c) does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(f) The privileges under Section 17 do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This subsection does not apply to a collaborative law communication made by a person that did not receive actual notice of the agreement before the communication was made.

Section 20. Authority of tribunal in case of noncompliance.

(a) If an agreement fails to meet the requirements of Section 4, or a lawyer fails to comply with Section 14 or 15, a tribunal may nonetheless find that the parties intended to enter into a collaborative law participation agreement if they:

(1) signed a record indicating an intention to enter into a collaborative law participation agreement; and

(2) reasonably believed they were participating in a collaborative law process.

(b) If a tribunal makes the findings specified in subsection (a), and the interests of justice require, the tribunal may:

(1) enforce an agreement evidenced by a record resulting from the process in which the parties participated;

(2) apply the disqualification provisions of Sections 5, 6, 9, 10, and 11; and

(3) apply a privilege under Section 17.

Section 21. Uniformity of application and construction. In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject

matter among states that enact it.

Section 22. Relation to electronic signatures in global and national commerce act. This Act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. Section 7003(b).

Section 23. (Blank).

Section 24. (Blank).

Section 25. Supreme Court authority not limited. Nothing in this Act shall be construed to limit the power of the Supreme Court to regulate the practice of law in this State. Supreme Court Rules shall govern in the event that there is a conflict between any provision of this Act and a Supreme Court Rule.".

Senate Floor Amendment No. 2 was postponed in the Committee on Judiciary.

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 T. Cullerton, **Senate Bill No. 494** 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 494

AMENDMENT NO. 1. Amend Senate Bill 494 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by adding the Division 5-44 to Article 5 and Sections 5-44005, 5-44010, 5-44015, 5-44020, 5-44025, 5-44030, 5-44035, 5-44040, 5-44045, 5-44050, and 5-44055 as follows:

(55 ILCS 5/Div. 5-44 heading new)

Division 5-44. Local Government Reduction and Efficiency

(55 ILCS 5/5-44005 new)

Sec. 5-44005. Findings and purpose.

(a) The General Assembly finds:

(1) Illinois has more units of local government than any other state.

(2) The large number of units of local government results in the inefficient delivery of governmental services at a higher cost to taxpayers.

(3) In a number of cases, units of local government provide services that are duplicative in nature, as they are provided by other units of local government.

(4) It is in the best interest of taxpayers that more efficient service delivery structures be established in order to replace units of local government that are not financially sustainable.

(5) Units of local government managed by appointed governing boards not directly accountable to the electorate can encourage a lack of oversight and complacency that is not in the best interest of taxpayers.

(6) Various provisions of Illinois law governing the dissolution of units of local government are inconsistent and outdated.

(7) The lack of a streamlined method to consolidate government functions and to dissolve units of local government results in an unfair tax burden on the citizens of the State of Illinois residing in those units of local government and prevents the expenditure of limited public funds for critical programs and services.

(b) The purpose of this Act is to provide county boards with supplemental authority regarding the dissolution of units of local government and the consolidation of governmental functions.

(55 ILCS 5/5-44010 new)

Sec. 5-44010. Applicability. The powers and authorities provided by this Division 5-44 apply only to

counties with a population of more than 900,000 and less than 3,000,000 that are contiguous to a county with a population of more than 3,000,000 and units of local government within such counties.

(55 ILCS 5/5-44015 new)

Sec. 5-44015. Powers; supplemental. The Sections of this Division 5-44 are intended to be supplemental and in addition to all other powers and authorities granted to any county board, shall be construed liberally, and shall not be construed as a limitation of any power or authority otherwise granted.

(55 ILCS 5/5-44020 new)

Sec. 5-44020. Definitions. In this Division 5-44:

"Governing board" means the individual or individuals who constitute the corporate authorities of a unit of local government; and

"Unit of local government" or "unit" means any unit of local government located entirely within one county, to which the county board chairman or county executive directly appoints a majority of its governing board with the advice and consent of the county board, but shall not include a fire protection district that directly employs any regular full-time employees or a special district organized under the Water Commission Act of 1985.

(55 ILCS 5/5-44025 new)

Sec. 5-44025. Dissolution of units of local government.

(a) A county board may, by ordinance, propose the dissolution of a unit of local government. The ordinance shall detail the purpose and cost savings to be achieved by such dissolution, and be published in a newspaper of general circulation served by the unit of local government and on the county's website, if applicable.

(b) Upon the effective date of an ordinance enacted pursuant to subsection (a) of this Section, the chairman of the county board shall cause an audit of all claims against the unit, all receipts of the unit, the inventory of all real and personal property owned by the unit or under its control or management, and any debts owed by the unit. The chairman may, at his or her discretion, undertake any other audit or financial review of the affairs of the unit. The person or entity conducting such audit shall report the findings of the audit to the county board and to the chairman of the county board within 30 days.

(c) Following the return of the audit report required by subsection (b) of this Section, the county board may adopt an ordinance dissolving the unit 150 days following the effective date of the ordinance. Upon adoption of the ordinance, but prior to its effective date, the chairman of the county board shall petition the circuit court for an order designating a trustee-in-dissolution for the unit, immediately terminating the terms of the members of the governing board of the unit of local government on the effective date of the ordinance, and providing for the compensation of the trustee, which shall be paid from the corporate funds of the unit.

(d) Upon the effective date of an ordinance enacted under subsection (c) of this Section, and notwithstanding any other provision of law, the State's attorney, or his or her designee, shall become the exclusive legal representative of the dissolving unit of local government. The county treasurer shall become the treasurer of the unit of local government and the county clerk shall become the secretary of the unit of local government.

(55 ILCS 5/5-44030 new)

Sec. 5-44030. Trustee-in-dissolution; powers and duties. The trustee-in-dissolution shall have the following powers and duties:

(a) to execute all of the powers and duties of the previous board;

(b) to levy and rebate taxes, subject to the approval of the county board, for the purpose of paying the debts, obligations, and liabilities of the unit that are outstanding on the date of the dissolution and the necessary expenses of closing up the affairs of the district if these funds are not available from the unit of local government's general fund;

(c) to present, within 30 days of his or her appointment, a plan for the consolidation and dissolution of the unit of local government to the county board for its approval. The plan shall identify what functions, if any, of the unit of local government shall be undertaken by the county upon dissolution and whether any taxes previously levied for the provision of these functions shall be maintained;

(d) to enter into an intergovernmental agreement with one or more governmental entities to utilize existing resources including, but not limited to, labor, materials, and property, as may be needed to carry out the foregoing duties;

(e) to enter into an intergovernmental agreement with the county to combine or transfer any of the powers, privileges, functions, or authority of the unit of local government to the county as may be required to facilitate the transition; and

(f) to sell the property of the unit and, in case any excess remains after all liabilities of the unit are

paid, the excess shall be transferred to a special fund created and maintained by the county treasurer to be expended solely to defer the costs incurred by the county in performing the duties of the unit, subject to the requirements of Section 5-44035 of this Division. Nothing in this Section shall prohibit the county from acquiring any or all real or personal property of the district.

(55 ILCS 5/5-44035 new)

Sec. 5-44035. Outstanding indebtedness.

(a) In case any unit dissolved pursuant to this Division has bonds or notes outstanding that are a lien on funds available in the treasury at the time of consolidation, such lien shall be unimpaired by such dissolution and the lien shall continue in favor of the bond or note holders. The funds available subject to such a lien shall be set apart and held for the purpose of retiring such secured debt and no such funds shall be transferred into the general funds of the county.

(b) In case any unit dissolved pursuant to this Division has unsecured debts outstanding at the time of dissolution, any funds in the treasury of such unit or otherwise available and not committed shall, to the extent necessary, be applied to the payment of such debts.

(c) All property in the territory served by the dissolved unit of government shall be subject to taxation to pay the debts, bonds, and obligations of the dissolved district. The county board shall abate this taxation upon the discharge of all outstanding obligations.

(55 ILCS 5/5-44040 new)

Sec. 5-44040. Effect of dissolution. Immediately upon the dissolution of a unit of local government pursuant to this Division:

(a) Notwithstanding the provisions of the Special Service Area Tax Law of the Property Tax Code that pertain to the establishment of special service areas, all or part of the territory formerly served by the dissolved unit of local government may be established as a special service area or areas of the county if the county board by resolution determines that this designation is necessary for it to provide services. The special service area, if created, shall include all territory formerly served by the dissolved unit of local government if the dissolved unit has outstanding indebtedness. If the boundaries of a special service area created under this subsection include territory within a municipality, the corporate authorities of that municipality may, with the consent of the county, assume responsibility for the special service area and become its governing body.

(b) In addition to any other powers provided by law, the governing body of a special service area created pursuant to this subsection shall assume and is authorized to exercise all the powers and duties of the dissolved unit with respect to the special service area. The governing body is also authorized to continue to levy any tax previously imposed by the unit of local government within the special service area.

(c) Subsequent increases of the current tax levy within the special service area or areas shall be made in accordance with the provisions of the Special Service Area Tax Law of the Property Tax Code.

(55 ILCS 5/5-44045 new)

Sec. 5-44045. Abatement of levy. Whenever a county has dissolved a unit of local government pursuant to this Division, the county or municipality shall, within 6 months of the effective date of the dissolution and every year thereafter, evaluate the need to continue any existing tax levy until the county or municipality abates the levy in the manner set forth by the Special Service Area Tax Law of the Property Tax Code.

(55 ILCS 5/5-44050 new)

Sec. 5-44050. Tax collection and enforcement. The dissolution of a unit of government pursuant to this Division shall not adversely affect proceedings for the collection or enforcement of any tax. Those proceedings shall continue to finality as though no dissolution had taken place. The proceeds thereof shall be paid over to the treasurer of the county to be used for the purpose for which the tax was levied or assessed. Proceedings to collect and enforce such taxes may be instituted and carried on in the name of the unit.

(55 ILCS 5/5-44055 new)

Sec. 5-44055. Litigation. All suits pending in any court on behalf of or against a unit dissolved pursuant to this Division may be prosecuted or defended in the name of the county by the state's attorney. All judgments obtained for a unit dissolved pursuant to this Division shall be collected and enforced by the county for its benefit.

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

Senate Floor Amendment No. 2 was withdrawn by the sponsor.

Senate Floor Amendment No. 3 was held in the Committee on Executive.

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 Hutchinson, **Senate Bill No. 1190** 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 Hutchinson offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1190

AMENDMENT NO. 2. Amend Senate Bill 1190 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Illinois Family Care Provider Act.

Section 5. Findings and purpose.

(a) Findings. The General Assembly finds that:

(1) the number of households in Illinois in which working grandparents have primary responsibility for the care of grandchildren is significant; currently, almost 100,000 grandparents are responsible for the care of grandchildren living with them, and of these, 68% are under the age of 60;

(2) in Illinois, over 230,000 children under the age of 18 live in homes with grandparents as the householders;

(3) the number of households in which grandchildren have primary responsibility for the care of grandparents and other family members is significant; in fact, grandchildren comprise 8% of informal caregivers nationally;

(4) it is important for the family unit that grandparents and grandchildren be able to participate in the care of family members who have serious health conditions; and

(5) the lack of employment policies to accommodate working caregivers, including employees caring for grandchildren or grandparents, can force individuals to choose between job security and caregiving responsibilities.

(b) Purpose. It is the purpose of this Act that all employers required to comply with the Family and Medical Leave Act of 1993, 29 U.S.C. 2601, et seq., shall include grandparents and grandchildren as "eligible employees" for leave for the birth or adoption of a grandchild in order for a grandparent to care for such grandchild; because of the placement of a grandchild with the grandparent for adoption or foster care; and in order for the grandparent to care for the grandchild if such grandchild has a serious health condition or the grandchild to care for the grandparent if such grandparent has a serious health condition.

Section 10. Definitions. In this Act:

"Eligible employee" has the meaning ascribed to that term in the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.

"Employer" has the meaning ascribed to that term in the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.

"Grandparent" means a biological, adopted, or step grandparent of an employee.

"Grandchild" means a biological, adopted, or step grandchild of an employee.

"Serious health condition" has the meaning ascribed to that term in the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.

Section 15. Family leave requirement.

(a) Subject to the conditions set forth in this Section, an employee is entitled to receive and an employer shall provide up to 12 weeks of unpaid family medical leave to an employee during any 12-month period for one or more of the following: the birth or adoption of a grandchild in order for the employee to care for such grandchild; the placement of a grandchild with the employee for adoption or foster care; or the employee to care for a grandchild if such grandchild has a serious health condition or the employee to care for a grandparent if the grandparent has a serious health condition.

(b) An employee is not entitled to receive and an employer is not required to provide more than 12 weeks of unpaid family medical leave in any 12-month period under this Act. For purposes of this Act, unpaid family medical leave granted pursuant to any other law shall be deemed to be unpaid family medical leave granted under this Act.

Section 20. Notification. An employee must comply with the employer's usual and customary

procedural requirements for giving notice of a request for leave, provided that those notice requirements are consistent with the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.

Section 25. Certification. An employer may require that an employee's leave to care for a grandchild or grandparent, with a serious health condition, be supported by a certification issued by the health care provider of the employee's grandchild or grandparent. Certification under this Section shall comply with the certification content and requirements provided in 29 C.F.R. 825.305 et seq.

Section 30. Enforcement. A civil action may be brought in the circuit court having jurisdiction by an employee to enforce this Act. The circuit court may enjoin any act or practice that violates or may violate this Act and may order any other equitable relief that is necessary and appropriate to redress the violation or to enforce this Act.

Section 35. Refusal to pay damages. Any employer who has been ordered by the court to pay damages under this Act is liable for:

(1) damages equal to the amount of wages, salary, employment benefits, public assistance, or other compensation denied or lost to such individual by reason of the violation and the interest on that amount calculated at the prevailing rate;

(2) such equitable relief as may be appropriate, including employment reinstatement and promotion; and

(3) reasonable attorney's fees, reasonable expert witness fees, and other costs of the action to be paid by the respondent to the prevailing employee.

Section 40. Interpretation. Except as otherwise provided in this Act, all general requirements for leave, employment, benefits, and other provisions shall be interpreted in a manner consistent with the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.

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 Hutchinson, **Senate Bill No. 338** having been printed, was taken up, read by title a second time.

Senator Hutchinson offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 338

AMENDMENT NO. 1. Amend Senate Bill 338 by replacing everything after the enacting clause with the following:

"Section 5. The Cigarette Tax Act is amended by changing Sections 1, 2, and 29 as follows:

(35 ILCS 130/1) (from Ch. 120, par. 453.1)

Sec. 1. For the purposes of this Act:

"Brand Style" means a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette or packaging.

Until July 1, 2012, and beginning July 1, 2013, "cigarette", means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Cigarette", beginning on and after July 1, 2012, and through June 30, 2013, means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, and the wrapper or cover of which is made of paper.

"Cigarette", beginning on and after July 1, 2012, and through June 30, 2013, also shall mean: Any roll for smoking made wholly or in part of tobacco labeled as anything other than a cigarette or not bearing a label, if it meets two or more of the following criteria:

(a) the product is sold in packs similar to cigarettes;

(b) the product is available for sale in cartons of ten packs;
(c) the product is sold in soft packs, hard packs, flip-top boxes, clam shells, or other cigarette-type boxes;
(d) the product is of a length and diameter similar to commercially manufactured cigarettes;
(e) the product has a cellulose acetate or other integrated filter;
(f) the product is marketed or advertised to consumers as a cigarette or cigarette substitute; or
(g) other evidence that the product fits within the definition of cigarette.

"Contraband cigarettes" means:
(a) cigarettes that do not bear a required tax stamp under this Act;
(b) cigarettes for which any required federal taxes have not been paid;
(c) cigarettes that bear a counterfeit tax stamp;
(d) cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than (i) the owner of the trademark rights in the cigarette brand or (ii) a person that is directly or indirectly authorized by such owner;
(e) cigarettes imported into the United States, or otherwise distributed, in violation of the federal Imported Cigarette Compliance Act of 2000 (Title IV of Public Law 106-476);
(f) cigarettes that have false manufacturing labels;
(g) cigarettes identified in Section 3-10(a)(1) of this Act;
(h) cigarettes that are improperly tax stamped, including cigarettes that bear a tax stamp of another state or taxing jurisdiction; or
(i) cigarettes made or fabricated by a person holding a cigarette machine operator license under Section 1-20 of the Cigarette Machine Operators' Occupation Tax Act in the possession of manufacturers, distributors, secondary distributors, manufacturer representatives or other retailers for the purpose of resale, regardless of whether the tax has been paid on such cigarettes.

"Little cigar" has the meaning ascribed to that term in the Tobacco Products Tax Act of 1995.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, however formed, limited liability company, or a receiver, executor, administrator, trustee, guardian or other representative appointed by order of any court.

"Prior Continuous Compliance Taxpayer" means any person who is licensed under this Act and who, having been a licensee for a continuous period of 5 years, is determined by the Department not to have been either delinquent or deficient in the payment of tax liability during that period or otherwise in violation of this Act. Also, any taxpayer who has, as verified by the Department, continuously complied with the condition of his bond or other security under provisions of this Act for a period of 5 consecutive years shall be considered to be a "Prior continuous compliance taxpayer". In calculating the consecutive period of time described herein for qualification as a "prior continuous compliance taxpayer", a consecutive period of time of qualifying compliance immediately prior to the effective date of this amendatory Act of 1987 shall be credited to any licensee who became licensed on or before the effective date of this amendatory Act of 1987.

"Department" means the Department of Revenue.

"Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person.

"Original Package" means the individual packet, box or other container whatsoever used to contain and to convey cigarettes to the consumer.

"Distributor" means any and each of the following:
(1) Any person engaged in the business of selling cigarettes in this State who brings or causes to be brought into this State from without this State any original packages of cigarettes, on which original packages there is no authorized evidence underneath a sealed transparent wrapper showing that the tax liability imposed by this Act has been paid or assumed by the out-of-State seller of such cigarettes, for sale or other disposition in the course of such business.
(2) Any person who makes, manufactures or fabricates cigarettes in this State for sale in this State, except a person who makes, manufactures or fabricates cigarettes as a part of a correctional industries program for sale to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility.
(3) Any person who makes, manufactures or fabricates cigarettes outside this State, which cigarettes are placed in original packages contained in sealed transparent wrappers, for delivery or shipment into this State, and who elects to qualify and is accepted by the Department as a distributor under Section 4b of this Act.

"Place of business" shall mean and include any place where cigarettes are sold or where cigarettes are manufactured, stored or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

"Manufacturer representative" means a director, officer, or employee of a manufacturer who has obtained authority from the Department under Section 4f to maintain representatives in Illinois that provide or sell original packages of cigarettes made, manufactured, or fabricated by the manufacturer to retailers in compliance with Section 4f of this Act to promote cigarettes made, manufactured, or fabricated by the manufacturer.

"Business" means any trade, occupation, activity or enterprise engaged in for the purpose of selling cigarettes in this State.

"Retailer" means any person who engages in the making of transfers of the ownership of, or title to, cigarettes to a purchaser for use or consumption and not for resale in any form, for a valuable consideration. "Retailer" does not include a person:

(1) who transfers to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility ownership of cigarettes made, manufactured, or fabricated as part of a correctional industries program; or

(2) who transfers cigarettes to a not-for-profit research institution that conducts tests concerning the health effects of tobacco products and who does not offer the cigarettes for resale.

"Retailer" shall be construed to include any person who engages in the making of transfers of the ownership of, or title to, cigarettes to a purchaser, for use or consumption by any other person to whom such purchaser may transfer the cigarettes without a valuable consideration, except a person who transfers to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility ownership of cigarettes made, manufactured or fabricated as part of a correctional industries program.

"Secondary distributor" means any person engaged in the business of selling cigarettes who purchases stamped original packages of cigarettes from a licensed distributor under this Act or the Cigarette Use Tax Act, sells 75% or more of those cigarettes to retailers for resale, and maintains an established business where a substantial stock of cigarettes is available to retailers for resale.

"Stamp" or "stamps" mean the indicia required to be affixed on a pack of cigarettes that evidence payment of the tax on cigarettes under Section 2 of this Act.

"Related party" means any person that is associated with any other person because he or she:

(a) is an officer or director of a business; or

(b) is legally recognized as a partner in business.

(Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11; 97-688, eff. 6-14-12.)

(35 ILCS 130/2) (from Ch. 120, par. 453.2)

Sec. 2. Tax imposed; rate; collection, payment, and distribution; discount.

(a) A tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at the rate of 5 1/2 mills per cigarette sold, or otherwise disposed of in the course of such business in this State. In addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at a rate of 1/2 mill per cigarette sold or otherwise disposed of in the course of such business in this State on and after January 1, 1947, and, through June 30, 2013, shall be paid into the Metropolitan Fair and Exposition Authority Reconstruction Fund or as otherwise provided in Section 29. On and after December 1, 1985, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at a rate of 4 mills per cigarette sold or otherwise disposed of in the course of such business in this State. Of the additional tax imposed by this amendatory Act of 1985, $9,000,000 of the moneys received by the Department of Revenue pursuant to this Act shall be paid each month, through June 30, 2013, into the Common School Fund. On and after the effective date of this amendatory Act of 1989, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 5 mills per cigarette sold or otherwise disposed of in the course of such business in this State. On and after the effective date of this amendatory Act of 1993, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business in this State. On and after December 15, 1997, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business of this State. All of the moneys received by the Department of Revenue pursuant to this Act and the Cigarette Use Tax Act from the additional taxes imposed by this amendatory Act of 1997, shall be paid each month, through June 30, 2013, into the Common School Fund. On and after July 1, 2002, in addition to any other tax imposed by this Act, a tax

is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 20.0 mills per cigarette sold or otherwise disposed of in the course of such business in this State. Beginning on June 24, 2012, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 50 mills per cigarette sold or otherwise disposed of in the course of such business in this State. All moneys received by the Department of Revenue under this Act and the Cigarette Use Tax Act from the additional taxes imposed by this amendatory Act of the 97th General Assembly shall be paid each month, through June 30, 2013, into the Healthcare Provider Relief Fund. The payment of such taxes shall be evidenced by a stamp affixed to each original package of cigarettes, or an authorized substitute for such stamp imprinted on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, as hereinafter provided. However, such taxes are not imposed upon any activity in such business in interstate commerce or otherwise, which activity may not under the Constitution and statutes of the United States be made the subject of taxation by this State.

Beginning on the effective date of this amendatory Act of the 92nd General Assembly and through June 30, 2006, all of the moneys received by the Department of Revenue pursuant to this Act and the Cigarette Use Tax Act, other than the moneys that are dedicated to the Common School Fund, shall be distributed each month as follows: first, there shall be paid into the General Revenue Fund an amount which, when added to the amount paid into the Common School Fund for that month, equals $33,300,000, except that in the month of August of 2004, this amount shall equal $83,300,000; then, from the moneys remaining, if any amounts required to be paid into the General Revenue Fund in previous months remain unpaid, those amounts shall be paid into the General Revenue Fund; then, beginning on April 1, 2003, from the moneys remaining, $5,000,000 per month shall be paid into the School Infrastructure Fund; then, if any amounts required to be paid into the School Infrastructure Fund in previous months remain unpaid, those amounts shall be paid into the School Infrastructure Fund; then the moneys remaining, if any, shall be paid into the Long-Term Care Provider Fund. To the extent that more than $25,000,000 has been paid into the General Revenue Fund and Common School Fund per month for the period of July 1, 1993 through the effective date of this amendatory Act of 1994 from combined receipts of the Cigarette Tax Act and the Cigarette Use Tax Act, notwithstanding the distribution provided in this Section, the Department of Revenue is hereby directed to adjust the distribution provided in this Section to increase the next monthly payments to the Long Term Care Provider Fund by the amount paid to the General Revenue Fund and Common School Fund in excess of $25,000,000 per month and to decrease the next monthly payments to the General Revenue Fund and Common School Fund by that same excess amount.

Beginning on July 1, 2006, and through June 30, 2013, all of the moneys received by the Department of Revenue pursuant to this Act and the Cigarette Use Tax Act, other than the moneys that are dedicated to the Common School Fund and, beginning on the effective date of this amendatory Act of the 97th General Assembly, other than the moneys from the additional taxes imposed by this amendatory Act of the 97th General Assembly that must be paid each month into the Healthcare Provider Relief Fund, shall be distributed each month as follows: first, there shall be paid into the General Revenue Fund an amount that, when added to the amount paid into the Common School Fund for that month, equals $29,200,000; then, from the moneys remaining, if any amounts required to be paid into the General Revenue Fund in previous months remain unpaid, those amounts shall be paid into the General Revenue Fund; then from the moneys remaining, $5,000,000 per month shall be paid into the School Infrastructure Fund; then, if any amounts required to be paid into the School Infrastructure Fund in previous months remain unpaid, those amounts shall be paid into the School Infrastructure Fund; then the moneys remaining, if any, shall be paid into the Long-Term Care Provider Fund.

Beginning on July 1, 2013, all of the moneys received by the Department of Revenue pursuant to this Act or the Cigarette Use Tax Act, and from the sale of stamps affixed to little cigars under the Tobacco Products Tax Act of 1995, shall be distributed each month as follows: first, $9,500,000 per month shall be paid into the Common School Fund; then, from the moneys remaining, if any amounts required to be paid into the Common School Fund in previous months remain unpaid, those amounts shall be paid into the Common School Fund; then, from the moneys remaining, $20,050,000 per month shall be paid into the General Revenue Fund; then, from the moneys remaining, if any amounts required to be paid into the General Revenue Fund in previous months remain unpaid, those amounts shall be paid into the General Revenue Fund; then, from the moneys remaining, $27,500,000 per month shall be paid into the Healthcare Provider Relief Fund; then, if any amounts required to be paid into the Healthcare Provider Relief Fund in previous months remain unpaid, those amounts shall be paid into the Healthcare Provider Relief Fund; then, from the moneys remaining, $9,000,000 per month shall be paid into the Long Term Care Provider Fund; then, if any amounts required to be paid into the Long Term Care Provider Fund in

previous months remain unpaid, those amounts shall be paid into the Long Term Care Provider Fund; then the moneys remaining, if any, shall be paid into the School Infrastructure Fund.

When any tax imposed herein terminates or has terminated, distributors who have bought stamps while such tax was in effect and who therefore paid such tax, but who can show, to the Department's satisfaction, that they sold the cigarettes to which they affixed such stamps after such tax had terminated and did not recover the tax or its equivalent from purchasers, shall be allowed by the Department to take credit for such absorbed tax against subsequent tax stamp purchases from the Department by such distributor.

The impact of the tax levied by this Act is imposed upon the retailer and shall be prepaid or pre-collected by the distributor for the purpose of convenience and facility only, and the amount of the tax shall be added to the price of the cigarettes sold by such distributor. Collection of the tax shall be evidenced by a stamp or stamps affixed to each original package of cigarettes, as hereinafter provided.

Each distributor shall collect the tax from the retailer at or before the time of the sale, shall affix the stamps as hereinafter required, and shall remit the tax collected from retailers to the Department, as hereinafter provided. Any distributor who fails to properly collect and pay the tax imposed by this Act shall be liable for the tax. Any distributor having cigarettes to which stamps have been affixed in his possession for sale on the effective date of this amendatory Act of 1989 shall not be required to pay the additional tax imposed by this amendatory Act of 1989 on such stamped cigarettes. Any distributor having cigarettes to which stamps have been affixed in his or her possession for sale at 12:01 a.m. on the effective date of this amendatory Act of 1993, is required to pay the additional tax imposed by this amendatory Act of 1993 on such stamped cigarettes. This payment, less the discount provided in subsection (b), shall be due when the distributor first makes a purchase of cigarette tax stamps after the effective date of this amendatory Act of 1993, or on the first due date of a return under this Act after the effective date of this amendatory Act of 1993, whichever occurs first. Any distributor having cigarettes to which stamps have been affixed in his possession for sale on December 15, 1997 shall not be required to pay the additional tax imposed by this amendatory Act of 1997 on such stamped cigarettes.

Any distributor having cigarettes to which stamps have been affixed in his or her possession for sale on July 1, 2002 shall not be required to pay the additional tax imposed by this amendatory Act of the 92nd General Assembly on those stamped cigarettes.

Any retailer having cigarettes in his or her possession on June 24, 2012 to which tax stamps have been affixed is not required to pay the additional tax that begins on June 24, 2012 imposed by this amendatory Act of the 97th General Assembly on those stamped cigarettes. Any distributor having cigarettes in his or her possession on June 24, 2012 to which tax stamps have been affixed, and any distributor having stamps in his or her possession on June 24, 2012 that have not been affixed to packages of cigarettes before June 24, 2012, is required to pay the additional tax that begins on June 24, 2012 imposed by this amendatory Act of the 97th General Assembly to the extent the calendar year 2012 average monthly volume of cigarette stamps in the distributor's possession exceeds the average monthly volume of cigarette stamps purchased by the distributor in calendar year 2011. This payment, less the discount provided in subsection (b), is due when the distributor first makes a purchase of cigarette stamps on or after June 24, 2012 or on the first due date of a return under this Act occurring on or after June 24, 2012, whichever occurs first. Those distributors may elect to pay the additional tax on packages of cigarettes to which stamps have been affixed and on any stamps in the distributor's possession that have not been affixed to packages of cigarettes over a period not to exceed 12 months from the due date of the additional tax by notifying the Department in writing. The first payment for distributors making such election is due when the distributor first makes a purchase of cigarette tax stamps on or after June 24, 2012 or on the first due date of a return under this Act occurring on or after June 24, 2012, whichever occurs first. Distributors making such an election are not entitled to take the discount provided in subsection (b) on such payments.

Distributors making sales of cigarettes to secondary distributors shall add the amount of the tax to the price of the cigarettes sold by the distributors. Secondary distributors making sales of cigarettes to retailers shall include the amount of the tax in the price of the cigarettes sold to retailers. The amount of tax shall not be less than the amount of taxes imposed by the State and all local jurisdictions. The amount of local taxes shall be calculated based on the location of the retailer's place of business shown on the retailer's certificate of registration or sub-registration issued to the retailer pursuant to Section 2a of the Retailers' Occupation Tax Act. The original packages of cigarettes sold to the retailer shall bear all the required stamps, or other indicia, for the taxes included in the price of cigarettes.

The amount of the Cigarette Tax imposed by this Act shall be separately stated, apart from the price of the goods, by distributors, manufacturer representatives, secondary distributors, and retailers, in all bills and sales invoices.

(b) The distributor shall be required to collect the taxes provided under paragraph (a) hereof, and, to cover the costs of such collection, shall be allowed a discount during any year commencing July 1st and ending the following June 30th in accordance with the schedule set out hereinbelow, which discount shall be allowed at the time of purchase of the stamps when purchase is required by this Act, or at the time when the tax is remitted to the Department without the purchase of stamps from the Department when that method of paying the tax is required or authorized by this Act. Prior to December 1, 1985, a discount equal to 1 2/3% of the amount of the tax up to and including the first $700,000 paid hereunder by such distributor to the Department during any such year; 1 1/3% of the next $700,000 of tax or any part thereof, paid hereunder by such distributor to the Department during any such year; 1% of the next $700,000 of tax, or any part thereof, paid hereunder by such distributor to the Department during any such year, and 2/3 of 1% of the amount of any additional tax paid hereunder by such distributor to the Department during any such year shall apply. On and after December 1, 1985, a discount equal to 1.75% of the amount of the tax payable under this Act up to and including the first $3,000,000 paid hereunder by such distributor to the Department during any such year and 1.5% of the amount of any additional tax paid hereunder by such distributor to the Department during any such year shall apply.

Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.

(c) The taxes herein imposed are in addition to all other occupation or privilege taxes imposed by the State of Illinois, or by any political subdivision thereof, or by any municipal corporation.

(Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11; 97-688, eff. 6-14-12.)

(35 ILCS 130/29) (from Ch. 120, par. 453.29)

Sec. 29. All moneys received by the Department from the one-half mill tax imposed by the Sixty-fourth General Assembly and all interest and penalties, received in connection therewith under the provisions of this Act shall be paid into the Metropolitan Fair and Exposition Authority Reconstruction Fund. All other moneys received by the Department under this Act shall be paid into the General Revenue Fund in the State treasury. After there has been paid into the Metropolitan Fair and Exposition Authority Reconstruction Fund sufficient money to pay in full both principal and interest, all of the outstanding bonds issued pursuant to the "Fair and Exposition Authority Reconstruction Act", the State Treasurer and Comptroller shall transfer to the General Revenue Fund the balance of moneys remaining in the Metropolitan Fair and Exposition Authority Reconstruction Fund except for $2,500,000 which shall remain in the Metropolitan Fair and Exposition Authority Reconstruction Fund and which may be appropriated by the General Assembly for the corporate purposes of the Metropolitan Pier and Exposition Authority. All monies received by the Department in fiscal year 1978 and thereafter from the one-half mill tax imposed by the Sixty-fourth General Assembly, and all interest and penalties received in connection therewith under the provisions of this Act, shall be paid into the General Revenue Fund, except that the Department shall pay the first $4,800,000 received in fiscal years 1979 through 2001 from that one-half mill tax into the Metropolitan Fair and Exposition Authority Reconstruction Fund which monies may be appropriated by the General Assembly for the corporate purposes of the Metropolitan Pier and Exposition Authority.

In fiscal year 2002 and fiscal year 2003, the first $4,800,000 from the one-half mill tax shall be paid into the Statewide Economic Development Fund.

All moneys received by the Department in fiscal year 2006 and thereafter <u>through June 30, 2013,</u> from the one-half mill tax imposed by the 64th General Assembly and all interest and penalties received in connection with that tax under the provisions of this Act shall be paid into the General Revenue Fund.

<u>Beginning July 1, 2013, all moneys received from the one-half mill tax imposed by the 64th General Assembly shall be paid under the provisions of subsection (a) of Section 2 of this Act.</u>

(Source: P.A. 93-22, eff. 6-20-03; 94-91, eff. 7-1-05.)

Section 10. The Cigarette Use Tax Act is amended by changing Section 1 as follows:

(35 ILCS 135/1) (from Ch. 120, par. 453.31)

Sec. 1. For the purpose of this Act, unless otherwise required by the context:

"Use" means the exercise by any person of any right or power over cigarettes incident to the ownership or possession thereof, other than the making of a sale thereof in the course of engaging in a business of selling cigarettes and shall include the keeping or retention of cigarettes for use, except that "use" does not include the use of cigarettes by a not-for-profit research institution conducting tests concerning the health effects of tobacco products, provided the cigarettes are not offered for resale.

"Brand Style" means a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette or packaging.

Until July 1, 2012, and beginning July 1, 2013, "cigarette" means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Cigarette", beginning on and after July 1, 2012, and through June 30, 2013, means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper.

"Cigarette", beginning on and after July 1, 2012, and through June 30, 2013, also shall mean: Any roll for smoking made wholly or in part of tobacco labeled as anything other than a cigarette or not bearing a label, if it meets two or more of the following criteria:

(a) the product is sold in packs similar to cigarettes;

(b) the product is available for sale in cartons of ten packs;

(c) the product is sold in soft packs, hard packs, flip-top boxes, clam shells, or other cigarette-type boxes;

(d) the product is of a length and diameter similar to commercially manufactured cigarettes;

(e) the product has a cellulose acetate or other integrated filter;

(f) the product is marketed or advertised to consumers as a cigarette or cigarette substitute; or

(g) other evidence that the product fits within the definition of cigarette.

"Contraband cigarettes" means:

(a) cigarettes that do not bear a required tax stamp under this Act;

(b) cigarettes for which any required federal taxes have not been paid;

(c) cigarettes that bear a counterfeit tax stamp;

(d) cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than (i) the owner of the trademark rights in the cigarette brand or (ii) a person that is directly or indirectly authorized by such owner;

(e) cigarettes imported into the United States, or otherwise distributed, in violation of the federal Imported Cigarette Compliance Act of 2000 (Title IV of Public Law 106-476);

(f) cigarettes that have false manufacturing labels;

(g) cigarettes identified in Section 3-10(a)(1) of this Act;

(h) cigarettes that are improperly tax stamped, including cigarettes that bear a tax stamp of another state or taxing jurisdiction; or

(i) cigarettes made or fabricated by a person holding a cigarette machine operator license under Section 1-20 of the Cigarette Machine Operators' Occupation Tax Act in the possession of manufacturers, distributors, secondary distributors, manufacturer representatives or other retailers for the purpose of resale, regardless of whether the tax has been paid on such cigarettes.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, however formed, limited liability company, or a receiver, executor, administrator, trustee, guardian or other representative appointed by order of any court.

"Department" means the Department of Revenue.

"Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person.

"Original Package" means the individual packet, box or other container whatsoever used to contain and to convey cigarettes to the consumer.

"Distributor" means any and each of the following:

a. Any person engaged in the business of selling cigarettes in this State who brings or causes to be brought into this State from without this State any original packages of cigarettes, on which original packages there is no authorized evidence underneath a sealed transparent wrapper showing that the tax liability imposed by this Act has been paid or assumed by the out-of-State seller of such cigarettes, for sale in the course of such business.

b. Any person who makes, manufactures or fabricates cigarettes in this State for sale, except a person who makes, manufactures or fabricates cigarettes for sale to residents incarcerated in penal institutions or resident patients or a State-operated mental health facility.

c. Any person who makes, manufactures or fabricates cigarettes outside this State, which cigarettes are placed in original packages contained in sealed transparent wrappers, for delivery or shipment into this State, and who elects to qualify and is accepted by the Department as a distributor under Section 7 of this Act.

"Distributor" does not include any person who transfers cigarettes to a not-for-profit research institution that conducts tests concerning the health effects of tobacco products and who does not offer the cigarettes for resale.

"Distributor maintaining a place of business in this State", or any like term, means any distributor having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent operating within this State under the authority of the distributor or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such distributor or subsidiary is licensed to transact business within this State.

"Business" means any trade, occupation, activity or enterprise engaged in or conducted in this State for the purpose of selling cigarettes.

"Prior Continuous Compliance Taxpayer" means any person who is licensed under this Act and who, having been a licensee for a continuous period of 5 years, is determined by the Department not to have been either delinquent or deficient in the payment of tax liability during that period or otherwise in violation of this Act. Also, any taxpayer who has, as verified by the Department, continuously complied with the condition of his bond or other security under provisions of this Act of a period of 5 consecutive years shall be considered to be a "prior continuous compliance taxpayer". In calculating the consecutive period of time described herein for qualification as a "prior continuous compliance taxpayer", a consecutive period of time of qualifying compliance immediately prior to the effective date of this amendatory Act of 1987 shall be credited to any licensee who became licensed on or before the effective date of this amendatory Act of 1987.

"Secondary distributor" means any person engaged in the business of selling cigarettes who purchases stamped original packages of cigarettes from a licensed distributor under this Act or the Cigarette Tax Act, sells 75% or more of those cigarettes to retailers for resale, and maintains an established business where a substantial stock of cigarettes is available to retailers for resale.

"Secondary distributor maintaining a place of business in this State", or any like term, means any secondary distributor having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agent operating within this State under the authority of the secondary distributor or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such secondary distributor or subsidiary is licensed to transact business within this State.

"Stamp" or "stamps" mean the indicia required to be affixed on a pack of cigarettes that evidence payment of the tax on cigarettes under Section 2 of this Act.

"Related party" means any person that is associated with any other person because he or she:

(a) is an officer or director of a business; or

(b) is legally recognized as a partner in business.

(Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10; 97-688, eff. 6-14-12.)

Section 15. The Tobacco Products Tax Act of 1995 is amended by changing Sections 10-5, 10-10, 10-15, 10-30, and 10-45 and by adding Sections 10-26, 10-27, 10-28, 10-29, and 10-36 as follows:

(35 ILCS 143/10-5)

Sec. 10-5. Definitions. For purposes of this Act:

"Business" means any trade, occupation, activity, or enterprise engaged in, at any location whatsoever, for the purpose of selling tobacco products.

"Cigarette" has the meaning ascribed to the term in Section 1 of the Cigarette Tax Act.

"Contraband little cigar" means:

(1) packages of little cigars containing 20 or 25 little cigars that do not bear a required tax stamp under this Act;

(2) packages of little cigars containing 20 or 25 little cigars that bear a fraudulent, imitation, or counterfeit tax stamp;

(3) packages of little cigars containing 20 or 25 little cigars that are improperly tax stamped, including packages of little cigars that bear only a tax stamp of another state or taxing jurisdiction; or

(4) packages of little cigars containing other than 20 or 25 little cigars in the possession of a distributor, retailer or wholesaler, unless the distributor, retailer, or wholesaler possesses, or produces within the time frame provided in Section 10-27 or 10-28 of this Act, an invoice from a stamping distributor, distributor, or wholesaler showing that the tax on the packages has been or will be paid.

"Correctional Industries program" means a program run by a State penal institution in which residents of the penal institution produce tobacco products for sale to persons incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Department" means the Illinois Department of Revenue.

"Distributor" means any of the following:

(1) Any manufacturer or wholesaler in this State engaged in the business of selling tobacco products who sells, exchanges, or distributes tobacco products to retailers or consumers in this State.

(2) Any manufacturer or wholesaler engaged in the business of selling tobacco products from without this State who sells, exchanges, distributes, ships, or transports tobacco products to retailers or consumers located in this State, so long as that manufacturer or wholesaler has or maintains within this State, directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating within this State under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.

(3) Any retailer who receives tobacco products on which the tax has not been or will not be paid by another distributor.

"Distributor" does not include any person, wherever resident or located, who makes, manufactures, or fabricates tobacco products as part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Little cigar" means and includes any roll, made wholly or in part of tobacco, where such roll has an integrated cellulose acetate filter and weighs less than 4 pounds per thousand and the wrapper or cover of which is made in whole or in part of tobacco.

"Manufacturer" means any person, wherever resident or located, who manufactures and sells tobacco products, except a person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to persons incarcerated in penal institutions or resident patients of a State operated mental health facility.

Beginning on January 1, 2013, "moist snuff" means any finely cut, ground, or powdered tobacco that is not intended to be smoked, but shall not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, limited liability company, or public or private corporation, however formed, or a receiver, executor, administrator, trustee, conservator, or other representative appointed by order of any court.

"Place of business" means and includes any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine.

"Retailer" means any person in this State engaged in the business of selling tobacco products to consumers in this State, regardless of quantity or number of sales.

"Sale" means any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration and includes all sales made by persons.

"Stamp" or "stamps" mean the indicia required to be affixed on a package of little cigars that evidence payment of the tax on packages of little cigars containing 20 or 25 little cigars under Section 10-10 of this Act. These stamps shall be the same stamps used for cigarettes under the Cigarette Tax Act.

"Stamping distributor" means a distributor licensed under this Act and also licensed as a distributor under the Cigarette Tax Act or Cigarette Use Tax Act.

"Tobacco products" means any cigars, including little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff (including moist snuff) or snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette distributors and manufacturers defined in the Cigarette Tax Act and persons who make, manufacture, or fabricate cigarettes as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Wholesale price" means the established list price for which a manufacturer sells tobacco products to a distributor, before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of such an established list price, the manufacturer's invoice price at which the manufacturer sells the tobacco product to unaffiliated distributors, before any discounts, trade allowances, rebates, or other reductions, shall be presumed to be the wholesale price.

"Wholesaler" means any person, wherever resident or located, engaged in the business of selling tobacco products to others for the purpose of resale. "Wholesaler", when used in this Act, does not include a person licensed as a distributor under Section 10-20 of this Act unless expressly stated in this

Act.

(Source: P.A. 97-688, eff. 6-14-12.)

(35 ILCS 143/10-10)

Sec. 10-10. Tax imposed.

(a) Except as otherwise provided in this Section with respect to little cigars, on ~~On~~ the first day of the third month after the month in which this Act becomes law, a tax is imposed on any person engaged in business as a distributor of tobacco products, as defined in Section 10-5, at the rate of (i) 18% of the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located in this State prior to July 1, 2012 and (ii) 36% of the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located in this State beginning on July 1, 2012; except that, beginning on January 1, 2013, the tax on moist snuff shall be imposed at a rate of $0.30 per ounce, and a proportionate tax at the like rate on all fractional parts of an ounce, sold or otherwise disposed of to retailers or consumers located in this State. The tax is in addition to all other occupation or privilege taxes imposed by the State of Illinois, by any political subdivision thereof, or by any municipal corporation. However, the tax is not imposed upon any activity in that business in interstate commerce or otherwise, to the extent to which that activity may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this State , and except that, beginning July 1, 2013, the tax on little cigars shall be at the rate of 99 mills per little cigar sold or otherwise disposed of to retailers or consumers in this State. If the amount of tax imposed under Section 2 of the Cigarette Tax Act is increased or decreased on or after the effective date of this amendatory Act of the 98th General Assembly, then, beginning on the effective date of that increase or decrease, the rate of tax imposed on little cigars under this Section shall be increased or decreased in proportion to the increase under the Cigarette Tax Act. The tax is also not imposed on sales made to the United States or any entity thereof.

(b) Notwithstanding subsection (a) of this Section, stamping distributors of packages of little cigars containing 20 or 25 little cigars sold or otherwise disposed of in this State shall remit the tax by purchasing tax stamps from the Department and affixing them to packages of little cigars in the same manner as stamps are purchased and affixed to cigarettes under the Cigarette Tax Act, unless the stamping distributor sells or otherwise disposes of those packages of little cigars to another stamping distributor. Only persons meeting the definition of "stamping distributor" contained in Section 10-5 of this Act may affix stamps to packages of little cigars containing 20 or 25 little cigars. Stamping distributors may not sell or dispose of little cigars at retail to consumers or users at locations where stamping distributors affix stamps to packages of little cigars containing 20 or 25 little cigars.

(c) The impact of the tax levied by this Act is imposed upon distributors engaged in the business of selling tobacco products to retailers or consumers in this State. Whenever a stamping distributor brings or causes to be brought into this State from without this State, or purchases from without or within this State, any packages of little cigars containing 20 or 25 little cigars upon which there are no tax stamps affixed as required by this Act, for purposes of resale or disposal in this State to a person not a stamping distributor, then such stamping distributor shall pay the tax to the Department and add the amount of the tax to the price of such packages sold by such stamping distributor. Payment of the tax shall be evidenced by a stamp or stamps affixed to each package of little cigars containing 20 or 25 little cigars.

Stamping distributors paying the tax to the Department on packages of little cigars containing 20 or 25 little cigars sold to other distributors, wholesalers or retailers shall add the amount of the tax to the price of the packages of little cigars containing 20 or 25 little cigars sold by such stamping distributors.

(d) Beginning on January 1, 2013, the tax rate imposed per ounce of moist snuff may not exceed 15% of the tax imposed upon a package of 20 cigarettes pursuant to the Cigarette Tax Act.

(e) All moneys received by the Department under this Act from sales occurring prior to July 1, 2012 shall be paid into the Long-Term Care Provider Fund of the State Treasury. Of the moneys received by the Department from sales occurring on or after July 1, 2012, and through June 30, 2013, 50% shall be paid into the Long-Term Care Provider Fund and 50% shall be paid into the Healthcare Provider Relief Fund. Beginning on July 1, 2013, of the moneys received by the Department of Revenue pursuant to this Act, other than moneys received from the sale of stamps affixed to packages of little cigars, 50% shall be paid into the Long-Term Care Provider Fund and 50% shall be paid into the Healthcare Provider Relief Fund. Beginning July 1, 2013, all moneys received by the Department under this Act from the sale of stamps affixed to packages of little cigars containing 20 or 25 little cigars shall be distributed as provided in subsection (a) of Section 2 of the Cigarette Tax Act.

(Source: P.A. 97-688, eff. 6-14-12.)

(35 ILCS 143/10-15)

Sec. 10-15. Exempt sales. Purchases of tobacco products other than little cigars by wholesalers who will not sell the product at retail are exempt from the tax imposed by this Act. Purchases of tobacco

products other than little cigars by wholesalers and retailers for delivery of the product outside Illinois are exempt from the tax imposed by this Act. The wholesaler or retailer making the exempt sale of tobacco products other than little cigars shall document this exemption by obtaining a certification from the purchaser containing the seller's name and address, the purchaser's name and address, the date of purchase, the purchaser's signature, the purchaser's tobacco products tax license number, if applicable, and a statement that the purchaser is purchasing for resale other than for sale to consumers or is purchasing for delivery outside of Illinois.

(Source: P.A. 89-21, eff. 6-6-95.)

(35 ILCS 143/10-26 new)

Sec. 10-26. Manufacturers, sale of little cigars. Manufacturers that are not stamping distributors may not sell little cigars to consumers in this State or to distributors, wholesalers or retailers, unless the distributors, wholesalers or retailers are stamping distributors. Manufacturers that are not stamping distributors may sell little cigars only to stamping distributors. Manufacturers that are not stamping distributors are prohibited from delivering little cigars to locations where sales of little cigars to consumers or users take place.

(35 ILCS 143/10-27 new)

Sec. 10-27. Retailers, purchase and possession of little cigars.

(a) Retailers are prohibited from possessing unstamped packages of little cigars containing 20 or 25 little cigars at locations where retailers make sales of little cigars to consumers or users. Retailers that are also stamping distributors are prohibited from possessing unstamped little cigars at locations where those retailers make sales of packages of little cigars containing 20 or 25 little cigars to consumers or users. Retailers that are not stamping distributors shall purchase stamped packages of little cigars containing 20 or 25 little cigars for resale only from stamping distributors, distributors, or wholesalers. Retailers who are not stamping distributors may not purchase or possess unstamped packages of little cigars containing 20 or 25 little cigars. A retailer must be a stamping distributor to make tax exempt sales of packages of little cigars containing 20 or 25 little cigars for use outside of this State. A retailer who is a stamping distributor making sales of stamped packages of little cigars for use outside of this State may file a claim for credit for such sales with the Department on forms and in the manner provided by the Department.

(b) For purchases of packages of little cigars containing other than 20 or 25 little cigars, retailers who are not stamping distributors may not purchase or possess such packages of little cigars, unless the retailer receives an invoice from a stamping distributor, distributor, or wholesaler stating the tax on the packages has been or will be paid. Retailers shall retain such invoices for inspection by the Department. If a retailer maintaining multiple retail locations notifies the Department in writing that it maintains its invoices at a centralized business location, the Department shall have the authority to inspect invoices at the centralized business location at all times during the usual business hours of the day and the Department may grant the retailer 3 business days to produce the invoices at the retail location at which the request was made. A retailer must be a stamping distributor to make tax exempt sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State. A retailer who is a stamping distributor making sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State on which the tax has been or will be paid by another stamping distributor or was paid by the retailer may file a claim for credit for such sales with the Department on forms and in the manner provided by the Department.

(c) Notwithstanding anything to the contrary in this Act, a retailer unknowingly possessing contraband little cigars obtained from a stamping distributor, distributor, or wholesaler or other person engaged in the business of selling tobacco products or knowingly possessing contraband little cigars obtained from a stamping distributor is not subject to penalties for such purchase or possession if the retailer, within 48 hours after discovering that the little cigars are contraband little cigars, excluding Saturdays, Sundays, and holidays: (i) notifies the Department and the person from whom the little cigars were obtained, orally and in writing, that he or she possesses contraband little cigars; (ii) places the contraband little cigars in one or more containers and seals those containers; and (iii) places on the containers the following or similar language: "Contraband Little cigars. Not For Sale." All contraband little cigars in the possession of a retailer remain subject to forfeiture under the provisions of this Act.

(35 ILCS 143/10-28 new)

Sec. 10-28. Wholesalers.

(a) Wholesalers are prohibited from possessing unstamped packages of little cigars containing 20 or 25 little cigars unless the wholesalers are stamping distributors. A wholesaler must be a stamping distributor to make tax exempt sales of packages of little cigars containing 20 or 25 little cigars for use outside of this State. A wholesaler who is a stamping distributor making sales of stamped packages of little cigars for use outside of this State may file a claim for credit for such sales with the Department on

forms and in the manner provided by the Department.

(b) For purchases of packages of little cigars containing other than 20 or 25 little cigars, wholesalers who are not stamping distributors may not purchase or possess such packages of little cigars, unless the wholesalers receive an invoice from a stamping distributor, distributor, or wholesaler stating the tax on the packages has been or will be paid. Wholesalers shall retain such invoices for inspection by the Department. Every sales invoice for packages of little cigars containing other than 20 or 25 little cigars issued by a wholesaler to a person who is not a stamping distributor shall state that the tax imposed by the Act has been or will be paid. If a wholesaler maintaining multiple wholesale locations notifies the Department in writing that it maintains its invoices at a centralized business location, the Department shall have the authority to inspect invoices at the centralized business location at all times during the usual business hours of the day and the Department may grant the wholesaler 3 business days to produce the invoices at the wholesale location at which the request was made. A wholesaler must be a stamping distributor to make tax exempt sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State. A wholesaler who is a stamping distributor making sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State on which the tax has been or will be paid by another stamping distributor or was paid by the wholesaler may file a claim for credit for such sales with the Department on forms and in the manner provided by the Department.

(35 ILCS 143/10-29 new)

Sec. 10-29. Invoices, packages of little cigars.

(a) Every sales invoice for packages of little cigars containing other than 20 or 25 little cigars issued by a stamping distributor to a person who is not a stamping distributor, shall contain both the stamping distributor's Tobacco Products License number and Cigarette Tax Distributor's License number or Cigarette Use Tax Distributor's License number, and state that the tax imposed by the Act has been or will be paid or that the sale is exempt in whole or in part and the exemption which is claimed.

(b) Any stamping distributor, distributor or wholesaler who knowingly falsely states on the invoice that the tax imposed by this Act has been or will be paid, or any officer or employee of a corporation, member or employee of a partnership, or manager, member or employee of a limited liability company that is a stamping distributor, distributor or wholesaler, who, as such officer, employee, manager, or member knowingly causes to be issued an invoice on behalf of such entity, that such person knows falsely states that the tax imposed by the Act has been or will be paid, is guilty of a Class 4 felony.

(c) Whenever any sales invoice issued by a stamping distributor, distributor or wholesaler for the sale of packages of little cigars containing other than 20 or 25 little cigars does not comply with subsection (b) of Section 10-28 or subsection (a) of this Section by indicating that the tax has been or will be paid or that the sale is exempt in whole or in part, a prima facie presumption shall arise that the tax imposed by Section 10-10 of this Act has not been paid on the little cigars listed on the sales invoice. A person who is not a stamping distributor and is unable to rebut this presumption is in violation of this Act and is subject to the penalties provided in this Act.

(35 ILCS 143/10-30)

Sec. 10-30. Returns. Every stamping distributor shall, on or before the 15th day of each month, file a return with the Department covering the preceding calendar month. The return shall disclose the wholesale price for all tobacco products, the quantity of little cigars sold or otherwise disposed of, including the quantity of packages of little cigars containing 20 or 25 little cigars sold or otherwise disposed of, ~~and~~ the quantity of moist snuff sold or otherwise disposed of and other information that the Department may reasonably require. The return shall be filed upon a form prescribed and furnished by the Department.

At the time when any return of any distributor is due to be filed with the Department, the distributor shall also remit to the Department the tax liability that the distributor has incurred for transactions occurring in the preceding calendar month.

The Department may adopt rules to require the electronic filing of any return or document required to be filed under this Act. Such rules may provide for exceptions from the filing requirement of this paragraph for persons who demonstrate that they do not have access to the Internet and petition the Department to waive the electronic filing requirement.

(Source: P.A. 97-688, eff. 6-14-12.)

(35 ILCS 143/10-36 new)

Sec. 10-36. Recordkeeping by retailers. Every retailer shall keep complete and accurate records of tobacco products held and purchased, and tobacco products sold, or otherwise disposed of, and shall preserve and keep all invoices, bills of lading, sales records, and copies of bills of sale. Books, records, papers, and documents that are required by this Act to be kept shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and

employees. The books, records, papers, and documents for any period with respect to which the Department is authorized to issue a notice of tax liability shall be preserved until the expiration of that period.

(35 ILCS 143/10-45)

Sec. 10-45. Incorporation by reference. All of the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 11, 11a, and 12 of the Retailers' Occupation Tax Act, and all applicable provisions of the Uniform Penalty and Interest Act that are not inconsistent with this Act, apply to distributors of tobacco products to the same extent as if those provisions were included in this Act. References in the incorporated Sections of the Retailers' Occupation Tax Act to retailers, to sellers, or to persons engaged in the business of selling tangible personal property mean distributors when used in this Act. References in the incorporated Sections to sales of tangible personal property mean sales of tobacco products when used in this Act.

All of the provisions of Sections 7, 8, 8a, 16, 18a, 18b, 18c, 22, 23, 24, 26, 27, and 28a of the Cigarette Tax Act which are not inconsistent with this 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 in the incorporated Sections to sales of cigarettes mean sales of little cigars in packages of 20 or 25 little cigars.

(Source: P.A. 89-21, eff. 6-6-95.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Hutchinson offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 338

AMENDMENT NO. 2. Amend Senate Bill 338 by replacing everything after the enacting clause with the following:

"Section 5. The Cigarette Tax Act is amended by changing Sections 1 and 2 as follows:

(35 ILCS 130/1) (from Ch. 120, par. 453.1)

Sec. 1. For the purposes of this Act:

"Brand Style" means a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette or packaging.

Until July 1, 2012, and beginning July 1, 2013, "cigarette", means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Cigarette", beginning on and after July 1, 2012, and through June 30, 2013, means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, and the wrapper or cover of which is made of paper.

"Cigarette", beginning on and after July 1, 2012, and through June 30, 2013, also shall mean: Any roll for smoking made wholly or in part of tobacco labeled as anything other than a cigarette or not bearing a label, if it meets two or more of the following criteria:

(a) the product is sold in packs similar to cigarettes;

(b) the product is available for sale in cartons of ten packs;

(c) the product is sold in soft packs, hard packs, flip-top boxes, clam shells, or other cigarette-type boxes;

(d) the product is of a length and diameter similar to commercially manufactured cigarettes;

(e) the product has a cellulose acetate or other integrated filter;

(f) the product is marketed or advertised to consumers as a cigarette or cigarette substitute; or

(g) other evidence that the product fits within the definition of cigarette.

"Contraband cigarettes" means:

(a) cigarettes that do not bear a required tax stamp under this Act;

(b) cigarettes for which any required federal taxes have not been paid;

(c) cigarettes that bear a counterfeit tax stamp;

(d) cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than (i) the owner of the trademark rights in the cigarette brand or (ii) a person that is directly or indirectly authorized by such owner;

(e) cigarettes imported into the United States, or otherwise distributed, in violation of the federal Imported Cigarette Compliance Act of 2000 (Title IV of Public Law 106-476);

(f) cigarettes that have false manufacturing labels;

(g) cigarettes identified in Section 3-10(a)(1) of this Act;

(h) cigarettes that are improperly tax stamped, including cigarettes that bear a tax stamp of another state or taxing jurisdiction; or

(i) cigarettes made or fabricated by a person holding a cigarette machine operator license under Section 1-20 of the Cigarette Machine Operators' Occupation Tax Act in the possession of manufacturers, distributors, secondary distributors, manufacturer representatives or other retailers for the purpose of resale, regardless of whether the tax has been paid on such cigarettes.

"Little cigar" has the meaning ascribed to that term in the Tobacco Products Tax Act of 1995.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, however formed, limited liability company, or a receiver, executor, administrator, trustee, guardian or other representative appointed by order of any court.

"Prior Continuous Compliance Taxpayer" means any person who is licensed under this Act and who, having been a licensee for a continuous period of 5 years, is determined by the Department not to have been either delinquent or deficient in the payment of tax liability during that period or otherwise in violation of this Act. Also, any taxpayer who has, as verified by the Department, continuously complied with the condition of his bond or other security under provisions of this Act for a period of 5 consecutive years shall be considered to be a "Prior continuous compliance taxpayer". In calculating the consecutive period of time described herein for qualification as a "prior continuous compliance taxpayer", a consecutive period of time of qualifying compliance immediately prior to the effective date of this amendatory Act of 1987 shall be credited to any licensee who became licensed on or before the effective date of this amendatory Act of 1987.

"Department" means the Department of Revenue.

"Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person.

"Original Package" means the individual packet, box or other container whatsoever used to contain and to convey cigarettes to the consumer.

"Distributor" means any and each of the following:

(1) Any person engaged in the business of selling cigarettes in this State who brings or causes to be brought into this State from without this State any original packages of cigarettes, on which original packages there is no authorized evidence underneath a sealed transparent wrapper showing that the tax liability imposed by this Act has been paid or assumed by the out-of-State seller of such cigarettes, for sale or other disposition in the course of such business.

(2) Any person who makes, manufactures or fabricates cigarettes in this State for sale in this State, except a person who makes, manufactures or fabricates cigarettes as a part of a correctional industries program for sale to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility.

(3) Any person who makes, manufactures or fabricates cigarettes outside this State, which cigarettes are placed in original packages contained in sealed transparent wrappers, for delivery or shipment into this State, and who elects to qualify and is accepted by the Department as a distributor under Section 4b of this Act.

"Place of business" shall mean and include any place where cigarettes are sold or where cigarettes are manufactured, stored or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

"Manufacturer representative" means a director, officer, or employee of a manufacturer who has obtained authority from the Department under Section 4f to maintain representatives in Illinois that provide or sell original packages of cigarettes made, manufactured, or fabricated by the manufacturer to retailers in compliance with Section 4f of this Act to promote cigarettes made, manufactured, or fabricated by the manufacturer.

"Business" means any trade, occupation, activity or enterprise engaged in for the purpose of selling cigarettes in this State.

"Retailer" means any person who engages in the making of transfers of the ownership of, or title to, cigarettes to a purchaser for use or consumption and not for resale in any form, for a valuable consideration. "Retailer" does not include a person:

(1) who transfers to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility ownership of cigarettes made, manufactured, or fabricated as part of a correctional industries program; or

(2) who transfers cigarettes to a not-for-profit research institution that conducts tests concerning the health effects of tobacco products and who does not offer the cigarettes for resale.

"Retailer" shall be construed to include any person who engages in the making of transfers of the ownership of, or title to, cigarettes to a purchaser, for use or consumption by any other person to whom such purchaser may transfer the cigarettes without a valuable consideration, except a person who transfers to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility ownership of cigarettes made, manufactured or fabricated as part of a correctional industries program.

"Secondary distributor" means any person engaged in the business of selling cigarettes who purchases stamped original packages of cigarettes from a licensed distributor under this Act or the Cigarette Use Tax Act, sells 75% or more of those cigarettes to retailers for resale, and maintains an established business where a substantial stock of cigarettes is available to retailers for resale.

"Stamp" or "stamps" mean the indicia required to be affixed on a pack of cigarettes that evidence payment of the tax on cigarettes under Section 2 of this Act.

"Related party" means any person that is associated with any other person because he or she:

(a) is an officer or director of a business; or

(b) is legally recognized as a partner in business.

(Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11; 97-688, eff. 6-14-12.)

(35 ILCS 130/2) (from Ch. 120, par. 453.2)

Sec. 2. Tax imposed; rate; collection, payment, and distribution; discount.

(a) A tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at the rate of 5 1/2 mills per cigarette sold, or otherwise disposed of in the course of such business in this State. In addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at a rate of 1/2 mill per cigarette sold or otherwise disposed of in the course of such business in this State on and after January 1, 1947, and shall be paid into the Metropolitan Fair and Exposition Authority Reconstruction Fund or as otherwise provided in Section 29. On and after December 1, 1985, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes in this State at a rate of 4 mills per cigarette sold or otherwise disposed of in the course of such business in this State. Of the additional tax imposed by this amendatory Act of 1985, $9,000,000 of the moneys received by the Department of Revenue pursuant to this Act shall be paid each month into the Common School Fund. On and after the effective date of this amendatory Act of 1989, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 5 mills per cigarette sold or otherwise disposed of in the course of such business in this State. On and after the effective date of this amendatory Act of 1993, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business in this State. On and after December 15, 1997, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 7 mills per cigarette sold or otherwise disposed of in the course of such business of this State. All of the moneys received by the Department of Revenue pursuant to this Act and the Cigarette Use Tax Act from the additional taxes imposed by this amendatory Act of 1997, shall be paid each month into the Common School Fund. On and after July 1, 2002, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 20.0 mills per cigarette sold or otherwise disposed of in the course of such business in this State. Beginning on June 24, 2012, in addition to any other tax imposed by this Act, a tax is imposed upon any person engaged in business as a retailer of cigarettes at the rate of 50 mills per cigarette sold or otherwise disposed of in the course of such business in this State. All moneys received by the Department of Revenue under this Act and the Cigarette Use Tax Act from the additional taxes imposed by this amendatory Act of the 97th General Assembly shall be paid each month into the Healthcare Provider Relief Fund. The payment of such taxes shall be evidenced by a stamp affixed to each original package of cigarettes, or an authorized substitute for such stamp imprinted on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, as hereinafter provided. However, such taxes are not imposed upon any activity in such business in interstate commerce or otherwise, which activity may not under the Constitution and statutes of the United States be made the subject of taxation by this State.

Beginning on the effective date of this amendatory Act of the 92nd General Assembly and through

June 30, 2006, all of the moneys received by the Department of Revenue pursuant to this Act and the Cigarette Use Tax Act, other than the moneys that are dedicated to the Common School Fund, shall be distributed each month as follows: first, there shall be paid into the General Revenue Fund an amount which, when added to the amount paid into the Common School Fund for that month, equals $33,300,000, except that in the month of August of 2004, this amount shall equal $83,300,000; then, from the moneys remaining, if any amounts required to be paid into the General Revenue Fund in previous months remain unpaid, those amounts shall be paid into the General Revenue Fund; then, beginning on April 1, 2003, from the moneys remaining, $5,000,000 per month shall be paid into the School Infrastructure Fund; then, if any amounts required to be paid into the School Infrastructure Fund in previous months remain unpaid, those amounts shall be paid into the School Infrastructure Fund; then the moneys remaining, if any, shall be paid into the Long-Term Care Provider Fund. To the extent that more than $25,000,000 has been paid into the General Revenue Fund and Common School Fund per month for the period of July 1, 1993 through the effective date of this amendatory Act of 1994 from combined receipts of the Cigarette Tax Act and the Cigarette Use Tax Act, notwithstanding the distribution provided in this Section, the Department of Revenue is hereby directed to adjust the distribution provided in this Section to increase the next monthly payments to the Long Term Care Provider Fund by the amount paid to the General Revenue Fund and Common School Fund in excess of $25,000,000 per month and to decrease the next monthly payments to the General Revenue Fund and Common School Fund by that same excess amount.

Beginning on July 1, 2006, all of the moneys received by the Department of Revenue pursuant to this Act and the Cigarette Use Tax Act, other than the moneys that are dedicated to the Common School Fund and, beginning on the effective date of this amendatory Act of the 97th General Assembly, other than the moneys from the additional taxes imposed by this amendatory Act of the 97th General Assembly that must be paid each month into the Healthcare Provider Relief Fund, shall be distributed each month as follows: first, there shall be paid into the General Revenue Fund an amount that, when added to the amount paid into the Common School Fund for that month, equals $29,200,000; then, from the moneys remaining, if any amounts required to be paid into the General Revenue Fund in previous months remain unpaid, those amounts shall be paid into the General Revenue Fund; then from the moneys remaining, $5,000,000 per month shall be paid into the School Infrastructure Fund; then, if any amounts required to be paid into the School Infrastructure Fund in previous months remain unpaid, those amounts shall be paid into the School Infrastructure Fund; then the moneys remaining, if any, shall be paid into the Long-Term Care Provider Fund.

Moneys collected from the tax imposed on little cigars under Section 10-10 of the Tobacco Products Tax Act of 1995 shall be included with the moneys collected under the Cigarette Tax Act and the Cigarette Use Tax Act when making distributions to the Common School Fund, the Healthcare Provider Relief Fund, the General Revenue Fund, the School Infrastructure Fund, and the Long-Term Care Provider Fund under this Section.

When any tax imposed herein terminates or has terminated, distributors who have bought stamps while such tax was in effect and who therefore paid such tax, but who can show, to the Department's satisfaction, that they sold the cigarettes to which they affixed such stamps after such tax had terminated and did not recover the tax or its equivalent from purchasers, shall be allowed by the Department to take credit for such absorbed tax against subsequent tax stamp purchases from the Department by such distributor.

The impact of the tax levied by this Act is imposed upon the retailer and shall be prepaid or pre-collected by the distributor for the purpose of convenience and facility only, and the amount of the tax shall be added to the price of the cigarettes sold by such distributor. Collection of the tax shall be evidenced by a stamp or stamps affixed to each original package of cigarettes, as hereinafter provided.

Each distributor shall collect the tax from the retailer at or before the time of the sale, shall affix the stamps as hereinafter required, and shall remit the tax collected from retailers to the Department, as hereinafter provided. Any distributor who fails to properly collect and pay the tax imposed by this Act shall be liable for the tax. Any distributor having cigarettes to which stamps have been affixed in his possession for sale on the effective date of this amendatory Act of 1989 shall not be required to pay the additional tax imposed by this amendatory Act of 1989 on such stamped cigarettes. Any distributor having cigarettes to which stamps have been affixed in his or her possession for sale at 12:01 a.m. on the effective date of this amendatory Act of 1993, is required to pay the additional tax imposed by this amendatory Act of 1993 on such stamped cigarettes. This payment, less the discount provided in subsection (b), shall be due when the distributor first makes a purchase of cigarette tax stamps after the effective date of this amendatory Act of 1993, or on the first due date of a return under this Act after the effective date of this amendatory Act of 1993, whichever occurs first. Any distributor having cigarettes

to which stamps have been affixed in his possession for sale on December 15, 1997 shall not be required to pay the additional tax imposed by this amendatory Act of 1997 on such stamped cigarettes.

Any distributor having cigarettes to which stamps have been affixed in his or her possession for sale on July 1, 2002 shall not be required to pay the additional tax imposed by this amendatory Act of the 92nd General Assembly on those stamped cigarettes.

Any retailer having cigarettes in his or her possession on June 24, 2012 to which tax stamps have been affixed is not required to pay the additional tax that begins on June 24, 2012 imposed by this amendatory Act of the 97th General Assembly on those stamped cigarettes. Any distributor having cigarettes in his or her possession on June 24, 2012 to which tax stamps have been affixed, and any distributor having stamps in his or her possession on June 24, 2012 that have not been affixed to packages of cigarettes before June 24, 2012, is required to pay the additional tax that begins on June 24, 2012 imposed by this amendatory Act of the 97th General Assembly to the extent the calendar year 2012 average monthly volume of cigarette stamps in the distributor's possession exceeds the average monthly volume of cigarette stamps purchased by the distributor in calendar year 2011. This payment, less the discount provided in subsection (b), is due when the distributor first makes a purchase of cigarette stamps on or after June 24, 2012 or on the first due date of a return under this Act occurring on or after June 24, 2012, whichever occurs first. Those distributors may elect to pay the additional tax on packages of cigarettes to which stamps have been affixed and on any stamps in the distributor's possession that have not been affixed to packages of cigarettes over a period not to exceed 12 months from the due date of the additional tax by notifying the Department in writing. The first payment for distributors making such election is due when the distributor first makes a purchase of cigarette tax stamps on or after June 24, 2012 or on the first due date of a return under this Act occurring on or after June 24, 2012, whichever occurs first. Distributors making such an election are not entitled to take the discount provided in subsection (b) on such payments.

Distributors making sales of cigarettes to secondary distributors shall add the amount of the tax to the price of the cigarettes sold by the distributors. Secondary distributors making sales of cigarettes to retailers shall include the amount of the tax in the price of the cigarettes sold to retailers. The amount of tax shall not be less than the amount of taxes imposed by the State and all local jurisdictions. The amount of local taxes shall be calculated based on the location of the retailer's place of business shown on the retailer's certificate of registration or sub-registration issued to the retailer pursuant to Section 2a of the Retailers' Occupation Tax Act. The original packages of cigarettes sold to the retailer shall bear all the required stamps, or other indicia, for the taxes included in the price of cigarettes.

The amount of the Cigarette Tax imposed by this Act shall be separately stated, apart from the price of the goods, by distributors, manufacturer representatives, secondary distributors, and retailers, in all bills and sales invoices.

(b) The distributor shall be required to collect the taxes provided under paragraph (a) hereof, and, to cover the costs of such collection, shall be allowed a discount during any year commencing July 1st and ending the following June 30th in accordance with the schedule set out hereinbelow, which discount shall be allowed at the time of purchase of the stamps when purchase is required by this Act, or at the time when the tax is remitted to the Department without the purchase of stamps from the Department when that method of paying the tax is required or authorized by this Act. Prior to December 1, 1985, a discount equal to 1 2/3% of the amount of the tax up to and including the first $700,000 paid hereunder by such distributor to the Department during any such year; 1 1/3% of the next $700,000 of tax or any part thereof, paid hereunder by such distributor to the Department during any such year; 1% of the next $700,000 of tax, or any part thereof, paid hereunder by such distributor to the Department during any such year, and 2/3 of 1% of the amount of any additional tax paid hereunder by such distributor to the Department during any such year shall apply. On and after December 1, 1985, a discount equal to 1.75% of the amount of the tax payable under this Act up to and including the first $3,000,000 paid hereunder by such distributor to the Department during any such year and 1.5% of the amount of any additional tax paid hereunder by such distributor to the Department during any such year shall apply.

Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same interests shall be treated as a single distributor for the purpose of computing the discount.

(c) The taxes herein imposed are in addition to all other occupation or privilege taxes imposed by the State of Illinois, or by any political subdivision thereof, or by any municipal corporation.
(Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11; 97-688, eff. 6-14-12.)

Section 10. The Cigarette Use Tax Act is amended by changing Section 1 as follows:
(35 ILCS 135/1) (from Ch. 120, par. 453.31)

Sec. 1. For the purpose of this Act, unless otherwise required by the context:

"Use" means the exercise by any person of any right or power over cigarettes incident to the ownership or possession thereof, other than the making of a sale thereof in the course of engaging in a business of selling cigarettes and shall include the keeping or retention of cigarettes for use, except that "use" does not include the use of cigarettes by a not-for-profit research institution conducting tests concerning the health effects of tobacco products, provided the cigarettes are not offered for resale.

"Brand Style" means a variety of cigarettes distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the cigarette, filtration on the cigarette or packaging.

Until July 1, 2012, and beginning July 1, 2013, "cigarette" means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Cigarette", beginning on and after July 1, 2012, and through June 30, 2013, means any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, and the wrapper or cover of which is made of paper.

"Cigarette", beginning on and after July 1, 2012, and through June 30, 2013, also shall mean: Any roll for smoking made wholly or in part of tobacco labeled as anything other than a cigarette or not bearing a label, if it meets two or more of the following criteria:

(a) the product is sold in packs similar to cigarettes;

(b) the product is available for sale in cartons of ten packs;

(c) the product is sold in soft packs, hard packs, flip-top boxes, clam shells, or other cigarette-type boxes;

(d) the product is of a length and diameter similar to commercially manufactured cigarettes;

(e) the product has a cellulose acetate or other integrated filter;

(f) the product is marketed or advertised to consumers as a cigarette or cigarette substitute; or

(g) other evidence that the product fits within the definition of cigarette.

"Contraband cigarettes" means:

(a) cigarettes that do not bear a required tax stamp under this Act;

(b) cigarettes for which any required federal taxes have not been paid;

(c) cigarettes that bear a counterfeit tax stamp;

(d) cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than (i) the owner of the trademark rights in the cigarette brand or (ii) a person that is directly or indirectly authorized by such owner;

(e) cigarettes imported into the United States, or otherwise distributed, in violation of the federal Imported Cigarette Compliance Act of 2000 (Title IV of Public Law 106-476);

(f) cigarettes that have false manufacturing labels;

(g) cigarettes identified in Section 3-10(a)(1) of this Act;

(h) cigarettes that are improperly tax stamped, including cigarettes that bear a tax stamp of another state or taxing jurisdiction; or

(i) cigarettes made or fabricated by a person holding a cigarette machine operator license under Section 1-20 of the Cigarette Machine Operators' Occupation Tax Act in the possession of manufacturers, distributors, secondary distributors, manufacturer representatives or other retailers for the purpose of resale, regardless of whether the tax has been paid on such cigarettes.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, however formed, limited liability company, or a receiver, executor, administrator, trustee, guardian or other representative appointed by order of any court.

"Department" means the Department of Revenue.

"Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person.

"Original Package" means the individual packet, box or other container whatsoever used to contain and to convey cigarettes to the consumer.

"Distributor" means any and each of the following:

a. Any person engaged in the business of selling cigarettes in this State who brings or causes to be brought into this State from without this State any original packages of cigarettes, on which original packages there is no authorized evidence underneath a sealed transparent wrapper showing that the tax liability imposed by this Act has been paid or assumed by the out-of-State seller

of such cigarettes, for sale in the course of such business.

b. Any person who makes, manufactures or fabricates cigarettes in this State for sale, except a person who makes, manufactures or fabricates cigarettes for sale to residents incarcerated in penal institutions or resident patients or a State-operated mental health facility.

c. Any person who makes, manufactures or fabricates cigarettes outside this State, which cigarettes are placed in original packages contained in sealed transparent wrappers, for delivery or shipment into this State, and who elects to qualify and is accepted by the Department as a distributor under Section 7 of this Act.

"Distributor" does not include any person who transfers cigarettes to a not-for-profit research institution that conducts tests concerning the health effects of tobacco products and who does not offer the cigarettes for resale.

"Distributor maintaining a place of business in this State", or any like term, means any distributor having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent operating within this State under the authority of the distributor or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such distributor or subsidiary is licensed to transact business within this State.

"Business" means any trade, occupation, activity or enterprise engaged in or conducted in this State for the purpose of selling cigarettes.

"Prior Continuous Compliance Taxpayer" means any person who is licensed under this Act and who, having been a licensee for a continuous period of 5 years, is determined by the Department not to have been either delinquent or deficient in the payment of tax liability during that period or otherwise in violation of this Act. Also, any taxpayer who has, as verified by the Department, continuously complied with the condition of his bond or other security under provisions of this Act of a period of 5 consecutive years shall be considered to be a "prior continuous compliance taxpayer". In calculating the consecutive period of time described herein for qualification as a "prior continuous compliance taxpayer", a consecutive period of time of qualifying compliance immediately prior to the effective date of this amendatory Act of 1987 shall be credited to any licensee who became licensed on or before the effective date of this amendatory Act of 1987.

"Secondary distributor" means any person engaged in the business of selling cigarettes who purchases stamped original packages of cigarettes from a licensed distributor under this Act or the Cigarette Tax Act, sells 75% or more of those cigarettes to retailers for resale, and maintains an established business where a substantial stock of cigarettes is available to retailers for resale.

"Secondary distributor maintaining a place of business in this State", or any like term, means any secondary distributor having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agent operating within this State under the authority of the secondary distributor or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, or whether such secondary distributor or subsidiary is licensed to transact business within this State.

"Stamp" or "stamps" mean the indicia required to be affixed on a pack of cigarettes that evidence payment of the tax on cigarettes under Section 2 of this Act.

"Related party" means any person that is associated with any other person because he or she:

(a) is an officer or director of a business; or

(b) is legally recognized as a partner in business.

(Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10; 97-688, eff. 6-14-12.)

Section 15. The Tobacco Products Tax Act of 1995 is amended by changing Sections 10-5, 10-10, 10-15, 10-30, and 10-45 and by adding Sections 10-26, 10-27, 10-28, 10-29, and 10-36 as follows:

(35 ILCS 143/10-5)

Sec. 10-5. Definitions. For purposes of this Act:

"Business" means any trade, occupation, activity, or enterprise engaged in, at any location whatsoever, for the purpose of selling tobacco products.

"Cigarette" has the meaning ascribed to the term in Section 1 of the Cigarette Tax Act.

"Contraband little cigar" means:

(1) packages of little cigars containing 20 or 25 little cigars that do not bear a required tax stamp under this Act;

(2) packages of little cigars containing 20 or 25 little cigars that bear a fraudulent, imitation, or counterfeit tax stamp;

(3) packages of little cigars containing 20 or 25 little cigars that are improperly tax stamped,

including packages of little cigars that bear only a tax stamp of another state or taxing jurisdiction; or

(4) packages of little cigars containing other than 20 or 25 little cigars in the possession of a distributor, retailer or wholesaler, unless the distributor, retailer, or wholesaler possesses, or produces within the time frame provided in Section 10-27 or 10-28 of this Act, an invoice from a stamping distributor, distributor, or wholesaler showing that the tax on the packages has been or will be paid.

"Correctional Industries program" means a program run by a State penal institution in which residents of the penal institution produce tobacco products for sale to persons incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Department" means the Illinois Department of Revenue.

"Distributor" means any of the following:

(1) Any manufacturer or wholesaler in this State engaged in the business of selling tobacco products who sells, exchanges, or distributes tobacco products to retailers or consumers in this State.

(2) Any manufacturer or wholesaler engaged in the business of selling tobacco products from without this State who sells, exchanges, distributes, ships, or transports tobacco products to retailers or consumers located in this State, so long as that manufacturer or wholesaler has or maintains within this State, directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating within this State under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.

(3) Any retailer who receives tobacco products on which the tax has not been or will not be paid by another distributor.

"Distributor" does not include any person, wherever resident or located, who makes, manufactures, or fabricates tobacco products as part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Little cigar" means and includes any roll, made wholly or in part of tobacco, where such roll has an integrated cellulose acetate filter and weighs less than 4 pounds per thousand and the wrapper or cover of which is made in whole or in part of tobacco.

"Manufacturer" means any person, wherever resident or located, who manufactures and sells tobacco products, except a person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to persons incarcerated in penal institutions or resident patients of a State operated mental health facility.

Beginning on January 1, 2013, "moist snuff" means any finely cut, ground, or powdered tobacco that is not intended to be smoked, but shall not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, limited liability company, or public or private corporation, however formed, or a receiver, executor, administrator, trustee, conservator, or other representative appointed by order of any court.

"Place of business" means and includes any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine.

"Retailer" means any person in this State engaged in the business of selling tobacco products to consumers in this State, regardless of quantity or number of sales.

"Sale" means any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration and includes all sales made by persons.

"Stamp" or "stamps" mean the indicia required to be affixed on a package of little cigars that evidence payment of the tax on packages of little cigars containing 20 or 25 little cigars under Section 10-10 of this Act. These stamps shall be the same stamps used for cigarettes under the Cigarette Tax Act.

"Stamping distributor" means a distributor licensed under this Act and also licensed as a distributor under the Cigarette Tax Act or Cigarette Use Tax Act.

"Tobacco products" means any cigars, including little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff (including moist snuff) or snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette distributors and manufacturers defined in the Cigarette Tax Act and persons who make, manufacture, or fabricate cigarettes as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Wholesale price" means the established list price for which a manufacturer sells tobacco products to a distributor, before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of such an established list price, the manufacturer's invoice price at which the manufacturer sells the tobacco product to unaffiliated distributors, before any discounts, trade allowances, rebates, or other reductions, shall be presumed to be the wholesale price.

"Wholesaler" means any person, wherever resident or located, engaged in the business of selling tobacco products to others for the purpose of resale. "Wholesaler", when used in this Act, does not include a person licensed as a distributor under Section 10-20 of this Act unless expressly stated in this Act.

(Source: P.A. 97-688, eff. 6-14-12.)

(35 ILCS 143/10-10)

Sec. 10-10. Tax imposed.

(a) Except as otherwise provided in this Section with respect to little cigars, on ~~On~~ the first day of the third month after the month in which this Act becomes law, a tax is imposed on any person engaged in business as a distributor of tobacco products, as defined in Section 10-5, at the rate of (i) 18% of the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located in this State prior to July 1, 2012 and (ii) 36% of the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located in this State beginning on July 1, 2012; except that, beginning on January 1, 2013, the tax on moist snuff shall be imposed at a rate of $0.30 per ounce, and a proportionate tax at the like rate on all fractional parts of an ounce, sold or otherwise disposed of to retailers or consumers located in this State. The tax is in addition to all other occupation or privilege taxes imposed by the State of Illinois, by any political subdivision thereof, or by any municipal corporation. However, the tax is not imposed upon any activity in that business in interstate commerce or otherwise, to the extent to which that activity may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this State , and except that, beginning July 1, 2013, the tax on little cigars shall be imposed at the same rate, and the proceeds shall be distributed in the same manner, as the tax imposed on cigarettes under the Cigarette Tax Act. The tax is also not imposed on sales made to the United States or any entity thereof.

(b) Notwithstanding subsection (a) of this Section, stamping distributors of packages of little cigars containing 20 or 25 little cigars sold or otherwise disposed of in this State shall remit the tax by purchasing tax stamps from the Department and affixing them to packages of little cigars in the same manner as stamps are purchased and affixed to cigarettes under the Cigarette Tax Act, unless the stamping distributor sells or otherwise disposes of those packages of little cigars to another stamping distributor. Only persons meeting the definition of "stamping distributor" contained in Section 10-5 of this Act may affix stamps to packages of little cigars containing 20 or 25 little cigars. Stamping distributors may not sell or dispose of little cigars at retail to consumers or users at locations where stamping distributors affix stamps to packages of little cigars containing 20 or 25 little cigars.

(c) The impact of the tax levied by this Act is imposed upon distributors engaged in the business of selling tobacco products to retailers or consumers in this State. Whenever a stamping distributor brings or causes to be brought into this State from without this State, or purchases from without or within this State, any packages of little cigars containing 20 or 25 little cigars upon which there are no tax stamps affixed as required by this Act, for purposes of resale or disposal in this State to a person not a stamping distributor, then such stamping distributor shall pay the tax to the Department and add the amount of the tax to the price of such packages sold by such stamping distributor. Payment of the tax shall be evidenced by a stamp or stamps affixed to each package of little cigars containing 20 or 25 little cigars.

Stamping distributors paying the tax to the Department on packages of little cigars containing 20 or 25 little cigars sold to other distributors, wholesalers or retailers shall add the amount of the tax to the price of the packages of little cigars containing 20 or 25 little cigars sold by such stamping distributors.

(d) Beginning on January 1, 2013, the tax rate imposed per ounce of moist snuff may not exceed 15% of the tax imposed upon a package of 20 cigarettes pursuant to the Cigarette Tax Act.

(e) All moneys received by the Department under this Act from sales occurring prior to July 1, 2012 shall be paid into the Long-Term Care Provider Fund of the State Treasury. Of the moneys received by the Department from sales occurring on or after July 1, 2012, except for moneys received from the tax imposed on the sale of little cigars, 50% shall be paid into the Long-Term Care Provider Fund and 50% shall be paid into the Healthcare Provider Relief Fund. Beginning July 1, 2013, all moneys received by the Department under this Act from the tax imposed on little cigars shall be distributed as provided in subsection (a) of Section 2 of the Cigarette Tax Act.

(Source: P.A. 97-688, eff. 6-14-12.)

(35 ILCS 143/10-15)

Sec. 10-15. Exempt sales. Purchases of tobacco products other than little cigars by wholesalers who will not sell the product at retail are exempt from the tax imposed by this Act. Purchases of tobacco products other than little cigars by wholesalers and retailers for delivery of the product outside Illinois are exempt from the tax imposed by this Act. The wholesaler or retailer making the exempt sale of tobacco products other than little cigars shall document this exemption by obtaining a certification from the purchaser containing the seller's name and address, the purchaser's name and address, the date of purchase, the purchaser's signature, the purchaser's tobacco products tax license number, if applicable, and a statement that the purchaser is purchasing for resale other than for sale to consumers or is purchasing for delivery outside of Illinois.

(Source: P.A. 89-21, eff. 6-6-95.)

(35 ILCS 143/10-26 new)

Sec. 10-26. Manufacturers; sale of little cigars. Manufacturers that are not stamping distributors may not sell little cigars to consumers in this State or to distributors, wholesalers or retailers, unless the distributors, wholesalers or retailers are stamping distributors. Manufacturers that are not stamping distributors may sell little cigars only to stamping distributors. Manufacturers that are not stamping distributors are prohibited from delivering little cigars to locations where sales of little cigars to consumers or users take place.

(35 ILCS 143/10-27 new)

Sec. 10-27. Retailers; purchase and possession of little cigars.

(a) Retailers are prohibited from possessing unstamped packages of little cigars containing 20 or 25 little cigars at locations where retailers make sales of little cigars to consumers or users. Retailers that are also stamping distributors are prohibited from possessing unstamped little cigars at locations where those retailers make sales of packages of little cigars containing 20 or 25 little cigars to consumers or users. Retailers that are not stamping distributors shall purchase stamped packages of little cigars containing 20 or 25 little cigars for resale only from stamping distributors, distributors, or wholesalers. Retailers who are not stamping distributors may not purchase or possess unstamped packages of little cigars containing 20 or 25 little cigars. A retailer must be a stamping distributor to make tax exempt sales of packages of little cigars containing 20 or 25 little cigars for use outside of this State. A retailer who is a stamping distributor making sales of stamped packages of little cigars for use outside of this State may file a claim for credit for such sales with the Department on forms and in the manner provided by the Department.

(b) For purchases of packages of little cigars containing other than 20 or 25 little cigars, retailers who are not stamping distributors may not purchase or possess such packages of little cigars, unless the retailer receives an invoice from a stamping distributor, distributor, or wholesaler stating the tax on the packages has been or will be paid. Retailers shall retain such invoices for inspection by the Department. If a retailer maintaining multiple retail locations notifies the Department in writing that it maintains its invoices at a centralized business location, the Department shall have the authority to inspect invoices at the centralized business location at all times during the usual business hours of the day and the Department may grant the retailer 3 business days to produce the invoices at the retail location at which the request was made. A retailer must be a stamping distributor to make tax exempt sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State. A retailer who is a stamping distributor making sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State on which the tax has been or will be paid by another stamping distributor or was paid by the retailer may file a claim for credit for such sales with the Department on forms and in the manner provided by the Department.

(c) Notwithstanding anything to the contrary in this Act, a retailer unknowingly possessing contraband little cigars obtained from a stamping distributor, distributor, or wholesaler or other person engaged in the business of selling tobacco products or knowingly possessing contraband little cigars obtained from a stamping distributor is not subject to penalties for such purchase or possession if the retailer, within 48 hours after discovering that the little cigars are contraband little cigars, excluding Saturdays, Sundays, and holidays: (i) notifies the Department and the person from whom the little cigars were obtained, orally and in writing, that he or she possesses contraband little cigars; (ii) places the contraband little cigars in one or more containers and seals those containers; and (iii) places on the containers the following or similar language: "Contraband Little Cigars. Not For Sale." All contraband little cigars in the possession of a retailer remain subject to forfeiture under the provisions of this Act.

(35 ILCS 143/10-28 new)

Sec. 10-28. Wholesalers.

(a) Wholesalers are prohibited from possessing unstamped packages of little cigars containing 20 or 25 little cigars unless the wholesalers are stamping distributors. A wholesaler must be a stamping distributor to make tax exempt sales of packages of little cigars containing 20 or 25 little cigars for use

outside of this State. A wholesaler who is a stamping distributor making sales of stamped packages of little cigars for use outside of this State may file a claim for credit for such sales with the Department on forms and in the manner provided by the Department.

(b) For purchases of packages of little cigars containing other than 20 or 25 little cigars, wholesalers who are not stamping distributors may not purchase or possess such packages of little cigars, unless the wholesalers receive an invoice from a stamping distributor, distributor, or wholesaler stating the tax on the packages has been or will be paid. Wholesalers shall retain such invoices for inspection by the Department. Every sales invoice for packages of little cigars containing other than 20 or 25 little cigars issued by a wholesaler to a person who is not a stamping distributor shall state that the tax imposed by the Act has been or will be paid. If a wholesaler maintaining multiple wholesale locations notifies the Department in writing that it maintains its invoices at a centralized business location, the Department shall have the authority to inspect invoices at the centralized business location at all times during the usual business hours of the day and the Department may grant the wholesaler 3 business days to produce the invoices at the wholesale location at which the request was made. A wholesaler must be a stamping distributor to make tax exempt sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State. A wholesaler who is a stamping distributor making sales of packages of little cigars containing other than 20 or 25 little cigars for use outside of this State on which the tax has been or will be paid by another stamping distributor or was paid by the wholesaler may file a claim for credit for such sales with the Department on forms and in the manner provided by the Department.

(35 ILCS 143/10-29 new)

Sec. 10-29. Invoices; packages of little cigars.

(a) Every sales invoice for packages of little cigars containing other than 20 or 25 little cigars issued by a stamping distributor to a person who is not a stamping distributor shall contain both the stamping distributor's Tobacco Products License number and Cigarette Tax Distributor's License number or Cigarette Use Tax Distributor's License number and state that the tax imposed by the Act has been or will be paid or that the sale is exempt in whole or in part and the exemption which is claimed.

(b) Any stamping distributor, distributor or wholesaler who knowingly falsely states on the invoice that the tax imposed by this Act has been or will be paid, or any officer or employee of a corporation, member or employee of a partnership, or manager, member or employee of a limited liability company that is a stamping distributor, distributor, or wholesaler, who, as such officer, employee, manager, or member, knowingly causes to be issued an invoice on behalf of such entity, that such person knows falsely states that the tax imposed by the Act has been or will be paid, is guilty of a Class 4 felony.

(c) Whenever any sales invoice issued by a stamping distributor, distributor or wholesaler for the sale of packages of little cigars containing other than 20 or 25 little cigars does not comply with subsection (b) of Section 10-28 or subsection (a) of this Section by indicating that the tax has been or will be paid or that the sale is exempt in whole or in part, a prima facie presumption shall arise that the tax imposed by Section 10-10 of this Act has not been paid on the little cigars listed on the sales invoice. A person who is not a stamping distributor and is unable to rebut this presumption is in violation of this Act and is subject to the penalties provided in this Act.

(35 ILCS 143/10-30)

Sec. 10-30. Returns.

(a) Every distributor shall, on or before the 15th day of each month, file a return with the Department covering the preceding calendar month. The return shall disclose the wholesale price for all tobacco products other than moist snuff and the quantity in ounces of moist snuff sold or otherwise disposed of and other information that the Department may reasonably require. The return shall be filed upon a form prescribed and furnished by the Department.

(b) In addition to the information required under subsection (a), on or before the 15th day of each month, covering the preceding calendar month, each stamping distributor shall, on forms prescribed and furnished by the Department, report the quantity of little cigars sold or otherwise disposed of, including the number of packages of little cigars sold or disposed of during the month containing 20 or 25 little cigars.

(c) At the time when any return of any distributor is due to be filed with the Department, the distributor shall also remit to the Department the tax liability that the distributor has incurred for transactions occurring in the preceding calendar month.

(d) The Department may adopt rules to require the electronic filing of any return or document required to be filed under this Act. Those rules may provide for exceptions from the filing requirement set forth in this paragraph for persons who demonstrate that they do not have access to the Internet and petition the Department to waive the electronic filing requirement.

(Source: P.A. 97-688, eff. 6-14-12.)

(35 ILCS 143/10-36 new)

Sec. 10-36. Recordkeeping by retailers. Every retailer shall keep complete and accurate records of tobacco products held and purchased, and tobacco products sold or otherwise disposed of, and shall preserve and keep all invoices, bills of lading, sales records, and copies of bills of sale. Books, records, papers, and documents that are required by this Act to be kept shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. The books, records, papers, and documents for any period with respect to which the Department is authorized to issue a notice of tax liability shall be preserved until the expiration of that period.

(35 ILCS 143/10-45)

Sec. 10-45. Incorporation by reference. All of the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 11, 11a, and 12 of the Retailers' Occupation Tax Act, and all applicable provisions of the Uniform Penalty and Interest Act that are not inconsistent with this Act, apply to distributors of tobacco products to the same extent as if those provisions were included in this Act. References in the incorporated Sections of the Retailers' Occupation Tax Act to retailers, to sellers, or to persons engaged in the business of selling tangible personal property mean distributors when used in this Act. References in the incorporated Sections to sales of tangible personal property mean sales of tobacco products when used in this Act.

All of the provisions of Sections 7, 8, 8a, 16, 18a, 18b, 18c, 22, 23, 24, 26, 27, and 28a of the Cigarette Tax Act which are not inconsistent with this 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 in the incorporated Sections to sales of cigarettes mean sales of little cigars in packages of 20 or 25 little cigars.

(Source: P.A. 89-21, eff. 6-6-95.)

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 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Harmon, **Senate Bill No. 1042** 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 Mulroe, **Senate Bill No. 1448** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1448

AMENDMENT NO. 1. Amend Senate Bill 1448 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Endow Illinois Tax Credit Act.

Section 5. Definitions. For the purposes of this Act:

"Department" means the Department of Commerce and Economic Opportunity.

"Endowment gift" means an irrevocable contribution, made in cash or stock, to a permanent endowment fund held by a qualified community foundation.

"Permanent endowment fund" means a fund that (i) is held by a qualified community foundation to provide benefit only to charitable causes in the State, (ii) is intended to exist in perpetuity, and (iii) has an annual spend rate based on the foundation spending policy, but not to exceed 7%.

"Qualified community foundation" means a community foundation or similar publicly-supported organization described in Section 170 (b)(1)(A)(vi) of the Internal Revenue Code of 1986 that is organized or operating in this State and that substantially complies with the national standards for U.S.

community foundations that are established by the National Council on Foundations, as determined by the Department.

Section 10. Tax credit awards.

(a) The Department shall award an income tax credit to taxpayers who make an endowment gift to a permanent endowment fund. The amount of the credit that may be awarded to a taxpayer by the Department under this Act is an amount equal to 50% of the endowment gift. Except in the case of an individual, a taxpayer is not eligible to receive a credit under this Act for the taxable year if the taxpayer's average gross business receipts for the 3 taxable years prior to the taxable year for which the taxpayer applies for a credit under this Act exceed $10,000,000 for taxable years ending in 2013, $25,000,000 for taxable years ending in 2014, or $50,000,000 for taxable years ending in 2015 or thereafter.

(b) The aggregate amount of all credits that the Department may award under this Act in any calendar year may not exceed $10,000,000 in 2013, $25,000,000 in 2014, or $50,000,000 in 2015 and each calendar year thereafter. The aggregate amount of all credits that the Department may authorize to any single taxpayer in a calendar year may not exceed $500,000 in 2013, $1,250,000 in 2014, or $2,500,000 in 2015 and each calendar year thereafter. The aggregate amount of all credits that the Department may authorize based on endowment gifts to any specific community foundation may not exceed $2,500,000 in 2013, $6,250,000 in 2014, or $12,500,000 in 2015 and each calendar year thereafter.

(c) If the Department receives applications for tax credit in excess of the aggregate limitation under subsection (b), then the applications must be prioritized by the date that the Department received them, and the Department must establish a wait list for the next year's allocation of tax credits and fund applications in the order listed on that wait list.

Section 15. Applications for tax credits.

(a) The Department shall develop and make available a standardized application pertaining to the allocation of tax credits under this Act. A separate application for tax credit must be made for each endowment gift, and shall be submitted jointly by the taxpayer and the qualified community foundation to which the endowment gift is to be made. The application shall include such information as the Department deems necessary to determine that the taxpayer is eligible to receive a credit under this Act, and such other information as the Department deems necessary to the administration of this Act. If an application for tax credit is approved, the Department shall issue the taxpayer a certificate of verification that states the amount of the tax credit to which the taxpayer is entitled and the taxable year to which such credit applies. A taxpayer claiming a credit under this Act shall submit to the Department of Revenue a copy of the certificate of verification under this Act.

(b) Of the annual amount available for tax credits under subsection (b) of Section 10 of this Act, 10% must be reserved for those endowment gifts of $30,000 or less. If the entire 10% that is reserved for permanent endowment gifts totalling $30,000 or less is not allocated, then the remaining amount is available in the following years for endowment gifts of $30,000 or less.

(c) The Department must accept applications and authorize credits in an ongoing basis. The Department must make public, by June 1 and by December 1 of each year, the total number of requests for tax credits and the total amount of requested tax credits that have been submitted and awarded.

(d) Notwithstanding any other law to the contrary, the Director of Revenue may make available to the Department information received by the Director from tax returns filed under the Illinois Income Tax Act, for the limited purpose of determining the taxpayer's eligibility for credit under this Act.

Section 20. Annual report. By January 31 of each year, the Department must submit an annual report to the Governor and the General Assembly concerning the activities conducted under this Act during the previous calendar year. The report must include a detailed listing of tax credits authorized under this Act by the Department.

Section 90. The Illinois Income Tax Act is amended by adding Section 224 as follows:

(35 ILCS 5/224 new)

Sec. 224. The Endow Illinois Tax Credit.

(a) For taxable years ending on or after December 31, 2013, each taxpayer for whom a tax credit has been awarded by the Department of Commerce and Economic Opportunity under the Endow Illinois Tax Credit Act is entitled to a credit against the tax imposed under subsections (a) and (b) of Section 201 in an amount equal to the amount awarded under that Act.

(b) If the taxpayer is a partnership or a Subchapter S corporation, the credit is allowed to the partners

or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The credit may not be carried back and may not reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first.

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

Senate Floor Amendment No. 2 was postponed in the Committee on Revenue.

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 Morrison, **Senate Bill No. 1479** 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 Transportation, adopted and ordered printed:

AMENDMENT NO. 2 TO SENATE BILL 1479

AMENDMENT NO. 2. Amend Senate Bill 1479 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 6-206 as follows:
(625 ILCS 5/6-206)

Sec. 6-206. Discretionary authority to suspend or revoke license or permit; Right to a hearing.

(a) The Secretary of State is authorized to suspend or revoke the driving privileges of any person without preliminary hearing upon a showing of the person's records or other sufficient evidence that the person:

1. Has committed an offense for which mandatory revocation of a driver's license or permit is required upon conviction;

2. Has been convicted of not less than 3 offenses against traffic regulations governing the movement of vehicles committed within any 12 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

3. Has been repeatedly involved as a driver in motor vehicle collisions or has been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree that indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;

4. Has by the unlawful operation of a motor vehicle caused or contributed to an accident resulting in injury requiring immediate professional treatment in a medical facility or doctor's office to any person, except that any suspension or revocation imposed by the Secretary of State under the provisions of this subsection shall start no later than 6 months after being convicted of violating a law or ordinance regulating the movement of traffic, which violation is related to the accident, or shall start not more than one year after the date of the accident, whichever date occurs later;

5. Has permitted an unlawful or fraudulent use of a driver's license, identification card, or permit;

6. Has been lawfully convicted of an offense or offenses in another state, including the authorization contained in Section 6-203.1, which if committed within this State would be grounds for suspension or revocation;

7. Has refused or failed to submit to an examination provided for by Section 6-207 or has failed to pass the examination;

8. Is ineligible for a driver's license or permit under the provisions of Section 6-103;

9. Has made a false statement or knowingly concealed a material fact or has used false information or identification in any application for a license, identification card, or permit;

10. Has possessed, displayed, or attempted to fraudulently use any license, identification card, or permit not issued to the person;

11. Has operated a motor vehicle upon a highway of this State when the person's driving privilege or privilege to obtain a driver's license or permit was revoked or suspended unless the

operation was authorized by a monitoring device driving permit, judicial driving permit issued prior to January 1, 2009, probationary license to drive, or a restricted driving permit issued under this Code;

12. Has submitted to any portion of the application process for another person or has obtained the services of another person to submit to any portion of the application process for the purpose of obtaining a license, identification card, or permit for some other person;

13. Has operated a motor vehicle upon a highway of this State when the person's driver's license or permit was invalid under the provisions of Sections 6-107.1 and 6-110;

14. Has committed a violation of Section 6-301, 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B of the Illinois Identification Card Act;

15. Has been convicted of violating Section 21-2 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to criminal trespass to vehicles in which case, the suspension shall be for one year;

16. Has been convicted of violating Section 11-204 of this Code relating to fleeing from a peace officer;

17. Has refused to submit to a test, or tests, as required under Section 11-501.1 of this Code and the person has not sought a hearing as provided for in Section 11-501.1;

18. Has, since issuance of a driver's license or permit, been adjudged to be afflicted with or suffering from any mental disability or disease;

19. Has committed a violation of paragraph (a) or (b) of Section 6-101 relating to driving without a driver's license;

20. Has been convicted of violating Section 6-104 relating to classification of driver's license;

21. Has been convicted of violating Section 11-402 of this Code relating to leaving the scene of an accident resulting in damage to a vehicle in excess of $1,000, in which case the suspension shall be for one year;

22. Has used a motor vehicle in violating paragraph (3), (4), (7), or (9) of subsection (a) of Section 24-1 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to unlawful use of weapons, in which case the suspension shall be for one year;

23. Has, as a driver, been convicted of committing a violation of paragraph (a) of Section 11-502 of this Code for a second or subsequent time within one year of a similar violation;

24. Has been convicted by a court-martial or punished by non-judicial punishment by military authorities of the United States at a military installation in Illinois of or for a traffic related offense that is the same as or similar to an offense specified under Section 6-205 or 6-206 of this Code;

25. Has permitted any form of identification to be used by another in the application process in order to obtain or attempt to obtain a license, identification card, or permit;

26. Has altered or attempted to alter a license or has possessed an altered license, identification card, or permit;

27. Has violated Section 6-16 of the Liquor Control Act of 1934;

28. Has been convicted for a first time of the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act, in which case the person's driving privileges shall be suspended for one year. Any defendant found guilty of this offense while operating a motor vehicle, shall have an entry made in the court record by the presiding judge that this offense did occur while the defendant was operating a motor vehicle and order the clerk of the court to report the violation to the Secretary of State;

29. Has been convicted of the following offenses that were committed while the person was operating or in actual physical control, as a driver, of a motor vehicle: criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, juvenile pimping, soliciting for a juvenile prostitute, promoting juvenile prostitution as described in subdivision (a)(1), (a)(2), or (a)(3) of Section 11-14.4 of the Criminal Code of 1961 or the Criminal Code of 2012, and the manufacture, sale or delivery of controlled substances or instruments used for illegal drug use or abuse in which case the driver's driving privileges shall be suspended for one year;

30. Has been convicted a second or subsequent time for any combination of the offenses named in paragraph 29 of this subsection, in which case the person's driving privileges shall be suspended for 5 years;

31. Has refused to submit to a test as required by Section 11-501.6 <u>of this Code or Section 5-16c of</u>

the Boat Registration and Safety Act or has submitted to a test resulting in an alcohol concentration of 0.08 or more or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act, a controlled substance as listed in the Illinois Controlled Substances Act, an intoxicating compound as listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, in which case the penalty shall be as prescribed in Section 6-208.1;

32. Has been convicted of Section 24-1.2 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to the aggravated discharge of a firearm if the offender was located in a motor vehicle at the time the firearm was discharged, in which case the suspension shall be for 3 years;

33. Has as a driver, who was less than 21 years of age on the date of the offense, been convicted a first time of a violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance;

34. Has committed a violation of Section 11-1301.5 of this Code or a similar provision of a local ordinance;

35. Has committed a violation of Section 11-1301.6 of this Code or a similar provision of a local ordinance;

36. Is under the age of 21 years at the time of arrest and has been convicted of not less than 2 offenses against traffic regulations governing the movement of vehicles committed within any 24 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

37. Has committed a violation of subsection (c) of Section 11-907 of this Code that resulted in damage to the property of another or the death or injury of another;

38. Has been convicted of a violation of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance;

39. Has committed a second or subsequent violation of Section 11-1201 of this Code;

40. Has committed a violation of subsection (a-1) of Section 11-908 of this Code;

41. Has committed a second or subsequent violation of Section 11-605.1 of this Code, a similar provision of a local ordinance, or a similar violation in any other state within 2 years of the date of the previous violation, in which case the suspension shall be for 90 days;

42. Has committed a violation of subsection (a-1) of Section 11-1301.3 of this Code or a similar provision of a local ordinance;

43. Has received a disposition of court supervision for a violation of subsection (a), (d), or (e) of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance, in which case the suspension shall be for a period of 3 months;

44. Is under the age of 21 years at the time of arrest and has been convicted of an offense against traffic regulations governing the movement of vehicles after having previously had his or her driving privileges suspended or revoked pursuant to subparagraph 36 of this Section;

45. Has, in connection with or during the course of a formal hearing conducted under Section 2-118 of this Code: (i) committed perjury; (ii) submitted fraudulent or falsified documents; (iii) submitted documents that have been materially altered; or (iv) submitted, as his or her own, documents that were in fact prepared or composed for another person; or

46. Has committed a violation of subsection (j) of Section 3-413 of this Code.

For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26, and 27 of this subsection, license means any driver's license, any traffic ticket issued when the person's driver's license is deposited in lieu of bail, a suspension notice issued by the Secretary of State, a duplicate or corrected driver's license, a probationary driver's license or a temporary driver's license.

(b) If any conviction forming the basis of a suspension or revocation authorized under this Section is appealed, the Secretary of State may rescind or withhold the entry of the order of suspension or revocation, as the case may be, provided that a certified copy of a stay order of a court is filed with the Secretary of State. If the conviction is affirmed on appeal, the date of the conviction shall relate back to the time the original judgment of conviction was entered and the 6 month limitation prescribed shall not apply.

(c) 1. Upon suspending or revoking the driver's license or permit of any person as authorized in this Section, the Secretary of State shall immediately notify the person in writing of the revocation or suspension. The notice to be deposited in the United States mail, postage prepaid, to the last known address of the person.

2. If the Secretary of State suspends the driver's license of a person under subsection 2 of paragraph (a) of this Section, a person's privilege to operate a vehicle as an occupation shall not

be suspended, provided an affidavit is properly completed, the appropriate fee received, and a permit issued prior to the effective date of the suspension, unless 5 offenses were committed, at least 2 of which occurred while operating a commercial vehicle in connection with the driver's regular occupation. All other driving privileges shall be suspended by the Secretary of State. Any driver prior to operating a vehicle for occupational purposes only must submit the affidavit on forms to be provided by the Secretary of State setting forth the facts of the person's occupation. The affidavit shall also state the number of offenses committed while operating a vehicle in connection with the driver's regular occupation. The affidavit shall be accompanied by the driver's license. Upon receipt of a properly completed affidavit, the Secretary of State shall issue the driver a permit to operate a vehicle in connection with the driver's regular occupation only. Unless the permit is issued by the Secretary of State prior to the date of suspension, the privilege to drive any motor vehicle shall be suspended as set forth in the notice that was mailed under this Section. If an affidavit is received subsequent to the effective date of this suspension, a permit may be issued for the remainder of the suspension period.

The provisions of this subparagraph shall not apply to any driver required to possess a CDL for the purpose of operating a commercial motor vehicle.

Any person who falsely states any fact in the affidavit required herein shall be guilty of perjury under Section 6-302 and upon conviction thereof shall have all driving privileges revoked without further rights.

3. At the conclusion of a hearing under Section 2-118 of this Code, the Secretary of State shall either rescind or continue an order of revocation or shall substitute an order of suspension; or, good cause appearing therefor, rescind, continue, change, or extend the order of suspension. If the Secretary of State does not rescind the order, the Secretary may upon application, to relieve undue hardship (as defined by the rules of the Secretary of State), issue a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow the petitioner to transport himself or herself, or a family member of the petitioner's household to a medical facility, to receive necessary medical care, to allow the petitioner to transport himself or herself to and from alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or to allow the petitioner to transport himself or herself or a family member of the petitioner's household to classes, as a student, at an accredited educational institution, or to allow the petitioner to transport children, elderly persons, or disabled persons who do not hold driving privileges and are living in the petitioner's household to and from daycare. The petitioner must demonstrate that no alternative means of transportation is reasonably available and that the petitioner will not endanger the public safety or welfare. Those multiple offenders identified in subdivision (b)4 of Section 6-208 of this Code, however, shall not be eligible for the issuance of a restricted driving permit.

(A) If a person's license or permit is revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(B) If a person's license or permit is revoked or suspended 2 or more times within a 10 year period due to any combination of:

(i) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense or Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or

(ii) a statutory summary suspension or revocation under Section 11-501.1; or

(iii) a suspension under Section 6-203.1;

arising out of separate occurrences; that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(C) The person issued a permit conditioned upon the use of an ignition interlock device must pay to the Secretary of State DUI Administration Fund an amount not to exceed $30 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(D) If the restricted driving permit is issued for employment purposes, then the prohibition against operating a motor vehicle that is not equipped with an ignition interlock device

does not apply to the operation of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes.

(E) In each case the Secretary may issue a restricted driving permit for a period deemed appropriate, except that all permits shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance or any similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, where the use of alcohol or other drugs is recited as an element of the offense, or any similar out-of-state offense, or any combination of those offenses, until the expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a designated driver remedial or rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program.

(c-3) In the case of a suspension under paragraph 43 of subsection (a), reports received by the Secretary of State under this Section shall, except during the actual time the suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the driver licensing administrator of any other state, the Secretary of State, or the parent or legal guardian of a driver under the age of 18. However, beginning January 1, 2008, if the person is a CDL holder, the suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon request.

(c-4) In the case of a suspension under paragraph 43 of subsection (a), the Secretary of State shall notify the person by mail that his or her driving privileges and driver's license will be suspended one month after the date of the mailing of the notice.

(c-5) The Secretary of State may, as a condition of the reissuance of a driver's license or permit to an applicant whose driver's license or permit has been suspended before he or she reached the age of 21 years pursuant to any of the provisions of this Section, require the applicant to participate in a driver remedial education course and be retested under Section 6-109 of this Code.

(d) This Section is subject to the provisions of the Drivers License Compact.

(e) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been suspended or revoked under any provisions of this Code.

(f) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended, revoked, cancelled, or disqualified under any provisions of this Code.

(Source: P.A. 96-328, eff. 8-11-09; 96-607, eff. 8-24-09; 96-1180, eff. 1-1-11; 96-1305, eff. 1-1-11; 96-1344, eff. 7-1-11; 96-1551, eff. 7-1-11; 97-229, eff. 7-28-11; 97-333, eff. 8-12-11; 97-743, eff. 1-1-13; 97-838, eff. 1-1-13; 97-844, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)

Section 10. The Boat Registration and Safety Act is amended by adding Section 5-16c as follows:

(625 ILCS 45/5-16c new)

Sec. 5-16c. Operator involvement in personal injury or fatal boating accident; chemical tests.

(a) Any person who operates or is in actual physical control of a watercraft within this State and who has been involved in a personal injury or fatal boating accident, shall be deemed to have given consent to a breath test using a portable device as approved by the Department of State Police or to a chemical test or tests of blood, breath, or urine for the purpose of determining the content of alcohol, other drug or drugs, or intoxicating compound or compounds of the person's blood if arrested as evidenced by the issuance of a uniform citation for a violation of the Boat Registration and Safety Act or a similar provision of a local ordinance, with the exception of equipment violations contained in Article IV of this Act, or similar provisions of local ordinances. The test or tests shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the aforesaid tests shall be administered. A urine test may be administered even after a blood or breath test or both has been administered. Compliance with this Section does not relieve the person from the requirements of any other Section of this Act.

(b) Any person who is dead, unconscious, or who is otherwise in a condition rendering that person incapable of refusal shall be deemed not to have withdrawn the consent provided by subsection (a) of this Section. In addition, if an operator of a watercraft is receiving medical treatment as a result of a boating accident, any physician licensed to practice medicine, licensed physician assistant, licensed advanced practice nurse, registered nurse, or a phlebotomist acting under the direction of a licensed physician shall withdraw blood for testing purposes to ascertain the presence of alcohol, other drug or drugs, or intoxicating compound or compounds, upon the specific request of a law enforcement officer. However, this testing shall not be performed until, in the opinion of the medical personnel on scene, the withdrawal can be made without interfering with or endangering the well-being of the patient.

(c) A person requested to submit to a test under subsection (a) of this Section shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound resulting from the unlawful use or consumption of cannabis, as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act as detected in the person's blood or urine, may result in the suspension of the person's privilege to operate a motor vehicle and may result in the disqualification of the person's privilege to operate a commercial motor vehicle, as provided in Section 6-514 of the Illinois Vehicle Code, if the person is a CDL holder. The length of the suspension shall be the same as outlined in Section 6-208.1 of the Illinois Vehicle Code regarding statutory summary suspensions.

(d) If the person refuses testing or submits to a test which discloses an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound in the person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, the law enforcement officer shall immediately submit a sworn report to the Secretary of State on a form prescribed by the Secretary of State, certifying that the test or tests were requested under subsection (a) of this Section and the person refused to submit to a test or tests or submitted to testing which disclosed an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound in the person's blood or urine, resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

Upon receipt of the sworn report of a law enforcement officer, the Secretary of State shall enter the suspension and disqualification to the person's driving record and the suspension and disqualification shall be effective on the 46th day following the date notice of the suspension was given to the person.

The law enforcement officer submitting the sworn report shall serve immediate notice of this suspension on the person and this suspension and disqualification shall be effective on the 46th day following the date notice was given.

In cases where the blood alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, is established by a subsequent analysis of blood or urine collected at the time of arrest, the arresting officer shall give notice as provided in this Section or by deposit in the United States mail of this notice in an envelope with postage prepaid and addressed to the person at his or her address as shown on the uniform citation and the suspension and disqualification shall be effective on the 46th day following the date notice was given.

Upon receipt of the sworn report of a law enforcement officer, the Secretary of State shall also give notice of the suspension and disqualification to the person by mailing a notice of the effective date of the suspension and disqualification to the person. However, should the sworn report be defective by not containing sufficient information or be completed in error, the notice of the suspension and disqualification shall not be mailed to the person or entered to the driving record, but rather the sworn report shall be returned to the issuing law enforcement agency.

(e) A person may contest this suspension of his or her driving privileges and disqualification of his or her CDL privileges by requesting an administrative hearing with the Secretary of State in accordance with Section 2-118 of the Illinois Vehicle Code. At the conclusion of a hearing held under Section 2-118 of the Illinois Vehicle Code, the Secretary of State may rescind, continue, or modify the orders of

suspension and disqualification. If the Secretary of State does not rescind the orders of suspension and disqualification, a restricted driving permit may be granted by the Secretary of State upon application being made and good cause shown. A restricted driving permit may be granted to relieve undue hardship to allow driving for employment, educational, and medical purposes as outlined in Section 6-206 of the Illinois Vehicle Code. The provisions of Section 6-206 of the Illinois Vehicle Code shall apply. In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended, revoked, cancelled, or disqualified.

(f) For the purposes of this Section, a personal injury shall include any type A injury as indicated on the accident report completed by a law enforcement officer that requires immediate professional attention in a doctor's office or a medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.".

Senator Morrison offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1479

AMENDMENT NO. 3. Amend Senate Bill 1479, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2 as follows:

on page 17, by replacing line 21 with "by changing Section 5-16 and by adding Section 5-16c as follows:"; and

on page 17, below line 21, by inserting the following:

"(625 ILCS 45/5-16)

Sec. 5-16. Operating a watercraft under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or combination thereof.

(A) 1. A person shall not operate or be in actual physical control of any watercraft within this State while:

(a) The alcohol concentration in such person's blood or breath is a concentration at which driving a motor vehicle is prohibited under subdivision (1) of subsection (a) of Section 11-501 of the Illinois Vehicle Code;

(b) Under the influence of alcohol;

(c) Under the influence of any other drug or combination of drugs to a degree which renders such person incapable of safely operating any watercraft;

(c-1) Under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of safely operating any watercraft;

(d) Under the combined influence of alcohol and any other drug or drugs to a degree which renders such person incapable of safely operating a watercraft; or

(e) There is any amount of a drug, substance, or compound in the person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act.

2. The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, any intoxicating compound or compounds, or any combination of them, shall not constitute a defense against any charge of violating this Section.

3. Every person convicted of violating this Section shall be guilty of a Class A misdemeanor, except as otherwise provided in this Section.

4. Every person convicted of violating this Section shall be guilty of a Class 4 felony if:

(a) He has a previous conviction under this Section;

(b) The offense results in personal injury where a person other than the operator suffers great bodily harm or permanent disability or disfigurement, when the violation was a proximate cause of the injuries. A person guilty of a Class 4 felony under this subparagraph (b), if sentenced to a term of imprisonment, shall be sentenced to a term of not less than one year nor more than 12 years; or

(c) The offense occurred during a period in which his or her privileges to operate a watercraft are revoked or suspended, and the revocation or suspension was for a violation of this Section or was imposed under subsection (B).

5. Every person convicted of violating this Section shall be guilty of a Class 2 felony if the offense results in the death of a person. A person guilty of a Class 2 felony under this paragraph 5, 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.

5.1. A person convicted of violating this Section or a similar provision of a local ordinance who had a child under the age of 16 aboard the watercraft at the time of offense is subject to a mandatory minimum fine of $500 and to a mandatory minimum of 5 days of community service in a program benefiting children. The assignment under this paragraph 5.1 is not subject to suspension and the person is not eligible for probation in order to reduce the assignment.

5.2. A person found guilty of violating this Section, if his or her operation of a watercraft while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response as provided in subsection (m) of Section 11-501 of the Illinois Vehicle Code.

5.3. In addition to any other penalties and liabilities, a person who is found guilty of violating this Section, including any person placed on court supervision, shall be fined $100, payable to the circuit clerk, who shall distribute the money to the law enforcement agency that made the arrest. In the event that more than one agency is responsible for the arrest, the $100 shall be shared equally. Any moneys received by a law enforcement agency under this paragraph 5.3 shall be used to purchase law enforcement equipment or to provide law enforcement training that will assist in the prevention of alcohol related criminal violence throughout the State. Law enforcement equipment shall include, but is not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers.

6. (a) In addition to any criminal penalties imposed, the Department of Natural Resources shall suspend the watercraft operation privileges of any person convicted or found guilty of a misdemeanor under this Section, a similar provision of a local ordinance, or Title 46 of the U.S. Code of Federal Regulations for a period of one year, except that a first time offender is exempt from this mandatory one year suspension.

As used in this subdivision (A)6(a), "first time offender" means any person who has not had a previous conviction or been assigned supervision for violating this Section, a similar provision of a local ordinance or, Title 46 of the U.S. Code of Federal Regulations, or any person who has not had a suspension imposed under subdivision (B)3.1 of Section 5-16.

(b) In addition to any criminal penalties imposed, the Department of Natural Resources shall suspend the watercraft operation privileges of any person convicted of a felony under this Section, a similar provision of a local ordinance, or Title 46 of the U.S. Code of Federal Regulations for a period of 3 years.

(B) 1. Any person who operates or is in actual physical control of any watercraft upon the waters of this State shall be deemed to have given consent to a chemical test or tests of blood, breath or urine for the purpose of determining the content of alcohol, other drug or drugs, intoxicating compound or compounds, or combination thereof in the person's blood if arrested for any offense of subsection (A) above. The chemical test or tests shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the tests shall be administered. A urine test may be administered even after a blood or breath test or both has been administered.

1.1. For the purposes of this Section, an Illinois Law Enforcement officer of this State who is investigating the person for any offense defined in Section 5-16 may travel into an adjoining state, where the person has been transported for medical care to complete an investigation, and may request that the person submit to the test or tests set forth in this Section. The requirements of this Section that the person be arrested are inapplicable, but the officer shall issue the person a uniform citation for an offense as defined in Section 5-16 or a similar provision of a local ordinance prior to requesting that the person submit to the test or tests. The issuance of the uniform citation shall not constitute an arrest, but shall be for the purpose of notifying the person that he or she is subject to the provisions of this Section and of the officer's belief in the existence of probable cause to arrest. Upon returning to this State, the officer shall file the uniform citation with the circuit clerk of the county where the offense was committed and shall seek the issuance of an arrest warrant or a summons for the person.

1.2. Notwithstanding any ability to refuse under this Act to submit to these tests or any ability to revoke the implied consent to these tests, if a law enforcement officer has probable cause to believe that a sailboat or non-powered watercraft operated by or under actual physical control of a person under the influence of alcohol, other drug or drugs, intoxicating compound or compounds,

or any combination of them has caused the death of or personal injury to another, that person shall submit, upon the request of a law enforcement officer, to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the alcohol content or the presence of any other drug, intoxicating compound, or combination of them. For the purposes of this Section, a personal injury includes severe bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene for immediate professional attention in either a doctor's office or a medical facility.

2. Any person who is dead, unconscious or who is otherwise in a condition rendering such person incapable of refusal, shall be deemed not to have withdrawn the consent provided above, and the test may be administered.

3. A person requested to submit to a chemical test as provided ~~above~~ by this Section or Section 5-16c shall be verbally advised by the law enforcement officer requesting the test that a refusal to submit to the test will result in suspension of such person's privilege to operate a watercraft for a minimum of 2 years. Following this warning, if a person under arrest refuses upon the request of a law enforcement officer to submit to a test designated by the officer, no test shall be given, but the law enforcement officer shall file with the clerk of the circuit court for the county in which the arrest was made, and with the Department of Natural Resources, a sworn statement naming the person refusing to take and complete the chemical test or tests requested under the provisions of this Section. Such sworn statement shall identify the arrested person, such person's current residence address and shall specify that a refusal by such person to take the chemical test or tests was made. Such sworn statement shall include a statement that the arresting officer had reasonable cause to believe the person was operating or was in actual physical control of the watercraft within this State while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or combination thereof and that such chemical test or tests were made as an incident to and following the lawful arrest for an offense as defined in this Section or a similar provision of a local ordinance, and that the person after being arrested for an offense arising out of acts alleged to have been committed while so operating a watercraft refused to submit to and complete a chemical test or tests as requested by the law enforcement officer.

3.1. The law enforcement officer submitting the sworn statement as provided in paragraph 3 of this subsection (B) shall serve immediate written notice upon the person refusing the chemical test or tests that the person's privilege to operate a watercraft within this State will be suspended for a period of 2 years unless, within 28 days from the date of the notice, the person requests in writing a hearing on the suspension.

If the person desires a hearing, such person shall file a complaint in the circuit court for and in the county in which such person was arrested for such hearing. Such hearing shall proceed in the court in the same manner as other civil proceedings, shall cover only the issues of whether the person was placed under arrest for an offense as defined in this Section or a similar provision of a local ordinance as evidenced by the issuance of a uniform citation; whether the arresting officer had reasonable grounds to believe that such person was operating a watercraft while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or combination thereof; and whether such person refused to submit and complete the chemical test or tests upon the request of the law enforcement officer. Whether the person was informed that such person's privilege to operate a watercraft would be suspended if such person refused to submit to the chemical test or tests shall not be an issue.

If the person fails to request in writing a hearing within 28 days from the date of notice, or if a hearing is held and the court finds against the person on the issues before the court, the clerk shall immediately notify the Department of Natural Resources, and the Department shall suspend the watercraft operation privileges of the person for at least 2 years.

3.2. If the person submits to a test that discloses an alcohol concentration of 0.08 or more, or any amount of a drug, substance or intoxicating compound in the person's breath, blood, or urine resulting from the unlawful use of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act, the law enforcement officer shall immediately submit a sworn report to the circuit clerk of venue and the Department of Natural Resources, certifying that the test or tests were requested under paragraph 1 of this subsection (B) and the person submitted to testing that disclosed an alcohol concentration of 0.08 or more.

In cases where the blood alcohol concentration of 0.08 or greater or any amount of drug, substance or compound resulting from the unlawful use of cannabis, a controlled substance or an intoxicating compound is established by a subsequent analysis of blood or urine collected at the time

of arrest, the arresting officer or arresting agency shall immediately submit a sworn report to the circuit clerk of venue and the Department of Natural Resources upon receipt of the test results.

4. A person must submit to each chemical test offered by the law enforcement officer in order to comply with the implied consent provisions of this Section.

5. The provisions of Section 11-501.2 of the Illinois Vehicle Code, as amended, concerning the certification and use of chemical tests apply to the use of such tests under this Section.

(C) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while operating a watercraft while under the influence of alcohol, the concentration of alcohol in the person's blood or breath at the time alleged as shown by analysis of a person's blood, urine, breath, or other bodily substance shall give rise to the presumptions specified in subdivisions 1, 2, and 3 of subsection (b) of Section 11-501.2 of the Illinois Vehicle Code. The foregoing provisions of this subsection (C) shall not be construed as limiting the introduction of any other relevant evidence bearing upon the question whether the person was under the influence of alcohol.

(D) If a person under arrest refuses to submit to a chemical test under the provisions of this Section, evidence of refusal shall be admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or combination of them was operating a watercraft.

(E) The owner of any watercraft or any person given supervisory authority over a watercraft, may not knowingly permit a watercraft to be operated by any person under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or combination thereof.

(F) Whenever any person is convicted or found guilty of a violation of this Section, including any person placed on court supervision, the court shall notify the Office of Law Enforcement of the Department of Natural Resources, to provide the Department with the records essential for the performance of the Department's duties to monitor and enforce any order of suspension or revocation concerning the privilege to operate a watercraft.

(G) No person who has been arrested and charged for violating paragraph 1 of subsection (A) of this Section shall operate any watercraft within this State for a period of 24 hours after such arrest.
(Source: P.A. 94-214, eff. 1-1-06; 95-149, eff. 8-14-07.)"; and

on page 18, line 2, by replacing "watercraft" with "motorboat"; and

on page 18, line 25, by replacing "watercraft" with "motorboat"; and

on page 19, line 17, by replacing "cannabis, as covered by" with "cannabis listed in"; and

on page 21, line 14, by deleting "as".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Frerichs, **Senate Bill No. 105** 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 105

AMENDMENT NO. 1. Amend Senate Bill 105 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by adding Section 16-103.2 as follows:
(220 ILCS 5/16-103.2 new)
Sec. 16-103.2. Market Settlement Service.
(a) Notwithstanding anything to the contrary, an electric utility shall be permitted, at its election, to provide Market Settlement Service, which, for purposes of this Section, shall mean a tariffed, unbundled electric power and energy supply service applicable to all of the electric utility's retail customers having maximum demands exceeding 400 kilowatts, as measured in accordance with the electric utility's retail tariffs, that do not otherwise purchase all of their electric power and energy supply service from the electric utility. Market Settlement Service shall apply to the difference between (i) the actual quantities

of electric power and energy supply provided to any such retail customer during a given period and (ii) the quantities of such supply that were deemed to have been provided to such retail customer for the purposes of the applicable regional transmission organization's final wholesale market settlements during that same period. An electric utility providing Market Settlement Service may also, at its election, include in Market Settlement Service electric capacity, transmission services, or other services that are also provided by or through a regional transmission organization to retail customers who receive tariffed electric power and energy supply service with hourly pricing provisions at quantities assigned to such retail customer pursuant to the electric utility's Market Settlement Service tariff. Charges (if the actual quantities provided were greater) or credits (if the actual quantities provided were less) shall be calculated based on the same unit rate or rates set forth in the electric utility's tariff or tariffs for electric power and energy supply service with hourly pricing provisions applicable to its retail customers having maximum demands exceeding 400 kilowatts, provided, however, that any reconciliation provision set forth in such tariff or tariffs, including any charges or credits resulting therefrom, shall not apply to Market Settlement Service.

An electric utility providing Market Settlement Service shall be permitted to recover all of its reasonable and prudently incurred administrative and operational costs of providing this service from all of its retail customers through its delivery services charges.

(b) Market Settlement Service shall be provided pursuant to a tariff of the electric utility on file with the Commission. The electric utility's Market Settlement Service tariff shall include provisions for the determination of the quantities subject to Market Settlement Service for any retail customer that receives only a portion of its electric power and energy requirements from an alternative retail electric supplier or electric utility operating outside of its service territory. Notwithstanding subsection (a) of this Section, the electric utility may elect to (i) exclude from Market Settlement Service any portion of the difference described in subsection (a) of this Section attributable to a delayed initial retail electric service bill for a given period and (ii) provide Market Settlement Service limited to an entire retail billing period or periods, without proration, notwithstanding that the applicable regional transmission organization's final wholesale market settlements may have occurred on a date within a retail billing period.

(c) An electric utility that has a tariff in effect pursuant to this Section shall not be subject to, or allowed to pursue, any other claims, adjustments, settlements, or offsets related to the cost of any difference in the actual quantities of electric energy, capacity, transmission services, or other services included in Market Settlement Service, provided, however, that the provisions of this subsection (c) shall not, consistent with the provisions of this Act, (i) preclude any subsequent and separate adjustments made to the same retail customer's electric service account pursuant to a tariff authorized by this Section because of other differences, whether for the same or a different meter or for the same or different period or (ii) reduce or impair in any way an electric utility's authority to charge a retail customer for unmetered electric service related to the retail customer's unlawful tampering with or interference with electric service, including, but not limited to, any other charges allowed by law or the electric utility's tariffs.

(d) A tariff authorized by this Section may be established outside of either (i) a filing seeking a general change in rates under Article IX of this Act or (ii) a filing authorized under Section 16-108.5 of this Act. The Commission shall review and by order approve, or approve as modified, the proposed tariff within 180 days after the date on which it is filed. In the event the Commission approves such a tariff with modifications, the electric utility shall not be obligated to place the modified tariff into effect. In such event, the electric utility must, within 14 days after any Commission order, withdraw its proposed tariff and its election to provide Market Settlement Service. If a Market Settlement Service tariff does become effective, such tariff shall remain in effect thereafter at the discretion of the electric utility.

(e) Notwithstanding anything in the Act to the contrary, an electric utility providing Market Settlement Service shall not be liable to any retail customer, alternative retail electric supplier, or electric utility operating outside of its service territory for any adjustment in the quantity of any transmission or retail electric supply service for which the applicable regional transmission organization under its tariffs, agreements, and market and business rules will no longer make a corresponding adjustment to the wholesale market settlements.".

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. 1853** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Licensed Activities and Pensions, 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 Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 is amended by changing Section 31-5 as follows:

(225 ILCS 447/31-5)

(Section scheduled to be repealed on January 1, 2014)

Sec. 31-5. Exemptions. The provisions of this Act regarding fingerprint vendors do not apply to any of the following, if the person performing the service does not hold himself or herself out as a fingerprint vendor or fingerprint vendor agency:

(1) An employee of the United States, Illinois, or a political subdivision, including public school districts, of either while the employee is engaged in the performance of his or her official duties within the scope of his or her employment. However, any such person who offers his or her services as a fingerprint vendor or uses a similar title when these services are performed for compensation or other consideration, whether received directly or indirectly, is subject to this Act.

(2) A person employed exclusively by only one employer in connection with the exclusive activities of that employer, provided that person does not hold himself or herself out to the public as a fingerprint vendor.

(3) Notwithstanding any other provisions of this Act, any member of local law enforcement in the performance of his or her duties. Nothing in this Act shall prohibit local law enforcement agencies from charging a reasonable fee related to the cost of offering fingerprinting services.

(Source: P.A. 95-613, eff. 9-11-07.)

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 Muñoz, **Senate Bill No. 1934** 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. 41** 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 41

AMENDMENT NO. 1. Amend Senate Bill 41 on page 1, line 8, by replacing "If," with "In counties with 3,000,000 or more inhabitants, if,"; and

on page 1, line 20, by replacing "If," with "In counties with 3,000,000 or more inhabitants, if,"; and

on page 2, line 9, by replacing "If," with "In counties with 3,000,000 or more inhabitants, if,"; and

on page 2, by replacing line 26 with the following:
"The notice"; and

by deleting everything from line 22 on page 3 through line 11 on page 4.

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 Clayborne, **Senate Bill No. 2362** 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 2362

AMENDMENT NO. _2_. Amend Senate Bill 2362 by replacing everything after the enacting clause with the following:

"ARTICLE 1. GENERAL PROVISIONS

Section 1-1. Short title. This Act may be cited as the Herptiles-Herps Act of 2013.

Section 1-5. Purpose. For purposes of this Act, reptiles and amphibians shall be exempt from the definition of "aquatic life" under Section 1-20 of the Fish and Aquatic Life Code. All rules and enforcement actions under the Illinois Conservation Law and the dangerous animals provisions in Section 48-10 of the Criminal Code of 2012 related to reptiles and amphibians shall be covered exclusively by this Act.

Section 1-10. Administrative agency. This Act shall be administered and under the direction of the Department of Natural Resources.

Section 1-15. Home rule. A municipality or county may adopt an ordinance governing amphibian and reptile species that is more restrictive than this Act.

Section 1-20. Definitions. For the purposes of this Act, unless the context clearly requires otherwise the following terms are defined as:

"Administrative rule" means a regulatory measure issued by the Director under this Act.

"Authorized law enforcement officer" means all sworn members of the Law Enforcement Division of the Department and those persons specifically granted law enforcement authorization by the Director.

"Bonafide scientific or educational institution" means confirming educational or scientific tax-exemption, from the federal Internal Revenue Service or the applicant's national, state, or local tax authority; or a statement of accreditation or recognition as an educational institution.

"Contraband" means all reptile or amphibian life or any part of reptile or amphibian life taken, bought, sold or bartered, shipped, or held in possession or any conveyance, vehicle, watercraft, or other means of transportation whatsoever, except sealed railroad cars or other sealed common carriers, used to transport or ship any reptile or amphibian life or any part of reptile or amphibian life taken, contrary to this Act, including administrative rules, or used to transport, contrary to this Act, including administrative rules, any of the specified species when taken illegally.

"Culling" means rejecting or discarding.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Illinois Department of Natural Resources.

"Educational program" means a program of organized instruction or study for providing education, intended to meet a public need.

"Endangered or threatened species" means any species listed as endangered or threatened to the species level on either the Illinois List of Endangered and Threatened Fauna or the federal U.S. Fish and Wildlife Service List of Threatened and Endangered Species.

"Herptile" means collectively any amphibian or reptile taxa, whether indigenous to this State or not.

"Indigenous or native taxa" means those amphibians and reptiles to the subspecies level that can be found naturally in this State.

"Individual" means a natural person.

"Medically significant" means a venomous or poisonous species whose venom or toxin can cause death or serious illness or injury in humans that may require emergency room care or the immediate care of a physician. These species are categorized as being "medically significant" or "medically important".

"Owner" means an individual who has a legal right to the possession of a herptile.

"Person" means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, or group.

"Possession limit" means the maximum number or amount of herptiles that can be lawfully held or possessed by one person at any time.

"Possessor" means any person who possesses, keeps, harbors, brings into the State, cares for, acts as a custodian for, has in his or her custody or control, or holds a property right to a herptile.

"Reptile show" means any event open to the public, for a fee or without a fee, that is not a licensed pet store, where herptiles or herptiles together with other animals are exhibited, displayed, sold, bought,

traded, or otherwise made available for public display.

"Resident" means a person who in good faith makes application for any license or permit and verifies by statement that he or she has maintained his or her permanent abode in this State for period of at least 30 consecutive days immediately preceding the person's application, and who does not maintain permanent abode or claim residency in another state for the purposes of obtaining any of the same or similar licenses or permits under this Act. A person's permanent abode is his or her fixed and permanent dwelling place, as distinguished from a temporary or transient place of residence. Domiciliary intent is required to establish that the person is maintaining his or her permanent abode in this State. Evidence of domiciliary intent includes, but is not limited to, the location where the person votes, pays personal income tax, or obtains a drivers license. Any person on active duty in the Armed Forces shall be considered a resident of Illinois during his or her period of military duty.

"Special use herptile" means any taxa of amphibian or reptile for which a Herptile Special Use permit is required.

"Take" means possess, collect, catch, detain, hunt, shoot, pursue, lure, kill, destroy, capture, gig or spear, trap or ensnare, harass, or an attempt to do so.

"Transport" or "ship" means to convey by parcel post, express, freight, baggage, or shipment by common carrier or any description; by automobile, motorcycle, or other vehicle of any kind; by water or aircraft of any kind; or by any other means of transportation.

"Turtle farming" means the act of breeding, hatching, raising, selling turtles, or any combination commercially for the purpose of providing turtles, turtle eggs, or turtle parts to pet suppliers, exporters, and food industries.

"Wildlife sanctuary" means any non-profit organization that: (1) is exempt from taxation under the federal Internal Revenue Code and is currently confirmed as tax exempt by the federal Internal Revenue Service; (2) operates a place of refuge where wild animals are provided care for their lifetime or released back to their natural range; (3) does not conduct activities on animals in its possession that are not inherent to the animal's nature; (4) does not use animals in its possession for entertainment; (5) does not sell, trade, or barter animals in its possession or parts of those animals; and (6) does not breed animals in its possession.

Section 1-25. Administrative rules. The Department is authorized to adopt administrative rules for carrying out, administering, and enforcing the provisions of this Act. The administrative rules shall be adopted in accordance with the Illinois Administrative Procedure Act.

Rules, after becoming effective, shall be enforced in the same manner as other provisions of this Act. It is unlawful for any person to violate any provision of any administrative rule adopted by the Department. Violators of administrative rules are subject to the penalties in this Act.

Section 1-30. Conservation of reptiles and amphibians. The Department shall take all measures necessary for the conservation, distribution, introduction, and restoration of reptiles and amphibians. The Department shall also bring or cause to be brought actions and proceedings, in the name and by the authority of the People of the State of Illinois, to enforce this Act, including administrative rules, and to recover any and all fines and penalties provided for in this Act. Nothing in this Act shall be construed to authorize the Department to change any penalty prescribed by law or to change the amount of license fees or the authority conferred by licenses prescribed by law. The Department is authorized to cooperate with the appropriate Departments of the federal government and other Departments or agencies of State government and educational institutions in conducting surveys, experiments, or work of joint interest or benefit.

Section 1-35. Peace officers. All employees of the Department authorized by the Director shall have the power of, and shall be, peace officers in the enforcement of this Act, including administrative rules, and may carry weapons as may be necessary in the performance of his or her duties.

Section 1-40. Arrests; warrants. All authorized employees of the Department and all sheriffs, deputy sheriffs, and other police officers shall arrest any person detected in violation of any of the provisions of this Act, including administrative rules. Any duly accredited officer of the federal Fish and Wildlife Service and U.S. Forest Service may arrest any person detected in violation of any of the provisions of this Act, including administrative rules.

All officers shall make prompt investigation of any violation of this Act, including administrative rules, reported by any other persons and shall cause a complaint to be filed when there seems just ground for a complaint and evidence procurable to support the complaint.

Upon the filing of a complaint, the officers shall render assistance in the prosecution of the party against whom the complaint is made.

Peace officers, other than employees of the Department, making arrests and serving warrants provided for by this Act shall receive the fees and mileage as provided for by law for sheriffs.

Each duly accredited officer and authorized employee of the Department is empowered to execute and serve all warrants and processes issued by the circuit court.

Section 1-45. Prosecutions; State's Attorneys. All prosecutions shall be brought in the name and by the authority of the People of the State of Illinois before the circuit court for the county where the offense was committed.

All State's Attorneys shall enforce the provisions of this Act, including administrative rules, in his or her respective county and shall prosecute all persons charged with violating its provisions when requested by the Department.

Section 1-50. Statute of limitations. All prosecutions under this Act shall be commenced within 2 years after the time the offense charged was committed.

Section 1-55. Collection of fines. All fines provided for by this Act shall be collected and remitted to the Department's Wildlife and Fish Fund, within 30 days after the collection of the fine, by the clerk of the circuit court collecting the fines who shall submit at the same time to the Department a statement of the names of the persons so fined and the name of the arresting officer, the offense committed, the amount of the fine, and the date of the conviction.

Section 1-60. Power of entry and examination; access to lands and waters. Authorized employees of the Department are empowered, under law, to enter all lands and waters to enforce this Act. Authorized employees are further empowered to examine all buildings, private or public clubs (except dwellings), fish markets, reptile shows, pet stores, camps, vessels, cars (except sealed railroad cars or other sealed common carriers), conveyances, vehicles, water craft, or any other means of transportation or shipping, tents, bags, pillow cases, coats, jackets, or other receptacles and to open any box, barrel, package, or other receptacle in the possession of a common carrier, that they have reason to believe contains reptile or amphibian life or any part of reptile or amphibian life taken, bought, sold or bartered, shipped, or had in possession contrary to this Act, including administrative rules, or that the receptacle containing the reptile or amphibian is falsely labeled.

Authorized employees of the Department shall be given free access to and shall not be hindered or interfered with in making an entry and examination. Any permit or license held by a person preventing free access or interfering with or hindering an employee shall not be issued to that person for the period of one year after his or her action.

Employees of the Department as specifically authorized by the Director are empowered to enter all lands and waters for the purpose of reptile or amphibian investigations, State and federal permit inspections, as well as reptile or amphibian censuses or inventories, and are further empowered to conduct examination of equipment and devices in the field, under law, to ensure compliance with this Act.

Section 1-65. Prima facie evidence; confiscation. The possession of any reptile or amphibian life or any part of reptile or amphibian life protected under this Act is prima facie evidence that the reptile or amphibian life or any part of reptile or amphibian life is subject to the provisions of this Act, including administrative rules.

Whenever the contents of any box, barrel, package, or receptacle consists partly of contraband and partly of legal reptile or amphibian life or any part of reptile or amphibian life, the entire contents of the box, barrel, or package, or other receptacle are subject to confiscation.

Whenever a person has in his or her possession in excess of the number of reptile or amphibian life or any parts of reptile or amphibian life permitted under this Act, including administrative rules, the entire number of reptile or amphibian life or any parts of reptile or amphibian life in his or her possession is subject to confiscation.

Section 1-70. Search and seizure. Whenever any authorized employee of the Department, sheriff, deputy sheriff, or other peace office of the State has reason to believe that any person, owner, possessor, commercial institution, pet store, or reptile show vendor or attendee possesses any reptile or amphibian life or any part of reptile or amphibian life contrary to the provisions of this Act, including

administrative rules, he or she may file, or cause to be filed, a sworn complaint to that effect before the circuit court and procure and execute a search warrant. Upon execution of the search warrant, the officer executing the search warrant shall make due return of the search warrant to the court issuing the search warrant, together with an inventory of all the reptile or amphibian life or any part of reptile or amphibian life taken under the search warrant. The court shall then issue process against the party owning, controlling, or transporting the reptile or amphibian life or any part of reptile or amphibian life seized, and upon its return shall proceed to determine whether or not the reptile or amphibian life or any part of reptile or amphibian life was held, possessed, or transported in violation of this Act, including administrative rules. In case of a finding that the reptile or amphibian life was illegally held, possessed, transported, or sold, a judgment shall be entered against the owner or party found in possession of the reptile or amphibian life or any part of reptile or amphibian life for the costs of the proceeding and providing for the disposition of the property seized, as provided for by this Act.

Section 1-75. Obstructing an officer. It shall be unlawful for any person to resist or obstruct any officer or employee of the Department in the discharge of his or her duties under this Act. Any person who violates this provision is guilty of a Class A misdemeanor.

Section 1-80. Posing as an officer or employee. It shall be unlawful for any person to represent himself or herself falsely to be an officer or employee of the Department or to assume to act as an officer or employee of the Department without having been duly appointed and employed. Any person who violates this provision is guilty of a Class A misdemeanor.

Section 1-85. Confiscation of contraband. All reptile or amphibian life or any part of reptile or amphibian life taken, bought, sold or bartered, shipped, or had in possession contrary to any of the provisions of this Act, including administrative rules, is contraband and subject to seizure and confiscation by any authorized employee of the Department.

Contraband reptile or amphibian life or any part of reptile or amphibian life seized and confiscated shall be disposed of as directed by the Department.

Section 1-90. Illegal collecting devices; public nuisance. Every collecting device, including seines, nets, traps, pillow cases, bags, snakes hooks or tongs, or any electrical device or any other devices including vehicles or conveyance, watercraft, or aircraft used or operated illegally or attempted to be used or operated illegally by any person in taking, transporting, holding, or conveying any reptile or amphibian life, or any part of reptile or amphibian life contrary to this Act, including administrative rules, shall be deemed a public nuisance and therefore illegal and subject to seizure and confiscation by any authorized employee of the Department. Upon the seizure of this item the Department shall take and hold the item until disposed of as provided in this Act.

Upon the seizure of any device because of its illegal use, the officer or authorized employee of the Department making the seizure shall, as soon as reasonably possible, cause a complaint to be filed before the circuit court and a summons to be issued requiring the owner or person in possession of the property to appear in court and show cause why the device seized should not be forfeited to the State. Upon the return of the summons duly served or upon posting or publication of notice as provided in this Act, the court shall proceed to determine the question of the illegality of the use of the seized property. Upon judgment being entered that the property was illegally used, an order shall be entered providing for the forfeiture of the seized property to the State. The owner of the property may have a jury determine the illegality of its use and shall have the right of an appeal as in other civil cases. Confiscation or forfeiture shall not preclude or mitigate against prosecution and assessment of penalties provided in Article 90 of this Act.

Upon seizure of any property under circumstances supporting a reasonable belief that the property was abandoned, lost, stolen, or otherwise illegally possessed or used contrary to this Act, except property seized during a search or arrest, and ultimately returned, destroyed, or otherwise disposed of under order of a court in accordance with this Act, the authorized employee of the Department shall make reasonable inquiry and efforts to identify and notify the owner or other person entitled to possession of the property and shall return the property after the person provides reasonable and satisfactory proof of his or her ownership or right to possession and reimburses the Department for all reasonable expenses of custody. If the identity or location of the owner or other person entitled to possession of the property has not been ascertained within 6 months after the Department obtains possession, the Department shall effectuate the sale of the property for cash to the highest bidder at a public auction. The owner or other person entitled to possession of the property may claim and recover possession of the property at any time before its sale

at public auction upon providing reasonable and satisfactory proof of ownership or right of possession and reimbursing the Department for all reasonable expenses of custody.

Any property forfeited to the State by court order under this Section may be disposed of by public auction, except that any property that is the subject of a court order shall not be disposed of pending appeal of the order. The proceeds of the sales at auction shall be deposited in the Wildlife and Fish Fund.

The Department shall pay all costs of posting or publication of notices required by this Section.

Section 1-95. Violations; separate offenses. Each act of pursuing, taking, shipping, offered or received for shipping, offering or receiving for shipment, transporting, buying, selling or bartering, or having in one's possession any protected reptile or amphibian life or any part of reptile or amphibian life, seines, nets, bags, snake hooks or tongs, or other devices used or to be used in violation of this Act, including administrative rules, constitutes a separate offense.

Section 1-100. Accessory to violation. Any person who aids in or contributes in any way to a violation of this Act, including administrative rules, is individually liable, as a separate offense under this Act, for the penalties imposed against the person who committed the violation.

Section 1-105. Permit fraudulently obtained. No person shall at any time:

(1) falsify, alter, or change in any manner, or provide deceptive or false information required for any permit issued under the provisions of this Act;

(2) falsify any record required by this Act;

(3) counterfeit any form of permit provided for by this Act;

(4) loan or transfer to another person any permit issued under this Act; or

(5) use any permit issued to another person under this Act.

It is unlawful to possess any permit issued under the provisions of this Act that was fraudulently obtained or which the person or permittee knew, or should have known, was falsified, altered, changed in any manner, or fraudulently obtained.

The Department shall revoke all permits and suspend all privileges under this Act of any person violating this Section for a period of not less than 3 years. The procedures for suspension under this Section shall be as provided for in administrative rule. Anyone who violates a provision of this Section shall be guilty of a Class A misdemeanor.

Section 1-110. Wildlife and Fish Fund; disposition of money received. All fees, fines, income of whatever kind or nature derived from reptile and amphibian activities regulated by this Act on lands, waters, or both under the jurisdiction or control of the Department and all penalties collected under this Act shall be deposited into the State Treasury and shall be set apart in a special fund known as the Wildlife and Fish Fund.

Section 1-115. Ownership and title of wild indigenous reptiles and amphibians. The ownership of and title to all wild indigenous reptile and amphibian life within the boundaries of the State, are hereby declared to be in the State, and no wild indigenous reptile and amphibian life shall be taken or killed, in any manner or at any time, unless the person or persons taking or killing the wild indigenous reptile and amphibian life shall consent that the title to the wild indigenous reptile and amphibian life shall be and remain in the State for the purpose of regulating the taking, killing, possession, use, sale, and transportation of wild indigenous reptile and amphibian life after taking or killing, as set forth in this Act.

The regulation and licensing of the taking of wild indigenous reptile and amphibian life in the State are exclusive powers and functions of the State. A home rule unit may not regulate or license the taking of wild indigenous reptile and amphibian life. 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 1-120. Application. This Act shall apply to reptile and amphibian life or any part of reptile and amphibian life (i) in or from any of the waters or lands wholly within the boundaries of the State or over which the State has concurrent jurisdiction with any other state or (ii) which may be possessed in or brought into the State.

Section 1-125. Taking on private property. It is unlawful for any person to take, or attempt to take any species of reptile or amphibian, or parts thereof, within or upon the land of another, or upon waters flowing over or standing on the land of another, without first obtaining permission from the owner or the

owner's designee. For the purposes of this Section, the owner's designee means anyone who the owner designates in a written authorization and the authorization must contain (i) the legal or common description of property for which the authority is given, (ii) the extent that the owner's designee is authorized to make decisions regarding who is allowed to take or attempt to take any species of reptiles or amphibians, or parts thereof, and (iii) the owner's notarized signature. Before enforcing this Section the law enforcement officer must have received notice from the owner or the owner's designee of a violation of this Section. Statements made to a law enforcement officer regarding this notice shall not be rendered inadmissible by the hearsay rule when offered for the purpose of showing the required notice. Any person who violates this Section shall be guilty of a Class B misdemeanor.

Section 1-130. Financial value of herptiles.

(a) For purposes of this Section, the financial value of all reptiles and amphibians described under this Act taken, possessed, or used in violation of this Act, whether in whole or in part, is as follows:

(1) for processed turtle parts, $8 for each pound or fraction of a pound; for each non-processed turtle, $15 per whole turtle or fair market value, whichever is greater;

(2) for frogs, toads, salamanders, lizards, and snakes, $5 per herptile or fair market value, whichever is greater in whole or in part unless specified as a special use herptile;

(3) for any special use herptile, the value shall be no less than $250 per special use herptile or fair market value, whichever is greater; and

(4) any person who, for profit or commercial purposes, knowingly captures or kills, possesses, offers for sale, sells, offers to barter, barters, offers to purchase, purchases, delivers for shipment, ships, exports, imports, causes to be shipped, exported, or imported, delivers for transportation, transports, or causes to be transported, carriers or causes to be carried, or receives for shipment, transportation, carriage, or export any reptile or amphibian life, in part or in whole of any of the reptiles and amphibians protected by this Act, and that reptile or amphibian life, in whole or in part, is valued at or in excess of a total of $300 or fair market value, whichever is greater, as per value specified in paragraphs (1), (2), and (3) of this subsection commits a Class 3 felony.

(b) The trier of fact may infer that a person "knowingly possesses" a reptile or amphibian, in whole or in part, captured or killed in violation of this Act, valued at or in excess of $600, as per value specified in paragraphs (1), (2), and (3) of subsection (a) of this Section.

ARTICLE 5. INDIGENOUS OR NATIVE HERPTILE TAXA

Section 5-5. Possession limits.

(a) The possession limit for indigenous amphibian and reptile taxa (excluding common snapping turtles and bullfrogs) is 8 total collectively with no more than 4 per taxa. Captive born offspring of a legally held reptile or amphibian, not intended for commercial purposes, is exempt from the possession limits for a period of 30 days. Young of gravid wild-collected amphibians and reptiles shall be released at site of adult capture after birth.

(b) Only residents may possess herptiles collected from the wild within this State under a valid sport fishing license; non-residents may not possess herptiles collected from the wild within this State except for scientific purposes, with a Herptile Scientific Collection permit.

(c) All herptile species (other than bullfrogs and common snapping turtles) may be captured by hand. This shall not restrict the use of legally taken herptiles as bait by anglers. Any captured herptiles that are not to be retained in the possession of the captor shall be immediately released at the site of capture, unless taken with a lethal method such as bow and arrow, gig, spear, or pitchfork which does not permit release without harm. All common snapping turtles and bullfrogs taken for personal consumption must be kept and counted in the daily catch creel or bag. No culling of these 2 species for personal consumption is permitted.

(d) The trier of fact may infer that a person is collecting from the wild within this State if he or she possesses indigenous reptiles or amphibians, in whole or in part, if no documentation exists stating that the animals were legally collected from the wild outside of this State.

(e) Residents may possess a total of 8 native herp specimens collectively, with no more than 4 per taxa, without obtaining and possessing either a Herptile Scientific Collection permit or Herpetoculture permit from the Department, regardless of the origin of the species. A sport fishing license is required for residents to legally collect any native herp taxa on private land, with the landowner's permission. Collecting herptiles on public lands shall require additional permits.

(f) Any resident wishing to possess more than his or her allowed possession limit, shall first apply to

the Department for a Herptile Scientific Collection permit or Herpetoculture permit to do so. Issuance, modification, or denial of any and all of these permits shall be at the sole discretion of the Department.

(g) Due to the similarity of appearance (S/A) of certain intergrade or hybrid specimens, the Department retains the authority to enforce any and all provisions under this Act. Specimens determined by the Department, or its agents, to fit into this S/A category shall receive all benefits of this Act, as well as the Illinois Endangered Species Protection Act if applicable, and shall be included in an individual's overall possession limit.

Section 5-10. Commercialization; herpetoculture.

(a) It is unlawful to take, possess, buy, sell, offer to buy or sell or barter any reptile, amphibian, or their eggs, any resulting offspring, or parts taken from the wild in this State for commercial purposes unless otherwise authorized by law.

(b) The trier of fact may infer that a person is collecting from the wild within this State for commercial purposes if he or she possesses indigenous reptiles or amphibians, in whole or in part, for which no documentation exists stating that the animals were legally collected from the wild outside this State.

(c) Due to the similarity of appearance (S/A) of certain intergrade or hybrid specimens, the Department retains the authority to enforce any and all provisions under this Act. Specimens determined by the Department, or its agents, to fit into this S/A category shall receive all benefits of this Act, as well as the Illinois Endangered Species Protection Act if applicable, and shall be included in an individual's overall possession limit.

(d) A valid, Department issued Herpetoculture permit shall apply only to indigenous herp taxa. A Herpetoculture permit shall not be required in order to commercialize non-indigenous herp taxa except as required under Section 5-20 of this Act.

Section 5-15. Protection of habitat. Habitat features that are disturbed in the course of searching for reptiles and amphibians shall be returned to as near its original position and condition as possible, for example overturned stones and logs shall be restored to their original locations.

Section 5-20. Taking of endangered or threatened species.

(a) No person shall take or possess any of the herptiles listed in the Illinois Endangered Species Protection Act or subsequent administrative rules, except as provided by that Act.

(b) Any Department permitted threatened or endangered (T/E) herptile species shall be exempt from an individual's overall possession under the permitting system set forth in this Act. However, any and all T/E specimens shall be officially recorded with the Department's Endangered Species Conservation Program. Any species occurring on the federal T/E list also requires a Department permit for possession, propagation, sale, or offer for sale unless otherwise permitted through the Department.

(c) Due to the similarity of appearance (S/A) of certain intergrade or hybrid specimens, the Department retains the authority to enforce any and all provisions under this Act. Specimens determined by the Department, or agents, to fit into this S/A category shall receive all benefits of this Act, as well as the Illinois Endangered Species Protection Act if applicable, and shall be included in an individual's overall possession limit.

(d) Federally licensed exhibits shall not be exempt from the Illinois Endangered Species Protection Act.

(e) Any changes in T/E permit numbers for herptiles by current, existing permit holders shall be reported to the Department in writing no later than the first business day after that change occurred. Requests for permits by any resident acquiring a T/E species who is not permitted shall not be issued after-the-fact.

(f) Annual reports are due by January 31 of each year for the preceding year's activities. Failure to submit the annual report by the due date shall result in a permit violation.

(g) An annual fee for herptile T/E species permits, per permittee, shall be set by administrative rule.

(h) Procedures for sales and acquisition of T/E herptile species shall be set forth in administrative rule.

(i) Record keeping requirements for T/E herptile species shall be set forth in administrative rule.

Section 5-25. Taking of snakes. Unless otherwise provided in this Act, any non-threatened or non-endangered snake may be taken by the owners or bonafide tenants of lands actually residing on the lands and their children, parents, brothers, and sisters permanently residing with them.

Section 5-30. Taking of turtles or bullfrogs; illegal devices.

(a) No person shall take turtles or bullfrogs by commercial fishing devices, including dip nets, hoop nets, traps, or seines, or by the use of firearms, airguns, or gas guns. Turtles may be taken only by hand or means of hook and line.

(b) Bullfrog; common snapping turtle; open season.

(1) All individuals taking bullfrogs shall possess a valid sport fishing license and may take bullfrogs only during the open season to be specified by administrative rule. Bullfrogs may only be taken by hook and line, gig, pitchfork, spear, bow and arrow, hand, or landing net.

(2) The daily catch limit and total possession limit for all properly licensed persons shall be specified by administrative rule.

(3) All persons taking common snapping turtles shall possess a valid sport fishing license and may take common snapping turtles only during the open season to be specified by administrative rule. Common snapping turtles (Chelydra serpentina) may be taken only by hand, hook and line, or bow and arrow, except in the counties listed in Section 5-35 where bowfishing for common snapping turtles is not allowed.

(4) The daily catch limit and total possession limit for all properly licensed persons shall be specified by administrative rule.

(c) The alligator snapping turtle (Macrochelys temminckii) is protected and may not be taken by any method including, but not limited to, any sport fishing method.

Section 5-35. Areas closed to the taking of reptiles and amphibians. Unless otherwise allowed by law or administrative rule, the taking of reptiles and amphibians at any time and by any method is prohibited in the following areas:

The LaRue-Pine Hills or Otter Pond Research Natural Area in Union County. The closed area shall include the Research Natural Area as designated by the U.S. Forest Service and the right-of-way of Forest Road 345 with Forest Road 236 to the intersection of Forest Road 345 with the Missouri Pacific railroad tracks.

In the following counties bowfishing for common snapping turtles is not permitted: Randolph, Perry, Franklin, Hamilton, White, Gallatin, Saline, Williamson, Jackson, Union, Johnson, Pope, Hardin, Massac, Pulaski, and Alexander, or in any additional counties added through administrative rule.

Section 5-40. Additional protective regulations.

(a) Except as otherwise allowed by law or administrative rule, taking of the following species of reptiles and amphibians is prohibited:

Copperbelly water snake (Nerodia erythrogaster neglecta) in Clay, Edwards, Gallatin, Hamilton, Hardin, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Rock Island, Saline, Wabash, Wayne, and White counties.

(b) Under this Act, the copperbelly water snake shall be treated as a listed threatened or endangered species within this State. The copperbelly water snakes shall receive all protection benefits and incidental take regulations as described under the Illinois Endangered Species Protection Act.

(c) Because the range of the 2 subspecies of Nerodia erythrogaster overlap in southern Illinois, and the meristic characters that separate these 2 subspecies is often problematic, the Department retains the authority to classify water snake specimens as similar in appearance (S/A) to the subspecies: neglecta. Specimens determined by the Department, or its agents, to fit into this neglecta S/A category shall receive all benefits of this Act, as well as the Illinois Endangered Species Protection Act.

Section 5-45. Translocation and release of herptiles.

(a) No herptile indigenous species may be moved, translocated, or populations repatriated within this State without approval of the Department, after review of a proposal complete with long-term monitoring plan at least 5 years post-release.

(b) It shall be unlawful to intentionally or negligently release any non-indigenous herptile species into this State.

ARTICLE 10. VENOMOUS REPTILES

Section 10-5. Venomous reptile defined. Venomous reptiles include, but are not limited to, any medically significant venomous species of the families or genera of the Order Squamata: Helodermatidae, such as gila monsters and beaded lizards; Elapidae, such as cobras and coral snakes; Hydrophiidae, such as sea snakes; Viperidae and Crotalinae, such as vipers and pit vipers; Atractaspididae, such as burrowing asps; Colubridae in the following genera that shall be determined by

administrative rule: West Indian racers (Alsophis); boigas and mangrove snakes (Boiga); road guarders (Conophis); Boomslangs (Dispholidus); false water cobras (Hydrodynastes); varied or hooded keelbacks (Macropisthodon); Malagasy cat-eyed snakes (Madagascarophis); Montpellier snakes (Malpolon); kukri snakes (Oligodon); collared snakes (Phalotris); palm snakes or green racers (Philodryas); sand snakes or racers (Psammophis); keelbacks (Rhabdophis); beaked snakes (Rhamphiophis); twig snakes (Thelotornis); black tree snakes (Thrasops); Pampas snakes (Tomodon); Wagler's snakes (Waglerophis); false fer-de-lances (Xenodon); specimens or eggs of the brown tree snake (Boiga irregularis); and any other species added through legislative process designated.

Section 10-10. Surgically altered venomous reptiles. It is not a defense to a violation of Article 65 that the person violating that Article has had the venomous reptile surgically altered to render it harmless.

Section 10-15. Venomous reptile permit requirements. In addition to those requirements listed in Articles 60 and 65 of this Act, Herptile Special Use permits may be issued to residents using approved venomous reptile species only for bonafide educational programs, following an inspection and approval of the proposed facilities. A minimum of 6 documented programs shall be required of each permittee per calendar year. Unless addressed or exempted by administrative rule, annual permit renewal must be accompanied by a non-refundable fee as set by the Department by administrative rule and documented proof of educational programs completed on the recipient's letterhead. Prospective permittees must have 250 documented hours of experience with venomous reptiles. The Department or the Department of Agriculture reserves the right to inspect permittees and facilities during reasonable hours. Additions to permits must be approved prior to acquisition of additional venomous reptiles, and any changes shall be reported to the Department in writing no later than the first business day after that change occurred.

Section 10-20. Approved venomous reptiles. Permittees may keep legally obtained venomous reptile specimens native to the United States, except the following species: Eastern diamondback rattlesnakes (Crotalus adamanteus); Western diamondback rattlesnakes (Crotalus atrox); Mojave rattlesnakes (Crotalus scutulatus); Southern Pacific rattlesnakes (Crotalus oreganus helleri); Eastern and Texas coral snakes (Micrurus fulvius); Sonoran coral snakes (Micruroides euryxanthus); and timber/canebrake rattlesnakes (Crotalus horridus) from the southern portions of their range (Oklahoma, southern Arkansas, Louisiana, and also southeastern South Carolina south through eastern Georgia to northern Florida), known as "Type A" and containing canebrake toxin.

Except for Boomslangs (Dispholidus), twig snakes (Thelotornis), keelbacks (Rhabdophis), Lichtenstein's green racer (Philodryas olfersii), and brown tree snake (Boiga irregularis) and medically significant snakes in the family Colubridae defined in Section 10-5 of this Article may be possessed by permit.

Section 10-25. Maintenance of venomous reptiles. Permittees shall keep approved venomous reptiles in strong escape-proof enclosures that at a minimum are: impact resistant, locked at all times, prominently labeled with the permittee's full name, address, telephone number, list of cage contents by scientific and common names, and a sign labeled "venomous". The signage shall also include the type and location of antivenom and contact information of the person or organization possessing the antivenom.

Section 10-30. Educational programs with approved venomous reptiles. Permittees shall keep approved venomous reptiles in strong escape-proof enclosures that at a minimum are: impact resistant, locked at all times, prominently labeled with the permittee's full name, address, telephone number, list of cage contents by scientific and common names, and a sign labeled "venomous". Labeling shall also include the type and location of antivenom and contact information of the person or organization possessing the antivenom. Interiors of enclosures may not be accessible to the public.

Section 10-35. Transport of approved venomous reptiles. During transport of any approved venomous reptile, it must be kept out of sight of the public in an escape-proof enclosure at all times that is labeled "venomous". Transport of any venomous reptile to any public venue, commercial establishment, retail establishment, or educational institution shall only be for bonafide educational programs or veterinary care.

Section 10-40. Additional regulations. Venomous reptiles shall not be bred, sold, or offered for sale within this State. The Department may approve limited transfers among existing permittees at the sole

discretion of the Department.

As determined by the Department, non-residents may apply for a permit not to exceed 15 consecutive days to use venomous reptiles in bonafide educational programs. The fee for the permit shall be set by administrative rule, and all fees shall be deposited into the Wildlife and Fish Fund.

ARTICLE 15. BOAS, PYTHONS, AND ANACONDAS

Section 15-5. Boas, pythons, and anacondas. Nothing shall prohibit lawfully acquired possession of any of the Boidae family, such as boas, pythons, and anacondas, provided captive maintenance requirements from the Department as set forth in this Act are met. All boas, pythons, and anacondas referenced in this Act are exempt from the permit process, associated annual fee, and liability insurance coverage.

Section 15-10. Maintenance of boas, pythons, and anacondas. Any species of boa, python, or anaconda, regardless of length, must be properly maintained in suitable, strong, impact resistant, escape-proof enclosures at all times unless being used for bonafide educational programs or trips for veterinary care.

Section 15-15. Educational programs with boas, pythons, and anacondas. During any bonafide educational program involving boas, pythons, or anacondas, the owner or affiliated agent must maintain physical possession of the snake at all times if removed from a container or cage. Interiors of cages or containers used during educational programs may not be accessible to the public.

Section 15-20. Transport of boas, pythons, and anacondas. During transport of any boa, python, or anaconda, the snake must be kept out of sight of the public in an escape-proof enclosure at all times.

Section 15-25. Use of boas, pythons, and anacondas at reptile shows. An owner or affiliated agent must have physical possession and control of any boa, python, or anaconda at all times if removed from a container or cage. Uncontained boas, pythons, or anacondas removed from cages for examination or onlooker interaction must be kept confined either behind or at a display table. Interiors of cages or containers may not be accessible to the public.

ARTICLE 20. CROCODILIANS

Section 20-5. "Crocodilians" means any species of the Order Crocodilia, such as crocodiles, alligators, caimans, and gavials.

Section 20-10. Crocodilian permit requirements. In addition to the requirements listed in Articles 60 and 65 of this Act, Herptile Special Use permits may be issued to residents using crocodilian species only for bonafide educational programs, following an inspection and approval of the proposed facilities. A minimum of 6 documented programs shall be required of each permittee per calendar year. Unless addressed or exempted by administrative rule, annual permit renewal must be accompanied by a non-refundable fee as set by the Department and documented proof of educational programs completed on the recipient's letterhead. The Department or the Department of Agriculture reserves the right to inspect of permittees and facilities during reasonable hours. Additions to permits must be approved prior to acquisition of additional crocodilians, and any changes shall be reported to the Department in writing no later than the first business day after that change occurred.

Section 20-15. Maintenance of crocodilians. Permittees shall keep crocodilians maintained in suitable, strong, impact resistant, escape-proof enclosures at all times unless being used for bonafide educational programs or trips for veterinary care.

Section 20-20. Educational programs with crocodilians. During any bonafide educational program involving crocodilians, the owner or affiliated agent must maintain physical possession and control of the crocodilian at all times if removed from a container or cage. Interiors of cages or containers used during educational programs may not be accessible to the public. Crocodilians removed from their cage or enclosure for educational programs must have either the mouth banded or taped shut or kept at a minimum of 10 feet from the public and also kept out of direct contact with the public.

Section 20-25. Transport of crocodilians. During transport of any crocodilian, it must be kept out of sight of the public in an escape-proof enclosure at all times. Transport of any crocodilian to any public venue, commercial establishment, retail establishment, or educational institution shall only be for bonafide educational programs or veterinary care.

Section 20-30. Additional regulations. Crocodilians shall not be bred, sold, or offered for sale within this State.

As determined by the Department, non-residents may apply for a permit not to exceed 15 consecutive days to use crocodilians in bonafide educational programs. The fee for this permit shall be set by administrative rule, and all fees shall be deposited into the Wildlife and Fish Fund.

ARTICLE 25. MONITOR LIZARDS

Section 25-5. "Monitor lizards" means the following members of the Varanidae family, specifically crocodile monitors as well as Komodo dragons.

Section 25-10. Monitor lizard permit requirements. In addition to those requirements listed in Articles 60 and 65 of this Act, Herptile Special Use permits may be issued to residents using monitor lizard species only for bonafide educational programs, following an inspection and approval of the proposed facilities. A minimum of 6 documented programs on the family Varanidae shall be required of each permittee per calendar year. Unless addressed or exempted by administrative rule, annual permit renewal must be accompanied by a non-refundable fee as set by the Department and documented proof of educational programs completed on the recipient's letterhead. The Department or the Department of Agriculture reserves the right to inspect of permittees and facilities during reasonable hours. Additions to permits must be approved prior to acquisition of additional monitor lizards, and any changes shall be reported to the Department in writing no later than the first business day after that change occurred.

Section 25-15. Maintenance of monitor lizards. Permittees shall keep monitor lizards maintained in suitable, strong, impact resistant, escape-proof enclosures at all times unless being used for bonafide educational programs or trips for veterinary care.

Section 25-20. Educational programs with monitor lizards. During any bonafide educational program involving monitor lizards, the owner or affiliated agent must maintain physical possession and control of the monitor lizard at all times if removed from a container or cage. Interiors of cages or containers used during educational programs may not be accessible to the public. Monitor lizards removed from their cage or enclosure for educational programs must have either the mouth banded or taped shut, or kept at a minimum of 10 feet from the public and also kept out of direct contact with the public.

Section 25-25. Transport of monitor lizards. During transport of any monitor lizard, it must be kept out of sight of the public in an escape-proof enclosure at all times. Transport of a monitor lizard to any public venue, commercial establishment, retail establishment, or educational institution shall only be for bonafide educational programs or veterinary care.

Section 25-30. Additional regulations. Monitor lizards shall not be bred, sold, or offered for sale within this State.

As determined by the Department, non-residents may apply for a permit not to exceed 15 consecutive days to use monitor lizards in bonafide educational programs. The fee for the permit shall be set by administrative rule, and all fees shall be deposited into the Wildlife and Fish Fund.

ARTICLE 30. TURTLES

Section 30-5. Turtles. It is unlawful to buy, sell, or offer to sell, or otherwise commercialize (including, but not limited to, offering as a commercial incentive, trading, or otherwise use for the purpose of profit or pecuniary gain) any species of aquatic or semi-aquatic turtles in the Order Testudines (except for the terrestrial tortoises in the family Testudinidae) with a carapace length of 4 inches or less or their eggs within this State. With prior approval from the Department, in its sole discretion, sales or offers for sale of aquatic or semi-aquatic turtles with a carapace length of 4 inches or less or their eggs may be allowed to bonafide scientific or educational institutions.

Section 30-10. Turtle farming. Turtles shall not be commercially farmed in this State.

ARTICLE 35. AMPHIBIANS

Section 35-5. "Amphibians" means those medically significant poisonous amphibians capable of causing bodily harm to humans or animals, including, but not limited to, cane or marine toads (Bufo marinus) and Colorado river toads (Bufo alvarius), or any other amphibian found to be medically significant and shall only be allowed for bonafide educational purposes or research purposes by exempted institutions.

Poison dart frogs bred and raised in captivity shall be exempt from the permit process.

ARTICLE 40. HERPTILE SCIENTIFIC
COLLECTION PERMITS

Section 40-5. Permit issuance. Herptile Scientific Collection permits may be granted by the Department, in its sole discretion, to any properly accredited person at least 18 years of age, permitting the capture, marking, handling, banding, or collecting (including hide, skin, bones, teeth, claws, nests, eggs, or young), for strictly scientific purposes, of any of the herptiles not listed as endangered or threatened but now protected under this Act. A Herptile Scientific Collection permit may be granted to qualified individuals for purpose of salvaging dead, sick, or injured herptiles not listed as endangered or threatened but protected by this Act for permanent donation to bonafide public or state scientific, educational, or zoological institutions. Collecting herptiles on public lands shall require additional permits.

Section 40-10. Permit requirements. The criteria and standards for a Herptile Scientific Collection permit shall be provided by administrative rule. The Department shall set forth applicable rules covering qualifications and facilities needed to obtain a permit. Disposition of herptiles taken under the authority of this Article shall be specified by the Department. The holder of each permit shall make to the Department a report in writing upon forms furnished by the Department. These reports shall be made (i) annually if the permit is granted for a period of one year or (ii) within 30 days after the expiration of the permit if the permit is granted for a period of less than one year. These reports shall include information that the Department considers necessary.

ARTICLE 45. HERPTILE SCIENTIFIC
COLLECTION PERMIT APPLICATION AND FEES

Section 40-5. Permit application and fees. An applicant for a Herptile Scientific Collection permit must file an application with the Department on a form provided by the Department. The application must include all information and requirements as set by administrative rule. The application for these permits shall be reviewed by the Department to determine if a permit should be issued.

Unless addressed or exempted by administrative rule, annual permit renewal must be accompanied by non-refundable fee as set by the Department. The annual fee for a Herptile Scientific Collection permit shall be set by administrative rule. The Department shall adopt, by administrative rule, any additional procedures for the renewal of a Herptile Scientific Collection permit. All fees shall be deposited into the Fish and Wildlife Fund.

ARTICLE 50. HERPETOCULTURE PERMITS

Section 50-5. Permit issuance. Any person or business who engages in the breeding, hatching, propagation, sale, or offer for sale of any indigenous herptile, regardless of origin, shall procure a permit from the Department. Herptiles specified, which are bred, hatched, propagated, or legally obtained by a person or business holding a permit as provided for in this Article, may be transported and sold or offered for sale within this State.

Section 50-10. Permit requirements. Herpetoculture permit holders shall maintain written records of all herptiles indigenous to this State bought, sold, hatched, propagated, sold, or shipped for a minimum of 2 years after the date of the transaction and shall be made immediately available to authorized employees of the Department upon request. These records shall include the name and address of the

buyer and seller, the appropriate permit number of the buyer and seller, the date of the transaction, the species name (both common and scientific), and the origin of herptile involved. Records of the annual operations, as may be required by the Department, shall be forwarded to the Department upon request.

The criteria and standards for a Herpetoculture permit shall be provided by administrative rule. The Department shall set forth applicable rules, including a list of herptiles indigenous to this State.

ARTICLE 55. HERPETOCULTURE
PERMITS APPLICATION AND FEES

Section 55-5. Permit application and fees. An applicant for a Herpetoculture permit must file an application with the Department on a form provided by the Department. The application must include all information and requirements as set forth by administrative rule. The application for these permits shall be reviewed by the Department to determine if a permit should be issued.

Unless addressed or exempted by administrative rule, annual permit renewal must be accompanied by a non-refundable fee as set by the Department. The annual fee for a residential Herpetoculture permit shall be set by administrative rule. The Department shall adopt, by administrative rule, any additional procedures for the renewal of a Herpetoculture permit. All fees shall be deposited into the Wildlife and Fish Fund.

As determined by the Department, non-residents may apply for a permit not to exceed 15 consecutive days to commercialize herptiles indigenous to this State as outlined in this Article. The fee for the permit shall be set by administrative rule, and all fees shall be deposited into the Wildlife and Fish Fund.

The Department shall adopt, by administrative rule, additional procedures for the renewal of annual Herpetoculture permits.

Section 55-10. Additional regulations. Nothing in Articles 50 and 55 shall be construed to give permittees authority to breed, hatch, propagate, sell, offer for sale, or otherwise commercialize any herptile or parts thereof from herptiles indigenous to this State, either partially or in whole, that originate from the wild in this State.

Any offspring resulting from the breeding of herptiles where one parent has been taken from the wild in this State and the other parent from non-Illinois stock or captive bred stock, may not be legally sold or otherwise commercialized and shall be treated as indigenous or native Illinois herp taxa subject to Article 5 of this Act.

Color or pattern variations (morphs) of any herptile indigenous to this State are not exempt from this Article.

Due to the similarity of appearance (S/A) of certain intergrade or hybrid specimens, the Department retains the authority to enforce any and all provisions under this Act. Specimens determined by the Department, or its agents, to fit into this S/A category shall receive all benefits of this Act, as well as the Illinois Endangered Species Protection Act if applicable.

ARTICLE 60. HERPTILE SPECIAL
USE PERMIT REQUIREMENTS

Section 60-5. Permit requirements. Prior to any person obtaining a Herptile Special Use permit, the following criteria must be met:

(1) the person was in legal possession and is the legal possessor of the herptile prior to the effective date of this Act and the person applies for and is granted a Personal Possession permit for each special use herptile in the person's possession within 30 days after the enactment of this Act; or

(2) prior to acquiring a Herptile Special Use permit, the person must provide the name, address, date of birth, permit number, telephone number of the possessor, type or species, and the date the herptile is to be acquired.

The applicant must comply with all requirements of this Act and the rules adopted by the Department to obtain a Herptile Special Use permit. Prior to the issuance of the Herptile Special Use permit, the applicant must provide proof of liability insurance or surety bond, either individually, or in the name of the entity giving the bonafide educational programs, in the amount of $100,000 for each special use herptile up to a maximum of $1,000,000 and the insurance or surety bond is to be maintained during the term of the permit for liability for any incident arising out of or relating to the special use herptile.

ARTICLE 65. HERPTILE SPECIAL USE

PERMIT APPLICATION AND FEES

Section 65-5. Permit application and fees. An applicant for a Herptile Special Use permit must file an application with the Department on a form provided by the Department. The application must include all information and requirements as set forth by administrative rule.

The annual fee for a residential Herptile Special Use permit shall be set by administrative rule on a per person basis. The Herptile Special Use permit shall not be based on the number of special use herptile kept by an owner or possessor. All fees shall be deposited into the Wildlife and Fish Fund.

The Department shall adopt, by administrative rule, procedures for the renewal of annual Herptile Special Use permits.

Any person possessing and in legal possession of a special use herptile as stipulated in this Article, that no longer wishes to keep the herptile may be assisted by the Department at no charge to them and without prosecution, to place the special use herptile in a new home, within 30 days after the effective date of this Act.

The Department may issue a Limited Entry permit to an applicant who: (i) is not a resident of this State; (ii) complies with the requirements of this Act and all rules adopted by the Department under the authority of this Act; (iii) provides proof to the Department that he or she shall, during the permit term, maintain sufficient liability insurance coverage; (iv) pays to the Department along with each application for a Limited Entry permit a non-refundable fee as set by administrative rule, which the Department shall deposit into the Wildlife and Fish Fund; and (v) uses the herptile for an activity authorized in the Limited Entry permit. A Limited Entry permit shall be valid for not more than 30 consecutive days unless extended by the Department, however, no extension shall be longer than 15 days.

ARTICLE 70. SUSPENSION OF
PRIVILEGES AND REVOCATION OF
HERPTILE SPECIAL USE PERMITS

Section 70-5. Suspension of privileges and revocation of permits. A person who does not hold a Herptile Special Use permit or Limited Entry permit and who violates a provision of this Act or an administrative rule authorized under this Act shall have his or her privileges under this Act suspended for up to 5 years after the date that he or she is in violation of an initial offense, for up to 10 years after the date that he or she is in violation of a second offense, and for life for a third or subsequent offense. Department suspensions and revocations shall be addressed by administrative rule.

A person who holds a Herptile Special Use permit or Limited Entry permit and who violates the provisions of this Act shall have his or her permit revoked and permit privileges under this Act suspended for a period of up to 2 years after the date that he or she is found guilty of an initial offense, for up to 10 years after the date that he or she is found guilty of a second offense, and for life for a third offense. Department suspensions and revocations shall be addressed by administrative rule.

A person whose privileges to possess a special use herptile have been suspended or permit revoked may appeal that decision in accordance with the provisions set forth in administrative rule.

ARTICLE 75. RECORD KEEPING REQUIREMENTS
OF SPECIAL USE HERPTILES

Section 75-5. Record keeping requirements. A person who possesses a special use herptile must maintain records pertaining to the acquisition, possession, and disposition of the special use herptile as provided by administrative rule. These records shall be maintained for a minimum of 2 years after the date the special use herptile is no longer in possession of the permit holder. All records are subject to inspection by authorized law enforcement officers. In addition to maintaining records, all special use herptiles must be either pit-tagged or micro-chipped to individually identify them and the pit-tag or microchip numbers are also to be maintained as other pertinent records, unless otherwise provided by administrative rule.

ARTICLE 80. INJURY TO A
MEMBER OF PUBLIC BY
SPECIAL USE HERPTILES

Section 80-5. Injury to a member of public by special use herptiles. A person who possesses a special use herptile without complying with the requirements of this Act and the rules adopted under the

authority of this Act and whose special use herptile harms a person when the possessor knew or should have known that the herptile had a propensity, when provoked or unprovoked, to harm, cause injury to, or otherwise substantially endanger a member of the public is guilty of a Class A misdemeanor. A person who fails to comply with the provisions of this Act and the rules adopted under the authority of this Act and who intentionally or knowingly allow a special use herptile to cause great bodily harm to, or the death of, a human is guilty of a Class 4 felony.

ARTICLE 85. PROHIBITED ACTS WITH SPECIAL USE HERPTILES

Section 85-5. Prohibited acts. Except as otherwise provided in this Act or by administrative rule, a person shall not own, possess, keep, import, transfer, harbor, bring into this State, breed, propagate, buy, sell, or offer to sell, or have in his or her custody or control a special use herptile.

A person shall not release any special use herptile into the wild at any time unless authorized by the Director in writing. The possessor of a special use herptile must immediately contact the animal control authority or law enforcement agency of the municipality or county where the possessor resides if a special use herptile escapes or is released.

The possessor of a special use herptile shall not keep, harbor, care for, transport, act as the custodian of, or maintain in his or her possession the special use herptile in anything other than an escape-proof enclosure.

The possessor of a special use herptile shall not transport the special use herptile to or possess the special use herptile at a public venue, commercial establishment, retail establishment, or educational institution unless specifically authorized by permit or required to render veterinary care to the special use herptile.

The possessor of a special use herptile, at all reasonable times, shall not deny the Department or its designated agents and officers access to premises where the possessor keeps a special use herptile to ensure compliance with this Act.

Except as otherwise provided in this Act or by administrative rule, a person shall not buy, sell, or barter, or offer to buy, sell, or barter a special use herptile.

ARTICLE 90. PENALTIES

Section 90-5. Penalties. A person who violates Article 85 of this Act is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense occurring within one year after a finding of guilt on a first offense. A person who violates Article 75 of this Act is guilty of a Class B misdemeanor. Each day of a violation constitutes a separate offense. Any other violation of this Act is a Class A misdemeanor unless otherwise stated.

All fines and penalties collected under the authority of this Act or its administrative rules shall be deposited into the Wildlife and Fish Fund.

ARTICLE 95. CIVIL LIABILITY AND IMMUNITY

Section 95-5. Assumption of risk. Each participant who owns, possesses, or keeps a herptile expressly assumes the risk of and legal responsibility for injury, loss, or damage to the person or the person's property that results from the ownership, possession, or keeping, of the herptile. Each owner, keeper, or possessor of a herptile shall be solely liable to manage, care for, and control a particular species, and it shall be the duty of each owner, keeper, or possessor, to maintain reasonable control of the particular herptile at all times, and to refrain from acting in a manner that may cause or contribute to the injury of person, whether in public or on private property.

Section 95-10. Civil liability and immunity. If any herptile escapes or is released, the owner and possessor of the herptile shall be strictly liable for all costs incurred in apprehending and confining the herptile; including any injuries incurred to humans or damage to property, both real and personal, including pets and livestock, and the owner shall indemnify any animal control officer, police officer, or Department employee acting in his or her official capacity to capture or control an escaped herptile.

The owner, keeper, or possessor of an escaped herptile shall be solely responsible for any and all liabilities arising out of or in connection with the escape or release of any herptile including liability for any damage, injury, or death caused by or to the herptile during or after the herptile's escape or release or

as a result of the apprehension or confinement of the herptile after its escape or release. In addition, the owner, keeper, or possessor of an escaped herptile shall be solely responsible for any and all costs incurred by an animal control officer, police officer, or Department employee acting in his or her official capacity to capture or control an escaped herptile.

A licensed veterinarian who may have cause to treat a special use herptile that is in violation of this Act shall not be held liable under this Act provided that the veterinarian (i) promptly reports violations of this Act of which he or she has knowledge to a law enforcement agency within 24 hours after becoming aware of the incident; (ii) provides the name, address, and phone number of the person possessing the special use herptile at time of incident or treatment; (iii) provides the name and address of the owner of the special use herptile if known; (iv) identifies the kind and number of special use herptiles being treated; and (v) describes the reason for the treatment of the special use herptile.

ARTICLE 100. SEIZURE AND FORFEITURE

Section 100-5. Seizure and forfeiture. If any person is found to possess a special use herptile that is in violation of this Act, including any administrative rules, then the special use herptile and any equipment or items used contrary to this Act shall be subject to seizure and forfeiture by the Department. Any special use herptile seized in violation of this Act may immediately be placed in a facility approved by the Department.

If a person's special use herptile has been seized by the Department, then the owner and possessor of the special use herptile is liable for the reasonable costs associated with the seizure, placement, testing, and care for the special use herptile from the time of confiscation until the time the special use herptile is relocated to an approved facility or person holding a valid Herptile Special Use permit or is otherwise disposed of by the Department.

Any special use herptile and related items found abandoned shall become the property of the Department and disposed of according to Department rule.

The circuit court, in addition to any other penalty, may award any seized or confiscated special use herptiles or items to the Department as provided for in Section 1-215 of the Fish and Aquatic Life Code and Section 1.25 of the Wildlife Code. Further, the court, in addition to any other penalty, may assess a fee upon a person who pleads guilty to the provisions of this Act equal to the amount established or determined to maintain the special use herptile until it is permanently placed in a facility approved by the Department or otherwise disposed of.

ARTICLE 105. EXEMPTIONS

Section 105-5. Exemptions. When acting in their official capacity, the following entities and their agents are exempt from Articles 75 and 85 of this Act:

(1) public zoos or aquaria accredited by the Association of Zoos and Aquariums;

(2) licensed veterinarians or anyone operating under the authority of a licensed veterinarian;

(3) wildlife sanctuaries;

(4) accredited research or medical institutions;

(5) licensed or accredited educational institutions;

(6) circuses licensed and in compliance with the Animal Welfare Act and all rules adopted by the Department of Agriculture;

(7) federal, State, and local law enforcement officers, including animal control officers acting under the authority of this Act;

(8) members of federal, State, or local agencies approved by the Department;

(9) any bonafide wildlife rehabilitation facility licensed or otherwise authorized by the Department; and

(10) any motion picture or television production company that uses licensed dealers, exhibitors, and transporters under the federal Animal Welfare Act, 7 U.S.C. 2132.

Section 105-10. The Criminal Code of 2012 is amended by changing Section 48-10 as follows:

(720 ILCS 5/48-10)

Sec. 48-10. Dangerous animals.

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

"Dangerous animal" means a lion, tiger, leopard, ocelot, jaguar, cheetah, margay,

mountain lion, lynx, bobcat, jaguarundi, bear, hyena, wolf or coyote~~, or any poisonous or life-threatening reptile~~. Dangerous animal does not mean any herptiles that are found in the Herptiles-Herps Act of 2013.

"Owner" means any person who (1) has a right of property in a dangerous animal or primate, (2) keeps or harbors a dangerous animal or primate, (3) has a dangerous animal or primate in his or her care, or (4) acts as custodian of a dangerous animal or primate.

"Person" means any individual, firm, association, partnership, corporation, or other legal entity, any public or private institution, the State, or any municipal corporation or political subdivision of the State.

"Primate" means a nonhuman member of the order primate, including but not limited to chimpanzee, gorilla, orangutan, bonobo, gibbon, monkey, lemur, loris, aye-aye, and tarsier.

(b) Dangerous animal or primate offense. No person shall have a right of property in, keep, harbor, care for, act as custodian of or maintain in his or her possession any dangerous animal or primate except at a properly maintained zoological park, federally licensed exhibit, circus, college or university, scientific institution, research laboratory, veterinary hospital, hound running area, or animal refuge in an escape-proof enclosure.

(c) Exemptions.

(1) This Section does not prohibit a person who had lawful possession of a primate before January 1, 2011, from continuing to possess that primate if the person registers the animal by providing written notification to the local animal control administrator on or before April 1, 2011. The notification shall include:

(A) the person's name, address, and telephone number; and

(B) the type of primate, the age, a photograph, a description of any tattoo, microchip, or other identifying information, and a list of current inoculations.

(2) This Section does not prohibit a person who is permanently disabled with a severe mobility impairment from possessing a single capuchin monkey to assist the person in performing daily tasks if:

(A) the capuchin monkey was obtained from and trained at a licensed nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, the nonprofit tax status of which was obtained on the basis of a mission to improve the quality of life of severely mobility-impaired individuals; and

(B) the person complies with the notification requirements as described in paragraph (1) of this subsection (c).

(d) A person who registers a primate shall notify the local animal control administrator within 30 days of a change of address. If the person moves to another locality within the State, the person shall register the primate with the new local animal control administrator within 30 days of moving by providing written notification as provided in paragraph (1) of subsection (c) and shall include proof of the prior registration.

(e) A person who registers a primate shall notify the local animal control administrator immediately if the primate dies, escapes, or bites, scratches, or injures a person.

(f) It is no defense to a violation of subsection (b) that the person violating subsection (b) has attempted to domesticate the dangerous animal. If there appears to be imminent danger to the public, any dangerous animal found not in compliance with the provisions of this Section shall be subject to seizure and may immediately be placed in an approved facility. Upon the conviction of a person for a violation of subsection (b), the animal with regard to which the conviction was obtained shall be confiscated and placed in an approved facility, with the owner responsible for all costs connected with the seizure and confiscation of the animal. Approved facilities include, but are not limited to, a zoological park, federally licensed exhibit, humane society, veterinary hospital or animal refuge.

(g) Sentence. Any person violating this Section is guilty of a Class C misdemeanor. Any corporation or partnership, any officer, director, manager or managerial agent of the partnership or corporation who violates this Section or causes the partnership or corporation to violate this Section is guilty of a Class C misdemeanor. Each day of violation constitutes a separate offense.

(Source: P.A. 97-1108, eff. 1-1-13.)

Section 105-15. The Fish and Aquatic Life Code is amended by changing Sections 1-20, 5-25, 10-30, 10-35, 10-60, 10-65, and 10-115 as follows:

(515 ILCS 5/1-20) (from Ch. 56, par. 1-20)

Sec. 1-20. Aquatic life. "Aquatic life" means all fish, ~~reptiles, amphibians,~~ crayfish, and mussels. For the purposes of Section 20-90, the definition of "aquatic life" shall include, but is not limited to, all fish,

~~reptiles, amphibians~~, mollusks, crustaceans, algae or other aquatic plants, and invertebrates. Aquatic life does not mean any herptiles that are found in the Herptiles-Herps Act of 2013.
(Source: P.A. 89-66, eff. 1-1-96.)

(515 ILCS 5/5-25) (from Ch. 56, par. 5-25)

Sec. 5-25. Value of protected species; violations.

(a) Any person who, for profit or commercial purposes, knowingly captures or kills, possesses, offers for sale, sells, offers to barter, barters, offers to purchase, purchases, delivers for shipment, ships, exports, imports, causes to be shipped, exported, or imported, delivers for transportation, transports or causes to be transported, carries or causes to be carried, or receives for shipment, transportation, carriage, or export any aquatic life, in part or in whole of any of the species protected by this Code, contrary to the provisions of the Code, and that aquatic life, in whole or in part, is valued at or in excess of a total of $300, as per species value specified in subsection (c) of this Section, commits a Class 3 felony.

A person is guilty of a Class 4 felony if convicted under this Section for more than one violation within a 90-day period if the aquatic life involved in each violation are not valued at or in excess of $300 but the total value of the aquatic life involved with the multiple violations is at or in excess of $300. The prosecution for a Class 4 felony for these multiple violations must be alleged in a single charge or indictment and brought in a single prosecution.

Any person who violates this subsection (a) when the total value of species is less than $300 commits a Class A misdemeanor except as otherwise provided.

(b) Possession of aquatic life, in whole or in part, captured or killed in violation of this Code, valued at or in excess of $600, as per species value specified in subsection (c) of this Section, shall be considered prima facie evidence of possession for profit or commercial purposes.

(c) For purposes of this Section, the fair market value or replacement cost, whichever is greater, must be used to determine the value of the species protected by this Code, but in no case shall the minimum value of all aquatic life and their hybrids protected by this Code, whether dressed or not dressed, be less than the following:

(1) For each muskellunge, northern pike, walleye, striped bass, sauger, largemouth bass, smallmouth bass, spotted bass, trout (all species), salmon (all species other than chinook caught from August 1 through December 31), and sturgeon (other than pallid or lake sturgeon) of a weight, dressed or not dressed, of one pound or more, $4 for each pound or fraction of a pound. For each individual fish with a dressed or not dressed weight of less than one pound, $4. For parts of fish processed past the dressed state, $8 per pound.

(2) For each warmouth, rock bass, white bass, yellow bass, sunfish (all species except largemouth, smallmouth, and spotted bass), bluegill, crappie, bullheads, pickerels, yellow perch, catfish (all species), and mussels of a weight, dressed or not dressed, of one pound or more, $4 for each pound or fraction of a pound of aquatic life. For each individual aquatic life with a dressed or not dressed weight of less than one pound, $4. For aquatic life parts processed past the dressed state, $8 per pound.

(3) (Blank). ~~For processed turtle parts, $6 for each pound or fraction of a pound. For each non-processed turtle, $8 per turtle.~~

(4) (Blank). ~~For frogs, toads, salamanders, lizards, and snakes, $8 per animal in whole or in part.~~

(5) For goldeye, mooneye, carp, carpsuckers (all species), suckers (all species), redhorse (all species), buffalo (all species), freshwater drum, skipjack, shad (all species), alewife, smelt, gar, bowfin, chinook salmon caught from August 1 through December 31, and all other aquatic life protected by this Code, not listed in paragraphs (1), (2), or (5) ~~(3), or (4)~~ of subsection (c) of this Section, $1 per pound, in part or in whole.

(6) For each species listed on the federal or State endangered and threatened species list, and for lake and pallid sturgeon, $150 per animal in whole or in part.

(Source: P.A. 95-147, eff. 8-14-07.)

(515 ILCS 5/10-30) (from Ch. 56, par. 10-30)

Sec. 10-30. Bullfrog; open season. Bullfrog open season is found in Section 5-30 of the Herptiles-Herps Act of 2013. ~~All individuals taking bullfrogs shall possess a valid sport fishing license and may take bullfrogs only during the following open season of June 15 through August 31, both inclusive.~~
(Source: P.A. 87-833.)

(515 ILCS 5/10-35) (from Ch. 56, par. 10-35)

Sec. 10-35. Daily limit; bullfrogs. Bullfrog daily limit is found in Section 5-30 of the Herptiles-Herp Act of 2013. ~~The daily limit for all properly licensed individuals is 8 bullfrogs. The possession limit total is 16 bullfrogs.~~

(Source: P.A. 87-833.)

(515 ILCS 5/10-60) (from Ch. 56, par. 10-60)

Sec. 10-60. Taking of turtles or bullfrogs; illegal devices. Taking of turtles or bullfrogs is found in Section 5-30 of the Herptiles-Herp Act of 2013. ~~No person shall take turtles or bullfrogs by commercial fishing devices, including hoop nets, traps, or seines, or by the use of firearms, airguns, or gas guns.~~

(Source: P.A. 87-833.)

(515 ILCS 5/10-65) (from Ch. 56, par. 10-65)

Sec. 10-65. Taking of snakes. Taking of snakes is found in Section 5-25 of the Herptiles-Herp Act of 2013. ~~Unless otherwise provided in this Code, snakes may be taken by the owners or bonafide tenants of lands actually residing on the lands and their children, parents, brothers, and sisters actually permanently residing with them.~~

(Source: P.A. 87-833.)

(515 ILCS 5/10-115) (from Ch. 56, par. 10-115)

Sec. 10-115. Taking of turtles. Taking of turtles is found in Section 5-30 of the Herptiles-Herp Act of 2013. ~~Turtles may be taken only by hand or means of hook and line. The provisions of this Section are subject to modification by administrative rule.~~

(Source: P.A. 87-833.)".

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2362

AMENDMENT NO. 3. Amend Senate Bill 2362, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 53, line 13, after "liable", by inserting ", except for willful and wanton misconduct,".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Kotowski, **Senate Bill No. 572** 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 572

AMENDMENT NO. 1. Amend Senate Bill 572 by replacing everything after the enacting clause with the following:

"(105 ILCS 55/Act rep.)

Section 5. The School Employee Benefit Act is repealed.

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 Raoul, **Senate Bill No. 1912** 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 1912

AMENDMENT NO. 1. Amend Senate Bill 1912 by replacing everything after the enacting clause with the following:

"Section 5. The Code of Civil Procedure is amended by changing Section 9-316 as follows:

(735 ILCS 5/9-316) (from Ch. 110, par. 9-316)

Sec. 9-316. Lien upon crops. Every landlord shall have a lien upon the ~~the~~ crops grown or growing upon the demised premises for the rent thereof, whether the same is payable wholly or in part in money

or specific articles of property or products of the premises, or labor, and also for the faithful performance of the terms of the lease. Such lien shall continue for the period of 6 months after the expiration of the term for which the premises are demised, and may be enforced by distraint as provided in Part 3 of Article IX of this Act.

A good faith purchaser shall, however, take such crops free of any landlord's lien unless, within 6 months prior to the purchase, the landlord provides written notice of his lien to the purchaser by registered or certified mail. Such notice shall contain the names and addresses of the landlord and tenant, and clearly identify the leased property.

A landlord may require that, prior to his tenant's selling any crops grown on the demised premises, the tenant disclose the name of the person to whom the tenant intends to sell those crops. Where such a requirement has been imposed, the tenant shall not sell the crops to any person other than a person who has been disclosed to the landlord as a potential buyer of the crops.

A lien arising under this Section shall have priority over any agricultural lien as defined in, and over any security interest arising under, provisions of Article 9 of the Uniform Commercial Code.
(Source: P.A. 91-893, eff. 7-1-01; 92-819, eff. 8-21-02.)".

Senate Floor Amendment No. 2 was postponed in the Committee on Judiciary.

Senate Floor Amendment No. 3 was held in the Committee on Judiciary.

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 FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Steans, **House Bill No. 207** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Steans, **House Bill No. 2275** was taken up, read by title a second time and ordered to a third reading.

At the hour of 1:41 o'clock p.m., the Chair announced that the Senate stand at ease.

AT EASE

At the hour of 1:52 o'clock p.m., the Senate resumed consideration of business.
Senator Sullivan, presiding.

REPORTS FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 24, 2013 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committee of the Senate:

Education:	**Senate Amendment No. 1 to Senate Bill 1762**.
Environment:	**Senate Floor Amendment No. 3 to Senate Bill 1961**.
Executive:	**Senate Floor Amendment No. 1 to Senate Bill 1680**.
Judiciary:	**Senate Floor Amendment No. 1 to Senate Bill 1210**.

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 24, 2013 meeting, reported that the Committee recommends that **Senate Floor Amendment No. 3 to Senate Bill No. 1708** be re-referred from the Committee on Executive to the Committee on Assignments.

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 24, 2013 meeting, reported that the following Legislative Measures have been approved for consideration:

Senate Floor Amendment No. 2 to Senate Bill 2187
Senate Floor Amendment No. 4 to Senate Bill 2194
Senate Floor Amendment No. 4 to Senate Bill 2365

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

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 24, 2013 meeting, reported that the following Legislative Measure has been approved for consideration:

Senate Floor Amendment No. 3 to Senate Bill 1708

The foregoing floor amendment was placed on the Secretary's Desk.

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator McGuire, **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 Delgado, **Senate Bill No. 1572** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 1572

AMENDMENT NO. 1. Amend Senate Bill 1572 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Sections 2-3.157, 34-18.48, and 34-18.49 as follows:

(105 ILCS 5/2-3.157 new)

Sec. 2-3.157. City of Chicago School District 299 reports.

(a) The State Board of Education shall prepare a report on the practices and trends in the operations of City of Chicago School District 299 with respect to the impact of charter school enrollment on the operation of the school district. The State Board of Education shall gather data regarding student enrollment and placement policies, disciplinary procedures, programs for special education, English Language Learners (ELL), and any other relevant student needs for each public school in the district, including charter schools. The report shall specifically identify any polices that give schools latitude to discourage attendance of students or that would create barriers for any students to attend. In addition, the State Board of Education shall gather data on mobility, attendance rates, graduation rates, and incoming and outgoing transfers at each grade level for each public school in the district, including charter schools. The report shall identify the extent to which transfers from charter schools to other schools occur before or after any deadlines related to funding. The report shall identify the extent to which charter schools accept transfers into the school at each grade level, as compared to transfers out. The report shall compare charter school enrollment by race, disability, income, and ELL status to other charter and traditional public schools in the district. The report shall compare the instructional programs, methods, and instructional materials of each public school in the district, including charter schools.

The district shall comply with all requests for information made by the State Board of Education necessary for the State Board of Education to prepare this report.

The State Board of Education shall file copies of this report as provided in Section 3.1 of the General Assembly Organization Act.

(b) The State Board of Education shall prepare a report on the impact of school actions, such as school closures and school turnarounds, on the practices and trends in the operation of City of Chicago School District 299. The report shall include all of the following:

(1) A community analysis that includes current and projected demographics, land usage,

transportation plans, residential housing and commercial development, private school plans for water and sewage expansion or redevelopment, and institutions of higher education.

(2) A description of the district's guiding educational principles and standards.

(3) A description of the types of instructional programs or services delivered at each school.

(4) The enrollment capacity of each school and its rate of utilization.

(5) A report on the assessment of individual building and site conditions.

(6) A data table with historical and projected enrollment data by school and by grade.

(7) An analysis of facility needs and requirements of the district.

(8) Identification of potential sources of funding for the implementation of the district's Educational Facility Master Plan.

The report shall also include identification of all external firms and agencies contracted to aid the district in performing school actions and transitions. The firms and agencies shall disclose financial interests, fees paid by the district, and any and all relationships it holds with any member of the school board or city council.

The district shall comply with all requests for information made by the State Board of Education necessary for the State Board of Education to prepare this report.

The State Board of Education shall file copies of this report as provided in Section 3.1 of the General Assembly Organization Act.

(c) The State Board of Education shall prepare a report on the impact of standardized testing on the operations and practices of City of Chicago School District 299. The report shall include the amount of time educators prepare for tests, administer tests, and analyze results. The report shall also include the amount of money spent on procuring standardized tests. The report shall include the number of tests given to students and the frequency of tests at each grade level and at each school in the district. The report shall include financial disclosures by the company or firm that owns the tests and preparation materials that include any prior relationships with the district or agents of the district. The report shall compare the frequency of tests given to students in schools that have charters approved by the district and other district schools.

The report shall be completed and made available to the public each year on or before July 31. If the district does not make available all information requested by the State Board of Education necessary for the State Board of Education to prepare this report, the State Board of Education, in an administrative proceeding, shall impose a civil penalty on the district equal to $2,900 for every day the information is unavailable after the July 31 report date. The Attorney General may bring an action in circuit court to enforce the collection of any monetary penalty imposed.

(d) The State Board of Education may adopt any rules necessary to carry out its responsibilities under this Section.

(105 ILCS 5/34-18.48 new)

Sec. 34-18.48. School property; sale of unusable property; real estate transaction standards.

(a) When school properties are deemed unusable by the district and are slated for sale, the district must sell the properties at market rate.

(b) The State Board of Education shall create standards for district real estate transactions and shall approve all real estate arrangements.

(105 ILCS 5/34-18.49 new)

Sec. 34-18.49. Statement of revenues and in-kind services. The district shall create a statement of revenues and in-kind services it receives. The statement shall also include the value of any in-kind services, payments to third parties, or other supports from the district to its charter schools. Any support for marketing or recruiting activities, sharing of lists of students, or other services must be reported as well. The statement must be made available to the public.".

AMENDMENT NO. 2 TO SENATE BILL 1572

AMENDMENT NO. 2. Amend Senate Bill 1572, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 5, immediately below line 9, by inserting the following:

"(e) The State Board of Education may enter into contracts to fulfill the requirements of this Section.

(f) City of Chicago School District 299 is responsible for all costs associated with the reports required in this Section.".

Senator Delgado offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1572

AMENDMENT NO. _3__. Amend Senate Bill 1572, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 1, line 5, by deleting ", 34-18.48,"; and

on page 5, by deleting lines 10 through 18.

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.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Steans, **Senate Bill No. 45** 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 6; Present 1.

The following voted in the affirmative:

Barickman	Haine	Link	Radogno
Bertino-Tarrant	Harmon	Luechtefeld	Raoul
Biss	Harris	Manar	Righter
Bivins	Hastings	Martinez	Silverstein
Brady	Holmes	McCann	Stadelman
Bush	Hunter	McConnaughay	Steans
Clayborne	Hutchinson	McGuire	Sullivan
Collins	Jacobs	Morrison	Syverson
Cullerton, T.	Jones, E.	Mulroe	Van Pelt
Cunningham	Koehler	Muñoz	Mr. President
Dillard	Kotowski	Murphy	
Frerichs	Landek	Noland	

The following voted in the negative:

Connelly	LaHood	Oberweis
Duffy	McCarter	Rose

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.

On motion of Senator Manar, **Senate Bill No. 336** 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 8.

The following voted in the affirmative:

Althoff	Frerichs	Landek	Noland
Bertino-Tarrant	Haine	Link	Raoul
Biss	Harmon	Luechtefeld	Rezin
Brady	Harris	Manar	Rose
Bush	Hastings	Martinez	Silverstein
Clayborne	Holmes	McCann	Stadelman
Collins	Hunter	McConnaughay	Steans
Connelly	Hutchinson	McGuire	Sullivan
Cullerton, T.	Jacobs	Morrison	Van Pelt
Cunningham	Jones, E.	Mulroe	Mr. President
Delgado	Koehler	Muñoz	
Dillard	Kotowski	Murphy	

The following voted in the negative:

Barickman	LaHood	Righter
Bivins	McCarter	Syverson
Duffy	Oberweis	

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. 448** 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	Duffy	Landek	Radogno
Barickman	Frerichs	Link	Raoul
Bertino-Tarrant	Haine	Luechtefeld	Rezin
Biss	Harmon	Manar	Righter
Bivins	Harris	Martinez	Rose
Brady	Hastings	McCarter	Silverstein
Bush	Holmes	McConnaughay	Stadelman
Clayborne	Hunter	McGuire	Steans
Collins	Hutchinson	Morrison	Sullivan
Connelly	Jacobs	Mulroe	Syverson
Cullerton, T.	Jones, E.	Muñoz	Van Pelt
Cunningham	Koehler	Murphy	Mr. President
Delgado	Kotowski	Noland	
Dillard	LaHood	Oberweis	

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 Steans, **Senate Bill No. 579** 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	Duffy	Landek	Oberweis
Barickman	Frerichs	Link	Radogno
Bertino-Tarrant	Haine	Luechtefeld	Raoul
Biss	Harmon	Manar	Rezin
Bivins	Harris	Martinez	Righter
Brady	Hastings	McCann	Rose
Bush	Holmes	McCarter	Silverstein
Clayborne	Hunter	McConnaughay	Stadelman
Collins	Hutchinson	McGuire	Steans
Connelly	Jacobs	Morrison	Sullivan
Cullerton, T.	Jones, E.	Mulroe	Syverson
Cunningham	Koehler	Muñoz	Van Pelt
Delgado	Kotowski	Murphy	Mr. President
Dillard	LaHood	Noland	

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 Noland, **Senate Bill No. 850** was recalled from the order of third reading to the order of second reading.

Senator Noland offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 850

AMENDMENT NO. 2. Amend Senate Bill 850, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 11, in line 16, by replacing "(E)" with "(D)"; and

on page 11, in line 21, immediately after "commingled", by inserting "landscape".

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 Noland, **Senate Bill No. 850** 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	Duffy	Landek	Oberweis
Barickman	Frerichs	Link	Radogno
Bertino-Tarrant	Haine	Luechtefeld	Raoul
Biss	Harmon	Manar	Rezin
Bivins	Harris	Martinez	Righter
Brady	Hastings	McCann	Rose
Bush	Holmes	McCarter	Silverstein
Clayborne	Hunter	McConnaughay	Stadelman
Collins	Hutchinson	McGuire	Steans
Connelly	Jacobs	Morrison	Sullivan
Cullerton, T.	Jones, E.	Mulroe	Syverson
Cunningham	Koehler	Muñoz	Van Pelt
Delgado	Kotowski	Murphy	Mr. President
Dillard	LaHood	Noland	

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 Muñoz, **Senate Bill No. 923** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 36; NAYS 12; Present 2.

The following voted in the affirmative:

Bertino-Tarrant	Haine	Landek	Silverstein
Biss	Harmon	Link	Stadelman
Brady	Harris	Manar	Steans
Bush	Hastings	Martinez	Sullivan
Clayborne	Holmes	McGuire	Van Pelt
Cullerton, T.	Hunter	Morrison	Mr. President
Cunningham	Hutchinson	Mulroe	
Delgado	Jacobs	Muñoz	
Dillard	Koehler	Murphy	
Frerichs	Kotowski	Noland	

The following voted in the negative:

Barickman	McCann	Rezin
Bivins	McCarter	Righter
Duffy	McConnaughay	Rose
LaHood	Oberweis	Syverson

The following voted present:

Jones, E.
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 Raoul, **Senate Bill No. 1005** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 1 was postponed in the Committee on Criminal Law.

Senator Raoul offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1005

AMENDMENT NO. 2. Amend Senate Bill 1005 by replacing everything after the enacting clause with the following:

"Section 5. 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 11-0.1 of the Criminal Code of 2012, 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 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11, 11-14.4 except for an offense that involves keeping a place of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 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, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.4, 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, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961 or the Criminal Code of 2012;

(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, 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-14.4, 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, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2, or Section 12-3.05 except for subdivision (a)(4) or (g)(1), of the Criminal Code of 1961 or the Criminal Code of 2012;

(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 2012;

(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, the Specialized Mental Health Rehabilitation Act, or the ID/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 Criminal Code of 2012 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 or the Criminal Code of 2012 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;

(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 or the Criminal Code of 2012 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 11-20.1B or 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;

(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; or

(28) the defendant committed the offense of assault, aggravated assault, battery, aggravated battery, robbery, armed robbery, or aggravated robbery against a person that the defendant knew or reasonably should have known was a letter carrier or postal worker while that person was performing his or her duties delivering mail for the United States Postal Service.

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 26-7 of the Criminal Code of 2012; 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 11-1.40 or subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 or the Criminal Code of 2012 (720 ILCS 5/11-1.40 or 5/12-14.1).

(5) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 or the Criminal Code of 2012 (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 or the Criminal Code of 2012 (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 or the Criminal Code of 2012 (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.

(8) When the defendant is convicted of attempted mob action, solicitation to commit mob action, or conspiracy to commit mob action under Section 8-1, 8-2, or 8-4 of the Criminal Code of 2012, where the criminal object is a violation of Section 25-1 of the Criminal Code of 2012, and an electronic communication is used in the commission of the offense. For the purposes of this paragraph (8), "electronic communication" shall have the meaning provided in Section 26.5-0.1 of the Criminal Code of 2012.

(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 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 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. 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; 96-1551, Article 1, Section 970, eff. 7-1-11; 96-1551, Article 2, Section 1065, eff. 7-1-11; 97-38, eff. 6-28-11, 97-227, eff. 1-1-12; 97-333, eff. 8-12-11; 97-693, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13.)".

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 Raoul, **Senate Bill No. 1005** 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	Luechtefeld	Raoul
Barickman	Harmon	Manar	Rezin
Bertino-Tarrant	Harris	Martinez	Righter
Biss	Hastings	McCann	Rose
Brady	Holmes	McCarter	Silverstein
Bush	Hunter	McConnaughay	Stadelman
Clayborne	Hutchinson	McGuire	Steans
Collins	Jacobs	Morrison	Sullivan
Connelly	Jones, E.	Mulroe	Syverson
Cullerton, T.	Koehler	Muñoz	Mr. President
Cunningham	Kotowski	Murphy	
Delgado	LaHood	Noland	
Dillard	Landek	Oberweis	
Frerichs	Link	Radogno	

The following voted present:

Van Pelt

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 Hutchinson, **Senate Bill No. 1162** 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	Duffy	Landek	Radogno
Barickman	Frerichs	Link	Raoul
Bertino-Tarrant	Haine	Luechtefeld	Rezin
Biss	Harmon	Manar	Righter
Bivins	Harris	Martinez	Rose
Brady	Hastings	McCarter	Silverstein
Bush	Holmes	McConnaughay	Stadelman
Clayborne	Hunter	McGuire	Steans
Collins	Hutchinson	Morrison	Sullivan
Connelly	Jacobs	Mulroe	Syverson
Cullerton, T.	Jones, E.	Muñoz	Van Pelt
Cunningham	Koehler	Murphy	Mr. President
Delgado	Kotowski	Noland	
Dillard	LaHood	Oberweis	

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

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

On motion of Senator Haine, **Senate Bill No. 1194** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 1 was held in the Committee on Executive.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1194

AMENDMENT NO. _2_. Amend Senate Bill 1194 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Navigator Certification Act.

Section 5. Definitions. As used in this Act:

"Certified application counselor" has the same meaning as in federal regulations and guidelines.

"Director" means the Director of Insurance.

"Exchange" means any health benefit exchange established or operating in this State, including any exchange established or operated by the United States Department of Health and Human Services.

"Navigator" means a person or entity selected to perform the activities and duties identified in 42 U.S.C. 18031(i) in this State. "Navigator" includes any person or entity who receives grant funds from the United States Department of Health and Human Services, the State of Illinois, or an exchange or private funds to perform any of the activities and duties identified in 42 U.S.C. 18031(i), including, but not limited to, in-person assisters as defined by federal regulations or guidelines.

Section 10. Certificate required.

(a) No individual or entity shall perform, offer to perform, or advertise any service as a navigator in this State or receive navigator grant funding from the United States Department of Health and Human Services, the State of Illinois, or an exchange or private funds unless certified as a navigator by the Director under this Act.

(b) A navigator who complies with the requirements of this Act shall do the following:

(1) conduct public education activities to raise awareness of the availability of qualified health plans;

(2) distribute fair and impartial information concerning enrollment in qualified health plans offered within the exchange and the availability of the premium tax credits under Section 36B of the Internal Revenue Code of 1986, 26 U.S.C. 36B, and cost-sharing reductions under Section 1402 of the federal Patient Protection and Affordable Care Act;

(3) facilitate enrollment in qualified health plans;

(4) provide referrals to appropriate federal and State agencies for any enrollee with a

grievance, complaint, or question regarding their health plan or coverage or a determination under such plan or coverage;

(5) provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the exchange.

(c) A navigator may not:

(1) sell, solicit, or negotiate any of the classes of insurance enumerated in Section 4 of the Illinois Insurance Code;

(2) offer advice about which health plan is better or worse for a particular individual or employer;

(3) recommend or endorse a particular health plan or advise consumers about which health plan to choose;

(4) provide any information or services related to health benefit plans or other insurance products not offered in the exchange; or

(5) accept any compensation or consideration directly or indirectly from any issuer of accident and health insurance or stop-loss insurance that is dependent, in whole or in part, on whether a person enrolls in or purchases a particular private health benefit plan.

(d) Items (1), (2), (3), (4), and (5) of subsection (c) of this Section do not apply to navigators when assisting individuals with the enrollment process in the State Medicaid program or other public programs.

Section 15. Application for certificate.

(a) An entity or individual applying for a navigator certificate shall make application to the Director on a form developed by the Director and declare under penalty of refusal, suspension, or revocation of the certificate that the statements made in the application are true, correct, and complete to the best of the individual's or entity's knowledge and belief. Before approving the application, the Director shall find that the individual:

(1) is at least 18 years of age;

(2) resides in this State or maintains his or her principal place of business in this State;

(3) is not disqualified due to having committed any act that would be grounds for denial, suspension, or revocation of a navigator certification in accordance with Section 30 of this Act;

(4) has successfully completed the federal and State training provided by the Exchange or equivalent State requirements as determined by the Department; and

(5) when applicable, has the written consent of the Director pursuant to 18 U.S.C. 1033, or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

(b) An entity that acts as a navigator, supervises the activities of individual navigators, or receives funding to perform such activities shall obtain a navigator entity certificate. An entity applying for a navigator entity certificate shall make application on a form containing the information prescribed by the Director and shall list the individuals acting as navigators under the entity certificate.

(1) The entity shall designate a certified navigator responsible for the navigator entity's compliance with the laws of this State and the Exchange.

(2) The entity, under penalty of revocation, suspension, or other discipline prescribed by the Director, shall certify that each individual completes the mandatory training required by item (4) of subsection (a) of Section 15 of this Act.

(c) The Director may require any documents deemed necessary to verify the information contained in an application submitted in accordance with subsections (a) and (b) of this Section.

(d) Entities certified as navigators shall provide the Director with a list of all individual navigators that it employs, supervises, or is affiliated with at renewal.

(e) The Director may require, in a manner determined by the Director, that each entity that acts as a navigator demonstrate a level of financial responsibility capable of protecting all persons against the wrongful acts, misrepresentations, or negligence of the navigator.

(f) Prior to any exchange becoming operational in this State, the Director, in coordination with the exchange, shall prescribe the initial training and continuing education requirements for navigators.

(g) Certificate holders must inform the Director, in writing, of a change of address within 30 days after the change.

(h) In order to assist in the performance of the Director's duties, the Director may contract with the National Association of Insurance Commissioners (NAIC), or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to

certification that the Director and the nongovernmental entity may deem appropriate.

Section 20. Certificate renewal.

(a) An individual navigator and entity certificate shall be valid for one year.

(b) A navigator may file an application for renewal of a certificate in a method prescribed by the Director. Any navigator who fails to timely file for certificate renewal shall be charged a late fee in an amount prescribed by the Director.

(c) Prior to the filing date for application for renewal of a certificate, an individual navigator shall comply with ongoing training and continuing education requirements established by the Director. The navigator shall file with the Director, by a method prescribed by the Director, satisfactory certification of completion of the continuing education requirements. Any failure to fulfill the ongoing training and continuing education requirements shall result in the expiration of the certificate.

Section 25. Navigator referrals. On contact with a person who acknowledges having existing health insurance coverage obtained through an insurance producer, a navigator shall refer the person back to that insurance producer for information, assistance, and any other services unless:

(1) the individual is eligible for but has not obtained a federal premium subsidy and cost-sharing assistance available only through an exchange;

(2) the insurance producer is not authorized to sell health plans in an individual exchange; or

(3) the individual would prefer not to seek further assistance from the individual's insurance producer.

Section 30. Certificate denial, nonrenewal, or revocation.

(a) The Director may place on probation, suspend, revoke, or refuse to issue or renew a navigator's certificate or may levy civil penalty as established by rule.

(b) If an action by the Director is to nonrenew, suspend, or revoke a certificate or to deny an application for a certificate, then the Director shall notify the applicant or certificate holder and advise, in writing, the applicant or certificate holder of the reason for the suspension, revocation, or denial or nonrenewal of the applicant's or certificate holder's certificate. The applicant or certificate holder may make written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing and shall be held pursuant to Part 2402 of Title 50 of the Illinois Administrative Code.

(c) A navigator entity certificate may be suspended, revoked, or refused or information turned over to the U.S. Department of Health and Human Services and applicable state agencies if the Director finds, after hearing, that a certified individual's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the navigator entity.

(d) In addition to or instead of any applicable denial, suspension, or revocation of a certificate, a person may, after hearing, be subject to a civil penalty in accordance with emergency rules issued by the Director.

(e) The Director has the authority to enforce the provisions of and impose any penalty or remedy authorized by this Act against any person who is under investigation of or charged with a violation of this Act or rules even if the person's certificate has been surrendered or has lapsed by operation of law.

(f) Upon the suspension, denial, or revocation of a certificate, the certificate holder or other person having possession or custody of the certificate shall promptly deliver it to the Director in person or by mail. The Director shall publish all suspensions, denials, or revocations after the suspensions, denials, or revocations become final in a manner designed to notify the public.

(g) A person whose certificate is revoked or whose application is denied pursuant to this Section is ineligible to apply for any certificate for 3 years after the revocation or denial. A person whose certificate as a navigator has been revoked, suspended, or denied may not be employed, contracted, or engaged in an Exchange-related capacity during the time the revocation, suspension, or denial is in effect.

Section 35. Reporting to the Director.

(a) Each navigator shall report to the Director within 30 calendar days after the final disposition of a matter that violates the provisions set forth in this Act that results in any administrative action taken against him in another jurisdiction or by another governmental agency in this State. The report shall include a copy of the order, consent to order, or other relevant legal documents.

(b) Within 30 days after the initial pretrial hearing date, a navigator shall report to the Director any criminal prosecution of the navigator of a matter that violates the provisions set forth in this Act taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

(c) An entity that acts as a navigator that terminates the employment, engagement, affiliation, or other relationship with an individual navigator shall notify the Director within 30 days following the effective date of the termination, using a format prescribed by the Director, if the reason for termination is one of the reasons set forth in this Act or the entity has knowledge the navigator was found by a court or government body to have engaged in any of the activities prohibited by this Act. Upon the written request of the Director, the entity shall provide additional information, documents, records, or other data pertaining to the termination or activity of the individual.

Section 40. Certified application counselor.

(a) A certified application counselor may not:

(1) sell, solicit, or negotiate any of the classes of insurance enumerated in Section 4 of the Illinois Insurance Code;

(2) offer advice about which health plan is better or worse for a particular individual or employer;

(3) recommend or endorse a particular health plan or advise consumers about which plan to choose;

(4) provide any information or services related to health benefit plans or other insurance products not offered in the exchange; or

(5) accept any compensation or consideration directly or indirectly from any issuer of accident and health insurance or stop-loss insurance that is dependent, in whole or in part, on whether a person enrolls in or purchases a particular health benefit plan.

(b) Items (1), (2), (3), (4) and (5) of subsection (a) of this Section do not apply to certified application counselors when assisting individuals with the enrollment process in the State Medicaid program or other public programs.

(c) The Director shall develop education and certification requirements for certified application counselors by rule.

Section 45. Other laws; rulemaking authority.

(a) The requirements of this Act shall not apply to any individual or entity licensed as an insurance producer in this State.

(b) Pursuant to the authority granted by this Act, the Director may adopt rules as may be necessary or appropriate for the administration and enforcement of this Act.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1194

AMENDMENT NO. 3. Amend Senate Bill 1194, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2 as follows:

on page 3, line 9, by replacing "negotiate" with "negotiate, as these terms are defined in Section 500-10 of the Illinois Insurance Code,"; and

on page 10, line 22, by replacing "negotiate" with "negotiate, as these terms are defined in Section 500-10 of the Illinois Insurance Code,".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 1194** 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	Duffy	Link	Raoul
Barickman	Frerichs	Luechtefeld	Rezin
Bertino-Tarrant	Haine	Manar	Righter
Biss	Harmon	Martinez	Rose
Bivins	Harris	McCann	Silverstein
Brady	Hastings	McCarter	Stadelman
Bush	Holmes	McConnaughay	Steans
Clayborne	Hunter	McGuire	Sullivan
Collins	Hutchinson	Morrison	Syverson
Connelly	Jacobs	Mulroe	Van Pelt
Cullerton, T.	Koehler	Muñoz	Mr. President
Cunningham	Kotowski	Murphy	
Delgado	LaHood	Noland	
Dillard	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. 1244** 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:

Althoff	Frerichs	Kotowski	Noland
Bertino-Tarrant	Haine	Landek	Raoul
Biss	Harmon	Link	Silverstein
Bush	Harris	Manar	Stadelman
Clayborne	Hastings	Martinez	Steans
Collins	Hunter	McGuire	Sullivan
Cullerton, T.	Hutchinson	Morrison	Van Pelt
Cunningham	Jacobs	Mulroe	Mr. President
Delgado	Koehler	Muñoz	

The following voted in the negative:

Barickman	Duffy	Murphy	Rose
Bivins	LaHood	Oberweis	Syverson

Brady	Luechtefeld	Radogno
Connelly	McCarter	Rezin
Dillard	McConnaughay	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 Raoul, **Senate Bill No. 1330** 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	Frerichs	Landek	Noland
Bertino-Tarrant	Haine	Link	Radogno
Biss	Harmon	Luechtefeld	Raoul
Bivins	Harris	Manar	Rezin
Brady	Hastings	Martinez	Rose
Bush	Holmes	McCann	Silverstein
Clayborne	Hunter	McCarter	Stadelman
Connelly	Hutchinson	McConnaughay	Steans
Cullerton, T.	Jacobs	McGuire	Sullivan
Cunningham	Jones, E.	Morrison	Syverson
Delgado	Koehler	Mulroe	Van Pelt
Dillard	Kotowski	Muñoz	Mr. President
Duffy	LaHood	Murphy	

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. 1415** 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	Duffy	Landek	Oberweis
Barickman	Frerichs	Link	Radogno
Bertino-Tarrant	Haine	Luechtefeld	Raoul
Biss	Harmon	Manar	Rezin
Bivins	Harris	Martinez	Righter
Brady	Hastings	McCann	Rose
Bush	Holmes	McCarter	Silverstein
Clayborne	Hunter	McConnaughay	Stadelman
Collins	Hutchinson	McGuire	Steans
Connelly	Jacobs	Morrison	Sullivan
Cullerton, T.	Jones, E.	Mulroe	Syverson

Cunningham	Koehler	Muñoz	Van Pelt
Delgado	Kotowski	Murphy	Mr. President
Dillard	LaHood	Noland	

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 Rose, **Senate Bill No. 1528** 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	Duffy	Link	Radogno
Barickman	Frerichs	Luechtefeld	Raoul
Bertino-Tarrant	Haine	Manar	Rezin
Biss	Harmon	Martinez	Righter
Bivins	Harris	McCann	Rose
Brady	Hastings	McCarter	Silverstein
Bush	Holmes	McConnaughay	Stadelman
Clayborne	Hunter	McGuire	Steans
Collins	Hutchinson	Morrison	Sullivan
Connelly	Jones, E.	Mulroe	Syverson
Cullerton, T.	Koehler	Muñoz	Van Pelt
Cunningham	Kotowski	Murphy	Mr. President
Delgado	LaHood	Noland	
Dillard	Landek	Oberweis	

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. 1598** 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	Dillard	Kotowski	Radogno
Barickman	Duffy	Landek	Raoul
Bertino-Tarrant	Frerichs	Link	Rezin
Biss	Haine	Luechtefeld	Righter
Bivins	Harmon	Manar	Rose
Brady	Harris	McConnaughay	Silverstein
Bush	Hastings	McGuire	Stadelman
Clayborne	Holmes	Morrison	Steans
Collins	Hunter	Mulroe	Sullivan
Connelly	Hutchinson	Muñoz	Syverson

Cullerton, T.	Jacobs	Murphy	Van Pelt
Cunningham	Jones, E.	Noland	Mr. President
Delgado	Koehler	Oberweis	

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. 1657** 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	Frerichs	Luechtefeld	Rezin
Barickman	Haine	Manar	Righter
Bertino-Tarrant	Harmon	Martinez	Rose
Biss	Harris	McCarter	Silverstein
Bivins	Hastings	McConnaughay	Stadelman
Brady	Holmes	McGuire	Steans
Bush	Hunter	Morrison	Sullivan
Clayborne	Hutchinson	Mulroe	Syverson
Collins	Jacobs	Muñoz	Van Pelt
Cullerton, T.	Jones, E.	Murphy	Mr. President
Cunningham	Koehler	Noland	
Delgado	Kotowski	Oberweis	
Dillard	Landek	Radogno	
Duffy	Link	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 LaHood, **Senate Bill No. 1686** 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	Duffy	Landek	Raoul
Barickman	Frerichs	Link	Rezin
Bertino-Tarrant	Haine	Luechtefeld	Righter
Biss	Harmon	Manar	Rose
Bivins	Harris	Martinez	Silverstein
Brady	Hastings	McCarter	Stadelman
Bush	Holmes	McConnaughay	Steans
Clayborne	Hunter	McGuire	Sullivan
Collins	Hutchinson	Morrison	Syverson
Connelly	Jacobs	Mulroe	Van Pelt

Cullerton, T.	Jones, E.	Muñoz	Mr. President
Cunningham	Koehler	Murphy	
Delgado	Kotowski	Oberweis	
Dillard	LaHood	Radogno	

The following voted present:

Noland

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 Biss, **Senate Bill No. 1689** 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 39; NAYS 10.

The following voted in the affirmative:

Bertino-Tarrant	Harmon	Link	Raoul
Biss	Harris	Manar	Righter
Brady	Hastings	Martinez	Silverstein
Bush	Holmes	McGuire	Stadelman
Collins	Hunter	Morrison	Steans
Cunningham	Hutchinson	Mulroe	Sullivan
Delgado	Jacobs	Muñoz	Syverson
Duffy	Jones, E.	Noland	Van Pelt
Frerichs	Koehler	Oberweis	Mr. President
Haine	Kotowski	Radogno	

The following voted in the negative:

Barickman	Dillard	McConnaughay	Rose
Connelly	LaHood	Murphy	
Cullerton, T.	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 Link, **Senate Bill No. 1738** 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 15.

The following voted in the affirmative:

Althoff	Harmon	Link	Raoul
Bertino-Tarrant	Harris	Manar	Silverstein
Bush	Hastings	Martinez	Stadelman

Cullerton, T.	Hunter	McGuire	Steans
Cunningham	Jacobs	Morrison	Sullivan
Delgado	Jones, E.	Mulroe	Syverson
Dillard	Koehler	Muñoz	Van Pelt
Frerichs	Kotowski	Noland	Mr. President
Haine	Landek	Radogno	

The following voted in the negative:

Barickman	Duffy	McCarter	Rezin
Biss	Holmes	McConnaughay	Righter
Bivins	LaHood	Murphy	Rose
Connelly	Luechtefeld	Oberweis	

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 Rose, **Senate Bill No. 1743** 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	Duffy	Link	Raoul
Barickman	Frerichs	Luechtefeld	Rezin
Bertino-Tarrant	Haine	Manar	Righter
Biss	Harris	Martinez	Rose
Bivins	Hastings	McCarter	Silverstein
Brady	Holmes	McConnaughay	Stadelman
Bush	Hunter	McGuire	Steans
Clayborne	Hutchinson	Morrison	Sullivan
Collins	Jacobs	Mulroe	Syverson
Connelly	Jones, E.	Muñoz	Mr. President
Cullerton, T.	Koehler	Murphy	
Cunningham	Kotowski	Noland	
Delgado	LaHood	Oberweis	
Dillard	Landek	Radogno	

The following voted present:

Van Pelt

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. 1764** 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	Duffy	Landek	Radogno
Barickman	Frerichs	Link	Raoul
Bertino-Tarrant	Haine	Luechtefeld	Rezin
Biss	Harmon	Manar	Righter
Bivins	Harris	Martinez	Rose
Brady	Hastings	McCarter	Silverstein
Bush	Holmes	McConnaughay	Stadelman
Clayborne	Hunter	McGuire	Steans
Collins	Hutchinson	Morrison	Sullivan
Connelly	Jacobs	Mulroe	Syverson
Cullerton, T.	Jones, E.	Muñoz	Van Pelt
Cunningham	Koehler	Murphy	Mr. President
Delgado	Kotowski	Noland	
Dillard	LaHood	Oberweis	

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. 1790** 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	Duffy	Link	Raoul
Barickman	Frerichs	Luechtefeld	Rezin
Bertino-Tarrant	Haine	Manar	Righter
Biss	Harris	Martinez	Rose
Bivins	Hastings	McCarter	Silverstein
Brady	Holmes	McConnaughay	Stadelman
Bush	Hunter	McGuire	Steans
Clayborne	Hutchinson	Morrison	Sullivan
Collins	Jacobs	Mulroe	Syverson
Connelly	Jones, E.	Muñoz	Van Pelt
Cullerton, T.	Koehler	Murphy	Mr. President
Cunningham	Kotowski	Noland	
Delgado	LaHood	Oberweis	
Dillard	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 Clayborne, **Senate Bill No. 1801** 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	Duffy	Landek	Raoul
Barickman	Frerichs	Link	Rezin
Bertino-Tarrant	Haine	Manar	Righter
Biss	Harmon	Martinez	Rose
Bivins	Harris	McCarter	Silverstein
Brady	Hastings	McConnaughay	Stadelman
Bush	Holmes	McGuire	Steans
Clayborne	Hunter	Morrison	Sullivan
Collins	Hutchinson	Mulroe	Syverson
Connelly	Jacobs	Muñoz	Van Pelt
Cullerton, T.	Jones, E.	Murphy	Mr. President
Cunningham	Koehler	Noland	
Delgado	Kotowski	Oberweis	
Dillard	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 Connelly, **Senate Bill No. 1852** 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	Duffy	Landek	Radogno
Barickman	Frerichs	Link	Raoul
Bertino-Tarrant	Haine	Luechtefeld	Rezin
Biss	Harmon	Manar	Righter
Bivins	Harris	Martinez	Rose
Brady	Hastings	McCarter	Silverstein
Bush	Holmes	McConnaughay	Stadelman
Clayborne	Hunter	McGuire	Steans
Collins	Hutchinson	Morrison	Sullivan
Connelly	Jacobs	Mulroe	Syverson
Cullerton, T.	Jones, E.	Muñoz	Van Pelt
Cunningham	Koehler	Murphy	Mr. President
Delgado	Kotowski	Noland	
Dillard	LaHood	Oberweis	

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 Rose, **Senate Bill No. 1867** 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	Duffy	Link	Raoul
Barickman	Frerichs	Luechtefeld	Rezin
Bertino-Tarrant	Haine	Manar	Righter
Biss	Harmon	Martinez	Rose
Bivins	Harris	McCarter	Silverstein
Brady	Hastings	McConnaughay	Stadelman
Bush	Holmes	McGuire	Steans
Clayborne	Hunter	Morrison	Sullivan
Collins	Hutchinson	Mulroe	Syverson
Connelly	Jacobs	Muñoz	Mr. President
Cullerton, T.	Jones, E.	Murphy	
Cunningham	Koehler	Noland	
Delgado	Kotowski	Oberweis	
Dillard	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 Noland, **Senate Bill No. 2169** 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 2.

The following voted in the affirmative:

Althoff	Dillard	LaHood	Oberweis
Barickman	Frerichs	Landek	Radogno
Bertino-Tarrant	Haine	Link	Righter
Biss	Harmon	Luechtefeld	Rose
Bivins	Harris	Manar	Silverstein
Brady	Hastings	Martinez	Stadelman
Bush	Holmes	McConnaughay	Steans
Clayborne	Hunter	McGuire	Sullivan
Collins	Hutchinson	Morrison	Syverson
Connelly	Jacobs	Mulroe	Van Pelt
Cullerton, T.	Jones, E.	Muñoz	Mr. President
Cunningham	Koehler	Murphy	
Delgado	Kotowski	Noland	

The following voted in the negative:

Duffy
McCarter

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 Harris, **Senate Bill No. 2178** was recalled from the order of third reading to the order of second reading.

Senator Harris offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2178

AMENDMENT NO. 2. Amend Senate Bill 2178, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 22-15 as follows:

(105 ILCS 5/22-15) (from Ch. 122, par. 22-15)

Sec. 22-15. Insurance on athletes.

(a) In this Section, "IHSA" means the Illinois High School Association.

(b) A public school district maintaining grades 9 through 12 shall provide catastrophic accident insurance coverage, with aggregate benefit limits of $3 million or 5 years, whichever occurs first, for eligible students in grades 9 through 12 who sustain an accidental injury while participating in school-sponsored or school-supervised interscholastic athletic events sanctioned by the IHSA (including direct and uninterrupted travel to and from the athletic event as well as during a temporary stay at the location of an athletic event held away from the student's school) that results in medical expenses in excess of $50,000. These benefit limits are to be in excess of any and all other insurance, coverage or benefit, in whatever form or designation. Any public school that requires students participating in school-sponsored or school-supervised interscholastic athletic events sanctioned by the IHSA (including direct and uninterrupted travel to and from the athletic event as well as during a temporary stay at the location of an athletic event held away from the student's school) to have personal accident and health insurance is exempt from the requirements of this Section.

Non-public schools maintaining grades 9 through 12 shall provide catastrophic accident insurance coverage, with aggregate benefit limits of $3 million or 5 years, whichever occurs first, for eligible students in grades 9 through 12 who sustain an accidental injury while participating in school-sponsored or school-supervised interscholastic athletic tournaments sanctioned by the IHSA (including direct and uninterrupted travel to and from the athletic tournament as well as during a temporary stay at the location of an athletic tournament held away from the student's school) that results in medical expenses in excess of $50,000. These benefit limits are to be in excess of any and all other insurance, coverage or benefit, in whatever form or designation. Any non-public school that requires students participating in school-sponsored or school-supervised interscholastic athletic events sanctioned by the IHSA (including direct and uninterrupted travel to and from the athletic event as well as during a temporary stay at the location of an athletic event held away from the student's school) to have personal accident and health insurance is exempt from the requirements of this Section.

(c) The IHSA has the exclusive authority to promulgate a plan of coverage necessary to ensure compliance with this Section. The IHSA shall provide a group policy providing the coverage necessary to comply with this Section. Public school districts and non-public schools may purchase the coverage necessary to comply with this Section by participating in the group policy.

Alternatively, public school districts or non-public schools that do not participate in the group policy may obtain the coverage necessary to comply with this Section from other coverage providers, but must submit to the IHSA, 60 days before the coverage inception, a certificate of insurance from the coverage provider stating that the insurance provided by the coverage provider is in compliance with the plan of coverage approved by the IHSA. A public school district that manages schools located within a city of over 500,000 inhabitants may provide the catastrophic accident insurance coverage required by this Section through a program of self-insurance, and the public school district must submit to the IHSA, 60 days before coverage inception, proof that the program is in compliance with the plan of coverage.

(d) A public school district maintaining grades kindergarten through 8 may ~~The school board of any school district may, in its discretion,~~ provide medical or hospital service, or both, through accident and health insurance on a group or individual basis, or through non-profit hospital service corporations or medical service plan corporations or both, for pupils of the district in grades kindergarten through 8 injured while participating in any athletic activity under the jurisdiction of or sponsored or controlled by

the district or the authorities of any school thereof. The cost of such insurance or of subscriptions to such non-profit corporations, when paid from the funds of the district, shall, to the extent such moneys are sufficient, be paid from moneys derived from athletic activities. To the extent that moneys derived from athletic activities are insufficient, such cost may be paid from the educational fund of the district. Such insurance may be purchased from or such subscriptions may be taken in only such companies or corporations as are authorized to do business in Illinois.
(Source: P.A. 77-1554.)

Section 99. Effective date. This Act takes effect July 1, 2013.".

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

AMENDMENT NO. 3 TO SENATE BILL 2178

AMENDMENT NO. 3. Amend Senate Bill 2178, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2 as follows:

on page 2, by replacing line 13 with the following:
"school) to be covered under an individual or group policy of accident and health insurance is"; and

on page 3, by replacing line 7 with the following:
"school) to be covered under an individual or group policy of accident and health insurance is".

The motion prevailed.
And the amendment was adopted and ordered printed.
There being no further amendments, the foregoing Amendments numbered 2 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Harris, **Senate Bill No. 2178** 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 47; NAYS 7.

The following voted in the affirmative:

Althoff	Frerichs	Landek	Radogno
Bertino-Tarrant	Haine	Link	Raoul
Biss	Harmon	Manar	Rezin
Bivins	Harris	Martinez	Rose
Brady	Hastings	McConnaughay	Silverstein
Bush	Holmes	McGuire	Stadelman
Clayborne	Hunter	Morrison	Steans
Collins	Hutchinson	Mulroe	Sullivan
Connelly	Jacobs	Muñoz	Syverson
Cunningham	Jones, E.	Murphy	Van Pelt
Delgado	Koehler	Noland	Mr. President
Duffy	Kotowski	Oberweis	

The following voted in the negative:

Barickman	Dillard	Luechtefeld	Righter
Cullerton, T.	LaHood	McCarter	

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. 2182** 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	Duffy	Landek	Radogno
Barickman	Frerichs	Link	Raoul
Bertino-Tarrant	Haine	Luechtefeld	Rezin
Biss	Harmon	Manar	Righter
Bivins	Harris	Martinez	Rose
Brady	Hastings	McCarter	Silverstein
Bush	Holmes	McConnaughay	Stadelman
Clayborne	Hunter	McGuire	Steans
Collins	Hutchinson	Morrison	Sullivan
Connelly	Jacobs	Mulroe	Syverson
Cullerton, T.	Jones, E.	Muñoz	Van Pelt
Cunningham	Koehler	Murphy	Mr. President
Delgado	Kotowski	Noland	
Dillard	LaHood	Oberweis	

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. 2202**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

Pending roll call, on motion of Senator Link, further consideration of **Senate Bill No. 2202** was postponed.

On motion of Senator Holmes, **Senate Bill No. 2243** 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	Duffy	Luechtefeld	Rezin
Barickman	Frerichs	Manar	Righter
Bertino-Tarrant	Haine	Martinez	Rose
Biss	Harmon	McCarter	Silverstein
Bivins	Harris	McConnaughay	Stadelman
Brady	Hastings	McGuire	Steans
Bush	Holmes	Morrison	Sullivan
Clayborne	Hunter	Mulroe	Syverson

Collins	Jacobs	Muñoz	Van Pelt
Connelly	Jones, E.	Murphy	Mr. President
Cullerton, T.	Koehler	Noland	
Cunningham	LaHood	Oberweis	
Delgado	Landek	Radogno	
Dillard	Link	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.

At the hour of 4:34 o'clock p.m., Senator Link, presiding.

On motion of Senator Clayborne, **Senate Bill No. 2255** 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:

Barickman	Duffy	Link	Radogno
Bertino-Tarrant	Frerichs	Luechtefeld	Raoul
Biss	Haine	Manar	Righter
Bivins	Harmon	Martinez	Rose
Brady	Harris	McCarter	Silverstein
Bush	Hastings	McConnaughay	Stadelman
Clayborne	Holmes	McGuire	Steans
Collins	Hunter	Morrison	Sullivan
Connelly	Jones, E.	Mulroe	Syverson
Cullerton, T.	Koehler	Muñoz	Van Pelt
Cunningham	Kotowski	Murphy	Mr. President
Delgado	LaHood	Noland	
Dillard	Landek	Oberweis	

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 Steans, **Senate Bill No. 2389** 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 49; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Luechtefeld	Raoul
Barickman	Haine	Manar	Rezin
Bertino-Tarrant	Harmon	Martinez	Righter
Biss	Harris	McCarter	Rose
Brady	Hastings	McConnaughay	Silverstein

Bush	Holmes	McGuire	Stadelman
Collins	Hunter	Morrison	Steans
Connelly	Jacobs	Mulroe	Sullivan
Cullerton, T.	Jones, E.	Muñoz	Syverson
Cunningham	Koehler	Murphy	Van Pelt
Delgado	Kotowski	Noland	
Dillard	LaHood	Oberweis	
Duffy	Link	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.

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committees to meet at 5:45 o'clock p.m.:

Executive in Room 212
Licensed Activities and Pensions in Room 400
State Government and Veterans Affairs in Room 409

The Chair announced the following committees to meet at 6:30 o'clock p.m.:

Judiciary in Room 212
Higher Education in Room 400

COMMITTEE MEETING ANNOUNCEMENTS FOR APRIL 25, 2013

The Chair announced the following committees to meet at 9:00 o'clock a.m.:

Energy in Room 212
Environment in Room 409

MESSAGES FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

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

April 24, 2013

Mr. Tim Anderson
Secretary of the Senate
Room 401 State House
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Kwame Raoul to temporarily replace Senator Kimberly Lightford as a member of the Senate Executive Committee. In addition, I hereby appoint Senator Mike Jacobs to temporarily replace Senator Donne Trotter as a member of the Senate Executive

Committee. These appointments will automatically expire upon adjournment of the Senate Executive Committee.

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

cc: Senate Minority Leader Christine Radogno

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

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

April 24, 2013

Mr. Tim Anderson
Secretary of the Senate
Room 401 State House
Springfield, IL 62706

Dear Mr. Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Jennifer Bertino-Tarrant to temporarily replace Senator Kimberly Lightford as a member of the Senate Higher Education Committee. This appointment will automatically expire upon adjournment of the Senate Higher Education Committee.

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

cc: Senate Minority Leader Christine Radogno

SENATE BILL RECALLED

On motion of Senator Harmon, **Senate Bill No. 2365** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 1 was postponed in the Committee on Energy.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2365

AMENDMENT NO. _2_. Amend Senate Bill 2365 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Finance Authority Act is amended by changing Section 825-65 as follows:
(20 ILCS 3501/825-65)
Sec. 825-65. Clean Coal, Coal, Energy Efficiency, and Renewable Energy Project Financing.
(a) Findings and declaration of policy.
(i) It is hereby found and declared that Illinois has abundant coal resources and, in some areas of Illinois, the demand for power exceeds the generating capacity. Incentives to encourage the construction of coal-fueled electric generating plants in Illinois to ensure power generating capacity into the future and to advance clean coal technology and the use of Illinois coal are in the best interests of all of the citizens of Illinois.
(ii) It is further found and declared that Illinois has abundant potential and

resources to develop renewable energy resource projects and that there are many opportunities to invest in cost-effective energy efficiency projects throughout the State. The development of those projects will create jobs and investment as well as decrease environmental impacts and promote energy independence in Illinois. Accordingly, the development of those projects is in the best interests of all of the citizens of Illinois.

(iii) The Authority is authorized to issue bonds to help finance Clean Coal, Coal, Energy Efficiency, and Renewable Energy projects pursuant to this Section.

(b) Definitions.

(i) "Clean Coal Project" means (A) "clean coal facility", as defined in Section 1-10 of the Illinois Power Agency Act; (B) "clean coal SNG facility", as defined in Section 1-10 of the Illinois Power Agency Act; (C) transmission lines and associated equipment that transfer electricity from points of supply to points of delivery for projects described in this subsection (b); (D) pipelines or other methods to transfer carbon dioxide from the point of production to the point of storage or sequestration for projects described in this subsection (b); or (E) projects to provide carbon abatement technology for existing generating facilities.

(ii) "Coal Project" means new electric generating facilities or new gasification facilities, as defined in Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois, which may include mine-mouth power plants, projects that employ the use of clean coal technology, projects to provide scrubber technology for existing energy generating plants, or projects to provide electric transmission facilities or new gasification facilities.

(iii) "Energy Efficiency Project" means measures that reduce the amount of electricity or natural gas required to achieve a given end use, consistent with Section 1-10 of the Illinois Power Agency Act. <u>"Energy Efficiency Project" also includes measures that reduce the total Btus of electricity and natural gas needed to meet the end use or uses consistent with Section 1-10 of the Illinois Power Agency Act.</u>

(iv) "Renewable Energy Project" means (A) a project that uses renewable energy resources, as defined in Section 1-10 of the Illinois Power Agency Act; (B) a project that uses environmentally preferable technologies and practices that result in improvements to the production of renewable fuels, including but not limited to, cellulosic conversion, water and energy conservation, fractionation, alternative feedstocks, or reduced green house gas emissions; (C) transmission lines and associated equipment that transfer electricity from points of supply to points of delivery for projects described in this subsection (b); or (D) projects that use technology for the storage of renewable energy, including, without limitation, the use of battery or electrochemical storage technology for mobile or stationary applications.

(c) Creation of reserve funds. The Authority may establish and maintain one or more reserve funds to enhance bonds issued by the Authority for a Clean Coal Project, a Coal Project, an Energy Efficiency Project, or a Renewable Energy Project. There may be one or more accounts in these reserve funds in which there may be deposited:

(1) any proceeds of the bonds issued by the Authority required to be deposited therein by the terms of any contract between the Authority and its bondholders or any resolution of the Authority;

(2) any other moneys or funds of the Authority that it may determine to deposit therein from any other source; and

(3) any other moneys or funds made available to the Authority. Subject to the terms of any pledge to the owners of any bonds, moneys in any reserve fund may be held and applied to the payment of principal, premium, if any, and interest of such bonds.

(d) Powers and duties. The Authority has the power:

(1) To issue bonds in one or more series pursuant to one or more resolutions of the Authority for any Clean Coal Project, Coal Project, Energy Efficiency Project, or Renewable Energy Project authorized under this Section, within the authorization set forth in subsection (e).

(2) To provide for the funding of any reserves or other funds or accounts deemed necessary by the Authority in connection with any bonds issued by the Authority.

(3) To pledge any funds of the Authority or funds made available to the Authority that may be applied to such purpose as security for any bonds or any guarantees, letters of credit, insurance contracts or similar credit support or liquidity instruments securing the bonds.

(4) To enter into agreements or contracts with third parties, whether public or private, including, without limitation, the United States of America, the State or any department or agency thereof, to obtain any appropriations, grants, loans or guarantees that are deemed necessary or

desirable by the Authority. Any such guarantee, agreement or contract may contain terms and provisions necessary or desirable in connection with the program, subject to the requirements established by the Act.

(5) To exercise such other powers as are necessary or incidental to the foregoing.

(e) Clean Coal Project, Coal Project, Energy Efficiency Project, and Renewable Energy Project bond authorization and financing limits. In addition to any other bonds authorized to be issued under Sections 801-40(w), 825-60, 830-25 and 845-5, the Authority may have outstanding, at any time, bonds for the purpose enumerated in this Section 825-65 in an aggregate principal amount that shall not exceed $3,000,000,000, subject to the following limitations: (i) up to $300,000,000 may be issued to finance projects, as described in clause (C) of subsection (b)(i) and clause (C) of subsection (b)(iv) of this Section 825-65; (ii) up to $500,000,000 may be issued to finance projects, as described in clauses (D) and (E) of subsection (b)(i) of this Section 825-65; (iii) up to $2,000,000,000 may be issued to finance Clean Coal Projects, as described in clauses (A) and (B) of subsection (b)(i) of this Section 825-65 and Coal Projects, as described in subsection (b)(ii) of this Section 825-65; and (iv) up to $2,000,000,000 may be issued to finance Energy Efficiency Projects, as described in subsection (b)(iii) of this Section 825-65 and Renewable Energy Projects, as described in clauses (A), (B), and (D) of subsection (b)(iii) of this Section 825-65. An application for a loan financed from bond proceeds from a borrower or its affiliates for a Clean Coal Project, a Coal Project, Energy Efficiency Project, or a Renewable Energy Project may not be approved by the Authority for an amount in excess of $450,000,000 for any borrower or its affiliates. These bonds shall not constitute an indebtedness or obligation of the State of Illinois and it shall be plainly stated on the face of each bond that it does not constitute an indebtedness or obligation of the State of Illinois, but is payable solely from the revenues, income or other assets of the Authority pledged therefor.

(f) The bonding authority granted under this Section is in addition to and not limited by the provisions of Section 845-5.

(Source: P.A. 95-470, eff. 8-27-07; 96-103, eff. 1-1-10; 96-817, eff. 1-1-10.)

Section 10. The Illinois Power Agency Act is amended by changing Section 1-10 as follows:

(20 ILCS 3855/1-10)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of revenue bonds issued with respect to a project to the Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on those revenue bonds, and providing for maintenance, insurance, and other matters in respect of the project.

"Authority" means the Illinois Finance Authority.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon dioxide emissions at the following levels: at least 50% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

"Clean coal SNG brownfield facility" means a facility that (1) has commenced construction by July 1, 2015 on an urban brownfield site in a municipality with at least 1,000,000 residents; (2) uses a gasification process to produce substitute natural gas; (3) uses coal as at least 50% of the total feedstock over the term of any sourcing agreement with a utility and the remainder of the feedstock may be either petroleum coke or coal, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million Btu content unless the facility reasonably determines that it is necessary to use additional petroleum coke to deliver additional consumer savings, in which case the facility shall use

coal for at least 35% of the total feedstock over the term of any sourcing agreement; and (4) captures and sequesters at least 85% of the total carbon dioxide emissions that the facility would otherwise emit.

"Clean coal SNG facility" means a facility that uses a gasification process to produce substitute natural gas, that sequesters at least 90% of the total carbon dioxide emissions that the facility would otherwise emit, that uses at least 90% coal as a feedstock, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million btu content, and that has a valid and effective permit to construct emission sources and air pollution control equipment and approval with respect to the federal regulations for Prevention of Significant Deterioration of Air Quality (PSD) for the plant pursuant to the federal Clean Air Act; provided, however, a clean coal SNG brownfield facility shall not be a clean coal SNG facility.

"Commission" means the Illinois Commerce Commission.

"Costs incurred in connection with the development and construction of a facility" means:

(1) the cost of acquisition of all real property, fixtures, and improvements in connection therewith and equipment, personal property, and other property, rights, and easements acquired that are deemed necessary for the operation and maintenance of the facility;

(2) financing costs with respect to bonds, notes, and other evidences of indebtedness of the Agency;

(3) all origination, commitment, utilization, facility, placement, underwriting, syndication, credit enhancement, and rating agency fees;

(4) engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap, capitalized interest, contingency, as required by lenders, and other financing costs, and other expenses for professional services; and

(5) the costs of plans, specifications, site study and investigation, installation, surveys, other Agency costs and estimates of costs, and other expenses necessary or incidental to determining the feasibility of any project, together with such other expenses as may be necessary or incidental to the financing, insuring, acquisition, and construction of a specific project and starting up, commissioning, and placing that project in operation.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of the Illinois Power Agency.

"Demand-response" means measures that decrease peak electricity demand or shift demand from peak to off-peak periods.

"Distributed renewable energy generation device" means a device that is:

(1) powered by wind, solar thermal energy, photovoltaic cells and panels, biodiesel, crops and untreated and unadulterated organic waste biomass, tree waste, and hydropower that does not involve new construction or significant expansion of hydropower dams;

(2) interconnected at the distribution system level of either an electric utility as defined in this Section, an alternative retail electric supplier as defined in Section 16-102 of the Public Utilities Act, a municipal utility as defined in Section 3-105 of the Public Utilities Act, or a rural electric cooperative as defined in Section 3-119 of the Public Utilities Act;

(3) located on the customer side of the customer's electric meter and is primarily used to offset that customer's electricity load; and

(4) limited in nameplate capacity to no more than 2,000 kilowatts.

"Energy efficiency" means measures that reduce the amount of electricity or natural gas required to achieve a given end use. <u>"Energy efficiency" also includes measures that reduce the total Btus of electricity and natural gas needed to meet the end use or uses.</u>

"Electric utility" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Facility" means an electric generating unit or a co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system.

"Governmental aggregator" means one or more units of local government that individually or collectively procure electricity to serve residential retail electrical loads located within its or their jurisdiction.

"Local government" means a unit of local government as defined in Section 1 of Article VII of the Illinois Constitution.

"Municipality" means a city, village, or incorporated town.

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association and includes any trustee, receiver, assignee, or personal representative thereof.

"Project" means the planning, bidding, and construction of a facility.

"Public utility" has the same definition as found in Section 3-105 of the Public Utilities Act.

"Real property" means any interest in land together with all structures, fixtures, and improvements thereon, including lands under water and riparian rights, any easements, covenants, licenses, leases, rights-of-way, uses, and other interests, together with any liens, judgments, mortgages, or other claims or security interests related to real property.

"Renewable energy credit" means a tradable credit that represents the environmental attributes of a certain amount of energy produced from a renewable energy resource.

"Renewable energy resources" includes energy and its associated renewable energy credit or renewable energy credits from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, anaerobic digestion, crops and untreated and unadulterated organic waste biomass, tree waste, hydropower that does not involve new construction or significant expansion of hydropower dams, and other alternative sources of environmentally preferable energy. For purposes of this Act, landfill gas produced in the State is considered a renewable energy resource. "Renewable energy resources" does not include the incineration or burning of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste other than tree waste, railroad crossties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood.

"Revenue bond" means any bond, note, or other evidence of indebtedness issued by the Authority, the principal and interest of which is payable solely from revenues or income derived from any project or activity of the Agency.

"Sequester" means permanent storage of carbon dioxide by injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage, regardless of whether these activities are conducted by a clean coal facility, a clean coal SNG facility, a clean coal SNG brownfield facility, or a party with which a clean coal facility, clean coal SNG facility, or clean coal SNG brownfield facility has contracted for such purposes.

"Sourcing agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, (ii) in the case of an alternative retail electric supplier, an agreement between the owner of a clean coal facility and such alternative retail electric supplier, which agreement shall have terms and conditions meeting the requirements of Section 16-115(d)(5) of the Public Utilities Act, and (iii) in case of a gas utility, an agreement between the owner of a clean coal SNG brownfield facility and the gas utility, which agreement shall have the terms and conditions meeting the requirements of subsection (h-1) of Section 9-220 of the Public Utilities Act.

"Substitute natural gas" or "SNG" means a gas manufactured by gasification of hydrocarbon feedstock, which is substantially interchangeable in use and distribution with conventional natural gas.

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.
(Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10; 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-491, eff. 8-22-11; 97-616, eff. 10-26-11; 97-813, eff. 7-13-12.)

Section 15. The Public Utilities Act is amended by changing Sections 8-103 and 8-104 as follows:
(220 ILCS 5/8-103)

Sec. 8-103. Energy efficiency and demand-response measures.

(a) It is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load. Requiring investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure. It serves the public interest to allow electric utilities to recover costs for reasonably and prudently incurred expenses for energy efficiency and demand-response measures. As used in this Section, "cost-effective" means that the measures satisfy the total resource cost

test. The low-income measures described in subsection (f)(4) of this Section shall not be required to meet the total resource cost test. For purposes of this Section, the terms "energy-efficiency", "demand-response", "electric utility", and "total resource cost test" shall have the meanings set forth in the Illinois Power Agency Act. For purposes of this Section, the amount per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this Section, the total amount paid for electric service includes without limitation estimated amounts paid for supply, transmission, distribution, surcharges, and add-on-taxes.

(b) Electric utilities shall implement cost-effective energy efficiency measures to meet the following incremental annual energy savings goals:

(1) 0.2% of energy delivered in the year commencing June 1, 2008;

(2) 0.4% of energy delivered in the year commencing June 1, 2009;

(3) 0.6% of energy delivered in the year commencing June 1, 2010;

(4) 0.8% of energy delivered in the year commencing June 1, 2011;

(5) 1% of energy delivered in the year commencing June 1, 2012;

(6) 1.4% of energy delivered in the year commencing June 1, 2013;

(7) 1.8% of energy delivered in the year commencing June 1, 2014; and

(8) 2% of energy delivered in the year commencing June 1, 2015 and each year thereafter.

Electric utilities may comply with this subsection (b) by meeting the annual incremental savings goal in the applicable year or by showing that total savings associated with measures implemented on or after May 31, 2014 were equal to the sum of each annual incremental savings requirement on or after June 1, 2014 through the end of the applicable year.

(c) Electric utilities shall implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers, as defined in Section 16-111.5 of this Act, and for customers that elect hourly service from the utility pursuant to Section 16-107 of this Act, provided those customers have not been declared competitive. This requirement commences June 1, 2008 and continues for 10 years.

(d) Notwithstanding the requirements of subsections (b) and (c) of this Section, an electric utility shall reduce the amount of energy efficiency and demand-response measures implemented over ~~in~~ any 3-year period ~~single year~~ by an amount necessary to limit the estimated average annual increase in the amounts paid by retail customers in connection with electric service due to the cost of those measures to:

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

(2) in 2009, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2008 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(3) in 2010, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(4) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007; and

(5) thereafter, the amount of energy efficiency and demand-response measures implemented for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these measures included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007 or the incremental amount per kilowatthour paid for these measures in 2011.

No later than June 30, 2011, the Commission shall review the limitation on the amount of energy efficiency and demand-response measures implemented pursuant to this Section and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of energy efficiency and demand-response measures.

(e) Electric utilities shall be responsible for overseeing the design, development, and filing of energy efficiency and demand-response plans with the Commission. Electric utilities shall implement 100% of the demand-response measures in the plans. Electric utilities shall implement 75% of the energy efficiency measures approved by the Commission, and may, as part of that implementation, outsource various aspects of program development and implementation. The remaining 25% of those energy efficiency measures approved by the Commission shall be implemented by the Department of Commerce and Economic Opportunity, and must be designed in conjunction with the utility and the filing process. The Department may outsource development and implementation of energy efficiency

measures. A minimum of 10% of the entire portfolio of cost-effective energy efficiency measures shall be procured from units of local government, municipal corporations, school districts, and community college districts. The Department shall coordinate the implementation of these measures.

The apportionment of the dollars to cover the costs to implement the Department's share of the portfolio of energy efficiency measures shall be made to the Department once the Department has executed rebate agreements, grants, or contracts for energy efficiency measures and provided supporting documentation for those rebate agreements, grants, and contracts to the utility. The Department is authorized to adopt any rules necessary and prescribe procedures in order to ensure compliance by applicants in carrying out the purposes of rebate agreements for energy efficiency measures implemented by the Department made under this Section.

The details of the measures implemented by the Department shall be submitted by the Department to the Commission in connection with the utility's filing regarding the energy efficiency and demand-response measures that the utility implements.

A utility providing approved energy efficiency and demand-response measures in the State shall be permitted to recover costs of those measures through an automatic adjustment clause tariff filed with and approved by the Commission. The tariff shall be established outside the context of a general rate case. Each year the Commission shall initiate a review to reconcile any amounts collected with the actual costs and to determine the required adjustment to the annual tariff factor to match annual expenditures.

Each utility shall include, in its recovery of costs, the costs estimated for both the utility's and the Department's implementation of energy efficiency and demand-response measures. Costs collected by the utility for measures implemented by the Department shall be submitted to the Department pursuant to Section 605-323 of the Civil Administrative Code of Illinois, shall be deposited into the Energy Efficiency Portfolio Standards Fund, and shall be used by the Department solely for the purpose of implementing these measures. A utility shall not be required to advance any moneys to the Department but only to forward such funds as it has collected. The Department shall report to the Commission on an annual basis regarding the costs actually incurred by the Department in the implementation of the measures. Any changes to the costs of energy efficiency measures as a result of plan modifications shall be appropriately reflected in amounts recovered by the utility and turned over to the Department.

The portfolio of measures, administered by both the utilities and the Department, shall, in combination, be designed to achieve the annual savings targets described in subsections (b) and (c) of this Section, as modified by subsection (d) of this Section.

The utility and the Department shall agree upon a reasonable portfolio of measures and determine the measurable corresponding percentage of the savings goals associated with measures implemented by the utility or Department.

No utility shall be assessed a penalty under subsection (f) of this Section for failure to make a timely filing if that failure is the result of a lack of agreement with the Department with respect to the allocation of responsibilities or related costs or target assignments. In that case, the Department and the utility shall file their respective plans with the Commission and the Commission shall determine an appropriate division of measures and programs that meets the requirements of this Section.

If the Department is unable to meet incremental annual performance goals for the portion of the portfolio implemented by the Department, then the utility and the Department shall jointly submit a modified filing to the Commission explaining the performance shortfall and recommending an appropriate course going forward, including any program modifications that may be appropriate in light of the evaluations conducted under item (7) of subsection (f) of this Section. In this case, the utility obligation to collect the Department's costs and turn over those funds to the Department under this subsection (e) shall continue only if the Commission approves the modifications to the plan proposed by the Department.

(f) No later than November 15, 2007, each electric utility shall file an energy efficiency and demand-response plan with the Commission to meet the energy efficiency and demand-response standards for 2008 through 2010. No later than October 1, 2010, each electric utility shall file an energy efficiency and demand-response plan with the Commission to meet the energy efficiency and demand-response standards for 2011 through 2013. Every 3 years thereafter, each electric utility shall file, no later than September 1, an energy efficiency and demand-response plan with the Commission. If a utility does not file such a plan by September 1 of an applicable year, it shall face a penalty of $100,000 per day until the plan is filed. Each utility's plan shall set forth the utility's proposals to meet the utility's portion of the energy efficiency standards identified in subsection (b) and the demand-response standards identified in subsection (c) of this Section as modified by subsections (d) and (e), taking into account the unique circumstances of the utility's service territory. The Commission shall seek public comment on the utility's plan and shall issue an order approving or disapproving each plan within 5 months after its

submission. If the Commission disapproves a plan, the Commission shall, within 30 days, describe in detail the reasons for the disapproval and describe a path by which the utility may file a revised draft of the plan to address the Commission's concerns satisfactorily. If the utility does not refile with the Commission within 60 days, the utility shall be subject to penalties at a rate of $100,000 per day until the plan is filed. This process shall continue, and penalties shall accrue, until the utility has successfully filed a portfolio of energy efficiency and demand-response measures. Penalties shall be deposited into the Energy Efficiency Trust Fund. In submitting proposed energy efficiency and demand-response plans and funding levels to meet the savings goals adopted by this Act the utility shall:

(1) Demonstrate that its proposed energy efficiency and demand-response measures will achieve the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e).

(2) Present specific proposals to implement new building and appliance standards that have been placed into effect.

(3) Present estimates of the total amount paid for electric service expressed on a per kilowatthour basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e).

(4) Coordinate with the Department to present a portfolio of energy efficiency measures proportionate to the share of total annual utility revenues in Illinois from households at or below 150% of the poverty level. The energy efficiency programs shall be targeted to households with incomes at or below 80% of area median income.

(5) Demonstrate that its overall portfolio of energy efficiency and demand-response measures, not including programs covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs.

(6) Include a proposed cost-recovery tariff mechanism to fund the proposed energy efficiency and demand-response measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.

(7) Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures and the Department's portfolio of measures, as well as a full review of the 3-year results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year.

(g) No more than 3% of energy efficiency and demand-response program revenue may be allocated for demonstration of breakthrough equipment and devices.

(h) This Section does not apply to an electric utility that on December 31, 2005 provided electric service to fewer than 100,000 customers in Illinois.

(i) If, after 2 years, an electric utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e), it shall make a contribution to the Low-Income Home Energy Assistance Program. The combined total liability for failure to meet the goal shall be $1,000,000, which shall be assessed as follows: a large electric utility shall pay $665,000, and a medium electric utility shall pay $335,000. If, after 3 years, an electric utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e), it shall make a contribution to the Low-Income Home Energy Assistance Program. The combined total liability for failure to meet the goal shall be $1,000,000, which shall be assessed as follows: a large electric utility shall pay $665,000, and a medium electric utility shall pay $335,000. In addition, the responsibility for implementing the energy efficiency measures of the utility making the payment shall be transferred to the Illinois Power Agency if, after 3 years, or in any subsequent 3-year period, the utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e). The Agency shall implement a competitive procurement program to procure resources necessary to meet the standards specified in this Section as modified by subsections (d) and (e), with costs for those resources to be recovered in the same manner as products purchased through the procurement plan as provided in Section 16-111.5. The Director shall implement this requirement in connection with the procurement plan as provided in Section 16-111.5.

For purposes of this Section, (i) a "large electric utility" is an electric utility that, on December 31, 2005, served more than 2,000,000 electric customers in Illinois; (ii) a "medium electric utility" is an electric utility that, on December 31, 2005, served 2,000,000 or fewer but more than 100,000 electric customers in Illinois; and (iii) Illinois electric utilities that are affiliated by virtue of a common parent company are considered a single electric utility.

(j) If, after 3 years, or any subsequent 3-year period, the Department fails to implement the Department's share of energy efficiency measures required by the standards in subsection (b), then the Illinois Power Agency may assume responsibility for and control of the Department's share of the required energy efficiency measures. The Agency shall implement a competitive procurement program to procure resources necessary to meet the standards specified in this Section, with the costs of these resources to be recovered in the same manner as provided for the Department in this Section.

(k) No electric utility shall be deemed to have failed to meet the energy efficiency standards to the extent any such failure is due to a failure of the Department or the Agency.

(Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-1000, eff. 7-2-10; 97-616, eff. 10-26-11; 97-841, eff. 7-20-12.)

(220 ILCS 5/8-104)

Sec. 8-104. Natural gas energy efficiency programs.

(a) It is the policy of the State that natural gas utilities and the Department of Commerce and Economic Opportunity are required to use cost-effective energy efficiency to reduce direct and indirect costs to consumers. It serves the public interest to allow natural gas utilities to recover costs for reasonably and prudently incurred expenses for cost-effective energy efficiency measures.

(b) For purposes of this Section, "energy efficiency" means measures that reduce the amount of energy required to achieve a given end use. "Energy efficiency" also includes measures that reduce the total Btus of electricity and natural gas needed to meet the end use or uses. "Cost-effective" ~~and "cost-effective"~~ means that the measures satisfy the total resource cost test which, for purposes of this Section, means a standard that is met if, for an investment in energy efficiency, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the measures to the net present value of the total costs as calculated over the lifetime of the measures. The total resource cost test compares the sum of avoided natural gas utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided electric utility costs, to the sum of all incremental costs of end use measures (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side measure, to quantify the net savings obtained by substituting demand-side measures for supply resources. In calculating avoided costs, reasonable estimates shall be included for financial costs likely to be imposed by future regulation of emissions of greenhouse gases. The low-income programs described in item (4) of subsection (f) of this Section shall not be required to meet the total resource cost test.

(c) Natural gas utilities shall implement cost-effective energy efficiency measures to meet at least the following natural gas savings requirements, which shall be based upon the total amount of gas delivered to retail customers, other than the customers described in subsection (m) of this Section, during calendar year 2009 multiplied by the applicable percentage. Natural gas utilities may comply with this Section by meeting the annual incremental savings goal in the applicable year or by showing that total savings associated with measures implemented after May 31, 2011 were equal to the sum of each annual incremental savings requirement from May 31, 2011 through the end of the applicable year:

(1) 0.2% by May 31, 2012;

(2) an additional 0.4% by May 31, 2013, increasing total savings to .6%;

(3) an additional 0.6% by May 31, 2014, increasing total savings to 1.2%;

(4) an additional 0.8% by May 31, 2015, increasing total savings to 2.0%;

(5) an additional 1% by May 31, 2016, increasing total savings to 3.0%;

(6) an additional 1.2% by May 31, 2017, increasing total savings to 4.2%;

(7) an additional 1.4% by May 31, 2018, increasing total savings to 5.6%;

(8) an additional 1.5% by May 31, 2019, increasing total savings to 7.1%; and

(9) an additional 1.5% in each 12-month period thereafter.

(d) Notwithstanding the requirements of subsection (c) of this Section, a natural gas utility shall limit the amount of energy efficiency implemented in any 3-year reporting period established by subsection (f) of Section 8-104 of this Act, by an amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with natural gas service to no more than 2% in the applicable 3-year reporting period. The energy savings requirements in subsection (c) of this Section may be reduced by the Commission for the subject plan, if the utility demonstrates by substantial evidence that it is highly unlikely that the requirements could be achieved without exceeding the applicable spending limits in any 3-year reporting period. No later than September 1, 2013, the Commission shall review the limitation on the amount of energy efficiency measures implemented pursuant to this Section and report to the General Assembly, in the report required by subsection (k) of this Section, its findings as to whether that limitation unduly constrains the procurement of energy

efficiency measures.

(e) Natural gas utilities shall be responsible for overseeing the design, development, and filing of their efficiency plans with the Commission. The utility shall utilize 75% of the available funding associated with energy efficiency programs approved by the Commission, and may outsource various aspects of program development and implementation. The remaining 25% of available funding shall be used by the Department of Commerce and Economic Opportunity to implement energy efficiency measures that achieve no less than 20% of the requirements of subsection (c) of this Section. Such measures shall be designed in conjunction with the utility and approved by the Commission. The Department may outsource development and implementation of energy efficiency measures. A minimum of 10% of the entire portfolio of cost-effective energy efficiency measures shall be procured from local government, municipal corporations, school districts, and community college districts. Five percent of the entire portfolio of cost-effective energy efficiency measures may be granted to local government and municipal corporations for market transformation initiatives. The Department shall coordinate the implementation of these measures and shall integrate delivery of natural gas efficiency programs with electric efficiency programs delivered pursuant to Section 8-103 of this Act, unless the Department can show that integration is not feasible.

The apportionment of the dollars to cover the costs to implement the Department's share of the portfolio of energy efficiency measures shall be made to the Department once the Department has executed rebate agreements, grants, or contracts for energy efficiency measures and provided supporting documentation for those rebate agreements, grants, and contracts to the utility. The Department is authorized to adopt any rules necessary and prescribe procedures in order to ensure compliance by applicants in carrying out the purposes of rebate agreements for energy efficiency measures implemented by the Department made under this Section.

The details of the measures implemented by the Department shall be submitted by the Department to the Commission in connection with the utility's filing regarding the energy efficiency measures that the utility implements.

A utility providing approved energy efficiency measures in this State shall be permitted to recover costs of those measures through an automatic adjustment clause tariff filed with and approved by the Commission. The tariff shall be established outside the context of a general rate case and shall be applicable to the utility's customers other than the customers described in subsection (m) of this Section. Each year the Commission shall initiate a review to reconcile any amounts collected with the actual costs and to determine the required adjustment to the annual tariff factor to match annual expenditures.

Each utility shall include, in its recovery of costs, the costs estimated for both the utility's and the Department's implementation of energy efficiency measures. Costs collected by the utility for measures implemented by the Department shall be submitted to the Department pursuant to Section 605-323 of the Civil Administrative Code of Illinois, shall be deposited into the Energy Efficiency Portfolio Standards Fund, and shall be used by the Department solely for the purpose of implementing these measures. A utility shall not be required to advance any moneys to the Department but only to forward such funds as it has collected. The Department shall report to the Commission on an annual basis regarding the costs actually incurred by the Department in the implementation of the measures. Any changes to the costs of energy efficiency measures as a result of plan modifications shall be appropriately reflected in amounts recovered by the utility and turned over to the Department.

The portfolio of measures, administered by both the utilities and the Department, shall, in combination, be designed to achieve the annual energy savings requirements set forth in subsection (c) of this Section, as modified by subsection (d) of this Section.

The utility and the Department shall agree upon a reasonable portfolio of measures and determine the measurable corresponding percentage of the savings goals associated with measures implemented by the Department.

No utility shall be assessed a penalty under subsection (f) of this Section for failure to make a timely filing if that failure is the result of a lack of agreement with the Department with respect to the allocation of responsibilities or related costs or target assignments. In that case, the Department and the utility shall file their respective plans with the Commission and the Commission shall determine an appropriate division of measures and programs that meets the requirements of this Section.

If the Department is unable to meet performance requirements for the portion of the portfolio implemented by the Department, then the utility and the Department shall jointly submit a modified filing to the Commission explaining the performance shortfall and recommending an appropriate course going forward, including any program modifications that may be appropriate in light of the evaluations conducted under item (8) of subsection (f) of this Section. In this case, the utility obligation to collect the Department's costs and turn over those funds to the Department under this subsection (e) shall continue

only if the Commission approves the modifications to the plan proposed by the Department.

(f) No later than October 1, 2010, each gas utility shall file an energy efficiency plan with the Commission to meet the energy efficiency standards through May 31, 2014. Every 3 years thereafter, each utility shall file, no later than October 1, an energy efficiency plan with the Commission. If a utility does not file such a plan by October 1 of the applicable year, then it shall face a penalty of $100,000 per day until the plan is filed. Each utility's plan shall set forth the utility's proposals to meet the utility's portion of the energy efficiency standards identified in subsection (c) of this Section, as modified by subsection (d) of this Section, taking into account the unique circumstances of the utility's service territory. The Commission shall seek public comment on the utility's plan and shall issue an order approving or disapproving each plan. If the Commission disapproves a plan, the Commission shall, within 30 days, describe in detail the reasons for the disapproval and describe a path by which the utility may file a revised draft of the plan to address the Commission's concerns satisfactorily. If the utility does not refile with the Commission within 60 days after the disapproval, the utility shall be subject to penalties at a rate of $100,000 per day until the plan is filed. This process shall continue, and penalties shall accrue, until the utility has successfully filed a portfolio of energy efficiency measures. Penalties shall be deposited into the Energy Efficiency Trust Fund and the cost of any such penalties may not be recovered from ratepayers. In submitting proposed energy efficiency plans and funding levels to meet the savings goals adopted by this Act the utility shall:

(1) Demonstrate that its proposed energy efficiency measures will achieve the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.

(2) Present specific proposals to implement new building and appliance standards that have been placed into effect.

(3) Present estimates of the total amount paid for gas service expressed on a per therm basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.

(4) Coordinate with the Department to present a portfolio of energy efficiency measures proportionate to the share of total annual utility revenues in Illinois from households at or below 150% of the poverty level. Such programs shall be targeted to households with incomes at or below 80% of area median income.

(5) Demonstrate that its overall portfolio of energy efficiency measures, not including programs covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross section of opportunities for customers of all rate classes to participate in the programs.

(6) Demonstrate that a gas utility affiliated with an electric utility that is required to comply with Section 8-103 of this Act has integrated gas and electric efficiency measures into a single program that reduces program or participant costs and appropriately allocates costs to gas and electric ratepayers. The Department shall integrate all gas and electric programs it delivers in any such utilities' service territories, unless the Department can show that integration is not feasible or appropriate.

(7) Include a proposed cost recovery tariff mechanism to fund the proposed energy efficiency measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.

(8) Provide for quarterly status reports tracking implementation of and expenditures for the utility's portfolio of measures and the Department's portfolio of measures, an annual independent review, and a full independent evaluation of the 3-year results of the performance and the cost-effectiveness of the utility's and Department's portfolios of measures and broader net program impacts and, to the extent practical, for adjustment of the measures on a going forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given 3-year period.

(g) No more than 3% of expenditures on energy efficiency measures may be allocated for demonstration of breakthrough equipment and devices.

(h) Illinois natural gas utilities that are affiliated by virtue of a common parent company may, at the utilities' request, be considered a single natural gas utility for purposes of complying with this Section.

(i) If, after 3 years, a gas utility fails to meet the efficiency standard specified in subsection (c) of this Section as modified by subsection (d), then it shall make a contribution to the Low-Income Home Energy Assistance Program. The total liability for failure to meet the goal shall be assessed as follows:

(1) a large gas utility shall pay $600,000;

(2) a medium gas utility shall pay $400,000; and

(3) a small gas utility shall pay $200,000.

For purposes of this Section, (i) a "large gas utility" is a gas utility that on December 31, 2008, served more than 1,500,000 gas customers in Illinois; (ii) a "medium gas utility" is a gas utility that on December 31, 2008, served fewer than 1,500,000, but more than 500,000 gas customers in Illinois; and (iii) a "small gas utility" is a gas utility that on December 31, 2008, served fewer than 500,000 and more than 100,000 gas customers in Illinois. The costs of this contribution may not be recovered from ratepayers.

If a gas utility fails to meet the efficiency standard specified in subsection (c) of this Section, as modified by subsection (d) of this Section, in any 2 consecutive 3-year planning periods, then the responsibility for implementing the utility's energy efficiency measures shall be transferred to an independent program administrator selected by the Commission. Reasonable and prudent costs incurred by the independent program administrator to meet the efficiency standard specified in subsection (c) of this Section, as modified by subsection (d) of this Section, may be recovered from the customers of the affected gas utilities, other than customers described in subsection (m) of this Section. The utility shall provide the independent program administrator with all information and assistance necessary to perform the program administrator's duties including but not limited to customer, account, and energy usage data, and shall allow the program administrator to include inserts in customer bills. The utility may recover reasonable costs associated with any such assistance.

(j) No utility shall be deemed to have failed to meet the energy efficiency standards to the extent any such failure is due to a failure of the Department.

(k) Not later than January 1, 2012, the Commission shall develop and solicit public comment on a plan to foster statewide coordination and consistency between statutorily mandated natural gas and electric energy efficiency programs to reduce program or participant costs or to improve program performance. Not later than September 1, 2013, the Commission shall issue a report to the General Assembly containing its findings and recommendations.

(l) This Section does not apply to a gas utility that on January 1, 2009, provided gas service to fewer than 100,000 customers in Illinois.

(m) Subsections (a) through (k) of this Section do not apply to customers of a natural gas utility that have a North American Industry Classification System code number that is 22111 or any such code number beginning with the digits 31, 32, or 33 and (i) annual usage in the aggregate of 4 million therms or more within the service territory of the affected gas utility or with aggregate usage of 8 million therms or more in this State and complying with the provisions of item (l) of this subsection (m); or (ii) using natural gas as feedstock and meeting the usage requirements described in item (i) of this subsection (m), to the extent such annual feedstock usage is greater than 60% of the customer's total annual usage of natural gas.

(1) Customers described in this subsection (m) of this Section shall apply, on a form approved on or before October 1, 2009 by the Department, to the Department to be designated as a self-directing customer ("SDC") or as an exempt customer using natural gas as a feedstock from which other products are made, including, but not limited to, feedstock for a hydrogen plant, on or before the 1st day of February, 2010. Thereafter, application may be made not less than 6 months before the filing date of the gas utility energy efficiency plan described in subsection (f) of this Section; however, a new customer that commences taking service from a natural gas utility after February 1, 2010 may apply to become a SDC or exempt customer up to 30 days after beginning service. Such application shall contain the following:

(A) the customer's certification that, at the time of its application, it qualifies to be a SDC or exempt customer described in this subsection (m) of this Section;

(B) in the case of a SDC, the customer's certification that it has established or will establish by the beginning of the utility's 3-year planning period commencing subsequent to the application, and will maintain for accounting purposes, an energy efficiency reserve account and that the customer will accrue funds in said account to be held for the purpose of funding, in whole or in part, energy efficiency measures of the customer's choosing, which may include, but are not limited to, projects involving combined heat and power systems that use the same energy source both for the generation of electrical or mechanical power and the production of steam or another form of useful thermal energy or the use of combustible gas produced from biomass, or both;

(C) in the case of a SDC, the customer's certification that annual funding levels for the energy efficiency reserve account will be equal to 2% of the customer's cost of natural gas, composed of the customer's commodity cost and the delivery service charges paid to the gas utility, or $150,000, whichever is less;

(D) in the case of a SDC, the customer's certification that the required reserve

account balance will be capped at 3 years' worth of accruals and that the customer may, at its option, make further deposits to the account to the extent such deposit would increase the reserve account balance above the designated cap level;

(E) in the case of a SDC, the customer's certification that by October 1 of each year, beginning no sooner than October 1, 2012, the customer will report to the Department information, for the 12-month period ending May 31 of the same year, on all deposits and reductions, if any, to the reserve account during the reporting year, and to the extent deposits to the reserve account in any year are in an amount less than $150,000, the basis for such reduced deposits; reserve account balances by month; a description of energy efficiency measures undertaken by the customer and paid for in whole or in part with funds from the reserve account; an estimate of the energy saved, or to be saved, by the measure; and that the report shall include a verification by an officer or plant manager of the customer or by a registered professional engineer or certified energy efficiency trade professional that the funds withdrawn from the reserve account were used for the energy efficiency measures;

(F) in the case of an exempt customer, the customer's certification of the level of gas usage as feedstock in the customer's operation in a typical year and that it will provide information establishing this level, upon request of the Department;

(G) in the case of either an exempt customer or a SDC, the customer's certification that it has provided the gas utility or utilities serving the customer with a copy of the application as filed with the Department;

(H) in the case of either an exempt customer or a SDC, certification of the natural gas utility or utilities serving the customer in Illinois including the natural gas utility accounts that are the subject of the application; and

(I) in the case of either an exempt customer or a SDC, a verification signed by a plant manager or an authorized corporate officer attesting to the truthfulness and accuracy of the information contained in the application.

(2) The Department shall review the application to determine that it contains the information described in provisions (A) through (I) of item (1) of this subsection (m), as applicable. The review shall be completed within 30 days after the date the application is filed with the Department. Absent a determination by the Department within the 30-day period, the applicant shall be considered to be a SDC or exempt customer, as applicable, for all subsequent 3-year planning periods, as of the date of filing the application described in this subsection (m). If the Department determines that the application does not contain the applicable information described in provisions (A) through (I) of item (1) of this subsection (m), it shall notify the customer, in writing, of its determination that the application does not contain the required information and identify the information that is missing, and the customer shall provide the missing information within 15 working days after the date of receipt of the Department's notification.

(3) The Department shall have the right to audit the information provided in the customer's application and annual reports to ensure continued compliance with the requirements of this subsection. Based on the audit, if the Department determines the customer is no longer in compliance with the requirements of items (A) through (I) of item (1) of this subsection (m), as applicable, the Department shall notify the customer in writing of the noncompliance. The customer shall have 30 days to establish its compliance, and failing to do so, may have its status as a SDC or exempt customer revoked by the Department. The Department shall treat all information provided by any customer seeking SDC status or exemption from the provisions of this Section as strictly confidential.

(4) Upon request, or on its own motion, the Commission may open an investigation, no more than once every 3 years and not before October 1, 2014, to evaluate the effectiveness of the self-directing program described in this subsection (m).

(n) The applicability of this Section to customers described in subsection (m) of this Section is conditioned on the existence of the SDC program. In no event will any provision of this Section apply to such customers after January 1, 2020.

(Source: P.A. 96-33, eff. 7-10-09; 97-813, eff. 7-13-12; 97-841, eff. 7-20-12.)

Section 99. 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 withdrawn by the sponsor.

Senator Harmon offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 2365

AMENDMENT NO. 4. Amend Senate Bill 2365, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, on page 18, line 9, by replacing "requirement", with "goal".

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.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 2365** having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 48; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Luechtefeld	Rezin
Barickman	Frerichs	Manar	Righter
Bertino-Tarrant	Haine	Martinez	Rose
Biss	Harmon	McCarter	Silverstein
Bivins	Hastings	McConnaughay	Stadelman
Brady	Holmes	McGuire	Sullivan
Bush	Hunter	Mulroe	Syverson
Clayborne	Jones, E.	Muñoz	Van Pelt
Collins	Koehler	Murphy	Mr. President
Connelly	Kotowski	Noland	
Cullerton, T.	LaHood	Oberweis	
Cunningham	Landek	Radogno	
Dillard	Link	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 Sullivan, **Senate Bill No. 625** 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	Dillard	Link	Radogno
Barickman	Duffy	Luechtefeld	Raoul
Bertino-Tarrant	Frerichs	Manar	Rezin
Biss	Haine	Martinez	Righter
Bivins	Harris	McCarter	Rose
Brady	Hastings	McConnaughay	Silverstein
Bush	Holmes	McGuire	Stadelman

Clayborne	Hunter	Morrison	Steans
Collins	Jacobs	Mulroe	Sullivan
Connelly	Jones, E.	Muñoz	Syverson
Cullerton, T.	Koehler	Murphy	Van Pelt
Cunningham	Kotowski	Noland	Mr. President
Delgado	LaHood	Oberweis	

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

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

SENATE BILL RECALLED

On motion of Senator Sullivan, **Senate Bill No. 2194** 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 Revenue

Senator Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2194

AMENDMENT NO. 3. Amend Senate Bill 2194, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Department of Revenue Law of the Civil Administrative Code of Illinois is amended by changing Section 2505-200 as follows:

(20 ILCS 2505/2505-200) (was 20 ILCS 2505/39c-1a)

Sec. 2505-200. Electronic filing rules.

(a) The Department may adopt rules to authorize the electronic filing of any return or document required to be filed under any Act administered by the Department.

(b) The Department may adopt rules to require the electronic filing of the income and replacement tax return required to be filed under the Illinois Income Tax Act for a taxable year by any taxpayer (other than an individual) who is required to file its federal income tax return electronically for the taxable year.

(c) In the case of an electronically filed return or other document required to be filed with the Department or maintained by any taxpayer, these rules may set forth standards that provide for acceptance of a signature in a form other than in the proper handwriting of the person.

(d) The Department may adopt rules to require electronic filing of any return or document that is required to be filed on or after January 1, 2014 (without regard to extensions) under any Act administered by the Department, provided that:

(1) no individual taxpayer shall be required to file electronically any return or document required to be filed under the Illinois Income Tax Act except as expressly provided in that Act;

(2) no individual taxpayer shall be required to file electronically any return or document required to be filed under the Watercraft Use Tax Act, the Aircraft Use Tax Act, Section 3-1002 of the Illinois Vehicle Code, or Section 10 of the Use Tax Act; and

(3) those rules shall require the Department to grant a waiver of the electronic filing requirement for any taxpayer who demonstrates lack of access to the Internet; those waivers shall be valid for a period not to exceed 2 years, but may be renewed an unlimited number of times for periods not to exceed 2 years for each renewal.

(Source: P.A. 96-520, eff. 8-14-09.)

Section 10. The Uniform Penalty and Interest Act is amended by changing Section 3-8 and by adding Section 3-3.5 as follows:

(35 ILCS 735/3-3.5 new)

Sec. 3-3.5. Failure to comply with electronic filing and payment requirements.

(a) Any person who is required by the Department to file electronically any information return and who fails to file the return electronically, shall be subject to a penalty equal to $25 for each such failure.

(b) Any person who is required to file electronically any return (other than an information return) that is required to be filed under the Illinois Income Tax Act, and who fails to file the return electronically, shall be subject to a penalty for each such failure equal to:

(1) until January 1, 2017, for each tax return required to be filed under Section 502 of the Illinois Income Tax Act, the greater of $100 or 2% of the amount of tax liability required to be shown on the return, computed without regard to any payments or credits allowable against the liability, and, on and after January 1, 2017, for each tax return required to be filed under Section 502 of the Illinois Income Tax Act, the greater of $200 or 4% of the amount of tax liability required to be shown on the return, computed without regard to any payments or credits allowable against the liability; and

(2) until January 1, 2017, for each tax return required to be filed under Section 704A or subsection (a-5) of Section 711 of the Illinois Income Tax Act, the greater of $100 or 2% of the amount of tax required to be withheld for the period for which the return is required, and, on and after January 1, 2017, $200 or 4% of the amount of tax required to be withheld for the period for which the return is required.

(c) Any person who is required to file electronically any return (other than an information return) that is required to be filed under any Act administered by the Department (other than the Illinois Income Tax Act), and who fails to file the return electronically, shall be subject to a penalty for each such failure equal to:

(1) the amount of any discount allowable for keeping records, preparing and filing returns, and remitting tax with regard to the tax reported on the return, provided that this penalty shall not apply to a taxpayer allowed to file the return annually; plus

(2) until January 1, 2017, the greater of $100 or 2% of the amount of tax liability required to be shown on the return, computed without regard to any payments or credits allowable against the tax, and on and after January 1, 2017, $200 or 4% of the amount of tax liability required to be shown on the return, computed without regard to any payments or credits allowable against the tax.

(d) Any person required to make any payment of tax to the Department electronically under any Act administered by the Department who fails to make the payment electronically shall be subject to a penalty for each such failure equal to the greater of $30 or 3% of the payment required to be made. This subsection (d) applies only if the amount of tax due is greater than $1,000.

(e) For purposes of this Section, an information return is any tax return (other than a return under Section 704A of the Illinois Income Tax Act) that is required by any tax Act administered by the Department to be filed with the Department and that does not, by law, require the payment of a tax liability.

(f) If, without regard to this subsection (f), a taxpayer would be subject to penalty under both Section 3-4 of this Act and subsection (a) of this Section with respect to the same information return, only the penalty under Section 3-4 of this Act shall apply.

If, without regard to this subsection (f), a taxpayer would be subject to both a failure to file penalty in Section 3-3 of this Act and a penalty under either subsection (b) or (c) of this Section, only the failure to file penalty under Section 3-3 of this Act shall apply.

If, without regard to this subsection (f), a taxpayer would be subject to both a failure to pay penalty under Section 3-3 of his Act and a penalty under subsection (d) of this Section, only the failure to pay penalty under Section 3-3 of this Act shall apply.

(g) Except as provided in subsection (f) of this Section, the penalties imposed under this Section are in addition to all other penalties, and shall apply to returns and payments due (without regard to extensions) on or after January 1, 2015.

(35 ILCS 735/3-8) (from Ch. 120, par. 2603-8)

Sec. 3-8. No penalties if reasonable cause exists. The penalties imposed under the provisions of Sections 3-3, 3-3.5, 3-4, 3-4.5 3-5, and 3-7.5 of this Act shall not apply if the taxpayer shows that his failure to file a return or pay tax at the required time was due to reasonable cause. Reasonable cause shall be determined in each situation in accordance with the rules and regulations promulgated by the Department. A taxpayer may protest the imposition of a penalty under Section 3-3, 3-3.5, 3-4, 3-4.5, 3-5, or 3-7.5 on the basis of reasonable cause without protesting the underlying tax liability.
(Source: P.A. 91-803, eff. 1-1-01.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 2194

AMENDMENT NO. 4 . Amend Senate Bill 2194, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 3, on page 5, line 8, by replacing "amount of tax due" with "payment required".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 3 and 4 were 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 Sullivan, **Senate Bill No. 2194** 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 44; NAYS 8.

The following voted in the affirmative:

Althoff	Dillard	Link	Rose
Bertino-Tarrant	Frerichs	Luechtefeld	Silverstein
Biss	Haine	Manar	Stadelman
Bivins	Harmon	Martinez	Steans
Brady	Harris	McGuire	Sullivan
Bush	Holmes	Morrison	Syverson
Clayborne	Hunter	Mulroe	Van Pelt
Collins	Jacobs	Muñoz	Mr. President
Connelly	Jones, E.	Noland	
Cullerton, T.	Koehler	Radogno	
Cunningham	Kotowski	Raoul	
Delgado	Landek	Righter	

The following voted in the negative:

Barickman	McCarter	Oberweis
Duffy	McConnaughay	Rezin
LaHood	Murphy	

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

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

READING BILLS FROM THE HOUSE OF REPRESENTATIVE A SECOND TIME

On motion of Senator Collins, **House Bill No. 64** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Collins, **House Bill No. 99** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Holmes, **House Bill No. 104** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Martinez, **House Bill No. 61** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator McGuire, **House Bill No. 958** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **House Bill No. 982** was taken up, read by title a second time and ordered to a third reading.

COMMITTEE MEETING ANNOUNCEMENT

The Chair announced the following committee meeting has been cancelled:

Licensed Activities and Pensions in Room 400

READING BILLS FROM THE HOUSE OF REPRESENTATIVE A SECOND TIME

On motion of Senator Martinez, **House Bill No. 984** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **House Bill No. 991** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Cunningham, **House Bill No. 1048** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Koehler, **House Bill No. 1272** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Koehler, **House Bill No. 1292** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **House Bill No. 1311** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Koehler, **House Bill No. 1534** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator LaHood, **House Bill No. 2009** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Manar, **House Bill No. 2267** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Sullivan, **House Bill No. 2273** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Manar, **House Bill No. 2369** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Bertino-Tarrant, **House Bill No. 2452** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **House Bill No. 2639** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **House Bill No. 2771** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Manar, **House Bill No. 2820** was taken up, read by title a second time and ordered to a third reading.

At the hour of 5:09 o'clock p.m., the Chair announced that the Senate stand at ease.

AT EASE

At the hour of 5:20 o'clock p.m., the Senate resumed consideration of business.
Senator Link, presiding.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 24, 2013 meeting, reported the following House Bills have been assigned to the indicated Standing Committees of the Senate:

Agriculture and Conservation: **House Bill No. 3120.**

Criminal Law: **House Bills Numbered 804, 806, 821, 827, 1139, 1199, 1548, 1652, 2404, 2585, 2893, 2905, 3021, 3023, .3043.3061, 3172 and 3357.**

Education: **House Bills Numbered 490, 494, 946, 2420, 2631, 3063, 3070, 3112, 3133, 3232 and 3236.**

Energy: **House Bills Numbered 576 and 1379.**

Environment: **House Bills Numbered 2335 and 3319.**

Executive: **House Bills Numbered 226, 630, 973, 1140, 1277, 1573, 2606, 2620, 2656, 2675, 3152 and 3267.**

Financial Institutions: **House Bills Numbered 1323 and 2432.**

Higher Education: **House Bill No. 513.**

Human Services: **House Bills Numbered 1683, 2262, 2802 and 2977.**

Insurance: **House Bills Numbered 981, 1552, 2962 and 3227.**

Judiciary: **House Bills Numbered 948, 1694, 1711, 1773, .2470, 2527, 2809, 2832, 3006, 3038, 3111, 3147 and 3380.**

Labor and Commerce: **House Bills Numbered 923, 924, 2508, 2590, 2649, 3125 and 3223.**

Licensed Activities and Pensions: **House Bills Numbered 595, 1217, 1338, 2583, 2616, 2720, 2723, 2783, 3088 and 3186.**

Local Government: **House Bills Numbered 963, 1200, 1562, 2482, 2530 and 2925.**

Public Health: **House Bills Numbered 1584, 2661, 3175, 3190, 3191 and 3272.**

Revenue: **House Bills Numbered 1604, 2499 and 3157.**

State Government and Veterans Affairs: **House Bills Numbered 479, 1040, 1533, 1555, 1680, 1682, 1854, 2624, 2748, 2764, 2812, 2856, 2879, 3047, 3092, 3260, 3270, 3346, 3359 and 3388.**

Transportation: **House Bills Numbered 1815, 2453, 3255 and 3367.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 24, 2013 meeting, reported the following Senate Resolution has been assigned to the indicated Standing Committee of the Senate:

Executive: **Senate Resolution No. 232.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 24, 2013 meeting, to which was referred **House Bills numbered 496, 1571, 2535, 2843, 3067 and 3370**, reported the same back with the recommendation that the bills be placed on the order of second reading without recommendation to committee.

COMMITTEE MEETING ANNOUNCEMENT FOR APRIL 25, 2013

The Chair announced the following committee to meet at 8:00 o'clock a.m.:

Appropriations II in Room 400

At the hour of 5:25 o'clock p.m., the Chair announced the Senate stand adjourned until Thursday, April 25, 2013, at 10:00 o'clock a.m.