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SENATE RESOLUTION

2           WHEREAS, Section 11 of Article V of the Illinois  
3 Constitution authorizes the Governor, by Executive Order, to  
4 reassign functions among or reorganize executive agencies that  
5 are directly responsible to the Governor; and

6           WHEREAS, Section 4 of the Executive Reorganization  
7 Implementation Act sets forth procedures and requirements  
8 regarding Executive Orders issued under Section 11 of Article V  
9 of the Illinois Constitution; and

10           WHEREAS, Section 3.2 of the Executive Reorganization  
11 Implementation Act provides that a reorganization occurs when,  
12 among other things, an Executive Order either transfers "any  
13 part of any agency . . . or any part of the functions thereof,  
14 to the jurisdiction and control of any other agency" or directs  
15 "the consolidation or coordination of . . . any part of any  
16 agency or any part of the functions thereof, with the whole or  
17 any part of any other agency or the functions thereof"; and

18           WHEREAS, Section 3.1 of the Executive Reorganization  
19 Implementation Act specifies that the term "agency directly  
20 responsible to the Governor" includes, subject to limited  
21 exceptions, any office, officer, division, or part thereof, and  
22 any other office, nonelective officer, department, division,

1 bureau, board, or commission in the executive branch of State  
2 government; and

3 WHEREAS, The Governor issued Executive Order 12-03, which  
4 purports to implement an open operating standard, referred to  
5 as Illinois Open Data, and which gives the State Chief  
6 Information Officer (CIO) the authority to establish policies  
7 and coordinate and manage the implementation of the open  
8 operating standard; and

9 WHEREAS, Executive Order 12-03 was delivered to the  
10 Secretary of the Senate and the Clerk of the House of  
11 Representatives on September 18, 2012; and

12 WHEREAS, Because the Governor delivered Executive Order  
13 12-03 to the General Assembly after April 1, that Executive  
14 Order is by operation of Section 11 of Article V of the  
15 Illinois Constitution deemed to have been delivered on the  
16 first day of the next annual session, which was January 9,  
17 2013; and

18 WHEREAS, The 60-day period for the General Assembly to  
19 disapprove Executive Order 12-03 expires on March 10, 2013; and

20 WHEREAS, By requiring State agencies to adhere to the  
21 technical policies and standards developed by the State CIO,

1 Executive Order 12-03 transfers from those agencies to the  
2 State CIO certain policy-making functions that are vested in  
3 those agencies by statute; and

4 WHEREAS, By giving the State CIO the authority to  
5 coordinate the management of the State's information  
6 technology and telecommunications and by requiring State  
7 agencies to work with the State CIO to develop a compliance  
8 plan, Executive Order 12-03 also transfers from State agencies  
9 to the State CIO certain management functions that are vested  
10 in those agencies by statute; and

11 WHEREAS, Section 11 of Article V of the Illinois  
12 Constitution requires an Executive Order that proposes a  
13 reassignment or reorganization in contravention of a State  
14 statute to be delivered to the General Assembly, and it  
15 authorizes either house of the General Assembly, by record vote  
16 of a majority of the members elected, to disapprove the  
17 Executive Order; and

18 WHEREAS, Because Executive Order 12-03 transfers  
19 statutorily vested functions from State agencies to the CIO and  
20 permits the CIO to coordinate the management of agency  
21 technology resources in contravention of existing statutes,  
22 Executive Order 12-03 is hereby deemed a reorganization order  
23 that is subject to Article IV, Section 11 of the Illinois

1 Constitution and the Executive Reorganization Implementation  
2 Act; and

3 WHEREAS, the reorganization proposed by Executive Order  
4 12-03 contravenes, among others things, the Department of  
5 Central Management Services Law of the Civil Administrative  
6 Code of Illinois, the Governor's Office of Management and  
7 Budget Act, and the Departments of State Government Law of the  
8 Civil Administrative Code of Illinois by delegating to the  
9 State CIO functions statutorily assigned to specific State  
10 agencies; and

11 WHEREAS, Executive Order 12-03 fails to provide for the  
12 transfer of employees serving under the Personnel Code who are  
13 engaged in the performance of a function transferred to the  
14 State CIO, in violation of subsection (c) of Section 4 of the  
15 Executive Reorganization Implementation Act; and

16 WHEREAS, Executive Order 12-03 also fails to provide for  
17 the transfer or other disposition of personnel records,  
18 documents, books, correspondence, and other property both real  
19 and personal, affected by the reorganization in violation of  
20 subsection (d) of Section 4 of the Executive Reorganization and  
21 Implementation Act; and

22 WHEREAS, Executive Order 12-03 further fails to provide, by

1 a savings clause, for the transfer and continuation of the  
2 rules, regulations, and other agency actions affected by the  
3 reorganization, in violation of subsection (g) of Section 4 of  
4 the Executive Reorganization Implementation Act; and

5 WHEREAS, Executive Order 12-03 finally fails to enumerate  
6 all of the Acts of the General Assembly, which establish the  
7 functions affected by the proposed reorganization, in  
8 violation of subsection (h) of Section 4 of the Executive  
9 Reorganization Implementation Act; and

10 WHEREAS, Executive Order 12-03 proposes to reorganize and  
11 reassign to the State Chief Information Officer, whose position  
12 is not subject to Senate approval, certain policy-making and  
13 management functions vested by statute in the Department of  
14 Central Management Services, the Governor's Office of  
15 Management and Budget, and agency Directors whose appointments  
16 are subject to Senate approval, in violation of existing  
17 statutory requirements; therefore, be it

18 RESOLVED, BY THE SENATE OF THE NINETY-EIGHTH GENERAL  
19 ASSEMBLY OF THE STATE OF ILLINOIS, that pursuant to Article V,  
20 Section 11 of the Illinois Constitution, the Senate hereby  
21 disapproves Executive Order 12-03 in its entirety; and be it  
22 further

1           RESOLVED, That Executive Order 12-03 shall not become  
2 effective; and be it further

3           RESOLVED, That copies of this resolution be delivered to  
4 the Governor and the Speaker of the House of Representatives.