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**2019  
ANNUAL REPORT**

**of the**

**JOINT COMMITTEE ON  
ADMINISTRATIVE RULES**

*Submitted to the Members of the Illinois General Assembly*

**Senator Don Harmon, Co-Chair  
Representative Keith Wheeler, Co-Chair**

**Representative Tom Demmer  
Representative Michael Halpin  
Representative Frances Ann Hurley  
Senator Kimberly Lightford  
Senator Antonio Muñoz  
Representative Steven Reick  
Senator Sue Rezin  
Senator Paul Schimpf  
Representative André Thapedi  
Senator Chuck Weaver**

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**700 Stratton Building Springfield IL 62706  
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# ***JOINT COMMITTEE ON ADMINISTRATIVE RULES***

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:  
SEN. DON HARMON

CO-CHAIR:  
REP. KEITH WHEELER

EXECUTIVE DIRECTOR:  
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REP. TOM DEMMER  
REP. MIKE HALPIN  
REP. FRANCES ANN HURLEY  
REP. STEVEN REICK  
REP. ANDRE THAPEDI

**TO:** Honorable Members of the 101<sup>st</sup> General Assembly

**FROM:** Don Harmon, Co-Chair  
Keith Wheeler, Co-Chair

**DATE:** February 1, 2020

**RE:** JCAR Annual Report

As Co-Chairs of the Joint Committee on Administrative Rules, we hereby submit the 2019 Annual Report of that Committee. An overview of the Committee's rules review activities can be found in the following pages.

The Joint Committee on Administrative Rules gratefully acknowledges your continued support and assistance. We encourage all members of the General Assembly to take an active role in this vital oversight function guaranteeing that the public right to know is protected through an open rulemaking process. We welcome your suggestions and comments on agency rules and the role of the Committee. Only as each elected representative becomes concerned and involved in the oversight process can the Committee ensure that the intent of the legislation the General Assembly passes is maintained.

# JCAR

## Annual Report: 2019

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# JCAR

## Its Creation and Its Purpose

### Creation

The Illinois General Assembly created the Joint Committee on Administrative Rules (JCAR) in 1977 and delegated to it the responsibility of the legislative branch to ensure that the laws it enacts are appropriately implemented through administrative law. The specific duties and authorities of JCAR are outlined in the Illinois Administrative Procedure Act (IAPA), as is the Illinois rulemaking process.

### Responsibilities

The Committee's principal programs and activities include:

- *Review of General Rulemaking.* In the course of this review, JCAR seeks to facilitate involvement by the affected public and to make the review process a timely and efficient one that assists State agencies in their goal of enacting the best administrative law possible.
- *Review of Emergency and Peremptory Rulemakings* to ensure that they are justifiable within the IAPA's limitations on these types of rulemakings. Emergency and peremptory rulemakings are not subject to the IAPA's public comment requirements, and thus should be used conservatively.
- *Review of Existing Agency Rules and Policies* to determine if they have been properly promulgated, are unauthorized or unreasonable, or result in serious negative impact on the citizens of this State. These reviews can be undertaken upon JCAR's own initiative or in response to a complaint from the public.
- *Public Act Review* to determine the necessity for new or amendatory rulemaking in response to legislative changes. JCAR devises a list of laws it believes may generate rulemaking activity, shares that list with the agencies, and monitors agency activity to determine if appropriate action is taken.
- *Legislative Activities.* JCAR reviews any proposed legislation that amends the Illinois Administrative Procedure Act and brings to agencies' attention any resulting changes in rulemaking procedures. Legislation involving issues that have recently come before JCAR is also followed. Under its IAPA mandate to continually seek to improve the rulemaking process, JCAR occasionally initiates legislation revising the IAPA. It also may propose legislation when rules review brings attention to a statutory insufficiency or lack of clarity or to enforce its Objections or Recommendations when an agency has refused to adhere to those Objections or Recommendations.
- *Public Information.* JCAR provides information on rules and the rulemaking process to legislators and the public through several conduits. First, JCAR makes available (on-line at [www.ilga.gov/commission/jcar/flinn/flinn.asp](http://www.ilga.gov/commission/jcar/flinn/flinn.asp)) The Flinn Report: Illinois Regulation, a weekly newsletter that summarizes State agency rulemaking activities. The newsletter functions as an alternative to monitoring the weekly *Illinois Register*. It highlights the major issues; the reader can then seek a copy of the specific rulemaking or further information from the proposing agency. Second, JCAR has created and maintains the

Illinois Administrative Code database, used in the publishing of the *Illinois Register* by the Secretary of State's Index Department. State agencies can request materials from the database for use in drafting amendatory rulemakings. The database is accessible on the General Assembly website ([www.ilga.gov/commission/jcar/admincode/titles.html](http://www.ilga.gov/commission/jcar/admincode/titles.html)). Although emergency rules are not embedded into the database, the database indicates that emergency rules have been adopted and contains automatic links to the *Illinois Register* database, where the emergency rules can be viewed. When an agency moves a rulemaking from the First Notice (public comment) period to the Second Notice (JCAR review) period, JCAR engrosses any First Notice changes into the text of the rulemaking. This is the version of the rulemaking that JCAR reviews. This Second Notice version of the rulemaking can be viewed by the public through the JCAR portion of the ILGA website under "Second Notices". Third, JCAR staff is always available to respond to inquiries from General Assembly members and the public. For more information, call 217/785-2254 or contact JCAR by e-mail at [jcar@ilga.gov](mailto:jcar@ilga.gov).

## **The Review Process**

The JCAR membership meets at least once each month to consider an agenda that generally includes from 35 to 50 separate rulemakings by State agencies. In a year's time, JCAR will review approximately 20,000 pages of rule text. The IAPA dictates that the Committee's analysis of rulemakings be based on such concerns as statutory authority and legislative intent, necessity of the regulation, economic impact on State government and the affected public, completeness and appropriateness of standards to be relied upon in the exercise of agency discretion, effect on local government through the creation of a mandate, adherence to IAPA rulemaking requirements, and form.

JCAR's review of agency regulatory proposals is predominantly substantive. Its major concern is that statutory law is applied fairly and consistently, creating as little paperwork and economic burden for the affected public as possible. The Committee serves as the final avenue for input from the public before a rulemaking is formally adopted. Recommendations from the public are always welcome and are actively sought. The Committee recognizes that no one is as qualified to comment on the appropriateness and practicality of a proposed regulation as the individual whose activities or business practices will be affected by that regulation. Comment on any proposed or existing State regulation may be submitted to the Committee at 700 Stratton Building, Springfield IL 62706, or by calling 217/785-2254.

JCAR's perusal of agency rulemakings serves a technical purpose as well. The various rulemakings of the State agencies collectively comprise the Illinois Administrative Code. In giving a final technical review to each agency proposal, JCAR, along with the Secretary of State's Index Department, strives to achieve some degree of consistency among the individual agencies' portions of the Code and to make the Code as readable and understandable for the public as possible.

## **Annual Report**

This Report includes narratives of JCAR activity during 2019, as well as statistical summaries of the rulemaking activities of State agencies. The summary of legislation affecting JCAR reflects activity of the 1<sup>st</sup> year of the 101<sup>st</sup> GA. This Report also includes an historical overview of rulemaking and pertinent historical statistics.

# JCAR MEMBERSHIP

The Joint Committee on Administrative Rules consists of 12 legislators appointed by the General Assembly leadership. Membership is equally apportioned between the 2 houses and between the 2 political parties. The 2 Co-Chairs are not members of the same house or the same party.

## 2019 MEMBERS

Senator Don Harmon, Co-Chair  
Senator Kimberly Lightford  
Senator Antonio Muñoz  
Senator Sue Rezin  
Senator Paul Schimpf  
Senator Chuck Weaver

Representative Keith Wheeler, Co-Chair  
Representative Tom Demmer  
Representative Mike Halpin  
Representative Frances Ann Hurley  
Representative Steven Reick  
Representative André Thapedi

## FORMER & CURRENT MEMBERS

(\* = Co-Chair, Chair or Vice Chair; **bold** = **current member**)

Note: Members ending their JCAR tenure after a January meeting are listed as having left at the end of the previous calendar year.

Pamela Althoff (2011-15)  
Bill W. Balthis (1993-96)  
Allen Bennett (1977)  
\*Arthur L. Berman (1979-85)  
Bill Black (2001)  
\*Prescott E. Bloom (1977-85)  
Glen L. Bower (1979-82)  
Jack E. Bowers (1977-79, 81-82)  
Woods Bowman (1983-85)  
William "Bill" Brady (2015-17)  
Peter Breen (2017-18)  
J. Bradley Buryzynski (1995-2010)  
James F. Clayborne, Jr. (2004-08)  
\*John W. Countryman (1989-90)  
Mary Lou Cowlshaw (1993-98)  
Tom Cross (1999-2002)  
\*Maggie Crotty (2003-12)  
John Cullerton (1982-85)  
Michael Curran (1985-86)  
Barbara Flynn Currie (2006, 2018)  
Richard M. Daley (1977-79)  
Steve Davis (2001-03)  
**Tom Demmer (2016-)**  
Vince Demuzio (1981-85)  
\*Laura Kent Donahue (1983-93)  
James H. Donnewald (1977-79)

Thomas Dunn (1989-93)  
\*Jim Edgar (1977-78)  
Tom Ewing (1990-91)  
Beverly Fawell (1991-99)  
Monroe Flinn (1977-79, 1982-95)  
John Fritchey (2007-10)  
Barbara Giolitto (1993-94)  
James Gitz (1981-82)  
Alan J. Greiman (1977-81)  
Kenneth Hall (1987-89)  
**Michael Halpin (2019-)**  
**\*Don Harmon (2011-2019)**  
Greg Harris (2011-18)  
Charles Hartke (1995-97)  
Karen Hasara (1993-95)  
\*Brent Hassert (2003-08)  
Carl E. Hawkinson (1983-85)  
Larry Hicks (1986-94)  
Manny Hoffman (1991-93)  
Tom Holbrook (2003-07)  
Randall Hultgren (2007-10)  
Mattie Hunter (2009-10)  
**Frances Hurley (2019-)**  
\*Emil Jones, Jr. (1985-93)  
John O. Jones (2011-12)  
Jeremiah E. Joyce (1979-87)

Douglas N. Kane (1979-81)  
Doris Karpel (1985-91, 2000-02)  
Richard Kelly, Jr. (1979-82)  
Bob Kustra (1981-85)  
Lou Lang (2007-18)  
\*Thaddeus Lechowicz (1985-87)  
David Leitch (2003-08, 2013-16)  
Larry Leonard (1977-79)  
Ellis Levin (1983-93)  
**Kimberly Lightford (2019-)**  
Richard Luft (1983-85)  
Lisa Madigan (2000-02)  
John W. Maitland, Jr. (1981-85)  
Lynn Martin (1977-80)  
John M. Matejek (1977-79)  
Roger McAuliffe (1977-79)  
Karen McConaughay (2015-18)  
Thomas J. McCracken, Jr. (1986-91)  
Sam McGrew (1979)  
Larry McKeon (2003-06)  
A. T. "Tom" McMaster (1979-87)  
Jim Meyer (1999)  
David Miller (2003-10)  
Don Moffitt (2009-14)  
Rosemary Mulligan (2003-12)  
**Antonio Munoz (2013-)**  
Matt Murphy (2015-16)  
Phil Novak (1995-2003)  
\*Barack Obama (1999-2004)  
Bill O'Daniel (1987-2002)  
\*Myron Olson (1983-89)  
Coy Pugh (1997-2000)  
Steve Rauschenberger (1993-2006)

Jim Rea (1993-99)  
David J. Regner (1977-80)  
**Steven Reick (2019-)**  
\*Jim Reilly (1977-83)  
**Sue Rezin (2013-14, 2018-)**  
Dale Righter (2011-14)  
Philip J. Rock (1977-79)  
Dan Rutherford (1997-2010)  
\*Tom Ryder (1987-2001)  
\*Ron Sandack (2015-16)  
George Sangmeister (1979-81)  
\*Angelo "Skip" Saviano (2009-12)  
Frank Savickas (1979-81)  
**Paul Schimpf (2018-)**  
\*Tim Schmitz (2013-14)  
John Sharp (1977)  
Ira Silverstein (2003-18)  
Todd Stroger (2001)  
\*Art Tenhouse (2001-02)  
**André Thapedi (2011-)**  
\*Donne Trotter (1993-99)  
\*Mike Tryon (2015-16)  
\*Sam Vinson (1985-86)  
Richard A. Walsh (1977-82)  
**Chuck Weaver (2016-)**  
Larry Wennlund (1991-93)  
**\*Keith Wheeler (2016-)**  
Robert W. Winchester (1979-82)  
Kay Wojcik (1983-85)  
Harry "Babe" Woodyard (1986-93)  
Larry Woolard (1995-2000)  
\*Harry "Bus" Yourell (1977-83)



# Illinois Rulemaking Process

Illinois law exists in 4 basic forms: constitutional law, statutory law, administrative law and case law. Constitutional law creates broad guidelines. Legislation creates specific restrictions, authorities and programs. Administrative law adds the detail often necessary to implement statutory law. If these 3 categories of law do not sufficiently address all the variables, case law evolves.

In 1975, the Illinois General Assembly enacted the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100] to create a procedure through which administrative agencies would exercise the authority delegated to them by the legislature to create administrative law through the adoption of agency regulations. In 1977, the IAPA was amended to add a process by which the General Assembly could oversee the exercise of this delegated authority through the Joint Committee on Administrative Rules (JCAR), a service agency of the General Assembly.

Rules of an administrative agency are valid and enforceable only after they have been through the rulemaking process prescribed in the IAPA. Rules are for the purpose of interpreting or implementing provisions of a statute and should not actually expand or limit the scope of the statute.

## Types of Rulemakings

**Proposed Rulemaking.** These can be new rules or amendatory rulemakings. Frequently this is referred to as "regular rulemaking" or "permanent rulemaking". A 2-step (First Notice and Second Notice) process is followed, requiring from 90-365 days. Aside from the 2 45-day periods, First Notice and Second Notice, the agency controls the timing. Both the general public and the General Assembly, through JCAR, can have input prior to adoption.

**Emergency Rules.** Rules are effective immediately upon the agency filing them with the SOS or within 9 days after filing. These rules can be developed unilaterally by the agency; JCAR reviews after the rules are adopted. An emergency rule lasts 150 days unless an earlier date is specified, statute allows a longer effective period, or until the emergency rule is replaced by a permanent rulemaking. Emergency rulemaking can be used only if the agency finds a threat to the public interest, safety or welfare exists that the rulemaking will address.

**Peremptory Rules.** The IAPA provides for the immediate adoption of a rule required as a result of a federal law, federal rule, collective bargaining agreement, or court order under conditions that preclude discretion by the agency concerning the rule's content. Peremptory rules are effective upon filing with the SOS or on the date required by the federal law, federal rule or court order. JCAR reviews these rules after their adoption.

**Exempt or Identical in Substance Rules.** The IAPA, the Environmental Protection Act and the Illinois Emergency Management Act create a special process through which PCB and IEMA can adopt regulations that are identical in substance to federal regulations that the State is required to adopt and enforce. These rulemakings are reviewed by JCAR after adoption.

**Required Rulemaking.** These are rules that can be adopted unilaterally by the agency by filing with the SOS. Examples are organization charts, principal address, Freedom of Information Act information, hearing officer qualifications, etc. JCAR reviews required rules after their adoption.

## **The Process**

**Drafting of Rules.** Administrative rules are drafted by State agencies; there is no central drafting bureau as for statutes. The involvement of the public in the initial drafting is at the discretion of the agency; however, the IAPA encourages early public involvement and requires agencies to semiannually publish a Regulatory Agenda indicating, to the best of the agency's knowledge, the scope of the next 6 months' rulemaking activity.

**First Notice.** The First Notice period commences upon publication of an agency's Notice of Rulemaking in the Illinois Register. First Notice lasts a minimum of 45 days and terminates when the agency files with JCAR, commencing the Second Notice period. The only limitation is that a rulemaking expires, if not adopted, within one year after commencement of First Notice. The IAPA requires that, during First Notice, the Department of Commerce and Economic Opportunity review each proposed rulemaking to determine possible impact on small business. The general public can submit comment on the rulemaking proposal to the agency and a public hearing may or may not be held during this period. The agency can volunteer to hold a hearing or must conduct one at the request of the Governor, JCAR, an association representing over 100 persons, 25 individuals, or a local government. Requests for hearing must be filed within 14 days after publication of the First Notice. The agency can modify the rulemaking during First Notice by submitting a First Notice Changes document to JCAR when it gives Second Notice.

**Second Notice.** The Second Notice period commences upon the agency's filing of the Second Notice with JCAR and lasts for a maximum of 45 days, unless extended for an additional 45 days by mutual agreement of JCAR and the agency. During the Second Notice Period, legislative review of the rules is conducted first by the JCAR staff and then at a meeting of the legislative members. JCAR reviews the proposed rules for statutory authority, propriety, standards for the exercise of discretion, economic effects, clarity, procedural requirements, technical aspects, etc.

During the JCAR review, JCAR and the agency can agree to modifications in the rulemaking that are adopted through written JCAR Agreements. The Agreements are appended to the Certificate of No Objection issued by JCAR at its regular meeting, or are still applicable if no Certificate is issued but the agency proceeds to adopt. If the agency does not choose to modify a rulemaking or if policy differences cannot be resolved during the review process, JCAR can take one of several actions.

## **JCAR Actions**

**Certificate of No Objection.** With the Certificate, the agency can proceed to adopt the rules by filing them with the SOS for publication in the Illinois Register.

**Recommendation.** (Issued along with a Certificate of No Objection) The agency should respond to the Recommendation in writing within 90 days and can modify the rule in response to a JCAR Recommendation. (After going to Second Notice, the agency cannot unilaterally

modify/withdraw a rulemaking.) However, the agency can also adopt the rules with no changes at any time after receipt of the Certificate of No Objection.

**Objection.** An agency has to respond to an Objection in writing within 90 days, but after responding can proceed to adopt. The agency can modify or withdraw in response to a JCAR Objection or adopt the rules without changes. JCAR Agreements still apply.

**Filing Prohibition/Suspension.** If JCAR determines that a rulemaking constitutes a threat to the public interest, safety or welfare, the members can, by a 3/5 vote of the members appointed to the Committee (normally 8 of the 12 members), prohibit filing of a proposed rulemaking (or suspend an emergency or peremptory rule). As a result, the proposed rulemaking may not be accepted for filing by the Secretary of State or enforced by the agency unless JCAR withdraws the Prohibition or the General Assembly acts to end the Prohibition within 180 days. An emergency or peremptory rule that has already been adopted becomes null and void for a period of 180 days, after which it is automatically repealed unless JCAR withdraws the Suspension or the General Assembly acts to end the Suspension within the 180 days.

## Public Notification

**Illinois Register** is the official State publication through which the public is informed of rulemaking activity. The Illinois Register is prepared by JCAR and published by the Secretary of State every Friday and can be accessed through the General Assembly website ([www.ilga.gov](http://www.ilga.gov)) or the Secretary of State's website. The Register contains First Notice publication of rulemaking proposals, JCAR actions, a list of Second Notices received by JCAR, notices of final adoption of rulemakings, regulatory agendas (in January and July), executive orders and proclamations, miscellaneous agency notices as allowed by law, and quarterly indexes to the current and previous issues. Over the course of a year, the Register contains on average 20,000 pages. Paper subscriptions are available from the Secretary of State for \$290/year; it can also be accessed for free on the Secretary of State website at <https://www.cyberdriveillinois.com/departments/index/register/home.html>, and is available electronically through private publishers.

**The Flinn Report: Illinois Regulation** is a 4-6 page weekly online publication by JCAR that summarizes the rulemaking activity depicted in the matching issue of the Illinois Register. The Flinn Report is named after founding JCAR member Rep. Monroe L. Flinn and is available weekly on the General Assembly's website at <http://www.ilga.gov/commission/jcar/flinn/flinn.asp>.

**Illinois Administrative Code.** The compilation of all agency rules is known as the Illinois Administrative Code. The Code, which is larger than the Illinois Compiled Statutes, is maintained electronically by JCAR and the Legislative Information System (LIS). That database is located on the General Assembly's website (<http://www.ilga.gov/commission/jcar/admincode/titles/html>). State agencies can request from JCAR downloads of specific Sections to use for drafting purposes.

## **Public Participation**

One of the main reasons the IAPA was enacted was to give the public input into the rulemaking process. Any interested persons may contact an agency during the First Notice period to record a position on a rulemaking proposal. Additionally, many agencies consult with their identified interest groups during a pre-First Notice drafting process.

When the rulemaking goes to Second Notice, JCAR receives a copy or summary of all written comment submitted to the agency. In addition, the public may contact JCAR directly, and frequently does so if the agency refused to modify in response to public comment or if they discovered the existence of the proposal too late for the First Notice public comment period.

Public comment is vital to the JCAR review process. Frequently, it is only through this comment that the Committee fully recognizes the effect of a rule on individuals, businesses or local governments that have to adhere to it on a daily basis.

The public may also lodge complaints about existing rules. Agencies are required to allow the public to suggest rule revisions. Additionally, JCAR may open an investigation into an existing rule on its own volition or based on public complaint.

# 2019 Rulemaking

In 2019 JCAR reviewed 366 rulemakings, 297 of which were general rulemakings, 26 emergency rulemakings, 8 preemptory rulemakings, 29 exempt rulemakings, and 6 required rulemakings. On the general rulemakings, JCAR voted 10 Objections, 1 Objection and Filing Prohibition, and 10 Recommendations.

(NOTE: Differences between the number of rules proposed and rules considered occur because rules that agencies propose near the end of one calendar year are considered by JCAR in the next.)

Some of the more notable rulemakings on which JCAR took action during 2019 follow.

## GENERAL RULEMAKING

### **CAPITAL DEVELOPMENT BOARD – Illinois Energy Conservation Code (71 Ill. Adm. Code 600; 42 Ill. Reg. 21491)**

CDB proposed updating its incorporations of the International Energy Conservation Code (IECC) from the 2015 to the 2018 edition and revising the list of Illinois-specific exceptions to that Code. At its 5/14/19 meeting, JCAR objected to and prohibited filing of this rulemaking because the Board was unable to adequately address outstanding public comment. At that time, the Board had 2 vacant seats; if the remaining commenters could not present their concerns to a full Board, they would be at a disadvantage, possibly leaving language in the rulemaking that would negatively impact affected parties (construction/remodeling businesses). The motion was intended to give CDB additional time to consider the rulemaking at its next meeting. CDB later submitted modifications to the rule and JCAR lifted the prohibition at its 6/11/19 meeting.

### **ILLINOIS COMMERCE COMMISSION – Regulatory Accounting Treatment for Cloud-Based Computing Solutions (83 Ill. Adm. Code 289; 42 Ill. Reg. 12369)**

ICC proposed allowing public utilities to account for the cost of cloud-based computing solutions as regulatory assets (thus making them part of the rate base that can be charged to consumers) rather than as operating expenses paid for by investors. At its 6/11/19 meeting, JCAR objected to this rulemaking because the Commission had not yet received sufficient information regarding the economic impact of this rulemaking on affected ratepayers. ICC agreed to withdraw the rulemaking and gather additional information before proposing a new rulemaking. ICC proposed a new version of this rule in the 11/1/19 Illinois Register (43 Ill. Reg. 12237).

### **ENVIRONMENTAL PROTECTION AGENCY – Procedure for the Certification of Operators of Wastewater Treatment Works (35 Ill. Adm. Code 380; 42 Ill Reg 8033)**

EPA proposed an update of its requirements for operators of wastewater treatment and pretreatment works. At its 3/12/19 meeting, JCAR objected to EPA's refusal to respond to a request for information from the Department of Commerce and Economic Opportunity concerning the small business impact of the rulemaking. EPA justified its refusal by citing the ex parte communication provisions in Sec. 5-165 of the IAPA. JCAR held that Sec. 5-165 does not prohibit ex parte communication but merely requires that it be reported to the agency ethics officer and placed in the official record. EPA's misinterpretation of this statute was of particular concern to JCAR because it interfered with DCEO's fulfillment of its statutory mandate to analyze the impact of proposed rules upon small businesses. EPA responded that while its conduct had been in line with statute, it would not obstruct DCEO's duties in the future; instead it would provide the requested information to DCEO and file a report of ex parte communication. JCAR decided to take no further action but directed staff to monitor EPA's subsequent compliance.

**DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION – Illinois Dental Practice Act (68 Ill. Adm. Code 1220; 42 Ill. Reg. 19144)**

DFPR proposed amendments establishing dental education course requirements for public health dental hygienists. At its 6/11/19 meeting JCAR objected to this rulemaking because it needed to be updated to reflect pending legislation (later signed into law as PA 101-64). DFPR withdrew the rulemaking and agreed to re-propose it later with the needed update.

**DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES – Medical Payment (89 Ill. Adm. Code 140; 42 Ill. Reg. 18242)**

HFS proposed replacing the Primary Care Case Management program with an Integrated Health Homes (IHH) program that would coordinate physical and mental health services and social services for Medical Assistance recipients. However, the rulemaking did not define what entities could serve as IHH and did not specify its methodology for outcome-based payments (they were to be posted on HFS's website). At its 3/12/19 meeting, JCAR objected to this rulemaking because it did not adequately define or explain the elements of the IHH program it purported to implement. In response, HFS withdrew the rulemaking, stating that it would propose a revised version sometime in FY20 (this had not yet occurred as of January 2020).

**DEPARTMENT OF INSURANCE – Premium Trust Fund Accounts (Repealer) (50 Ill. Adm. Code 3113; 42 Ill. Reg. 18372)**

DOI proposed repeal of a Part prescribing the use of premium trust fund accounts. In place of the repealed rules, DOI said it would issue a bulletin to insurance agencies detailing the statutory requirement that customer monies be handled in a fiduciary capacity. At its 2/19/19 meeting, JCAR objected to this rulemaking because DOI had failed to address JCAR's concerns about the possibility of policy being established outside of rule. DOI consequently withdrew the repealer.

**DEPARTMENT OF INSURANCE – Worker's Compensation Electronic and Standardized Paper Billing (50 Ill. Adm. Code 2908; 43 Ill. Reg. 960)**

DOI implemented a PA requiring medical providers to send to worker's compensation insurers only the minimum documentation necessary to process a claim, and imposing a fine of up to \$1,000 per violation on employers and insurers who failed to comply with the electronic claims process. At its 6/11/19 meeting, JCAR objected to this rulemaking because DOI was simply reiterating its statutory discretion to determine the amount of fines rather than establishing the standards it would use in exercising that discretion. Sec. 5-20 of the IAPA requires agencies to provide in rule the standards they will use to exercise discretionary authority; without these standards, a rulemaking fails to insure equal protection under the law. DOI responded by including a 3-tiered system of fines in the rule: \$300 for the 1<sup>st</sup> violation, \$700 for the 2<sup>nd</sup>, and \$1,000 for each subsequent violation.

**DEPARTMENT OF LABOR – Minimum Wage Law (56 Ill. Adm. Code 210; 42 Ill. Reg. 17091)**

DOL proposed a list of criteria to assist employers, and the agency, in interpreting the existing 6-part test to determine whether an individual is an employee subject to minimum wage or an independent contractor. At its 2/19/19 meeting, JCAR objected to this rulemaking because DOL had not sufficiently responded to JCAR inquiries about the potential effects of this rulemaking. DOL responded by withdrawing the rulemaking.

**DEPARTMENT OF PUBLIC HEALTH – Lead Poisoning Prevention Code (77 Ill. Adm. Code 845; 42 Ill. Reg. 15784)**

DPH, in accordance with a 2015 PA, implemented changes to its lead testing and mitigation program for drinking water and for dust, soil or surfaces in or around buildings and other properties. The rulemaking affected "regulated facilities", defined as all residential buildings (presumably including private homes), child care facilities and schools; required health care providers to screen children under 7 for elevated lead levels; and required DPH to inspect dwellings, schools and child care facilities whenever a resident or enrollee was reported to have an elevated blood lead level. Throughout the rulemaking, DPH used the term "lead exposure" in place of the statutory term "lead poisoning", thereby broadening the already extensive scope of the rule to potentially include exposures that did not result in elevated lead levels. At its 1/15/19 meeting, JCAR recommended that if DPH wished to substitute the nonstatutory term "lead exposure" for "lead poisoning", it should seek a statutory change to that effect. DPH responded by changing the language to "lead poisoning".

**ILLINOIS RACING BOARD – Illinois Racing Board (11 Ill. Adm. Code 200; 43 Ill. Reg. 5189)**

IRB proposed a rule requiring its Executive Director to appoint a Director of Inter-Track and Simulcast Wagering and stipulating that this person could also serve as the State Director of

Mutuels. The Illinois Horse Racing Act of 1975 currently lists these as separate positions that must both be filled by IRB. At its 8/13/19 meeting, JCAR recommended that IRB, if it believes these positions should be merged, seek specific statutory authority to allow one person to hold both positions. IRB indicated that it would seek this statutory authority. As of January 2020, no legislation had yet been introduced to make this change. JCAR staff has been directed to monitor this issue.

**ILLINOIS RACING BOARD – Prohibited Conduct (Repealer) (11 Ill. Adm. Code 423; 42 Ill. Reg. 23707)**

IRB proposed repeal of a Part addressing prohibited conduct by licensees. When IRB was advised that this would leave the Board to make licensure determinations based on policy not in rule, it decided not to proceed with the rulemaking and indicated it would be withdrawn in response to a JCAR Objection. At its 3/12/19 meeting, JCAR objected to this rulemaking because it would allow the Board to determine prohibited conduct outside of rule. IRB withdrew the rulemaking in response to the Objection.

**SECRETARY OF STATE – Public Use of Capitol Complex and Springfield Facilities (71 Ill. Adm. Code 2005; 42 Ill. Reg. 24819)**

SOS proposed rules prohibiting masks that cover the face from being worn on Capitol Complex property. Commentors noted that as written, the rule did not address possible exceptions for health-related masks, cold weather protective gear, religious garb such as burqas or niqabs, or other concerns. At its 3/12/19 meeting, JCAR objected to this rulemaking because of SOS' inability to address the concerns raised by public comment. SOS withdrew the rulemaking in response to the Objection.



**2019**  
**GENERAL RULEMAKINGS**  
**PROPOSED BY AGENCIES**

AGENCY	NUMBER OF RULEMAKINGS
Department on Aging	3
Department of Agriculture	9
Attorney General	1
Auditor General	1
Capital Development Board	2
Central Management Services	6
Chief Procurement Officer-Department of Transportation	1
Chief Procurement Officer-Higher Education	1
Department of Children and Family Services	6
Commerce Commission	5
Community College Board	1
State Board of Education	14
State Board of Elections	4
Elevator Safety Review Board	1
Emergency Management Agency	4
Department of Employment Security	1
Environmental Protection Agency	5
Department of Financial and Professional Regulation	9
State Fire Marshal	2
Gaming Board	7
Guardianship and Advocacy Commission	2
Department of Healthcare and Family Services	8
Board of Higher Education	2
Housing Development Authority	2
Department of Human Rights	1
Department of Human Services	18
Department of Insurance	22
State Board of Investment	1
Department of Juvenile Justice	5
Department of Labor	2
Liquor Control Commission	2
Department of Natural Resources	25
Pollution Control Board	12
Department of Public Health	8

Purchased Care Review Board	1
Racing Board	6
Department of Revenue	22
Secretary of State	13
State Employees Retirement System	4
Department of State Police	1
State Police Merit Board	1
State Universities Retirement System	1
Illinois Student Assistance Commission	10
Teachers' Retirement System	3
Treasurer	2
Workers' Compensation Commission	1

<b>TOTAL</b>	<b>258</b>
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**2019  
GENERAL RULEMAKINGS  
CONSIDERED BY JCAR**

AGENCY	NUMBER OF RULEMAKINGS
Department on Aging	1
Department of Agriculture	9
Attorney General	1
Auditor General	1
Capital Development Board	3
Central Management Services	5
Chief Procurement Officer-Higher Education	1
Department of Children and Family Services	2
Department of Commerce and Economic Opportunity	1
Illinois Commerce Commission	3
Community College Board	2
Comptroller	1
Department of Corrections	1
State Board of Education	7
State Board of Elections	2
Illinois Emergency Management Agency	3
Department of Employment Security	17
Environmental Protection Agency	8
Department of Financial and Professional Regulation	12
Office of the State Fire Marshal	2
Illinois Gaming Board	4
Guardianship and Advocacy Commission	1
Department of Healthcare and Family Services	14
Board of Higher Education	3
Illinois Housing Development Authority	2
Department of Human Services	13
Department of Insurance	23
Department of Juvenile Justice	5
Department of Labor	1

Department of Natural Resources	27
Pollution Control Board	17
Property Tax Appeals Board	1
Department of Public Health	17
Purchased Care Review Board	1
Illinois Racing Board	10
State Employees Retirement System	3
State Universities Retirement System	1
Teachers Retirement System	2
Department of Revenue	16
Secretary of State	18
Department of State Police	4
State Universities Civil Service System	1
Illinois Student Assistance Commission	10
Department of Transportation	1
Treasurer	5
Workers' Compensation Commission	1

<b>TOTAL</b>	<b>283</b>
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**2019**  
**GENERAL RULEMAKINGS:**  
**JCAR ACTION**

AGENCY	REMOVED FROM NO OBJ/ OBJECTION PROH LIST				TOTAL
	REC	OBJ	PROH	LIST	
Capital Development Board			1		1
Illinois Commerce Commission	1	1			2
Illinois Community College Board	1				1
Environmental Protection Agency	1	1			2
Department of Financial and Professional Regulation			1		1
Department of Healthcare and Family Services			1		1
Department of Insurance	1	3			4
Department of Labor		1			1
Department of Public Health	4			1	5
Illinois Racing Board	2	1			3
Secretary of State		1			1
<b>10</b> <b>10</b> <b>1</b> <b>1</b>					<b>22</b>

**2019**  
**GENERAL RULEMAKINGS:**  
**BASIS FOR JCAR ACTION**

<b>Basis for Prohibition</b>	<b>Number of Prohibitions</b>	<b>Percentage of Total</b>
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Agency unable to address outstanding public comment	1	100%
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<b>Basis for Objection</b>	<b>1</b> <b>Objections</b>	<b>Percentage of Total</b>
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Failure/inability to address public comment	2	20%
Conflict with statute	2	20%
Policy outside of rule	2	20%
Lack of standards	1	10%
Lack of information on economic impact	3	30%

<b>TOTAL</b>	10	100%
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<b>Basis for Recommendation</b>	<b>Number of Recommendations</b>	<b>Percentage of Total</b>
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Lack of timeliness	7	70%
Seek statutory authority	3	30%

<b>TOTAL</b>	10	<b>100%</b>
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## **EMERGENCY RULEMAKING**

Section 5-45 of the Illinois Administrative Procedure Act specifies that agencies may use this short form rulemaking procedure, in which a rule is adopted without prior opportunity for public and JCAR comment, only if the agency finds that an emergency exists that requires the adoption of a rule within fewer days than normally required. The agency must state the emergency situation in writing and make an effort to notify the affected public. An emergency rule becomes effective immediately upon filing with the Secretary of State, or at a stated date less than 10 days after filing, and is effective for up to 150 days, after which a general rulemaking must be adopted if the policy is to continue. No emergency rule may be adopted more than once in any 24-month period unless statute specifies otherwise.

In 2019, JCAR reviewed 26 emergency rules, issuing 2 Objections and Suspensions and 1 Recommendation.

### **ILLINOIS GAMING BOARD – Video Gaming (General) (11 Ill. Adm. Code 1800; 43 Ill. Reg. 9261)**

IGB implemented 2 PAs establishing progressive jackpot games, expanding video gaming to large truck stop establishments, and making other statutorily required changes. IGB cited the emergency rulemaking authority granted to it in Section 78 of the Video Gaming Act, which dates back to the initial establishment of video gaming in 2009. The PAs implemented in this rule specifically authorized emergency rulemaking only for the purpose of establishing progressive jackpots. At its 9/17/19 meeting, meeting, JCAR objected to and suspended all provisions of the emergency rule except the progressive jackpot provisions because Section 78 of the Act granted emergency rulemaking authority only for the initial adoption of Part 1800 and cannot be reused to validate emergency rulemaking for subsequent amendments to the Part. At its 12/17/19 meeting, JCAR withdrew the Suspension contingent upon and effective with IGB's adoption of the companion permanent rulemaking.

### **ILLINOIS GAMING BOARD – Video Gaming (General) (11 Ill. Adm. Code 1800; 43 Ill. Reg. 9788)**

IGB adopted an emergency rule licensing independent outside testing laboratories to test video gaming terminals at gaming establishments. As with an earlier emergency rule, it invoked Section 78 of the Video Gaming Act. At its 10/8/19 meeting, JCAR recommended that the agency not continue to invoke Section 78 as its authority for adopting emergency amendments. Section 78 granted automatic emergency rulemaking authority for initial adoption of this Part, not later amendments. The agency should have validated this use of emergency rulemaking on this rulemaking's own merits.

### **ILLINOIS GAMING BOARD – Video Gaming (General) (11 Ill. Adm. Code 1800; 43 Ill. Reg. 13464)**

IGB adopted an emergency rule requiring video gaming terminal operators to obtain prior approval from the Board of any change in ownership or transfer of assets. IGB stated that the emergency rule was justified by the need to prevent undue economic concentration of ownership, align video gaming rules with riverboat and casino gaming rules, and uphold public confidence in video gaming. At its 11/12/19 meeting, JCAR objected to and suspended this emergency rule because IGB failed to adequately show the existence of an emergency that warranted immediate adoption of the rule changes without the public comment and review opportunities afforded by the use of proposed rulemaking.



**2019**  
**EMERGENCY RULEMAKINGS**  
**ADOPTED BY AGENCIES**

<b>AGENCY</b>	<b>NUMBER OF RULEMAKINGS</b>
Department on Aging	1
Department of Agriculture	1
Department of Central Management Services	1
Department of Commerce and Economic Opportunity	1
State Board of Education	2
Department of Employment Security	1
Department of Financial and Professional Regulation	1
Illinois Gaming Board	9
Department of Healthcare and Family Services	2
Department of Human Services	10
Department of Natural Resources	1
Department of Public Health	1
Department of Revenue	5
Secretary of State	1
State Police Merit Board	1
Student Assistance Commission	1
<b>TOTAL</b>	<b>39</b>

**2019**  
**EMERGENCY RULEMAKINGS**  
**CONSIDERED BY JCAR**

<b>AGENCY</b>	<b>NUMBER OF RULEMAKINGS</b>
Department on Aging	1
Department of Agriculture	1
State Board of Education	2
Department of Employment Security	1
Illinois Gaming Board	8
Department of Healthcare and Family Services	2
Department of Human Services	6
Department of Natural Resources	1
Department of Public Health	2
Department of Revenue	1
Illinois Student Assistance Commission	1
<b>TOTAL</b>	<b>26</b>

**2019**  
**EMERGENCY RULEMAKINGS:**  
**JCAR ACTION**

<b>AGENCY</b>	<b>REC</b>	<b>OBJ</b>	<b>OBJ/SUSPENSION</b>
Illinois Gaming Board	1		2
<b>TOTALS</b>	<b>1</b>	<b>0</b>	<b>2</b>

**2019**  
**EMERGENCY RULEMAKINGS:**  
**BASIS FOR JCAR ACTION**

Basis for Recommendation	Number of Objections	Percentage of Total
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Improper statutory authority cited	1	100%
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<b>TOTAL</b>	<b>1</b>	<b>100%</b>
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Basis for Objection	Number of Objections	Percentage of Total
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None	0	0%
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<b>TOTAL</b>	<b>0</b>	<b>0%</b>
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0

Basis for Objection/Suspension	Number of Obj/Suspensions	Percentage of Total
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Improper use of emergency rulemaking	2	100%
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<b>TOTAL</b>	<b>2</b>	<b>100%</b>
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## **PEREMPTORY & EXEMPT RULEMAKING**

Section 5-50 of the Administrative Procedure Act specifies that agencies may use this form of rulemaking procedure, in which the rule is adopted without prior opportunity for public and JCAR comment, only if the rulemaking is required by federal law, federal regulations, court orders or collective bargaining agreements; if the agency cannot exercise any discretion with respect to the rule content; and under conditions that preclude compliance with general rulemaking requirements. Agencies must file the peremptory rule with the Secretary of State within 30 days after the change in rules is required.

Exempt rulemaking is a specialized form of rulemaking, similar to the peremptory rulemaking process, reserved for use by the Pollution Control Board (PCB) under the Environmental Protection Act [415 ILCS 5] and by the Illinois Emergency Management Agency (IEMA) under the Radiation Protection Act [420 ILCS 40]. PCB and IEMA can use this short form procedure only to adopt Illinois regulations that are "identical in substance" to mandated federal regulations.

JCAR considered 39 peremptory or exempt rulemakings in 2019 and voted no actions.

**2019**  
**PEREMPTORY/EXEMPT RULEMAKINGS**  
**ADOPTED BY AGENCIES**

<b>AGENCY</b>	<b>NUMBER OF RULEMAKINGS</b>
Central Management Services	8
Emergency Management Agency	2
Department of Human Services	2
Pollution Control Board	40
<b>TOTAL</b>	<b>52</b>

**2019**  
**PEREMPTORY/EXEMPT RULEMAKINGS**  
**CONSIDERED BY JCAR**

<b>AGENCY</b>	<b>NUMBER OF RULEMAKINGS</b>
Central Management Services (P)	7
Illinois Emergency Management Agency (X)	2
Department of Human Services (P)	1
Pollution Control Board (X)	29
<b>TOTAL</b>	<b>39</b>

**2019**  
**PEREMPTORY/EXEMPT RULEMAKINGS:**  
**JCAR ACTION**

AGENCY	REC	OBJ	SUSPENSION
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>



## **REQUIRED RULEMAKING**

Section 5-15 of the Illinois Administrative Procedure Act requires that each agency maintain as rules certain types of basic information about the agency and its rulemaking process. For example, the agency must include a description of its organizational structure; procedures by which the public can obtain information concerning the agency's programs, including Freedom of Information Act (FOIA) procedures; and a current description of the agency's rulemaking procedures and research tools for its body of rules. An agency may also adopt rules that incorporate material by reference and adopt rules that specify the qualifications of administrative law judges by using the required rulemaking process. Section 5-15 authorizes agencies to bypass the proposed rulemaking process and file a certified copy of a required rule with the Secretary of State for publication in the Illinois Register as an adopted rulemaking. JCAR reviews required rules after, rather than before, they are adopted.

JCAR considered 6 required rulemakings in 2019 and took no actions.

**2019**  
**REQUIRED RULEMAKINGS**  
**ADOPTED BY AGENCIES**

<b>AGENCY</b>	<b>NUMBER OF RULEMAKINGS</b>
Department on Aging	3
Auditor General	1
Capital Development Board	2
Department of Central Management Services	2
Department of Financial and Professional Regulation	1
Division of Specialized Care for Children	1
Law Enforcement and Training Standards Board	1
Department of Military Affairs	2
Department of Public Health	1
Department of Revenue	2
<b>TOTAL</b>	<b>13</b>

**2019**  
**REQUIRED RULEMAKINGS**  
**CONSIDERED BY JCAR**

<b>AGENCY</b>	<b>NUMBER OF RULEMAKINGS</b>
Department on Aging	3
Department of Public Health	1
Department of Revenue	2
<b>TOTAL</b>	<b>6</b>

**2018**  
**REQUIRED RULEMAKINGS:**  
**JCAR ACTION**

AGENCY	REC	OBJ	SUSPENSION
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>

**2019**  
**JCAR ASSESSMENT OF**  
**APPROPRIATENESS OF AGENCY RESPONSE**  
**TO JCAR ACTION**

<b>AGENCY</b>	<b>ASSESSMENT</b>				
	<b>DUE TO APPROPRIATE AGENCY RESPONSE, NO FURTHER ACTION</b>	<b>FAILURE TO REMEDY</b>	<b>NO FURTHER JCAR ACTION</b>	<b>JCAR WILL MONITOR</b>	<b>WITHDREW SUSPENSION OR PROHIBITION</b>
Capital Development Board	4				1
Department of Employment Security	3				
Department of Financial and Professional Regulation	2		1	2	
Department of Healthcare and Family Services	1				
Department of Human Services	1	2			
Department of Insurance	3				
Department of Labor	1				
Department of Natural Resources	1				
Department of Public Health	4				
Environmental Protection Agency	1		1	1	
Illinois Commerce Commission	2				
Illinois Community College Board	1				
Illinois Gaming Board	1				
Illinois Racing Board	2				
Pollution Control Board		1			
Property Tax Appeal Board	1				
Secretary of State	2				
<b>TOTAL</b>	30	3	2	3	0

# Legislation Related to Rulemaking Issues

Rulemakings considered by JCAR occasionally result in Objections or Recommendations based on lack of clear statutory authority, or written agreements with agencies to pursue legislation to clarify statute, resolve ambiguities, or seek specific statutory authority. The following are instances in which legislation considered during 2019 was prompted by a rulemaking issue, or in which suggestions to address statutory issues (if the agency is to pursue the proposed policy) were made by JCAR during 2019.

**P.A. 101-64 (HB 2676)**, effective 7/12/19, amends the Illinois Dental Practice Act. It removes provisions that formerly restricted public health dental hygienists to working in public health settings only under written supervision agreements with dentists employed by local or State government agencies or school-based programs. Public health dental hygienists who complete a training program may now work in this type of public health setting if the setting meets specified requirements. In 2018 DFPR had proposed amendments to its Illinois Dental Practice Act rules (68 IAC 1220) establishing educational course requirements for public health dental hygienists. At its 6/11/19 meeting, JCAR objected to the rulemaking because it conflicted with the pending legislation. DFPR withdrew the rulemaking and agreed to propose a new rulemaking reflecting the statutory update. As of January 2020, DFPR had not yet done so.

**P.A. 100-201 (SB 1133)**, effective 1/1/20, amends the Acupuncture Practice Act to require persons licensed under the Act to have proof of successful completion of an examination, or to have attained a specified competency status, in order to hold themselves out as being trained in Chinese herbology. In 2018, following sunset reauthorization of the Act, DFPR proposed amendments to its Acupuncture Practice Act rules (68 IAC 1140) that included a standard of competency for herbal medicine practitioners, although it was not clear whether the agency had statutory authority to do so. DFPR, at JCAR's suggestion, agreed to remove a portion of the rulemaking concerning complaints of unprofessional conduct against a practitioner that had not completed the exam or training. This PA established the statutory authority for DFPR to promulgate the competency standards. No further amendments to this Part had been proposed as of January 2020.

**HB 2731** would have amended the Department of Natural Resources' Civil Administrative Code law to require volunteers working on DNR owned or controlled property to undergo criminal background checks. In 2018 DNR proposed amendments to 17 IAC 110 implementing the Adopt a Trail program and requiring program volunteers to undergo criminal background checks. Since there were no statutory provisions giving DNR authority to require background checks on volunteers, JCAR recommended that DNR seek this authority. DNR agreed and also removed the background check provisions from the rulemaking in response to the recommendation. No action was taken on this bill.

# Legislation Related to the IAPA

The following are issues related to the IAPA, or issues that directly affected rulemaking procedures, that engendered or were associated with legislation proposed or considered during the 2019 session.

A number of major legislative initiatives approved in 2019 granted emergency rulemaking authority to the agencies charged with implementing these measures. They include:

-- **P.A. 100-1178 (SB 337)**, which requires persons/businesses selling firearms in Illinois to obtain State certification of their federal firearms licenses. The Illinois State Police adopted emergency rules implementing this PA effective 1/3/20. ISP proposed permanent rules in August 2019, withdrew them for revision in response to public comment, and proposed new rules in January 2020.

-- **P.A. 101-27 (HB 1438)**, which legalized recreational adult use cannabis and established licensing criteria for growing and selling cannabis products. The PA authorizes emergency rulemaking for up to 180 days (instead of the IAPA 150-day limit). In 2019 the Department of Revenue adopted emergency rules implementing the tax provisions of this PA and the Department of Agriculture adopted emergency rules for licensing of growers, infusers and transporters.

-- **P.A. 101-31 (SB 690)**, which expands video and casino gaming and establishes a system for sports wagering. The Illinois Gaming Board adopted a succession of emergency rules related to video and casino gaming during 2019 and filed emergency rules to implement sports wagering in January 2020. The Department of the Lottery is also authorized to implement sports wagering by emergency rule but has not yet filed any rules to do so.

-- **P.A. 101-377 (SB 1411)**, the Sexual Assault Evidence Submission Act, establishes an electronic system administered by ISP through which victims, State's Attorneys, forensic labs, and others involved in sexual assault cases can track the status of collected/processed evidence. ISP is authorized to implement the program by emergency rule but had not done so as of January 2020.

-- **P.A. 101-601 (SB 177)**, the Illinois Works Jobs Program Act, concerns incentives and preferences for disadvantaged business enterprises (owned by minorities, women and/or persons with disabilities) in State contracting and procurement. Agencies implementing the PA include the Department of Labor and Department of Central Management Services. As of January 2020 neither agency had adopted emergency rules under this PA.

**HB 157** would have required State agencies that provide benefits or services pursuant to a Public Act to prepare implementation reports for the GA for each Public Act. The report was to state whether the PA had been fully implemented as of the report date, or whether implementation was still in progress. If implementation was not complete, the agency was to state its approximate target date for implementation and describe any obstacles that were delaying implementation. Although the bill did not directly reference the IAPA or the rulemaking process, information contained in the reports could have been useful to the JCAR Public Act Review process. No action was taken on this bill.

**HB 935** would have amended Secs. 5-30, 5-40, 5-45, 5-100 and 5-115 of the IAPA to establish an automatic prohibition/suspension mechanism for rules whose compliance or implementation cost exceeded \$10M. Agencies would accept implementation cost estimates from private sector entities during 1<sup>st</sup> Notice and include these estimates in their 2<sup>nd</sup> Notice filings. Regulatory flexibility considerations that the IAPA currently applies to small businesses, small municipalities and nonprofits would be extended to all private sector entities (not defined in the legislation). Any proposed rule whose estimated total implementation or compliance cost to private sector entities exceeded \$10M over 2 years was to be "deemed objectionable and automatically prohibited" by JCAR; emergency rules with an implementation cost of \$10M or more over the life of the emergency rule would be automatically suspended. The prohibition or suspension could be lifted via legislation passed by the General Assembly and signed by the Governor within 180 days after the action; otherwise, the prohibition or suspension becomes permanent. (The bill did not state whether JCAR had authority to lift a prohibition or suspension imposed for this reason.) The bill also increased the term of 2<sup>nd</sup> Notice extensions from 45 to 90 days (allowing for a maximum 2<sup>nd</sup> Notice period of 135 days), required COGFA to adjust the \$10M cost threshold for inflation on an annual basis, and authorized JCAR to request independent implementation/compliance cost estimates for rules from the Auditor General. This bill, which was identical to an earlier version proposed in 2018 with no action, was not acted upon during the 2019 session.



# Public Act Review

Section 5-105 of the Illinois Administrative Procedure Act [5 ILCS 100/5-105] requires JCAR to maintain a review program to monitor the implementation of new laws and changes in law through State agency rulemaking activities. JCAR fulfills this statutory obligation through its Public Act review program.

Under this program, JCAR staff reviews each new Public Act and makes a preliminary determination as to whether rulemaking might be necessary for proper implementation. After the list has been culled of those obviously not requiring rulemaking (appropriations, criminal and civil law, local government issues), the affected State agency is contacted for its opinion. If necessary, these written contacts are followed up with discussion between JCAR and the agency.

The final list of Public Acts for which JCAR and the agency agree that rulemaking is warranted is then monitored as long as necessary to insure that progress is made toward implementation. The primary goal of this program is to ensure that appropriate rules are put into effect in a timely manner, as required by Section 5-105 of the IAPA.

If suitable progress is not made, JCAR, by the vote of a majority of its members, can initiate an investigation into existing rules of the agency. If, after the agency's appearance before the Committee to explain its failure to adopt anticipated rules, the JCAR members are not satisfied with the agency response, the Committee can object to the agency's conduct and may initiate further legislation to clarify the issue.

Frequently an agency is prompted to complete necessary rulemaking by conversation with JCAR.

# Special Review of ADA Procedures

In 2004, JCAR audited the rules of all agencies to determine whether the agency had adopted the Americans With Disabilities Act grievance procedures required by federal law. Federal regulations at 28 CFR 35.107 require all agencies of State government employing at least 50 persons to adopt rules governing the grievance procedure. 22 agencies appeared to have no ADA rules and were contacted to determine whether the agency had a valid reason for considering itself exempt from the federal mandate. Of those, 19 responded by adopting ADA rules or explaining that they have fewer than the 50 employees that trigger the federal requirement. At least the following agencies have not yet filed ADA rules:

Healthcare and Family Services  
Juvenile Justice

# Freedom of Information Act Rules

P.A. 96-542, which took effect on 1/1/10, amended the Freedom of Information Act (FOIA) [5 ILCS 140] to require greater disclosure of public documents, faster response to requests for information and documents, and stronger civil penalties for public bodies that fail to comply with the law. The Act also established within the Office of the Attorney General the position of Public Access Counselor, whose duties include hearing appeals from requesters denied information or from public bodies claiming requested information should be exempt from disclosure.

The changes to FOIA required State agencies to revise or replace their existing FOI rules. New provisions shorten the timeline for responding to an initial request from 7 to 5 business days; require each agency to provide contact information for a designated FOI officer; require annual training for FOI officers; revise the schedule of fees that may be charged for copying documents; and direct appeals, when requests are denied, to the Public Access Counselor.

Many State agencies have implemented the 2010 FOIA revisions by either amending their current rules or replacing them with a model rule drafted by the Governor's office. Most agencies have adopted their FOIA rules using the required rulemaking provisions in Section 5-15 of the IAPA, which apply to procedures by which the public can obtain information on subjects, programs, and activities of an agency. At least the following major State agencies have not yet adopted rules reflecting the new FOIA revisions:

Aging	Lt. Governor
Agriculture	Lottery
Central Management Services	Procurement Policy Board
Children and Family Services	Retirement Systems
Civil Service Commission	Revenue
Commerce and Economic Opportunity	Secretary of State
Commerce Commission	State Board of Elections
Comptroller	State Fire Marshal
Finance Authority	State Police
Gaming Board	Toll Highway Authority
Healthcare and Family Services	Veterans' Affairs
Human Services	Violence Prevention Authority
Insurance	Workers' Compensation Commission
Labor	

# Complaint Review Program

The Illinois Administrative Procedure Act authorizes JCAR to review and investigate the rulemaking activities of State agencies when it receives a written complaint.

JCAR operates its complaint review program under Part 260 of its operational rules. Complaints may address one or more of the following: an existing rule of an agency; failure of an agency to fully or properly enforce its rules; absence of rules required by statute or necessary for the proper conduct of an agency program or function; and an agency policy that is applied, but not embodied in the rules of the agency promulgated pursuant to the IAPA.

Upon receipt of a complaint, JCAR initiates a review to determine the need for a full investigation. Staff may raise questions and discuss problems with the agency and will attempt to inform the agency of the substance of the complaint and any proposals for JCAR action prior to the meeting. Staff will report the results of the review and a proposal for action at a JCAR monthly meeting. A complaint may be placed on the agenda for a JCAR meeting by any JCAR member or the Executive Director if evidence exists that there are possible problems with the rules. If the same issues have been previously considered by JCAR, a complaint will not be placed on the agenda, unless the complaint reveals information not available to JCAR at the time the issue was considered and, if the information were available, it would have altered the outcome. Based on the complaint, JCAR may issue an Objection or Recommendation to existing rule, or to agency failure to maintain adequate rule, and afford the agency an opportunity to respond.

Complaints should be forwarded to the Executive Director of the Joint Committee at:

Joint Committee on Administrative Rules  
700 Stratton Building  
Springfield IL 62706

# Judicial Activity Relating To JCAR and IAPA

Since JCAR's function is closely related to the interpretation of the Illinois Administrative Procedure Act (IAPA), it monitors court decisions and Attorney General opinions that affect the interpretation of the Act. One of the enumerated responsibilities of JCAR under the Act is "to study the impact of legislative changes, court rulings and administrative action on agency rules and rulemaking" [5 ILCS 100/5-105(c)]. This summary highlights significant judicial actions since enactment of the IAPA and discusses current activity.

## KEY INTERPRETATIONS OF THE IAPA

- Two past decisions construing the IAPA in accordance with positions supported by JCAR are especially noteworthy. The cases involved an attempt by the Department of Public Aid (now, Healthcare and Family Services) to change the method by which it calculated Medicaid payments to nursing homes. In the first case, *Senn Park I (Senn Park Nursing Center v. Miller*, 118 Ill. App. 3d 504, 455 N.E.2d 153, 74 Ill. Dec. 123 (1983)), the First District Appellate Court held that DPA's failure to follow the IAPA rulemaking procedures invalidated a new method it utilized for calculating Medicaid payments. The court stated that the definition of a "rule" found in Sec. 1-70 of the IAPA should be broadly construed in order to safeguard the public's right to comment on proposed agency policies. DPA's change in calculating the Medicaid payments, the court ruled, fell within the Sec. 1-70 definition of rule since it was a statement of general agency policy. As that policy was not adopted in compliance with the IAPA, it was invalid.

DPA also argued that the amended procedure was exempt from the notice and publication requirements by Sec. 5-35(c) of the IAPA because the State Plan was a contractual arrangement with the federal government, and was exempt under the contracts exception of the IAPA. Sec. 5-35(c) states that: "The notice and publication requirements of this Section do not apply to a matter relating solely to agency management...or to public property, loans or contracts."

*Senn Park II (Senn Park Nursing Center v. Miller*, 118 Ill. App. 3d 733, 455 N.E.2d 162, 83 Ill. Reg. 609 (1983)) addressed use of emergency rulemaking. The Appellate Court ruled that an emergency rule in that instance in which the underlying "emergency" was created by the agency's failure to follow these (notice and comment) procedures (of the IAPA) in the first place, resulting from "an avoidable administrative failure to properly enact a rule in accordance with statutory requirements", was improper in that instance.

Both cases were consolidated for consideration by the Supreme Court. The Supreme Court agreed with the Appellate Court's interpretation of the contract's exception in which the lower court stated:

We are persuaded that under the IAPA, a matter comes under the contract exception only when contracts are clearly and directly involved.... We believe that with regard to nursing homes, contracts, whether State-Federal or agency-provider, are not clearly and directly involved.... Accordingly, we conclude that the amended inflation update procedure is not a matter relating to contracts within the meaning of the IAPA. (118 Ill. App. 3d at 511)

The Supreme Court also stated that it is clear that the rulemaking procedure is intended to give interested persons an opportunity to submit their views and comments on rulemaking changes and that an agency must consider all submissions received. The court acknowledged that there are certain statutory exceptions to the notice and comment procedures, but that exceptions are of a limited nature and should be appropriately applied.

The court also agreed with the Appellate Court ruling that the amended inflation update procedure fell within the purview of the IAPA because the Public Aid Code incorporates the IAPA and the Code specifically requires rulemaking pursuant to the IAPA "during the process of establishing the payment rate for skilled nursing and intermediate care services, or when a substantial change in rates is proposed," in order to provide "an opportunity for public review and comment on the proposed rates prior to their becoming effective" (118 Ill. App. 3d at 512). The court found that the amended procedure fell within the definition of "rule" found in the IAPA and thus the failure of DPA to follow the notice and comment procedures required by the IAPA rendered the amended procedure invalid.

Following the decision of the Appellate Court in *Senn Park I*, DPA promulgated Emergency Rule 4.14221 implementing the amended inflation update procedure pursuant to the IAPA. Plaintiffs (*Senn Park II*) sought a declaratory judgment, asking the court to declare Emergency Rule 4.14221 void because there was no "emergency" as that term is defined in the IAPA. On 12/30/80, DPA withdrew the emergency rule. On appeal, the Appellate Court held that, although the rule was withdrawn, the validity of the rule was at issue in order to determine the amount of reimbursement the plaintiffs were entitled to in *Senn Park I*. The Appellate Court further held that the circuit court had erred in finding the emergency rule valid because there was no emergency as that term is defined under the IAPA. The Supreme Court ruled that no emergency situation existed warranting use of emergency rulemaking.

- In *Sleeth v. Illinois Department of Public Aid* (125 Ill. App. 3d 847, 466 N.E.2d 703, 81 Ill. Dec. 117 (1984)), the Third District Appellate Court considered an appeal from a DPA decision to terminate disability benefits in 5 cases. The court found that the procedure utilized by the Department (Manual Release No. 83.5), which required applicants who were denied disability benefits to submit proof of disability within 14 days after the filing of appeal, was a "rule" under the IAPA. The IAPA states:

"Rule" means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (i) statements concerning only the internal management of an Agency and not affecting private rights or procedures available to persons or entities outside the Agency, (iii) intra-agency memoranda or (iv) the prescription of standardized forms...

DPA contended the Manual Release was merely an intra-office memorandum, not subject to the IAPA. The court reasoned that the memorandum affected private rights and procedures available to persons outside DPA and that this type of statement by an agency is specifically included within the definition of "rule" under the Act. Since the memorandum was not properly promulgated pursuant to the IAPA, the court held the rule invalid and determined that the procedures followed by DPA violated State law.

- In *Kaufman Grain Co., Inc. v. Director, Department of Agriculture* (179 Ill. App. 3d 1040, 534 N.E.2d 1259, 128 Ill. Dec. 654 (1989)), the Fourth District Appellate Court held that DOA had no statute or rule that allowed it to settle disputes between a grain producer and a grain dealer or a grain warehouse. DOA improperly relied on policy that was not properly promulgated as rules in accordance with the IAPA and, therefore, was without authority to adjudicate such grain disputes. The *Kaufman* case is significant for the ruling of the court concerning attorney's fees. Sec. 10-55 of the IAPA provides that, in any case in which a party has any administrative rule invalidated by a court for any reason, the court shall award the party bringing the action the reasonable expenses of the litigation, including reasonable attorney's fees. The appellate court ruled that Kaufman was entitled to the award of attorney's fees it reasonably incurred in this litigation, including the fees incurred in the proceedings before the Department. The court stated that Sec. 10-55 of the IAPA gives those subject to regulation an incentive to oppose doubtful rules where compliance would otherwise be less costly than litigation. Therefore, the court awarded fees for the proceedings before DOA, as well as fees incurred in administrative review proceedings, noting that proceedings before an administrative agency are quite often more costly and time consuming than administrative review proceedings. The *Kaufman* case illustrated trends of the courts to rule unfavorably against agencies that have not promulgated their policies properly under the IAPA. The *Kaufman* decision specifically cites *Senn Park* and further strengthens the precedent it established. Award of attorney's fees was further strengthened in *Citizens Org. Proj. v. Dept. of Nat. Res.* (89 Ill. 2nd 593, 725 N.E.2d 195, 244 Ill. Dec. 896 (2000)), in which the Supreme Court affirmed the award of attorney's fees and litigation expenses when a citizen group obtained invalidation of a DNR rule governing a DNR permit decision.
- In *Coronet Insurance Company v. John E. Washburn, Director of Insurance of the State of Illinois* (201 Ill. App. 3d 633, 558 N.E.2d 1307, 146 Ill. Dec. 973 (1990)), the First District Appellate Court of Illinois held that an administrative agency may enact rules and regulations as limited by the authorizing statutory language; that an administrative

rule carries with it the same presumption of validity as the statute; and a rule that is consistent with the spirit of the statute and furthers its purpose will be sustained. The appellate court also ruled that DOI's failure to give an additional 45 days notice of a proposed rule that had been revised during the First Notice public comment period to the general public did not constitute violation of the IAPA, since the Act provides that changes in the text of a proposed rule may be made during the First Notice period. Such changes need not be published again prior to submission to JCAR.

- In *CIPS v. Illinois Commerce Commission* (268 Ill. App. 3d 471, 644 N.E.2d 817, 206 Ill. Dec. 49 (1994)), the Fourth District Appellate Court ruled that JCAR did not create an impermissible filing prohibition when it informed ICC it would lift its filing prohibition on a proposed rule formulating rental rates for cable TV attachments to utility poles if the ICC removed allocation of the portion of pole neutral space to cable television.
- In *Weyland v. Manning* (309 Ill. App. 3d 542, 723 N.E.2d 387, 243 Ill. Dec. 355 (2000)), plaintiffs filed an action contesting a rule adopted by the Department of Natural Resources establishing a restricted boating zone on Griswold Lake. One element at issue was the adequacy of the Second Notice filed by DNR with JCAR. The Second District Appellate Court held that DNR complied with JCAR rule requirements that it list and analyze all comments concerning the rule and that its failure to list in the Second Notice persons who had requested a public hearing did not invalidate the rule.
- Payday Lending Rules: The regulation of short term (payday or cash for car title) loans involved rules ultimately adopted by the then Department of Financial Institutions and/or Office of Banks and Real Estate. After JCAR Objection and after a Filing Prohibition expired, DFI adopted rules regulating the payday loan/cash for car title industries that were immediately challenged in *South 51 Development Corp, et al., v. Vega* (335 Ill.App. 3d 542, 269 N.E.2d 528, 261 Ill. Dec. 731 (2002)). The chief argument of plaintiffs was that there was an improper delegation of rulemaking authority to DFI. The court held that there was a valid delegation of legislative authority (the statute on which the rulemaking was based was somewhat sparse) and that the small business impact analysis performed at the time by DCCA (now, DCEO) was facially sufficient, albeit not submitted to JCAR by the end of the First Notice period.
- *Corey H. v. Board of Education of City of Chicago* (No. 92-C-3409, U.S. District Court for the Northern District of Illinois, Eastern Division). In 1992, disabled students brought an action against the Chicago and State Boards of Education alleging systemic failures to educate children with disabilities in the least restrictive environment (LRE), as required by the federal Individuals with Disabilities Education Act (IDEA). SBE and CBE entered into a settlement agreement with the plaintiffs. Under the settlement agreement, Judge Gettleman ordered SBE to change its policy on certification structure and standards for special education teachers through preemptory rulemaking. SBE filed 2 preemptory rulemakings to change special education teacher certification endorsement and create common core standards for all teachers. The first preemptory rule (titled Certification; 23



Ill. Adm. Code 25; 24 Ill. Reg. 16109) was objected to by JCAR on 11/14/00. SBE refused to withdraw the peremptory rule, stating it was not in a position to do so because it was under a federal judge's order. The rule was then suspended by JCAR on 2/21/01. The second peremptory rule (Standards for Certification in Special Education; 23 Ill. Adm. Code 28; 24 Ill. Reg. 16738) was objected to and suspended by JCAR on 1/9/01. SBE did not respond. On 2/27/01, Judge Gettleman ordered SBE to implement both rulemakings, regardless of the JCAR suspensions.

Pursuant to IAPA requirements, SJR 26 was introduced in the General Assembly to continue the 2 suspensions. (At the time, Sec. 5-125 of the IAPA stated that if a joint resolution passed both houses of the General Assembly within the 180 days of the JCAR suspension, the rule would be considered repealed and the Secretary of State must immediately remove the rule from the collection of the effective rules.) SJR 26 passed the Senate on 5/21/01 with a vote of 56-0-0 and passed the House on 5/31/01 with a vote of 117-0-0. This was the first time a joint resolution of this nature passed both houses of the GA. As directed by Judge Gettleman, SBE implemented the settlement order as agency policy outside rule.

Ten years later, with the enactment of PA 97-461, SBE was authorized to use peremptory rulemaking procedures to adopt into its rules the court-ordered certification policies and standards. SBE adopted peremptory rules on 8/22/11, in accordance with the district judge's orders.

- In *Champaign-Urbana Public Health District v. ILRB* (354 Ill. App. 3d, 482, 821 N.E.2d, 691, 290 Ill. Dec. 379 (2004)), the Fourth District Appellate Court ruled that the Illinois Labor Relation Board's use of emergency rulemaking to implement its card recognition rules was not an emergency under the IAPA, despite the fact the agency was implementing a recently enacted Public Act with an immediate effective date. The court said no emergency existed because union recognition could still occur under the existing methods or the union could wait until the new permanent rules were promulgated:

"(N)o facts have been presented to show that without the emergency rules the public would be confronted with a threatening situation.... The reason for adopting an emergency rule should be truly emergent and persuasive to a reviewing court and considerations of administrative and fiscal convenience alone do not satisfy that standard. Agencies may not adopt emergency rules to eliminate an administrative need that does not threaten the public interest, safety, or welfare. Here, the Board's reasoning for implementing the emergency rules can best be characterized as one for administrative convenience and not because of any stated public threat. Thus, the rules adopted by the Board...were invalid...."

A similar finding was reached by the Second District Appellate Court concerning the Board's use of emergency rulemaking in *County of Du Page v. ILRB* (358 Ill. App. 3d

174, 830 N.E.2d 709, 294 Ill. Dec. 297 (2005)) concerning sheriff's deputies in DuPage County. In these 2 instances, courts took a narrower view of the appropriate use of emergency rulemaking than JCAR's historical position. JCAR has voted procedural Objections or Recommendations when agencies have employed emergency rulemaking to implement Public Acts when adequate time for regular rulemaking was present (the "agency created" emergency situation spoken of in *Senn Park*), but, up to that time, had seldom taken adverse action because an agency acted promptly to implement a recent Public Act through emergency rulemaking.

- *Caro v. Blagojevich* (Circuit Court, Cook County, 07-CH-45464) was filed 11/26/07 in Cook County challenging the Governor's expansion of medical assistance under Family Care. Plaintiffs sought to halt the HFS Director's continued enforcement and implementation of the HFS emergency rule expanding medical assistance eligibility under Family Care to families earning up to 400% FPL, a rule that had been suspended by JCAR on 11/13/07.

Plaintiffs argued the rule violated the Illinois Constitution and statutes, including the IAPA. They sought an injunction against HFS enforcing or implementing the rule. Among the defenses raised by HFS was an argument that the JCAR Suspension was unconstitutional, based on cases from other states supportive of that position.

On 4/15/08, Circuit Judge James Epstein issued a preliminary injunction ordering HFS to cease expending any public funds related to Family Care. Judge Epstein did not rule on the constitutional issues raised, instead citing HFS failure to include a work requirement as a condition of Family Care eligibility. (Federal and State statutes require medical assistance recipients to meet the same non-income criteria as TANF recipients, which include work requirements.) Defendants appealed this injunction to the First District Appellate Court, which upheld Judge Epstein's decision on 9/26/08.

HFS responded to the order by filing a peremptory rule imposing the work requirement upon Family Care recipients. JCAR suspended the peremptory rule on 5/20/08 because the injunction did not direct HFS to file a peremptory rule and the rule did not meet that or any of the other IAPA conditions for peremptory rulemaking.

In February 2008, HFS presented to JCAR a proposed permanent version of the rule expanding Family Care eligibility. JCAR issued a Filing Prohibition against the rule on 2/26/08. HFS then attempted on 3/10/08 to file the prohibited rule with the Secretary of State, and this attempt became the subject of a new lawsuit, *HFS v. White* (below).

On 10/15/08, Judge Epstein issued another preliminary injunction barring HFS from expending any public funds to implement Family Care under the permanent or peremptory rules. HFS then claimed that the order could be interpreted in a manner that would force the agency to stop payments on all its medical assistance programs (affecting more than 500,000 Illinois residents). Based on HFS' argument, the Illinois Supreme

Court, on 11/12/08, issued a stay of enforcement of the preliminary injunction, allowing HFS to continue implementing the program until the merits of the case could be decided.

In December 2008, the Special Investigative Committee of the Illinois House considering articles of impeachment against Gov. Blagojevich included *Caro* among its exhibits. The articles of impeachment approved by the House on 1/9/09 and 1/14/09, and sustained by the Senate on 1/29/09, thereby removing Blagojevich from office, included the violation of the IAPA cited in *Caro* among various charges of abuse of power.

On 7/1/09, Judge Epstein approved a settlement agreement among Gov. Patrick Quinn (replacing Blagojevich as a defendant), all other defendants, and the plaintiffs. The agreement included approval of legislation (P.A. 96-20, signed 6/30/09) allowing persons who were enrolled in the expanded Family Care program as of the legislation's effective date to remain in the program, with no new enrollees accepted after that date. All pending appeals of the case were dismissed. HFS filed emergency rules to implement P.A. 96-20 on 7/1/09 and identical permanent rules took effect on 11/2/09 and 11/16/09.

- In *Department of Healthcare and Family Services v. White* (Circuit Court, Cook County, 08-CH-11822), HFS filed suit against Secretary of State White on 3/28/08. HFS, on 3/10/08, attempted to file the proposed Family Care expansion rule that JCAR had prohibited on 2/26/08. SOS refused to accept it, citing the Suspension that was still in effect on the earlier emergency rule, which, under the IAPA, prevents any other rule with the same effect from being filed. HFS argued that JCAR's Suspension of the emergency rule was invalid and that SOS had a duty to accept and publish the permanent rule in the Illinois Register. The case was dismissed at the defendants' request on 7/1/09 as part of the settlement agreement in *Caro*.
- Several cases were filed in Cook County Circuit Court in 2015 and 2016 regarding the Department of Public Health's denial of various petitions, submitted under Section 45 of the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130], to add additional conditions to the list of "debilitating medical conditions" qualifying for medical cannabis (see 77 Ill. Adm. Code 946.10). By 2018, at least 3 cases had been decided in favor of the plaintiffs at the circuit or appellate court level: *Mednick v. IDPH*, 16 CH 2777, to add intractable pain; *Doe v. IDPH*, Ill. App. Ct., 1<sup>st</sup> District, No. 1-16-2548, to add chronic post-operative pain; and *Doe v. IDPH*, 15 CH 16764, to add migraine headaches. IDPH appealed these decisions to higher courts, but subsequent legislative action appears to have superseded these cases. Effective 8/9/19, PA 101-363 expanded the statutory list of debilitating conditions to include chronic pain, migraines and other conditions. DPH medical cannabis program rules at 77 IAC 946 include debilitating conditions "added pursuant to the statute" as well as those listed in rule.
- In *Semen Lelchuk vs. Department of Human Services* (Circuit Court, Cook County, 19-CH-00597), the plaintiff contested DHS' decision to deny him benefits on the basis of rules that failed to cite applicable federal law. Lelchuk had emigrated from Russia in

1998 and resided legally in the U.S. under a provision of the federal Immigration and Naturalization Act (INA) that had been adopted in 1996. In 2018 DHS terminated Lelchuk's Aid to the Aged, Blind and Disabled (AABD) and other benefits on the grounds that he did not meet citizenship or legal U.S. residency criteria. An administrative appeal restored his other benefits but upheld the denial of AABD because AABD rules in 89 IAC 113 did not cite the INA provision that applied to Lelchuk; it cited only the pre-1996 version of that provision. After the court action was filed, DHS adopted emergency rules effective 3/20/19 and permanent rules effective 8/9/19 that cite both the pre- and post-1996 versions of INA. The case was voluntarily dismissed on 9/30/19.

## FILING PROHIBITIONS AND SUSPENSIONS ISSUED BY JCAR

2/1/20

*IR = Illinois Register; IAC = Illinois Administrative Code*

DATE	AGENCY	ACTION	BASIS	ISSUE
6/16/81	Health Fin Auth 4 IR 1915	Prohibition	Economic Impact/ Statutory Authority	Implements IHFA Act. Improper definition of "hospital services"; flawed reporting requirements; payor differentials; tries to establish a "contingent liability" agreement with the federal government. HFA modified; prohibition withdrawn.
4/13/82	EPA/DPH 4 IR 4669	Prohibition	Economic Impact	Public water supply samples; land & water samples; new regs on milk & milk products. Inadequate economic impact analysis; burdensome requirements for wastewater testing laboratories. EPA/DPH withdrew.
1/8/86	DNS 32 IAC 505 9 IR 1573	Prohibition	Economic Impact/ Federal Preemption	Extensive and burdensome regulation of nuclear steam-generating facilities. DNS withdrew.
9/23/87	DPR 68 IAC 250 11 IR 3836	Prohibition	Legislative Intent/ Freedom of Speech/ Economic Impact	Limitation on pre-need solicitation and sale of funeral arrangements. DPR withdrew.
3/7/90	DPR 68 IAC 1400 13 IR 2913	Prohibition	Economic Impact/ Statutory Authority	Requirements for clinical psychologist licensure conflicted with statute or lacked statutory authority. DPR modified; prohibition withdrawn.
9/17/91	DCFS 89 IAC 300 15 IR 8735	Prohibition	Statutory Authority/ Legislative Intent	Disallowed a statutorily required Christian Science exemption in the definition of "neglected child". DCFS modified; prohibition withdrawn.
1/8/92	DOI 50 IAC 2008 15 IR 14859	Prohibition	Economic Impact	Unlawful discrimination against the elderly by severely limiting the commission earned on the sale of Medicare supplement insurance policies, potentially restricting availability. DOI modified; prohibition withdrawn.
1/8/92	DonA 89 IAC 240 15 IR 17398	Suspension	Economic Impact	Program cutbacks without adequate notification and protection of elderly clients. DonA modified; prohibition withdrawn.
5/11/93	OSFM 41 IAC 100 16 IR 15681	Prohibition	Conflicting Regulations/Statutory Authority	Conflict between OSFM and DCFS on standards. OSFM modified; prohibition withdrawn. OSFM modified; prohibition withdrawn.
9/14/93	DOC 17 IAC 590, 17 IR 4554	Prohibition	Legislative Intent	Limits number of persons who can hunt geese from a single blind or hut to 3, without sufficient justification. DOC modified; prohibition withdrawn.
10/12/93	DPA 89 IAC 144, 140 17 IR 15162	2 Suspensions	Statutory Authority/ Legislative Intent	Reduction in payments to facilities caring for DD clients, in contradiction of PA 88-88. DPA repealed.

11/16/93	DFI 38 IAC 130 17 IR 6929	Prohibition	Economic Impact/ Legislative Intent	Unfair rate structure for cashing public aid checks. DFI withdrew.
12/14/93	ICC 83 IAC 315 93 IR 202	Prohibition	Economic Impact/ Overburdensome Regulation	Unfair rates paid by cable TV companies to utilities for use of pole space. ICC withdrew.
9/13/94	DPH 77 IAC 790 18 IR 3205, 3202	2 Prohibitions (New Rule & Repeal)	Statutory Authority/ Legislative Intent	Inclusion of drug products in the Ill. Drug Formulary that were not deemed equivalent by FDA or were exempt from FDA consideration. DPH withdrew.
11/15/94	DPA 89 IAC 140 18 IR 10922	Suspension	Statutory Authority	Medicaid coverage of abortions in rape/incest cases conflicted with statute limiting coverage to endangerment of mother's life. DPA repealed emergency rule.
2/7/95	SBE 23 IAC 401 18 IR 9756	Prohibition	Statutory Authority	Regulation of nonpublic special education facilities without statutory authority. SBE modified; prohibition withdrawn.
4/18/95	DASA 77 IAC 2090 19 IR 1156	Prohibition	Statutory Authority/ Legislative Intent/ Due Process	Alcoholism/substance abuse centers applying for certification as Medicaid providers with deficiencies in treatment programs will have applications denied with no chance for remediation and no chance to appeal the denial. DASA modified; prohibition withdrawn.
10/15/96	ICC 83 IAC 761, 762, 763, 764 20 IR 8416, 8407, 8393, 8395, 8527, 8541	2 (761, 763) Suspensions 4 Prohibitions (83 IAC 761, 762, 763, 764)	Overburdensome Regulation	Complex discovery procedures hinder ICC's ability to make an arbitration decision involving local telephone carriers and long distance carriers initiating local service within federal timeframes. ICC refused to modify or withdraw; prohibitions/suspensions withdrawn.
3/18/97	DNR 17 IAC 850 21 IR 322	Prohibition	Economic Impact	Eliminated commercial perch fishing on Lake Michigan will have an undue economic impact on the regulated business. DNR will do further rulemaking; prohibition withdrawn.
11/12/97	DPH 77 IAC 290 21 IR 13908	Suspension	Legislative Intent/ Adverse Impact on Availability of Adequate Health Care Facilities	Health facility plan review is statutorily required only for construction projects costing over \$5,000, not all projects. DPH withdrew.
2/17/99	SBEL 26 IAC 201, 202 22 IR 7858, 7862	2 Prohibitions	Statutory Authority/ Legislative Intent	Creates a system for SBEL staff review of nominating petitions for apparent conformity that is not consistent with statutory petition review procedures. SBEL withdrew.

4/11/00	ICC 83 IAC 726 24 IR 1	Prohibition	Statutory Authority/ Economic Impact/ Undue Reg. Burden	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits in addition to the statutorily intended private businesses, corporations and industries. ICC modified; prohibition withdrawn.
6/13/00	ICC 83 IAC 727 24 IR 8635E	Suspension	Statutory Authority/ Economic Impact	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits in addition to the statutorily intended private businesses, corporations and industries. ICC refused to modify or withdraw; suspension expired.
11/29/00	DFI 38 IAC 110 24 IR 11717	Prohibition	Economic Impact	This attempt to regulate short-term (payday) loans and cash for title loans creates an unreasonable economic burden for small lenders, which could result in diminished availability of loans for consumers with limited options. DFI refused to modify or withdraw; prohibition expired.
1/9/01	ICC 83 IAC 727 24 IR 8454	Prohibition	Statutory Authority	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits in addition to the statutorily intended private businesses, corporations and industries. ICC refused to modify or withdraw; prohibition expired.
1/9/01	SBE 23 IAC 28 24 IR 16738	Suspension	Economic Impact	Under these peremptory rules, teachers will not be as qualified to teach children with special needs as current rule provides. Also, teachers will need additional training, which could result in fewer qualified teachers available to serve special education students. SBE implemented the settlement order as agency policy outside rule. PA 97-461 authorized SBE to use peremptory rulemaking to implement the federal court orders SBE adopted rules 8/22/11. SBE refused to modify or withdraw; suspension made permanent by SJR 26.
2/21/01	SBE 23 IAC 25 24 IR 16109	Suspension	Economic Impact	Continued enforcement would constitute a serious threat to the welfare of special education students. Implementation may result in unqualified teachers being assigned to students for whom the teacher has no training or preparation. (See above description.) SBE refused to modify or withdraw; suspension made permanent by SJR 26.
11/19/02	DPA 89 IAC 120 26 IR 5047	Prohibition	Statutory Authority under Federal Law	Exceeds federal statutory authority by adding restrictions on determining whether an annuity was transferred at fair market value. DPA failed to respond to objection within statutory time limit; rulemaking deemed withdrawn.
11/18/03	OBRE 38 IAC 375, 1000, 1075 27 IR 16024, 16029, 16043	3 Suspensions	No Legitimate Emergency	Increases fees assessed on financial institutions without proving the existence of a situation meriting the use of emergency rulemaking. OBRE repealed emergency rules.
2/18/04	DPR 68 IAC 1370 28 IR 1760	Suspension	Lack of standards	Lacks sufficient standards to be applied in determining whether a purported kickboxing event is actually an ultimate fighting event. (Amateur and professional kickboxing events are exempt from DPR's authority to ban ultimate fighting.) DPR repealed emergency rule.

2/18/04	ICC 92 IAC 1710 27 IR 8600	Prohibition	Economic Impact	Increasing the amount a commercial relocater of trespassing vehicles is charged for filing relocation tow record forms and numbers, regardless of whether the relocater is reimbursed for the tow, may create an undue economic burden on these businesses, which may result in a decrease in relocater availability. ICC refused to modify or withdraw; prohibition expired.
7/13/04	BHE 23 IAC 1020 28 IR 284	Prohibition	Statutory Authority/ Policy Outside Rule	Statute specifies programs eligible for Health Service Education Grants and does not give BHE authority to further limit that eligibility. BHE withdrew.
1/11/05	DPH 77 IAC 860, 870, 880, 885 28 IR 1652, 1674, 2613, 1684, 1717	4 Prohibitions	Threat to the Public Interest	DPH failed to give all affected parties the opportunity to discuss the proposed manufactured housing rulemakings and potential amendments, creating a threat to the public interest. DPH modified; prohibitions withdrawn; DPH failed to adopt before 1 year expiration.
6/14/05	ESRB 41 IAC 220 29 IR 1101	Prohibition	Statutory Authority	Creates elevator safety rules - Numerous provisions conflicted with statute or lacked statutory authority. ESRB withdrew.
4/11/06	SBE 23 IAC 305 30 IR 86	Prohibition	Threat to the Public Interest	Sets school nutrition standards that do not provide a total approach to child nutrition through diet, nutrition education and exercise; preempts the purview of the State Task Force on Wellness that is to consider the issue of school nutrition and report to the Governor and the General Assembly by January 2007; and largely excludes local school district input and expertise in development of the proposal. SBE modified; prohibition withdrawn.
7/11/06	DCFS 89 IAC 406, 408 29 IR 18180, 18207	2 Prohibitions	Economic Impact	The rulemakings lack clarity, which threatens the public interest in that applicants/licensees and the families they serve could be adversely economically impacted. DCFS modified; prohibition withdrawn.
7/11/06	DFPR 38 IAC 110 30 IR 2449	Prohibition	Statutory Authority	No statutory authority to apply Payday Loan Reform Act restrictions to Consumer Installment Loan Act licensees. DFPR refused to modify or withdraw; prohibition withdrawn on provisions affecting military; remainder is permanently prohibited.
11/14/06	DOL 56 IAC 220 29 IR 19106	Prohibition	Statutory Authority	The provisions regarding when employee breaks may be taken are not statutorily required and appear to be unduly restrictive without significant benefit. DOL withdrew.
1/9/07	SBE 23 IAC 226 30 IR 4421	Prohibition	Threat to the Public Interest	Incorporates Special Education federal rules – Adoption of policies is not mandated by the USDoE and poses a serious threat to the interests of children with disabilities and special education teachers. SBE modified; prohibition withdrawn.
2/6/07	DOA 8 IAC 25 30 IR 14664	Prohibition	Statutory Authority	Regulation and licensing of dog daycare – DOA inadequately justified the need for this new regulatory activity, which was not specifically authorized by statute. DOA modified; prohibition withdrawn.



3/13/07	ESRB 41 IAC 1000 30 IR 16522	Prohibition	Threat to the Public Interest	Creates elevator safety rules – Adoption of 1 <sup>st</sup> Notice modification requiring mechanics to work under the direct supervision of a licensed contractor without an opportunity for public to comment is a serious threat to the public interest. ESRB modified; prohibition withdrawn.
6/19/07	CMS 44 IAC 1 30 IR 19577	Prohibition	Statutory Authority	Allows piggybacking and multi-government procurement. CMS lacks statutory authority to permit numerous purchasing procedures and requirements of the Procurement Code to be bypassed. CMS withdrew.
9/18/07	DFPR 50 IAC 937 31 IR 10699E	Suspension	No Emergency	Sets supplemental quarterly reporting requirements for health insurance firms. No emergency situation warranted adoption of an emergency rule. Use of emergency rulemaking imposes new costs without the opportunity for prior review and comment by the affected public. DFPR repealed emergency rule.
10/10/07	DFPR 50 IAC 937 31 IR 10546	Prohibition	Statutory Authority	Sets supplemental quarterly reporting requirements for health insurance firms. No statutory authority. DFPR refused to modify or withdraw; prohibition permanent.
11/13/07	HFS 89 IAC 120 31 IR 15854E	Suspension	No Emergency	Expands FamilyCare to relatives of children receiving medical assistance with incomes of up to 400% FPL; picks up coverage for persons formerly receiving medical care under a federal State Children's Health Insurance Program waiver that expired 9/30/07. HFS repealed emergency rule.
1/11/08	HFS 89 IAC 140 31 IR 13570	Prohibition	Economic Impact	Authorizes medical assistance payment for routine examinations and preventive services for persons over 18 (currently children only). HFS refused to modify or withdraw; prohibition permanent.
1/11/08	DPH 77 IAC 975 31 IR 13672	Prohibition	Due Process	Implements Smoke Free Illinois Act. DPH refused to modify or withdraw; prohibition permanent.
2/13/08	HFS 89 IAC 147 32 IR 415	Suspension	No Emergency	Retools the Minimum Data System of determining reimbursement rates for medical assistance. HFS refused to modify or withdraw; suspension withdrawn.
2/26/08	HFS 89 IAC 120 31 IR 15424	Prohibition	Economic Impact	Expands FamilyCare to relatives of children receiving medical assistance with incomes of up to 400% FPL; picks up coverage for persons who have been receiving funds under the federal waiver that expired 9/30/07. HFS refused to modify or withdraw; prohibition permanent.
5/20/08	HFS 89 IAC 120 32 IR 7212	Suspension	Improper Use of Peremptory Rulemaking	Requires medical assistance recipients to meet TANF work requirements (FamilyCare). IAPA allows use of peremptory rulemaking to implement a court order. There was no court order. HFS refused to modify or withdraw; suspension permanent.
5/20/08	HFS 89 IAC 140	Suspension	Improper Use of Peremptory	Requires use of tamper-resistant prescription pads in order for a prescription to be eligible for Medicaid reimbursement. The IAPA deadline for implementing a federal requirement by

	32 IR 6743		Rulemaking	peremptory rulemaking was exceeded. HFS failed to respond to objection; suspension permanent.
6/17/08	SBE 23 IAC 401 32 IR 4843	Suspension	No Emergency	Nonpublic and out-of-state providers of special ed services to students with disabilities must maintain a written policy that use of behavioral intervention strategies relying on pain will not be applied to any student. SBE repealed emergency rule.
9/16/08	SBE 23 IAC 401 32 IR 4705	Prohibition	Contravenes Statute	Nonpublic and out-of-state providers of special ed services to students with disabilities must maintain a written policy that use of behavioral intervention strategies relying on pain will not be applied to any student. SBE failed to respond to objection; deemed withdrawn.
11/19/08	HFS 89 IAC 120 32 IR 18889	Suspension	Improper Use of Peremptory Rulemaking	Requires medical assistance recipients to meet TANF work requirements (FamilyCare). IAPA allows use of peremptory rulemaking to implement a court order. There was no court order. HFS repealed peremptory rule.
11/19/08	DHS 89 IAC 121 32 IR 16905	Suspension	Improper Use of Peremptory Rulemaking	Implements provisions at the federal Food, Conservation and Energy Act of 2008 that made FS coupons obsolete after 6/18/08. DHS repealed peremptory rule.
3/17/09	HFS 89 IAC 140 32 IR 14003	Prohibition	Statutory Authority	HFS may deny participation in the medical assistance program to providers that owe a debt to HFS or if HFS receives credible evidence of fraud or willful misrepresentation under the medical assistance program. HFS modified; prohibition withdrawn.
6/16/09	HFS 89 IAC 140 32 IR 13761	Prohibition	Threat to the Public Interest	Describes group psychotherapy sessions eligible for medical assistance reimbursement. HFS modified; prohibition withdrawn.
6/16/09	DHS 89 IAC 686 33 IR 7017	Suspension	No Emergency	Implements enhanced rates to assist qualifying homemaker agencies providing healthcare coverage to their direct service employees. DHS repealed emergency rule.
7/14/09	DNR 17 IAC 3703 32 IR 14445	Prohibition	Economic Impact	Designates exclusion zones for run-of-river dams and sets specifications for signs and devices warning persons using public waters of the presence of dams. DNR refused to modify or withdraw; prohibition permanent.
9/15/09	DHS 89 IAC 112, 114 33 IR 5201, 5228	2 Prohibitions	Statutory Authority	Removes assets from consideration when determining an individual's eligibility for TANF and General Assistance. DHS withdrew.
9/15/09	DHS 59 IAC 270 33 IR 7054	Prohibition	Contravenes IAPA	Autism Research Fund grants. The rulemaking did not include sufficient grantmaking procedures and standards. DHS modified; prohibition withdrawn.
8/10/10	IEMA 32 IAC 330 33 IR 12061	Prohibition	Economic Impact	Exempts specified water and sewage treatment residuals or sludges containing naturally occurring radium from statutory registration, licensure, fee and reporting requirements and instead requires registration with IEMA. IEMA modified; prohibition withdrawn.

10/19/10	DFPR 68 IAC 1249 34 IR 5047	Prohibition	Economic Impact	Implements the Cemetery Oversight Act. DFPR withdrew.
4/12/11	SBE 23 IAC 30 34 IR 5047	2 Prohibitions	Statutory Authority	Establishes the Principal Preparation Program. SBE modified; prohibition withdrawn.
5/10/11	HFS 89 IAC 120 34 IR 11664	Prohibition	Statutory Authority/ Legislative Intent	Implements federal requirements for Medicaid eligibility for long term care assistance. HFS modified; prohibition withdrawn.
5/10/11	DFPR 50 IAC 8100 34 IAC 15926	Prohibition	Statutory Authority	Clarifies what activities will not be considered inducement for the referral of title insurance business. DFPR modified; prohibition withdrawn.
7/12/11	Treasurer 74 IAC 740 35 IR 8893	Suspension	No Legitimate Emergency	Revises administrative fee for participants in the Public Treasurers Investment Pool. Suspension withdrawn effective with adoption of modified permanent rule.
1/10/12	SOS 92 IAC 1001 35 IR 14916	Prohibition	Statutory Authority	BAIID exemption does not apply to a holder of a monitoring device driving permit using an employer's vehicle for personal use. SOS modified; prohibition withdrawn.
3/6/12	DPH 77 IAC 300 35 IR 9927	Prohibition	Lack of Clarity	Defines personnel delivering "direct care" for long term care facilities. DPH modified; prohibition withdrawn.
6/12/12	ICC 83 IAC 412	Prohibition	Statutory Authority	Sets requirements for retail electric suppliers' consumer education and protection programs providing for electric customer choice for residential or small retail commercial customers. ICC modified; prohibition withdrawn.
8/14/12	HFS 89 IAC 140.442(e)(4) 36 IR 11329	Suspension	Inappropriate Use of Emergency Rulemaking	In a SMART Act emergency rule, added antibiotics to medication types that do not require prior approval when a medical assistance recipient exceeds statutory limit of 4 prescriptions/mo. SMART Act did not address antibiotics. HFS modified; prohibition withdrawn.
8/14/12	HFS 89 IAC 140.491 36 IR 11329	Suspension	Unauthorized Use of Emergency Rulemaking	Removed exemption from prior approval for transportation of medical assistance patients from one hospital to another to obtain services not available at the discharging hospital. While the extraordinary SMART Act emergency rulemaking authority was used, this change was not required by the SMART Act. HFS modified; prohibition withdrawn.
8/14/12	HFS 89 IAC 148.70(g) 36 IR 10326	Suspension	Contravenes Federal Statute	Denies payment for entire hospital admission for medical assistance patients when a Medicare-defined hospital acquired condition occurs. HFS modified; prohibition withdrawn.

8/14/12	HFS 89 IAC 148.140(b)(1)(F) 36 IR 10326	Suspension	Inappropriate Use of Emergency Rulemaking	Eliminates enhanced medical assistance payment rates for hospital-based physical therapy. This change was not required or authorized by the SMART Act, but HFS used SMART Act's emergency rulemaking authority. HFS modified; prohibition withdrawn.
8/9/13	DOI 50 IAC 5421 36 IR 12957	Prohibition	Threat to the Public Interest	HMO deductibles/copayments must be waived when they exceed the annual maximum out-of-pocket expenses of a high deductible health plan set by the Affordable Care Act. Retaining the 50% cap on deductibles/copayments does not achieve the aim of permitting some HMO customers to obtain high deductible plans, as expressed by statute. DOI modified; prohibition withdrawn.
10/22/13	DNR 17 IAC 3000 37 IR 2843	Prohibition	Threat to the Public Interest/Economic Impact	Establishes a capital grant review system and sets a non-refundable application fee. The fees would create an untenable burden for the principal applicants – local governments and not-for-profits. DNR modified; prohibition withdrawn.
11/19/13	HFSRB 77 IAC 1110 37 IR 3982	Prohibition	Economic Impact	Requires an ASTC to submit to another HRSRB review to deliver services under a service approval already issued by HRSRB but under which the ASTC had not yet begun to implement services.
1/14/14	IGB 11 IAC 1800 37 IR 19882	Suspension	Statutory Authority	Created the Video Gaming Exclusion List and clarified that terminal operators must be licensed at the time they enter into use agreements. IGB repealed the emergency rule; suspension withdrawn.
1/14/14	HFS 89 IAC 147 38 IR 1205	Suspension	Threat to the Public Interest/Safety/ Welfare; Economic Impact	Effective 1/1/14, implemented PAs establishing enhanced rates for ventilator services and traumatic brain injury (TBI) care. Also implemented Resource Utilization Group (RUG) methodology for determining nursing care LTC reimbursement. HFS modified; suspension withdrawn.
6/17/14	DHS 89 IAC 501 37 IR 19437, 19457	Prohibition	Threat to the Public Interest	Updates the Part to clarify Partner Abuse Intervention Program (PAIP) requirements, application and approval procedures, DHS monitoring processes and evaluation procedures. DHS modified; prohibition withdrawn.
10/14/14	ICC 83 IAC 470 37 IR 20544	Prohibition	Threat to the Public Interest	Outlines procedures for local government electrical aggregation programs operated by retail electric suppliers. ICC modified; prohibition withdrawn.
8/11/15	DPH 77 IAC 775 38 IR 18346	Prohibition	Threat to Public Interest	Expands the Part to include procedures for DPH inspection and permitting of dairy farms that sell or distribute raw milk directly to consumers on their dairy farms. DPH modified; prohibition withdrawn.
11/13/18	PTAB 86 IAC 1910 42 IR 3862	Prohibition	Threat to the Public Interest	Prohibits any Illinois legislator from participating in Board proceedings by representing a taxpayer through any business entity, directly or indirectly, in any capacity other than a legislative capacity.

12/11/18	DFPR 68 IAC 1290 42 IR 23202	Suspension	Threat to the Public Interest	Implements a PA allowing Opioid Alternative Pilot Program participants to enter dispensaries and purchase medical cannabis with written certification from a physician. Although the PA gave DFPR emergency rulemaking authority, DFPR's emergency rule included amendments not addressed in the PA.
5/14/19	CDB 71 IAC 600 42 IR 21491	Prohibition	Agency could not address public comment	CDB proposed updating its incorporations of the International Energy Conservation Code (IECC) from the 2015 to the 2018 edition and revising the list of Illinois-specific exceptions to that Code. At its 5/14/19 meeting, JCAR objected to and prohibited filing of this rulemaking, finding that the adoption of this rulemaking would constitute a serious threat to the public interest, safety or welfare because the Board was unable to adequately address outstanding public comment. At this point, the Board had two vacant seats. CDB's inability to allow public commentators to present their concerns before a full Board placed the public commentators at a disadvantage, possibly leaving language in the rulemaking that would negatively impact most persons or entities constructing or remodeling a residential or commercial building in Illinois. At the vote, Co-Chair Harmon noted that this was a procedural prohibition designed to give the newly constituted CDB a chance to consider this rulemaking. The motion passed unanimously (10-0-0). CDB presented this rulemaking to the CDB Board for reconsideration at its 5/14/19 meeting, at which both of the groups commenting on the unresolved issue provided comment. The Board voted to reflect provisions initially recommended by the Illinois Energy Conservation Advisory Council but removed by the previous CDB Board. In response, CDB submitted modifications to the rule, contingent upon which JCAR lifted the prohibition at the 6/11/19 meeting.
9/17/19	IGB 11 IAC 1800 43 IR 9261	Suspension	Improper Use of Emergency Rulemaking	IGB adopted an emergency rule authorizing progressive jackpot games, expanding video gaming to large truck stops, and making several other statutorily required changes. At its 9/17/19 meeting, JCAR objected to and suspended all of the emergency rule except for the progressive jackpot provisions, for which automatic emergency rulemaking authority was granted by PA 101-31, because Section 78 of the Video Gaming Act [230 ILCS 40], which granted emergency authority for the initial adoption of Part 1800, cannot be reused to validate emergency rulemaking for subsequent changes to that Part. IGB agreed to no longer invoke Sec. 78 of the VGAct as its authority to use emergency rulemaking. At its 12/17/19 meeting, JCAR withdrew this suspension on the emergency rule contingent upon and effective with IGB's adoption of the permanent rulemaking, which JCAR was also considering at that meeting.

11/12/19	IGB 11 IAC 1800 43 IR 13464	Suspension	Improper Use of Emergency Rulemaking	IGB adopted an emergency rule requiring transfers of ownership interests in terminal operators to be approved by IGB. JCAR objected to and suspended this emergency rule because IGB failed to adequately show the existence of an emergency that warrants immediate adoption of the rule changes without the public comment and review opportunities afforded by the use of proposed rulemaking. JCAR found that this use of emergency rulemaking constitutes a threat to the public interest.
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**HISTORY OF GENERAL RULEMAKING BY AGENCY  
1978 THROUGH 2019**

AGENCY	78-00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	Total
Administrative Rules, Joint Committee on	29	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	29
Aging, Department on	85	1	5	-	1	1	2	3	2	1	2	2	1	1	2	1	-	7	3	3	123
Agriculture, Department of [16]	387	13	13	11	13	5	11	2	3	2	15	4	8	1	8	6	5	1	11	9	528
Architect of the Capitol, Office of the [38]	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Attorney General	35	-	2	1	1	3	1	1	-	2	3	1	2	2	1	2	1	1	2	1	62
Attorney General's Ethics Commission	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Auditor General	33	-	-	-	-	2	-	1	2	-	1	-	2	-	1	-	-	1	1	-	44
Banking Board of Illinois, State	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3
Capital Development Board [29]	74	8	1	3	2	2	2	3	-	1	4	1	2	1	-	1	-	-	4	2	111
Carnival-Amusement Safety Board-Dept. of Labor	15	1	-	2	-	1	-	-	-	1	-	-	-	-	1	-	-	-	-	-	21
Central Management Services, Dept. of [2]	312	18	29	11	11	20	22	10	10	12	7	12	17	8	9	4	3	9	3	6	533
Chief Procurement Officer-Capital Dev. Board	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	1	-	-	-	3
Chief Procurement Officer-General Services	-	-	-	-	-	-	-	-	-	-	-	-	2	1	1	-	1	-	-	-	5
Chief Procurement Officer-Higher Ed	2	-	-	-	-	-	-	-	1	-	-	-	1	-	-	1	1	-	1	1	8
Chief Procurement Officer-Dept. of Transportation	-	-	-	-	-	-	-	-	-	-	-	-	-	3	-	1	-	-	-	1	5
Children & Family Services, Department of	339	13	20	11	8	8	8	9	7	11	15	24	6	6	7	29	3	16	8	6	554
Civil Service Commission	5	-	-	-	-	-	-	-	-	1	1	-	1	-	-	-	-	-	1	-	9
Civil Service System, State Universities	18	-	-	-	-	-	-	1	1	2	1	1	2	-	-	1	3	1	-	1	32
Commerce & Econ. Opport., Dept. of [15][23][25]	242	7	7	1	10	4	5	1	4	-	2	5	3	5	1	-	2	3	8	-	310
Commerce Commission	463	16	25	40	10	22	3	7	8	6	11	18	7	16	14	2	13	7	11	5	704
Community College Board	48	1	2	-	2	1	-	-	1	-	-	-	-	-	-	1	1	6	5	1	69
Comptroller	52	3	3	1	-	-	1	-	-	-	-	5	1	2	-	-	1	2	2	-	73
Comptroller's Merit Commission	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Cook County Local Records Commission	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Corrections, Department of	321	2	4	-	4	3	3	1	-	1	3	-	3	-	2	-	1	-	1	-	349
Court of Claims	2	-	-	-	-	-	-	-	1	-	-	-	-	-	-	1	-	-	-	-	4
CPA Board of Examiners	2	-	-	1	1	-	-	1	-	-	1	2	-	-	-	-	1	1	-	-	10
Criminal Justice Information Authority	18	4	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	23
Deaf and Hard of Hearing Commission	-	-	1	-	-	-	-	-	1	-	1	-	1	-	-	-	-	-	-	-	4
Debt Collection Board	1	-	2	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-	5

**HISTORY OF GENERAL RULEMAKING BY AGENCY  
1978 THROUGH 2019**

<b>AGENCY</b>	<b>78-00</b>	<b>01</b>	<b>02</b>	<b>03</b>	<b>04</b>	<b>05</b>	<b>06</b>	<b>07</b>	<b>08</b>	<b>09</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>Total</b>	
Council on Developmental Disabilities	2	-	-	-	-	-	0	1	2	-	-	-	-	-	-	-	-	-	-	-	-	5
Diversifying Hi Ed Faculty in IL Program Board	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Drycleaner Environmental Response Trust Fund	2	-	-	-	1	1	3	1	1	-	1	-	1	-	1	-	-	-	-	-	-	12
Eastern Illinois University	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Education, State Board of	215	22	14	8	16	50	23	23	24	23	25	17	21	27	17	38	11	22	7	14	-	617
Educational Labor Relations Board	16	1	-	-	10	-	-	-	-	-	6	-	-	4	-	-	-	2	-	-	-	39
Elections, State Board of	71	-	2	4	5	7	5	4	1	3	5	2	1	-	2	6	2	4	1	4	-	129
Electronic Recording Commission	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	1
Elevator Safety Review Board	-	-	-	-	-	1	1	1	2	-	-	1	-	-	1	-	-	-	-	-	1	8
Emergency Management Agency [3][24]	179	10	8	5	3	9	-	7	12	8	4	-	6	13	7	8	1	2	3	4	-	289
Employment Security, Department of	136	2	1	2	5	4	-	2	14	6	8	1	5	-	-	2	-	-	23	1	-	212
Environmental Protection Agency	231	8	3	3	1	3	4	3	5	7	10	6	4	3	3	1	4	16	12	5	-	332
Executive Ethics Commission [33]	1	-	-	-	-	2	-	1	-	-	-	-	1	1	-	-	-	-	1	-	-	7
Experimental Organ Transplantation Proced. Bd.	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Financial and Professional Regulation [28] [35]	915	29	51	59	32	43	33	30	25	-	32	25	18	16	12	17	7	38	11	9	-	1,402
Finance Authority [30]	63	2	-	1	-	-	-	-	-	2	1	-	-	-	1	-	-	-	-	-	-	70
Fire Marshal	80	3	6	3	2	3	2	11	8	7	15	3	-	6	4	1	5	1	7	2	-	169
Gaming Board	9	2	2	2	3	3	1	3	6	5	5	2	11	7	5	3	7	8	2	7	-	93
Governor	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Governor's Office of Management and Budget	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	2	-	-	-	3
Green Government Coordinating Council [34]	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	2
Guardianship & Advocacy Commission	19	-	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1	-	2	-	24
Health Facilities and Services Review Board [36]	74	3	4	-	-	4	1	6	4	4	3	5	1	3	3	4	3	5	1	-	-	128
Health Information Exchange Authority	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-	2
Healthcare and Family Services, Department of [31]	1,448	30	43	32	30	37	32	17	27	23	25	24	22	39	29	6	14	12	21	8	-	1,919
Hearing Instrument Consumer Protection Board	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Higher Education, Board of	53	-	-	-	1	2	5	1	2	3	1	5	2	-	-	2	-	5	3	2	-	87
Historic Preservation Agency	8	-	1	-	-	-	-	-	-	-	-	-	-	-	2	-	2	-	-	-	-	13
Housing Development Authority	46	3	1	1	-	1	3	1	1	1	2	1	2	3	1	2	-	1	-	2	-	72
Human Rights Commission [17]	14	-	-	-	-	-	-	-	2	1	1	-	-	-	-	1	-	-	-	1	-	20



**HISTORY OF GENERAL RULEMAKING BY AGENCY  
1978 THROUGH 2019**

AGENCY	78-00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	Total
Human Rights, Department of	27	1	2	-	2	2	3	2	5	2	2	-	3	-	2	2	-	2	1	-	58
Human Services, Department of [11] [1][18]	813	39	34	36	32	15	19	25	19	38	32	24	23	15	21	20	11	12	24	18	1,270
Illinois State University	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Independent Tax Tribunal [39]	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	1
Innovation and Technology, Department of [41]	-																		1	-	1
Insurance, Department of [35]	309	15	14	10	x	x	x	x	x	x	17	6	11	13	33	16	10	19	40	22	535
Investment, Illinois State Board of	8	-	-	-	-	-	1	1	1	1	1	2	2	2	2	-	-	-	2	1	24
Juvenile Justice, Department of	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5	5
Labor Relations Board [22]	51	-	4	2	2	-	-	-	-	-	-	1	-	3	-	1	1	-	-	-	65
Labor, Department of	90	3	-	-	4	9	-	-	2	4	7	3	1	-	6	4	-	-	2	-	135
Law Enforcement Training and Standards Bd. [20]	16	-	-	-	1	1	-	1	1	-	2	2	1	-	1	-	-	-	-	-	26
Legislative Information System	9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9
Legislative Reference Bureau	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Lieutenant Governor	4	-	1	-	-	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	7
Liquor Control Commission	11	2	2	-	-	-	-	-	1	-	-	-	-	-	2	1	-	2	1	2	24
Local Records Commission	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Lottery [26]	16	1	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	19
Low-Level Radioactive Waste Task Group	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Medical District Commission	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Military Affairs, Department of [5]	3	-	-	1	1	-	1	2	-	1	1	-	-	-	1	-	-	1	-	-	12
Motor Vehicle Theft Prevention Council	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Natural Resources, Department of [10] [40]	1,177	52	45	32	47	35	23	29	26	29	33	27	18	39	20	35	24	27	28	25	1,771
Nature Preserves Commission	3	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	4
Northeastern Illinois Planning Commission	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3
Obsolete Boards & Commissions	83	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	83
Obsolete Higher Ed Boards (BOR, BOG) [13]	10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	10
Pollution Control Board	679	12	17	9	20	18	11	19	8	9	27	20	18	18	20	19	11	12	12	12	971
Illinois Power Agency	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	5	-	-	-	-	7
Prisoner Review Board	6	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	7
Procurement Policy Board	3	2	-	-	-	-	-	-	-	-	-	1	-	-	-	3	-	-	-	-	9

**HISTORY OF GENERAL RULEMAKING BY AGENCY  
1978 THROUGH 2019**

<b>AGENCY</b>	<b>78-00</b>	<b>01</b>	<b>02</b>	<b>03</b>	<b>04</b>	<b>05</b>	<b>06</b>	<b>07</b>	<b>08</b>	<b>09</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>Total</b>
Property Tax Appeal Board	8	-	-	-	-	5	6	1	1	1	-	-	-	-	1	-	-	1	2	-	<b>26</b>
Public Health, Department of [21]	968	30	35	44	18	30	21	21	20	12	46	30	27	24	43	18	30	12	24	8	<b>1,461</b>
Purchased Care Review Board [27]	14	-	-	1	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1	<b>17</b>
Racing Board	333	20	16	6	15	22	11	17	20	14	11	15	12	4	5	6	3	15	11	6	<b>562</b>
Records Commission, State	1	-	-	-	-	-	1	1	1	-	-	-	-	-	-	-	-	-	-	-	<b>4</b>
Retirement System, General Assembly	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
Retirement System, Judges	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
Retirement System, State Employees'	34	1	1	-	2	1	2	-	1	1	1	-	-	1	-	1	-	-	2	4	<b>52</b>
Retirement System, State Universities	9	1	-	2	2	8	4	-	1	2	1	2	2	3	2	2	1	2	1	1	<b>46</b>
Retirement System, Teachers'	22	1	3	1	2	3	2	2	4	2	5	2	2	-	2	1	2	1	2	3	<b>62</b>
Revenue, Department of [26]	489	52	41	18	23	11	6	21	33	11	17	11	4	4	43	14	14	14	30	22	<b>878</b>
Savings Institutions, Board of [12]	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>3</b>
Secretary of State	408	13	26	7	17	24	25	23	-	23	27	19	21	20	25	17	14	14	17	13	<b>753</b>
Secretary of State's Merit Commission	-	-	-	-	-	-	-	-	20	-	-	3	-	-	-	-	-	-	-	-	<b>23</b>
Sex Offender Management Board	-	-	2	-	2	1	-	-	2	-	-	-	-	-	-	-	2	-	-	-	<b>9</b>
Southern Illinois University, Board of Trustees	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>1</b>
Specialized Care for Children, Division of	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	<b>5</b>
Sports Facilities Authority	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>2</b>
State Historical Library	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
State Mandates Board of Review	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>1</b>
State Police Merit Board [8]	34	1	3	1	1	-	3	1	-	2	-	2	-	-	-	-	1	-	-	1	<b>50</b>
State Police, Department of [14]	37	5	3	6	3	1	2	4	-	2	3	2	2	4	2	3	6	6	3	1	<b>95</b>
State Appellate Defender	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	<b>1</b>
State's Attorneys Appellate Prosecutor [4]	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>1</b>
Student Assistance Commission [9]	220	10	8	15	9	10	18	8	9	5	7	4	10	13	5	10	2	4	8	10	<b>385</b>
Toll Highway Authority, Illinois State	7	-	1	1	1	3	-	-	-	-	1	1	-	2	1	2	1	1	-	-	<b>22</b>
Torture Inquiry Relief Commission	-	-	-	-	-	-	-	-	-	-	-	2	-	-	2	-	2	-	-	-	<b>6</b>
Transportation, Department of [10]	379	16	22	14	22	15	26	4	49	12	14	10	6	18	1	18	4	14	6	-	<b>650</b>
Travel Control Board, Governor's	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>1</b>
Travel Control Board, Higher Education	6	-	-	-	-	-	-	1	-	-	-	-	-	-	1	-	-	-	-	-	<b>8</b>
Travel Control Board, Legislative	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>4</b>

**HISTORY OF GENERAL RULEMAKING BY AGENCY  
1978 THROUGH 2019**

AGENCY	78-00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	Total
Travel Regulation Council	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Treasurer	29	2	2	-	-	4	3	-	-	-	-	1	3	2	1	-	2	4	9	2	64
University of Illinois, Board of Trustees	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	18
Veterans' Affairs, Department of	39	1	1	-	-	-	-	-	-	2	1	1	2	9	-	-	-	-	-	-	56
Violence Prevention Authority	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	1
Workers' Compensation Commission [32]	32	-	-	-	-	-	1	-	1	-	2	-	5	-	-	-	12	-	-	1	54
(Workers' Comp) Commission Review Bd [32]	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
<b>TOTALS</b>	<b>12,519</b>	<b>483</b>	<b>535</b>	<b>409</b>	<b>399</b>	<b>461</b>	<b>361</b>	<b>335</b>	<b>405</b>	<b>307</b>	<b>471</b>	<b>361</b>	<b>330</b>	<b>368</b>	<b>378</b>	<b>340</b>	<b>246</b>	<b>337</b>	<b>381</b>	<b>256</b>	<b>19,682</b>

**This table illustrates the number of rulemakings commenced by each agency during the calendar year.**

[1] DASA, once a division of Dangerous Drugs Commission, became a separate agency in 1984. [2] The Depts. of Personnel and Administrative Services were combined in 1982 and the name was changed to Dept. of Central Management Services. [3] Includes Emergency Services & Disaster Agency, which was renamed IEMA in 1992. [4] Includes State's Attorneys Appellate Service Commission. [5] The Military & Naval Department became the Dept. of Military Affairs in 1988. [6] The Dept. of Registration & Education became DPR in 1988. [7] Commissioner of Savings & Loan Associations became the Commissioner of Savings & Residential Finance in 1990 and combined with the Commissioner of Banks and Trusts to become the Commissioner of Banks and Real Estate in 1996. The new office also absorbed the real estate licensing functions of DPR. [8] Until 1986, the Dept. of Law Enforcement Merit Board. [9] The State Scholarship Commission became ISAC in 1989. [10] In 1995, DOC, ENR (previously, Institute of Natural Resources), M&M, AMLRC, and DOT Waterways Division were merged into the Dept. of Natural Resources. [11] July 1997, DHS was formed from DASA, DORS, DMHDD, and specific programs from DPA and DPH. [12] In 1996, the Savings and Loan Advisory Board became the Board of Savings Institutions. [13] In 1996, the Board of Regents/Governors were disbanded in favor of individual boards of trustees. Also includes obsolete Trustees of State CC of E. St. L. [14] Prior to 1985, Dept. of Law Enforcement. [15] Prior to 1979, Dept. of Local Government Affairs. [16] Includes State Fair Agency (prior to 1979). [17] Absorbed Fair Employment Practices Commission in 1980. [18] In 1984, the Dangerous Drugs Commission was absorbed by DASA, which was then absorbed by DHS in 1997. [19] IEFA absorbed the Higher Education Loan Authority in c. 1988. [20] In 1993, the Local Gov. Law Enforcement Officers Training Board was renamed the Law Enforcement Training & Standards Board. [21] HCCC absorbed Health Finance Authority (1979-82) duties in 1984. HCCC was abolished in 2002 and its duties taken by DPH. [22] In 2000, the Local Labor Relations and State Labor Relations Boards were combined into the Illinois Labor Relations Board. [23] In 2003, DCCA became DCEO. [24] In 2003, DNS was absorbed by IEMA. [25] In 2003, Prairie State 2000 Auth. was transferred to DCEO. [26] In 2003, Dept. of the Lottery was transferred to Revenue. In 2011, PA 97-464 changed the Lottery back to an independent agency. [27] The Governor's Purchased Care Review Board became the Purchased Care Review Board when it moved into SBE in 1996. [28] In 2004, the Depts. of Insurance, Professional Regulation and Financial Institutions and the Office of Banks and Real Estate were combined into the Dept. of Financial and Professional Regulation. [29] Illinois Building Commission was absorbed by the Capital Development Board 7/1/04. [30] The Illinois Finance Authority absorbed Illinois Development Finance Authority, Illinois Farm Development Authority, Illinois Health Facilities Authority, Independent Higher Education Loan Authority, Illinois Research Park Authority, Illinois Rural Bond Bank, Illinois Educational Facilities Authority and the Community Development Finance Corporation 1/1/04. [31] 7/1/05, the name of the Dept. of Public Aid was changed to the Dept. of Healthcare and Family Services. [32] On 1/1/05, the name of the Illinois Industrial Commission was changed to the Illinois Workers' Compensation Commission. [33] On 1/1/99, PA 90-737 repealed the Governor's Ethics Commission and replaced it with the Executive Ethics Commission. [34] PA 95-657 created the Green Government Coordinating Council in 2007. [35] On 4/1/09 DFPR's Division of Insurance was re-established as the Dept. of Insurance (part of DFPR from 2003-2009). [36] On 6/30/09 the name of the Health Facilities Planning Board was changed to the Health Facilities and Services Review Board. [37] Replaced Consortium for Educational Opportunity under PA 93-862 in 2004. [38] Formerly, Legislative Space Needs Commission. [39] PA 97-1129 created the Illinois Independent Tax Tribunal in 2012. [40] On 7/1/17, the Dept. of Historic Preservation and the ALPLM were absorbed into DNR. [41] On 3/25/16, EO 2016-1 consolidated executive branch information technology functions into the Department of Innovation and Technology. On 7/20/18, PA 100-611 reflected this change in statute.

**HISTORY OF EMERGENCY RULEMAKING BY AGENCY  
1978 THROUGH 2019**

AGENCY	78-00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	Total
-		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Administrative Rules, Joint Committee on	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Aging, Department on	22	-	1	-	1	-	2	-	1	-	2	1	-	1	-	-	-	-	-	1	32
Agriculture, Department of [16]	25	1	2	5	1	-	1	-	1	-	3	1	1	-	2	-	1	-	-	1	45
Attorney General	2	-	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Auditor General	0	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	1
Banking Board of Illinois, State	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Capital Development Board [29]		-	-	-	1	2	2	-	-	1	1	-	-	-	-	-	-	-	1		8
Carnival-Amusement Safety Board	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Central Management Services, Dept. of [2]	114	3	7	3	5	6	5	4	2	6	4	7	1	4	5	-	-	-	-	1	177
Chief Procurement Officer--General Services	0	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	1
Children & Family Services, Department of		4	3	-	2	1	1	-	-	1	1	1	-	1	-	-	-	-	3		23
Commerce & Economic Opportunity [15][23][26]	42	2	1	2	1	6	3	-	2	1	1	1	-	3	-	-	-	1	-	1	67
Commerce Commission	56	5	1	2	1	1	-	-	2	-	3	-	-	2	1	-	5	3	-	-	82
Community College Board	4	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5
Comptroller	7	-	1	-	-	-	-	-	-	-	1	2	-	-	-	-	-	-	-	-	11
Corrections, Department of	63	-	-	-	1	1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	66
CPA Board of Examiners	0	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	2
Criminal Justice Information Authority	9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9
Dangerous Drugs Advisory Council	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Diversifying Hi Ed Faculty in IL Program Board	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Dry Cleaners Emergency Response Trust Fund	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Education, State Board of	44	2	-	1	3	3	4	1	4	4	3	-	2	-	1	3	-	4	-	2	81
Educational Labor Relations Board	8	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	10
Elections, State Board of		-	-	-	2	3	-	-	-	2	-	-	-	-	1	-	-	-	1		10

**HISTORY OF EMERGENCY RULEMAKING BY AGENCY  
1978 THROUGH 2019**

AGENCY	78-00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	Total
Elevator Safety Review Board	0	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Emergency Management Agency [3][25]	21	2	2	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	26
Employment Security, Department of	21	1	-	-	-	2	-	1	-	-	2	1	5	1	2	-	-	-	-	1	37
Environmental Protection Agency	24	-	-	-	-	-	-	-	-	5	3	-	-	-	-	-	-	-	-	-	32
Executive Ethics Commission [33]	0	-	-	-	-	2	-	-	-	-	-	2	-	-	-	-	-	-	-	-	4
Experimental Organ Transplantation Proced. Bd.	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Financial and Professional Regulation [34]		4	8	11	5	2	4	2	2	2	-	1	-	-	1	-	-	-	1	1	58
Finance Authority	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	18
Fire Marshal	16	-	-	2	-	-	2	-	1	1	-	-	-	1	-	-	-	-	-	-	23
Gaming Board	4	-	1	1	1	1	-	-	-	1	1	1	3	1	1	-	-	1	-	9	26
Governor	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Green Government Coordinating Council	0	-	-	-	-	-	-	-	2	2	-	-	-	-	-	-	-	-	-	-	4
Guardianship and Advocacy Commission	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Healthcare and Family Services, Dept. of [31]		10	25	16	20	20	24	8	12	9	4	-	16	17	17	6	2	1	10	2	223
Health Coordinating Council, Statewide	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6
Health Facilities and Services Review Board [35]	9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9
Higher Education CPO	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Higher Education Loan Authority, Independent	1	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	2
Higher Education, Board of		-	-	-	-	1	2	-	-	1	1	-	1	-	-	1	-	-	1	-	8
Housing Development Authority		1	1	1	-	-	-	1	1	1	2	1	1	-	-	-	-	-	2	-	13
Human Rights Commission [17]	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Human Rights, Department of	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3
Human Services, Department of [11][1]		9	5	1	8	3	3	2	3	17	6	14	6	5	7	3	2	2	2	10	114
Independent Tax Tribunal [37]	0	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	1
Insurance, Department of [28][34]	32	-	2	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	35
Investment, Illinois State Board of	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2

**HISTORY OF EMERGENCY RULEMAKING BY AGENCY  
1978 THROUGH 2019**

AGENCY	78-00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	Total
Labor Relations Board	8	-	-	2	2	-	-	-	-	-	-	-	-	2	-	1	-	-	-	-	15
Labor, Department of	17	-	-	-	3	1	-	-	1	2	1	1	1	-	-	-	-	-	-	-	27
Legislative Information System	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Lieutenant Governor	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Liquor Control Commission	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	2
Law Enforcement Training Standards Board		-	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	1	-	3
Lottery [27]	0	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1
Medical District Commission [36]	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Military Affairs, Department of [24]	0	-	-	1	1	-	-	-	-	1	1	-	-	-	-	-	-	2	-	-	6
Motor Vehicle Theft Prevention Council	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Natural Resources, Department of [10]	145	5	4	1	2	4	1	4	1	-	2	1	1	3	2	1	1	-	-	1	179
Obsolete Boards & Commissions	9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9
Pollution Control Board	26	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	26
Prisoner Review Board	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Procurement Policy Board	0	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	2
Public Health, Department of [18]		1	3	23	1	13	-	-	2	1	1	2	-	1	4	-	3	-	2	1	59
Purchased Care Review Board [28]	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6
Racing Board	39	-	3	1	2	3	1	3	2	1	4	6	3	1	1	6	1	-	-	-	77
Retirement System, State Employees'		-	1	-	1	-	-	-	-	1	-	-	-	-	-	1	-	-	1	-	5
Retirement System, State Universities	1	-	-	-	-	-	-	-	-	1	-	-	-	-	1	-	1	-	-	-	4
Retirement System, Teachers'	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	7
Revenue, Department of [27]		5	3	14	8	1	-	1	2	2	1	-	-	-	11	-	1	2	1	5	58
Secretary of State		10	4	4	3	2	4	-	5	5	-	3	1	1	2	-	-	2	2	1	55
Sex Offender Management Board	0	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Specialized Care for Children, Division of	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
State Mandates Board of Review	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2

**HISTORY OF EMERGENCY RULEMAKING BY AGENCY  
1978 THROUGH 2019**

<b>AGENCY</b>	<b>78-00</b>	<b>01</b>	<b>02</b>	<b>03</b>	<b>04</b>	<b>05</b>	<b>06</b>	<b>07</b>	<b>08</b>	<b>09</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>Total</b>
State Police Merit Board [8]	10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	<b>11</b>
State Police, Department of [14]	7	3	2	-	-	-	1	1	-	-	1	-	1	1	2	-	6	-	-	-	<b>25</b>
Student Assistance Commission [9]		-	-	1	1	-	-	1	-	-	-	-	1	2	-	-	1	1	7	1	<b>16</b>
Toll Highway Authority, Illinois State Transportation, Department of [10]	2	-	1	1	2	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	<b>7</b>
Travel Control Board, Legislative		-	-	-	2	1	-	-	-	1	-	1	-	1	-	-	-	1	1	-	<b>13</b>
Travel Regulation Council	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>1</b>
Treasurer	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>1</b>
Treasurer	5	1	-	-	1	2	-	-	-	-	-	1	-	-	-	-	-	-	-	-	<b>10</b>

**HISTORY OF EMERGENCY RULEMAKING BY AGENCY  
1978 THROUGH 2019**

AGENCY	78-00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	Total
University of Illinois, Board of Trustees	10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	10
Workers' Compensation Commission [32]	15	-	-	-	-	-	1	-	-	-	1	-	-	-	-	-	-	-	-	-	17
<b>TOTALS</b>		<b>70</b>	<b>81</b>	<b>93</b>	<b>88</b>	<b>83</b>	<b>62</b>	<b>32</b>	<b>46</b>	<b>71</b>	<b>51</b>	<b>51</b>	<b>45</b>	<b>48</b>	<b>64</b>	<b>23</b>	<b>24</b>	<b>20</b>	<b>36</b>	<b>39</b>	<b>1966</b>

**This table illustrates the number of rulemakings commenced by each agency during the calendar year.**

[1] DASA, once a division of Dangerous Drugs Commission, became a separate agency in 1984. [2] The Depts. of Personnel and Administrative Services were combined in 1982 and the name was changed to Dept. of Central Management Services. [3] Includes Emergency Services & Disaster Agency, which was renamed IEMA in 1992. [4] Includes State's Attorneys Appellate Service Commission. [5] The Military & Naval Department became the Department of Military Affairs in 1988. [6] The Department of Registration & Education became DPR in 1988. [7] Commissioner of Savings & Loan Associations became the Commissioner of Savings & Residential Finance in 1990 and combined with the Commissioner of Banks and Trusts to become the Commissioner of Banks and Real Estate in 1996. The new office also absorbed the real estate licensing functions of DPR. [8] Until 1986, the Dept. of Law Enforcement Merit Board. [9] The State Scholarship Commission became ISAC in 1989. [10] In 1995, DOC, ENR (previously, Institute of Natural Resources), M&M, AMLRC, and DOT Waterways Division were merged into the Department of Natural Resources. [11] July 1997, DHS was formed from DASA, DORS, DMHDD, and specific programs from DPA and DPH. [12] In 1996, the Savings and Loan Advisory Board became the Board of Savings Institutions. [13] In 1996, the Boards of Regents/Governors were disbanded in favor of individual boards of trustees. [14] Prior to 1985, Department of Law Enforcement. [15] Prior to 1979, Department of Local Government Affairs. [16] Includes State Fair Agency (prior to 1979). [17] Absorbed Fair Employment Practices Commission in 1980. [18] HCCC absorbed Health Finance Authority (1979-82) duties in 1984. HCCC was abolished in 2002 and its duties taken by DPH. [22] In 2000, the Local Labor Relations and State Labor Relations Boards were combined into the Illinois Labor Relations Board. [23] In 2003, DCCA became DCEO. [24] The Military & Naval Department became the Department of Military Affairs in 1988. [25] In 2003, DNS was absorbed by IEMA. [26] In 2003, Prairie State 2000 Auth. was transferred to DCEO. [27] In 2003, Department of the Lottery was transferred to Revenue. In 2011, PA 97-464 changed the Lottery back to an independent agency. [28] The Governor's Purchased Care Review Board became the Purchased Care Review Board when it moved into SBE in 1996. [28] In 2004, the Departments of Insurance, Professional Regulation and Financial Institutions and the Office of Banks and Real Estate were combined into the Department of Financial and Professional Regulation. [29] Illinois Building Commission was absorbed by the Capital Development Board 7/1/04. [30] The Illinois Finance Authority absorbed Illinois Development Finance Authority, Export Development Authority, Illinois Farm Development Authority, Illinois Health Facilities Authority, Illinois Research Park Authority, Illinois Rural Bond Bank, Illinois Educational Facilities Authority and the Illinois Community Development Finance Corporation 1/1/04. [31] 7/1/05, the name of the Department of Public Aid was changed to the Department of Healthcare and Family Services. [32] On 1/1/05, the name of the Illinois Industrial Commission was changed to the Illinois Workers' Compensation Commission. [33] On 1/1/99, PA 90-737 repealed the Governor's Ethics Commission and replaced it with the Executive Ethics Commission. [34] On 4/1/09 DFPR's Division of Insurance was re-established as the Department of Insurance (part of DFPR from 2003-2009). [35] On 6/30/09 the name of the Health Facilities Planning Board was changed to the Health Facilities and Services Review Board. [36] Formerly, Medical Center Commission. [37] PA 97-1129 created the Illinois Independent Tax Tribunal in 2012.



**HISTORY OF PEREMPTORY/EXEMPT RULEMAKING BY AGENCY  
1978 THROUGH 2019**

AGENCY	78-00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	Total
Aging, Department on	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Agriculture, Department of [16]	48	3	2	4	4	4	2	3	2	3	-	3	2	2	3	-	1	-	-	-	86
Central Management Services, Department of [2]	43	3	2	1	10	13	13	8	10	13	15	9	9	10	9	3	3	9	1	8	192
Children & Family Services, Department of	0	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Commerce Commission	0	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	1
Comptroller	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Corrections, Department of	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Education, State Board of	2	-	-	-	-	-	-	-	-	-	3	-	-	-	-	-	-	-	-	-	5
Emergency Management Agency	0	-	-	-	-	-	-	-	2	1	5	1	-	1	-	2	3	-	2	2	19
Employment Security, Department of	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Healthcare and Family Services, Department of [13]	5	-	-	-	-	-	-	-	3	1	-	-	-	-	-	-	-	-	-	-	9
Department of Human Services [11][1]	0	-	1	1	1	2	2	1	6	3	1	2	1	2	2	3	1	2	1	2	34
Labor, Department of	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Natural Resources, Department of [10]	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Nature Preserves Commission	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Pollution Control Board	217	13	14	11	10	18	25	2	20	8	8	16	10	13	10	2	12	3	30	40	482
Public Health, Department of	0	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	1
Retirement System, State Employees	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Revenue, Department of	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Transportation, Department of [10]	0	-	-	-	4	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9
Travel Regulation Council	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Treasurer	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Obsolete Boards & Commissions	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
<b>TOTALS</b>	<b>318</b>	<b>19</b>	<b>19</b>	<b>17</b>	<b>29</b>	<b>44</b>	<b>42</b>	<b>14</b>	<b>43</b>	<b>29</b>	<b>29</b>	<b>34</b>	<b>22</b>	<b>30</b>	<b>24</b>	<b>10</b>	<b>20</b>	<b>14</b>	<b>34</b>	<b>52</b>	<b>843</b>

**This table illustrates the number of rulemakings commenced by each agency during the calendar year.**

[1] DASA, once a division of Dangerous Drugs Commission, became a separate agency in 1984. [2] The Depts. of Personnel and Administrative Services were combined in 1982 and the name was changed to Dept. of Central Management Services. [3] Includes Emergency Services & Disaster Agency, which was renamed IEMA in 1992. [4] Includes rules of the Institute of Natural Resources, which predated the Department. [5] The Military & Naval Department became the Department of Military Affairs in 1988. [6] The Department of Registration & Education became DPR in 1988. [7] Commissioner of Savings & Loan Associations became the Commissioner of Savings & Residential Finance in 1990. [8] Until 1986, the Dept. of Law Enforcement Merit Board. [9] The State Scholarship Commission became ISAC in 1989. [10] In 1995, DOC, M&M, AMLRC, and DOT Waterways Division were merged into the Department of Natural Resources. [11] July 1997, DHS was formed from DASA, DORS, DMHDD, and specific programs from DPA and DPH. [12] In 1996, the Savings and Loan Advisory Board became the Board of Savings Institutions. [13] 7/1/05, the name of the Department of Public Aid was changed to the Department of Healthcare and Family Services.