

AN ACT concerning conservation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the University of Illinois Scientific Surveys Act.

Section 5. Purposes. The purposes of this Act are to establish at the University of Illinois an institute for natural resources sustainability and to transfer to it all rights, powers, duties, property, and functions currently vested in the Department of Natural Resources pertaining to its Natural History Survey division, State Water Survey division, State Geological Survey division, and Waste Management and Research Center division (which may also be referred to as the Illinois Sustainable Technology Center).

Section 10. Definitions. For the purposes of this Act, unless the context otherwise requires:

"Board of Trustees" means the Board of Trustees of the University of Illinois.

"Scientific Surveys" means, collectively, the State Natural History Survey division, the State Water Survey division, the State Geological Survey division, and the Waste Management and Research Center division transferred by this Act

from the Department of Natural Resources to the Board of Trustees.

Section 15. Organization. The Board of Trustees shall establish and operate an institute for natural sciences and sustainability. The institute shall contain within it the State Natural History Survey division, the State Water Survey division, the State Geological Survey division, the Waste Management and Research Center division, and such other related entities, research functions, and responsibilities as may be appropriate. The institute shall be under the governance and control of the Board of Trustees.

Section 20. General powers and duties. In addition to its other powers and duties, the Board of Trustees shall have the power to provide for the management and operation of the Scientific Surveys including, but not limited to, the following powers and duties which shall be performed by the Scientific Surveys:

(1) To investigate and study the natural resources of the State and to prepare reports and furnish information fundamental to the conservation and development of natural resources and, for that purpose, the officers and employees thereof shall have the authority to enter and cross all lands in this State, doing no damage to private property.

(2) To collaborate with and advise departments having

administrative powers and duties relating to the natural resources of the State, and to collaborate with similar departments in other states and with the United States Government.

(3) To conduct a natural history survey of the State, giving preference to subjects of educational and economical importance.

(4) To investigate the entomology of the State.

(5) To investigate all insects dangerous or injurious to agricultural or horticultural plants and crops, to livestock, to nursery trees and plants, to the products of the truck farm and vegetable garden, to shade trees and other ornamental vegetation of cities and villages, and to the products of the mills and the contents of warehouses, and all insects injurious or dangerous to the public health.

(6) To study the geological formation of the State with reference to its resources of coal, ores, clays, building stones, cement, materials suitable for use in the construction of the roads, gas, oil, mineral and artesian water, aquifers and aquitards, and other resources and products.

(7) To cooperate with United States federal agencies in the preparation and completion of a contour topographic map and the collection, recording, and printing of water and atmospheric resource data including stream flow measurements and to collect facts and data concerning the volumes and flow of underground, surface, and atmospheric waters of the State and to determine

the mineral and chemical qualities of water from different geological formations and surface and atmospheric waters for the various sections of the State.

(8) To act as the central data repository and research coordinator for the State in matters related to water and atmospheric resources. The State Water Survey of the University of Illinois may monitor and evaluate all weather modification operations in Illinois.

(9) To collaborate with the Illinois State Academy of Science and to publish the results of the investigations and research in the field of natural science to the end that the same may be distributed to the interested public.

(10) To perform all other duties and assume all obligations of the Department of Natural Resources pertaining to the State Water Survey, the State Geological Survey, the State Natural History Survey, and the Waste Management and Research Center.

(11) To maintain all previously existing relationships between the State Water Survey, the State Geological Survey, the State Natural History Survey, and the Illinois Sustainable Technology Center and the public and private colleges and universities in Illinois.

(12) To participate in federal geologic mapping programs.

(13) To conduct educational programs to further the exchange of information to reduce the generation of hazardous wastes or to treat or dispose of such wastes so as to make them nonhazardous.

(14) To provide a technical information service for industries involved in the generation, treatment, or disposal of hazardous wastes.

(15) To disseminate information regarding advances in hazardous waste management technology that could both protect the environment and further industrial productivity.

(16) To provide research in areas related to reduction of the generation of hazardous wastes; treatment, recycling and reuse; and other issues that the Board may suggest.

Section 25. Transfer of powers. All of the rights, powers, and duties vested by law in the Department of Natural Resources, or in any office, division, or bureau thereof, and pertaining in any way to the operation, management, control, and maintenance of the Scientific Surveys, including but not limited to, the authority to impose and collect fees and service charges, as deemed appropriate and necessary by the Board of Trustees, for the services performed or provided by the Scientific Surveys, are hereby transferred to and vested in the Board of Trustees.

Section 30. Transfer of personnel. The employment of all scientific and nonscientific personnel employed by the Department of Natural Resources on behalf of the Scientific Surveys is hereby transferred to the Board of Trustees. The transfer shall not affect the status and rights of any person

under the State Universities Retirement System or the State Universities Civil Service System.

Section 35. Transfer of property.

(a) All books, records, papers, documents, property (real and personal), contracts, grants, and pending business in any way pertaining to the Scientific Surveys and to the rights, powers, and duties transferred by this Act from the Department of Natural Resources to the Board of Trustees, including but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be delivered and transferred to the Board of Trustees.

(b) The Board of Trustees shall succeed to, assume, and exercise all rights, powers, duties, property, and responsibilities formerly exercised by the Department of Natural Resources on behalf of the Scientific Surveys prior to the effective date of this Section. All contracts, grants, and agreements entered into by any of the Scientific Surveys or the Department of Natural Resources on behalf of any of the Scientific Surveys, prior to the effective date of this Section shall subsist notwithstanding the transfer of the functions of the Department of Natural Resources with respect to Scientific Surveys to the Board of Trustees. All bonds, notes, and other evidences of indebtedness outstanding on the effective date of this Section issued by the Department of Natural Resources on behalf of the Scientific Surveys, or any of them, shall become

the bonds, notes, or other evidences of indebtedness of the University of Illinois and shall be otherwise unaffected by the transfer of functions to the Board of Trustees.

(c) The title to all patents, trademarks, and copyrights issued to any of the Scientific Surveys prior to the effective date of this Section is hereby transferred to and vested in the Board of Trustees. Any income received from those patents, trademarks, and copyrights and any funds received in connection with the retention, receipt, assignment, license, sale, or transfer of interest in, rights to, or income from discoveries, inventions, patents, trademarks, or copyrightable works of any of the Scientific Surveys shall become the property of the Board of Trustees on behalf of the University of Illinois.

(d) The title to all other property, whether real, personal, or mixed, and all accounts receivable belonging to or under the jurisdiction of the Department of Natural Resources in any way pertaining to the Scientific Surveys, or any of them, prior to the effective date of this Section is hereby transferred to and vested in the Board of Trustees on behalf of the University of Illinois.

Section 40. Unexpended moneys transferred.

(a) The right of custody, possession, and control over all items of income, funds, or deposits in any way pertaining to the Scientific Surveys prior to the effective date of this Section that are held or retained by, or under the jurisdiction

of, the Department of Natural Resources is hereby transferred to and vested in the Board of Trustees to be retained by the University in its treasury, or deposited with a bank or savings and loan association, all in accordance with the provisions of paragraph (2) of Section 6d of the State Finance Act.

(b) All unexpended appropriations and balances and other moneys available for use in connection with any of the functions transferred to the Board of Trustees under this Act, including but not limited to all unexpended grant proceeds pertaining in any way to the Scientific Surveys, is hereby transferred from the Department of Natural Resources to the Board of Trustees for use by the Board of Trustees in the exercise of those functions transferred. Unexpended balances so transferred shall be retained by the University of Illinois in its own treasury, or deposited with a bank or savings and loan association, and expended only for the purpose for which the appropriations or grants were originally made, all in accordance with the provisions of paragraph (2) of Section 6d of the State Finance Act.

Section 45. Funds retained and disbursed. The University of Illinois may retain in its treasury any funds derived from contracts, grants, fees, service charges, rentals, or other sources, assessed or obtained for or arising out of the operation of the Scientific Surveys. Those funds shall be disbursed from time to time pursuant to the order and direction

of the Board of Trustees, and in accordance with any contracts, pledges, trusts, or agreements heretofore or hereafter made by the Board of Trustees.

Section 50. Savings provisions.

(a) The rights, powers and duties retained in the Department of Natural Resources and not transferred under this Act shall remain vested in and shall be exercised by the Department subject to the provisions of this Act.

(b) The transfer of rights, powers, and duties to the Board of Trustees under this Act does not invalidate any previous action taken by or in respect to any of its predecessor departments or divisions or their officers or employees. References to these predecessor departments or divisions or their officers or employees in any document, contract, agreement, or law shall, in appropriate contexts, be deemed to refer to the successor department, agency, officer, or employee. The Scientific Surveys shall continue to be eligible to receive sponsored funding from the Department of Natural Resources or any other State agency.

(c) The transfer of powers and duties to the Board of Trustees under this Act does not affect any person's rights, obligations, or duties, including any civil or criminal penalties applicable thereto, arising out of those transferred powers and duties.

(d) Whenever reports or notices are now required to be made

or given or documents furnished or served by any person to or upon the departments or divisions, officers, and employees transferred by this Act, they shall be made, given, furnished, or served in the same manner to or upon the successor department or agency, officer, or employee.

(e) This Act does not affect any act done, ratified, or cancelled, any right occurring or established, or any action or proceeding had or commenced in an administrative, civil, or criminal cause before this Act takes effect. Any such action or proceeding still pending may be prosecuted and continued by the Department of Natural Resources.

Section 55. Successor agency. For purposes of the Successor Agency Act and Section 9b of the State Finance Act, the Board of Trustees is the successor to the Department of Natural Resources with respect to the rights, powers, duties, property, functions, and other matters transferred by this Act.

Section 800. The Personnel Code is amended by changing Section 4c as follows:

(20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

Sec. 4c. General exemptions. The following positions in State service shall be exempt from jurisdictions A, B, and C, unless the jurisdictions shall be extended as provided in this Act:

(1) All officers elected by the people.

(2) All positions under the Lieutenant Governor, Secretary of State, State Treasurer, State Comptroller, State Board of Education, Clerk of the Supreme Court, Attorney General, and State Board of Elections.

(3) Judges, and officers and employees of the courts, and notaries public.

(4) All officers and employees of the Illinois General Assembly, all employees of legislative commissions, all officers and employees of the Illinois Legislative Reference Bureau, the Legislative Research Unit, and the Legislative Printing Unit.

(5) All positions in the Illinois National Guard and Illinois State Guard, paid from federal funds or positions in the State Military Service filled by enlistment and paid from State funds.

(6) All employees of the Governor at the executive mansion and on his immediate personal staff.

(7) Directors of Departments, the Adjutant General, the Assistant Adjutant General, the Director of the Illinois Emergency Management Agency, members of boards and commissions, and all other positions appointed by the Governor by and with the consent of the Senate.

(8) The presidents, other principal administrative officers, and teaching, research and extension faculties of Chicago State University, Eastern Illinois University,

Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the Illinois Community College Board, Southern Illinois University, Illinois Board of Higher Education, University of Illinois, State Universities Civil Service System, University Retirement System of Illinois, and the administrative officers and scientific and technical staff of the Illinois State Museum.

(9) All other employees except the presidents, other principal administrative officers, and teaching, research and extension faculties of the universities under the jurisdiction of the Board of Regents and the colleges and universities under the jurisdiction of the Board of Governors of State Colleges and Universities, Illinois Community College Board, Southern Illinois University, Illinois Board of Higher Education, Board of Governors of State Colleges and Universities, the Board of Regents, University of Illinois, State Universities Civil Service System, University Retirement System of Illinois, so long as these are subject to the provisions of the State Universities Civil Service Act.

(10) The State Police so long as they are subject to the merit provisions of the State Police Act.

(11) (Blank). ~~The scientific staff of the State Scientific Surveys and the Waste Management and Research~~

~~Center.~~

(12) The technical and engineering staffs of the Department of Transportation, the Department of Nuclear Safety, the Pollution Control Board, and the Illinois Commerce Commission, and the technical and engineering staff providing architectural and engineering services in the Department of Central Management Services.

(13) All employees of the Illinois State Toll Highway Authority.

(14) The Secretary of the Illinois Workers' Compensation Commission.

(15) All persons who are appointed or employed by the Director of Insurance under authority of Section 202 of the Illinois Insurance Code to assist the Director of Insurance in discharging his responsibilities relating to the rehabilitation, liquidation, conservation, and dissolution of companies that are subject to the jurisdiction of the Illinois Insurance Code.

(16) All employees of the St. Louis Metropolitan Area Airport Authority.

(17) All investment officers employed by the Illinois State Board of Investment.

(18) Employees of the Illinois Young Adult Conservation Corps program, administered by the Illinois Department of Natural Resources, authorized grantee under Title VIII of the Comprehensive Employment and Training Act

of 1973, 29 USC 993.

(19) Seasonal employees of the Department of Agriculture for the operation of the Illinois State Fair and the DuQuoin State Fair, no one person receiving more than 29 days of such employment in any calendar year.

(20) All "temporary" employees hired under the Department of Natural Resources' Illinois Conservation Service, a youth employment program that hires young people to work in State parks for a period of one year or less.

(21) All hearing officers of the Human Rights Commission.

(22) All employees of the Illinois Mathematics and Science Academy.

(23) All employees of the Kankakee River Valley Area Airport Authority.

(24) The commissioners and employees of the Executive Ethics Commission.

(25) The Executive Inspectors General, including special Executive Inspectors General, and employees of each Office of an Executive Inspector General.

(26) The commissioners and employees of the Legislative Ethics Commission.

(27) The Legislative Inspector General, including special Legislative Inspectors General, and employees of the Office of the Legislative Inspector General.

(28) The Auditor General's Inspector General and

employees of the Office of the Auditor General's Inspector General.

(Source: P.A. 93-617, eff. 12-9-03; 93-721, eff. 1-1-05; 93-1091, eff. 3-29-05.)

Section 805. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by changing Section 605-515 as follows:

(20 ILCS 605/605-515) (was 20 ILCS 605/46.13a)

Sec. 605-515. Environmental Regulatory Assistance Program.

(a) In this Section, except where the context clearly requires otherwise, "small business stationary source" means a business that is owned or operated by a person that employs 100 or fewer individuals; is a small business; is not a major stationary source as defined in Titles I and III of the federal 1990 Clean Air Act Amendments; does not emit 50 tons or more per year of any regulated pollutant (as defined under the federal Clean Air Act); and emits less than 75 tons per year of all regulated pollutants.

(b) The Department may:

(1) Provide access to technical and compliance information for Illinois firms, including small and middle market companies, to facilitate local business compliance with the federal, State, and local environmental regulations.

(2) Coordinate and enter into cooperative agreements with a State ombudsman office, which shall be established in accordance with the federal 1990 Clean Air Act Amendments to provide direct oversight to the program established under that Act.

(3) Enter into contracts, cooperative agreements, and financing agreements and establish and collect charges and fees necessary or incidental to the performance of duties and the execution of powers under this Section.

(4) Accept and expend, subject to appropriation, gifts, grants, awards, funds, contributions, charges, fees, and other financial or nonfinancial aid from federal, State, and local governmental agencies, businesses, educational agencies, not-for-profit organizations, and other entities, for the purposes of this Section.

(5) Establish, staff, and administer programs and services and adopt such rules and regulations necessary to carry out the intent of this Section and Section 507, "Small Business Stationary Source Technical and Environmental Compliance Assistance Program", of the federal 1990 Clean Air Act Amendments.

(c) The Department's environmental compliance programs and services for businesses may include, but need not be limited to, the following:

(1) Communication and outreach services to or on behalf of individual companies, including collection and

compilation of appropriate information on regulatory compliance issues and control technologies, and dissemination of that information through publications, direct mailings, electronic communications, conferences, workshops, one-on-one counseling, and other means of technical assistance.

(2) Provision of referrals and access to technical assistance, pollution prevention and facility audits, and otherwise serving as an information clearinghouse on pollution prevention through the coordination of the Waste Management and Research Center, ~~a division of the University of Illinois Department of Natural Resources~~. In addition, environmental and regulatory compliance issues and techniques, which may include business rights and responsibilities, applicable permitting and compliance requirements, compliance methods and acceptable control technologies, release detection, and other applicable information may be provided.

(3) Coordination with and provision of administrative and logistical support to the State Compliance Advisory Panel.

(d) There is hereby created a special fund in the State Treasury to be known as the Small Business Environmental Assistance Fund. Monies received under subdivision (b) (4) of this Section shall be deposited into the Fund.

Monies in the Small Business Environmental Assistance Fund

may be used, subject to appropriation, only for the purposes authorized by this Section.

(Source: P.A. 90-490, eff. 8-17-97; 91-239, eff. 1-1-00.)

Section 810. The Department of Natural Resources Act is amended by changing Sections 1-25 and 20-5 as follows:

(20 ILCS 801/1-25)

Sec. 1-25. Powers of the ~~scientific surveys and~~ State Museum. In addition to its other powers and duties, the Department shall have the following powers and duties which shall be performed by the ~~scientific surveys and the~~ State Museum:

(1) To investigate and study the natural resources of the State and to prepare printed reports and furnish information fundamental to the conservation and development of natural resources and for that purpose the officers and employees thereof may, pursuant to rule adopted by the Department, enter and cross all lands in this State, doing no damage to private property.

(2) To cooperate with and advise departments having administrative powers and duties relating to the natural resources of the State, and to cooperate with similar departments in other states and with the United States Government.

~~(3) To conduct a natural history survey of the State,~~

~~giving preference to subjects of educational and economical importance.~~

~~(4) To publish, from time to time, reports covering the entire field of zoology and botany of the State.~~

~~(5) To supply natural history specimens to the State educational institutions and to the public schools.~~

~~(6) To investigate the entomology of the State.~~

~~(7) To investigate all insects dangerous or injurious to agricultural or horticultural plants and crops, livestock, to nursery trees and plants, to the products of the truck farm and vegetable garden, to shade trees and other ornamental vegetation of cities and villages, to the products of the mills and the contents of warehouses, and all insects injurious or dangerous to the public health.~~

~~(8) To conduct experiments with methods for the prevention, arrest, abatement and control of insects injurious to persons or property.~~

~~(9) To instruct the people, by lecture, demonstration or bulletin, in the best methods of preserving and protecting their property and health against injuries by insects.~~

~~(10) To publish, from time to time, articles on the injurious and beneficial insects of the State.~~

~~(11) To study the geological formation of the State with reference to its resources of coal, ores, clays, building stones, cement, materials suitable for use in the~~

~~construction of roads, gas, mineral and artesian water and other products.~~

~~(12) To publish, from time to time, topographical, geological and other maps to illustrate resources of the State.~~

~~(13) To publish, from time to time, bulletins giving a general and detailed description of the geological and mineral resources, including water resources, of the State.~~

~~(14) To cooperate with United States federal agencies in the preparation and completion of a contour topographic map and the collection, recording and printing of water and atmospheric resource data including stream flow measurements and to collect facts and data concerning the volumes and flow of underground, surface and atmospheric waters of the State and to determine the mineral qualities of water from different geological formations and surface and atmospheric waters for the various sections of the State.~~

~~(15) To publish, from time to time, the results of its investigations of the mineral qualities, volumes and flow of underground and surface waters of the State to the end that the available water resources of the State may be better known and to make mineral analyses of samples of water from municipal or private sources giving no opinion from those analyses of the hygienic, physiological or~~

~~medicinal qualities of such waters.~~

~~(16) To act as the central data repository and research coordinator for the State in matters related to water and atmospheric resources. The State Water Survey Division of the Department may monitor and evaluate all weather modification operations in Illinois.~~

~~(17) To distribute, in its discretion, to the various educational institutions of the State, specimens, samples, and materials collected by it after the same have served the purposes of the Department.~~

(3) ~~(18)~~ To cooperate with the Illinois State Academy of Science and to publish a suitable number of the results of the investigations and research in the field of natural science to the end that the same may be distributed to the interested public.

(4) ~~(19)~~ To maintain a State Museum, and to collect and preserve objects of scientific and artistic value, representing past and present fauna and flora, the life and work of man, geological history, natural resources, and the manufacturing and fine arts; to interpret for and educate the public concerning the foregoing.

(5) ~~(20)~~ To cooperate with the Illinois State Museum Society for the mutual benefit of the Museum and the Society, with the Museum furnishing necessary space for the Society to carry on its functions and keep its records, and, upon the recommendation of the Museum Director with

the approval of the Board of State Museum Advisors and the Director of the Department, to enter into agreements with the Illinois State Museum Society for the operation of a sales counter and other concessions for the mutual benefit of the Museum and the Society.

(6) ~~(21)~~ To accept grants of property and to hold property to be administered as part of the State Museum for the purpose of preservation, research of interpretation of significant areas within the State for the purpose of preserving, studying and interpreting archaeological and natural phenomena.

(7) ~~(22)~~ To contribute to and support the operations, programs and capital development of public museums in this State. For the purposes of this Section, "public museum" means a facility: (A) that is operating for the purposes of promoting cultural development through special activities or programs or through performing arts that are performed in an indoor setting, and acquiring, conserving, preserving, studying, interpreting, enhancing, and in particular, organizing and continuously exhibiting specimens, artifacts, articles, documents and other things of historical, anthropological, archaeological, industrial, scientific or artistic import, to the public for its instruction and enjoyment, and (B) that either (i) is operated by or located upon land owned by a unit of local government or (ii) is a museum that has an annual

attendance of at least 150,000 and offers educational programs to school groups during school hours. A museum is eligible to receive funds for capital development under this subdivision (7) ~~(22)~~ only if it is operated by or located upon land owned by a unit of local government or if it is certified by a unit of local government in which it is located as a public museum meeting the criteria of this Section. Recipients of funds for capital development under this subdivision (7) ~~(22)~~ shall match State funds with local or private funding according to the following:

(a) for a public museum with an attendance of 300,000 or less during the preceding calendar year, no match is required;

(b) for a public museum with an attendance of over 300,000 but less than 600,000 during the preceding calendar year, the match must be at a ratio of \$1 from local and private funds for every \$1 in State funds; and

(c) for a public museum with an attendance of over 600,000 during the preceding calendar year, the match must be at a ratio of \$2 from local and private funds for every \$1 in State funds.

The Department shall formulate rules and regulations relating to the allocation of any funds appropriated by the General Assembly for the purpose of contributing to the support of public museums in this State.

(8) ~~(23)~~ To perform all other duties and assume all obligations of the former Department of Energy and Natural Resources and the former Department of Registration and Education pertaining to ~~the State Water Survey, the State Geological Survey, the State Natural History Survey, and~~ the State Museum.

~~(24) To maintain all previously existing relationships between the State Water Survey, State Geological Survey, and State Natural History Survey and the public and private colleges and universities in Illinois.~~

~~(25) To participate in federal geologic mapping programs.~~

(Source: P.A. 92-606, eff. 6-28-02; 93-872, eff. 1-1-05.)

(20 ILCS 801/20-5)

Sec. 20-5. State Museum. The Department of Natural Resources shall have within it the office ~~a division consisting of the Illinois State Museum, which shall be within the Office of Scientific Research and Analysis.~~ The Board of the Illinois State Museum is retained as the governing board for the State Museum.

(Source: P.A. 89-50, eff. 7-1-95; 89-445, eff. 2-7-96; 90-490, eff. 8-17-97.)

(20 ILCS 801/15-5 rep.)

(20 ILCS 801/15-10 rep.)

Section 815. The Department of Natural Resources Act is amended by repealing Sections 15-5 and 15-10.

Section 820. The Energy Conservation and Coal Development Act is amended by changing Section 8 as follows:

(20 ILCS 1105/8) (from Ch. 96 1/2, par. 7408)

Sec. 8. Illinois Coal Development Board.

(a) There shall be established as an advisory board to the Department, the Illinois Coal Development Board, hereinafter in this Section called the Board. The Board shall be composed of the following voting members: the Director of the Department, who shall be Chairman thereof; the Deputy Director of the Bureau of Business Development within the Department of Commerce and Economic Opportunity; the President of the University of Illinois or his or her designee; the Director of Natural Resources or that Director's designee; the Director of the Office of Mines and Minerals within the Department of Natural Resources; 4 members of the General Assembly (one each appointed by the President of the Senate, the Senate Minority Leader, the Speaker of the House, and the House Minority Leader); and 8 persons appointed by the Governor, with the advice and consent of the Senate, including representatives of Illinois industries that are involved in the extraction, utilization or transportation of Illinois coal, persons representing financial or banking interests in the State, and

persons experienced in international business and economic development. These members shall be chosen from persons of recognized ability and experience in their designated field. The members appointed by the Governor shall serve for terms of 4 years, unless otherwise provided in this subsection. The initial terms of the original appointees shall expire on July 1, 1985, except that the Governor shall designate 3 of the original appointees to serve initial terms that shall expire on July 1, 1983. The initial term of the member appointed by the Governor to fill the office created after July 1, 1985 shall expire on July 1, 1989. The initial terms of the members appointed by the Governor to fill the offices created by this amendatory Act of 1993 shall expire on July 1, 1995, and July 1, 1997, as determined by the Governor. A member appointed by a Legislative Leader shall serve for the duration of the General Assembly for which he or she is appointed, so long as the member remains a member of that General Assembly.

The Board shall meet at least annually or at the call of the Chairman. At any time the majority of the Board may petition the Chairman for a meeting of the Board. Nine members of the Board shall constitute a quorum. Members of the Board shall be reimbursed for actual and necessary expenses incurred while performing their duties as members of the Board from funds appropriated to the Department for such purpose.

(b) The Board shall provide advice and make recommendations on the following Department powers and duties:

(1) To develop an annual agenda which may include but is not limited to research and methodologies conducted for the purpose of increasing the utilization of Illinois' coal and other fossil fuel resources, with emphasis on high sulfur coal, in the following areas: coal extraction, preparation and characterization; coal technologies (combustion, gasification, liquefaction, and related processes); marketing; public awareness and education, as those terms are used in the Illinois Coal Technology Development Assistance Act; transportation; procurement of sites and issuance of permits; and environmental impacts.

(2) To support and coordinate Illinois coal research, and to approve projects consistent with the annual agenda and budget for coal research and the purposes of this Act and to approve the annual budget and operating plan for administration of the Board.

(3) To promote the coordination of available research information on the production, preparation, distribution and uses of Illinois coal. The Board shall advise the existing research institutions within the State on areas where research may be necessary.

(4) To cooperate to the fullest extent possible with State and federal agencies and departments, independent organizations, and other interested groups, public and private, for the purposes of promoting Illinois coal resources.

(5) To submit an annual report to the Governor and the General Assembly outlining the progress and accomplishments made in the year, providing an accounting of funds received and disbursed, reviewing the status of research contracts, and furnishing other relevant information.

(6) To focus on existing coal research efforts in carrying out its mission; to make use of existing research facilities in Illinois or other institutions carrying out research on Illinois coal; as far as practicable, to make maximum use of the research facilities available at the Illinois State Geological Survey of the University of Illinois, the Coal Extraction and Utilization Research Center, the Illinois Coal Development Park and universities and colleges located within the State of Illinois; and to create a consortium or center which conducts, coordinates and supports coal research activities in the State of Illinois. Programmatic activities of such a consortium or center shall be subject to approval by the Department and shall be consistent with the purposes of this Act. The Department may authorize expenditure of funds in support of the administrative and programmatic operations of such a center or consortium consistent with its statutory authority. Administrative actions undertaken by or for such a center or consortium shall be subject to the approval of the Department.

(7) To make a reasonable attempt, before initiating any research under this Act, to avoid duplication of effort and expense by coordinating the research efforts among various agencies, departments, universities or organizations, as the case may be.

(8) To adopt, amend and repeal rules, regulations and bylaws governing the Board's organization and conduct of business.

(9) To authorize the expenditure of monies from the Coal Technology Development Assistance Fund, the Public Utility Fund and other funds in the State Treasury appropriated to the Department, consistent with the purposes of this Act.

(10) To seek, accept, and expend gifts or grants in any form, from any public agency or from any other source. Such gifts and grants may be held in trust by the Department and expended at the direction of the Department and in the exercise of the Department's powers and performance of the Department's duties.

(11) To publish, from time to time, the results of Illinois coal research projects funded through the Department.

(12) To authorize loans from appropriations from the Build Illinois Bond Purposes Fund, the Build Illinois Bond Fund and the Illinois Industrial Coal Utilization Fund.

(13) To authorize expenditures of monies for coal

development projects under the authority of Section 13 of the General Obligation Bond Act.

(c) The Board shall also provide advice and make recommendations on the following Department powers and duties:

(1) To create and maintain thorough, current and accurate records on all markets for and actual uses of coal mined in Illinois, and to make such records available to the public upon request.

(2) To identify all current and anticipated future technical, economic, institutional, market, environmental, regulatory and other impediments to the utilization of Illinois coal.

(3) To monitor and evaluate all proposals and plans of public utilities related to compliance with the requirements of Title IV of the federal Clean Air Act Amendments of 1990, or with any other law which might affect the use of Illinois coal, for the purposes of (i) determining the effects of such proposals or plans on the use of Illinois coal, and (ii) identifying alternative plans or actions which would maintain or increase the use of Illinois coal.

(4) To develop strategies and to propose policies to promote environmentally responsible uses of Illinois coal for meeting electric power supply requirements and for other purposes.

(5) (Blank).

(Source: P.A. 94-793, eff. 5-19-06.)

Section 825. The Clean Coal FutureGen for Illinois Act is amended by changing Section 20 as follows:

(20 ILCS 1107/20)

(Section scheduled to be repealed on December 31, 2010)

Sec. 20. Title to sequestered gas. If the FutureGen Project locates at either the Tuscola or Mattoon site in the State of Illinois, then the FutureGen Alliance agrees that the Operator shall transfer and convey and the State of Illinois shall accept and receive, with no payment due from the State of Illinois, all rights, title, and interest in and to and any liabilities associated with the sequestered gas, including any current or future environmental benefits, marketing claims, tradable credits, emissions allocations or offsets (voluntary or compliance based) associated therewith, upon such gas reaching the status of post-injection, which shall be verified by the Agency or other designated State of Illinois agency. The Operator shall retain all rights, title, and interest in and to and any liabilities associated with the pre-injection sequestered gas. The Illinois State Geological Survey of the University of Illinois ~~Department of Natural Resources~~ shall monitor, measure, and verify the permanent status of sequestered carbon dioxide and co-sequestered gases in which the State has acquired the right, title, and interest under

this Section.

(Source: P.A. 95-18, eff. 7-30-07.)

Section 830. The Hazardous Waste Technology Exchange Service Act is amended by changing Sections 3, 4, and 6 as follows:

(20 ILCS 1130/3) (from Ch. 111 1/2, par. 6803)

Sec. 3. For the purposes of this Act, unless the context otherwise requires:

(a) "Board" means the Board of Trustees of the University of Illinois ~~Natural Resources and Conservation of the Department of Natural Resources.~~

(b) "Center" means the Waste Management and Research Center of the University of Illinois ~~Department of Natural Resources.~~

~~(c) "Department" means the Department of Natural Resources.~~

(Source: P.A. 89-445, eff. 2-7-96; 90-490, eff. 8-17-97.)

(20 ILCS 1130/4) (from Ch. 111 1/2, par. 6804)

Sec. 4. Waste Management and Research Center. The ~~As soon as may be practicable after the effective date of this Act, the Department shall establish a Hazardous Waste Research and Information Center. On and after the effective date of this amendatory Act of 1997, that Center shall be known as the Waste Management and Research Center~~ is transferred to the University

of Illinois.

(Source: P.A. 90-490, eff. 8-17-97.)

(20 ILCS 1130/6) (from Ch. 111 1/2, par. 6806)

Sec. 6. Appropriations. For the purpose of maintaining the Waste Management and Research Center, paying the expenses and providing the facilities and structures incident thereto, appropriations shall be made to the University of Illinois Department, payable from the Hazardous Waste Research Fund and other funds in the State Treasury.

(Source: P.A. 90-490, eff. 8-17-97.)

(20 ILCS 1130/5 rep.)

Section 831. The Hazardous Waste Technology Exchange Service Act is amended by repealing Section 5.

Section 835. The Green Governments Illinois Act is amended by changing Section 15 as follows:

(20 ILCS 3954/15)

Sec. 15. Composition of the Council. The Council shall be comprised of representatives from various State agencies and State universities with specific fiscal, procurement, educational, and environmental policy expertise. The Lieutenant Governor is the chair of the Council. The director or President, respectively, of each of the following State

agencies and State universities, or his or her designee, is a member of the Council: the Department of Commerce and Economic Opportunity, the Environmental Protection Agency, the University of Illinois; the Department of Natural Resources, ~~the Department of Natural Resources Waste Management and Research Center~~, the Department of Central Management Services, the Governor's Office of Management and Budget, the Department of Agriculture, the Department of Transportation, the Department of Corrections, the Department of Human Services, the Department of Public Health, the State Board of Education, the Board of Higher Education, and the Capital Development Board. The Office of the Lieutenant Governor shall provide administrative support to the Council. A minimum of one staff position in the Office of the Lieutenant Governor shall be dedicated to the Green Governments Illinois program.

(Source: P.A. 95-657, eff. 10-10-07.)

Section 840. The State Finance Act is amended by changing Sections 6z-14 and 8.24 as follows:

(30 ILCS 105/6z-14) (from Ch. 127, par. 142z-14)

Sec. 6z-14. The following items of income received by the University of Illinois ~~Department of Natural Resources~~ from patents and copyrights of the Illinois Scientific Surveys shall be retained by the University of Illinois in its treasury ~~deposited into the General Revenue Fund~~: funds received in

connection with the retention, receipt, assignment, license, sale or transfer of interests in, rights to or income from discoveries, inventions, patents or copyrightable works. All interest earned shall be deposited in the University of Illinois Income ~~General Revenue~~ Fund. ~~The University Pursuant to appropriation, the Department~~ may use those moneys for the purpose of ~~appropriated for that purpose for~~ patenting or copyrighting discoveries, inventions or copyrightable works or supporting other programs of the Illinois Scientific Surveys.

(Source: P.A. 94-91, eff. 7-1-05.)

(30 ILCS 105/8.24) (from Ch. 127, par. 144.24)

Sec. 8.24. One hundred percent of the revenues received by the University of Illinois ~~Department of Natural Resources~~ from the sale of publications, bulletins, circulars, maps, reports, catalogues and other data and information presented in documents shall be deposited into the University of Illinois Income ~~Natural Resources Information~~ Fund. Appropriations from the Natural Resources Information Fund shall be made to the University of Illinois ~~Department~~ for the (1) expenses connected with the production of such documents and (2) purchase of U.S. Geological Survey topographic maps and other documents. The Board of Trustees of the University of Illinois ~~of Natural Resources and Conservation~~ shall establish guidelines governing fee schedules, conditions of sale, and administration of the Natural Resources Information Fund.

(Source: P.A. 89-445, eff. 2-7-96.)

Section 845. The Illinois Pension Code is amended by changing Section 15-106 as follows:

(40 ILCS 5/15-106) (from Ch. 108 1/2, par. 15-106)

Sec. 15-106. Employer. "Employer": The University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the State Board of Higher Education, the Illinois Mathematics and Science Academy, ~~the State Geological Survey Division of the Department of Natural Resources, the State Natural History Survey Division of the Department of Natural Resources, the State Water Survey Division of the Department of Natural Resources, the Waste Management and Research Center of the Department of Natural Resources,~~ the University Civil Service Merit Board, the Board of Trustees of the State Universities Retirement System, the Illinois Community College Board, community college boards, any association of community college boards organized under Section 3-55 of the Public Community College Act, the Board of Examiners established under the Illinois Public Accounting Act, and, only during the period for which employer contributions required under Section 15-155 are paid, the following organizations: the alumni

associations, the foundations and the athletic associations which are affiliated with the universities and colleges included in this Section as employers.

A department as defined in Section 14-103.04 is an employer for any person appointed by the Governor under the Civil Administrative Code of Illinois who is a participating employee as defined in Section 15-109. The Department of Central Management Services is an employer with respect to persons employed by the State Board of Higher Education in positions with the Illinois Century Network as of June 30, 2004 who remain continuously employed after that date by the Department of Central Management Services in positions with the Illinois Century Network, the Bureau of Communication and Computer Services, or, if applicable, any successor bureau.

The cities of Champaign and Urbana shall be considered employers, but only during the period for which contributions are required to be made under subsection (b-1) of Section 15-155 and only with respect to individuals described in subsection (h) of Section 15-107.

(Source: P.A. 95-369, eff. 8-23-07.)

Section 850. The Illinois Drainage Code is amended by changing Section 12-19 as follows:

(70 ILCS 605/12-19) (from Ch. 42, par. 12-19)

Sec. 12-19. Cooperation with other public agencies.

Commissioners of a district shall cooperate in the exchange of information pertaining to drainage with the commissioners of other districts and with local, State and Federal governments, officers and agencies operating in fields affecting or related to drainage, including, but not restricted to, the Department of Natural Resources, the State Water Resources and Flood Control Board, the State Soil Conservation Advisory Board, the State Geological Survey of the University of Illinois Division, and the State Water Survey of the University of Illinois Division.

(Source: P.A. 89-445, eff. 2-7-96.)

Section 855. The Solid Waste Disposal District Act is amended by changing Section 24 as follows:

(70 ILCS 3105/24) (from Ch. 85, par. 1674)

Sec. 24. After the effective date of this Act, no district, person, firm or corporation, public or private, may establish a new solid waste disposal site or facility without first obtaining a permit from the Environmental Protection Agency under the provisions of the Environmental Protection Act. Application for such permit shall be on forms provided by the Agency and shall be accompanied by such supporting documents as the Agency shall require. Prior to issuing a permit to establish a new solid waste disposal site or facility the Agency shall review the application and supporting documents

and make an on-site inspection of the proposed site. The Agency may request the ~~Chief of the~~ Illinois State Geological Survey of the University of Illinois to prepare a report concerning the soil characteristics, water table, and other appropriate physical characteristics of the proposed site. If the proposed new solid waste disposal site or facility conforms to the minimum standards provided in such Act, the Agency shall issue a permit for the operation of such site or facility. If the proposed new solid waste disposal site or facility does not conform to the minimum standards provided by such Act, no permit shall be issued and the solid waste disposal site or facility shall not be constructed or operated.

(Source: P.A. 87-650.)

Section 860. The University of Illinois Exercise of Functions and Duties Law of the Civil Administrative Code of Illinois is amended by changing Section 3000-5 as follows:

(110 ILCS 355/3000-5) (was 110 ILCS 355/62)

Sec. 3000-5. Retention of duties by University of Illinois. Unless otherwise provided by law, the functions and duties formerly exercised by the State entomologist, the State laboratory of natural history, the State water survey, and the State geological survey ~~and vested in the Illinois Department of Natural Resources~~ and the functions and duties of the Waste Management and Research Center and its Hazardous Materials

Laboratory as authorized by the Hazardous Waste Technology Exchange Service Act shall continue to be exercised at the University of Illinois in buildings and places provided by the trustees of the University.

(Source: P.A. 90-490, eff. 8-17-97; 91-239, eff. 1-1-00.)

Section 865. The Well Abandonment Act is amended by changing Section 1 as follows:

(225 ILCS 730/1) (from Ch. 96 1/2, par. 5201)

Sec. 1. It is the duty of the permittee of any well drilled or deepened for oil or gas, to file all geophysical logs and a well drilling report of said well in the office of the State Geological Survey ~~Division~~ of the University of Illinois ~~Department of Natural Resources~~ within 90 days after drilling ceases.

The well drilling report: (1) shall show the character and depth of the formations passed through or encountered in the drilling of the well, particularly showing the depth and thickness of oil-bearing strata, and gas-bearing strata, (2) shall show the position and thickness of coal beds and deposits of mineral materials of economic value, and (3) shall give the location of the hole.

The Department of Natural Resources shall supply to the Geological Survey a copy of each permit, showing the location of the well.

(Source: P.A. 89-445, eff. 2-7-96.)

Section 870. The Environmental Protection Act is amended by changing Section 22.2 as follows:

(415 ILCS 5/22.2) (from Ch. 111 1/2, par. 1022.2)

Sec. 22.2. Hazardous waste; fees; liability.

(a) There are hereby created within the State Treasury 2 special funds to be known respectively as the "Hazardous Waste Fund" and the "Hazardous Waste Research Fund", constituted from the fees collected pursuant to this Section. In addition to the fees collected under this Section, the Hazardous Waste Fund shall include other moneys made available from any source for deposit into the Fund.

(b) (1) On and after January 1, 1989, the Agency shall collect from the owner or operator of each of the following sites a fee in the amount of:

(A) 9 cents per gallon or \$18.18 per cubic yard, if the hazardous waste disposal site is located off the site where such waste was produced. The maximum amount payable under this subdivision (A) with respect to the hazardous waste generated by a single generator and deposited in monofills is \$30,000 per year. If, as a result of the use of multiple monofills, waste fees in excess of the maximum are assessed with respect to a single waste generator, the generator may apply to the

Agency for a credit.

(B) 9 cents or \$18.18 per cubic yard, if the hazardous waste disposal site is located on the site where such waste was produced, provided however the maximum amount of fees payable under this paragraph (B) is \$30,000 per year for each such hazardous waste disposal site.

(C) If the hazardous waste disposal site is an underground injection well, \$6,000 per year if not more than 10,000,000 gallons per year are injected, \$15,000 per year if more than 10,000,000 gallons but not more than 50,000,000 gallons per year are injected, and \$27,000 per year if more than 50,000,000 gallons per year are injected.

(D) 3 cents per gallon or \$6.06 per cubic yard of hazardous waste received for treatment at a hazardous waste treatment site, if the hazardous waste treatment site is located off the site where such waste was produced and if such hazardous waste treatment site is owned, controlled and operated by a person other than the generator of such waste. After treatment at such hazardous waste treatment site, the waste shall not be subject to any other fee imposed by this subsection (b). For purposes of this subsection (b), the term "treatment" is defined as in Section 3.505 but shall not include recycling, reclamation or reuse.

(2) The General Assembly shall annually appropriate to the Fund such amounts as it deems necessary to fulfill the purposes of this Act.

(3) The Agency shall have the authority to accept, receive, and administer on behalf of the State any moneys made available to the State from any source for the purposes of the Hazardous Waste Fund set forth in subsection (d) of this Section.

(4) Of the amount collected as fees provided for in this Section, the Agency shall manage the use of such funds to assure that sufficient funds are available for match towards federal expenditures for response action at sites which are listed on the National Priorities List; provided, however, that this shall not apply to additional monies appropriated to the Fund by the General Assembly, nor shall it apply in the event that the Director finds that revenues in the Hazardous Waste Fund must be used to address conditions which create or may create an immediate danger to the environment or public health or to the welfare of the people of the State of Illinois.

(5) Notwithstanding the other provisions of this subsection (b), sludge from a publicly-owned sewage works generated in Illinois, coal mining wastes and refuse generated in Illinois, bottom boiler ash, flyash and flue gas desulphurization sludge from public utility electric generating facilities located in Illinois, and bottom

boiler ash and flyash from all incinerators which process solely municipal waste shall not be subject to the fee.

(6) For the purposes of this subsection (b), "monofill" means a facility, or a unit at a facility, that accepts only wastes bearing the same USEPA hazardous waste identification number, or compatible wastes as determined by the Agency.

(c) The Agency shall establish procedures, not later than January 1, 1984, relating to the collection of the fees authorized by this Section. Such procedures shall include, but not be limited to: (1) necessary records identifying the quantities of hazardous waste received or disposed; (2) the form and submission of reports to accompany the payment of fees to the Agency; and (3) the time and manner of payment of fees to the Agency, which payments shall be not more often than quarterly.

(d) Beginning July 1, 1996, the Agency shall deposit all such receipts in the State Treasury to the credit of the Hazardous Waste Fund, except as provided in subsection (e) of this Section. All monies in the Hazardous Waste Fund shall be used by the Agency for the following purposes:

(1) Taking whatever preventive or corrective action is necessary or appropriate, in circumstances certified by the Director, including but not limited to removal or remedial action whenever there is a release or substantial threat of a release of a hazardous substance or pesticide;

provided, the Agency shall expend no more than \$1,000,000 on any single incident without appropriation by the General Assembly.

(2) To meet any requirements which must be met by the State in order to obtain federal funds pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, (P.L. 96-510).

(3) In an amount up to 30% of the amount collected as fees provided for in this Section, for use by the Agency to conduct groundwater protection activities, including providing grants to appropriate units of local government which are addressing protection of underground waters pursuant to the provisions of this Act.

(4) To fund the development and implementation of the model pesticide collection program under Section 19.1 of the Illinois Pesticide Act.

(5) To the extent the Agency has received and deposited monies in the Fund other than fees collected under subsection (b) of this Section, to pay for the cost of Agency employees for services provided in reviewing the performance of response actions pursuant to Title XVII of this Act.

(6) In an amount up to 15% of the fees collected annually under subsection (b) of this Section, for use by the Agency for administration of the provisions of this Section.

(e) The Agency shall deposit 10% of all receipts collected under subsection (b) of this Section, but not to exceed \$200,000 per year, in the State Treasury to the credit of the Hazardous Waste Research Fund established by this Act. Pursuant to appropriation, all monies in such Fund shall be used by the University of Illinois ~~Department of Natural Resources~~ for the purposes set forth in this subsection.

The University of Illinois ~~Department of Natural Resources~~ may enter into contracts with business, industrial, university, governmental or other qualified individuals or organizations to assist in the research and development intended to recycle, reduce the volume of, separate, detoxify or reduce the hazardous properties of hazardous wastes in Illinois. Monies in the Fund may also be used by the University of Illinois ~~Department of Natural Resources~~ for technical studies, monitoring activities, and educational and research activities which are related to the protection of underground waters. Monies in the Hazardous Waste Research Fund may be used to administer the Illinois Health and Hazardous Substances Registry Act. Monies in the Hazardous Waste Research Fund shall not be used for any sanitary landfill or the acquisition or construction of any facility. This does not preclude the purchase of equipment for the purpose of public demonstration projects. The University of Illinois ~~Department of Natural Resources~~ shall adopt guidelines for cost sharing, selecting, and administering projects under this subsection.

(f) Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (j) of this Section, the following persons shall be liable for all costs of removal or remedial action incurred by the State of Illinois or any unit of local government as a result of a release or substantial threat of a release of a hazardous substance or pesticide:

(1) the owner and operator of a facility or vessel from which there is a release or substantial threat of release of a hazardous substance or pesticide;

(2) any person who at the time of disposal, transport, storage or treatment of a hazardous substance or pesticide owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat of a release of any such hazardous substance or pesticide;

(3) any person who by contract, agreement, or otherwise has arranged with another party or entity for transport, storage, disposal or treatment of hazardous substances or pesticides owned, controlled or possessed by such person at a facility owned or operated by another party or entity from which facility there is a release or substantial threat of a release of such hazardous substances or pesticides; and

(4) any person who accepts or accepted any hazardous substances or pesticides for transport to disposal,

storage or treatment facilities or sites from which there is a release or a substantial threat of a release of a hazardous substance or pesticide.

Any monies received by the State of Illinois pursuant to this subsection (f) shall be deposited in the State Treasury to the credit of the Hazardous Waste Fund.

In accordance with the other provisions of this Section, costs of removal or remedial action incurred by a unit of local government may be recovered in an action before the Board brought by the unit of local government under subsection (i) of this Section. Any monies so recovered shall be paid to the unit of local government.

(g)(1) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any vessel or facility or from any person who may be liable for a release or substantial threat of a release under this Section, to any other person the liability imposed under this Section. Nothing in this Section shall bar any agreement to insure, hold harmless or indemnify a party to such agreements for any liability under this Section.

(2) Nothing in this Section, including the provisions of paragraph (g)(1) of this Section, shall bar a cause of action that an owner or operator or any other person subject to liability under this Section, or a guarantor, has or would have, by reason of subrogation or otherwise

against any person.

(h) For purposes of this Section:

(1) The term "facility" means:

(A) any building, structure, installation, equipment, pipe or pipeline including but not limited to any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or

(B) any site or area where a hazardous substance has been deposited, stored, disposed of, placed, or otherwise come to be located.

(2) The term "owner or operator" means:

(A) any person owning or operating a vessel or facility;

(B) in the case of an abandoned facility, any person owning or operating the abandoned facility or any person who owned, operated, or otherwise controlled activities at the abandoned facility immediately prior to such abandonment;

(C) in the case of a land trust as defined in Section 2 of the Land Trustee as Creditor Act, the person owning the beneficial interest in the land trust;

(D) in the case of a fiduciary (other than a land trustee), the estate, trust estate, or other interest

in property held in a fiduciary capacity, and not the fiduciary. For the purposes of this Section, "fiduciary" means a trustee, executor, administrator, guardian, receiver, conservator or other person holding a facility or vessel in a fiduciary capacity;

(E) in the case of a "financial institution", meaning the Illinois Housing Development Authority and that term as defined in Section 2 of the Illinois Banking Act, that has acquired ownership, operation, management, or control of a vessel or facility through foreclosure or under the terms of a security interest held by the financial institution or under the terms of an extension of credit made by the financial institution, the financial institution only if the financial institution takes possession of the vessel or facility and the financial institution exercises actual, direct, and continual or recurrent managerial control in the operation of the vessel or facility that causes a release or substantial threat of a release of a hazardous substance or pesticide resulting in removal or remedial action;

(F) In the case of an owner of residential property, the owner if the owner is a person other than an individual, or if the owner is an individual who owns more than 10 dwelling units in Illinois, or if the owner, or an agent, representative, contractor, or

employee of the owner, has caused, contributed to, or allowed the release or threatened release of a hazardous substance or pesticide. The term "residential property" means single family residences of one to 4 dwelling units, including accessory land, buildings, or improvements incidental to those dwellings that are exclusively used for the residential use. For purposes of this subparagraph (F), the term "individual" means a natural person, and shall not include corporations, partnerships, trusts, or other non-natural persons.

(G) In the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at the facility immediately beforehand.

(H) The term "owner or operator" does not include a unit of State or local government which acquired ownership or control through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government acquires title by virtue of its function as sovereign. The exclusion provided under this paragraph shall not apply to any State or local government which has caused or contributed to the release or threatened release of a hazardous substance

from the facility, and such a State or local government shall be subject to the provisions of this Act in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under Section 22.2(f).

(i) The costs and damages provided for in this Section may be imposed by the Board in an action brought before the Board in accordance with Title VIII of this Act, except that Section 33(c) of this Act shall not apply to any such action.

(j) (1) There shall be no liability under this Section for a person otherwise liable who can establish by a preponderance of the evidence that the release or substantial threat of release of a hazardous substance and the damages resulting therefrom were caused solely by:

(A) an act of God;

(B) an act of war;

(C) an act or omission of a third party other than an employee or agent of the defendant, or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant (except where the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail), if the defendant establishes by a preponderance of the evidence that (i) he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of such

hazardous substance, in light of all relevant facts and circumstances, and (ii) he took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions; or

(D) any combination of the foregoing paragraphs.

(2) There shall be no liability under this Section for any release permitted by State or federal law.

(3) There shall be no liability under this Section for damages as a result of actions taken or omitted in the course of rendering care, assistance, or advice in accordance with this Section or the National Contingency Plan pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (P.L. 96-510) or at the direction of an on-scene coordinator appointed under such plan, with respect to an incident creating a danger to public health or welfare or the environment as a result of any release of a hazardous substance or a substantial threat thereof. This subsection shall not preclude liability for damages as the result of gross negligence or intentional misconduct on the part of such person. For the purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

(4) There shall be no liability under this Section for any person (including, but not limited to, an owner of residential property who applies a pesticide to the residential property or

who has another person apply a pesticide to the residential property) for response costs or damages as the result of the storage, handling and use, or recommendation for storage, handling and use, of a pesticide consistent with:

(A) its directions for storage, handling and use as stated in its label or labeling;

(B) its warnings and cautions as stated in its label or labeling; and

(C) the uses for which it is registered under the Federal Insecticide, Fungicide and Rodenticide Act and the Illinois Pesticide Act.

(4.5) There shall be no liability under subdivision (f)(1) of this Section for response costs or damages as the result of a release of a pesticide from an agrichemical facility site if the Agency has received notice from the Department of Agriculture pursuant to Section 19.3 of the Illinois Pesticide Act, the owner or operator of the agrichemical facility is proceeding with a corrective action plan under the Agrichemical Facility Response Action Program implemented under that Section, and the Agency has provided a written endorsement of a corrective action plan.

(4.6) There shall be no liability under subdivision (f)(1) of this Section for response costs or damages as the result of a substantial threat of a release of a pesticide from an agrichemical facility site if the Agency has received notice from the Department of Agriculture pursuant to Section 19.3 of

the Illinois Pesticide Act and the owner or operator of the agrichemical facility is proceeding with a corrective action plan under the Agrichemical Facility Response Action Program implemented under that Section.

(5) Nothing in this subsection (j) shall affect or modify in any way the obligations or liability of any person under any other provision of this Act or State or federal law, including common law, for damages, injury, or loss resulting from a release or substantial threat of a release of any hazardous substance or for removal or remedial action or the costs of removal or remedial action of such hazardous substance.

(6) (A) The term "contractual relationship", for the purpose of this subsection includes, but is not limited to, land contracts, deeds or other instruments transferring title or possession, unless the real property on which the facility concerned is located was acquired by the defendant after the disposal or placement of the hazardous substance on, in, or at the facility, and one or more of the circumstances described in clause (i), (ii), or (iii) of this paragraph is also established by the defendant by a preponderance of the evidence:

(i) At the time the defendant acquired the facility the defendant did not know and had no reason to know that any hazardous substance which is the subject of the release or threatened release was disposed of on, in or at the facility.

(ii) The defendant is a government entity which acquired the facility by escheat, or through any other involuntary transfer or acquisition, or through the exercise of eminent domain authority by purchase or condemnation.

(iii) The defendant acquired the facility by inheritance or bequest.

In addition to establishing the foregoing, the defendant must establish that he has satisfied the requirements of subparagraph (C) of paragraph (1) of this subsection (j).

(B) To establish the defendant had no reason to know, as provided in clause (i) of subparagraph (A) of this paragraph, the defendant must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability. For purposes of the preceding sentence, the court shall take into account any specialized knowledge or experience on the part of the defendant, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection.

(C) Nothing in this paragraph (6) or in subparagraph (C) of paragraph (1) of this subsection shall diminish the liability

of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph (6), if the defendant obtained actual knowledge of the release or threatened release of a hazardous substance at such facility when the defendant owned the real property and then subsequently transferred ownership of the property to another person without disclosing such knowledge, such defendant shall be treated as liable under subsection (f) of this Section and no defense under subparagraph (C) of paragraph (1) of this subsection shall be available to such defendant.

(D) Nothing in this paragraph (6) shall affect the liability under this Act of a defendant who, by any act or omission, caused or contributed to the release or threatened release of a hazardous substance which is the subject of the action relating to the facility.

(E) (i) Except as provided in clause (ii) of this subparagraph (E), a defendant who has acquired real property shall have established a rebuttable presumption against all State claims and a conclusive presumption against all private party claims that the defendant has made all appropriate inquiry within the meaning of subdivision (6)(B) of this subsection (j) if the defendant proves that immediately prior to or at the time of the acquisition:

(I) the defendant obtained a Phase I Environmental Audit of the real property that meets or exceeds the requirements of this subparagraph (E), and the Phase I

Environmental Audit did not disclose the presence or likely presence of a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from the real property; or

(II) the defendant obtained a Phase II Environmental Audit of the real property that meets or exceeds the requirements of this subparagraph (E), and the Phase II Environmental Audit did not disclose the presence or likely presence of a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from the real property.

(ii) No presumption shall be created under clause (i) of this subparagraph (E), and a defendant shall be precluded from demonstrating that the defendant has made all appropriate inquiry within the meaning of subdivision (6)(B) of this subsection (j), if:

(I) the defendant fails to obtain all Environmental Audits required under this subparagraph (E) or any such Environmental Audit fails to meet or exceed the requirements of this subparagraph (E);

(II) a Phase I Environmental Audit discloses the presence or likely presence of a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from real property, and the defendant fails to obtain a Phase II Environmental Audit;

(III) a Phase II Environmental Audit discloses the

presence or likely presence of a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from the real property;

(IV) the defendant fails to maintain a written compilation and explanatory summary report of the information reviewed in the course of each Environmental Audit under this subparagraph (E); or

(V) there is any evidence of fraud, material concealment, or material misrepresentation by the defendant of environmental conditions or of related information discovered during the course of an Environmental Audit.

(iii) For purposes of this subparagraph (E), the term "environmental professional" means an individual (other than a practicing attorney) who, through academic training, occupational experience, and reputation (such as engineers, industrial hygienists, or geologists) can objectively conduct one or more aspects of an Environmental Audit and who either:

(I) maintains at the time of the Environmental Audit and for at least one year thereafter at least \$500,000 of environmental consultants' professional liability insurance coverage issued by an insurance company licensed to do business in Illinois; or

(II) is an Illinois licensed professional engineer or an Illinois licensed industrial hygienist.

An environmental professional may employ persons who are

not environmental professionals to assist in the preparation of an Environmental Audit if such persons are under the direct supervision and control of the environmental professional.

(iv) For purposes of this subparagraph (E), the term "real property" means any interest in any parcel of land, and includes, but is not limited to, buildings, fixtures, and improvements.

(v) For purposes of this subparagraph (E), the term "Phase I Environmental Audit" means an investigation of real property, conducted by environmental professionals, to discover the presence or likely presence of a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from real property, and whether a release or a substantial threat of a release of a hazardous substance or pesticide has occurred or may occur at, on, to, or from the real property. Until such time as the United States Environmental Protection Agency establishes standards for making appropriate inquiry into the previous ownership and uses of the facility pursuant to 42 U.S.C. Sec. 9601(35)(B)(ii), the investigation shall comply with the procedures of the American Society for Testing and Materials, including the document known as Standard E1527-97, entitled "Standard Procedures for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process". Upon their adoption, the standards promulgated by USEPA pursuant to 42 U.S.C. Sec. 9601(35)(B)(ii) shall govern the performance of Phase I Environmental Audits.

In addition to the above requirements, the Phase I Environmental Audit shall include a review of recorded land title records for the purpose of determining whether the real property is subject to an environmental land use restriction such as a No Further Remediation Letter, Environmental Land Use Control, or Highway Authority Agreement.

(vi) For purposes of subparagraph (E), the term "Phase II Environmental Audit" means an investigation of real property, conducted by environmental professionals, subsequent to a Phase I Environmental Audit. If the Phase I Environmental Audit discloses the presence or likely presence of a hazardous substance or a pesticide or a release or a substantial threat of a release of a hazardous substance or pesticide:

(I) In or to soil, the defendant, as part of the Phase II Environmental Audit, shall perform a series of soil borings sufficient to determine whether there is a presence or likely presence of a hazardous substance or pesticide and whether there is or has been a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from the real property.

(II) In or to groundwater, the defendant, as part of the Phase II Environmental Audit, shall: review information regarding local geology, water well locations, and locations of waters of the State as may be obtained from State, federal, and local government records, including but not limited to the United States Geological

Survey Service, the State Geological Survey ~~Division~~ of the University of Illinois ~~Department of Natural Resources~~, and the State Water Survey ~~Division~~ of the University of Illinois ~~Department of Natural Resources~~; and perform groundwater monitoring sufficient to determine whether there is a presence or likely presence of a hazardous substance or pesticide, and whether there is or has been a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from the real property.

(III) On or to media other than soil or groundwater, the defendant, as part of the Phase II Environmental Audit, shall perform an investigation sufficient to determine whether there is a presence or likely presence of a hazardous substance or pesticide, and whether there is or has been a release or a substantial threat of a release of a hazardous substance or pesticide at, on, to, or from the real property.

(vii) The findings of each Environmental Audit prepared under this subparagraph (E) shall be set forth in a written audit report. Each audit report shall contain an affirmation by the defendant and by each environmental professional who prepared the Environmental Audit that the facts stated in the report are true and are made under a penalty of perjury as defined in Section 32-2 of the Criminal Code of 1961. It is perjury for any person to sign an audit report that contains a

false material statement that the person does not believe to be true.

(viii) The Agency is not required to review, approve, or certify the results of any Environmental Audit. The performance of an Environmental Audit shall in no way entitle a defendant to a presumption of Agency approval or certification of the results of the Environmental Audit.

The presence or absence of a disclosure document prepared under the Responsible Property Transfer Act of 1988 shall not be a defense under this Act and shall not satisfy the requirements of subdivision (6) (A) of this subsection (j).

(7) No person shall be liable under this Section for response costs or damages as the result of a pesticide release if the Agency has found that a pesticide release occurred based on a Health Advisory issued by the U.S. Environmental Protection Agency or an action level developed by the Agency, unless the Agency notified the manufacturer of the pesticide and provided an opportunity of not less than 30 days for the manufacturer to comment on the technical and scientific justification supporting the Health Advisory or action level.

(8) No person shall be liable under this Section for response costs or damages as the result of a pesticide release that occurs in the course of a farm pesticide collection program operated under Section 19.1 of the Illinois Pesticide Act, unless the release results from gross negligence or intentional misconduct.

(k) If any person who is liable for a release or substantial threat of release of a hazardous substance or pesticide fails without sufficient cause to provide removal or remedial action upon or in accordance with a notice and request by the Agency or upon or in accordance with any order of the Board or any court, such person may be liable to the State for punitive damages in an amount at least equal to, and not more than 3 times, the amount of any costs incurred by the State of Illinois as a result of such failure to take such removal or remedial action. The punitive damages imposed by the Board shall be in addition to any costs recovered from such person pursuant to this Section and in addition to any other penalty or relief provided by this Act or any other law.

Any monies received by the State pursuant to this subsection (k) shall be deposited in the Hazardous Waste Fund.

(l) Beginning January 1, 1988, the Agency shall annually collect a \$250 fee for each Special Waste Hauling Permit Application and, in addition, shall collect a fee of \$20 for each waste hauling vehicle identified in the annual permit application and for each vehicle which is added to the permit during the annual period. The Agency shall deposit 85% of such fees collected under this subsection in the State Treasury to the credit of the Hazardous Waste Research Fund; and shall deposit the remaining 15% of such fees collected in the State Treasury to the credit of the Environmental Protection Permit and Inspection Fund. The majority of such receipts which are

deposited in the Hazardous Waste Research Fund pursuant to this subsection shall be used by the University of Illinois ~~Department of Natural Resources~~ for activities which relate to the protection of underground waters. Persons engaged in the offsite transportation of hazardous waste by highway and participating in the Uniform Program under subsection (1-5) are not required to file a Special Waste Hauling Permit Application.

(1-5) (1) As used in this subsection:

"Base state" means the state selected by a transporter according to the procedures established under the Uniform Program.

"Base state agreement" means an agreement between participating states electing to register or permit transporters.

"Participating state" means a state electing to participate in the Uniform Program by entering into a base state agreement.

"Transporter" means a person engaged in the offsite transportation of hazardous waste by highway.

"Uniform application" means the uniform registration and permit application form prescribed under the Uniform Program.

"Uniform Program" means the Uniform State Hazardous Materials Transportation Registration and Permit Program established in the report submitted and amended pursuant to

49 U.S.C. Section 5119(b), as implemented by the Agency under this subsection.

"Vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, designed or used for the transportation of hazardous waste subject to the hazardous waste manifesting requirements of 40 U.S.C. Section 6923(a)(3).

(2) Beginning July 1, 1998, the Agency shall implement the Uniform State Hazardous Materials Transportation Registration and Permit Program. On and after that date, no person shall engage in the offsite transportation of hazardous waste by highway without registering and obtaining a permit under the Uniform Program. A transporter with its principal place of business in Illinois shall register with and obtain a permit from the Agency. A transporter that designates another participating state in the Uniform Program as its base state shall likewise register with and obtain a permit from that state before transporting hazardous waste in Illinois.

(3) Beginning July 1, 1998, the Agency shall annually collect no more than a \$250 processing and audit fee from each transporter of hazardous waste who has filed a uniform application and, in addition, the Agency shall annually collect an apportioned vehicle registration fee of \$20. The amount of the apportioned vehicle registration fee shall be calculated consistent with the procedures established

under the Uniform Program.

All moneys received by the Agency from the collection of fees pursuant to the Uniform Program shall be deposited into the Hazardous Waste Transporter account hereby created within the Environmental Protection Permit and Inspection Fund. Moneys remaining in the account at the close of the fiscal year shall not lapse to the General Revenue Fund. The State Treasurer may receive money or other assets from any source for deposit into the account. The Agency may expend moneys from the account, upon appropriation, for the implementation of the Uniform Program, including the costs to the Agency of fee collection and administration. In addition, funds not expended for the implementation of the Uniform Program may be utilized for emergency response and cleanup activities related to hazardous waste transportation that are initiated by the Agency.

Whenever the amount of the Hazardous Waste Transporter account exceeds by 115% the amount annually appropriated by the General Assembly, the Agency shall credit participating transporters an amount, proportionately based on the amount of the vehicle fee paid, equal to the excess in the account, and shall determine the need to reduce the amount of the fee charged transporters in the subsequent fiscal year by the amount of the credit.

(4) (A) The Agency may propose and the Board shall

adopt rules as necessary to implement and enforce the Uniform Program. The Agency is authorized to enter into agreements with other agencies of this State as necessary to carry out administrative functions or enforcement of the Uniform Program.

(B) The Agency shall recognize a Uniform Program registration as valid for one year from the date a notice of registration form is issued and a permit as valid for 3 years from the date issued or until a transporter fails to renew its registration, whichever occurs first.

(C) The Agency may inspect or examine any motor vehicle or facility operated by a transporter, including papers, books, records, documents, or other materials to determine if a transporter is complying with the Uniform Program. The Agency may also conduct investigations and audits as necessary to determine if a transporter is entitled to a permit or to make suspension or revocation determinations consistent with the standards of the Uniform Program.

(5) The Agency may enter into agreements with federal agencies, national repositories, or other participating states as necessary to allow for the reciprocal registration and permitting of transporters pursuant to the Uniform Program. The agreements may include procedures for determining a base state, the collection and distribution of registration fees, dispute resolution, the exchange of information for reporting and enforcement

purposes, and other provisions necessary to fully implement, administer, and enforce the Uniform Program.

(m) (Blank).

(n) (Blank).

(Source: P.A. 92-574, eff. 6-26-02; 93-152, eff. 7-10-03.)

Section 875. The Illinois Pesticide Act is amended by changing Section 19 as follows:

(415 ILCS 60/19) (from Ch. 5, par. 819)

Sec. 19. Interagency Committee on Pesticides. The Director is authorized to create an interagency committee on pesticides. Its purpose is to study and advise on the use of pesticides on State property. Also, its purpose is to advise any State agency in connection with quarantine programs or the protection of the public health and welfare, and to recommend needed legislation concerning pesticides.

1. An interagency committee on pesticides shall consist of: (1) the Director of the Department of Agriculture, (2) the Director of Natural Resources, (3) the Director of the Environmental Protection Agency, (4) the Director of the Department of Public Health, (5) the Secretary of the Department of Transportation, (6) the President ~~Chief~~ of the University of Illinois or his or her designee representing the State Natural History Survey and (7) the Dean of the College of Agriculture, University of Illinois. Each member of the

committee may designate some person in his department to serve on the committee in his stead. Other State agencies may, at the discretion of the Director, be asked to serve on the interagency committee on pesticides. The Director of the Department of Agriculture shall be chairman of this committee.

2. The interagency committee shall: (1) Review the current status of the sales and use of pesticides within the State of Illinois. (2) Review pesticide programs to be sponsored or directed by a governmental agency. (3) Consider the problems arising from pesticide use with particular emphasis on the possible adverse effects on human health, livestock, crops, fish, and wildlife, business, industry, agriculture, or the general public. (4) Recommend legislation to the Governor, if appropriate, which will prohibit the irresponsible use of pesticides. (5) Review rules and regulations pertaining to the regulation or prohibition of the sale, use or application of pesticides and labeling of pesticides for approval prior to promulgation and adoption. (6) Contact various experts and lay groups, such as the Illinois Pesticide Control Committee, to obtain their views and cooperation. (7) Advise on and approve of all programs involving the use of pesticides on State owned property, state controlled property, or administered by State agencies. This shall not be construed to include research programs, or the generally accepted and approved practices essential to good farm and institutional management on the premises of the various State facilities.

3. Members of this committee shall receive no compensation for their services as members of this committee other than that provided by law for their respective positions with the State of Illinois. All necessary expenses for travel of the committee members shall be paid out of regular appropriations of their respective agencies.

4. The committee shall meet at least once each quarter of the calendar year, and may hold additional meetings upon the call of the chairman. Four members shall constitute a quorum.

5. The committee shall make a detailed report of its findings and recommendations to the Governor of Illinois prior to each General Assembly Session.

6. The Interagency Committee on Pesticides shall, at a minimum, annually, during the spring, conduct a statewide public education campaign and agriculture chemical safety campaign to inform the public about pesticide products, uses and safe disposal techniques. A toll-free hot line number shall be made available for the public to report misuse cases.

The Committee shall include in its educational program information and advice about the effects of various pesticides and application techniques upon the groundwater and drinking water of the State.

7. The Interagency Committee on Pesticides shall conduct a special study of the effects of chemigation and other agricultural applications of pesticides upon the groundwater of this State. The results of such study shall be reported to

the General Assembly by March 1, 1989. The members of the Committee may utilize the technical and clerical resources of their respective departments and agencies as necessary or useful in the conduct of the study.

8. In consultation with the Interagency Committee, the Department shall develop, and the Interagency Committee shall approve, procedures, methods, and guidelines for addressing agrichemical pesticide contamination at agrichemical facilities in Illinois. In developing those procedures, methods, and guidelines, the following shall be considered and addressed: (1) an evaluation and assessment of site conditions and operational practices at agrichemical facilities where agricultural pesticides are handled; (2) what constitutes pesticide contamination; (3) cost effective procedures for site assessments and technologies for remedial action; and (4) achievement of adequate protection of public health and the environment from such actual or potential hazards. In consultation with the Interagency Committee, the Department shall develop, and the Interagency Committee shall approve, guidelines and recommendations regarding long term financial resources which may be necessary to remediate pesticide contamination at agrichemical facilities in Illinois. The Department, in consultation with the Interagency Committee, shall present a report on those guidelines and recommendations to the Governor and the General Assembly on or before January 1, 1993. The Department and the Interagency Committee shall

consult with the Illinois Pesticide Control Committee and other appropriate parties during this development process.

9. As part of the consideration of cost effective technologies pursuant to subsection 8 of this Section, the Department may, upon request, provide a written authorization to the owner or operator of an agrichemical facility for land application of agrichemical contaminated soils at agronomic rates. As used in this Section, "agrichemical" means pesticides or commercial fertilizers, at an agrichemical facility, in transit from an agrichemical facility to the field of application, or at the field of application. The written authorization may also provide for use of groundwater contaminated by the release of an agrichemical, provided that the groundwater is not also contaminated due to the release of a petroleum product or hazardous substance other than an agrichemical. The uses of agrichemical contaminated groundwater authorized by the Department shall be limited to supervised application or irrigation onto farmland and blending as make-up water in the preparation of agrichemical spray solutions that are to be applied to farmland. In either case, the use of the agrichemical contaminated water shall not cause (i) the total annual application amounts of a pesticide to exceed the respective pesticide label application rate on any authorized sites or (ii) the total annual application amounts of a fertilizer to exceed the generally accepted annual application rate on any authorized sites. All authorizations

shall prescribe appropriate operational control practices to protect the site of application and shall identify each site or sites where land application or irrigation take place. Where agrichemical contaminated groundwater is used on farmland, the prescribed practices shall be designed to prevent off-site runoff or conveyance through underground tile systems. The Department shall periodically advise the Interagency Committee regarding the issuance of such authorizations and the status of compliance at the application sites.

(Source: P.A. 92-113, eff. 7-20-01.)

Section 880. The Toxic Pollution Prevention Act is amended by changing Section 5 as follows:

(415 ILCS 85/5) (from Ch. 111 1/2, par. 7955)

Sec. 5. Toxic Pollution Prevention Assistance Program. There is hereby established a Toxic Pollution Prevention Assistance Program at the Waste Management and Research Center. The Center may establish cooperative programs with public and private colleges and universities designed to augment the implementation of this Section. The Center may establish fees, tuition, or other financial charges for participation in the Assistance Program. These monies shall be deposited in the Toxic Pollution Prevention Fund established in Section 7 of this Act. Through the Assistance Program, the Center:

(1) Shall provide general information about and actively

publicize the advantages of and developments in toxic pollution prevention.

(2) May establish courses, seminars, conferences and other events, and reports, updates, guides and other publications and other means of providing technical information for industries, local governments and citizens concerning toxic pollution prevention strategies, and may, as appropriate, work in cooperation with the Agency.

(3) Shall engage in research on toxic pollution prevention methods. Such research shall include assessments of the impact of adopting toxic pollution prevention methods on the environment, the public health, and worker exposure, and assessments of the impact on profitability and employment within affected industries.

(4) Shall provide on-site technical consulting, to the extent practicable, to help facilities to identify opportunities for toxic pollution prevention, and to develop toxic pollution prevention plans. To be eligible for such consulting, the owner or operator of a facility must agree to allow information regarding the results of such consulting to be shared with the public, provided that the identity of the facility shall be made available only with its consent, and trade secret information shall remain protected.

(5) May sponsor pilot projects in cooperation with the Agency, or an institute of higher education to develop and demonstrate innovative technologies and methods for toxic

pollution prevention. The results of all such projects shall be available for use by the public, but trade secret information shall remain protected.

(6) May award grants for activities that further the purposes of this Act, including but not limited to the following:

(A) grants to not-for-profit organizations to establish free or low-cost technical assistance or educational programs to supplement the toxic pollution prevention activities of the Center;

(B) grants to assist trade associations, business organizations, labor organizations and educational institutions in developing training materials to foster toxic pollution prevention; and

(C) grants to assist industry, business organizations, labor organizations, education institutions and industrial hygienists to identify, evaluate and implement toxic pollution prevention measures and alternatives through audits, plans and programs.

The Center may establish criteria and terms for such grants, including a requirement that a grantee provide matching funds. Grant money awarded under this Section may not be spent for capital improvements or equipment.

In determining whether to award a grant, the Center ~~Director~~ shall consider at least the following:

(i) the potential of the project to prevent

pollution;

(ii) the likelihood that the project will develop techniques or processes that will minimize the transfer of pollution from one environmental medium to another;

(iii) the extent to which information to be developed through the project will be applicable to other persons in the State; and

(iv) the willingness of the grant applicant to assist the Center in disseminating information about the pollution prevention methods to be developed through the project.

(7) Shall establish and operate a State information clearinghouse that assembles, catalogues and disseminates information about toxic pollution prevention and available consultant services. Such clearinghouse shall include a computer database containing information on managerial, technical and operational approaches to achieving toxic pollution prevention. The computer database must be maintained on a system designed to enable businesses, governmental agencies and the general public readily to obtain information specific to production technologies, materials, operations and products. A business shall not be required to submit to the clearinghouse any information that is a trade secret.

(8) May contract with an established institution of higher education to assist the Center in carrying out the provisions

of this Section. The assistance provided by such an institution may include, but need not be limited to:

(A) engineering field internships to assist industries in identifying toxic pollution prevention opportunities;

(B) development of a toxic pollution prevention curriculum for students and faculty; and

(C) applied toxic pollution prevention and recycling research.

(9) Shall emphasize assistance to businesses that have inadequate technical and financial resources to obtain information and to assess and implement toxic pollution prevention methods.

(10) Shall publish a biannual report on its toxic pollution prevention activities, achievements, identified problems and future goals.

(Source: P.A. 90-490, eff. 8-17-97.)

Section 885. The Illinois Low-Level Radioactive Waste Management Act is amended by changing Section 3 as follows:

(420 ILCS 20/3) (from Ch. 111 1/2, par. 241-3)

Sec. 3. Definitions.

(a) "Broker" means any person who takes possession of low-level waste for purposes of consolidation and shipment.

(b) "Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact.

(c) "Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

(d) "Department" means the Department of Nuclear Safety.

(e) "Director" means the Director of the Department of Nuclear Safety.

(f) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose.

(g) "Facility" means a parcel of land or site, together with structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste. "Facility" does not include lands, sites, structures or equipment used by a generator in the generation of low-level radioactive wastes.

(h) "Generator" means any person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, education or other activity.

(i) "Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential

hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580 or under regulations of the Pollution Control Board.

(j) "High-level radioactive waste" means:

(1) the highly radioactive material resulting from the reprocessing of spent nuclear fuel including liquid waste produced directly in reprocessing and any solid material derived from the liquid waste that contains fission products in sufficient concentrations; and

(2) the highly radioactive material that the Nuclear Regulatory Commission has determined, on the effective date of this Amendatory Act of 1988, to be high-level radioactive waste requiring permanent isolation.

(k) "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or byproduct material as defined in Section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(l) "Mixed waste" means waste that is both "hazardous waste" and "low-level radioactive waste" as defined in this Act.

(m) "Person" means an individual, corporation, business enterprise or other legal entity either public or private and

any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity.

(n) "Post-closure care" means the continued monitoring of the regional disposal facility after closure for the purposes of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements, and includes undertaking any remedial actions necessary to protect public health and the environment from radioactive releases from the facility.

(o) "Regional disposal facility" or "disposal facility" means the facility established by the State of Illinois under this Act for disposal away from the point of generation of waste generated in the region of the Compact.

(p) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment of low-level radioactive waste.

(q) "Remedial action" means those actions taken in the event of a release or threatened release of low-level radioactive waste into the environment, to prevent or minimize the release of the waste so that it does not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, actions at the location of the release such as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of

released low-level radioactive wastes, recycling or reuse, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies and any monitoring reasonably required to assure that these actions protect human health and the environment.

(q-5) "Scientific Surveys" means, collectively, the State Geological Survey ~~Division~~ and the State Water Survey ~~Division~~ of the University of Illinois ~~Department of Natural Resources~~.

(r) "Shallow land burial" means a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface. However, this definition shall not include an enclosed, engineered, structurally re-enforced and solidified bunker that extends below the earth's surface.

(s) "Storage" means the temporary holding of waste for treatment or disposal for a period determined by Department regulations.

(t) "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render the waste safer for transport, storage or disposal, amenable to recovery, convertible to another usable material or reduced in volume.

(u) "Waste management" means the storage, transportation, treatment or disposal of waste.

(Source: P.A. 90-29, eff. 6-26-97.)

Section 890. The Wildlife Code is amended by changing Section 1.3 as follows:

(520 ILCS 5/1.3)

Sec. 1.3. The Department shall have the authority to manage wildlife and regulate the taking of wildlife for the purposes of providing public recreation and controlling wildlife populations. The seasons during which wildlife may be taken, the methods for taking wildlife, the daily bag limits, and the possession limits shall be established by the Department through administrative rule, but the Department may not provide for a longer season, a larger daily bag limit, or a larger possession limit than is provided in this Code.

The Natural Resources Advisory Board may also recommend to the Director of Natural Resources any reductions or increases of seasons and bag or possession limits or the closure of any season when research and inventory data indicate the need for such changes.

The Department is authorized to establish seasons for the taking of migratory birds within the dates established annually by Proclamation of the Secretary, United States Department of the Interior, known as the "Rules and Regulations for Migratory Bird Hunting" (50 CFR 20 et seq.). When the biological balance of any species is affected, the Director may with the approval

of the Conservation Advisory Board, by administrative rule, lengthen, shorten or close the season during which waterfowl may be taken within the federal limitations prescribed. If the Department does not adopt an administrative rule establishing a season, then the season shall be as set forth in the current "Rules and Regulations for Migratory Bird Hunting". The Department shall advise the public by reasonable means of the dates of the various seasons.

The Department may utilize the services of the staff of the Illinois State Natural History Survey of the University of Illinois ~~Division in the Department of Natural Resources~~ for making investigations as to the population status of the various species of wildlife.

Employees or agents of any state, federal, or municipal government or body when engaged in investigational work and law enforcement, may with prior approval of the Director, be exempted from the provisions of this Act.

(Source: P.A. 89-445, eff. 2-7-96; 90-435, eff. 1-1-98.)

Section 895. The Rivers, Lakes, and Streams Act is amended by changing Section 18g as follows:

(615 ILCS 5/18g) (from Ch. 19, par. 65g)

Sec. 18g. (a) The Department of Natural Resources shall define the 100-year floodway within metropolitan counties located in the area served by the Northeastern Illinois

Planning Commission, except for the part of that area which is within any city with a population exceeding 1,500,000. In defining the 100-year floodway, the Department may rely on published data and maps which have been prepared by the Department itself, by the Illinois State Water Survey of the University of Illinois, by federal, State or local governmental agencies, or by any other private or public source which it determines to be reliable and appropriate.

(b) The Department may issue permits for construction that is an appropriate use of the designated 100-year floodway in such metropolitan counties. If a unit of local government has adopted an ordinance that establishes minimum standards for appropriate use of the floodway that are at least as restrictive as those established by the Department and this Section, and the unit of local government has adequate staff to enforce the ordinance, the Department may delegate to such unit of local government the authority to issue permits for construction that is an appropriate use of the floodway within its jurisdiction.

(c) No person may engage in any new construction within the 100-year floodway as designated by the Department in such metropolitan counties, unless such construction relates to an appropriate use of the floodway. No unit of local government, including home rule units, in such metropolitan counties may issue any building permit or other apparent authorization for any prohibited new construction within the 100-year floodway.

(d) For the purpose of this Section:

(1) "100-year floodway" means the channel and that portion of the floodplain adjacent to a stream or watercourse which is needed to store and convey the 100-year frequency flood discharge without a significant increase in stage.

(2) "New construction" means the construction of any new building or structure or the placement of any fill or material, but does not include the repair, remodeling or maintenance of buildings or structures in existence on the effective date of this amendatory Act of 1987.

(3) "Appropriate use of the floodway" means use for (i) flood control structures, dikes, dams and other public works or private improvements relating to the control of drainage, flooding or erosion; (ii) structures or facilities relating to the use of, or requiring access to, the water or shoreline, including pumping and treatment facilities, and facilities and improvements related to recreational boats, commercial shipping and other functionally dependent uses; and (iii) any other purposes which the Department determines, by rule, to be appropriate to the 100-year floodway, and the periodic inundation of which will not pose a danger to the general health and welfare of the user, or require the expenditure of public funds or the provision of public resources or disaster relief services. Appropriate use of the floodway does not

include construction of a new building unless such building is a garage, storage shed or other structure accessory to an existing building and such building does not increase flood stages.

(4) "Person" includes natural persons, corporations, associations, governmental entities, and all other legal entities.

(e) All construction undertaken on a designated 100-year floodway in such metropolitan counties, without benefit of a permit from the Department of Natural Resources, shall be unlawful and the Department or any affected unit of local government may, in its discretion, proceed to obtain injunctive relief for abatement or removal of such unlawful construction. The Department, in its discretion, may make such investigations and conduct such hearings and adopt such rules as may be necessary to the performance of its duties under this Section.

(f) This Section does not limit any power granted to the Department by any other Act.

(g) This Section does not limit the concurrent exercise by any unit of local government of any power consistent herewith.

(h) This Section does not apply to any city with a population exceeding 1,500,000.

(Source: P.A. 89-445, eff. 2-7-96.)

Section 998. The State Finance Act is amended by adding Section 80 as follows:

(30 ILCS 105/80 new)

Sec. 80. Transfer to the University of Illinois Income Fund. Immediately upon the effective date of this Section, the State Comptroller shall direct and the State Treasurer shall transfer \$15,826,499 from the General Revenue Fund to the University of Illinois Income Fund.

Section 999. Effective date. This Section and Section 998 take effect on July 1, 2008. The other provisions of this Act take effect on July 1, 2008 or on the date the transfer from the General Revenue Fund to the University of Illinois Income Fund is made as required by Section 80 of the State Finance Act, whichever is later.