



Rep. Tom Cross

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1 AMENDMENT TO HOUSE BILL 2249

2 AMENDMENT NO. _____. Amend House Bill 2249 by replacing
3 everything after the enacting clause with the following:

4 "ARTICLE 1

5 Section 1-1. Short title. This Article may be cited as the
6 Illinois Regenerative Medicine Institute Act.

7 Section 1-5. Legislative intent. This Act is intended to:

8 (1) Create a research institute to support stem cell
9 research at Illinois universities and other advanced
10 research facilities throughout the State.

11 (2) Maximize the use of research funds by giving
12 priority to stem cell research that has the greatest
13 potential for therapies and cures that cannot or are
14 unlikely to receive timely or sufficient federal funding.

15 (3) Ensure that the research is conducted safely and
16 ethically by including provisions to require compliance
17 with standards based on national models that protect
18 patient safety, patient rights, patient privacy, and
19 prohibit the purchase or sale of embryonic or fetal tissue
20 for research purposes.

21 (4) Prohibit the use of State funds made available
22 pursuant to this Act for research involving human
23 reproductive cloning, fetuses from induced abortions, or

1 the creation of embryos through the combination of gametes
2 solely for the purpose of research.

3 (5) Prohibit and criminalize human reproductive
4 cloning.

5 (6) Reduce the long-term health care cost burden on
6 Illinois through the development of therapies that treat
7 diseases and injuries with the ultimate goal to cure them.

8 (7) Require strict fiscal and public accountability
9 through mandatory independent audits, open meetings,
10 public hearings, open access to published papers, and
11 annual reports to the public and the General Assembly.

12 (8) Establish a system of governance for the institute
13 that draws on representatives from the research and
14 academic community, disease advocacy groups, and experts
15 in the development of medical therapies and thereby
16 insulates research decisions from partisan political
17 concerns.

18 (9) Establish new funding sources for medical and basic
19 scientific research that will eventually produce
20 royalties, patents, and licensing fees for the State and
21 significantly reduce future State health care costs; a tax
22 on the use of medical procedures raises revenue from an
23 industry that is expected to benefit from such research,
24 and using definitions from the federal tax code to exclude
25 medically-necessary procedures builds upon the public
26 policy decisions made by Congress in the field of health
27 care taxation.

28 (10) Benefit the Illinois economy by creating
29 projects, jobs, and therapies that will generate
30 significant new economic activity for the State.

31 Section 1-10. Definitions.

32 "Adult stem cell" means an undifferentiated cell found in a
33 differentiated tissue in an adult human that can renew itself

1 and may, with certain limitations, differentiate to yield all
2 the specialized cell types of the tissue from which it
3 originated.

4 "Executive Director" means the Executive Director of the
5 institute.

6 "IRMI" or "institute" means the Illinois Regenerative
7 Medicine Institute.

8 "Oversight Committee" means the IRMI Oversight Committee.

9 "Pluripotent cells" means cells that are capable of
10 self-renewal and have broad potential to differentiate into
11 multiple cell types. Pluripotent stem cells may be derived from
12 somatic cell nuclear transfer or from surplus embryos produced
13 during in vitro fertilization treatments and donated under
14 appropriate informed consent procedures. These excess cells
15 from in vitro fertilization treatments would otherwise be
16 intended to be discarded if not used for medical research.

17 "Progenitor cells" means multipotent or precursor cells
18 that are partially differentiated but retain the ability to
19 divide and give rise to differentiated cells.

20 "Stem cells" mean nonspecialized cells that have the
21 capacity to divide in culture and to differentiate into more
22 mature cells with specialized functions.

23 Section 1-15. Institute creation; purpose; powers.

24 (a) There is established the Illinois Regenerative
25 Medicine Institute.

26 (b) The institute shall have the following purposes:

27 (1) To make grants and loans for stem cell research to
28 realize therapies, protocols, and medical procedures that
29 will result in, as speedily as possible, the cure for, and
30 substantial mitigation of, major diseases, injuries, and
31 orphan diseases.

32 (2) To support all stages of the process of developing
33 cures, from laboratory research through successful

1 clinical trials.

2 (3) To establish the appropriate regulatory standards
3 and oversight bodies for research and facilities
4 development.

5 Section 1-20. State policy on stem cell research; criminal
6 penalties.

7 (a) It is the policy of the State to permit stem cell
8 research that includes research involving adult stem cells,
9 cord blood stem cells, pluripotent stem cells, progenitor
10 cells, or any combination of those cells.

11 (b) No funds authorized for, or made available to, the
12 institute shall be used for research involving the cloning of a
13 human being or fetuses from induced abortions or to create
14 embryos through the combination of gametes solely for the
15 purpose of research.

16 (c) A person who knowingly engages or assists, directly or
17 indirectly, in the cloning of a human being is guilty of a
18 Class 1 felony. As used in this Section, "cloning of a human
19 being" means the asexual human reproduction by implanting or
20 attempting to implant the product of nuclear transplantation
21 into a woman's uterus to initiate a pregnancy.

22 (d) A person may not knowingly, for valuable consideration,
23 purchase or sell embryonic or cadaveric fetal tissue for
24 research purposes.

25 For the purposes of this subsection, payment of customary
26 medical charges for the removal, processing, disposal,
27 preservation, quality control, storage, transplantation, or
28 implantation of the tissue does not constitute valuable
29 consideration. This subsection does not prohibit reimbursement
30 for removal, storage, or transportation of embryonic fetal
31 tissue for research purposes pursuant to this Act.

32 A person who knowingly purchases or sells embryonic tissue
33 for research purposes in violation of this Section is guilty of

1 a Class A misdemeanor for the first conviction and a Class 4
2 felony for subsequent convictions.

3 Section 1-25. Illinois Regenerative Medicine Institute
4 Oversight Committee.

5 (a) The Oversight Committee shall be composed of 7 members.
6 Members shall come from the medical community or the scientific
7 research community and shall have experience in peer review and
8 scientific grant making. Members shall be as follows:

9 (1) Two members to be appointed by the Governor.

10 (2) Two members to be appointed by the Comptroller.

11 (3) Two members to be appointed by the Treasurer.

12 (4) The Director of Public Health.

13 (b) At the time of appointment, the Governor shall
14 designate one member to serve a 2-year term and one member to
15 serve a 6-year term, the Comptroller shall designate one member
16 to serve a 4-year term and one to serve a 6-year term, and the
17 Treasurer shall designate one member to serve a 2-year term and
18 one to serve a 4-year term. These initial appointments shall be
19 made within 90 days after the effective date of this Act.
20 Thereafter, appointments shall be for a term of 6 years
21 commencing on July 1 of the year of appointment and running
22 through June 30 of the sixth following year.

23 The Director of Public Health shall be a voting member of
24 the Oversight Committee, but shall serve ex officio.

25 Appointments shall be made by and with the advice and
26 consent of the Senate. Any nomination not acted upon by the
27 Senate within 60 session days after the receipt thereof shall
28 be deemed to have received the advice and consent of the
29 Senate. Committee members may be reappointed to one or more
30 subsequent terms. A member shall serve until his or her
31 successor is appointed and qualified for office by filing the
32 oath and bond. Vacancies occurring other than at the end of a
33 term shall be filled by the appointing authority only for the

1 balance of the term of the member whose office is vacant. Terms
2 shall run regardless of whether the position is filled.

3 No member of the Oversight Committee may receive
4 compensation for his or her services, but each member may be
5 reimbursed for expenses incurred in the performance of his or
6 her duties.

7 (c) Every 4 years the Oversight Committee shall choose from
8 its membership a Chairperson, a Vice-Chairperson, and a
9 Secretary. The Chairperson shall preside at meetings of the
10 Oversight Committee and shall have other duties as provided for
11 in this Article or as provided for by the Oversight Committee.
12 The Vice-Chairperson shall preside at meetings whenever the
13 Chairperson is unable to attend or preside. The Secretary shall
14 ensure that an accurate record is made of all proceedings of
15 the Oversight Committee and shall have other duties as provided
16 for in this Article or as provided for by the Oversight
17 Committee.

18 (d) The Oversight Committee shall hold at least 4 public
19 meetings per year, one of which shall be designated as the
20 institute's annual meeting. The Oversight Committee may hold
21 additional meetings as it determines are necessary or
22 appropriate.

23 (e) The Oversight Committee shall award all grants, loans,
24 and contracts in public meetings and shall adopt and amend all
25 governance, scientific, medical, and regulatory standards in
26 public meetings.

27 (f) The Oversight Committee functions are:

28 (1) Oversee the operations of the institute and appoint
29 an Executive Director for the institute.

30 (2) Develop annual and long-term strategic research
31 and financial plans for the institute.

32 (3) Approve an annual budget for the institute.

33 (4) Make final decisions on research standards and
34 grant and loan awards.

1 (5) Approve appointments to the institute's various
2 advisory panels.

3 (6) Issue public reports on the activities of the
4 institute and to the extent possible provide open access to
5 published papers.

6 (7) Amend policies regarding intellectual property
7 rights arising from research funded by the institute.

8 (8) Amend rules and guidelines for the operation of the
9 institute.

10 (9) Adopt, amend, and rescind rules to carry out the
11 purposes and provisions of this Article, and to govern the
12 procedures of the institute.

13 (10) Subject to appropriation, use funds from the
14 Regenerative Medicine Institute Operations Fund for its
15 operations and activities.

16 (11) Annually modify its funding and finance programs
17 to optimize the institute's ability to achieve the
18 objective that its activities be revenue-positive for the
19 State of Illinois without jeopardizing the progress of its
20 core medical and scientific research program.

21 (12) Accept additional revenue and real and personal
22 property, including but not limited to gifts, royalties,
23 interest, and appropriations that may be used to supplement
24 annual research grant funding and the operations of the
25 institute.

26 (13) At the institute's discretion, fix, determine,
27 charge, and collect any premiums, fees, charges, costs, and
28 expenses, including without limitation any application
29 fees, grant administration fees, program fees, financing
30 charges, or publication fees from any person in connection
31 with its activities.

32 (14) Perform all other acts necessary or appropriate in
33 the exercise of its power, authority, and jurisdiction over
34 the institute.

1 Section 1-30. Advisory panels.

2 (a) The Chairperson of the Oversight Committee shall
3 appoint persons, with the advice and consent of a majority of
4 the Oversight Committee, to serve on various advisory panels.

5 The Oversight Committee shall determine the number and size
6 of advisory panels to be appointed through rulemaking.

7 Persons appointed to advisory panels shall have expertise
8 in medical or stem cell research as researchers, physicians,
9 ethicists, or administrators. No member of an advisory panel
10 may serve on that panel for more than 2 consecutive years.

11 (b) The advisory panels shall review and make a
12 recommendation on the merits of all grant and loan proposals
13 prior to final action by the Oversight Committee.

14 (c) The advisory panels shall follow the current Review
15 Procedures for Scientific Review Group Meetings as stipulated
16 by the National Institutes of Health, Center for Scientific
17 Review.

18 (d) Each advisory panel shall hold at least 2 public
19 meetings per year. Advisory panels may hold additional meetings
20 as necessary or appropriate.

21 (e) This Section is repealed on July 1, 2009.

22 Section 1-35. Applicability of open government and ethics
23 laws.

24 (a) Nothing in this Act shall exempt the Oversight
25 Committee or the various advisory panels from the Open Meetings
26 Act.

27 (b) Nothing in this Act shall exempt the institute,
28 including the Oversight Committee and the various advisory
29 panels, from the Freedom of Information Act or the State
30 Records Act.

31 (c) The State Officials and Employees Ethics Act and
32 Article 4A of the Illinois Governmental Ethics Act shall apply

1 to members of the Oversight Committee, the various advisory
2 panels, and employees of the institute.

3 (d) No member of the Oversight Committee, the various
4 advisory panels, or employee of the institute shall make,
5 participate in making, or in any way attempt to use his or her
6 official position to influence a decision to approve or award a
7 grant, loan, or contract if he or she has a real conflict of
8 interest as defined at 42 CFR 52h. If a member of the Oversight
9 Committee, the various advisory panels, or the institute has an
10 apparent conflict of interest as defined at 42 CFR 52h, then he
11 or she may participate in a decision to approve or award a
12 grant, loan, or contract only if the Executive Director
13 determines in writing that it would be difficult or impractical
14 to carry out the review otherwise, and the integrity of the
15 review process would not be impaired by his or her
16 participation.

17 A member of the Oversight Committee, the various advisory
18 panels, or the institute may participate in a decision to
19 approve or award a grant, loan, or contract to an entity for
20 the purposes of research involving a disease from which a
21 member or his or her immediate family suffers.

22 The Oversight Committee shall adopt additional policies on
23 ethics, including conflicts of interests, in order to minimize
24 possible influences of personal finances and partisan
25 political motivations on the decisions and activities of the
26 institute, the various advisory panels, and the Oversight
27 Committee. The initial policies on conflicts of interests shall
28 be based on standards applicable to members of scientific
29 review committees of the National Institutes of Health at 42
30 CFR 52h.

31 Section 1-40. Public and financial accountability
32 standards.

33 (a) The institute shall issue an annual report to the

1 public, the Governor, and the General Assembly that sets forth
2 its activities, grants awarded, grants in progress, research
3 accomplishments, and future program directions. Each annual
4 report shall include but not be limited to the following: the
5 number and dollar amounts of research grants; the grantees for
6 the prior year; the institute's administrative expenses; an
7 assessment of the available funding for stem cell research from
8 sources other than the institute; a summary of research
9 findings, including promising new research areas; an
10 assessment of the relationship between the institute's grants
11 and the overall strategy of its research program; and a report
12 of the institute's strategic research and financial plans.

13 This report shall be posted on the institute's website and
14 shall be available to the general public upon request.

15 (b) The institute shall issue quarterly reports throughout
16 the fiscal year to the public, the Governor, and the General
17 Assembly that should include the number and dollar amounts of
18 the research grants, a summary of research findings, and an
19 assessment of the relationship between the institute's grants
20 and the overall strategy of its research program.

21 This report shall be posted on the institute's website and
22 shall be available to the general public upon request.

23 (c) The institute shall be considered a "State agency"
24 under the Illinois State Auditing Act.

25 Section 1-45. Medical and scientific accountability
26 standards.

27 (a) The institute and its grantees shall be governed by the
28 provisions of this Article in the establishment of standards,
29 the award of grants, and the conduct of grants awarded pursuant
30 to this Article.

31 (b) The institute shall establish standards for the
32 following:

33 (1) Informed consent. Standards for obtaining the

1 informed consent of research donors, patients, or
2 participants initially shall be generally based on the
3 requirements at 45 CFR 46.116 for all research funded by
4 the National Institutes of Health.

5 (2) Controls on research involving humans. Standards
6 for the review of research involving human subjects shall
7 be generally based on the policies adopted at 45 CFR 46 for
8 all research funded by the National Institutes of Health.

9 (3) Prohibition on compensation. Standards prohibiting
10 compensation to research donors or participants shall
11 permit reimbursement of expenses.

12 (4) Patient privacy laws. Standards shall ensure
13 compliance with State and federal patient privacy laws.

14 (5) Limitations on payments for cells. Standards shall
15 limit payments for the purchase of stem cells or stem cell
16 lines to reasonable payment for removal, processing,
17 disposal, preservation, quality control, storage,
18 transplantation, implantation, or legal transaction or
19 other administrative costs associated with these medical
20 procedures and shall specifically include any required
21 payments for medical or scientific technologies, products,
22 or processes for royalties, patent, licensing fees, or
23 other costs for intellectual property.

24 (6) Time limits for obtaining cells. Standards shall
25 set a limit on the time during which cells may be extracted
26 from blastocysts, which shall initially be 8 to 12 days
27 after cell division begins, not counting any time during
28 which the blastocysts or cells have been stored frozen.

29 Section 1-50. Institute operations.

30 (a) The institute may sue and be sued; provided that any
31 suit against the institute based upon a claim sounding in tort
32 must be filed in the Court of Claims.

33 Based upon institute standards, institute grantees shall

1 indemnify or insure, and hold the institute harmless against
2 any and all losses, claims, damages, expenses, or liabilities,
3 including attorneys' fees, arising from research conducted by
4 the grantee pursuant to the grant, or, in the alternative,
5 grantees shall name the institute as an additional insured and
6 submit proof of that insurance.

7 To the extent allowed under the Illinois Constitution and
8 given the scientific, medical, and technical nature of the
9 issues facing the institute, the institute is authorized to
10 retain outside counsel when, after consultation with the
11 Attorney General, the institute determines that the institute
12 requires specialized services not provided by the Attorney
13 General's office.

14 (b) The institute may enter into contracts or obligations
15 that are authorized or permitted by law.

16 (c) The Oversight Committee shall select an Executive
17 Director who shall exercise the powers delegated in this
18 subsection.

19 The Executive Director shall be the chief administrative
20 and operational officer of the institute, shall direct and
21 supervise its administrative affairs and general management
22 and perform such other duties as may be prescribed from time to
23 time by the Oversight Committee, and shall receive compensation
24 fixed by the Oversight Committee.

25 (d) The institute shall be subject to the Illinois
26 Procurement Code. For purposes of the Illinois Procurement
27 Code, the institute shall be considered an institute of higher
28 education and use the services of the higher education chief
29 procurement officer and the higher education procurement
30 bulletin.

31 The institute shall ensure that grantees purchase goods and
32 services from Illinois suppliers to the extent reasonably
33 possible, in a good faith effort to achieve a goal of more than
34 50% of those purchases from Illinois suppliers.

1 Nothing in this Article shall exempt the institute from the
2 Business Enterprise for Minorities, Females, and Persons with
3 Disabilities Act.

4 (e) The Illinois Administrative Procedure Act, including
5 review by the Joint Committee on Administrative Rules, is
6 expressly adopted and shall apply to all administrative rules
7 and procedures adopted by the Oversight Committee. The
8 Oversight Committee may use its emergency rulemaking authority
9 to adopt initial rules. The General Assembly finds that the
10 adoption of rules to implement this Article is deemed an
11 emergency and necessary for the public interest, safety, and
12 welfare.

13 Section 1-55. Intellectual property.

14 (a) All grants and loan awards issued by the institute
15 shall include intellectual property provisions that provide
16 protections and incentives to encourage both the discovery and
17 development of new knowledge and its transfer for the public
18 benefit.

19 It is the policy and objective of the institute to promote
20 the utilization of intellectual property arising from
21 institute-supported research or development; to promote
22 collaboration between commercial concerns and nonprofit
23 organizations, including universities; to ensure that
24 intellectual property is used in a manner to promote free
25 competition and enterprise without unduly encumbering future
26 research and discovery; to ensure that the institute obtains
27 sufficient rights in institute-supported intellectual property
28 to meet the needs of the institute and protect the public
29 against nonuse or unreasonable use of such intellectual
30 property; and to minimize the costs of administering policies
31 in this area.

32 (b) The institute shall develop policies as well as grant
33 and loan terms regarding intellectual property that:

1 (1) Acknowledge that both the federal government in the
2 Bayh-Dole Act and each individual research institution
3 have policies regarding intellectual property rights.

4 (2) Clearly define the rights of the institute, the
5 creators of the intellectual property, the creators'
6 parent institution, and any other parties to all
7 intellectual property created as a result of the
8 performance of the research funded by the institute. The
9 institute shall, at a minimum, retain a license to use
10 intellectual property created as a result of the
11 performance of the research funded by the institute in the
12 institute's programs of research on a perpetual,
13 royalty-free, non-exclusive, and non-commercial basis.

14 (3) Provide for the institute to receive a share of the
15 proceeds from the transfer, commercialization, or other
16 exploitation of intellectual property created as a result
17 of the performance of the research funded by the institute;
18 the distribution of proceeds shall depend on the nature of
19 the intellectual property and its application, the
20 relative contributions of the institute and other parties
21 with rights to the work, the conditions deemed most likely
22 to advance the commercial development and acceptance of the
23 intellectual property, and other relevant factors.

24 (4) Require that all intellectual property in which the
25 institute has an interest under grant and loan agreements
26 and that has the potential to be brought into practical use
27 for public benefit or for which disclosure is required by
28 law be reported promptly in writing by the grant or loan
29 recipient to the institute, and that the institute may
30 receive title to any such intellectual property not
31 disclosed to it within that time.

32 (5) Require that notice of any proposed transfer in
33 intellectual property rights be given, along with copies of
34 the operative transfer documents, to all parties to a grant

1 or loan agreement no less than 10 business days prior to
2 the transfer of the intellectual property rights.

3 (6) Require that grant and loan recipients give
4 recognition to the institute for its support of the
5 research when publishing or releasing research-related
6 public information.

7 (7) Retain march-in rights for the institute to
8 develop, license, patent, or otherwise exploit
9 intellectual property created as a result of the
10 performance of the research funded by the institute when
11 the creators or other parties having a duty to exploit or
12 disseminate the intellectual property have abandoned the
13 intellectual property or when the institute determines
14 that action is necessary because of circumstances similar
15 to those enumerated in Section 203 of the federal Bayh-Dole
16 Act.

17 (8) Address other issues related to intellectual
18 property as determined by the Oversight Committee or the
19 Executive Director.

20 (c) If the Bayh-Dole Act applies to any intellectual
21 property created as a result of the performance of the research
22 funded by the institute, then the parties to the grant or loan
23 agreement entered into shall, if necessary, apply to the
24 appropriate federal agency or the United States Department of
25 Commerce as provided for in the Bayh-Dole Act for the
26 appropriate permissions or exceptions to give effect to the
27 intellectual property provisions of the grant or loan
28 agreement.

29 (d) The institute may accept assignment of intellectual
30 property from any person or entity, provided that the action is
31 determined to be consistent with the public interest.
32 Intellectual property so accepted shall be administered in a
33 manner consistent with the administration of other
34 institute-owned intellectual property.

1 (e) The Oversight Committee has ultimate authority for the
2 stewardship of intellectual property in which the institute has
3 an interest. Primary responsibility is delegated through the
4 Executive Director for establishing operational guidelines and
5 procedures for the administration of intellectual property
6 consistent with this Section, including but not limited to
7 determination of ownership, assignment, protection, licensing,
8 marketing, maintenance of records, oversight of revenue or
9 equity collection and distribution, approval of individual
10 exceptions, and resolution of disputes among parties to grant
11 and loan agreements as well as other intellectual property
12 agreements to which the institute is a party.

13 (f) Recommendations for exceptions to the provisions of the
14 policy in this Section, or any administrative rules adopted by
15 the institute, shall be made by the Executive Director to the
16 Oversight Committee

17 Section 1-60. Appropriation and allocation of funding.

18 (a) Moneys in the Cosmetic Medical Procedure Utilization
19 Tax Fund shall be used to make grants and loans for stem cell
20 research pursuant to this Article.

21 (b) Grants and loans for research shall be awarded based on
22 scientific merit. When determining the scientific merit of a
23 proposal the advisory panels and the Oversight Committee should
24 consider criteria including:

25 (1) A demonstrated record of achievement in the areas
26 of pluripotent stem cell and progenitor cell biology and
27 medicine.

28 (2) The quality of the research proposal.

29 (3) The potential for achieving significant research
30 or clinical results.

31 (4) The timetable for realizing the significant
32 results.

33 (5) The importance of the research objectives.

1 (6) The innovativeness of the proposed research.

2 The grantee shall provide or demonstrate available
3 matching funds of a minimum of 20% of the grant amount.

4 The institute shall limit indirect costs to 25% of a
5 research award except that the indirect cost limitation may be
6 increased by that amount by which the grantee provides matching
7 funds in excess of 20% of the grant amount. "Indirect costs"
8 mean the recipient's costs in the administration, accounting,
9 general overhead, and general support costs for implementing a
10 grant or loan of the institute. NIH definitions of "indirect
11 costs" shall be used as one of the bases to create guidelines
12 for recipients under this definition.

13 (c) Grants and loans for buildings, building leases, and
14 capital equipment shall be solely for facilities and equipment
15 located within Illinois.

16 ARTICLE 10

17 Section 10-1. Short title. This Article may be cited as the
18 Cosmetic Medical Procedure Utilization Tax Act. The tax imposed
19 by this Article may be referred to as the "Cosmetic Medical
20 Procedure Utilization Tax".

21 Section 10-5. Tax imposed; collection of tax. Beginning on
22 January 1, 2006, a tax is imposed upon the privilege of
23 utilizing cosmetic medical procedures in this State. The
24 subject of the cosmetic medical procedure shall pay the tax,
25 which shall be collected from the procedure subject by the
26 person billing the gross receipts from the cosmetic medical
27 procedure when collecting the payment for the cosmetic medical
28 procedure in the manner prescribed by the Department of
29 Revenue. If more than one person bills gross receipts from a
30 single cosmetic medical procedure, each person shall be
31 responsible for the collection of the gross receipts tax on the

1 portion of the gross receipts billed.

2 Section 10-10. Rate of tax. The tax imposed by this Article
3 is at the rate of 6% of the gross receipts from a cosmetic
4 medical procedure.

5 Section 10-15. Definitions. For the purposes of this
6 Article, the following terms shall have the following meanings:

7 "Cosmetic medical procedure" means any medical procedure
8 performed on an individual that is directed at improving the
9 procedure subject's appearance and that does not meaningfully
10 promote the proper function of the body or prevent or treat
11 illness or disease. "Cosmetic medical procedure" includes but
12 is not limited to cosmetic surgery, hair transplants, cosmetic
13 injections, cosmetic soft tissue fillers, dermabrasion and
14 chemical peel, laser hair removal, laser skin resurfacing,
15 laser treatment of leg veins, sclerotherapy, and cosmetic
16 dentistry. "Cosmetic medical procedure" does not include
17 reconstructive surgery or dentistry.

18 "Cosmetic dentistry" means any dental procedure that is
19 directed at improving the patient's appearance and does not
20 meaningfully promote the proper function of the teeth and gums
21 or prevent or treat illness or disease of the teeth and gums.

22 "Cosmetic surgery" means any procedure that is directed at
23 improving the patient's appearance and does not meaningfully
24 promote the proper function of the body or prevent or treat
25 illness or disease.

26 "Department" means the Department of Revenue.

27 "Gross receipts from a cosmetic medical procedure" means
28 all amounts paid for services, property, or occupancy required
29 for or associated with the performance of a cosmetic medical
30 procedure and billed to the procedure subject's account.

31 "Person" means any natural individual, firm, partnership,
32 association, joint stock company, joint venture, public or

1 private corporation, limited liability company, and any
2 receiver, executor, trustee, guardian, or other representative
3 appointed by order of any court.

4 "Reconstructive surgery or dentistry" includes any surgery
5 or dentistry necessary to ameliorate a deformity arising from,
6 or directly related to, a congenital abnormality, a personal
7 injury resulting from an accident or trauma, or disfiguring
8 disease.

9 Section 10-17. Determination of exemptions. When
10 determining whether a medical procedure is exempt from taxation
11 as reconstructive surgery or dentistry, the Department may
12 consider whether or not the procedure is considered medically
13 necessary by the physician performing the medical procedure or
14 by a health insurance provider. Medical procedures that are
15 considered medically necessary by both the physician
16 performing the procedure and the patient's health insurance
17 provider are presumed to be exempt from taxation under this
18 Article. The Department may also consider whether the procedure
19 would be considered "medical care" or "cosmetic surgery" under
20 the federal Internal Revenue Code.

21 Section 10-20. Reporting of tax. The Department shall
22 collect and administer the tax imposed pursuant to this
23 Article. The tax shall be reported and paid on a quarterly
24 basis in a manner prescribed by the Department.

25 Section 10-25. Rules. The Department shall promulgate such
26 rules and procedures as are required to implement this Article
27 and may use its emergency rulemaking authority to adopt initial
28 rules. The General Assembly finds that the adoption of rules to
29 implement this Article is deemed an emergency and necessary for
30 the public interest, safety, and welfare. The Illinois
31 Administrative Procedure Act is hereby expressly adopted and

1 shall apply to all administrative rules and procedures of the
2 Department of Revenue under this Article, except that (1)
3 paragraph (b) of Section 5-10 of the Illinois Administrative
4 Procedure Act does not apply to final orders, decisions, and
5 opinions of the Department, (2) item (ii) of subsection (a) of
6 Section 5-10 of the Illinois Administrative Procedure Act does
7 not apply to forms established by the Department for use under
8 this Article, and (3) the provisions of Section 10-45 of the
9 Illinois Administrative Procedure Act regarding proposals for
10 decision are excluded and not applicable to the Department
11 under this Article.

12 Section 10-30. Tax as billing item. The tax imposed by this
13 Article may be stated as a distinct item separate and apart on
14 any billing for the procedure, and shall be so stated when
15 requested by the procedure subject.

16 Section 10-35. Registration. Every person required to
17 collect the tax imposed by this Article shall apply to the
18 Department (upon a form prescribed and furnished by the
19 Department) for a Certificate of Registration under this
20 Article. In completing the application, the applicant shall
21 furnish such information as the Department may reasonably
22 require. Upon approval of an application for Certificate of
23 Registration, the Department shall issue, without charge, a
24 Certificate of Registration to the applicant. The Certificate
25 of Registration shall be displayed at the address that the
26 applicant states in his or her application to be the principal
27 place of business or location from which he or she will perform
28 cosmetic medical procedures in this State. If the applicant
29 will perform cosmetic medical procedures in this State from
30 other places of business or locations, he or she shall list the
31 addresses of the additional places of business or locations in
32 his or her application for Certificate of Registration, and the

1 Department shall issue a Sub-Certificate of Registration to the
2 applicant for each additional place of business or location.
3 Each Sub-Certificate of Registration shall be conspicuously
4 displayed at the place for which it is issued. Each
5 Sub-Certificate of Registration shall bear the same
6 registration number as that appearing upon the Certificate of
7 Registration to which the Sub-Certificate relates. Where an
8 applicant operates more than one place of business that is
9 subject to registration under this Section and those businesses
10 are substantially different in character or are engaged in
11 under different trade names or are engaged in under other
12 substantially dissimilar circumstances (so that it is more
13 practical, from an accounting, auditing, or bookkeeping
14 standpoint, for the businesses to be separately registered),
15 the Department may require or permit the person to apply for
16 and obtain a separate Certificate of Registration for each
17 business or for any of the businesses instead of registering
18 the person, as to all those businesses, under a single
19 Certificate of Registration supplemented by related
20 Sub-Certificates of Registration. No Certificate of
21 Registration shall be issued to any person who is in default to
22 the State of Illinois for moneys due under this Article.

23 Section 10-40. Returns. Every person required to collect
24 the tax imposed by this Article shall file a return in
25 accordance with reasonable rules promulgated by the Department
26 in accordance with Section 10-25. The return shall be filed on
27 a form prescribed by the Department and shall contain such
28 information as the Department may reasonably require. The
29 Department shall require returns to be filed on a quarterly
30 basis. A return for each calendar quarter shall be filed on or
31 before the twentieth day of the calendar month following the
32 end of that calendar quarter.

1 Section 10-45. Tax proceeds. All moneys received by the
2 Department pursuant to this Article shall be paid into the
3 Cosmetic Medical Procedure Utilization Tax Fund of the State
4 treasury. Every fiscal year the State Comptroller shall order
5 transferred and the State Treasurer shall transfer from the
6 Cosmetic Medical Procedure Utilization Tax Fund to the
7 Regenerative Medicine Institute Operations Fund an amount
8 equal to the full amount of moneys appropriated by the General
9 Assembly (both by original and supplemental appropriation),
10 less any unexpended balance from the previous fiscal year, from
11 the Regenerative Medicine Institute Operations Fund for the
12 activities and purposes provided in the Illinois Regenerative
13 Medicine Institute Act.

14 Section 10-50. Records. Every person required to collect
15 the tax imposed by this Article shall keep such records,
16 receipts, invoices, and other pertinent books, documents,
17 memoranda, and papers as the Department shall require, in the
18 form the Department shall require. In accordance with Section
19 10-25, the Department may adopt rules that establish
20 requirements, including record forms and formats, for records
21 required to be kept and maintained by taxpayers. For the
22 purpose of administering and enforcing the provisions of this
23 Article, the Department, or any officer or employee of the
24 Department designated in writing by the Director of Revenue,
25 may hold investigations and hearings concerning any matters
26 covered in this Article and may examine any relevant books,
27 papers, records, documents, or memoranda of any person required
28 to collect the tax imposed by this Article or any taxable
29 purchaser, and may require the attendance of that person or any
30 officer or employee of that person, or of any person having
31 knowledge of the facts, and may take testimony and require
32 proof for its information.

1 Section 10-55. Tax additional to other taxes. The tax
2 imposed by this Article shall be in addition to all other
3 occupation or privilege taxes imposed by the State of Illinois
4 or by any municipal corporation or political subdivision of the
5 State of Illinois.

6 Section 10-60. Liability for tax. To the extent that a
7 person required to collect the tax imposed by this Article has
8 actually collected that tax, the tax is held in trust for the
9 benefit of the Department. The Department may adopt rules
10 necessary to effectuate a program of electronic funds transfer
11 for the payment of the tax imposed by this Article.

12 Section 10-65. Uniform Penalty and Interest Act. The
13 Uniform Penalty and Interest Act shall apply, as far as
14 practical, to the subject matter of this Article to the same
15 extent as if those provisions were included in this Article.

16 Section 10-90. Severability. It is the purpose of Section
17 10-5 of this Article to impose a tax upon the privilege of
18 utilizing cosmetic medical procedures in this State, the tax to
19 be based upon the gross receipts from cosmetic medical
20 procedures, so far as the same may be done, under the
21 Constitution and statutes of the United States, and the
22 Constitution of the State of Illinois. The tax is not imposed
23 upon the privilege of engaging in any business in interstate
24 commerce or otherwise, however, which business may not, under
25 the Constitution and statutes of the United States, be made the
26 subject of taxation by this State. If any clause, sentence,
27 Section, provision, or part of this Article or its application
28 to any person or circumstance shall be adjudged to be
29 unconstitutional, the remainder of this Article or its
30 application to persons or circumstances, other than those to
31 which it is held invalid, shall not be affected thereby.

1

ARTICLE 90

2

Section 90-2. The Open Meetings Act is amended by changing
3 Section 2 as follows:

4

(5 ILCS 120/2) (from Ch. 102, par. 42)

5

Sec. 2. Open meetings.

6

(a) Openness required. All meetings of public bodies shall
7 be open to the public unless excepted in subsection (c) and
8 closed in accordance with Section 2a.

9

(b) Construction of exceptions. The exceptions contained
10 in subsection (c) are in derogation of the requirement that
11 public bodies meet in the open, and therefore, the exceptions
12 are to be strictly construed, extending only to subjects
13 clearly within their scope. The exceptions authorize but do not
14 require the holding of a closed meeting to discuss a subject
15 included within an enumerated exception.

16

(c) Exceptions. A public body may hold closed meetings to
17 consider the following subjects:

18

(1) The appointment, employment, compensation,
19 discipline, performance, or dismissal of specific
20 employees of the public body or legal counsel for the
21 public body, including hearing testimony on a complaint
22 lodged against an employee of the public body or against
23 legal counsel for the public body to determine its
24 validity.

25

(2) Collective negotiating matters between the public
26 body and its employees or their representatives, or
27 deliberations concerning salary schedules for one or more
28 classes of employees.

29

30

(3) The selection of a person to fill a public office,
31 as defined in this Act, including a vacancy in a public
office, when the public body is given power to appoint

1 under law or ordinance, or the discipline, performance or
2 removal of the occupant of a public office, when the public
3 body is given power to remove the occupant under law or
4 ordinance.

5 (4) Evidence or testimony presented in open hearing, or
6 in closed hearing where specifically authorized by law, to
7 a quasi-adjudicative body, as defined in this Act, provided
8 that the body prepares and makes available for public
9 inspection a written decision setting forth its
10 determinative reasoning.

11 (5) The purchase or lease of real property for the use
12 of the public body, including meetings held for the purpose
13 of discussing whether a particular parcel should be
14 acquired.

15 (6) The setting of a price for sale or lease of
16 property owned by the public body.

17 (7) The sale or purchase of securities, investments, or
18 investment contracts.

19 (8) Security procedures and the use of personnel and
20 equipment to respond to an actual, a threatened, or a
21 reasonably potential danger to the safety of employees,
22 students, staff, the public, or public property.

23 (9) Student disciplinary cases.

24 (10) The placement of individual students in special
25 education programs and other matters relating to
26 individual students.

27 (11) Litigation, when an action against, affecting or
28 on behalf of the particular public body has been filed and
29 is pending before a court or administrative tribunal, or
30 when the public body finds that an action is probable or
31 imminent, in which case the basis for the finding shall be
32 recorded and entered into the minutes of the closed
33 meeting.

34 (12) The establishment of reserves or settlement of

1 claims as provided in the Local Governmental and
2 Governmental Employees Tort Immunity Act, if otherwise the
3 disposition of a claim or potential claim might be
4 prejudiced, or the review or discussion of claims, loss or
5 risk management information, records, data, advice or
6 communications from or with respect to any insurer of the
7 public body or any intergovernmental risk management
8 association or self insurance pool of which the public body
9 is a member.

10 (13) Conciliation of complaints of discrimination in
11 the sale or rental of housing, when closed meetings are
12 authorized by the law or ordinance prescribing fair housing
13 practices and creating a commission or administrative
14 agency for their enforcement.

15 (14) Informant sources, the hiring or assignment of
16 undercover personnel or equipment, or ongoing, prior or
17 future criminal investigations, when discussed by a public
18 body with criminal investigatory responsibilities.

19 (15) Professional ethics or performance when
20 considered by an advisory body appointed to advise a
21 licensing or regulatory agency on matters germane to the
22 advisory body's field of competence.

23 (16) Self evaluation, practices and procedures or
24 professional ethics, when meeting with a representative of
25 a statewide association of which the public body is a
26 member.

27 (17) The recruitment, credentialing, discipline or
28 formal peer review of physicians or other health care
29 professionals for a hospital, or other institution
30 providing medical care, that is operated by the public
31 body.

32 (18) Deliberations for decisions of the Prisoner
33 Review Board.

34 (19) Review or discussion of applications received

1 under the Experimental Organ Transplantation Procedures
2 Act.

3 (20) The classification and discussion of matters
4 classified as confidential or continued confidential by
5 the State Employees Suggestion Award Board.

6 (21) Discussion of minutes of meetings lawfully closed
7 under this Act, whether for purposes of approval by the
8 body of the minutes or semi-annual review of the minutes as
9 mandated by Section 2.06.

10 (22) Deliberations for decisions of the State
11 Emergency Medical Services Disciplinary Review Board.

12 (23) The operation by a municipality of a municipal
13 utility or the operation of a municipal power agency or
14 municipal natural gas agency when the discussion involves
15 (i) contracts relating to the purchase, sale, or delivery
16 of electricity or natural gas or (ii) the results or
17 conclusions of load forecast studies.

18 (24) Meetings of a residential health care facility
19 resident sexual assault and death review team or the
20 Residential Health Care Facility Resident Sexual Assault
21 and Death Review Teams Executive Council under the
22 Residential Health Care Facility Resident Sexual Assault
23 and Death Review Team Act.

24 (25) Discussions of the Illinois Regenerative Medicine
25 Institute Oversight Committee or its advisory panels that
26 involve (i) personally identifiable information relating
27 to patients or medical subjects or (ii) matters concerning
28 confidential intellectual property and confidential
29 scientific research or data.

30 (d) Definitions. For purposes of this Section:

31 "Employee" means a person employed by a public body whose
32 relationship with the public body constitutes an
33 employer-employee relationship under the usual common law
34 rules, and who is not an independent contractor.

1 "Public office" means a position created by or under the
2 Constitution or laws of this State, the occupant of which is
3 charged with the exercise of some portion of the sovereign
4 power of this State. The term "public office" shall include
5 members of the public body, but it shall not include
6 organizational positions filled by members thereof, whether
7 established by law or by a public body itself, that exist to
8 assist the body in the conduct of its business.

9 "Quasi-adjudicative body" means an administrative body
10 charged by law or ordinance with the responsibility to conduct
11 hearings, receive evidence or testimony and make
12 determinations based thereon, but does not include local
13 electoral boards when such bodies are considering petition
14 challenges.

15 (e) Final action. No final action may be taken at a closed
16 meeting. Final action shall be preceded by a public recital of
17 the nature of the matter being considered and other information
18 that will inform the public of the business being conducted.

19 (Source: P.A. 93-57, eff. 7-1-03; 93-79, eff. 7-2-03; 93-422,
20 eff. 8-5-03; 93-577, eff. 8-21-03; revised 9-8-03.)

21 Section 90-10. The State Finance Act is amended by adding
22 Sections 6z-100 and 6z-105 as follows:

23 (30 ILCS 105/6z-100 new)

24 Sec. 6z-100. The Cosmetic Medical Procedure Utilization
25 Tax Fund.

26 (a) The Cosmetic Medical Procedure Utilization Tax Fund is
27 created as a special fund in the State treasury.

28 (b) Subject to appropriation, the Illinois Regenerative
29 Medicine Institute may use the moneys in the Fund for
30 activities and purposes provided in the Illinois Regenerative
31 Medicine Institute Act, including the making of grants and
32 loans. Subject to appropriation, the Department of Revenue may

1 use the moneys in the Fund for administration of the Cosmetic
2 Medical Procedure Utilization Tax Act, including refunds to
3 taxpayers.

4 (c) Investment income that is attributable to the
5 investment of moneys of the Cosmetic Medical Procedure
6 Utilization Tax Fund shall be retained in that Fund. Moneys in
7 this Fund shall not be transferred to the General Revenue Fund
8 for any purposes other than those outlined in this Section.

9 (30 ILCS 105/6z-105 new)

10 Sec. 6z-105. Regenerative Medicine Institute Operations
11 Fund.

12 (a) The Regenerative Medicine Institute Operations Fund is
13 created as a special fund in the State Treasury.

14 (b) The following items of income for the Illinois
15 Institute for Regenerative Medicine shall be deposited into the
16 Fund: funds received pursuant to the Cosmetic Medical Procedure
17 Utilization Tax Act; the fees charged by the institute;
18 payments received as repayment of loans made by the institute;
19 funds received in connection with the retention, receipt,
20 assignment, license, sale or transfer of interests in, rights
21 to, or income from discoveries, inventions, patents, or
22 copyrightable works; donations, monetary gifts, or other
23 financial assistance from private sources of individuals; and
24 any other funds appropriated or transferred into the Fund.

25 (c) Subject to appropriation, the institute may use those
26 funds for activities and purposes provided in the Illinois
27 Regenerative Medicine Institute Act, including activities and
28 operations of the institute.

29 (d) Investment income that is attributable to the
30 investment of moneys of the Regenerative Medicine Institute
31 Operations Fund shall be retained in the Fund.

1 Section 99-5. Effective date. This Act takes effect upon
2 becoming law.".