



Sen. Michael W. Frerichs

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1 AMENDMENT TO SENATE BILL 970

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 970 by replacing  
3 everything after the enacting clause with the following:

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

6 Section 5. Purposes. The purposes of this Act are to  
7 establish at the University of Illinois an institute for  
8 natural sciences and sustainability and to transfer to it all  
9 rights, powers, duties, property, and functions currently  
10 vested in the Department of Natural Resources pertaining to its  
11 Natural History Survey division, State Water Survey division,  
12 State Geological Survey division, and Waste Management and  
13 Research Center division.

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

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

3 "Scientific Surveys" means, collectively, the State  
4 Natural History Survey division, the State Water Survey  
5 division, the State Geological Survey division, and the Waste  
6 Management and Research Center division transferred by this Act  
7 from the Department of Natural Resources to the Board of  
8 Trustees.

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

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

24 (1) To investigate and study the natural resources of the

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

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

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

14 (4) To investigate the entomology of the State.

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

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

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

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

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

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

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

1           (12) To participate in federal geologic mapping programs.

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

12           Section 30. Transfer of personnel. The employment of all  
13 scientific and nonscientific personnel employed by the  
14 Department of Natural Resources on behalf of the Scientific  
15 Surveys is hereby transferred to the Board of Trustees. The  
16 transfer shall not affect the status and rights of any person  
17 under the State Universities Retirement System or the State  
18 Universities Civil Service System.

19           Section 35. Transfer of property.

20           (a) All books, records, papers, documents, property (real  
21 and personal), contracts, grants, and pending business in any  
22 way pertaining to the Scientific Surveys and to the rights,  
23 powers, and duties transferred by this Act from the Department

1 of Natural Resources to the Board of Trustees, including but  
2 not limited to material in electronic or magnetic format and  
3 necessary computer hardware and software, shall be delivered  
4 and transferred to the Board of Trustees.

5 (b) The Board of Trustees shall succeed to, assume, and  
6 exercise all rights, powers, duties, property, and  
7 responsibilities formerly exercised by the Department of  
8 Natural Resources on behalf of the Scientific Surveys prior to  
9 the effective date of this Section. All contracts, grants, and  
10 agreements entered into by any of the Scientific Surveys or the  
11 Department of Natural Resources on behalf of any of the  
12 Scientific Surveys, prior to the effective date of this Section  
13 shall subsist notwithstanding the transfer of the functions of  
14 the Department of Natural Resources with respect to Scientific  
15 Surveys to the Board of Trustees. All bonds, notes, and other  
16 evidences of indebtedness outstanding on the effective date of  
17 this Section issued by the Department of Natural Resources on  
18 behalf of the Scientific Surveys, or any of them, shall become  
19 the bonds, notes, or other evidences of indebtedness of the  
20 University of Illinois and shall be otherwise unaffected by the  
21 transfer of functions to the Board of Trustees.

22 (c) The title to all patents, trademarks, and copyrights  
23 issued to any of the Scientific Surveys prior to the effective  
24 date of this Section is hereby transferred to and vested in the  
25 Board of Trustees. Any income received from those patents,  
26 trademarks, and copyrights and any funds received in connection

1 with the retention, receipt, assignment, license, sale, or  
2 transfer of interest in, rights to, or income from discoveries,  
3 inventions, patents, trademarks, or copyrightable works of any  
4 of the Scientific Surveys shall become the property of the  
5 Board of Trustees on behalf of the University of Illinois.

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

13 Section 40. Unexpended moneys transferred.

14 (a) The right of custody, possession, and control over all  
15 items of income, funds, or deposits in any way pertaining to  
16 the Scientific Surveys prior to the effective date of this  
17 Section that are held or retained by, or under the jurisdiction  
18 of, the Department of Natural Resources is hereby transferred  
19 to and vested in the Board of Trustees to be retained by the  
20 University in its treasury, or deposited with a bank or savings  
21 and loan association, all in accordance with the provisions of  
22 paragraph (2) of Section 6d of the State Finance Act.

23 (b) All unexpended appropriations and balances and other  
24 moneys available for use in connection with any of the  
25 functions transferred to the Board of Trustees under this Act,

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

12 Section 45. Funds retained and disbursed. The University of  
13 Illinois may retain in its treasury any funds derived from  
14 contracts, grants, fees, service charges, rentals, or other  
15 sources, assessed or obtained for or arising out of the  
16 operation of the Scientific Surveys. Those funds shall be  
17 disbursed from time to time pursuant to the order and direction  
18 of the Board of Trustees, and in accordance with any contracts,  
19 pledges, trusts, or agreements heretofore or hereafter made by  
20 the Board of Trustees.

21 Section 50. Savings provisions.

22 (a) The rights, powers and duties retained in the  
23 Department of Natural Resources and not transferred under this  
24 Act shall remain vested in and shall be exercised by the



1 Department subject to the provisions of this Act.

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

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

18 (d) Whenever reports or notices are now required to be made  
19 or given or documents furnished or served by any person to or  
20 upon the departments or divisions, officers, and employees  
21 transferred by this Act, they shall be made, given, furnished,  
22 or served in the same manner to or upon the successor  
23 department or agency, officer, or employee.

24 (e) This Act does not affect any act done, ratified, or  
25 cancelled, any right occurring or established, or any action or  
26 proceeding had or commenced in an administrative, civil, or

1 criminal cause before this Act takes effect. Any such action or  
2 proceeding still pending may be prosecuted and continued by the  
3 Department of Natural Resources.

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

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

12 (20 ILCS 605/605-515) (was 20 ILCS 605/46.13a)

13 Sec. 605-515. Environmental Regulatory Assistance Program.

14 (a) In this Section, except where the context clearly  
15 requires otherwise, "small business stationary source" means a  
16 business that is owned or operated by a person that employs 100  
17 or fewer individuals; is a small business; is not a major  
18 stationary source as defined in Titles I and III of the federal  
19 1990 Clean Air Act Amendments; does not emit 50 tons or more  
20 per year of any regulated pollutant (as defined under the  
21 federal Clean Air Act); and emits less than 75 tons per year of  
22 all regulated pollutants.

23 (b) The Department may:

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

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

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

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

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

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

4 (1) Communication and outreach services to or on behalf  
5 of individual companies, including collection and  
6 compilation of appropriate information on regulatory  
7 compliance issues and control technologies, and  
8 dissemination of that information through publications,  
9 direct mailings, electronic communications, conferences,  
10 workshops, one-on-one counseling, and other means of  
11 technical assistance.

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

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

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

5 Monies in the Small Business Environmental Assistance Fund  
6 may be used, subject to appropriation, only for the purposes  
7 authorized by this Section.

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

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

11 (20 ILCS 801/1-25)

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

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

24 ~~(2) To cooperate with and advise departments having~~

1 ~~administrative powers and duties relating to the natural~~  
2 ~~resources of the State, and to cooperate with similar~~  
3 ~~departments in other states and with the United States~~  
4 ~~Government.~~

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

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

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

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

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

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

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

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

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

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

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

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

25           ~~(15) To publish, from time to time, the results of its~~  
26           ~~investigations of the mineral qualities, volumes and flow~~

1 ~~of underground and surface waters of the State to the end~~  
2 ~~that the available water resources of the State may be~~  
3 ~~better known and to make mineral analyses of samples of~~  
4 ~~water from municipal or private sources giving no opinion~~  
5 ~~from those analyses of the hygienic, physiological or~~  
6 ~~medicinal qualities of such waters.~~

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

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

16 (1) ~~(18)~~ To cooperate with the Illinois State Academy  
17 of Science and to publish a suitable number of the results  
18 of the investigations and research in the field of natural  
19 science to the end that the same may be distributed to the  
20 interested public.

21 (2) ~~(19)~~ To maintain a State Museum, and to collect and  
22 preserve objects of scientific and artistic value,  
23 representing past and present fauna and flora, the life and  
24 work of man, geological history, natural resources, and the  
25 manufacturing and fine arts; to interpret for and educate  
26 the public concerning the foregoing.



1           (3) ~~(20)~~ To cooperate with the Illinois State Museum  
2           Society for the mutual benefit of the Museum and the  
3           Society, with the Museum furnishing necessary space for the  
4           Society to carry on its functions and keep its records,  
5           and, upon the recommendation of the Museum Director with  
6           the approval of the Board of State Museum Advisors and the  
7           Director of the Department, to enter into agreements with  
8           the Illinois State Museum Society for the operation of a  
9           sales counter and other concessions for the mutual benefit  
10          of the Museum and the Society.

11          (4) ~~(21)~~ To accept grants of property and to hold  
12          property to be administered as part of the State Museum for  
13          the purpose of preservation, research of interpretation of  
14          significant areas within the State for the purpose of  
15          preserving, studying and interpreting archaeological and  
16          natural phenomena.

17          (5) ~~(22)~~ To contribute to and support the operations,  
18          programs and capital development of public museums in this  
19          State. For the purposes of this Section, "public museum"  
20          means a facility: (A) that is operating for the purposes of  
21          promoting cultural development through special activities  
22          or programs or through performing arts that are performed  
23          in an indoor setting, and acquiring, conserving,  
24          preserving, studying, interpreting, enhancing, and in  
25          particular, organizing and continuously exhibiting  
26          specimens, artifacts, articles, documents and other things

1 of historical, anthropological, archaeological,  
2 industrial, scientific or artistic import, to the public  
3 for its instruction and enjoyment, and (B) that either (i)  
4 is operated by or located upon land owned by a unit of  
5 local government or (ii) is a museum that has an annual  
6 attendance of at least 150,000 and offers educational  
7 programs to school groups during school hours. A museum is  
8 eligible to receive funds for capital development under  
9 this subdivision (5) ~~(22)~~ only if it is operated by or  
10 located upon land owned by a unit of local government or if  
11 it is certified by a unit of local government in which it  
12 is located as a public museum meeting the criteria of this  
13 Section. Recipients of funds for capital development under  
14 this subdivision (5) ~~(22)~~ shall match State funds with  
15 local or private funding according to the following:

16 (a) for a public museum with an attendance of  
17 300,000 or less during the preceding calendar year, no  
18 match is required;

19 (b) for a public museum with an attendance of over  
20 300,000 but less than 600,000 during the preceding  
21 calendar year, the match must be at a ratio of \$1 from  
22 local and private funds for every \$1 in State funds;  
23 and

24 (c) for a public museum with an attendance of over  
25 600,000 during the preceding calendar year, the match  
26 must be at a ratio of \$2 from local and private funds

1 for every \$1 in State funds.

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

6 (6) ~~(23)~~ To perform all other duties and assume all  
7 obligations of the former Department of Energy and Natural  
8 Resources and the former Department of Registration and  
9 Education pertaining to the State Water Survey, the State  
10 Geological Survey, the State Natural History Survey, and  
11 the State Museum.

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

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

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

19 (20 ILCS 801/20-5)

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

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

3 (20 ILCS 801/15-5 rep.)

4 (20 ILCS 801/15-10 rep.)

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

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

9 (20 ILCS 1105/8) (from Ch. 96 1/2, par. 7408)

10 Sec. 8. Illinois Coal Development Board.

11 (a) There shall be established as an advisory board to the  
12 Department, the Illinois Coal Development Board, hereinafter  
13 in this Section called the Board. The Board shall be composed  
14 of the following voting members: the Director of the  
15 Department, who shall be Chairman thereof; the Deputy Director  
16 of the Bureau of Business Development within the Department of  
17 Commerce and Economic Opportunity; the President of the  
18 University of Illinois or his or her ~~Director of Natural~~  
19 ~~Resources or that Director's~~ designee; ~~the Director of the~~  
20 ~~Office of Mines and Minerals within the Department of Natural~~  
21 ~~Resources;~~ 4 members of the General Assembly (one each  
22 appointed by the President of the Senate, the Senate Minority  
23 Leader, the Speaker of the House, and the House Minority

1 Leader); and 8 persons appointed by the Governor, with the  
2 advice and consent of the Senate, including representatives of  
3 Illinois industries that are involved in the extraction,  
4 utilization or transportation of Illinois coal, persons  
5 representing financial or banking interests in the State, and  
6 persons experienced in international business and economic  
7 development. These members shall be chosen from persons of  
8 recognized ability and experience in their designated field.  
9 The members appointed by the Governor shall serve for terms of  
10 4 years, unless otherwise provided in this subsection. The  
11 initial terms of the original appointees shall expire on July  
12 1, 1985, except that the Governor shall designate 3 of the  
13 original appointees to serve initial terms that shall expire on  
14 July 1, 1983. The initial term of the member appointed by the  
15 Governor to fill the office created after July 1, 1985 shall  
16 expire on July 1, 1989. The initial terms of the members  
17 appointed by the Governor to fill the offices created by this  
18 amendatory Act of 1993 shall expire on July 1, 1995, and July  
19 1, 1997, as determined by the Governor. A member appointed by a  
20 Legislative Leader shall serve for the duration of the General  
21 Assembly for which he or she is appointed, so long as the  
22 member remains a member of that General Assembly.

23 The Board shall meet at least annually or at the call of  
24 the Chairman. At any time the majority of the Board may  
25 petition the Chairman for a meeting of the Board. Nine members  
26 of the Board shall constitute a quorum. Members of the Board

1 shall be reimbursed for actual and necessary expenses incurred  
2 while performing their duties as members of the Board from  
3 funds appropriated to the Department for such purpose.

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

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

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

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

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

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

12           (6) To focus on existing coal research efforts in  
13 carrying out its mission; to make use of existing research  
14 facilities in Illinois or other institutions carrying out  
15 research on Illinois coal; as far as practicable, to make  
16 maximum use of the research facilities available at the  
17 Illinois State Geological Survey of the University of  
18 Illinois, the Coal Extraction and Utilization Research  
19 Center, the Illinois Coal Development Park and  
20 universities and colleges located within the State of  
21 Illinois; and to create a consortium or center which  
22 conducts, coordinates and supports coal research  
23 activities in the State of Illinois. Programmatic  
24 activities of such a consortium or center shall be subject  
25 to approval by the Department and shall be consistent with  
26 the purposes of this Act. The Department may authorize

1 expenditure of funds in support of the administrative and  
2 programmatic operations of such a center or consortium  
3 consistent with its statutory authority. Administrative  
4 actions undertaken by or for such a center or consortium  
5 shall be subject to the approval of the Department.

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

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

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

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

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



1 Department.

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

5 (13) To authorize expenditures of monies for coal  
6 development projects under the authority of Section 13 of  
7 the General Obligation Bond Act.

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

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

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

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

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

5           (5) (Blank).

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

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

9           (20 ILCS 1107/20)

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

11          Sec. 20. Title to sequestered gas. If the FutureGen Project  
12          locates at either the Tuscola or Mattoon site in the State of  
13          Illinois, then the FutureGen Alliance agrees that the Operator  
14          shall transfer and convey and the State of Illinois shall  
15          accept and receive, with no payment due from the State of  
16          Illinois, all rights, title, and interest in and to and any  
17          liabilities associated with the sequestered gas, including any  
18          current or future environmental benefits, marketing claims,  
19          tradable credits, emissions allocations or offsets (voluntary  
20          or compliance based) associated therewith, upon such gas  
21          reaching the status of post-injection, which shall be verified  
22          by the Agency or other designated State of Illinois agency. The  
23          Operator shall retain all rights, title, and interest in and to  
24          and any liabilities associated with the pre-injection

1 sequestered gas. The Illinois State Geological Survey of the  
2 University of Illinois ~~Department of Natural Resources~~ shall  
3 monitor, measure, and verify the permanent status of  
4 sequestered carbon dioxide and co-sequestered gases in which  
5 the State has acquired the right, title, and interest under  
6 this Section.

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

8 Section 830. The Hazardous Waste Technology Exchange  
9 Service Act is amended by changing Sections 3, 4, 5, and 6 as  
10 follows:

11 (20 ILCS 1130/3) (from Ch. 111 1/2, par. 6803)

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

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

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

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

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

22 (20 ILCS 1130/4) (from Ch. 111 1/2, par. 6804)

23 Sec. 4. Waste Management and Research Center. The ~~As soon~~

1 ~~as may be practicable after the effective date of this Act, the~~  
2 ~~Department shall establish a Hazardous Waste Research and~~  
3 ~~Information Center. On and after the effective date of this~~  
4 ~~amendatory Act of 1997, that Center shall be known as the Waste~~  
5 ~~Management and Research Center~~ is transferred to the University  
6 of Illinois.

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

8 (20 ILCS 1130/5) (from Ch. 111 1/2, par. 6805)

9 Sec. 5. Duties of Center; Industrial Advisory Committee.

10 (a) The Waste Management and Research Center shall:

11 (1) Conduct educational programs to further the  
12 exchange of information to reduce the generation of  
13 hazardous wastes or to treat or dispose of such wastes so  
14 as to make them nonhazardous.

15 (2) Provide a technical information service for  
16 industries involved in the generation, treatment, or  
17 disposal of hazardous wastes.

18 (3) Disseminate information regarding advances in  
19 hazardous waste management technology which could both  
20 protect the environment and further industrial  
21 productivity.

22 (4) Provide research in areas related to reduction of  
23 the generation of hazardous wastes; treatment, recycling  
24 and reuse; and other issues which the Board may suggest.

25 (5) Provide other services as deemed necessary or

1           desirable by the Board.

2           (6) Submit a biennial report to the General Assembly on  
3           Center activities.

4           (b) The Board ~~Director of the Department~~ shall be  
5           responsible for the administration of the Center.

6           (c) The Board, on behalf of the University of Illinois,  
7           ~~Department~~ shall have the authority to accept, receive and  
8           administer on behalf of the Center any grants, gifts or other  
9           funds made available for purposes of this Act.

10          (d) The Board shall (1) provide policy guidelines and goals  
11          for the Center; (2) approve the Center's budget; (3) approve  
12          any reports; and (4) otherwise direct the Center in accordance  
13          with its statutory powers and duties ~~contained in Section 15-10~~  
14          ~~of the Department of Natural Resources Act.~~

15          (e) The Board ~~Director~~ shall appoint an Industrial Advisory  
16          Committee which shall be composed of representatives of  
17          industries which are involved in the generation, treatment or  
18          disposal of hazardous waste, or representatives of  
19          organizations of such industries. To the extent possible, the  
20          Board ~~Director~~ shall choose members representing large and  
21          small industries from all geographical areas of the State.  
22          Members of the Industrial Advisory Committee shall receive no  
23          compensation but may be reimbursed for reasonable expenses  
24          incurred in carrying out their duties.

25          The Industrial Advisory Committee shall advise the  
26          University of Illinois ~~Department~~ on programs, services and

1 activities necessary to assist large and small businesses in  
2 economically reducing, through source reduction, treatment and  
3 recycling, the amount and toxicity of hazardous waste to be  
4 disposed of on or in the land.

5 (Source: P.A. 90-490, eff. 8-17-97; 91-357, eff. 7-29-99.)

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

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

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

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

16 (20 ILCS 3954/15)

17 Sec. 15. Composition of the Council. The Council shall be  
18 comprised of representatives from various State agencies and  
19 State universities with specific fiscal, procurement,  
20 educational, and environmental policy expertise. The  
21 Lieutenant Governor is the chair of the Council. The director  
22 of each of the following State agencies and State universities,  
23 or his or her designee, is a member of the Council: the

1 Department of Commerce and Economic Opportunity, the  
2 Environmental Protection Agency, the University of Illinois  
3 ~~Department of Natural Resources, the Department of Natural~~  
4 ~~Resources Waste Management and Research Center,~~ the Department  
5 of Central Management Services, the Governor's Office of  
6 Management and Budget, the Department of Agriculture, the  
7 Department of Transportation, the Department of Corrections,  
8 the Department of Human Services, the Department of Public  
9 Health, the State Board of Education, the Board of Higher  
10 Education, and the Capital Development Board. The Office of the  
11 Lieutenant Governor shall provide administrative support to  
12 the Council. A minimum of one staff position in the Office of  
13 the Lieutenant Governor shall be dedicated to the Green  
14 Governments Illinois program.

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

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

18 (30 ILCS 105/6z-14) (from Ch. 127, par. 142z-14)

19 Sec. 6z-14. The following items of income received by the  
20 University of Illinois ~~Department of Natural Resources~~ from  
21 patents and copyrights of the Illinois Scientific Surveys shall  
22 be retained by the University of Illinois in its treasury  
23 ~~deposited into the General Revenue Fund:~~ funds received in  
24 connection with the retention, receipt, assignment, license,

1 sale or transfer of interests in, rights to or income from  
2 discoveries, inventions, patents or copyrightable works. All  
3 interest earned shall be deposited in the University of  
4 Illinois Income General Revenue Fund. The University Pursuant  
5 to appropriation, the Department may use those moneys for the  
6 purpose of appropriated for that purpose for patenting or  
7 copyrighting discoveries, inventions or copyrightable works or  
8 supporting other programs of the Illinois Scientific Surveys.

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

10 (30 ILCS 105/8.24) (from Ch. 127, par. 144.24)

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

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



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

3           (40 ILCS 5/15-106) (from Ch. 108 1/2, par. 15-106)

4           Sec. 15-106. Employer. "Employer": The University of  
5 Illinois, Southern Illinois University, Chicago State  
6 University, Eastern Illinois University, Governors State  
7 University, Illinois State University, Northeastern Illinois  
8 University, Northern Illinois University, Western Illinois  
9 University, the State Board of Higher Education, the Illinois  
10 Mathematics and Science Academy, ~~the State Geological Survey~~  
11 ~~Division of the Department of Natural Resources, the State~~  
12 ~~Natural History Survey Division of the Department of Natural~~  
13 ~~Resources, the State Water Survey Division of the Department of~~  
14 ~~Natural Resources, the Waste Management and Research Center of~~  
15 ~~the Department of Natural Resources,~~ the University Civil  
16 Service Merit Board, the Board of Trustees of the State  
17 Universities Retirement System, the Illinois Community College  
18 Board, community college boards, any association of community  
19 college boards organized under Section 3-55 of the Public  
20 Community College Act, the Board of Examiners established under  
21 the Illinois Public Accounting Act, and, only during the period  
22 for which employer contributions required under Section 15-155  
23 are paid, the following organizations: the alumni  
24 associations, the foundations and the athletic associations

1 which are affiliated with the universities and colleges  
2 included in this Section as employers.

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

14 The cities of Champaign and Urbana shall be considered  
15 employers, but only during the period for which contributions  
16 are required to be made under subsection (b-1) of Section  
17 15-155 and only with respect to individuals described in  
18 subsection (h) of Section 15-107.

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

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

22 (70 ILCS 605/12-19) (from Ch. 42, par. 12-19)

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

24 Commissioners of a district shall cooperate in the exchange of

1 information pertaining to drainage with the commissioners of  
2 other districts and with local, State and Federal governments,  
3 officers and agencies operating in fields affecting or related  
4 to drainage, including, but not restricted to, the Department  
5 of Natural Resources, the State Water Resources and Flood  
6 Control Board, the State Soil Conservation Advisory Board, the  
7 State Geological Survey of the University of Illinois ~~Division~~,  
8 and the State Water Survey of the University of Illinois  
9 ~~Division~~.

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

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

13 (70 ILCS 3105/24) (from Ch. 85, par. 1674)

14 Sec. 24. After the effective date of this Act, no district,  
15 person, firm or corporation, public or private, may establish a  
16 new solid waste disposal site or facility without first  
17 obtaining a permit from the Environmental Protection Agency  
18 under the provisions of the Environmental Protection Act.  
19 Application for such permit shall be on forms provided by the  
20 Agency and shall be accompanied by such supporting documents as  
21 the Agency shall require. Prior to issuing a permit to  
22 establish a new solid waste disposal site or facility the  
23 Agency shall review the application and supporting documents  
24 and make an on-site inspection of the proposed site. The Agency

1 may request the ~~Chief of the~~ Illinois State Geological Survey  
2 of the University of Illinois to prepare a report concerning  
3 the soil characteristics, water table, and other appropriate  
4 physical characteristics of the proposed site. If the proposed  
5 new solid waste disposal site or facility conforms to the  
6 minimum standards provided in such Act, the Agency shall issue  
7 a permit for the operation of such site or facility. If the  
8 proposed new solid waste disposal site or facility does not  
9 conform to the minimum standards provided by such Act, no  
10 permit shall be issued and the solid waste disposal site or  
11 facility shall not be constructed or operated.

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

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

16 (110 ILCS 355/3000-5) (was 110 ILCS 355/62)

17 Sec. 3000-5. Retention of duties by University of Illinois.  
18 Unless otherwise provided by law, the functions and duties  
19 formerly exercised by the State entomologist, the State  
20 laboratory of natural history, the State water survey, and the  
21 State geological survey ~~and vested in the Illinois Department~~  
22 ~~of Natural Resources~~ and the functions and duties of the Waste  
23 Management and Research Center and its Hazardous Materials  
24 Laboratory as authorized by the Hazardous Waste Technology

1 Exchange Service Act shall continue to be exercised at the  
2 University of Illinois in buildings and places provided by the  
3 trustees of the University.

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

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

7 (225 ILCS 730/1) (from Ch. 96 1/2, par. 5201)

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

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

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

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

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

3           (415 ILCS 5/22.2) (from Ch. 111 1/2, par. 1022.2)

4           Sec. 22.2. Hazardous waste; fees; liability.

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

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

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

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

7           (C) If the hazardous waste disposal site is an  
8 underground injection well, \$6,000 per year if not more  
9 than 10,000,000 gallons per year are injected, \$15,000  
10 per year if more than 10,000,000 gallons but not more  
11 than 50,000,000 gallons per year are injected, and  
12 \$27,000 per year if more than 50,000,000 gallons per  
13 year are injected.

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

26           (2) The General Assembly shall annually appropriate to

1 the Fund such amounts as it deems necessary to fulfill the  
2 purposes of this Act.

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

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

20 (5) Notwithstanding the other provisions of this  
21 subsection (b), sludge from a publicly-owned sewage works  
22 generated in Illinois, coal mining wastes and refuse  
23 generated in Illinois, bottom boiler ash, flyash and flue  
24 gas desulphurization sludge from public utility electric  
25 generating facilities located in Illinois, and bottom  
26 boiler ash and flyash from all incinerators which process



1 solely municipal waste shall not be subject to the fee.

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

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

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

21 (1) Taking whatever preventive or corrective action is  
22 necessary or appropriate, in circumstances certified by  
23 the Director, including but not limited to removal or  
24 remedial action whenever there is a release or substantial  
25 threat of a release of a hazardous substance or pesticide;  
26 provided, the Agency shall expend no more than \$1,000,000

1 on any single incident without appropriation by the General  
2 Assembly.

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

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

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

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

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

26 (e) The Agency shall deposit 10% of all receipts collected

1 under subsection (b) of this Section, but not to exceed  
2 \$200,000 per year, in the State Treasury to the credit of the  
3 Hazardous Waste Research Fund established by this Act. Pursuant  
4 to appropriation, all monies in such Fund shall be used by the  
5 University of Illinois ~~Department of Natural Resources~~ for the  
6 purposes set forth in this subsection.

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

26 (f) Notwithstanding any other provision or rule of law, and

1 subject only to the defenses set forth in subsection (j) of  
2 this Section, the following persons shall be liable for all  
3 costs of removal or remedial action incurred by the State of  
4 Illinois or any unit of local government as a result of a  
5 release or substantial threat of a release of a hazardous  
6 substance or pesticide:

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

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

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

24 (4) any person who accepts or accepted any hazardous  
25 substances or pesticides for transport to disposal,  
26 storage or treatment facilities or sites from which there

1 is a release or a substantial threat of a release of a  
2 hazardous substance or pesticide.

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

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

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

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

1 (h) For purposes of this Section:

2 (1) The term "facility" means:

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

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

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

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

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

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

24 (D) in the case of a fiduciary (other than a land  
25 trustee), the estate, trust estate, or other interest  
26 in property held in a fiduciary capacity, and not the

1           fiduciary. For the purposes of this Section,  
2           "fiduciary" means a trustee, executor, administrator,  
3           guardian, receiver, conservator or other person  
4           holding a facility or vessel in a fiduciary capacity;

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

21          (F) In the case of an owner of residential  
22          property, the owner if the owner is a person other than  
23          an individual, or if the owner is an individual who  
24          owns more than 10 dwelling units in Illinois, or if the  
25          owner, or an agent, representative, contractor, or  
26          employee of the owner, has caused, contributed to, or

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

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

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



1           shall be subject to the provisions of this Act in the  
2           same manner and to the same extent, both procedurally  
3           and substantively, as any nongovernmental entity,  
4           including liability under Section 22.2(f).

5           (i) The costs and damages provided for in this Section may  
6           be imposed by the Board in an action brought before the Board  
7           in accordance with Title VIII of this Act, except that Section  
8           33(c) of this Act shall not apply to any such action.

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

14                (A) an act of God;

15                (B) an act of war;

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

1           circumstances, and (ii) he took precautions against  
2           foreseeable acts or omissions of any such third party and  
3           the consequences that could foreseeably result from such  
4           acts or omissions; or

5           (D) any combination of the foregoing paragraphs.

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

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

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

1 property) for response costs or damages as the result of the  
2 storage, handling and use, or recommendation for storage,  
3 handling and use, of a pesticide consistent with:

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

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

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

11 (4.5) There shall be no liability under subdivision (f)(1)  
12 of this Section for response costs or damages as the result of  
13 a release of a pesticide from an agrichemical facility site if  
14 the Agency has received notice from the Department of  
15 Agriculture pursuant to Section 19.3 of the Illinois Pesticide  
16 Act, the owner or operator of the agrichemical facility is  
17 proceeding with a corrective action plan under the Agrichemical  
18 Facility Response Action Program implemented under that  
19 Section, and the Agency has provided a written endorsement of a  
20 corrective action plan.

21 (4.6) There shall be no liability under subdivision (f)(1)  
22 of this Section for response costs or damages as the result of  
23 a substantial threat of a release of a pesticide from an  
24 agrichemical facility site if the Agency has received notice  
25 from the Department of Agriculture pursuant to Section 19.3 of  
26 the Illinois Pesticide Act and the owner or operator of the

1 agrichemical facility is proceeding with a corrective action  
2 plan under the Agrichemical Facility Response Action Program  
3 implemented under that Section.

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

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

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

26 (ii) The defendant is a government entity which

1           acquired the facility by escheat, or through any other  
2           involuntary transfer or acquisition, or through the  
3           exercise of eminent domain authority by purchase or  
4           condemnation.

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

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

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

24          (C) Nothing in this paragraph (6) or in subparagraph (C) of  
25          paragraph (1) of this subsection shall diminish the liability  
26          of any previous owner or operator of such facility who would

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

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

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

23 (I) the defendant obtained a Phase I Environmental  
24 Audit of the real property that meets or exceeds the  
25 requirements of this subparagraph (E), and the Phase I  
26 Environmental Audit did not disclose the presence or likely

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

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

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

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

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

25 (III) a Phase II Environmental Audit discloses the  
26 presence or likely presence of a release or a substantial

1 threat of a release of a hazardous substance or pesticide  
2 at, on, to, or from the real property;

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

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

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

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

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

25 An environmental professional may employ persons who are  
26 not environmental professionals to assist in the preparation of



1 an Environmental Audit if such persons are under the direct  
2 supervision and control of the environmental professional.

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

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

1 Environmental Audit shall include a review of recorded land  
2 title records for the purpose of determining whether the real  
3 property is subject to an environmental land use restriction  
4 such as a No Further Remediation Letter, Environmental Land Use  
5 Control, or Highway Authority Agreement.

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

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

20 (II) In or to groundwater, the defendant, as part of  
21 the Phase II Environmental Audit, shall: review  
22 information regarding local geology, water well locations,  
23 and locations of waters of the State as may be obtained  
24 from State, federal, and local government records,  
25 including but not limited to the United States Geological  
26 Service, the State Geological Survey ~~Division~~ of the

1        University of Illinois ~~Department of Natural Resources,~~  
2        and the State Water Survey ~~Division~~ of the University of  
3        Illinois ~~Department of Natural Resources;~~ and perform  
4        groundwater monitoring sufficient to determine whether  
5        there is a presence or likely presence of a hazardous  
6        substance or pesticide, and whether there is or has been a  
7        release or a substantial threat of a release of a hazardous  
8        substance or pesticide at, on, to, or from the real  
9        property.

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

18        (vii) The findings of each Environmental Audit prepared  
19        under this subparagraph (E) shall be set forth in a written  
20        audit report. Each audit report shall contain an affirmation by  
21        the defendant and by each environmental professional who  
22        prepared the Environmental Audit that the facts stated in the  
23        report are true and are made under a penalty of perjury as  
24        defined in Section 32-2 of the Criminal Code of 1961. It is  
25        perjury for any person to sign an audit report that contains a  
26        false material statement that the person does not believe to be

1 true.

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

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

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

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

26 (k) If any person who is liable for a release or

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

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

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

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

8 (1-5) (1) As used in this subsection:

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

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

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

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

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

23 "Uniform Program" means the Uniform State Hazardous  
24 Materials Transportation Registration and Permit Program  
25 established in the report submitted and amended pursuant to  
26 49 U.S.C. Section 5119(b), as implemented by the Agency

1 under this subsection.

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

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

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

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

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

25 (4) (A) The Agency may propose and the Board shall  
26 adopt rules as necessary to implement and enforce the



1 Uniform Program. The Agency is authorized to enter into  
2 agreements with other agencies of this State as necessary  
3 to carry out administrative functions or enforcement of the  
4 Uniform Program.

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

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

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

1           implement, administer, and enforce the Uniform Program.

2           (m) (Blank).

3           (n) (Blank).

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

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

7           (415 ILCS 60/19) (from Ch. 5, par. 819)

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

15          1. An interagency committee on pesticides shall consist of:  
16          (1) the Director of the Department of Agriculture, (2) the  
17          Director of Natural Resources, (3) the Director of the  
18          Environmental Protection Agency, (4) the Director of the  
19          Department of Public Health, (5) the Secretary of the  
20          Department of Transportation, (6) the President ~~Chief~~ of the  
21          University of Illinois or his or her designee representing the  
22          State Natural History Survey and (7) the Dean of the College of  
23          Agriculture, University of Illinois. Each member of the  
24          committee may designate some person in his department to serve

1 on the committee in his stead. Other State agencies may, at the  
2 discretion of the Director, be asked to serve on the  
3 interagency committee on pesticides. The Director of the  
4 Department of Agriculture shall be chairman of this committee.

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

26 3. Members of this committee shall receive no compensation

1 for their services as members of this committee other than that  
2 provided by law for their respective positions with the State  
3 of Illinois. All necessary expenses for travel of the committee  
4 members shall be paid out of regular appropriations of their  
5 respective agencies.

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

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

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

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

22 7. The Interagency Committee on Pesticides shall conduct a  
23 special study of the effects of chemigation and other  
24 agricultural applications of pesticides upon the groundwater  
25 of this State. The results of such study shall be reported to  
26 the General Assembly by March 1, 1989. The members of the

1 Committee may utilize the technical and clerical resources of  
2 their respective departments and agencies as necessary or  
3 useful in the conduct of the study.

4 8. In consultation with the Interagency Committee, the  
5 Department shall develop, and the Interagency Committee shall  
6 approve, procedures, methods, and guidelines for addressing  
7 agrichemical pesticide contamination at agrichemical  
8 facilities in Illinois. In developing those procedures,  
9 methods, and guidelines, the following shall be considered and  
10 addressed: (1) an evaluation and assessment of site conditions  
11 and operational practices at agrichemical facilities where  
12 agricultural pesticides are handled; (2) what constitutes  
13 pesticide contamination; (3) cost effective procedures for  
14 site assessments and technologies for remedial action; and (4)  
15 achievement of adequate protection of public health and the  
16 environment from such actual or potential hazards. In  
17 consultation with the Interagency Committee, the Department  
18 shall develop, and the Interagency Committee shall approve,  
19 guidelines and recommendations regarding long term financial  
20 resources which may be necessary to remediate pesticide  
21 contamination at agrichemical facilities in Illinois. The  
22 Department, in consultation with the Interagency Committee,  
23 shall present a report on those guidelines and recommendations  
24 to the Governor and the General Assembly on or before January  
25 1, 1993. The Department and the Interagency Committee shall  
26 consult with the Illinois Pesticide Control Committee and other

1 appropriate parties during this development process.

2 9. As part of the consideration of cost effective  
3 technologies pursuant to subsection 8 of this Section, the  
4 Department may, upon request, provide a written authorization  
5 to the owner or operator of an agrichemical facility for land  
6 application of agrichemical contaminated soils at agronomic  
7 rates. As used in this Section, "agrichemical" means pesticides  
8 or commercial fertilizers, at an agrichemical facility, in  
9 transit from an agrichemical facility to the field of  
10 application, or at the field of application. The written  
11 authorization may also provide for use of groundwater  
12 contaminated by the release of an agrichemical, provided that  
13 the groundwater is not also contaminated due to the release of  
14 a petroleum product or hazardous substance other than an  
15 agrichemical. The uses of agrichemical contaminated  
16 groundwater authorized by the Department shall be limited to  
17 supervised application or irrigation onto farmland and  
18 blending as make-up water in the preparation of agrichemical  
19 spray solutions that are to be applied to farmland. In either  
20 case, the use of the agrichemical contaminated water shall not  
21 cause (i) the total annual application amounts of a pesticide  
22 to exceed the respective pesticide label application rate on  
23 any authorized sites or (ii) the total annual application  
24 amounts of a fertilizer to exceed the generally accepted annual  
25 application rate on any authorized sites. All authorizations  
26 shall prescribe appropriate operational control practices to

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

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

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

12 (415 ILCS 85/5) (from Ch. 111 1/2, par. 7955)

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

23 (1) Shall provide general information about and actively  
24 publicize the advantages of and developments in toxic pollution

1 prevention.

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

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

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

23 (5) May sponsor pilot projects in cooperation with the  
24 Agency, or an institute of higher education to develop and  
25 demonstrate innovative technologies and methods for toxic  
26 pollution prevention. The results of all such projects shall be



1 available for use by the public, but trade secret information  
2 shall remain protected.

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

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

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

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

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

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

25 (i) the potential of the project to prevent  
26 pollution;

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

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

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

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

24       (8) May contract with an established institution of higher  
25 education to assist the Center in carrying out the provisions  
26 of this Section. The assistance provided by such an institution

1 may include, but need not be limited to:

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

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

6 (C) applied toxic pollution prevention and recycling  
7 research.

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

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

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

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

18 (420 ILCS 20/3) (from Ch. 111 1/2, par. 241-3)

19 Sec. 3. Definitions.

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

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

24 (c) "Decommissioning" means the measures taken at the end

1 of a facility's operating life to assure the continued  
2 protection of the public from any residual radioactivity or  
3 other potential hazards present at a facility.

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

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

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

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

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

20 (i) "Hazardous waste" means a waste, or combination of  
21 wastes, which because of its quantity, concentration, or  
22 physical, chemical, or infectious characteristics may cause or  
23 significantly contribute to an increase in mortality or an  
24 increase in serious, irreversible, or incapacitating  
25 reversible, illness; or pose a substantial present or potential  
26 hazard to human health or the environment when improperly

1 treated, stored, transported, or disposed of, or otherwise  
2 managed, and which has been identified, by characteristics or  
3 listing, as hazardous under Section 3001 of the Resource  
4 Conservation and Recovery Act of 1976, P.L. 94-580 or under  
5 regulations of the Pollution Control Board.

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

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

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

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

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

24 (m) "Person" means an individual, corporation, business  
25 enterprise or other legal entity either public or private and  
26 any legal successor, representative, agent or agency of that

1 individual, corporation, business enterprise, or legal entity.

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

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

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

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

1 dredging or excavations, repair or replacement of leaking  
2 containers, collection of leachate and runoff, onsite  
3 treatment or incineration, provision of alternative water  
4 supplies and any monitoring reasonably required to assure that  
5 these actions protect human health and the environment.

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

9 (r) "Shallow land burial" means a land disposal facility in  
10 which radioactive waste is disposed of in or within the upper  
11 30 meters of the earth's surface. However, this definition  
12 shall not include an enclosed, engineered, structurally  
13 re-enforced and solidified bunker that extends below the  
14 earth's surface.

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

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

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

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

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

3           (520 ILCS 5/1.3)

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

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

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



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

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

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

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

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

20 (615 ILCS 5/18g) (from Ch. 19, par. 65g)

21 Sec. 18g. (a) The Department of Natural Resources shall  
22 define the 100-year floodway within metropolitan counties  
23 located in the area served by the Northeastern Illinois  
24 Planning Commission, except for the part of that area which is

1 within any city with a population exceeding 1,500,000. In  
2 defining the 100-year floodway, the Department may rely on  
3 published data and maps which have been prepared by the  
4 Department itself, by the Illinois State Water Survey of the  
5 University of Illinois, by federal, State or local governmental  
6 agencies, or by any other private or public source which it  
7 determines to be reliable and appropriate.

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

19 (c) No person may engage in any new construction within the  
20 100-year floodway as designated by the Department in such  
21 metropolitan counties, unless such construction relates to an  
22 appropriate use of the floodway. No unit of local government,  
23 including home rule units, in such metropolitan counties may  
24 issue any building permit or other apparent authorization for  
25 any prohibited new construction within the 100-year floodway.

26 (d) For the purpose of this Section:

1           (1) "100-year floodway" means the channel and that  
2           portion of the floodplain adjacent to a stream or  
3           watercourse which is needed to store and convey the  
4           100-year frequency flood discharge without a significant  
5           increase in stage.

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

11          (3) "Appropriate use of the floodway" means use for (i)  
12          flood control structures, dikes, dams and other public  
13          works or private improvements relating to the control of  
14          drainage, flooding or erosion; (ii) structures or  
15          facilities relating to the use of, or requiring access to,  
16          the water or shoreline, including pumping and treatment  
17          facilities, and facilities and improvements related to  
18          recreational boats, commercial shipping and other  
19          functionally dependent uses; and (iii) any other purposes  
20          which the Department determines, by rule, to be appropriate  
21          to the 100-year floodway, and the periodic inundation of  
22          which will not pose a danger to the general health and  
23          welfare of the user, or require the expenditure of public  
24          funds or the provision of public resources or disaster  
25          relief services. Appropriate use of the floodway does not  
26          include construction of a new building unless such building

1 is a garage, storage shed or other structure accessory to  
2 an existing building and such building does not increase  
3 flood stages.

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

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

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

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

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

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

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

1 (30 ILCS 105/80 new)

2 Sec. 80. Transfer to the University of Illinois Income  
3 Fund. Immediately upon the effective date of this Section, the  
4 State Comptroller shall direct and the State Treasurer shall  
5 transfer \$15,800,000 from the General Revenue Fund to the  
6 University of Illinois Income Fund.

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