



## 95TH GENERAL ASSEMBLY

### State of Illinois

#### 2007 and 2008

#### SB2083

Introduced 2/14/2008, by Sen. Jacqueline Y. Collins - Donne E. Trotter

#### SYNOPSIS AS INTRODUCED:

New Act  
30 ILCS 105/5.708 new

Creates the Illinois Diesel Emissions Reduction Act. Creates the Illinois Diesel Emissions Reduction Funding Program and the Diesel Emissions Reduction Fund. Provides that moneys in the Fund shall be used only to implement the Funding Program. Requires the collection of a surcharge on the retail sale or lease of certain diesel vehicles that are of a model year 2006 or earlier and are not equipped with Level 3 Controls. Requires a similar surcharge on the registration of certain diesel vehicles. Requires IEPA, in consultation with the Department of Revenue and after notice and public comment, to promulgate rules to establish and implement the Diesel Emissions Reduction Funding Program. Sets out guidelines for the administration of the Diesel Emissions Reduction Funding Program and the corresponding grant and rebate programs. Provides that IEPA may seek injunctive relief in any court of competent jurisdiction to enforce any provision of the Funding Program. Amends the Illinois Vehicle Code. Provides that the Secretary of State shall require additional information with the registration of a diesel motor vehicle to support a reliable and complete inventory of diesel motor vehicles in the State. Provides that the Secretary of State, in consultation with DOT and IEPA, shall, promulgate regulations by October 1, 2008 to develop a program for registration of diesel nonroad vehicles, locomotives, and diesel marine vessels, and shall implement the program beginning January 1, 2009. Contains other provisions. Effective immediately.

LRB095 19203 BDD 45450 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

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

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Diesel Emissions Reduction Act.

6 Section 5. Legislative findings and purpose. The  
7 Legislature hereby finds and declares that:

8 (a) Diesel exhaust particle pollution poses a clear and  
9 present health risk to the people of Illinois. The United  
10 States Environmental Protection Agency has classified diesel  
11 exhaust as a likely human carcinogen, and has identified diesel  
12 particulate matter and diesel exhaust organic gases as toxic  
13 air pollutants. Diesel exhaust is also a prime contributor to  
14 airborne fine particle pollution that is linked to premature  
15 death and other serious cardiovascular and pulmonary problems  
16 such as heart attacks, abnormal heart rhythms,  
17 atherosclerosis, stroke, asthma attacks, permanent respiratory  
18 damage, and retardation of lung growth in children.

19 (b) The health impacts from diesel emissions particularly  
20 affect children, the elderly, and people with weakened immune  
21 systems.

22 (c) Particularly high concentrations of diesel emissions  
23 often occur in heavily traveled transportation corridors,

1 intermodal yards, bus depots, and construction sites; these  
2 diesel "hot spots" often are found in densely populated urban  
3 areas, disproportionately impacting ethnic minorities and  
4 people of lower economic status.

5 (d) Diesel engine crankcases also are a source of emissions  
6 that can seep into the cabin and expose vehicle drivers and  
7 passengers to harmful diesel emissions.

8 (e) Diesel exhaust also contains black carbon emissions,  
9 which contribute to global climate change.

10 (f) Reduction of diesel emissions can help address these  
11 human health and climate problems.

12 (g) The United States Environmental Protection Agency has  
13 enacted requirements over the past few years requiring the  
14 substantial reduction of emissions from new diesel engines in  
15 both heavy-duty highway vehicles and land-based nonroad  
16 equipment. However, these regulations do not apply to any of  
17 the over 11,000,000 existing diesel engines in the United  
18 States, most of which emit substantially more pollution and  
19 often remain in service for 10 to 30 years depending on the  
20 type of engine and equipment.

21 (h) Practical, cost-effective measures to substantially  
22 reduce diesel particulate emissions are available today, and  
23 can be applied to many existing diesel engines. The same  
24 technology that limits diesel pollution from new diesel engines  
25 can be retrofitted onto existing engines or applied in new  
26 replacement engines to reduce diesel emissions by 85% or more.

1 (i) Therefore, the purpose of this Funding Program is to  
2 help minimize the public health risks from exposure to diesel  
3 particulate emissions as expeditiously as practical.

4 Section 10. Definitions. For purposes of this Act:

5 (a) "Auxiliary power unit" means a portable,  
6 vehicle-mounted system that provides climate control and power  
7 for a diesel vehicle interior cabin without using the  
8 propulsion engine.

9 (b) "CARB" means the California Air Resources Board.

10 (c) "Certified engine configuration" means a new, rebuilt,  
11 or remanufactured engine configuration:

12 (1) that has been certified or verified by USEPA or  
13 CARB;

14 (2) that meets or exceeds certain engine emissions  
15 standards, as determined by IEPA; and

16 (3) in the case of a certified engine configuration  
17 involving the replacement of an existing engine or vehicle,  
18 an engine configuration that replaced an engine that was  
19 removed from the vehicle and returned to the supplier for  
20 remanufacturing to a more stringent set of engine emissions  
21 standards or for scrappage.

22 (d) "Closed Crankcase Ventilation System" or "CCV" means  
23 equipment that completely closes the crankcase of a diesel  
24 engine to the atmosphere and routes the crankcase vapor to the  
25 engine intake air system or the exhaust system.

1 (f) "DOT" means the Department of Transportation.

2 (g) "Fleet" means one or more diesel vehicles or mobile or  
3 stationary diesel engines owned or operated by the same person  
4 or group of related persons.

5 (h) "Heavy duty diesel vehicle" means a motor vehicle with  
6 a gross vehicle weight rating of at least 14,000 pounds that is  
7 powered by a diesel engine.

8 (i) "IEPA" means the Illinois Environmental Protection  
9 Agency.

10 (j) "Incremental cost" means the cost of an applicant's  
11 emission reduction measure actions, less the baseline cost that  
12 would otherwise be incurred by the applicant in the normal  
13 course of business. Incremental costs may include added lease  
14 or fuel costs as well as capital costs.

15 (k) "Level 3 Control" means a Verified Diesel Emission  
16 Control Device that achieves a particulate matter (PM) emission  
17 reduction of 85% or more from uncontrolled engine emission  
18 levels, or that reduces emissions to less than or equal to 0.01  
19 grams of PM per brake horsepower-hour. Level 3 Control includes  
20 repowering or replacing the existing diesel engine with an  
21 engine meeting USEPA's 2007 Heavy-duty Highway Diesel  
22 Standards, or in the case of a nonroad engine, an engine  
23 meeting the USEPA's Tier 4 Nonroad Diesel Standards; Level 3  
24 Control also includes new diesel engines meeting the emissions  
25 standards.

26 (l) "Medium duty diesel vehicle" means a motor vehicle with

1 a gross vehicle weight rating of at least 8,500 pounds and less  
2 than 14,000 pounds that is powered by a diesel engine.

3 (m) "Motor vehicle" means any self-propelled vehicle  
4 designed for transporting persons or property on a street or  
5 highway, including an on-road diesel vehicle.

6 (n) "Nonroad engine" means an internal combustion engine  
7 (including the fuel system) that is not used in a motor vehicle  
8 or a vehicle used solely for competition, or that is not a  
9 stationary source, except that this term shall apply to  
10 internal combustion engines used to power generators,  
11 compressors, or similar equipment used in any construction  
12 program or project.

13 (o) "Nonroad vehicle" means a vehicle or piece of equipment  
14 that is powered by a nonroad engine, 50 horsepower and greater,  
15 and that is not a motor vehicle or a vehicle used solely for  
16 competition, which shall include, but not be limited to,  
17 excavators, backhoes, cranes, compressors, generators,  
18 bulldozers, and similar equipment; unless otherwise indicated,  
19 nonroad vehicles do not include locomotives or marine vessels.

20 (p) "Person" means any natural person, co-partnership,  
21 firm, company, association, joint stock association,  
22 corporation, or other like organization or entity.

23 (q) "PM" means particulate matter, a criteria pollutant  
24 listed under Section 7408 of the federal Clean Air Act.

25 (r) "Public agency" means a state, city, county,  
26 administration, department, division, bureau, board,

1 commission, corporation, institution, or agency of government,  
2 the expenses of which are paid in whole or in part from the  
3 public treasury.

4 (s) "Retrofit" means to equip a diesel motor vehicle or  
5 nonroad vehicle with new particulate emissions-reducing parts  
6 or technology verified by USEPA or CARB after manufacture of  
7 the original engine.

8 (t) "Ultra low sulfur diesel fuel" means diesel fuel that  
9 has a sulfur content of no more than 15 parts per million.

10 (u) "USEPA" means the United States Environmental  
11 Protection Agency.

12 (x) "Verified diesel emission control device" means:

13 (1) an emission control device or strategy that has  
14 been verified to achieve a specified diesel PM reduction by  
15 USEPA or CARB; or

16 (2) replacement or repowering with an engine that is  
17 certified to specific PM emissions performance by USEPA or  
18 CARB.

19 (y) "Verified technology" means a verified diesel emission  
20 control device, an advanced truckstop electrification system,  
21 or an auxiliary power unit.

22 Section 15. Mechanics of the Diesel Emissions Reduction  
23 Funding Program.

24 (a) The Diesel Emissions Reduction Fund (the "Fund") is  
25 hereby established as a special fund in the State treasury.

1           (1) The Fund shall be administered by IEPA for the  
2 benefit of the Diesel Emissions Reduction Funding Program  
3 established under this Section.

4           (2) Interest earned on the Fund shall be credited to  
5 the Fund.

6           (3) The Fund consists of: the funds, contributions,  
7 fees, and surcharges under subsections (a)(5), (a)(6),  
8 (c)(4)(D), and (d)(10) of this Section.

9           (4) Moneys in the Fund shall be used only to implement  
10 the Funding Program, provided that a maximum total of 2% of  
11 the money in the Fund may be used for Fund administrative  
12 costs incurred by both the IEPA and the Department of  
13 Revenue. Moneys allocated to an eligible diesel emission  
14 reduction measure but not expended in any fiscal year shall  
15 be carried over to succeeding fiscal years.

16           (5) A surcharge is hereby imposed on the retail sale,  
17 lease, or rental of diesel nonroad vehicles in an amount  
18 equal to 1% of the sales price or the lease or rental  
19 amount. Such a surcharge shall not apply when a public  
20 agency is the customer in the sale, lease or rental of a  
21 nonroad diesel vehicle. The Department of Revenue shall,  
22 within one year after enactment of this Act, adopt any  
23 procedures needed for the collection, administration, and  
24 enforcement of the surcharge authorized by this  
25 subsection, and shall deposit all surcharges to the credit  
26 of the Fund.



1           (6) A surcharge is hereby imposed on every retail sale  
2           or lease of every heavy duty diesel vehicle that is of a  
3           model year 2006 or earlier that is not equipped with Level  
4           3 Controls and that is sold or leased in this State. The  
5           amount of the surcharge is 1% of the total consideration.  
6           Such a surcharge shall not apply when a public agency is  
7           the customer in the sale, lease or rental of a heavy duty  
8           diesel vehicle. The Department of Revenue shall, within one  
9           year after the enactment of this Act, adopt any procedures  
10          needed for the collection, administration, and enforcement  
11          of the surcharge authorized by this subsection, and shall  
12          deposit all surcharges to the credit of the Fund.

13          (b) Establishment and Administration of the Funding  
14          Program. Within one year after the effective date of this  
15          Funding Program, IEPA, in consultation with the Department of  
16          Revenue and after notice and public comment, shall promulgate  
17          rules to establish and implement the Diesel Emissions Reduction  
18          Funding Program in accordance with this Act.

19                (1) The Funding Program shall consist of either the  
20                Grant Program or the Rebate Program established pursuant to  
21                this Act, or both programs, as determined by IEPA in its  
22                sole discretion.

23                (2) If IEPA elects to disburse Funding Program funds  
24                pursuant to the Grant Program, IEPA shall establish and  
25                administer that program and shall provide grants and  
26                low-cost revolving loans from the Fund, on a competitive

1 basis, to eligible measures to achieve significant  
2 reductions of diesel particulate emissions in accordance  
3 with the provisions of subsection (c).

4 (3) If IEPA elects to disburse Funding Program funds  
5 pursuant to the Rebate Program, IEPA shall establish and  
6 administer that program and shall provide rebates from the  
7 Fund in accordance with subsection (d).

8 (4) In administering the Funding Program and in  
9 accordance with the requirements of this program, IEPA  
10 shall:

11 (A) manage Funding Program funds and oversee the  
12 Funding Program;

13 (B) produce guidelines, protocols, and criteria  
14 for eligible emission reduction measures;

15 (C) develop methodologies for evaluating emission  
16 reduction measure benefits and cost-effectiveness;

17 (D) develop procedures for monitoring whether the  
18 emissions reductions projected for grants awarded for  
19 emission reduction measures under this Act are  
20 actually achieved;

21 (E) prepare reports regarding the progress and  
22 effectiveness of the Funding Program; and

23 (F) take all appropriate and necessary actions so  
24 that emissions reductions achieved through the Funding  
25 Program may be credited by USEPA to the appropriate  
26 emissions reduction objectives in the State

1 implementation plan.

2 (c) Grant Program. Any Grant Program established by IEPA  
3 pursuant to subsection (b)(1) shall be implemented in  
4 accordance with the following provisions:

5 (1) IEPA shall annually allocate at its discretion some  
6 or all of the moneys available in the Fund to the Grant  
7 Program. Grant Program funds not expended in a given year  
8 shall be transferred to the Grant Program or any Rebate  
9 Program established under subsection (d) for the following  
10 year at IEPA's discretion.

11 (2) Fund Distribution. Subject to the provisions of  
12 subsection (a)(4), IEPA shall distribute funds available  
13 for each fiscal year for eligible emission reduction  
14 measures under the Grant Program.

15 (3) Applications.

16 (A) To receive a grant or loan under the Grant  
17 Program, the applicant shall submit to IEPA an  
18 application including such information IEPA may  
19 require.

20 (B) An application under this subsection shall  
21 include:

22 (i) a description of the air quality of the  
23 area in which the emission reduction measure  
24 fleets will operate;

25 (ii) a description of the emission reduction  
26 measure proposed by the applicant, including:

1 (I) any certified engine configuration or  
2 verified technology proposed to be used or  
3 funded in the emission reduction measure; and

4 (II) the means by which the emission  
5 reduction measure will achieve a significant  
6 reduction in diesel emissions;

7 (iii) an evaluation (using methodology  
8 approved by IEPA) of the quantifiable and  
9 unquantifiable benefits of the emissions  
10 reductions of the proposed emission reduction  
11 measure;

12 (iv) an estimate of the cost of the proposed  
13 emission reduction measure;

14 (v) a description of the age and expected  
15 lifetime control of the equipment to be used or  
16 funded in the proposed emission reduction measure;

17 (vi) a description of the diesel fuel  
18 available in the areas to be served by the proposed  
19 emission reduction measure, including the sulfur  
20 content of the fuel;

21 (vii) provisions for the monitoring and  
22 verification of the emission reduction measure;  
23 and

24 (viii) such other information as may be  
25 required by IEPA.

26 (4) Eligibility.

1 (A) A proposed emission reduction measure must  
2 meet the requirements of this Act to be eligible for a  
3 grant or loan under the Grant Program.

4 (B) IEPA may consider for funding the following  
5 types of emission reduction measures:

6 (i) installation of a retrofit technology  
7 (including any incremental costs of a repowered or  
8 new diesel engine) that significantly reduces  
9 particulate emissions through development and  
10 implementation of a certified engine configuration  
11 or a verified diesel emission control device for a  
12 medium-duty or heavy-duty diesel motor vehicle, a  
13 diesel nonroad vehicle, a commercial marine engine  
14 or a locomotive;

15 (ii) installation of a CCV on any vehicle or  
16 equipment described in subsection (B) (i); and

17 (iii) programs or emission reduction measures  
18 to reduce long-duration idling using verified  
19 technology involving a vehicle described in  
20 subsection (B) (i); provided that truckstop  
21 electrification facilities shall be eligible for  
22 low-cost revolving loans but not eligible for  
23 grants.

24 (C) In providing a grant or loan under the Grant  
25 Program, IEPA shall give priority to otherwise  
26 eligible emission reduction measures that, as

1 determined by IEPA:

2 (i) maximize public health benefits;

3 (ii) are cost-effective;

4 (iii) serve areas:

5 (I) with the highest population density;

6 (II) that are poor air quality areas,  
7 including areas identified by IEPA as:

8 (a) in nonattainment or maintenance of  
9 national ambient air quality standards for  
10 a criteria pollutant;

11 (b) areas with toxic air pollutant  
12 concerns;

13 (III) that receive a disproportionate  
14 quantity of air pollution from a diesel fleets,  
15 including truckstops, ports, rail yards,  
16 terminals, and distribution centers; or

17 (iv) include a certified engine configuration  
18 or verified technology that has a long expected  
19 useful life;

20 (v) will maximize the useful life of any  
21 certified engine configuration or verified  
22 technology used or funded by the project;

23 (vi) conserve diesel fuel; and

24 (vii) use ultra low sulfur diesel fuel.

25 (D) For a proposed emission reduction measure to  
26 qualify for the Funding Program, other than a project

1 involving a marine vessel or engine, not less than 75%  
2 of vehicle miles traveled or hours of operation  
3 projected for the 5 years immediately following the  
4 award of a grant must be projected to take place in  
5 this State. For a proposed emission reduction measure  
6 involving a marine vessel or engine, the vessel or  
7 engine must be operated in the waterways adjacent to or  
8 within Illinois for a sufficient amount of time over  
9 the lifetime of the measure, as determined by IEPA, to  
10 meet the cost-effectiveness requirements of subsection  
11 (c) (5). The owner of any vehicle receiving funding for  
12 an emission reduction measure that fails after the  
13 award of the grant to meet the geographical  
14 requirements of this subsection shall pay a civil  
15 penalty to IEPA equal to a portion of the grant funds  
16 as IEPA shall require pursuant to prior regulations.  
17 The proceeds of all such penalties shall be deposited  
18 into the Fund.

19 (E) Each proposed emission reduction measure must  
20 meet the cost-effectiveness requirements of subsection  
21 (c) (5).

22 (F) A proposed emission reduction measure based on  
23 the use of a certified engine configuration or verified  
24 technology must document, in a manner acceptable to  
25 IEPA, a reduction in particulate emissions of at least  
26 50% (compared with the baseline emissions adopted by

1 IEPA for the relevant engine year and application to  
2 the extent not provided pursuant of the relevant CARB  
3 or USEPA verification process). Three years after the  
4 enactment of this Act, after study of available  
5 emissions reduction technologies, and after public  
6 notice and comment, IEPA may increase the minimum  
7 percentage reduction in particulate emissions required  
8 by this subsection to improve the ability of the  
9 Funding Program to achieve its goals.

10 (5) Cost-effectiveness

11 (A) For purposes of this Act, "cost-effectiveness"  
12 means the total dollar amount divided by the total  
13 number of tons of particulate matter reduction  
14 attributable to that expenditure. In calculating  
15 cost-effectiveness, one-time grants of money at the  
16 beginning of a project shall be annualized using a time  
17 value of public funds or discount rate determined for  
18 each project by IEPA, taking into account the interest  
19 rate on bonds, interest earned by State funds, and  
20 other factors IEPA considers appropriate.

21 (B) IEPA shall establish reasonable methodologies  
22 for evaluating emission reduction measure  
23 cost-effectiveness consistent with subsection (5) (A).

24 (C) Except as provided by subsection (5) (F), and  
25 except for installation of CCVs under subsection  
26 (4) (B) (ii), IEPA may not award a grant for a proposed



1 emission reduction measure under the Grant Program the  
2 cost-effectiveness of which, calculated in accordance  
3 with subsections (5) (A) and (B) and criteria developed  
4 thereunder, exceeds \$135,000 per ton of PM emissions.  
5 This subsection does not restrict IEPA authority under  
6 other law to require emissions reductions with a  
7 cost-effectiveness that exceeds \$135,000 per ton.

8 (D) IEPA may not award a grant that provides an  
9 amount that exceeds the incremental cost of the  
10 proposed emission reduction measure.

11 (E) In determining the amount of a grant under this  
12 Act, IEPA shall reduce the incremental cost of a  
13 proposed new purchase, retrofit, repower, or add-on  
14 equipment emission reduction measure by the value of  
15 any existing financial incentive that directly reduces  
16 the cost of the proposed measure, including tax credits  
17 or deductions, other grants, loans, rebates, or any  
18 other public financial assistance.

19 (F) Adjustment of cost-effectiveness. Based upon a  
20 study of available emissions reduction technologies  
21 and costs and after public notice and comment, IEPA may  
22 change the values of the maximum grant award criteria  
23 established in subsection (5) (C) to account for  
24 inflation or to improve the ability of the Grant  
25 Program to achieve its goals.

26 (d) Rebate Program. Any Rebate Program established by IEPA

1 pursuant to subsection (b)(1) shall be implemented in  
2 accordance with the following provisions:

3 (1) IEPA shall annually allocate at its discretion some  
4 or all of the moneys available in the Fund to the Rebate  
5 Program. Rebate Program funds not expended in a given year  
6 shall be transferred to the Rebate Program or any Grant  
7 Program established under subsection (c) for the following  
8 year at IEPA's discretion.

9 (2) A retrofit vendor or owner of an eligible vehicle  
10 who meets the requirements of this subsection shall be  
11 eligible to receive a rebate under the Rebate Program; for  
12 purposes of this subsection, "eligible vehicle" shall mean  
13 a vehicle that meets the requirements of this subsection  
14 and that is described in subsection (c)(4)(B)(i).

15 (3) Moneys from the Fund will be provided in the rebate  
16 amount to defray the cost of purchase and installation of  
17 retrofitting an eligible vehicle with a Level 3 Control in  
18 combination with a CCV.

19 (4) Within 180 days after effective date of this Act,  
20 IEPA shall establish the initial rebate amount for  
21 retrofits of various types of eligible vehicles. IEPA shall  
22 review the appropriateness of the amount no less frequently  
23 than annually and may change the rebate amount to improve  
24 the ability of the Rebate Program to achieve its goals.

25 (5) In order to receive a rebate, an eligible vehicle  
26 owner or retrofit vendor shall:

1 (A) submit to IEPA a completed rebate reservation  
2 form including such information IEPA may require with  
3 respect to each rebate sought;

4 (B) within 120 days of submission of a rebate  
5 reservation form, the owner or vendor shall complete  
6 the retrofit pertaining to the rebate reservation  
7 form, and shall submit a completed IEPA reimbursement  
8 request form including certification of retrofit  
9 completion and compliance with all requirements of  
10 this subsection and containing such other information  
11 and such other conditions as IEPA may require.

12 (6) Rebates shall be provided on a first come, first  
13 served basis, with priority established based upon the date  
14 of IEPA receipt of a completed reservation form pursuant to  
15 subsection (5) (A); provided that, if the retrofits are not  
16 completed and the reimbursement request form is not  
17 submitted to IEPA within the 120 day period as required by  
18 subsection (5) (B), then IEPA may reduce the amount of the  
19 rebate or take such other action as it has established by  
20 regulations promulgated pursuant to this Funding Program.

21 (7) To the extent of available funds allocated to the  
22 Rebate Program, IEPA shall pay the owner or vendor the  
23 rebate within 60 days of receipt of a timely, complete, and  
24 accurate reimbursement form.

25 (8) Owners of eligible vehicles for which rebates are  
26 paid must:

1 (A) meet the requirements of subsection (c) (4) (D);

2 (B) fuel the vehicle with ultra low sulfur diesel  
3 fuel; and

4 (C) maintain the vehicle and Level 3 Controls  
5 according to manufacturer specifications.

6 (9) The retrofit vendor to eligible vehicles for which  
7 rebates are provided must honor all warranty provisions  
8 according to their verification.

9 (10) Persons receiving rebates who fail to meet all  
10 requirements of this subsection shall pay a civil penalty  
11 to IEPA in the full amount of the rebates, plus interest at  
12 a reasonable rate established by IEPA. The proceeds of all  
13 such penalties shall be deposited in the Fund.

14 (e) Emission Reduction Credits.

15 (1) An emission reduction measure funded under the  
16 Funding Program established under this Section may not be  
17 used for credit under any State or federal emissions  
18 reduction credit averaging, banking, or trading program.

19 (2) An emissions reduction generated by an emission  
20 reduction measure funded under the Funding Program  
21 established under this Section:

22 (A) may not be used as a marketable emissions  
23 reduction credit or to offset any emissions reduction  
24 obligation; but

25 (B) may be used to demonstrate conformity with the  
26 State implementation plan.

1           (3) An emission reduction measure involving a new  
2 measure that would otherwise generate marketable credits  
3 under State or federal emissions reduction credit  
4 averaging, banking, or trading programs is not eligible for  
5 funding under the Funding Program established under this  
6 Section unless:

7           (A) the measure includes the transfer of the  
8 reductions that would otherwise be marketable credits  
9 to the State implementation plan; and

10           (B) the reductions are permanently retired.

11       (f) Funding Program Reports.

12           (1) Not later than December 1, 2009, and not later than  
13 December 1 of every second year thereafter, IEPA shall  
14 publish and submit to the legislature a report of the  
15 implementation of the provisions of this Funding Program.  
16 IEPA shall provide notice and an opportunity for public  
17 comment and public hearing on each draft biennial report  
18 and, in producing a final biennial report, shall consider  
19 and respond to all significant comments received; the  
20 report shall be publicly available, and IEPA shall post it  
21 on its website.

22           (2) The report must:

23           (A) include a review of each pollution-reduction  
24 measure funded under any Grant Program, the amount  
25 granted for the emission reduction measure, the  
26 emissions reductions attributable to the emission

1 reduction measure, and the cost-effectiveness of the  
2 emission reduction measure; IEPA shall also conduct an  
3 annual review of any Rebate Program, including the  
4 total rebates paid, the total retrofits installed and  
5 the aggregate emission reductions attributable to  
6 those retrofits;

7 (B) include a summary of IEPA's Funding Program  
8 implementation activities under this Section;

9 (C) account for money received, money disbursed as  
10 grants, money reserved for grants based on project  
11 approvals, money disbursed as rebates, any recommended  
12 transfer of money between allocations, and must  
13 estimate future demand for grant and rebate funds under  
14 the Funding Program;

15 (D) describe the overall effectiveness of the  
16 Funding Program in delivering particulate emissions  
17 reductions and other emission reductions as  
18 co-benefits;

19 (E) evaluate the effectiveness of the Funding  
20 Program in soliciting and evaluating project  
21 applications, providing awards in a timely manner, and  
22 monitoring project implementation;

23 (F) describe adjustments made to project selection  
24 criteria and recommend any further needed changes or  
25 adjustments to the grant programs, including changes  
26 in grant award criteria, administrative procedures, or

1 statutory provisions that would enhance the Funding  
2 Program's effectiveness and efficiency;

3 (G) describe any adjustments made to the maximum  
4 cost-effectiveness amount and award amount;

5 (H) evaluate the benefits of addressing additional  
6 pollutants as part of the Funding Program; and

7 (I) include legislative recommendations necessary  
8 to improve the effectiveness of the Funding Program.

9 Section 20. Miscellaneous.

10 (a) Equitable Relief Authorized. In addition to other  
11 remedies provided in this Funding Program, IEPA may seek  
12 injunctive relief in any court of competent jurisdiction to  
13 enforce any provision of this Funding Program.

14 (b) Severability. If any clause, sentence, paragraph,  
15 section or provision of this Funding Program shall be adjudged  
16 by any court of competent jurisdiction to be invalid, such  
17 judgment shall not affect, impair, or invalidate the remainder  
18 of this Funding Program, but shall be confined in its operation  
19 to the clause, sentence, paragraph, section, or provision of  
20 this Funding Program directly involved in the controversy in  
21 which the judgment was rendered.

22 Section 95. The State Finance Act is amended by adding  
23 Section 5.708 as follows:

1 (30 ILCS 105/5.708 new)

2 Sec. 5.708. The Diesel Emissions Reduction Fund.

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.