



Sen. Heather Steans

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1 AMENDMENT TO SENATE BILL 3482

2 AMENDMENT NO. _____. Amend Senate Bill 3482 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Public-Private Partnerships for Transportation Act.

6 Section 5. Public policy and legislative intent.

7 (a) It is the public policy of the State of Illinois to
8 promote the development, financing, and operation of
9 transportation facilities that serve the needs of the public.

10 (b) Existing methods of procurement and financing of
11 transportation facilities by transportation agencies impose
12 limitations on the methods by which transportation facilities
13 may be developed and operated within the State.

14 (c) Authorizing transportation agencies to enter into
15 public-private partnerships, whereby private entities may
16 develop, operate, and finance transportation facilities, has

1 the potential to promote the development of transportation
2 facilities in the State as well as investment in the State.

3 (d) It is the intent of this Act to promote public-private
4 partnerships for transportation by authorizing transportation
5 agencies to enter into public-private agreements related to the
6 development, operation, and financing of transportation
7 facilities.

8 (e) It is the intent of this Act to encourage the practice
9 of congestion pricing in connection with toll highways,
10 pursuant to which higher toll rates are charged during times or
11 in locations of most congestion.

12 Section 10. Definitions.

13 As used in this Act:

14 "Approved proposal" means the proposal that is approved by
15 the transportation agency pursuant to subsection (f) of Section
16 20 or subsection (f) of Section 25 of this Act.

17 "Approved proposer" means the private entity whose
18 proposal is the approved proposal.

19 "Authority" means the Illinois State Toll Highway
20 Authority.

21 "Competing proposal" means a proposal submitted by a
22 private entity in connection with a proposed transportation
23 project, other than the unsolicited proposal.

24 "Contractor" means a private entity that has entered into a
25 public-private agreement with the transportation agency to

1 provide services to or on behalf of the transportation agency.

2 "Department" means the Illinois Department of
3 Transportation.

4 "Develop" or "development" means to do one or more of the
5 following: plan, design, develop, lease, acquire, install,
6 construct, reconstruct, rehabilitate, extend, or expand.

7 "Maintain" or "maintenance" includes ordinary maintenance,
8 repair, rehabilitation, capital maintenance, maintenance
9 replacement, and any other categories of maintenance that may
10 be designated by the transportation agency.

11 "Operate" or "operation" means to do one or more of the
12 following: maintain, improve, equip, modify, or otherwise
13 operate.

14 "Private entity" means any combination of one or more
15 individuals, corporations, general partnerships, limited
16 liability companies, limited partnerships, joint ventures,
17 business trusts, nonprofit entities, or other business
18 entities that are parties to a proposal for a transportation
19 project or an agreement related to a transportation project. A
20 public agency may provide services to a contractor as a
21 subcontractor or subconsultant without affecting the private
22 status of the private entity and the ability to enter into a
23 public-private agreement.

24 "Proposal" means all materials and documents prepared by or
25 on behalf of a private entity relating to the proposed
26 development, financing, or operation of a transportation

1 facility as a transportation project.

2 "Proposer" means a private entity that has submitted a
3 proposal or statement of qualifications for a public-private
4 agreement in response to a request for proposals or a request
5 for qualifications issued by a transportation agency under this
6 Act, an unsolicited proposal, or a competing proposal.

7 "Public posting period" means the period of 120 days
8 beginning when the transportation agency has posted the
9 unsolicited proposal publicly on its website and has posted
10 notice of its acceptance of the unsolicited proposal publicly
11 in a newspaper or newspapers of general circulation within
12 Sangamon County and within the county or counties in which the
13 transportation project is to be located.

14 "Public-private agreement" means the public-private
15 agreement between the contractor and the transportation agency
16 relating to one or more of the development, financing, or
17 operation of a transportation project that is entered into
18 under this Act.

19 "Request for proposals" means all materials and documents
20 prepared by or on behalf of the transportation agency to
21 solicit proposals from private entities to enter into a
22 public-private agreement.

23 "Request for qualifications" means all materials and
24 documents prepared by or on behalf of the transportation agency
25 to solicit statements of qualification from private entities to
26 enter into a public-private agreement.

1 "Revenues" means all revenues, including any combination
2 of: income; earnings and interest; user fees; lease payments;
3 allocations; federal, State, and local appropriations, grants,
4 loans, lines of credit, and credit guarantees; bond proceeds;
5 equity investments; service payments; or other receipts;
6 arising out of or in connection with a transportation project,
7 including the development, financing, and operation of a
8 transportation project. The term includes money received as
9 grants, loans, lines of credit, credit guarantees, or otherwise
10 in aid of a transportation project from the federal government,
11 the State, a unit of local government, or any agency or
12 instrumentality of the federal government, the State, or a unit
13 of local government.

14 "Transportation agency" means (i) the Department, (ii) the
15 Authority, or (iii), with respect to an existing airport, an
16 airport authority created and established under the Airport
17 Authorities Act owning and operating the airport.

18 "Transportation facility" means any (i) new or existing
19 road, highway, toll highway, bridge, tunnel, intermodal
20 facility, intercity or high-speed passenger rail, or other
21 transportation facility or infrastructure, excluding airports,
22 under the jurisdiction of the Department or the Authority, or
23 (ii) any existing airport owned and operated by an airport
24 authority created and established under the Airport
25 Authorities Act. The term "transportation facility" may refer
26 to one or more transportation facilities that are proposed to

1 be developed or operated as part of a single transportation
2 project.

3 "Transportation project" or "project" means any or the
4 combination of the development, financing, or operation with
5 respect to all or a portion of any transportation facility
6 under the jurisdiction of the transportation agency,
7 undertaken pursuant to this Act.

8 "Unit of local government" has the meaning ascribed to that
9 term in Article VII, Section 1 of the Constitution of the State
10 of Illinois and also means any unit designated as a municipal
11 corporation.

12 "Unsolicited proposal" means the first proposal submitted
13 by a private entity to the transportation agency with respect
14 to a particular transportation project, other than a proposal
15 submitted in response to a request for qualifications or a
16 request for proposals.

17 "User fees" or "tolls" means the rates, tolls, fees, or
18 other charges imposed by the contractor for use of all or a
19 portion of a transportation project under a public-private
20 agreement.

21 Section 15. Formation of public-private agreements;
22 project planning.

23 (a) Each transportation agency may exercise the powers
24 granted by this Act to do some or all of develop, finance, and
25 operate any part of one or more transportation projects through

1 public-private agreements with one or more private entities.
2 The net proceeds arising out of a transportation project or
3 public-private agreement undertaken by the Department pursuant
4 to this Act shall be deposited into the Public-Private
5 Partnerships for Transportation Fund. The net proceeds arising
6 out of a transportation project or public-private agreement
7 undertaken by the Authority pursuant to this Act shall be
8 deposited into the Illinois State Toll Highway Authority Fund
9 and shall be used only as authorized by Section 23 of the Toll
10 Highway Act.

11 (b) A contractor has:

12 (1) all powers allowed by law generally to a private
13 entity having the same form of organization as the
14 contractor; and

15 (2) the power to develop, finance, and operate the
16 transportation facility and to impose user fees in
17 connection with the use of the transportation facility,
18 subject to the terms of the public-private agreement.

19 No tolls or user fees may be imposed by the contractor
20 except as set forth in a public-private agreement.

21 (c) Each year, at least 30 days prior to the beginning of
22 the transportation agency's fiscal year, and at other times the
23 transportation agency deems necessary, the Department and the
24 Authority shall submit for review to the General Assembly a
25 description of potential projects that the transportation
26 agency is considering undertaking under this Act. Prior to the

1 issuance of any request for qualifications or request for
2 proposals with respect to any potential project undertaken by
3 the Department or the Authority pursuant to Section 20 of this
4 Act, the commencement of a procurement process for that
5 particular potential project shall be authorized by joint
6 resolution of the General Assembly.

7 (d) Each year, at least 30 days prior to the beginning of
8 the transportation agency's fiscal year, the transportation
9 agency shall submit a description of potential projects that
10 the transportation agency is considering undertaking under
11 this Act to each county, municipality, and metropolitan
12 planning organization, with respect to each project located
13 within its boundaries.

14 (e) Any project undertaken under this Act shall be subject
15 to all applicable planning requirements otherwise required by
16 law, including land use planning, regional planning,
17 transportation planning, and environmental compliance
18 requirements.

19 (f) Any new transportation facility developed as a project
20 under this Act, whether undertaken pursuant to Section 20 or
21 Section 25 of this Act, must be consistent with the regional
22 plan then in existence of any metropolitan planning
23 organization in whose boundaries the project is located.

24 Section 20. Procurement process.

25 (a) A transportation agency seeking to enter into a

1 public-private partnership with a private entity to develop or
2 operate, or to develop and operate, a transportation facility
3 as a transportation project, except in response to an
4 unsolicited proposal or competing proposal, shall first issue a
5 request for proposals from private entities for some or all of
6 the development, financing, and operation of one or more
7 transportation projects.

8 (b) Before issuing a request for proposals, the
9 transportation agency may issue a request for qualifications,
10 in which case the transportation agency shall (i) provide a
11 public notice of the request for qualifications for such period
12 as deemed appropriate or warranted by the transportation
13 agency, (ii) set forth requirements and evaluation criteria in
14 the request for qualifications, (iii) determine which private
15 entities that have submitted qualifications, if any, meet the
16 requirements and evaluation criteria set forth in the request
17 for qualifications, and (iv) shall issue requests for proposals
18 only to those private entities determined to meet the
19 requirements and evaluation criteria set forth in the request
20 for qualifications.

21 (c) If the transportation agency has not issued a request
22 for qualifications under this Section, the transportation
23 agency shall provide a public notice of the request for
24 proposals for a period deemed appropriate or warranted by the
25 transportation agency.

26 (d) A request for proposals shall:

1 (1) indicate in general terms the scope of work, goods,
2 and services sought to be procured;

3 (2) contain or incorporate by reference the
4 specifications and contractual terms and conditions
5 applicable to the procurement and the transportation
6 project;

7 (3) specify the factors, criteria, and other
8 information that will be used in evaluating the proposals;

9 (4) contain or incorporate by reference the other
10 applicable contractual terms and conditions; and

11 (5) contain or incorporate by reference any other
12 provisions, materials, or documents the transportation
13 agency deems appropriate.

14 (e) The transportation agency shall determine and set forth
15 in the request for proposals the criteria for the evaluation of
16 proposals that are most appropriate for the transportation
17 project. The transportation agency may use (i) a selection
18 process that results in selection of the proposal offering the
19 best value to the public, (ii) a selection process that results
20 in selection of the proposal offering the lowest price or cost
21 or the highest payment to, or revenue sharing with, the
22 transportation agency, (iii) a selection process that results
23 in the imposition of tolls for the shortest period, or (iv) any
24 other selection process that the transportation agency
25 determines is in the best interests of the State and the
26 public.

1 (f) Based on its review and evaluation of the proposal or
2 proposals received in response to the request for proposals,
3 the transportation agency shall determine which one or more
4 proposals, if any, best serve the public purpose of this Act
5 and satisfy the criteria set forth in the request for proposals
6 and may approve such proposal or proposals. In the case of a
7 proposal or proposals to the Department or the Authority, prior
8 to approving such proposal or proposals, the transportation
9 agency shall submit the proposal or proposals determined to
10 best serve the public purpose of this Act and to satisfy the
11 criteria set forth in the request for proposals to the
12 Commission on Government Forecasting and Accountability,
13 which, within 20 days of submission by the transportation
14 agency, shall complete a review of the proposal or proposals
15 and report on the value of the proposal or proposals to the
16 State. Neither the Department or the Authority may approve a
17 proposal until it has received and considered the findings of
18 the report of the Commission on Government Forecasting and
19 Accountability.

20 (g) In addition to any other rights under this Act, in
21 connection with any procurement under this Act, the following
22 rights are reserved to each transportation agency:

23 (1) to withdraw a request for qualifications or a
24 request for proposals at any time, and to publish a new
25 request for qualifications or request for proposals;

26 (2) to not approve a proposal for any reason;

1 (3) to not award a public-private agreement for any
2 reason;

3 (4) to request clarifications to any statement of
4 qualifications or proposal received, to seek one or more
5 revised proposals or one or more best and final offers, or
6 to conduct negotiations with one or more private entities
7 that have submitted proposals;

8 (5) to modify, during the pendency of a procurement,
9 the terms, provisions, and conditions of a request for
10 qualifications or request for proposals or the technical
11 specifications or form of a public-private agreement;

12 (6) to interview proposers; and

13 (7) any other rights available to the transportation
14 agency under applicable law and regulations.

15 (h) If the transportation agency designates an approved
16 proposer for the transportation project, the transportation
17 agency shall execute the public-private agreement and publish
18 notice of the execution of the public-private agreement on its
19 website and in a newspaper or newspapers of general circulation
20 within the county or counties in which the transportation
21 project is to be located. Any action to contest the validity of
22 a public-private agreement entered into under this Act must be
23 brought no later than 30 days after the date of publication of
24 the notice of execution of the public-private agreement.

25 (i) The transportation agency may also apply for, execute,
26 or endorse applications submitted by private entities to obtain

1 federal credit assistance for qualifying projects developed or
2 operated pursuant to this Act.

3 Section 25. Unsolicited proposals.

4 (a) Any private entity seeking authorization under this Act
5 to develop or operate, or to develop and operate, a
6 transportation facility as a transportation project, except in
7 response to a request for qualifications or a request for
8 proposals, shall first submit an unsolicited proposal or
9 competing proposal for the transportation project to the
10 transportation agency, receive approval of the transportation
11 agency, and enter into a public-private agreement with the
12 transportation agency.

13 (b) Within 120 days of the effective date of this Act, the
14 Department shall develop guidelines that establish the process
15 for the acceptance, review, and evaluation of unsolicited
16 proposals by the Department and any other transportation
17 agency, other than the Authority. Within 120 days of the
18 effective date of this Act, the Authority shall develop
19 guidelines that establish the process for the acceptance,
20 review, and evaluation of unsolicited proposals by the
21 Authority.

22 The guidelines developed by the Department and the
23 Authority each shall establish criteria by which to determine
24 whether or not to accept an unsolicited proposal, a specific
25 schedule for review of unsolicited proposals by the

1 transportation agency, a process for alteration of that
2 schedule by the transportation agency if it deems that changes
3 are necessary because of the scope or complexity of unsolicited
4 proposals it receives, the process for receipt and review of
5 competing proposals, and the type and amount of information
6 that is necessary for adequate review of unsolicited proposals
7 and competing proposals in each stage of review. For
8 transportation projects that have approved or pending State and
9 federal environmental clearances, have secured significant
10 right of way, have previously allocated significant State or
11 federal funding, or exhibit other circumstances that could
12 reasonably reduce the amount of time to develop or operate the
13 transportation facility in accordance with the purpose of this
14 Act, such guidelines shall provide for a prioritized review and
15 selection process.

16 (c) Any unsolicited proposal or competing proposal shall
17 include the following material and information in connection
18 with the transportation facility to be developed or operated as
19 part of the transportation project, unless waived by the
20 transportation agency in its guidelines or written
21 instructions given to the private entity:

22 (1) a topographic map (1:2,000 or other appropriate
23 scale) indicating the location of the transportation
24 facility;

25 (2) a description of the transportation facility,
26 including the conceptual design of such facility and all

1 proposed interconnections with other transportation
2 facilities;

3 (3) the proposed date for development or operation of
4 the transportation facility or facilities along with an
5 estimate of the life-cycle cost of the transportation
6 facility as proposed;

7 (4) a statement setting forth the method by which the
8 private entity proposes to secure any property interests
9 required for the transportation facility;

10 (5) information relating to the current transportation
11 plans, if any, of each affected jurisdiction;

12 (6) a list of all permits and approvals required for
13 developing or operating improvements to the transportation
14 facility from local, State, or federal agencies and a
15 projected schedule for obtaining such permits and
16 approvals;

17 (7) a list of public utility facilities, if any, that
18 will be crossed by the transportation facility and a
19 statement of the plans of the private entity to accommodate
20 such crossings;

21 (8) a statement setting forth the private entity's
22 general plans for developing or operating the
23 transportation facility, including identification of any
24 revenue, public or private, or proposed debt or equity
25 investment or concession proposed by the private entity;

26 (9) the names and addresses of the persons who may be

1 contacted for further information concerning the proposal;

2 (10) information on how the private entity's proposal
3 will address the needs identified in the appropriate State,
4 regional, or local transportation plan by improving
5 safety, reducing congestion, increasing capacity, or
6 enhancing economic efficiency; and

7 (11) such additional material and information as the
8 transportation agency may reasonably request pursuant to
9 its guidelines or other written instructions.

10 (d) The transportation agency may charge a reasonable fee
11 to cover the costs of processing, reviewing, and evaluating an
12 unsolicited proposal or competing proposal, including without
13 limitation, reasonable attorneys' fees and fees for financial
14 and other necessary advisors or consultants.

15 (e) Within 60 days of receiving an unsolicited proposal for
16 a transportation project, but before reviewing, evaluating, or
17 approving the unsolicited proposal, the transportation agency
18 shall determine, based on its guidelines, whether or not to
19 accept the unsolicited proposal for further review and shall
20 promptly notify the proposer that submitted the unsolicited
21 proposal of its decision to accept or to not accept the
22 unsolicited proposal.

23 (f) If the transportation agency accepts the unsolicited
24 proposal for further review:

25 (1) Before reviewing, evaluating, or approving any
26 proposal, the transportation agency shall promptly post

1 notice of its acceptance of the unsolicited proposal
2 publicly for further review in a newspaper or newspapers of
3 general circulation within Sangamon County and within the
4 county or counties in which the transportation project is
5 to be located, shall concurrently post the unsolicited
6 proposal publicly on its website for 120 days, and shall
7 accept competing proposals within such public posting
8 period.

9 (2) As part of the evaluation of any proposal, the
10 transportation agency shall provide copies of the
11 unsolicited proposal and any competing proposals received
12 to the Commission on Government Forecasting and
13 Accountability (but only if the transportation agency is
14 the Department or the Authority), the Department (unless
15 the transportation agency is the Department), and each
16 county, municipality, and metropolitan planning
17 organization in whose boundaries the transportation
18 project would be located; and shall receive and consider
19 any comments submitted concerning the merits of each
20 proposal.

21 (3) Within 60 days of the end of the public posting
22 period, the transportation agency shall review and
23 evaluate the unsolicited proposal and any competing
24 proposals received within the public posting period. Based
25 on its review and evaluation of the proposal or proposals
26 received in response to the request for proposals, the

1 transportation agency shall determine which one or more
2 proposals, if any, best serve the public purpose of this
3 Act. The transportation agency may determine that a
4 proposal serves such public purpose if:

5 (A) there is a public need for the transportation
6 facility the private entity proposes to develop or
7 operate;

8 (B) the transportation facility and the proposed
9 interconnections with existing transportation
10 facilities, and the private entity's plans for
11 development or operation of the transportation
12 facility, are, in the opinion of the transportation
13 agency, reasonable and will address the needs
14 identified in the appropriate State, regional, or
15 local transportation plan by improving safety,
16 reducing congestion, increasing capacity, or enhancing
17 economic efficiency;

18 (C) the estimated cost of developing or operating
19 the transportation facility is reasonable in relation
20 to similar facilities; and

21 (D) the private entity's plans will result in the
22 timely development or operation of the transportation
23 facility or its more efficient operation.

24 In evaluating any proposal, the transportation agency may
25 rely upon internal staff reports prepared by personnel familiar
26 with the operation of similar facilities or the advice of

1 outside advisors or consultants having relevant experience;
2 and shall also consider the extent to which the transportation
3 facility is consistent with the regional plan then in existence
4 of any metropolitan planning organization in whose boundaries
5 the transportation facilities would be located.

6 The transportation agency may approve the proposal or
7 proposals determined to best serve the public purpose of this
8 Act. In the case of a proposal or proposals to the Department
9 or the Authority, prior to approving the proposal or proposals,
10 the transportation agency shall submit such proposal or
11 proposals to the Commission on Government Forecasting and
12 Accountability, which, within 20 days of submission by the
13 transportation agency, shall complete a review of the proposal
14 or proposals and report on the value of the proposal or
15 proposals to the State. Neither the Department or the Authority
16 may approve a proposal until it has received and considered the
17 findings of the report of the Commission on Government
18 Forecasting and Accountability.

19 (g) In addition to any other rights under this Act, the
20 following rights are reserved to each transportation agency:

21 (1) to not accept a proposal for any reason;

22 (2) to not approve a proposal for any reason;

23 (3) to not award a public-private agreement for any
24 reason;

25 (4) to request clarifications to any proposal
26 received, to seek one or more revised proposals or one or

1 more best and final offers, or to conduct negotiations with
2 one or more private entities that have submitted proposals;

3 (5) to interview proposers; and

4 (6) any other rights available to the transportation
5 agency under applicable law and regulations.

6 (h) The transportation agency and the approved proposer
7 shall execute the public-private agreement and publish notice
8 of the execution of the public-private agreement on its website
9 and in a newspaper or newspapers of general circulation within
10 the county or counties in which the transportation project is
11 to be located. Any action to contest the validity of a
12 public-private agreement entered into under this Act must be
13 brought no later than 30 days after the date of publication of
14 the notice of execution of the public-private agreement.

15 (i) For any project with an estimated construction cost of
16 over \$50,000,000, the transportation agency must also require
17 the approved proposer to pay the costs for an independent audit
18 of any and all traffic and cost estimates associated with the
19 approved proposal, as well as a review of all public costs and
20 potential liabilities to which taxpayers could be exposed
21 (including improvements to other transportation facilities
22 that may be needed as a result of the approved proposal,
23 failure by the approved proposer to reimburse the
24 transportation agency for services provided, and potential
25 risk and liability in the event the approved proposer defaults
26 on the public-private agreement or on bonds issued for the

1 project). This independent audit must be conducted by an
2 independent consultant selected by the transportation agency,
3 and all such information from such review must be fully
4 disclosed.

5 (j) The transportation agency may also apply for, execute,
6 or endorse applications submitted by private entities to obtain
7 federal credit assistance for qualifying projects developed or
8 operated pursuant to this Act.

9 Section 30. Interim agreements.

10 (a) Prior to or in connection with the negotiation of the
11 public-private agreement, the transportation agency may enter
12 into an interim agreement with the approved proposer. Such
13 interim agreement may:

14 (1) permit the approved proposer to commence
15 activities relating to a proposed project as the
16 transportation agency and the approved proposer shall
17 agree to and for which the approved proposer may be
18 compensated, including, but not limited to, project
19 planning and development, advance right-of-way
20 acquisition, design and engineering, environmental
21 analysis and mitigation, survey, conducting transportation
22 and revenue studies, and ascertaining the availability of
23 financing for the proposed facility or facilities;

24 (2) establish the process and timing of the exclusive
25 negotiation of a public-private agreement with an approved

1 proposer;

2 (3) require that in the event the transportation agency
3 determines not to proceed with a project after the approved
4 proposer and the transportation agency have executed an
5 interim agreement, and thereby terminates the interim
6 agreement or declines to proceed with negotiation of a
7 public-private agreement with an approved proposer, the
8 transportation agency shall pay to the approved proposer
9 certain of the costs incurred by the approved proposer; and

10 (4) contain any other provisions related to any aspect
11 of the transportation project that the parties may deem
12 appropriate.

13 (b) Notwithstanding anything to the contrary in this Act, a
14 transportation agency may enter into an interim agreement with
15 multiple approved proposers if the transportation agency
16 determines in writing that it is in the public interest to do
17 so.

18 Section 35. Public-private agreements.

19 (a) Unless undertaking actions otherwise permitted in an
20 interim agreement entered into under Section 25 of this Act,
21 before developing, financing, or operating the transportation
22 project, the approved proposer shall enter into a
23 public-private agreement with the transportation agency.
24 Subject to the requirements of this Act, a public-private
25 agreement may provide that the approved proposer, acting on

1 behalf of the transportation agency, is partially or entirely
2 responsible for any combination of developing, financing, or
3 operating the transportation project under terms set forth in
4 the public-private agreement.

5 (b) The public-private agreement may, as determined
6 appropriate by the transportation agency for the particular
7 transportation project, provide for some or all of the
8 following:

9 (1) Construction, financing, and operation of the
10 transportation project under terms set forth in the
11 public-private agreement, in any form as deemed
12 appropriate by the transportation agency, including, but
13 not limited to, a long-term concession and lease, a
14 design-build agreement, a design-build-maintain agreement,
15 a design-build-operate-maintain agreement and a
16 design-build-finance-operate-maintain agreement.

17 (2) Delivery of performance and payment bonds or other
18 performance security determined suitable by the
19 transportation agency, including letters of credit, United
20 States bonds and notes, parent guaranties, and cash
21 collateral, in connection with the development, financing,
22 or operation of the transportation project, in the forms
23 and amounts set forth in the public-private agreement or
24 otherwise determined as satisfactory by the transportation
25 agency to protect the transportation agency and payment
26 bond beneficiaries who have a direct contractual

1 relationship with the contractor or a subcontractor of the
2 contractor to supply labor or material. The payment or
3 performance bond or alternative form of performance
4 security is not required for the portion of a
5 public-private agreement that includes only design,
6 planning, or financing services, the performance of
7 preliminary studies, or the acquisition of real property.

8 (3) Review of plans for any development or operation,
9 or both, of the transportation project by the
10 transportation agency.

11 (4) Inspection of any construction of or improvements
12 to the transportation project by the transportation agency
13 or another entity designated by the transportation agency
14 or under the public-private agreement to ensure that the
15 construction or improvements conform to the standards set
16 forth in the public-private agreement or are otherwise
17 acceptable to the transportation agency.

18 (5) Maintenance of:

19 (A) one or more policies of public liability
20 insurance (copies of which shall be filed with the
21 transportation agency accompanied by proofs of
22 coverage); or

23 (B) self-insurance; each in form and amount as set
24 forth in the public-private agreement or otherwise
25 satisfactory to the transportation agency as
26 reasonably sufficient to insure coverage of tort

1 liability to the public and employees and to enable the
2 continued operation of the transportation project.

3 (6) Where operations are included within the
4 contractor's obligations under the public-private
5 agreement, monitoring of the maintenance practices of the
6 contractor by the transportation agency or another entity
7 designated by the transportation agency or under the
8 public-private agreement and the taking of the actions the
9 transportation agency finds appropriate to ensure that the
10 transportation project is properly maintained.

11 (7) Reimbursement to be paid to the transportation
12 agency as set forth in the public-private agreement for
13 services provided by the transportation agency.

14 (8) Filing of appropriate financial statements and
15 reports as set forth in the public-private agreement or as
16 otherwise in a form acceptable to the transportation agency
17 on a periodic basis.

18 (9) Compensation or payments to the contractor.
19 Compensation or payments may include any or a combination
20 of the following:

21 (A) a base fee and additional fee for project
22 savings as the design-builder of a construction
23 project;

24 (B) a development fee, payable on a lump sum basis,
25 progress payment basis, time and materials basis, or
26 another basis deemed appropriate by the transportation

1 agency;

2 (C) an operations fee, payable on a lump-sum basis,
3 time and material basis, periodic basis, or another
4 basis deemed appropriate by the transportation agency;

5 (D) some or all of the revenues, if any, arising
6 out of operation of the transportation project;

7 (E) a maximum rate of return on investment or
8 return on equity or a combination of the two;

9 (F) in-kind services, materials, property,
10 equipment, or other items;

11 (G) compensation in the event of any termination;

12 (H) availability payments or similar arrangements
13 whereby payments are made to the contractor pursuant to
14 the terms set forth in the public-private agreement or
15 related agreements; or

16 (I) other compensation set forth in the
17 public-private agreement or otherwise deemed
18 appropriate by the transportation agency.

19 (10) Compensation or payments to the transportation
20 agency, if any. Compensation or payments may include any or
21 a combination of the following:

22 (A) a concession or lease payment or other fee,
23 which may be payable upfront or on a periodic basis or
24 on another basis deemed appropriate by the
25 transportation agency;

26 (B) sharing of revenues, if any, from the operation

1 of the transportation project;

2 (C) sharing of project savings from the
3 construction of the transportation project;

4 (D) payment for any services, materials,
5 equipment, personnel, or other items provided by the
6 transportation agency to the contractor under the
7 public-private agreement or in connection with the
8 transportation project; or

9 (E) other compensation set forth in the
10 public-private agreement or otherwise deemed
11 appropriate by the transportation agency.

12 (11) The date and terms of termination of the
13 contractor's authority and duties under the public-private
14 agreement and the circumstances under which the
15 contractor's authority and duties may be terminated prior
16 to that date.

17 (12) Reversion of the transportation project to the
18 transportation agency at the termination or expiration of
19 the public-private agreement.

20 (13) Rights and remedies of the transportation agency
21 in the event that the contractor defaults or otherwise
22 fails to comply with the terms of the public-private
23 agreement.

24 (14) Other terms, conditions, and provisions that the
25 transportation agency believes are in the public interest.

26 (c) The transportation agency may fix and revise the

1 amounts of user fees that a contractor may charge and collect
2 for the use of any part of a transportation project in
3 accordance with the public-private agreement. In fixing the
4 amounts, the transportation agency may establish maximum
5 amounts for the user fees and may provide that the maximums and
6 any increases or decreases of those maximums shall be based
7 upon the indices, methodologies, or other factors the
8 transportation agency considers appropriate.

9 (d) A public-private agreement may:

10 (1) authorize the imposition of tolls in any manner
11 determined appropriate by the transportation agency for
12 the transportation project;

13 (2) authorize the contractor to adjust the user fees
14 for the use of the transportation project, so long as the
15 amounts charged and collected by the contractor do not
16 exceed the maximum amounts established by the
17 transportation agency under this Act;

18 (3) provide that any adjustment by the contractor
19 permitted under paragraph (2) of this subsection (d) may be
20 based on the indices, methodologies, or other factors
21 described in the public-private agreement or approved by
22 the transportation agency;

23 (4) authorize the contractor to charge and collect user
24 fees through manual and non-manual methods, including, but
25 not limited to, automatic vehicle identification systems,
26 electronic toll collection systems, and, to the extent

1 permitted by law, global positioning system-based,
2 photo-based, or video-based toll collection enforcement;
3 and

4 (5) authorize the collection of user fees by a third
5 party.

6 (e) In the public-private agreement, the transportation
7 agency may agree to make grants or loans for the development or
8 operation, or both, of the transportation project from time to
9 time from amounts received from the federal government or any
10 agency or instrumentality of the federal government or from any
11 State or local agency.

12 (f) Upon the termination or expiration of the
13 public-private agreement, including a termination for default,
14 the transportation agency shall have the right to take over the
15 transportation project and to succeed to all of the right,
16 title, and interest in the transportation project, subject to
17 any liens on revenues previously granted by the contractor to
18 any person providing financing for the transportation project.

19 (g) If a transportation agency elects to take over a
20 transportation project as provided in subsection (f) of this
21 Section, the transportation agency may do the following:

22 (1) develop, finance, or operate the project,
23 including through a public-private agreement entered into
24 in accordance with this Act; or

25 (2) impose, collect, retain, and use user fees, if any,
26 for the project.

1 (h) If a transportation agency elects to take over a
2 transportation project as provided in subsection (f) of this
3 Section, the transportation agency may use the revenues, if
4 any, for any lawful purpose, including to:

5 (1) make payments to individuals or entities in
6 connection with any financing of the transportation
7 project, including through a public-private agreement
8 entered into in accordance with this Act;

9 (2) permit a contractor to receive some or all of the
10 revenues under a public-private agreement entered into
11 under this Act;

12 (3) pay development costs of the project;

13 (4) pay current operation costs of the project or
14 facilities;

15 (5) pay the contractor for any compensation or payment
16 owing upon termination; and

17 (6) pay for the development, financing, or operation of
18 any other project or projects the transportation agency
19 deems appropriate.

20 (i) The full faith and credit of the State or any political
21 subdivision of the State or the transportation agency is not
22 pledged to secure any financing of the contractor by the
23 election to take over the transportation project. Assumption of
24 development or operation, or both, of the transportation
25 project does not obligate the State or any political
26 subdivision of the State or the transportation agency to pay

1 any obligation of the contractor.

2 (j) Notwithstanding any other provision of this Act, the
3 transportation agency may enter into a public-private
4 agreement with multiple approved proposers if the
5 transportation agency determines in writing that it is in the
6 public interest to do so.

7 (k) A public-private agreement shall not include any
8 provision under which the transportation agency agrees to
9 restrict or to provide compensation to the private entity for
10 the construction or operation of a competing transportation
11 facility during the term of the public-private agreement.

12 Section 40. Development and operations standards for
13 transportation projects.

14 (a) The plans and specifications, if any, for each project
15 developed under this Act must comply with:

16 (1) the transportation agency's standards for other
17 projects of a similar nature or as otherwise provided in
18 the public-private agreement; and

19 (2) any other applicable State or federal standards.

20 (b) Each highway project constructed or operated under this
21 Act is considered to be part of:

22 (1) the State highway system for purposes of
23 identification, maintenance standards, and enforcement of
24 traffic laws if the highway project is under the
25 jurisdiction of the Department; or

1 (2) the toll highway system for purposes of
2 identification, maintenance standards, and enforcement of
3 traffic laws if the highway project is under the
4 jurisdiction of the Authority.

5 (c) Any unit of local government or State agency may enter
6 into agreements with the contractor for maintenance or other
7 services under this Act.

8 (d) Any electronic toll collection system used on a toll
9 highway, bridge, or tunnel as part of a transportation project
10 must be compatible with the electronic toll collection system
11 used by the Authority. The Authority is authorized to
12 construct, operate, and maintain any electronic toll
13 collection system used on a toll highway, bridge, or tunnel as
14 part of a transportation project pursuant to an agreement with
15 the transportation agency or the contractor responsible for the
16 transportation project.

17 Section 45. Financial arrangements.

18 (a) The transportation agency may do any combination of
19 applying for, executing, or endorsing applications submitted
20 by private entities to obtain federal, State, or local credit
21 assistance for transportation projects developed, financed, or
22 operated under this Act, including loans, lines of credit, and
23 guarantees.

24 (b) The transportation agency may take any action to obtain
25 federal, State, or local assistance for a transportation

1 project that serves the public purpose of this Act and may
2 enter into any contracts required to receive the federal
3 assistance. The transportation agency may determine that it
4 serves the public purpose of this Act for all or any portion of
5 the costs of a transportation project to be paid, directly or
6 indirectly, from the proceeds of a grant or loan, line of
7 credit, or loan guarantee made by a local, State, or federal
8 government or any agency or instrumentality of a local, State,
9 or federal government. Such assistance may include, but not be
10 limited to, federal credit assistance pursuant to the
11 Transportation Infrastructure Finance and Innovation Act
12 (TIFIA).

13 (c) The transportation agency may agree to make grants or
14 loans for the development, financing, or operation of a
15 transportation project from time to time, from amounts received
16 from the federal, State, or local government or any agency or
17 instrumentality of the federal, State, or local government.

18 (d) Any financing of a transportation project may be in the
19 amounts and upon the terms and conditions that are determined
20 by the parties to the public-private agreement.

21 (e) For the purpose of financing a transportation project,
22 the contractor and the transportation agency may do the
23 following:

24 (1) propose to use any and all revenues that may be
25 available to them;

26 (2) enter into grant agreements;

1 (3) access any other funds available to the
2 transportation agency; and

3 (4) accept grants from the transportation agency or
4 other public or private agency or entity.

5 (f) For the purpose of financing a transportation project,
6 public funds may be used and mixed and aggregated with funds
7 provided by or on behalf of the contractor or other private
8 entities.

9 (g) For the purpose of financing a transportation project,
10 each transportation agency is authorized to do any combination
11 of applying for, executing, or endorsing applications for an
12 allocation of tax-exempt bond financing authorization provided
13 by Section 142(m) of the United States Internal Revenue Code,
14 as well as financing available under any other federal law or
15 program.

16 (h) Any bonds, debt, or other securities or other financing
17 issued for the purposes of this Act shall not be deemed to
18 constitute a debt of the State or any political subdivision of
19 the State or a pledge of the faith and credit of the State or
20 any political subdivision of the State.

21 Section 50. Acquisition of property.

22 (a) The transportation agency may exercise any power of
23 condemnation or eminent domain, including quick-take powers,
24 that it has under law for the purpose of acquiring any lands or
25 estates or interests in land for a transportation project to

1 the extent provided in the public-private agreement or
2 otherwise to the extent that the transportation agency finds
3 that the action serves the public purpose of this Act and deems
4 it appropriate in the exercise of its powers under this Act.

5 (b) The transportation agency and a contractor may enter
6 into the leases, licenses, easements, and other grants of
7 property interests that the transportation agency determines
8 necessary to carry out this Act.

9 Section 55. Labor.

10 (a) A public-private agreement related to a transportation
11 project pertaining to an existing transportation facility
12 shall require the contractor to assume all existing collective
13 bargaining agreement obligations related to employees of the
14 transportation agency employed in relation to that facility.

15 (b) A public-private agreement related to a transportation
16 project pertaining to a new transportation facility shall
17 require the contractor to enter into a project labor agreement
18 that must include provisions establishing the minimum hourly
19 wage, benefits, and other compensation for each class of labor
20 organization employee and such other terms as are negotiated
21 between the contractor and the labor organizations.

22 Section 60. Law enforcement.

23 (a) All law enforcement officers of the State and of each
24 affected local jurisdiction have the same powers and

1 jurisdiction within the limits of the transportation facility
2 as they have in their respective areas of jurisdiction.

3 (b) Law enforcement officers shall have access to the
4 transportation facility at any time for the purpose of
5 exercising the law enforcement officers' powers and
6 jurisdiction.

7 (c) The traffic and motor vehicle laws of the State of
8 Illinois or, if applicable, any local jurisdiction shall be the
9 same as those applying to conduct on similar projects in the
10 State of Illinois or the local jurisdiction.

11 (d) Punishment for infractions and offenses shall be as
12 prescribed by law for conduct occurring on similar projects in
13 the State of Illinois or the local jurisdiction.

14 Section 65. Term of agreement; reversion of property to
15 transportation agency.

16 (a) The term of a public-private agreement, including all
17 extensions, may not exceed 99 years.

18 (b) The transportation agency shall terminate the
19 contractor's authority and duties under the public-private
20 agreement on the date set forth in the public-private
21 agreement.

22 (c) Upon termination of the public-private agreement, the
23 authority and duties of the contractor under this Act cease,
24 except for those duties and obligations that extend beyond the
25 termination, as set forth in the public-private agreement, and

1 all interests in the transportation facility shall revert to
2 the transportation agency.

3 Section 70. Additional powers of transportation agencies
4 with respect to transportation projects.

5 (a) Each transportation agency may exercise any powers
6 provided under this Act in participation or cooperation with
7 any governmental entity and enter into any contracts to
8 facilitate that participation or cooperation without
9 compliance with any other statute. Each transportation agency
10 shall cooperate with each other and with other governmental
11 entities in carrying out transportation projects under this
12 Act.

13 (b) Each transportation agency may make and enter into all
14 contracts and agreements necessary or incidental to the
15 performance of the transportation agency's duties and the
16 execution of the transportation agency's powers under this Act.
17 Except as otherwise required by law, these contracts or
18 agreements are not subject to any approvals other than the
19 approval of the transportation agency and may be for any term
20 of years and contain any terms that are considered reasonable
21 by the transportation agency.

22 (c) Each transportation agency may pay the costs incurred
23 under a public-private agreement entered into under this Act
24 from any funds available to the transportation agency under
25 this Act or any other statute.

1 (d) A transportation agency or other State agency may not
2 take any action that would impair a public-private agreement
3 entered into under this Act.

4 (e) Each transportation agency may enter into an agreement
5 between and among the contractor, the transportation agency,
6 and the Department of State Police concerning the provision of
7 law enforcement assistance with respect to a transportation
8 project that is the subject of a public-private agreement under
9 this Act.

10 (f) Each transportation agency is authorized to enter into
11 arrangements with the Department of State Police related to
12 costs incurred in providing law enforcement assistance under
13 this Act.

14 Section 75. Prohibited local action. A unit of local
15 government may not take any action that would have the effect
16 of impairing a public-private agreement under this Act.

17 Section 80. Powers liberally construed. The powers
18 conferred by this Act shall be liberally construed in order to
19 accomplish their purposes and shall be in addition and
20 supplemental to the powers conferred by any other law. If any
21 other law or rule is inconsistent with this Act, this Act is
22 controlling as to any public-private agreement entered into
23 under this Act.

1 Section 85. Full and complete authority. This Act contains
2 full and complete authority for agreements and leases with
3 private entities to carry out the activities described in this
4 Act. Except as otherwise required by law, no procedure,
5 proceedings, publications, notices, consents, approvals,
6 orders, or acts by the transportation agency or any other State
7 or local agency or official are required to enter into an
8 agreement or lease.

9 Section 905. The Department of Transportation Law of the
10 Civil Administrative Code of Illinois is amended by adding
11 Section 2705-220 as follows:

12 (20 ILCS 2705/2705-220 new)

13 Sec. 2705-220. Public-private partnerships for
14 transportation. The Department may exercise all powers granted
15 to it under the Public-Private Partnerships for Transportation
16 Act.

17 Section 910. The Illinois Finance Authority Act is amended
18 by adding Section 825-105 as follows:

19 (20 ILCS 3501/825-105 new)

20 Sec. 825-105. Transportation project financing. For the
21 purpose of financing a transportation project undertaken under
22 the Public-Private Partnerships for Transportation Act, the

1 Authority is authorized to apply for an allocation of
2 tax-exempt bond financing authorization provided by Section
3 142(m) of the United States Internal Revenue Code, as well as
4 financing available under any other federal law or program.

5 Section 915. The Illinois Procurement Code is amended by
6 changing Section 1-10 as follows:

7 (30 ILCS 500/1-10)

8 Sec. 1-10. Application.

9 (a) This Code applies only to procurements for which
10 contractors were first solicited on or after July 1, 1998. This
11 Code shall not be construed to affect or impair any contract,
12 or any provision of a contract, entered into based on a
13 solicitation prior to the implementation date of this Code as
14 described in Article 99, including but not limited to any
15 covenant entered into with respect to any revenue bonds or
16 similar instruments. All procurements for which contracts are
17 solicited between the effective date of Articles 50 and 99 and
18 July 1, 1998 shall be substantially in accordance with this
19 Code and its intent.

20 (b) This Code shall apply regardless of the source of the
21 funds with which the contracts are paid, including federal
22 assistance moneys. This Code shall not apply to:

23 (1) Contracts between the State and its political
24 subdivisions or other governments, or between State

1 governmental bodies except as specifically provided in
2 this Code.

3 (2) Grants, except for the filing requirements of
4 Section 20-80.

5 (3) Purchase of care.

6 (4) Hiring of an individual as employee and not as an
7 independent contractor, whether pursuant to an employment
8 code or policy or by contract directly with that
9 individual.

10 (5) Collective bargaining contracts.

11 (6) Purchase of real estate, except that notice of this
12 type of contract with a value of more than \$25,000 must be
13 published in the Procurement Bulletin within 7 days after
14 the deed is recorded in the county of jurisdiction. The
15 notice shall identify the real estate purchased, the names
16 of all parties to the contract, the value of the contract,
17 and the effective date of the contract.

18 (7) Contracts necessary to prepare for anticipated
19 litigation, enforcement actions, or investigations,
20 provided that the chief legal counsel to the Governor shall
21 give his or her prior approval when the procuring agency is
22 one subject to the jurisdiction of the Governor, and
23 provided that the chief legal counsel of any other
24 procuring entity subject to this Code shall give his or her
25 prior approval when the procuring entity is not one subject
26 to the jurisdiction of the Governor.

1 (8) Contracts for services to Northern Illinois
2 University by a person, acting as an independent
3 contractor, who is qualified by education, experience, and
4 technical ability and is selected by negotiation for the
5 purpose of providing non-credit educational service
6 activities or products by means of specialized programs
7 offered by the university.

8 (9) Procurement expenditures by the Illinois
9 Conservation Foundation when only private funds are used.

10 (10) Public-private agreements entered into according
11 to the procurement requirements of Section 20 of the
12 Public-Private Partnerships for Transportation Act.

13 (c) This Code does not apply to the electric power
14 procurement process provided for under Section 1-75 of the
15 Illinois Power Agency Act and Section 16-111.5 of the Public
16 Utilities Act.

17 (d) Except for Section 20-160 and Article 50 of this Code,
18 and as expressly required by Section 9.1 of the Illinois
19 Lottery Law, the provisions of this Code do not apply to the
20 procurement process provided for under Section 9.1 of the
21 Illinois Lottery Law.

22 (Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07;
23 95-876, eff. 8-21-08; 96-840, eff. 12-23-09.)

24 Section 920. The State Finance Act is amended by adding
25 Sections 5.755 and 6z-79 as follows:

1 (30 ILCS 105/5.755 new)

2 Sec. 5.755. The Public-Private Partnerships for
3 Transportation Fund.

4 (30 ILCS 105/6z-79 new)

5 Sec. 6z-79. The Public-Private Partnerships for
6 Transportation Fund. The Public-Private Partnerships for
7 Transportation Fund is created as a special fund in the State
8 treasury. Subject to appropriation, all money in the
9 Public-Private Partnerships for Transportation Fund must be
10 used by the Illinois Department of Transportation to supplement
11 funding, as directed in the appropriation, for transportation
12 projects in the State. Any interest earned on money in the
13 Public-Private Partnerships for Transportation Fund must be
14 deposited into the Public-Private Partnerships for
15 Transportation Fund.

16 Section 925. The Public Construction Bond Act is amended by
17 adding Section 1.5 as follows:

18 (30 ILCS 550/1.5 new)

19 Sec. 1.5. Public-private agreements. This Act applies to
20 any public-private agreement entered into under the
21 Public-Private Partnerships for Transportation Act.

1 Section 930. The Public Works Preference Act is amended by
2 adding Section 4.5 as follows:

3 (30 ILCS 560/4.5 new)

4 Sec. 4.5. Public-private agreements. This Act applies to
5 any public-private agreement entered into under the
6 Public-Private Partnerships for Transportation Act.

7 Section 935. The Employment of Illinois Workers on Public
8 Works Act is amended by adding Section 2.5 as follows:

9 (30 ILCS 570/2.5 new)

10 Sec. 2.5. Public-private agreements. This Act applies to
11 any public-private agreement entered into under the
12 Public-Private Partnerships for Transportation Act.

13 Section 940. The Business Enterprise for Minorities,
14 Females, and Persons with Disabilities Act is amended by adding
15 Section 2.5 as follows:

16 (30 ILCS 575/2.5 new)

17 Sec. 2.5. Public-private agreements. This Act applies to
18 any public-private agreement entered into under the
19 Public-Private Partnerships for Transportation Act.

20 Section 945. The Retailers' Occupation Tax Act is amended

1 by adding Section 1q as follows:

2 (35 ILCS 120/1q new)

3 Sec. 1q. Building materials exemption; public-private
4 partnership transportation projects.

5 (a) Each retailer that makes a qualified sale of building
6 materials to be incorporated into a "project" as defined in the
7 Public-Private Partnerships for Transportation Act, by
8 remodeling, rehabilitating, or new construction, may deduct
9 receipts from those sales when calculating the tax imposed by
10 this Act.

11 (b) As used in this Section, "qualified sale" means a sale
12 of building materials that will be incorporated into a project
13 for which a Certificate of Eligibility for Sales Tax Exemption
14 has been issued by the agency having authority over the
15 project.

16 (c) To document the exemption allowed under this Section,
17 the retailer must obtain from the purchaser a copy of the
18 Certificate of Eligibility for Sales Tax Exemption issued by
19 the agency having jurisdiction over the project into which the
20 building materials will be incorporated is located. The
21 Certificate of Eligibility for Sales Tax Exemption must contain
22 all of the following:

23 (1) statement that the project identified in the
24 Certificate meets all the requirements of the agency having
25 authority over the project;

1 (2) the location or address of the project; and

2 (3) the signature of the director of the agency with
3 authority over the project or the director's delegate.

4 (d) In addition to meeting the requirements of subsection
5 (c) of this Act, the retailer must obtain a certificate from
6 the purchaser that contains all of the following:

7 (1) a statement that the building materials are being
8 purchased for incorporation into a project in accordance
9 with the Public-Private Partnerships for Transportation
10 Act;

11 (2) the location or address of the project into which
12 the building materials will be incorporated;

13 (3) the name of the project;

14 (4) a description of the building materials being
15 purchased; and

16 (5) the purchaser's signature and date of purchase.

17 (e) This Section is exempt from Section 2-70 of this Act.

18 Section 950. The Property Tax Code is amended by changing
19 Section 15-55 and by adding Section 15-195 as follows:

20 (35 ILCS 200/15-55)

21 Sec. 15-55. State property.

22 (a) All property belonging to the State of Illinois is
23 exempt. However, the State agency holding title shall file the
24 certificate of ownership and use required by Section 15-10,

1 together with a copy of any written lease or agreement, in
2 effect on March 30 of the assessment year, concerning parcels
3 of 1 acre or more, or an explanation of the terms of any oral
4 agreement under which the property is leased, subleased or
5 rented.

6 The leased property shall be assessed to the lessee and the
7 taxes thereon extended and billed to the lessee, and collected
8 in the same manner as for property which is not exempt. The
9 lessee shall be liable for the taxes and no lien shall attach
10 to the property of the State.

11 For the purposes of this Section, the word "leases"
12 includes licenses, franchises, operating agreements and other
13 arrangements under which private individuals, associations or
14 corporations are granted the right to use property of the
15 Illinois State Toll Highway Authority and includes all property
16 of the Authority used by others without regard to the size of
17 the leased parcel.

18 (b) However, all property of every kind belonging to the
19 State of Illinois, which is or may hereafter be leased to the
20 Illinois Prairie Path Corporation, shall be exempt from all
21 assessments, taxation or collection, despite the making of any
22 such lease, if it is used for:

23 (1) conservation, nature trail or any other
24 charitable, scientific, educational or recreational
25 purposes with public benefit, including the preserving and
26 aiding in the preservation of natural areas, objects,

1 flora, fauna or biotic communities;

2 (2) the establishment of footpaths, trails and other
3 protected areas;

4 (3) the conservation of the proper use of natural
5 resources or the promotion of the study of plant and animal
6 communities and of other phases of ecology, natural history
7 and conservation;

8 (4) the promotion of education in the fields of nature,
9 preservation and conservation; or

10 (5) similar public recreational activities conducted
11 by the Illinois Prairie Path Corporation.

12 No lien shall attach to the property of the State. No tax
13 liability shall become the obligation of or be enforceable
14 against Illinois Prairie Path Corporation.

15 (c) If the State sells the James R. Thompson Center or the
16 Elgin Mental Health Center and surrounding land located at 750
17 S. State Street, Elgin, Illinois, as provided in subdivision
18 (a) (2) of Section 7.4 of the State Property Control Act, to
19 another entity whose property is not exempt and immediately
20 thereafter enters into a leaseback or other agreement that
21 directly or indirectly gives the State a right to use, control,
22 and possess the property, that portion of the property leased
23 and occupied exclusively by the State shall remain exempt under
24 this Section. For the property to remain exempt under this
25 subsection (c), the State must retain an option to purchase the
26 property at a future date or, within the limitations period for

1 reverters, the property must revert back to the State.

2 If the property has been conveyed as described in this
3 subsection (c), the property is no longer exempt pursuant to
4 this Section as of the date when:

5 (1) the right of the State to use, control, and possess
6 the property has been terminated; or

7 (2) the State no longer has an option to purchase or
8 otherwise acquire the property and there is no provision
9 for a reverter of the property to the State within the
10 limitations period for reverters.

11 Pursuant to Sections 15-15 and 15-20 of this Code, the
12 State shall notify the chief county assessment officer of any
13 transaction under this subsection (c). The chief county
14 assessment officer shall determine initial and continuing
15 compliance with the requirements of this Section for tax
16 exemption. Failure to notify the chief county assessment
17 officer of a transaction under this subsection (c) or to
18 otherwise comply with the requirements of Sections 15-15 and
19 15-20 of this Code shall, in the discretion of the chief county
20 assessment officer, constitute cause to terminate the
21 exemption, notwithstanding any other provision of this Code.

22 (c-1) If the Illinois State Toll Highway Authority sells
23 the Illinois State Toll Highway Authority headquarters
24 building and surrounding land, located at 2700 Ogden Avenue,
25 Downers Grove, Illinois as provided in subdivision (a)(2) of
26 Section 7.5 of the State Property Control Act, to another

1 entity whose property is not exempt and immediately thereafter
2 enters into a leaseback or other agreement that directly or
3 indirectly gives the State or the Illinois State Toll Highway
4 Authority a right to use, control, and possess the property,
5 that portion of the property leased and occupied exclusively by
6 the State or the Authority shall remain exempt under this
7 Section. For the property to remain exempt under this
8 subsection (c), the Authority must retain an option to purchase
9 the property at a future date or, within the limitations period
10 for reverters, the property must revert back to the Authority.

11 If the property has been conveyed as described in this
12 subsection (c), the property is no longer exempt pursuant to
13 this Section as of the date when:

14 (1) the right of the State or the Authority to use,
15 control, and possess the property has been terminated; or

16 (2) the Authority no longer has an option to purchase
17 or otherwise acquire the property and there is no provision
18 for a reverter of the property to the Authority within the
19 limitations period for reverters.

20 Pursuant to Sections 15-15 and 15-20 of this Code, the
21 Authority shall notify the chief county assessment officer of
22 any transaction under this subsection (c). The chief county
23 assessment officer shall determine initial and continuing
24 compliance with the requirements of this Section for tax
25 exemption. Failure to notify the chief county assessment
26 officer of a transaction under this subsection (c) or to

1 otherwise comply with the requirements of Sections 15-15 and
2 15-20 of this Code shall, in the discretion of the chief county
3 assessment officer, constitute cause to terminate the
4 exemption, notwithstanding any other provision of this Code.

5 (d) The fair market rent of each parcel of real property in
6 Will County owned by the State of Illinois for the purpose of
7 developing an airport by the Department of Transportation shall
8 include the assessed value of leasehold tax. The lessee of each
9 parcel of real property in Will County owned by the State of
10 Illinois for the purpose of developing an airport by the
11 Department of Transportation shall not be liable for the taxes
12 thereon. In order for the State to compensate taxing districts
13 for the leasehold tax under this paragraph the Will County
14 Supervisor of Assessments shall certify, in writing, to the
15 Department of Transportation, the amount of leasehold taxes
16 extended for the 2002 property tax year for each such exempt
17 parcel. The Department of Transportation shall pay to the Will
18 County Treasurer, from the Tax Recovery Fund, on or before July
19 1 of each year, the amount of leasehold taxes for each such
20 exempt parcel as certified by the Will County Supervisor of
21 Assessments. The tax compensation shall terminate on December
22 31, 2020. It is the duty of the Department of Transportation to
23 file with the Office of the Will County Supervisor of
24 Assessments an affidavit stating the termination date for
25 rental of each such parcel due to airport construction. The
26 affidavit shall include the property identification number for

1 each such parcel. In no instance shall tax compensation for
2 property owned by the State be deemed delinquent or bear
3 interest. In no instance shall a lien attach to the property of
4 the State. In no instance shall the State be required to pay
5 leasehold tax compensation in excess of the Tax Recovery Fund's
6 balance.

7 (e) Public Act 81-1026 applies to all leases or agreements
8 entered into or renewed on or after September 24, 1979.

9 (f) Notwithstanding anything to the contrary in this
10 Section, all property owned by the State or the Illinois State
11 Toll Highway Authority that is defined as a transportation
12 project under the Public-Private Partnerships for
13 Transportation Act and that is used for transportation purposes
14 and that is leased for those purposes to another entity whose
15 property is not exempt shall remain exempt, and any leasehold
16 interest in the property shall not be subject to taxation under
17 Section 9-195 of this Act.

18 (Source: P.A. 95-331, eff. 8-21-07; 96-192, eff. 8-10-09.)

19 (35 ILCS 200/15-195 new)

20 Sec. 15-195. Exemption for qualified airport leased
21 property. Notwithstanding anything in this Code to the
22 contrary, all property owned by an airport authority created
23 and established under the Airport Authorities Act shall remain
24 exempt from taxation and any leasehold interest in that
25 property is not subject to taxation under Section 9-195 if that

1 property is used for transportation purposes as part of a
2 transportation project undertaken pursuant to Public-Private
3 Partnerships for Transportation Act and is leased to another
4 entity whose property is not exempt.

5 Section 955. The Toll Highway Act is amended by adding
6 Section 11.1 as follows:

7 (605 ILCS 10/11.1 new)

8 Sec. 11.1. Public-private partnerships. The Authority may
9 exercise all powers granted to it under the Public-Private
10 Partnerships for Transportation Act.

11 Section 965. The Prevailing Wage Act is amended by changing
12 Section 2 as follows:

13 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

14 Sec. 2. This Act applies to the wages of laborers,
15 mechanics and other workers employed in any public works, as
16 hereinafter defined, by any public body and to anyone under
17 contracts for public works. This includes any maintenance,
18 repair, assembly, or disassembly work performed on equipment
19 whether owned, leased, or rented.

20 As used in this Act, unless the context indicates
21 otherwise:

22 "Public works" means all fixed works constructed or

1 demolished by any public body, or paid for wholly or in part
2 out of public funds. "Public works" as defined herein includes
3 all projects financed in whole or in part with bonds, grants,
4 loans, or other funds made available by or through the State or
5 any of its political subdivisions, including but not limited
6 to: bonds issued under the Industrial Project Revenue Bond Act
7 (Article 11, Division 74 of the Illinois Municipal Code), the
8 Industrial Building Revenue Bond Act, the Illinois Finance
9 Authority Act, the Illinois Sports Facilities Authority Act, or
10 the Build Illinois Bond Act; loans or other funds made
11 available pursuant to the Build Illinois Act; or funds from the
12 Fund for Illinois' Future under Section 6z-47 of the State
13 Finance Act, funds for school construction under Section 5 of
14 the General Obligation Bond Act, funds authorized under Section
15 3 of the School Construction Bond Act, funds for school
16 infrastructure under Section 6z-45 of the State Finance Act,
17 and funds for transportation purposes under Section 4 of the
18 General Obligation Bond Act. "Public works" also includes all
19 projects financed in whole or in part with funds from the
20 Department of Commerce and Economic Opportunity under the
21 Illinois Renewable Fuels Development Program Act for which
22 there is no project labor agreement and (ii) all projects
23 undertaken under a public-private agreement under the
24 Public-Private Partnerships for Transportation Act. "Public
25 works" also includes all projects at leased facility property
26 used for airport purposes under Section 35 of the Local

1 Government Facility Lease Act. "Public works" also includes the
2 construction of a new wind power facility by a business
3 designated as a High Impact Business under Section 5.5(a)(3)(E)
4 of the Illinois Enterprise Zone Act. "Public works" does not
5 include work done directly by any public utility company,
6 whether or not done under public supervision or direction, or
7 paid for wholly or in part out of public funds. "Public works"
8 does not include projects undertaken by the owner at an
9 owner-occupied single-family residence or at an owner-occupied
10 unit of a multi-family residence.

11 "Construction" means all work on public works involving
12 laborers, workers or mechanics. This includes any maintenance,
13 repair, assembly, or disassembly work performed on equipment
14 whether owned, leased, or rented.

15 "Locality" means the county where the physical work upon
16 public works is performed, except (1) that if there is not
17 available in the county a sufficient number of competent
18 skilled laborers, workers and mechanics to construct the public
19 works efficiently and properly, "locality" includes any other
20 county nearest the one in which the work or construction is to
21 be performed and from which such persons may be obtained in
22 sufficient numbers to perform the work and (2) that, with
23 respect to contracts for highway work with the Department of
24 Transportation of this State, "locality" may at the discretion
25 of the Secretary of the Department of Transportation be
26 construed to include two or more adjacent counties from which

1 workers may be accessible for work on such construction.

2 "Public body" means the State or any officer, board or
3 commission of the State or any political subdivision or
4 department thereof, or any institution supported in whole or in
5 part by public funds, and includes every county, city, town,
6 village, township, school district, irrigation, utility,
7 reclamation improvement or other district and every other
8 political subdivision, district or municipality of the state
9 whether such political subdivision, municipality or district
10 operates under a special charter or not.

11 The terms "general prevailing rate of hourly wages",
12 "general prevailing rate of wages" or "prevailing rate of
13 wages" when used in this Act mean the hourly cash wages plus
14 fringe benefits for training and apprenticeship programs
15 approved by the U.S. Department of Labor, Bureau of
16 Apprenticeship and Training, health and welfare, insurance,
17 vacations and pensions paid generally, in the locality in which
18 the work is being performed, to employees engaged in work of a
19 similar character on public works.

20 (Source: P.A. 95-341, eff. 8-21-07; 96-28, eff. 7-1-09; 96-58,
21 eff. 1-1-10; 96-186, eff. 1-1-10; revised 8-20-09.)

22 Section 999. Effective date. This Act takes effect upon
23 becoming law."