LRB9215370EGfg

AN ACT to revise the law by combining multiple enactments
 and making technical corrections.

3 Be it enacted by the People of the State of Illinois,4 represented in the General Assembly:

5 Section 1. Nature of this Act.

6 (a) This Act may be cited as the First 2002 General 7 Revisory Act.

8 (b) This Act is not intended to make any substantive 9 change in the law. It reconciles conflicts that have arisen 10 from multiple amendments and enactments and makes technical 11 corrections and revisions in the law.

12 This Act revises and, where appropriate, renumbers 13 certain Sections that have been added or amended by more than 14 one Public Act. In certain cases in which a repealed Act or 15 Section has been replaced with a successor law, this Act 16 incorporates amendments to the repealed Act or Section into 17 the successor law. This Act also corrects errors, revises 18 cross-references, and deletes obsolete text.

19 (c) In this Act, the reference at the end of each amended Section indicates the sources in the Session Laws of 20 21 Illinois that were used in the preparation of the text of that Section. The text of the Section included in this Act 22 23 is intended to reconcile the different versions of the Section found in the Public Acts included in the list of 24 sources, but may not include other versions of the Section to 25 be found in Public Acts not included in the list of sources. 26 The list of sources is not a part of the text of the Section. 27

(d) Public Acts 91-937 through 92-520 were considered in
the preparation of the combining revisories included in this
Act. Many of those combining revisories contain no striking
or underscoring because no additional changes are being made
in the material that is being combined.

SB1854 Engrossed -2- LRB9215370EGfg

1	Section 4. The Regulatory Sunset Act is amended by
2	changing Sections 4.13 and 4.22 as follows:
3	(5 ILCS 80/4.13) (from Ch. 127, par. 1904.13)
4	Sec. 4.13. Acts repealed on December 31, 2002. The
5	following Acts are repealed on December 31, 2002:
б	The Environmental Health Practitioner Licensing Act.
7	The Naprapathic Practice Act.
8	The Wholesale Drug Distribution Licensing Act.
9	The Dietetic and Nutrition Services Practice Act.
10	The Funeral Directors and Embalmers Licensing Code.
11	The Professional Counselor and Clinical Professional
12	Counselor Licensing Act.
13	(Source: P.A. 88-45; 89-61, eff. 6-30-95; revised 8-22-01.)
14	(5 ILCS 80/4.22)
15	Sec. 4.22. Acts Act repealed on January 1, 2012. The
16	following <u>Acts are</u> Aet-is repealed on January 1, 2012:-
17	The Detection of Deception Examiners Act.
18	The Home Inspector License Act.
19	The Interior Design Title Act.
20	The Professional Boxing Act.
21	The Real Estate Appraiser Appraisers Licensing Act of
22	2002.
23	The Water Well and Pump Installation Contractor's License
24	Act.
25	(Source: P.A. 92-104, eff. 7-20-01; 92-180, eff. 7-1-02;
26	92-239, eff. 8-3-01; 92-453, eff. 8-21-01; 92-499, eff.
27	1-1-02; 92-500, eff. 12-18-01; revised 12-26-01.)
28	(5 ILCS 80/4.12 rep.) (from Ch. 127, par. 1904.12)
29	Section. 5. The Regulatory Sunset Act is amended by
30	repealing Section 4.12.

-3-

Section 6. The Illinois Administrative Procedure Act is
 amended by renumbering Section 90 (as added by P.A. 92-405)
 as follows:

4 (5 ILCS 100/1-90)

5 Sec. <u>1-90.</u> 9θ- Rulemaking.

6 (a) "Rulemaking" means the process and required
7 documentation for the adoption of Illinois Administrative
8 Code text.

9

(b) Required documentation.

10 (1) At the time of original proposal, rulemaking documentation must consist of a notice page and new, 11 12 amendatory, or repealed text. New, repealed, and amendatory text must be depicted in the manner required 13 by Secretary of State rule. Amendatory rulemakings must 14 15 indicate text deletion by striking through all text that is to be omitted and must indicate text addition by 16 17 underlining all new text.

18 (2) At the time of adoption, documentation must
19 also include pages indicating the text of the new rule,
20 without striking and underlining, for inclusion in the
21 official Secretary of State records, the certification
22 required under Section 5-65(a), and any additional
23 documentation required by Secretary of State rule.

24 (3) For a required rulemaking adopted under Section
25 5-15, an emergency rulemaking under Section 5-45, or a
26 peremptory rulemaking under Section 5-50, the
27 documentation requirements of paragraphs (b)(1) and (2)
28 of this Section apply at the time of adoption.

(c) "Background text" means existing text of the Illinois Administrative Code that is part of a rulemaking but is not being amended by the rulemaking. Background text in rulemaking documentation shall match the current text of the Illinois Administrative Code.

1 (d) No material that was originally proposed in one 2 rulemaking may be combined with another proposed rulemaking 3 that was initially published without that material. However, 4 this does not preclude separate rulemakings from being 5 combined for publication at the time of adoption as 6 authorized by Secretary of State rule.

7 (Source: P.A. 92-405, eff. 8-16-01; revised 8-21-01.)

8 Section 7. The Freedom of Information Act is amended by 9 changing Sections 2 and 7 as follows:

10

(5 ILCS 140/2) (from Ch. 116, par. 202)

11

Sec. 2. Definitions. As used in this Act:

"Public body" means any legislative, executive, 12 (a) 13 administrative, or advisory bodies of the State, state 14 universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other 15 municipal corporations, boards, bureaus, committees, 16 or 17 commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and 18 19 subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue. "Public body" does not 20 21 include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child 22 23 Death Review Team Act.

(b) "Person" means any individual, corporation,
partnership, firm, organization or association, acting
individually or as a group.

(c) "Public records" means all records, reports, forms,
writings, letters, memoranda, books, papers, maps,
photographs, microfilms, cards, tapes, recordings, electronic
data processing records, recorded information and all other
documentary materials, regardless of physical form or
characteristics, having been prepared, or having been or

-5-

1 being used, received, possessed or under the control of any 2 public body. "Public records" includes, but is expressly not limited to: (i) administrative manuals, procedural rules, 3 4 and instructions to staff, unless exempted by Section 7(p) of 5 this Act; (ii) final opinions and orders made in the б adjudication of cases, except an educational institution's 7 adjudication of student or employee grievance or disciplinary 8 cases; (iii) substantive rules; (iv) statements and 9 interpretations of policy which have been adopted by a public body; (v) final planning policies, recommendations, and 10 11 decisions; (vi) factual reports, inspection reports, and studies whether prepared by or for the public body; (vii) all 12 information in any account, voucher, or contract dealing with 13 the receipt or expenditure of public or other funds of public 14 bodies; (viii) the names, salaries, titles, and dates of 15 16 employment of all employees and officers of public bodies; (ix) materials containing opinions concerning the rights of 17 the state, the public, a subdivision of state or a local 18 19 government, or of any private persons; (x) the name of every official and the final records of voting in all proceedings 20 21 of public bodies; (xi) applications for any contract, permit, grant, or agreement except as exempted from disclosure by 22 23 subsection (g) of Section 7 of this Act; (xii) each report, document, study, or publication prepared by independent 24 25 consultants or other independent contractors for the public body; (xiii) all other information required by law to be made 26 available for public inspection or copying; (xiv) information 27 relating to any grant or contract made by or between a public 28 29 body and another public body or private organization; (xv) 30 waiver documents filed with the State Superintendent of Education or the president of the University of 31 Illinois 32 under Section 30-12.5 of the School Code, concerning nominees for General Assembly scholarships under Sections 30-9, 30-10, 33 and 30-11 of the School Code; (xvi) complaints, results of 34

1 complaints, and Department of Children and Family Services 2 staff findings of licensing violations at day care facilities, provided that personal and identifying 3 4 information is not released; and (xvii) records, reports, forms, writings, letters, memoranda, books, papers, and other 5 б documentary information, regardless of physical form or characteristics, having been prepared, or having been or 7 8 being used, received, possessed, or under the control of the 9 Illinois Sports Facilities Authority dealing with the receipt or expenditure of public funds or other funds of the 10 11 Authority in connection with the reconstruction, renovation, remodeling, extension, or improvement of all or substantially 12 all of an existing "facility" as that term is defined in the 13 Illinois Sports Facilities Authority Act. 14

15 (d) "Copying" means the reproduction of any public 16 record by means of any photographic, electronic, mechanical 17 or other process, device or means.

18 (e) "Head of the public body" means the president, 19 mayor, chairman, presiding officer, director, superintendent, 20 manager, supervisor or individual otherwise holding primary 21 executive and administrative authority for the public body, 22 or such person's duly authorized designee.

(f) "News media" means a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing.

30 (Source: P.A. 91-935, eff. 6-1-01; 92-335, eff. 8-10-01; 31 92-468, eff. 8-22-01; revised 10-10-01.)

32 (5 ILCS 140/7) (from Ch. 116, par. 207)
33 Sec. 7. Exemptions.

1 (1) The following shall be exempt from inspection and 2 copying:

3 (a) Information specifically prohibited from
4 disclosure by federal or State law or rules and
5 regulations adopted under federal or State law.

(b) Information that, if disclosed, would 6 7 constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing 8 9 by the individual subjects of the information. The disclosure of information that bears on the public duties 10 of public employees and officials shall not be considered 11 an invasion of personal privacy. Information exempted 12 under this subsection (b) shall include but is not 13 limited to: 14

files and personal information maintained 15 (i) 16 with respect to clients, patients, residents, students or other individuals receiving social, 17 medical, educational, vocational, financial, 18 supervisory or custodial care or services directly 19 or indirectly from federal agencies or public 20 21 bodies;

(ii) personnel files and personal information
maintained with respect to employees, appointees or
elected officials of any public body or applicants
for those positions;

(iii) files and personal information
maintained with respect to any applicant, registrant
or licensee by any public body cooperating with or
engaged in professional or occupational
registration, licensure or discipline;

31 (iv) information required of any taxpayer in 32 connection with the assessment or collection of any 33 tax unless disclosure is otherwise required by State 34 statute; and

1 (v) information revealing the identity of 2 persons who file complaints with or provide information to administrative, investigative, law 3 4 enforcement or penal agencies; provided, however, that identification of witnesses to traffic 5 accidents, traffic accident reports, and rescue 6 reports may be provided by agencies of local 7 government, except in a case for which a criminal 8 9 investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal 10 11 privacy under this subsection.

12 (c) Records compiled by any public body for 13 administrative enforcement proceedings and any law 14 enforcement or correctional agency for law enforcement 15 purposes or for internal matters of a public body, but 16 only to the extent that disclosure would:

17 (i) interfere with pending or actually and 18 reasonably contemplated law enforcement proceedings 19 conducted by any law enforcement or correctional 20 agency;

21 (ii) interfere with pending administrative 22 enforcement proceedings conducted by any public 23 body;

24 (iii) deprive a person of a fair trial or an25 impartial hearing;

26 (iv) unavoidably disclose the identity of a 27 confidential source or confidential information 28 furnished only by the confidential source;

29 (v) disclose unique or specialized 30 investigative techniques other than those generally 31 used and known or disclose internal documents of 32 correctional agencies related to detection, 33 observation or investigation of incidents of crime 34 or misconduct;

1 (vi) constitute an invasion of personal 2 privacy under subsection (b) of this Section; (vii) endanger the life or physical safety of 3 4 law enforcement personnel or any other person; or (viii) obstruct an 5 ongoing criminal investigation. 6 7 (d) Criminal history record information maintained 8 by State or local criminal justice agencies, except the 9 following which shall be open for public inspection and copying: 10 11 (i) chronologically maintained arrest information, such as traditional arrest logs or 12 13 blotters; (ii) the name of a person in the custody of a 14 15 law enforcement agency and the charges for which 16 that person is being held; (iii) court records that are public; 17 (iv) records that are otherwise available 18 19 under State or local law; or (v) records in which the requesting party is 20 21 the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of 22 23 this Section. "Criminal history record information" means data 24 25 identifiable to an individual and consisting of descriptions or notations of arrests, detentions, 26 indictments, informations, pre-trial proceedings, trials, 27 or other formal events in the criminal justice system or 28 descriptions or notations of criminal charges (including 29 30 criminal violations of local municipal ordinances) and nature of any disposition arising therefrom, 31 the including sentencing, court or correctional supervision, 32 rehabilitation and release. The term does not apply to 33 34 statistical records and reports in which individuals are not identified and from which their identities are not

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ascertainable, or to information that is for criminal investigative or intelligence purposes.

4 (e) Records that relate to or affect the security 5 of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, 6 7 memoranda and other records in which opinions are 8 expressed, or policies or actions are formulated, except 9 that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and 10 11 identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those 12 records of officers and agencies of the General Assembly 13 that pertain to the preparation of legislative documents. 14

15 (g) Trade secrets and commercial or financial 16 information obtained from a person or business where the trade secrets or information are proprietary, privileged 17 or confidential, or where disclosure of the trade secrets 18 or information may cause competitive harm, including all 19 information determined to be confidential under Section 20 21 4002 of the Technology Advancement and Development Act. 22 Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting 23 24 to disclosure.

(h) Proposals and bids for any contract, grant, or 25 agreement, including information which if it were 26 disclosed would frustrate procurement or give 27 an advantage to any person proposing to enter 28 into a 29 contractor agreement with the body, until an award or final selection is made. Information prepared by or for 30 the body in preparation of a bid solicitation shall be 31 exempt until an award or final selection is made. 32

33 (i) Valuable formulae, computer graphic systems,34 designs, drawings and research data obtained or produced

-11-

by any public body when disclosure could reasonably be
 expected to produce private gain or public loss.

3 (j) Test questions, scoring keys and other 4 examination data used to administer an academic 5 examination or determined the qualifications of an 6 applicant for a license or employment.

(k) Architects' plans and engineers' technical
submissions for projects not constructed or developed in
whole or in part with public funds and for projects
constructed or developed with public funds, to the extent
that disclosure would compromise security.

12 (1) Library circulation and order records13 identifying library users with specific materials.

14 (m) Minutes of meetings of public bodies closed to 15 the public as provided in the Open Meetings Act until the 16 public body makes the minutes available to the public 17 under Section 2.06 of the Open Meetings Act.

(n) Communications between a public body and an 18 attorney or auditor representing the public body that 19 would not be subject to discovery in litigation, and 20 21 materials prepared or compiled by or for a public body in 22 anticipation of a criminal, civil or administrative 23 proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with 24 25 respect to internal audits of public bodies.

26 (o) Information received by a primary or secondary
27 school, college or university under its procedures for
28 the evaluation of faculty members by their academic
29 peers.

30 (p) Administrative or technical information
31 associated with automated data processing operations,
32 including but not limited to software, operating
33 protocols, computer program abstracts, file layouts,
34 source listings, object modules, load modules, user

1 guides, documentation pertaining to all logical and 2 physical design of computerized systems, employee 3 manuals, and any other information that, if disclosed, 4 would jeopardize the security of the system or its data 5 or the security of materials exempt under this Section.

6 (q) Documents or materials relating to collective 7 negotiating matters between public bodies and their 8 employees or representatives, except that any final 9 contract or agreement shall be subject to inspection and 10 copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating 17 estate purchase negotiations until those 18 to real negotiations have been completed or otherwise terminated. 19 With regard to a parcel involved in a pending or actually 20 21 and reasonably contemplated eminent domain proceeding 22 under Article VII of the Code of Civil Procedure, 23 records, documents and information relating to that parcel shall be exempt except as may be allowed under 24 25 discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real 26 estate sale shall be exempt until a sale is consummated. 27

(t) Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool.

33 (u) Information concerning a university's
 34 adjudication of student or employee grievance or

disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.

6 (v) Course materials or research materials used by 7 faculty members.

8 (w) Information related solely to the internal
9 personnel rules and practices of a public body.

(x) Information contained in or related 10 to 11 examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible 12 supervision of financial 13 for the regulation or institutions or insurance companies, unless disclosure is 14 15 otherwise required by State law.

16 (y) Information the disclosure of which is 17 restricted under Section 5-108 of the Public Utilities 18 Act.

19 (z) Manuals or instruction to staff that relate to
20 establishment or collection of liability for any State
21 tax or that relate to investigations by a public body to
22 determine violation of any criminal law.

23 (aa) Applications, related documents, and medical 24 records received by the Experimental Organ 25 Transplantation Procedures Board and any and all documents or other records prepared by the Experimental 26 Organ Transplantation Procedures Board or its staff 27 relating to applications it has received. 28

(bb) Insurance or self insurance (including any
intergovernmental risk management association or self
insurance pool) claims, loss or risk management
information, records, data, advice or communications.

33 (cc) Information and records held by the Department
 34 of Public Health and its authorized representatives

relating to known or suspected cases of sexually
 transmissible disease or any information the disclosure
 of which is restricted under the Illinois Sexually
 Transmissible Disease Control Act.

5 (dd) Information the disclosure of which is 6 exempted under Section 30 of the Radon Industry Licensing 7 Act.

8 (ee) Firm performance evaluations under Section 55 9 of the Architectural, Engineering, and Land Surveying 10 Qualifications Based Selection Act.

(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

18 (gg) Information the disclosure of which is
19 restricted and exempted under Section 50 of the Illinois
20 Prepaid Tuition Act.

(hh) Information the disclosure of which is
exempted under Section 80 of the State Gift Ban Act.

(ii) Beginning July 1, 1999, information that would
disclose or might lead to the disclosure of secret or
confidential information, codes, algorithms, programs, or
private keys intended to be used to create electronic or
digital signatures under the Electronic Commerce Security
Act.

(jj) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

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(kk) Information and data concerning the

distribution of surcharge moneys collected and remitted
 by wireless carriers under the Wireless Emergency
 Telephone Safety Act.

4 (2) This Section does not authorize withholding of 5 information or limit the availability of records to the 6 public, except as stated in this Section or otherwise 7 provided in this Act.

8 (Source: P.A. 91-137, eff. 7-16-99; 91-357, eff. 7-29-99;
9 91-660, eff. 12-22-99; 92-16, eff. 6-28-01; 92-241, eff.
10 8-3-01; 92-281, eff. 8-7-01; revised 10-2-01.)

Section 8. The State Employees Group Insurance Act of 12 1971 is amended by changing Section 3 as follows:

13 (5 ILCS 375/3) (from Ch. 127, par. 523)

14 Sec. 3. Definitions. Unless the context otherwise 15 requires, the following words and phrases as used in this Act 16 shall have the following meanings. The Department may define 17 these and other words and phrases separately for the purpose 18 of implementing specific programs providing benefits under 19 this Act.

20 (a) "Administrative service organization" means any 21 person, firm or corporation experienced in the handling of 22 claims which is fully qualified, financially sound and 23 capable of meeting the service requirements of a contract of 24 administration executed with the Department.

25 "Annuitant" means (1) an employee who retires, (b) or has retired, on or after January 1, 1966 on an immediate 26 annuity under the provisions of Articles 2, 14, 15 (including 27 28 an employee who has retired under the optional retirement program established under Section 15-158.2), paragraphs (2), 29 (3), or (5) of Section 16-106, or Article 18 of the Illinois 30 31 Pension Code; (2) any person who was receiving group insurance coverage under this Act as of March 31, 1978 by 32

1 reason of his status as an annuitant, even though the annuity 2 in relation to which such coverage was provided is a proportional annuity based on less than the minimum period of 3 4 service required for a retirement annuity in the system involved; (3) any person not otherwise covered by this Act 5 б who has retired as a participating member under Article 2 of 7 the Illinois Pension Code but is ineligible for the 8 retirement annuity under Section 2-119 of the Illinois 9 Pension Code; (4) the spouse of any person who is receiving a retirement annuity under Article 18 of the Illinois Pension 10 11 Code and who is covered under a group health insurance program sponsored by a governmental employer other than the 12 State of Illinois and who has irrevocably elected to waive 13 his or her coverage under this Act and to have his or her 14 15 spouse considered as the "annuitant" under this Act and not 16 as a "dependent"; or (5) an employee who retires, or has retired, from a qualified position, as determined according 17 to rules promulgated by the Director, under a qualified local 18 19 government or a qualified rehabilitation facility or a 20 qualified domestic violence shelter or service. (For definition of "retired employee", see (p) post). 21

22 (b-5) "New SERS annuitant" means a person who, on or 23 after January 1, 1998, becomes an annuitant, as defined in subsection (b), by virtue of beginning to 24 receive а 25 retirement annuity under Article 14 of the Illinois Pension Code, and is eligible to participate in the basic program of 26 group health benefits provided for annuitants under this Act. 27 "New SURS annuitant" means a person who (1) on or 28 (b-6)29 after January 1, 1998, becomes an annuitant, as defined in 30 subsection (b), by virtue of beginning to receive a retirement annuity under Article 15 of the Illinois Pension 31 32 Code, (2) has not made the election authorized under Section 15-135.1 of the Illinois Pension Code, and (3) is eligible to 33 participate in the basic program of group health benefits 34

-16-

1 provided for annuitants under this Act.

2 (b-7) "New TRS State annuitant" means a person who, on or after July 1, 1998, becomes an annuitant, as defined in 3 4 subsection (b), by virtue of beginning to receive a 5 retirement annuity under Article 16 of the Illinois Pension 6 Code based on service as a teacher as defined in paragraph 7 (2), (3), or (5) of Section 16-106 of that Code, and is 8 eligible to participate in the basic program of group health 9 benefits provided for annuitants under this Act.

(c) "Carrier" means (1) an 10 insurance company, а 11 corporation organized under the Limited Health Service 12 Organization Act or the Voluntary Health Services Plan Act, a partnership, or other nongovernmental organization, which is 13 authorized to do group life or group health insurance 14 15 business in Illinois, or (2) the State of Illinois as a 16 self-insurer.

(d) "Compensation" means salary or wages payable on a 17 regular payroll by the State Treasurer on a warrant of the 18 19 State Comptroller out of any State, trust or federal fund, or by the Governor of the State through a disbursing officer of 20 21 the State out of a trust or out of federal funds, or by any Department out of State, trust, federal or other funds held 22 23 by the State Treasurer or the Department, to any person for personal services currently performed, and ordinary 24 or 25 accidental disability benefits under Articles 2, 14, 15 (including ordinary or accidental disability benefits under 26 27 the optional retirement program established under Section 15-158.2), paragraphs (2), (3), or (5) of Section 16-106, 28 or 29 Article 18 of the Illinois Pension Code, for disability 30 incurred after January 1, 1966, or benefits payable under the Workers' Compensation or Occupational Diseases 31 Act or 32 benefits payable under a sick pay plan established in accordance with Section 36 of the State Finance Act. 33 34 "Compensation" also means salary or wages paid to an employee -18-

1 of any qualified local government or qualified rehabilitation 2 facility or a qualified domestic violence shelter or service. (e) "Commission" means the 3 State Employees Group 4 Advisory Commission authorized by this Act. Insurance Commencing July 1, 1984, "Commission" as used in this Act 5 б the Illinois Economic and Fiscal Commission as means 7 established by the Legislative Commission Reorganization Act 8 of 1984.

9 (f) "Contributory", when referred to as contributory coverage, shall mean optional coverages or benefits elected 10 11 by the member toward the cost of which such member makes contribution, or which are funded in whole or in part through 12 the acceptance of a reduction in earnings or the foregoing of 13 an increase in earnings by an employee, as distinguished from 14 15 noncontributory coverage or benefits which are paid entirely 16 by the State of Illinois without reduction of the member's 17 salary.

"Department" means any department, 18 (g) institution, 19 board, commission, officer, court or any agency of the State 20 government receiving appropriations and having power to 21 certify payrolls to the Comptroller authorizing payments of 22 salary and wages against such appropriations as are made by 23 the General Assembly from any State fund, or against trust funds held by the State Treasurer and includes boards of 24 25 trustees of the retirement systems created by Articles 2, 14, 15, 16 and 18 of the Illinois Pension Code. "Department" 26 also includes the Illinois Comprehensive Health Insurance 27 Board, the Board of Examiners established under the Illinois 28 29 Public Accounting Act, and the Illinois Rural Bond Bank.

30 (h) "Dependent", when the term is used in the context of 31 the health and life plan, means a member's spouse and any 32 unmarried child (1) from birth to age 19 including an adopted 33 child, a child who lives with the member from the time of the 34 filing of a petition for adoption until entry of an order of

1 adoption, a stepchild or recognized child who lives with the 2 member in a parent-child relationship, or a child who lives with the member if such member is a court appointed guardian 3 4 of the child, or (2) age 19 to 23 enrolled as a full-time 5 student in any accredited school, financially dependent upon б the member, and eligible to be claimed as a dependent for 7 income tax purposes, or (3) age 19 or over who is mentally or physically handicapped. For the health plan only, the term 8 9 "dependent" also includes any person enrolled prior to the effective date of this Section who is dependent upon the 10 11 member to the extent that the member may claim such person as a dependent for income tax deduction purposes; no other such 12 person may be enrolled. For the health plan only, the term 13 "dependent" also includes any person who has received after 14 15 30, 2000 an organ transplant and who is financially June 16 dependent upon the member and eligible to be claimed as a dependent for income tax purposes. 17

18 (i) "Director" means the Director of the Illinois19 Department of Central Management Services.

20 (j) "Eligibility period" means the period of time a 21 member has to elect enrollment in programs or to select 22 benefits without regard to age, sex or health.

23 "Employee" means and includes each officer (k) or employee in the service of a department who (1) receives his 24 25 compensation for service rendered to the department on a 26 warrant issued pursuant to a payroll certified by а department or on a warrant or check issued and drawn by 27 а department upon a trust, federal or other fund or on a 28 29 warrant issued pursuant to a payroll certified by an elected 30 or duly appointed officer of the State or who receives payment of the performance of personal services on a warrant 31 32 issued pursuant to a payroll certified by a Department and drawn by the Comptroller upon the State Treasurer against 33 appropriations made by the General Assembly from any fund or 34

-19-

1 against trust funds held by the State Treasurer, and (2) is 2 employed full-time or part-time in a position normally requiring actual performance of duty during not less than 1/2 3 4 a normal work period, as established by the Director in of 5 cooperation with each department, except that persons elected 6 by popular vote will be considered employees during the 7 entire term for which they are elected regardless of hours devoted to the service of the State, and (3) except 8 that 9 "employee" does not include any person who is not eligible by reason of such person's employment to participate in one of 10 11 the State retirement systems under Articles 2, 14, 15 (either the regular Article 15 system or the optional retirement 12 program established under Section 15-158.2) or 18, or under 13 paragraph (2), (3), or (5) of Section 16-106, of the Illinois 14 15 Pension Code, but such term does include persons who are 16 employed during the 6 month qualifying period under Article 14 of the Illinois Pension Code. Such term also includes any 17 person who (1) after January 1, 1966, is receiving ordinary 18 19 or accidental disability benefits under Articles 2, 14, 15 (including ordinary or accidental disability benefits under 20 21 the optional retirement program established under Section 15-158.2), paragraphs (2), (3), or (5) of Section 16-106, 22 or 23 Article 18 of the Illinois Pension Code, for disability incurred after January 1, 1966, (2) receives total permanent 24 25 or total temporary disability under the Workers' Compensation Act or Occupational Disease Act as a result of injuries 26 sustained or illness contracted in the course of employment 27 with the State of Illinois, or (3) is not otherwise covered 28 29 under this Act and has retired as a participating member 30 under Article 2 of the Illinois Pension Code but is ineligible for the retirement annuity under Section 2-119 of 31 32 the Illinois Pension Code. However, a person who satisfies the criteria of the foregoing definition of "employee" except 33 that such person is made ineligible to participate in the 34

-20-

1 State Universities Retirement System by clause (4) of 2 subsection (a) of Section 15-107 of the Illinois Pension Code is also an "employee" for the purposes of this Act. 3 4 "Employee" also includes any person receiving or eligible for 5 benefits under a sick pay plan established in accordance with б Section 36 of the State Finance Act. "Employee" also includes 7 each officer or employee in the service of a qualified local 8 government, including persons appointed as trustees of 9 sanitary districts regardless of hours devoted to the service of the sanitary district, and each employee in the service of 10 a qualified rehabilitation facility and each full-time 11 employee in the service of a qualified domestic violence 12 service, as determined according to rules 13 shelter or promulgated by the Director. 14

15 (1) "Member" means an employee, annuitant, retired 16 employee or survivor.

17 (m) "Optional coverages or benefits" means those 18 coverages or benefits available to the member on his or her 19 voluntary election, and at his or her own expense.

20 (n) "Program" means the group life insurance, health 21 benefits and other employee benefits designed and contracted 22 for by the Director under this Act.

(o) "Health plan" means a health benefits program
offered by the State of Illinois for persons eligible for the
plan.

(p) "Retired employee" means any person who would be an 26 27 annuitant as that term is defined herein but for the fact that such person retired prior to January 1, 1966. Such term 28 29 also includes any person formerly employed by the University 30 of Illinois in the Cooperative Extension Service who would be an annuitant but for the fact that such person was made 31 32 ineligible to participate in the State Universities 33 Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code. 34

-21-

1 (q) "Survivor" means a person receiving an annuity as a 2 survivor of an employee or of an annuitant. "Survivor" also includes: (1) the surviving dependent of a person who 3 4 satisfies the definition of "employee" except that such 5 person is made ineligible to participate in the State 6 Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code; and (2) 7 the surviving dependent of any person formerly employed by 8 9 the University of Illinois in the Cooperative Extension Service who would be an annuitant except for the fact that 10 11 such person was made ineligible to participate in the State Universities Retirement System by clause (4) of subsection 12 (a) of Section 15-107 of the Illinois Pension Code. 13

-22-

14 (q-5) "New SERS survivor" means a survivor, as defined 15 in subsection (q), whose annuity is paid under Article 14 of 16 the Illinois Pension Code and is based on the death of (i) an 17 employee whose death occurs on or after January 1, 1998, or 18 (ii) a new SERS annuitant as defined in subsection (b-5).

19 (q-6) "New SURS survivor" means a survivor, as defined 20 in subsection (q), whose annuity is paid under Article 15 of 21 the Illinois Pension Code and is based on the death of (i) an 22 employee whose death occurs on or after January 1, 1998, or 23 (ii) a new SURS annuitant as defined in subsection (b-6).

(q-7) "New TRS State survivor" means a survivor, as defined in subsection (q), whose annuity is paid under Article 16 of the Illinois Pension Code and is based on the death of (i) an employee who is a teacher as defined in paragraph (2), (3), or (5) of Section 16-106 of that Code and whose death occurs on or after July 1, 1998, or (ii) a new TRS State annuitant as defined in subsection (b-7).

31 (r) "Medical services" means the services provided 32 within the scope of their licenses by practitioners in all 33 categories licensed under the Medical Practice Act of 1987. 34 (s) "Unit of local government" means any county,

1 municipality, township, school district (including а 2 combination of school districts under the Intergovernmental Cooperation Act), special district or other unit, designated 3 4 as a unit of local government by law, which exercises limited governmental powers or powers in respect to limited 5 governmental subjects, any not-for-profit association with a 6 7 membership that primarily includes townships and township officials, that has duties that include provision of research 8 service, dissemination of information, and other acts for the 9 purpose of improving township government, and that is funded 10 11 wholly or partly in accordance with Section 85-15 of the 12 Township Code; any not-for-profit corporation or association, 13 with a membership consisting primarily of municipalities, that operates its own utility system, and provides research, 14 15 training, dissemination of information, or other acts to 16 promote cooperation between and among municipalities that provide utility services and for the advancement of the goals 17 and purposes of its membership; the Southern Illinois 18 Collegiate Common Market, which is a consortium of higher 19 education institutions in Southern Illinois; and the Illinois 20 Association of Park Districts. "Qualified local government" 21 22 means a unit of local government approved by the Director and 23 participating in a program created under subsection (i) of Section 10 of this Act. 24

25 (t) "Qualified rehabilitation facility" means any not-for-profit organization that is accredited by the 26 Commission on Accreditation of Rehabilitation Facilities 27 or certified by the Department of Human Services (as successor 28 29 to the Department of Mental Health and Developmental 30 Disabilities) to provide services to persons with disabilities and which receives funds from the State of 31 32 Illinois for providing those services, approved by the 33 Director and participating in a program created under subsection (j) of Section 10 of this Act. 34

1 (u) "Qualified domestic violence shelter or service" 2 means any Illinois domestic violence shelter or service and its administrative offices funded by the Department of Human 3 4 Services (as successor to the Illinois Department of Public Aid), approved by the Director and participating in a program 5 created under subsection (k) of Section 10. 6 7 (v) "TRS benefit recipient" means a person who: is not a "member" as defined in this Section; 8 (1) 9 and is receiving a monthly benefit or retirement 10 (2) 11 annuity under Article 16 of the Illinois Pension Code; 12 and (3) either (i) has at least 8 years of creditable 13 service under Article 16 of the Illinois Pension Code, or 14 15 (ii) was enrolled in the health insurance program offered 16 under that Article on January 1, 1996, or (iii) is the survivor of a benefit recipient who had at least 8 years 17

of creditable service under Article 16 of the Illinois Pension Code or was enrolled in the health insurance program offered under that Article on the effective date of this amendatory Act of 1995, or (iv) is a recipient or survivor of a recipient of a disability benefit under Article 16 of the Illinois Pension Code.

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(w) "TRS dependent beneficiary" means a person who:

(1) is not a "member" or "dependent" as defined in
this Section; and

is a TRS benefit recipient's: (A) spouse, 27 (2) (B) dependent parent who is receiving at least half of his or 28 29 her support from the TRS benefit recipient, or (C) 30 unmarried natural or adopted child who is (i) under age 19, or (ii) enrolled as a full-time student in an 31 accredited school, financially dependent upon the TRS 32 benefit recipient, eligible to be claimed as a dependent 33 34 for income tax purposes, and either is under age 24 or was, on January 1, 1996, participating as a dependent
 beneficiary in the health insurance program offered under
 Article 16 of the Illinois Pension Code, or (iii) age 19
 or over who is mentally or physically handicapped.

5 (x) "Military leave with pay and benefits" refers to 6 individuals in basic training for reserves, special/advanced 7 training, annual training, emergency call up, or activation 8 by the President of the United States with approved pay and 9 benefits.

10 (y) "Military leave without pay and benefits" refers to 11 individuals who enlist for active duty in a regular component 12 of the U.S. Armed Forces or other duty not specified or 13 authorized under military leave with pay and benefits.

14 (z) "Community college benefit recipient" means a person 15 who:

16 (1) is not a "member" as defined in this Section; 17 and

18 (2) is receiving a monthly survivor's annuity or
19 retirement annuity under Article 15 of the Illinois
20 Pension Code; and

(3) either (i) was a full-time employee of 21 а 22 community college district or an association of community college boards created under the Public Community College 23 Act (other than an employee whose last employer under 24 Article 15 of the Illinois Pension Code was a community 25 college district subject to Article VII of the Public 26 Community College Act) and was eligible to participate in 27 a group health benefit plan as an employee during the 28 29 time of employment with a community college district 30 (other than a community college district subject to Article VII of the Public Community College Act) or an 31 association of community college boards, or (ii) is the 32 survivor of a person described in item (i). 33

34 (aa) "Community college dependent beneficiary" means a

person who:

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-26-

2 (1) is not a "member" or "dependent" as defined in 3 this Section; and 4 (2) is a community college benefit recipient's: (A) spouse, (B) dependent parent who is receiving at least 5 half of his or her support from the community college 6 benefit recipient, or (C) unmarried natural or adopted 7 8 child who is (i) under age 19, or (ii) enrolled as a 9 full-time student in an accredited school, financially dependent upon the community college benefit recipient, 10 11 eligible to be claimed as a dependent for income tax purposes and under age 23, or (iii) age 19 or over and 12 mentally or physically handicapped. 13 (Source: P.A. 91-390, eff. 7-30-99; 91-395, eff. 7-30-99; 14 91-617, eff. 8-19-99; 92-16, eff. 6-28-01; 92-186, eff. 15 1-1-02; 92-204, eff. 8-1-01; revised 9-19-01.) 16 17 Section 9. The Civil Administrative Code of Illinois is amended by changing Section 1-5 as follows: 18 19 (20 ILCS 5/1-5) Sec. 1-5. Articles. The Civil Administrative Code of 20 21 Illinois consists of the following Articles: Article 1. General Provisions (20 ILCS 22 5/1-1 and 23 following). Article 5. Departments of State Government Law (20 ILCS 24 25 5/5-1 and following). Article 50. State Budget Law (15 ILCS 20/). 26 27 Article 110. Department on Aging Law (20 ILCS 110/). 28 Article 205. Department of Agriculture Law (20 ILCS 205/). 29 Article 250. State Fair Grounds Title Law (5 ILCS 620/). 30 Article 310. Department of Human Services (Alcoholism and 31 32 Substance Abuse) Law (20 ILCS 310/).

1 Article 405. Department of Central Management Services 2 Law (20 ILCS 405/). Article 510. Department of Children and Family Services 3 4 Powers Law (20 ILCS 510/). 5 Article 605. Department of Commerce and Community Affairs б Law (20 ILCS 605/). 7 Article 805. Department of Natural Resources (Conservation) Law (20 ILCS 805/). 8 9 Article 1005. Department of Employment Security Law (20 ILCS 1005/). 10 11 Article 1405. Department of Insurance Law (20 ILCS 1405/). 12 Article 1505. Department of Labor Law (20 ILCS 1505/). 13 Article 1710. Department of Human Services (Mental Health 14 and Developmental Disabilities) Law (20 ILCS 1710/). 15 16 Article 1905. Department of Natural Resources (Mines and Minerals) Law (20 ILCS 1905/). 17 18 Article 2005. Department of Nuclear Safety Law (20 ILCS 19 2005/). Article 2105. Department of Professional Regulation Law 20 21 (20 ILCS 2105/). Article 2205. Department of Public Aid Law (20 ILCS 22 23 2205/). Article 2310. Department of Public Health Powers and 24 25 Duties Law (20 ILCS 2310/). Article 2505. Department of Revenue Law (20 ILCS 2505/). 26 Article 2510. Certified Audit Program Law (20 ILCS 27 <u>2510/).</u> 28 Article 2605. Department of State Police Law (20 ILCS 29 30 2605/). Article 2705. Department of Transportation Law (20 ILCS 31 32 2705/). Article 3000. University of Illinois Exercise of 33 34 Functions and Duties Law (110 ILCS 355/).

-28-

1 (Source: P.A. 91-239, eff. 1-1-00; 92-16, eff. 6-28-01; 2 revised 10-10-01.)

3 Section 10. The Illinois Act on the Aging is amended by4 changing Section 4.01 as follows:

5 (20 ILCS 105/4.01) (from Ch. 23, par. 6104.01)

6 Sec. 4.01. Additional powers and duties of the 7 Department. In addition to powers and duties otherwise 8 provided by law, the Department shall have the following 9 powers and duties:

10 (1) To evaluate all programs, services, and facilities 11 for the aged and for minority senior citizens within the 12 State and determine the extent to which present public or 13 private programs, services and facilities meet the needs of 14 the aged.

15 (2) To coordinate and evaluate all programs, services, 16 and facilities for the Aging and for minority senior citizens 17 presently furnished by State agencies and make appropriate 18 recommendations regarding such services, programs and 19 facilities to the Governor and/or the General Assembly.

20 (3) To function as the sole State agency to develop a
21 comprehensive plan to meet the needs of the State's senior
22 citizens and the State's minority senior citizens.

(4) To receive and disburse State and federal funds made
available directly to the Department including those funds
made available under the Older Americans Act and the Senior
Community Service Employment Program for providing services
for senior citizens and minority senior citizens or for
purposes related thereto, and shall develop and administer
any State Plan for the Aging required by federal law.

30 (5) To solicit, accept, hold, and administer in behalf
31 of the State any grants or legacies of money, securities, or
32 property to the State of Illinois for services to senior

citizens and minority senior citizens or purposes related
 thereto.

3 (6) To provide consultation and assistance to 4 communities, area agencies on aging, and groups developing 5 local services for senior citizens and minority senior 6 citizens.

7 (7) To promote community education regarding the 8 problems of senior citizens and minority senior citizens 9 through institutes, publications, radio, television and the 10 local press.

11 (8) To cooperate with agencies of the federal government 12 in studies and conferences designed to examine the needs of 13 senior citizens and minority senior citizens and to prepare 14 programs and facilities to meet those needs.

15 (9) To establish and maintain information and referral 16 sources throughout the State when not provided by other 17 agencies.

18 (10) To provide the staff support as may reasonably be
19 required by the Council and the Coordinating Committee of
20 State Agencies Serving Older Persons.

(11) To make and enforce rules and regulations necessaryand proper to the performance of its duties.

(12) To establish and fund programs or projects or
experimental facilities that are specially designed as
alternatives to institutional care.

26 (13) To develop a training program to train the 27 counselors presently employed by the Department's aging 28 network to provide Medicare beneficiaries with counseling and 29 advocacy in Medicare, private health insurance, and related 30 health care coverage plans. The Department shall report to 31 the General Assembly on the implementation of the training 32 program on or before December 1, 1986.

33 (14) To make a grant to an institution of higher34 learning to study the feasibility of establishing and

implementing an affirmative action employment plan for the recruitment, hiring, training and retraining of persons 60 or more years old for jobs for which their employment would not be precluded by law.

5 (15) To present one award annually in each of the б categories of community service, education, the performance 7 and graphic arts, and the labor force to outstanding Illinois senior citizens and minority senior citizens in recognition 8 9 their individual contributions to either community of service, education, the performance and graphic arts, or the 10 11 labor force. The awards shall be presented to four senior citizens and minority senior citizens selected from a list of 12 44 nominees compiled annually by the Department. Nominations 13 shall be solicited from senior citizens' service providers, 14 15 area agencies on aging, senior citizens' centers, and senior 16 citizens' organizations. The Department shall consult with the Coordinating Committee of State Agencies Serving Older 17 Persons to determine which of the nominees shall be 18 the recipient in each category of community service. 19 The Department shall establish a central location within 20 the 21 State to be designated as the Senior Illinoisans Hall of Fame 22 for the public display of all the annual awards, or replicas 23 thereof.

(16) To establish multipurpose senior centers through area agencies on aging and to fund those new and existing multipurpose senior centers through area agencies on aging, the establishment and funding to begin in such areas of the State as the Department shall designate by rule and as specifically appropriated funds become available.

30 (17) To develop the content and format of the 31 acknowledgment regarding non-recourse reverse mortgage loans 32 under Section 6.1 of the Illinois Banking Act; to provide 33 independent consumer information on reverse mortgages and 34 alternatives; and to refer consumers to independent

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counseling services with expertise in reverse mortgages. (18) To develop a pamphlet in English and Spanish which may be used by physicians licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, pharmacists licensed pursuant to the Pharmacy Practice Act of 1987, and Illinois residents 65 years of age or older for the purpose of assisting physicians, pharmacists, and

-31-

for the purpose of assisting physicians, pharmacists, and patients in monitoring prescriptions provided by various physicians and to aid persons 65 years of age or older in complying with directions for proper use of pharmaceutical prescriptions. The pamphlet may provide space for recording information including but not limited to the following:

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(a) name and telephone number of the patient;

14 (b) name and telephone number of the prescribing15 physician;

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(c) date of prescription;

17 (d) name of drug prescribed;

18 (e) directions for patient compliance; and

19 (f) name and telephone number of dispensing 20 pharmacy.

In developing the pamphlet, the Department shall consult 21 22 with the Illinois State Medical Society, the Center for 23 Minority Health Services, the Illinois Pharmacists senior citizens 24 Association and organizations. The 25 Department shall distribute the pamphlets to physicians, pharmacists and persons 65 years of age or older or various 26 senior citizen organizations throughout the State. 27

(19) To conduct a study by April 1, 1994 of the feasibility of implementing the Senior Companion Program throughout the State for the fiscal year beginning July 1, 1994.

32 (20) With respect to contracts in effect on July 1,
33 1994, the Department shall increase the grant amounts so that
34 the reimbursement rates paid through the community care

1 program for chore housekeeping services and homemakers are at 2 the same rate, which shall be the higher of the 2 rates currently paid. With respect to all contracts entered into, 3 4 extended on or after July 1, 1994, renewed. or the 5 reimbursement rates paid through the community care program 6 for chore housekeeping services and homemakers shall be the 7 same.

8 (21) From funds appropriated to the Department from the 9 Meals on Wheels Fund, a special fund in the State treasury that is hereby created, and in accordance with State and 10 11 federal guidelines and the intrastate funding formula, to 12 make grants to area agencies on aging, designated by the Department, for the sole purpose of delivering meals to 13 homebound persons 60 years of age and older. 14

15 (22) To distribute, through its area agencies on aging, 16 information alerting seniors on safety issues regarding emergency weather conditions, including extreme heat and 17 cold, flooding, tornadoes, electrical storms, and other 18 19 severe storm weather. The information shall include all necessary instructions for safety and all emergency telephone 20 of organizations that will provide additional 21 numbers 22 information and assistance.

23 (23) To develop guidelines for the organization and implementation of Volunteer Services Credit Programs to be 24 25 administered by Area Agencies on Aging or community based 26 senior service organizations. The Department shall hold public 27 public hearings on the proposed guidelines for comment, suggestion, and determination of public interest. 28 29 The guidelines shall be based on the findings of other states 30 and of community organizations in Illinois that are currently operating volunteer services credit programs or demonstration 31 32 volunteer services credit programs. The Department shall offer guidelines for all aspects of the programs including, 33 but not limited to, the following: 34

(a) types of services to be offered by volunteers; 1 2 (b) types of services to be received upon the redemption of service credits; 3 4 (c) issues of liability for the volunteers and the administering organizations; 5 (d) methods of tracking service credits earned and 6 7 service credits redeemed; (e) issues of time limits for redemption of service 8 9 credits; (f) methods of recruitment of volunteers; 10 11 (g) utilization of community volunteers, community service groups, and other resources for delivering 12 services to be received by service credit program 13 clients; 14 15 (h) accountability and assurance that services will 16 be available to individuals who have earned service credits; and 17 (i) volunteer screening and qualifications. 18 19 The Department shall submit a written copy of the guidelines to the General Assembly by July 1, 1998. 20 (Source: P.A. 89-249, eff. 8-4-95; 89-580, eff. 1-1-97; 21 90-251, eff. 1-1-98; revised 12-07-01.) 22 Section 11. The Children and Family Services Act is 23 24 amended by changing Section 7 and setting forth and renumbering multiple versions of Section 5d as follows: 25 (20 ILCS 505/5d) 26 Sec. 5d. The Direct Child Welfare Service Employee 27 28 License Board.

29 (a) For purposes of this Section:

30 (1) "Board" means the Direct Child Welfare Service31 Employee License Board.

32 (2) "Director" means the Director of Children and

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Family Services.

The Direct Child Welfare Service Employee License 2 (b) Board is created within the Department of Children and Family 3 4 Services and shall consist of 9 members appointed by the 5 Director. The Director shall annually designate а and 6 chairperson vice-chairperson of the Board. The 7 membership of the Board must be composed as follows: (i) 5 licensed professionals from the field of human services with 8 9 a human services degree or equivalent course work as required by rule of the Department and who are in good standing within 10 11 their profession, at least 2 of which must be employed in the private not-for-profit sector and at least one of which in 12 the public sector; (ii) 2 faculty members of an accredited 13 university who have child welfare experience and are in good 14 standing within their profession and (iii) 2 members of the 15 16 general public who are not licensed under this Act or a similar rule and will represent consumer interests. 17

In making the first appointments, the Director shall 18 19 appoint 3 members to serve for a term of one year, 3 members to serve for a term of 2 years, and 3 members to serve for a 20 21 term of 3 years, or until their successors are appointed and 22 qualified. Their successors shall be appointed to serve 23 3-year terms, or until their successors are appointed and qualified. Appointments to fill unexpired vacancies shall be 24 25 made in the same manner as original appointments. No member may be reappointed if a reappointment would cause that member 26 to serve on the Board for longer than 6 consecutive years. 27 Board membership must have reasonable representation from 28 different geographic areas of Illinois, and all members must 29 30 be residents of this State.

31 The Director may terminate the appointment of any member 32 for good cause, including but not limited to (i) unjustified 33 absences from Board meetings or other failure to meet Board 34 responsibilities, (ii) failure to recuse himself or herself when required by subsection (c) of this Section or Department rule, or (iii) failure to maintain the professional position required by Department rule. No member of the Board may have a pending or indicated report of child abuse or neglect or a pending complaint or criminal conviction of any of the offenses set forth in paragraph (b) of Section 4.2 of the Child Care Act of 1969.

-35-

8 The members of the Board shall receive no compensation 9 for the performance of their duties as members, but each 10 member shall be reimbursed for his or her reasonable and 11 necessary expenses incurred in attending the meetings of the 12 Board.

The Board shall make recommendations to the Director 13 (C) Board members must recuse 14 regarding licensure rules. 15 themselves from sitting on any matter involving an employee 16 of a child welfare agency at which the Board member is an employee or contractual employee. The Board shall make a 17 final determination concerning revocation, suspension, or 18 19 reinstatement of an employee's direct child welfare service license after a hearing conducted under the Department's 20 21 rules. Upon notification of the manner of the vote to all the 22 members, votes on a final determination may be cast in 23 person, by telephonic or electronic means, or by mail at the discretion of the chairperson. A simple majority of 24 the 25 members appointed and serving is required when Board members vote by mail or by telephonic or electronic means. 26 Α majority of the currently appointed and serving Board members 27 constitutes a quorum. A majority of a quorum is required 28 29 when a recommendation is voted on during a Board meeting. Α 30 vacancy in the membership of the Board shall not impair the right of a quorum to perform all the duties of the Board. 31 32 Board members are not personally liable in any action based upon a disciplinary proceeding or otherwise for any action 33 taken in good faith as a member of the Board. 34

1 (d) The Director may assign Department employees to 2 provide staffing services to the Board. The Department must 3 promulgate any rules necessary to implement and administer 4 the requirements of this Section.

5 (Source: P.A. 92-471, eff. 8-22-01.)

6 (20 ILCS 505/5e)

Sec. <u>5e.</u> 5d. Advocacy Office for Children and Families. 7 8 The Department of Children and Family Services shall establish and maintain an Advocacy Office for Children and 9 10 Families that shall, in addition to other duties assigned by the Director, receive and respond to complaints that may be 11 12 filed by children, parents, caretakers, and relatives of children receiving child welfare services from the Department 13 14 of Children and Family Services or its agents. The 15 Department shall promulgate policies and procedures for investigating, and resolving 16 filing, processing, the 17 complaints. The Department shall make a final report to the 18 complainant of its findings. If a final report is not completed, the Department shall report on its disposition 19 20 every 30 days. The Advocacy Office shall include a statewide 21 toll-free telephone number that may be used to file 22 complaints, or to obtain information about the delivery of child welfare services by the Department or its agents. 23 This 24 telephone number shall be included in all appropriate notices handbooks regarding services available through the 25 and 26 Department.

27 (Source: P.A. 92-334, eff. 8-10-01; revised 10-17-01.)

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(20 ILCS 505/7) (from Ch. 23, par. 5007)

29 Sec. 7. Placement of children; considerations.

30 (a) In placing any child under this Act, the Department
31 shall place such child, as far as possible, in the care and
32 custody of some individual holding the same religious belief

1 as the parents of the child, or with some child care facility 2 which is operated by persons of like religious faith as the parents of such child. 3

4 In placing a child under this Act, the Department (b) 5 may place a child with a relative if the Department has 6 reason to believe that the relative will be able to 7 adequately provide for the child's safety and welfare. The Department may not place a child with a relative, with the 8 9 exception of certain circumstances which may be waived as defined by the Department in rules, if the results of a check 10 11 of the Law Enforcement Agency Data System (LEADS) identifies a prior criminal conviction of the relative or any adult 12 member of the relative's household for any of the following 13 offenses under the Criminal Code of 1961: 14 (1) murder; 15

16 (1.1) solicitation of murder;

(1.2) solicitation of murder for hire; 17 (1.3) intentional homicide of an unborn child; 18

(1.4) voluntary manslaughter of an unborn child; 19

(1.5) involuntary manslaughter; 20

21 (1.6) reckless homicide;

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(1.7) concealment of a homicidal death;

(1.8) involuntary manslaughter of an unborn child;

(1.9) reckless homicide of an unborn child;

25 (1.10) drug-induced homicide;

(2) a sex offense under Article 11, except offenses 26 27

described in Sections 11-7, 11-8, 11-12, and 11-13;

(3) kidnapping;

(3.1) aggravated unlawful restraint; 29

30 (3.2) forcible detention;

(3.3) aiding and abetting child abduction;

32 (4) aggravated kidnapping;

(5) child abduction; 33

(6) aggravated battery of a child; 34

-37-

SB1854 Engrossed -38- LRB9215370EGfg

1	(7) criminal sexual assault;
2	(8) aggravated criminal sexual assault;
3	(8.1) predatory criminal sexual assault of a child;
4	(9) criminal sexual abuse;
5	(10) aggravated sexual abuse;
6	(11) heinous battery;
7	(12) aggravated battery with a firearm;
8	(13) tampering with food, drugs, or cosmetics;
9	(14) drug-induced infliction of great bodily harm;
10	(15) aggravated stalking;
11	(16) home invasion;
12	(17) vehicular invasion;
13	(18) criminal transmission of HIV;
14	(19) criminal abuse or neglect of an elderly or
15	disabled person;
16	(20) child abandonment;
17	(21) endangering the life or health of a child;
18	(22) ritual mutilation;
19	(23) ritualized abuse of a child;
20	(24) an offense in any other state the elements of
21	which are similar and bear a substantial relationship to
22	any of the foregoing offenses.
23	For the purpose of this subsection, "relative" shall include
24	any person, 21 years of age or over, other than the parent,
25	who (i) is currently related to the child in any of the
26	following ways by blood or adoption: grandparent, sibling,
27	great-grandparent, uncle, aunt, nephew, niece, first cousin,
28	second cousin, godparent, great-uncle, or great-aunt; or (ii)
29	is the spouse of such a relative; or (iii) is the child's
30	step-father, step-mother, or adult step-brother or
31	step-sister; "relative" also includes a person related in any
32	of the foregoing ways to a sibling of a child, even though
33	the person is not related to the child, when the child and
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34 its sibling are placed together with that person. A relative

with whom a child is placed pursuant to this subsection may, but is not required to, apply for licensure as a foster family home pursuant to the Child Care Act of 1969; provided, however, that as of July 1, 1995, foster care payments shall be made only to licensed foster family homes pursuant to the terms of Section 5 of this Act.

7 In placing a child under this Act, the Department (C)8 shall ensure that the child's health, safety, and best 9 interests are met in making a family foster care placement. The Department shall consider the individual needs of 10 the 11 child and the capacity of the prospective foster or adoptive parents to meet the needs of the child. When a child must be 12 placed outside his or her home and cannot be immediately 13 returned to his or her parents or guardian, a comprehensive, 14 individualized assessment shall be performed of that child at 15 16 which time the needs of the child shall be determined. Only if race, color, or national origin is identified as a 17 legitimate factor in advancing the child's best interests 18 19 shall it be considered. Race, color, or national origin shall not be routinely considered in making a placement 20 21 decision. The Department shall make special efforts for the 22 diligent recruitment of potential foster and adoptive 23 families that reflect the ethnic and racial diversity of the children for whom foster and adoptive homes are needed. 24 25 "Special efforts" shall include contacting and working with community organizations and religious organizations and may 26 include contracting with those organizations, utilizing local 27 media and other local resources, and conducting outreach 28 29 activities.

30 (c-1) At the time of placement, the Department shall 31 consider concurrent planning, as described in subsection 32 (l-1) of Section 5, so that permanency may occur at the 33 earliest opportunity. Consideration should be given so that 34 if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the
 child.

3 (d) The Department may accept gifts, grants, offers of
4 services, and other contributions to use in making special
5 recruitment efforts.

6 (e) The Department in placing children in adoptive or 7 foster care homes may not, in any policy or practice relating 8 to the placement of children for adoption or foster care, 9 discriminate against any child or prospective adoptive or 10 foster parent on the basis of race.

11 (Source: P.A. 92-192, eff. 1-1-02; 92-328, eff. 1-1-02; 12 92-334, eff. 8-10-01; revised 10-15-01.)

Section 12. The Department of Commerce and Community Affairs Law of the Civil Administrative Code of Illinois is amended by changing Sections 605-605 and 605-710 as follows:

16 (20 ILCS 605/605-605) (was 20 ILCS 605/46.57)

Sec. 605-605. Illinois Product and Services Exchange Law
Aet.

19 (a) This Section may be cited as the Illinois Product
20 and Services Exchange Law Act.

21 is hereby found and declared that many large (b) Tt. Illinois firms and government agencies are purchasing 22 23 products and services from vendors in locations other than Illinois, and that there is a need to assist those large 24 25 businesses and government agencies in locating Illinois vendors who can provide those products and services of equal 26 27 quality and at comparable or lower costs; it is further found 28 and declared that the purchase of needed products and services within the State by large firms and government 29 30 agencies would aid the survival and expansion of small businesses in Illinois and help to strengthen the State's 31 32 economy.

1 (c) As used in this Section, "Illinois Product and 2 Services Exchange" means a program aimed at promoting the 3 purchase of goods and services produced in Illinois by firms 4 and government agencies within the State.

-41-

5 (d) The Department shall have the authority to establish 6 and administer an Illinois Product and Services Exchange 7 Program, which may include, but is not limited to, the 8 following powers and duties:

9 (1) To accept grants, loans, or appropriations from 10 the federal government or the State or any agency or 11 instrumentality thereof, and to assess fees for any 12 services performed under the Illinois Product and 13 Services Exchange Program, to carry out the Program.

14 (2) To form an Illinois Product and Services
15 Exchange Council, made up of Illinois large firms and
16 small firms to provide advice and counsel in directing a
17 statewide Product and Services Exchange Program.

18 (3) To publicize and advertise to Illinois firms
19 and government agencies the importance and benefits of
20 buying goods and services provided by vendors located
21 within the State.

(4) To secure the cooperation of Illinois' large
firms, federal, State, and local governments, non-profit
agencies, and others to carry out this program.

(5) To match the needs for products and services of
business firms and government agencies with the
capabilities of small Illinois firms that can provide
those needed goods and services.

29 (6) To hold purchasing agent seminars, fairs,
30 conferences, and workshops to aid small Illinois
31 businesses in obtaining contracts for goods and services
32 from larger firms and government agencies within the
33 State.

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(7) To assist business firms and government

agencies to analyze their buying activities and to find ways to carry out those activities in an effective and economical manner, while promoting subcontract activity with small Illinois firms.

5 (8) To establish manual and electronic buying 6 directories, including stand alone computer data bases 7 that list qualified vendors and procurement 8 opportunities.

9 (9) To promote through other means the use by 10 government agencies and large businesses of products and 11 services produced by small Illinois firms.

(10) To subcontract, grant funds, or otherwise 12 participate with qualified private firms, existing 13 procurement centers, or other organizations that have 14 15 designed programs, approved in accordance with procedures 16 determined by the Department, that are aimed at assisting small Illinois firms obtain contracts for products and 17 services from local government agencies and large 18 19 Illinois businesses.

20 (11) To develop and administer guidelines for
21 projects that provide assistance to the Department in
22 connection with the Illinois Product and Services
23 Exchange Program.

24 (Source: P.A. 91-239, eff. 1-1-00; revised 1-25-02.)

25 (20 ILCS 605/605-710)

26 Sec. 605-710. Regional tourism development 27 organizations.

(a) The Department may, subject to appropriation,
provide grants from the Tourism Promotion Fund for the
administrative costs of not-for-profit regional tourism
development organizations that assist the Department in
developing tourism throughout a multi-county geographical
area designated by the Department. Regional tourism

development organizations receiving funds under this Section may be required by the Department to submit to audits of contracts awarded by the Department to determine whether the regional tourism development organization has performed all contractual obligations under those contracts.

6 Every employee of a regional tourism development 7 organization receiving funds under this Section shall 8 disclose to the organization's governing board and to the 9 Department any economic interest that employee may have in 10 any entity with which the regional tourism development 11 organization has contracted or to which the regional tourism 12 development organization has granted funds.

(b) The Department, from moneys transferred from the 13 General Revenue Fund to the Tourism Promotion Fund and 14 15 appropriated from the Tourism Promotion Fund, shall first 16 provide funding of \$5,000,000 annually to a governmental entity with at least 2,000,000 square feet of exhibition 17 space that has as part of its duties the promotion of 18 19 cultural, scientific and trade exhibits and events within a county with a population of more than 3,000,000, to be used 20 for any of the governmental entity's general corporate 21 22 purposes.

23 (Source: P.A. 92-11, eff. 6-11-01; 92-38, eff. 6-28-01; 24 revised 9-18-01.)

25 Section 13. The Interagency Wetland Policy Act of 1989 26 is amended by changing Section 2-1 as follows:

(20 ILCS 830/2-1) (from Ch. 96 1/2, par. 9702-1)
Sec. 2-1. Interagency Wetlands Committee. An Interagency
Wetlands Committee, chaired by the Director of Natural
Resources or his <u>or her</u> representative, is established. The
Directors of the following agencies, or their <u>respective</u>
<u>representatives</u> representative, shall serve as members of the

-44-

1 Committee: 2 Capital Capitol Development Board, Department of Agriculture, 3 4 Department of Commerce and Community Affairs, 5 Environmental Protection Agency, Department of Transportation, and 6 7 Historic Preservation Agency. The Interagency Wetlands Committee shall also include 2 8 9 additional persons with relevant expertise designated by the Director of Natural Resources. 10 The Interagency Wetlands Committee shall advise the 11 Director in the administration of this Act. This will 12 include: 13 (a) Developing rules and regulations for the 14 implementation and administration of this Act. 15 16 (b) Establishing guidelines for developing individual Agency Action Plans. 17 (c) Developing and adopting technical procedures 18 for 19 the consistent identification, delineation and evaluation of existing wetlands and quantification of 20 their functional values and the evaluation of wetland 21 22 restoration or creation projects. 23 (d) Developing a research program for wetland function, restoration and creation. 24 25 (e) Preparing reports, including: (1) A biennial report to the Governor and the 26 General Assembly on the impact of State supported 27 activities on wetlands. 28 29 (2) A comprehensive report on the status of 30 the State's wetland resources, including recommendations for additional programs, by January 31 15, 1991. 32 33 (f) Development of educational materials to promote the protection of wetlands. 34

-45-

1 (Source: P.A. 89-445, eff. 2-7-96; revised 12-2-01.)

Section 14. The Department of State Police Law of the
Civil Administrative Code of Illinois is amended by changing
Sections 2605-302 and 2605-555 as follows:

5 (20 ILCS 2605/2605-302) (was 20 ILCS 2605/55a in part)
6 Sec. 2605-302. Arrest reports.

7 (a) When an individual is arrested, the following
8 information must be made available to the news media for
9 inspection and copying:

10 (1) Information that identifies the individual,
11 including the name, age, address, and photograph, when
12 and if available.

13 (2) Information detailing any charges relating to14 the arrest.

15

(3) The time and location of the arrest.

16 (4) The name of the investigating or arresting law17 enforcement agency.

18 (5) If the individual is incarcerated, the amount19 of any bail or bond.

20 (6) If the individual is incarcerated, the time and
21 date that the individual was received, discharged, or
22 transferred from the arresting agency's custody.

23 (b) The information required by this Section must be made available to the news media for inspection and copying 24 as soon as practicable, but in no event shall the time period 25 exceed 72 hours from the arrest. The information described 26 27 in items (3), (4), (5), and (6) of subsection (a), however, 28 may be withheld if it is determined that disclosure would (i) 29 interfere with pending or actually and reasonably 30 contemplated law enforcement proceedings conducted by any law enforcement or correctional agency; (ii) endanger the life or 31 physical safety of law enforcement or correctional personnel 32

or any other person; or (iii) compromise the security of any
 correctional facility.

(c) For the purposes of this Section, the term "news 3 4 media" means personnel of a newspaper or other periodical 5 issued at regular intervals whether in print or electronic 6 format, a news service whether in print or electronic format, 7 a radio station, a television station, a television network, 8 a community antenna television service, or a person or 9 corporation engaged in making news reels or other motion picture news for public showing. 10

(d) Each law enforcement or correctional agency may charge fees for arrest records, but in no instance may the fee exceed the actual cost of copying and reproduction. The fees may not include the cost of the labor used to reproduce the arrest record.

(e) The provisions of this Section do not supersede the
confidentiality provisions for arrest records of the Juvenile
Court Act of 1987.

19 (Source: P.A. 91-309, eff. 7-29-99; 92-16, eff. 6-28-01; 20 incorporates 92-335, eff. 8-10-01; revised 9-17-01.)

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(20 ILCS 2605/2605-555)

22 Sec. 2605-555. Pilot program; Project Exile.

(a) The Department shall establish a Project Exile pilotprogram to combat gun violence.

(b) Through the pilot program, the Department, 25 in coordination with local law enforcement agencies, State's 26 Attorneys, and United States Attorneys, shall, to the extent 27 possible, encourage the prosecution in federal court of all 28 29 persons who illegally use, attempt to use, or threaten to use firearms against the person or property of another, of 30 all 31 persons who use or possess a firearm in connection with a violation of the Cannabis Control Act or the Illinois 32 Controlled Substances Act, all persons who 33 have been

1 convicted of a felony under the laws of this State or any 2 other jurisdiction who possess any weapon prohibited under Section 24-1 of the Criminal Code of 1961 or any firearm or 3 4 any firearm ammunition, and of all persons who use or possess a firearm in connection with a violation of an order of 5 protection issued under the Illinois Domestic Violence Act of 6 1986 or Article 112A of the Code of Criminal Procedure of 7 1963 or in connection with the offense of domestic battery. 8 9 The program shall also encourage public outreach by law enforcement agencies. 10

11 (c) There is created the Project Exile Fund, a special 12 fund in the State treasury. Moneys appropriated for the purposes of Project Exile and moneys from any other private 13 or public source, including without limitation grants from 14 15 the Department of Commerce and Community Affairs, shall be 16 deposited into the Fund. Moneys in the Fund, subject to appropriation, may be used by the Department of State Police 17 to develop and administer the Project Exile pilot program. 18

19 (d) The Department shall report to the General Assembly 20 by March 1, 2003 regarding the implementation and effects of 21 the Project Exile pilot program and shall by that date make 22 recommendations to the General Assembly for changes in the 23 program that the Department deems appropriate.

The requirement for reporting to the General Assembly 24 25 shall be satisfied by filing copies of the report with the Speaker, the Minority Leader, and the Clerk of the House of 26 Representatives, and with the President, the Minority Leader, 27 and the Secretary of the Senate, and with the Legislative 28 29 Research Unit, as required by Section 3.1 of the General 30 Assembly Organization Act, and filing such additional copies with the State Government Report Distribution Center for the 31 General Assembly as is required under paragraph (t) of 32 Section 7 of the State Library Act. 33

34 (Source: P.A. 92-332, eff. 8-10-01; 92-342, eff. 8-10-01;

-48-

1 revised 10-15-01.)

2 Section 15. The Criminal Identification Act is amended3 by changing Section 5 as follows:

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(20 ILCS 2630/5) (from Ch. 38, par. 206-5)

Sec. 5. Arrest reports; expungement.

All policing bodies of this State shall furnish to 6 (a) 7 the Department, daily, in the form and detail the Department requires, fingerprints and descriptions of all persons who 8 9 are arrested on charges of violating any penal statute of this State for offenses that are classified as felonies and 10 Class A or B misdemeanors and of all minors of the age of 10 11 and over who have been arrested for an offense which would be 12 13 a felony if committed by an adult, and may forward such 14 fingerprints and descriptions for minors arrested for Class A or B misdemeanors. Moving or nonmoving traffic violations 15 under the Illinois Vehicle Code shall not be reported except 16 17 for violations of Chapter 4, Section 11-204.1, or Section 11-501 of that Code. In addition, conservation offenses, as 18 19 defined in the Supreme Court Rule 501(c), that are classified 20 as Class B misdemeanors shall not be reported.

Whenever an adult or minor prosecuted as an adult, not 21 having previously been convicted of any criminal offense or 22 municipal ordinance violation, charged with a violation of a 23 24 municipal ordinance or a felony or misdemeanor, is acquitted or released without being convicted, whether the acquittal or 25 release occurred before, on, or after the effective date of 26 this amendatory Act of 1991, the Chief Judge of the circuit 27 28 wherein the charge was brought, any judge of that circuit designated by the Chief Judge, or in counties of less than 29 30 3,000,000 inhabitants, the presiding trial judge at the defendant's trial may upon verified petition of the defendant 31 order the record of arrest expunged from the official records 32

1 of the arresting authority and the Department and order that 2 the records of the clerk of the circuit court be sealed until further order of the court upon good cause shown and the name 3 4 of the defendant obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the 5 б Clerks of Courts Act, but the order shall not affect any 7 index issued by the circuit court clerk before the entry of 8 the order. The Department may charge the petitioner a fee equivalent to the cost of processing any order to expunge or 9 seal the records, and the fee shall be deposited into the 10 11 State Police Services Fund. The records of those arrests, however, that result in a disposition of supervision for any 12 13 offense shall not be expunged from the records of the arresting authority or the Department nor impounded by the 14 15 court until 2 years after discharge and dismissal of 16 supervision. Those records that result from a supervision for a violation of Section 3-707, 3-708, 3-710, 5-401.3, or 17 11-503 of the Illinois Vehicle Code or a similar provision of 18 a local ordinance, or for a violation of Section 12-3.2, 19 12-15 or 16A-3 of the Criminal Code of 1961, or probation 20 21 under Section 10 of the Cannabis Control Act, Section 410 of 22 the Illinois Controlled Substances Act, Section 12-4.3(b)(1) 23 and (2) of the Criminal Code of 1961 (as those provisions existed before their deletion by Public Act 89-313), Section 24 25 10-102 of the Illinois Alcoholism and Other Drug Dependency Act when the judgment of conviction has been vacated, Section 26 40-10 of the Alcoholism and Other Drug Abuse and Dependency 27 Act when the judgment of conviction has been vacated, or 28 Section 10 of the Steroid Control Act shall not be expunged 29 30 from the records of the arresting authority nor impounded by 31 the court until 5 years after termination of probation or supervision. Those records that result from a supervision 32 for a violation of Section 11-501 of the Illinois Vehicle 33 34 Code or a similar provision of a local ordinance, shall not

-49-

1 be expunged. All records set out above may be ordered by the 2 court to be expunged from the records of the arresting authority and impounded by the court after 5 years, but shall 3 4 not be expunged by the Department, but shall, on court order 5 be sealed by the Department and may be disseminated by the б Department only as required by law or to the arresting 7 authority, the State's Attorney, and the court upon a later arrest for the same or a similar offense or for the purpose 8 9 of sentencing for any subsequent felony. Upon conviction for any offense, the Department of Corrections shall have access 10 11 to all sealed records of the Department pertaining to that individual. 12

-50-

13 (a-5) Those records maintained by the Department for 14 persons arrested prior to their 17th birthday shall be 15 expunged as provided in Section 5-915 of the Juvenile Court 16 Act of 1987.

(b) Whenever a person has been convicted of a crime or 17 of the violation of a municipal ordinance, in the name of 18 a person whose identity he has stolen or otherwise come into 19 possession of, the aggrieved person from whom the identity 20 21 was stolen or otherwise obtained without authorization, upon 22 learning of the person having been arrested using his 23 identity, may, upon verified petition to the chief judge of the circuit wherein the arrest was made, have a court order 24 25 entered nunc pro tunc by the chief judge to correct the arrest record, conviction record, if any, and all official 26 27 records of the arresting authority, the Department, other criminal justice agencies, the prosecutor, and the trial 28 court concerning such arrest, if any, by removing his name 29 30 from all such records in connection with the arrest and conviction, if any, and by inserting in the records the name 31 32 of the offender, if known or ascertainable, in lieu of the The records of the clerk of the 33 <u>aqqrieved's</u> has name. circuit court clerk shall be sealed until further order of 34

1 the court upon good cause shown and the name of the aggrieved 2 person obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of 3 4 Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. 5 б Nothing in this Section shall limit the Department of State 7 Police or other criminal justice agencies or prosecutors from listing under an offender's name the false names he or she 8 9 has used. For purposes of this Section, convictions for nonmoving traffic violations 10 moving and other than 11 convictions for violations of Chapter 4, Section 11-204.1 or Section 11-501 of the Illinois Vehicle Code shall not be a 12 bar to expunging the record of arrest and court records for 13 violation of a misdemeanor or municipal ordinance. 14

-51-

15 (C) Whenever a person who has been convicted of an 16 offense is granted a pardon by the Governor which 17 specifically authorizes expungement, he may, upon verified petition to the chief judge of the circuit where the person 18 19 had been convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 20 21 inhabitants, the presiding trial judge at the defendant's trial, may have a court order entered expunging the record of 22 23 arrest from the official records of the arresting authority and order that the records of the clerk of the circuit court 24 25 and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, 26 and the name of the defendant obliterated from the official index 27 requested to be kept by the circuit court clerk under Section 28 16 of the Clerks of Courts Act in connection with the arrest 29 30 and conviction for the offense for which he had been pardoned but the order shall not affect any index issued by 31 the 32 circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by 33 the 34 Department only as required by law or to the arresting 1 authority, the State's Attorney, and the court upon a later 2 arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for 3 4 any subsequent offense, the Department of Corrections shall 5 have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of 6 7 expungement, the clerk of the circuit court shall promptly 8 mail a copy of the order to the person who was pardoned.

-52-

9 (c-5) Whenever a person has been convicted of criminal sexual assault, aggravated criminal sexual assault, predatory 10 11 criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual abuse, the victim of that offense 12 may request that the State's Attorney of the county in which 13 the conviction occurred file a verified petition with 14 the 15 presiding trial judge at the defendant's trial to have a 16 court order entered to seal the records of the clerk of the circuit court in connection with the proceedings of the trial 17 court concerning that offense. However, the records of the 18 19 arresting authority and the Department of State Police concerning the offense shall not be sealed. The court, upon 20 21 good cause shown, shall make the records of the clerk of the 22 circuit court in connection with the proceedings of the trial 23 court concerning the offense available for public inspection.

Notice of the petition for subsections (a), (b), and 24 (d) 25 (c) shall be served upon the State's Attorney or prosecutor charged with the duty of prosecuting the offense, 26 the Department of State Police, the arresting agency and the 27 chief legal officer of the unit of local government affecting 28 29 the arrest. Unless the State's Attorney or prosecutor, the 30 Department of State Police, the arresting agency or such chief legal officer objects to the petition within 30 days 31 32 from the date of the notice, the court shall enter an order granting or denying the petition. The clerk of the court 33 34 shall promptly mail a copy of the order to the person, the arresting agency, the prosecutor, the Department of State
 Police and such other criminal justice agencies as may be
 ordered by the judge.

4 (e) Nothing herein shall prevent the Department of State 5 Police from maintaining all records of any person who is б admitted to probation upon terms and conditions and who 7 fulfills those terms and conditions pursuant to Section 10 of the Cannabis Control Act, Section 410 of the 8 Illinois 9 Controlled Substances Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and 10 11 Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the 12 Steroid Control Act. 13

14 (f) No court order issued pursuant to the expungement 15 provisions of this Section shall become final for purposes of 16 appeal until 30 days after notice is received by the 17 Department. Any court order contrary to the provisions of 18 this Section is void.

19 (g) Except as otherwise provided in subsection (c-5) of this Section, the court shall not order the sealing or 20 21 expungement of the arrest records and records of the circuit 22 court clerk of any person granted supervision for or 23 convicted of any sexual offense committed against a minor under 18 years of age. For the purposes of this Section, 24 25 "sexual offense committed against a minor" includes but is not limited to the offenses of indecent solicitation of a 26 child or criminal sexual abuse when the victim of such 27 offense is under 18 years of age. 28

29 (Source: P.A. 90-590, eff. 1-1-00; 91-295, eff. 1-1-00; 30 91-357, eff. 7-29-99; revised 12-3-01.)

31 Section 16. The Department of Veterans Affairs Act is 32 amended by changing Section 2 as follows:

-53-

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-54-

(20 ILCS 2805/2) (from Ch. 126 1/2, par. 67) Sec. 2. Powers and duties. The Department shall have

the following powers and duties:

4 To perform such acts at the request of any veteran, or 5 his or her spouse, surviving spouse or dependents as shall be б reasonably necessary or reasonably incident to obtaining or 7 endeavoring to obtain for the requester any advantage, benefit or emolument accruing or due to such person under any 8 law of the United States, the State of Illinois or any other 9 state or governmental agency by reason of the service of such 10 11 veteran, and in pursuance thereof shall:

Contact veterans, their survivors and dependents
 and advise them of the benefits of state and federal laws
 and assist them in obtaining such benefits;

15 2. Establish field offices and direct the16 activities of the personnel assigned to such offices;

17 3. Create a volunteer field force of accredited
18 representatives, representing educational institutions,
19 labor organizations, veterans organizations, employers,
20 churches, and farm organizations;

21

4. Conduct informational and training services;

22 5. Conduct educational programs through newspapers,
23 periodicals and radio for the specific purpose of
24 disseminating information affecting veterans and their
25 dependents;

26 6. Coordinate the services and activities of all
27 state departments having services and resources affecting
28 veterans and their dependents;

29 7. Encourage and assist in the coordination of
30 agencies within counties giving service to veterans and
31 their dependents;

32 8. Cooperate with veterans organizations and other33 governmental agencies;

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9. Make, alter, amend and promulgate reasonable

-55-

rules and procedures for the administration of this Act;
 and

3 10. Make and publish annual reports to the Governor
4 regarding the administration and general operation of the
5 Department; and.

11. Encourage the State to implement more programs 6 7 to address the wide range of issues faced by Persian Gulf 8 War Veterans, especially those who took part in combat, 9 by creating an official commission to further study Persian Gulf War Diseases. The commission shall consist 10 11 of 9 members appointed as follows: the Speaker and Minority Leader of the House of Representatives and the 12 President and Minority Leader of the Senate shall each 13 one member from the General Assembly, the 14 appoint Governor shall appoint 4 members to represent veterans' 15 16 organizations, and the Department shall appoint one The commission members shall serve without 17 member. compensation. 18

The Department may accept and hold on behalf of the 19 State, if for the public interest, a grant, gift, devise or 20 21 bequest of money or property to the Department made for the general benefit of Illinois veterans, including the conduct 22 23 informational and training services by the Department and of other authorized purposes of the Department. The Department 24 25 shall cause each grant, gift, devise or bequest to be kept as a distinct fund and shall invest such funds in the manner 26 provided by the Public Funds Investment Act, as now or 27 hereafter amended, and shall make such reports as may be 28 29 required by the Comptroller concerning what funds are so held 30 and the manner in which such funds are invested. The Department may make grants from these funds for the general 31 32 benefit of Illinois veterans. Grants from these funds, except for the funds established under Sections 2.01a and 33 34 2.03, shall be subject to appropriation.

1 The Department has the power to make grants, from funds 2 appropriated from the Korean War Veterans National Museum and 3 Library Fund, to private organizations for the benefit of the 4 Korean War Veterans National Museum and Library.

5 (Source: P.A. 92-198, eff. 8-1-01; revised 9-18-01.)

6 Section 17. The Illinois Development Finance Authority
7 Act is amended by changing Section 5 as follows:

8 (20 ILCS 3505/5) (from Ch. 48, par. 850.05)

9 Sec. 5. All official acts of the Authority shall require the approval of at least 9 members. It shall be the duty of 10 the Authority to promote employment within those areas of the 11 State duly certified from time to time by the Department of 12 Commerce and Community Affairs as areas of critical labor 13 14 surplus. To this end the Authority shall utilize the powers herein conferred upon it to assist in the development and 15 construction or acquisition of industrial projects within 16 17 such areas of the State.

The Authority is hereby authorized to utilize its powers 18 19 with respect to prospective industrial projects to be located 20 at any given time within any general areas then currently certified by the Department of Commerce and Community Affairs 21 as areas of critical labor surplus. In addition, upon being 22 23 requested to utilize its powers with respect to a prospective industrial project to be located outside of any areas then 24 currently certified as areas of critical labor surplus, the 25 Authority may refer such request to the Department of 26 Commerce and Community Affairs for its determination as 27 to 28 whether the proposed location is within any specific area of critical labor surplus not hitherto generally certified. 29 Ιf 30 the proposed location is certified by the Department as being within an area of critical labor surplus, the Authority may 31 32 similarly utilize its powers with respect to such prospective

-57-

1 industrial project. In evaluating the eligibility of any prospective 2 industrial project to be located within any area of critical 3 4 labor surplus, the Authority shall consider, (1) the 5 financial responsibility of the prospective applicant and б user, and (2) the relationship between the amount of funds to 7 be provided by exercise of powers of the Authority and the degree to which the project (A) will contribute to creation 8 9 or retention of employment, including employment in the construction industry, (B) will contribute to the economic 10 11 development of the area in which the industrial project is located and (C) will produce goods or services for which 12 there is a need or demand. 13 (Source: P.A. 92-212, eff. 8-2-01; revised 12-3-01.) 14 15 Section 18. The State Finance Act is amended by setting forth and renumbering multiple versions of Sections 5.545, 16 17 5.546, and 6z-51 as follows: (30 ILCS 105/5.543) 18 19 Sec. 5.543. 5.545. The Energy Infrastructure Fund. (Source: P.A. 92-12, eff. 7-1-01; revised 10-19-01.) 20 (30 ILCS 105/5.544) 21 22 Sec. 5.544. 5-546- The Energy Efficiency Investment Fund. (Source: P.A. 92-12, eff. 6-30-01; revised 10-19-01.) 23 (30 ILCS 105/5.545) 24 Sec. 5.545. The Digital Divide Elimination Fund. 25 (Source: P.A. 92-22, eff. 6-30-01.) 26 27 (30 ILCS 105/5.546) Sec. 5.546. The Digital Divide Elimination Infrastructure 28 Fund. 29

SB1854	4 Engrossed -58- LRB9215370EGfg
1	(Source: P.A. 92-22, eff. 6-30-01.)
2	(30 ILCS 105/5.547)
3	Sec. <u>5.547.</u> 5.545. The Medical Special Purposes Trust
4	Fund.
5	(Source: P.A. 92-37, eff. 7-1-01; revised 10-19-01.)
6	(30 ILCS 105/5.548)
7	Sec. <u>5.548.</u> 5.545. The Child Support Administrative
8	Fund.
9	(Source: P.A. 92-44, eff. 7-1-01; revised 19-19-01.)
10	(30 ILCS 105/5.552)
11	Sec. <u>5.552.</u> 5.545. The ICCB Adult Education Fund.
12	(Source: P.A. 92-49, eff. 7-9-01; revised 10-19-01.)
13	(30 ILCS 105/5.553)
14	Sec. <u>5.553.</u> 5.545. The Medicaid Buy-In Program Revolving
15	Fund.
16	(Source: P.A. 92-163, eff. 7-25-01; revised 10-19-01.)
17	(30 ILCS 105/5.554)
18	Sec. <u>5.554.</u> 5.545. The Korean War Veterans National
19	Museum and Library Fund.
20	(Source: P.A. 92-198, eff. 8-1-01; revised 10-19-01.)
21	(30 ILCS 105/5.555)
22	Sec. <u>5.555.</u> 5.545. The Corporate Headquarters Relocation
23	Assistance Fund.
24	(Source: P.A. 92-207, eff. 8-1-01; revised 10-19-01.)
25	(30 ILCS 105/5.556)
26	Sec. <u>5.556.</u> 5-545- The Statewide Economic Development
27	Fund.

SB1854 Engrossed -59-LRB9215370EGfg (Source: P.A. 92-208, eff. 8-2-01; revised 10-19-01.) 1 (30 ILCS 105/5.557) 2 3 Sec. 5.557. 5.545. The Real Estate Audit Fund. (Source: P.A. 92-217, eff. 8-2-01; revised 10-19-01.) 4 (30 ILCS 105/5.558) 5 Sec. <u>5.558.</u> 5-545- The Home Inspector Administration б 7 Fund. (Source: P.A. 92-239, eff. 8-3-01; revised 10-19-01.) 8 (30 ILCS 105/5.559) 9 Sec. <u>5.559.</u> 5-545--5-546- The Project Exile Fund. 10 (Source: P.A. 92-332, eff. 8-10-01; 92-342, eff. 8-10-01; 11 12 revised 10-19-01.) 13 (30 ILCS 105/5.560) 14 Sec. 5.560. 5-545- The Illinois AgriFIRST Program Fund. 15 (Source: P.A. 92-346, eff. 8-14-01; revised 10-19-01.) (30 ILCS 105/5.561) 16 Sec. <u>5.561.</u> 5-545- The Secretary of State DUI 17 18 Administration Fund. (Source: P.A. 92-418, eff. 8-17-01; revised 10-19-01.) 19 20 (30 ILCS 105/5.562) Sec. 5.562. 5.545. The Illinois Future Teacher Corps 21 Scholarship Fund. 22 (Source: P.A. 92-445, eff. 8-17-01; revised 10-19-01.) 23 (30 ILCS 105/5.563) 24 25 Sec. <u>5.563.</u> 5.545. The Illinois Animal Abuse Fund. (Source: P.A. 92-454, eff. 1-1-02; revised 10-19-01.) 26

SB1854 Engrossed -60-LRB9215370EGfq 1 (30 ILCS 105/5.564) 2 Sec. <u>5.564.</u> 5-545- The Marine Corps Scholarship Fund. (Source: P.A. 92-467, eff. 1-1-02; revised 10-19-01.) 3 (30 ILCS 105/5.565) 4 5 Sec. 5.565. 5-545- The Chicago and Northeast Illinois 6 District Council of Carpenters Fund. (Source: P.A. 92-477, eff. 1-1-02; revised 10-19-01.) 7 (30 ILCS 105/5.566) 8 Sec. 5.566. 5.545. The Brownfields Site Restoration 9 Program Fund. Subsections (b) and (c) of Section 5 of this 10 11 Act do not apply to this Fund. (Source: P.A. 92-486, eff. 1-1-02; revised 10-19-01.) 12 13 (30 ILCS 105/5.567) Sec. 5.567. 5.545. The Secretary of State Police Services 14 15 Fund. (Source: P.A. 92-501, eff. 12-19-01; revised 12-28-01.) 16 17 (30 ILCS 105/5.568) 18 (This Section may contain text from a Public Act with a 19 delayed effective date) Sec. 5.568. 5-545- The Pet Overpopulation Control Fund. 20 21 (Source: P.A. 92-520, eff. 6-1-02; revised 1-16-02.) 22 (30 ILCS 105/6z-51) Sec. 6z-51. Budget Stabilization Fund. 23 24 (a) The Budget Stabilization Fund, a special fund in the 25 State Treasury, shall consist of moneys appropriated or transferred to that Fund, as provided in Section 6z-43 and as 26 27 otherwise provided by law. (b) The State Comptroller may direct the State Treasurer 28 29 to transfer moneys from the Budget Stabilization Fund to the

-61-

General Revenue Fund in order to meet deficits resulting from timing variations between disbursements and the receipt of funds within a fiscal year. Any moneys so borrowed shall be repaid by June 30 of the fiscal year in which they were borrowed.

6 (Source: P.A. 92-11, eff. 6-11-01.)

7

(30 ILCS 105/6z-54)

8 Sec. <u>6z-54.</u> 6z-51. The Energy Infrastructure Fund.

9 (a) The Energy Infrastructure Fund is created as a 10 special fund in the State treasury.

(b) Money in the Energy Infrastructure Fund shall, if 11 and when the State of Illinois issues any bonded indebtedness 12 for financial assistance to new electric 13 generating facilities, as provided in Section 605-332 of the Department 14 15 of Commerce and Community Affairs Law of the Civil Administrative Code of Illinois, be set aside and used for 16 17 the purpose of paying and discharging annually the principal 18 and interest on that bonded indebtedness then due and payable, and for no other purpose. 19

20 In addition to other transfers to the General Obligation 21 Bond Retirement and Interest Fund made pursuant to Section 15 22 of the General Obligation Bond Act, upon each delivery of issued for financial assistance to new electric 23 bonds 24 generating facilities under Section 605-332 of the Department of Commerce and Community Affairs Law of the Civil 25 Administrative Code of Illinois, the State Comptroller shall 26 compute and certify to the State Treasurer the total amount 27 of principal and interest, and premium, if any, on such bonds 28 29 during the then current and each succeeding fiscal year. On or before the last day of each month, the State Treasurer and 30 31 the State Comptroller shall transfer from the Energy Infrastructure Fund to the General Obligation Bond Retirement 32 and Interest Fund an amount sufficient to pay the aggregate 33

of the principal of, interest on, and premium, if any, on the bonds payable on their next payment date, divided by the number of monthly transfers occurring between the last previous payment date (or the delivery date if no payment date has yet occurred) and the next succeeding payment date.

-62-

To the extent that moneys in the 6 (C) Energy 7 Infrastructure Fund, in the opinion of the Governor and the Director of the Bureau of the Budget, are in excess of 8 125% 9 of the maximum debt service in any fiscal year, such surplus shall, subject to appropriation, be used by the Department of 10 11 Commerce and Community Affairs for financial assistance under 12 other coal development programs administered by the Department, in accordance with the rules of the Department or 13 for other State purposes subject to appropriation. 14

15 (Source: P.A. 92-12, eff. 7-1-01; revised 10-17-01.)

16 (30 ILCS 105/6z-55)

Sec. <u>6z-55.</u> 6z-51. Statewide Economic Development Fund.
(a) The Statewide Economic Development Fund is created as a
special fund in the State treasury. Moneys in the Fund shall
be used, subject to appropriation, for the purpose of
statewide economic development activities.

22 (Source: P.A. 92-208, eff. 8-2-01; revised 10-17-01.)

23 Section 19. The State Real Property Leasing Act is 24 amended by changing Section 1.5 as follows:

25 (30 ILCS 562/1.5)

Sec. 1.5. Leasing to tax delinquents prohibited. A State agency shall not lease any real property to a person who is delinquent in paying any real property taxes on a leasehold estate under Section 9-195 of the Property Tax Code. If a State agency receives notice under-Section-21-63 of-the-Property-Tax-Code that a lessee of property under the

1 agency's control is delinquent in paying property taxes, the 2 agency shall notify the lessee that the lessee has 60 days to pay the delinquent taxes, plus penalties and interest, if 3 4 any, or the lease shall be terminated. If the lessee fails to submit proof to the agency that the lessee has paid the 5 taxes, penalties, and interest, the agency shall terminate 6 7 the lease. A person whose lease was terminated under this 8 Section is not allowed to lease State-owned real property or bid on a lease for State-owned real property for a period of 9 2 years after the termination of the lease. 10

-63-

Within 60--days-after-the-effective-date-of-this-Act-and within 60 days after entering into an agreement to lease State-owned real property, the State agency leasing the State-owned real property shall notify the county clerk of the county in which the real property is located of the name and mailing address of the lessee.

17 (Source: P.A. 88-676, eff. 12-14-94; revised 12-13-01.)

18 Section 20. The State Property Control Act is amended by 19 changing Section 1.02 as follows:

20 (30 ILCS 605/1.02) (from Ch. 127, par. 133b3)

21 Sec. 1.02. "Property" means State owned property and includes all real estate, with the exception of rights of way 22 23 for State water resource and highway improvements, traffic signs and traffic signals, and with the exception of common 24 school property; and all tangible personal property with the 25 exception of properties specifically exempted 26 by the 27 administrator, provided that any property originally 28 classified as real property which has been detached from its structure shall be classified as personal property. 29

30 "Property" does not include property owned by the 31 Illinois Medical District Commission and leased or occupied 32 by others for purposes permitted under the Illinois Medical District Act. "Property" also does not include property
 owned and held by the Illinois Medical District Commission
 for redevelopment.

⁴ "Property" does not include that property described under ⁵ Section 5 of <u>Public Act 92-371</u> this--amendatory--Act--of--the ⁶ 92nd--General--Assembly with respect to depositing the net ⁷ proceeds from the sale or exchange of the property as ⁸ provided in Section 10 of <u>that</u> this-amendatory Act of-the ⁹ 92nd-General-Assembly.

10 (Source: P.A. 92-371, eff. 8-15-01; revised 10-9-01.)

Section 21. The Downstate Public Transportation Act is amended by changing Section 2-2.04 as follows:

13 (30 ILCS 740/2-2.04) (from Ch. 111 2/3, par. 662.04)

14 Sec. 2-2.04. "Eligible operating expenses" means all expenses required for public transportation, 15 including 16 employee wages and benefits, materials, fuels, supplies, 17 rental of facilities, taxes other than income taxes, payment made for debt service (including principal and interest) on 18 19 publicly owned equipment or facilities, and any other 20 expenditure which is an operating expense according to 21 standard accounting practices for the providing of public transportation. Eligible operating expenses shall not include 22 23 allowances: (a) for depreciation whether funded or unfunded; (b) for amortization of any intangible costs; (c) for debt 24 service on capital acquired with the assistance of capital 25 grant funds provided by the State of Illinois; (d) for 26 profits or return on investment; (e) for excessive payment to 27 28 associated entities; (f) for Comprehensive Employment Training Act expenses; (g) for costs reimbursed under 29 30 Sections 6 and 8 of the "Urban Mass Transportation Act of 31 1964", as amended; (h) for entertainment expenses; (i) for charter expenses; (j) for fines and penalties; (k) for 32

1 charitable donations; (1) for interest expense on long term 2 borrowing and debt retirement other than on publicly owned equipment or facilities; (m) for income taxes; or (n) for 3 4 such other expenses as the Department determine may 5 consistent with federal Department of Transportation б regulations or requirements.

-65-

7 With respect to participants other than any Metro-East 8 Transit District participant and those receiving federal 9 research development and demonstration funds pursuant to Section 6 of the "Urban Mass Transportation Act of 1964", as 10 11 amended, during the fiscal year ending June 30, 1979, the maximum eligible operating expenses for any such participant 12 in any fiscal year after Fiscal Year 1980 shall be the amount 13 appropriated for such participant for the fiscal year ending 14 15 June 30, 1980, plus in each year a 10% increase over the 16 maximum established for the preceding fiscal year. For Fiscal Year 1980 the maximum eligible operating expenses for 17 any such participant shall be the amount of projected 18 19 operating expenses upon which the appropriation for such participant for Fiscal Year 1980 is based. 20

21 With respect to participants receiving federal research 22 development and demonstration operating assistance funds for 23 operating assistance pursuant to Section 6 of the "Urban Mass Transportation Act of 1964", as amended, during the fiscal 24 25 year ending June 30, 1979, the maximum eligible operating expenses for any such participant in any fiscal year after 26 Fiscal Year 1980 shall not exceed such participant's eligible 27 operating expenses for the fiscal year ending June 30, 1980, 28 plus in each year a 10% increase over the maximum established 29 30 for the preceding fiscal year. For Fiscal Year 1980, the maximum eligible operating expenses for any such participant 31 32 shall be the eligible operating expenses incurred during such fiscal year, or projected operating expenses upon which the 33 appropriation for such participant for the Fiscal Year 1980 34

-66-

1 is based; whichever is less.

2 With to all participants other than any respect Metro-East Transit District participant, the maximum eligible 3 4 operating expenses for any such participant in any fiscal 5 year after Fiscal Year 1985 shall be the amount appropriated б for such participant for the fiscal year ending June 30, 7 1985, plus in each year a 10% increase over the maximum established for the preceding year. 8 For Fiscal Year 1985, 9 maximum eligible operating expenses for any such the participant shall be the amount of projected operating 10 11 expenses upon which the appropriation for such participant for Fiscal Year 1985 is based. 12

With respect to any mass transit district participant 13 that has increased its district boundaries by annexing 14 counties since 1998 and is maintaining a level of 15 local 16 financial support, including all income and revenues, equal to or greater than the level in the State fiscal year ending 17 June 30, 2001, the maximum eligible operating expenses for 18 19 any State fiscal year after 2002 shall be the amount appropriated for that participant for the State fiscal year 20 21 ending June 30, 2002, plus, in each State fiscal year, a 10% increase over the preceding State fiscal year. 22 For State 23 fiscal year 2002, the maximum eligible operating expenses for any such participant shall be the amount of projected 24 25 operating expenses upon which the appropriation for that participant for State fiscal year 2002 is based. 26 For that participant, eligible operating expenses for State fiscal 27 year 2002 in excess of the eligible operating expenses for 28 the State fiscal year ending June 30, 2001, plus 10%, must 29 30 be attributed to the provision of services in the newly annexed counties. 31

With respect to a participant that receives an initial appropriation in State fiscal year 2002, the maximum eligible operating expenses for any State fiscal year after 2003 shall 1 be the amount appropriated for that participant for the State 2 fiscal year ending June 30, 2003, plus, in each year, a 10% increase over the preceding year. For State fiscal year 3 4 2003, the maximum eligible operating expenses for any such participant shall be the amount of projected operating 5 6 expenses upon which the appropriation for that participant 7 for State fiscal year 2003 is based. --Or-Fiseal-Year-2002 (Source: P.A. 92-258, eff. 8-7-01; 92-464, eff. 8-22-01; 8 9 revised 10-15-01.)

- Section 22. The State Mandates Act is amended by changing Sections 8.24 and 8.25 as follows:
- 12 (30 ILCS 805/8.24)

Sec. 8.24. 8-25- Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by Public Act 91-699, 91-722, 91-834, 91-852, 91-870, 91-885, 91-887, or 91-897, 91-939, or 91-954. this-amendatory-Act-of the-91st-General-Assembly.

19 (Source: P.A. 91-699, eff. 1-1-01; 91-722, eff. 6-2-00; 20 91-834, eff. 1-1-01; 91-852, eff. 6-22-00; 91-870, eff. 21 6-22-00; 91-885, eff. 7-6-00; 91-887, eff. 7-6-00; 91-897, 22 eff. 7-6-00; 91-939, eff. 2-1-01; 91-954, eff. 1-1-02; 92-16, 23 eff. 6-28-01; revised 7-23-01.)

24 (30 ILCS 805/8.25)

Sec. 8.25. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by <u>Public Act</u> <u>92-36, 92-50, 92-52, 92-53, 92-166, 92-281, 92-382, 92-388,</u> <u>92-416, 92-424, or 92-465.</u> this-amendatory-Act-of-the-92nd General-Assembly:

31 (Source: P.A. 92-36, eff. 6-28-01; 92-50, eff. 7-12-01;

1 92-52, eff. 7-12-01; 92-53, eff. 7-12-01; 92-166, eff. 2 1-1-02; 92-281, eff. 8-7-01; 92-382, eff. 8-16-01; 92-388, 3 eff. 1-1-02; 92-416, eff. 8-17-01; 92-424, eff. 8-17-01; 4 92-465, eff. 1-1-02; revised 10-17-01.)

5 Section 23. The Illinois Income Tax Act is amended by 6 changing Sections 201, 203, 509, and 510 and setting forth 7 and renumbering multiple versions of Section 507V as follows:

- 8 (35 ILCS 5/201) (from Ch. 120, par. 2-201)
- 9

Sec. 201. Tax Imposed.

10 (a) In general. A tax measured by net income is hereby 11 imposed on every individual, corporation, trust and estate 12 for each taxable year ending after July 31, 1969 on the 13 privilege of earning or receiving income in or as a resident 14 of this State. Such tax shall be in addition to all other 15 occupation or privilege taxes imposed by this State or by any 16 municipal corporation or political subdivision thereof.

(b) Rates. The tax imposed by subsection (a) of this
Section shall be determined as follows, except as adjusted by
subsection (d-1):

(1) In the case of an individual, trust or estate,
for taxable years ending prior to July 1, 1989, an amount
equal to 2 1/2% of the taxpayer's net income for the
taxable year.

(2) In the case of an individual, trust or estate, 24 25 for taxable years beginning prior to July 1, 1989 and ending after June 30, 1989, an amount equal to the sum of 26 27 2 1/2% of the taxpayer's net income for the period (i) 28 prior to July 1, 1989, as calculated under Section 202.3, and (ii) 3% of the taxpayer's net income for the period 29 after June 30, 1989, as calculated under Section 202.3. 30

31 (3) In the case of an individual, trust or estate,
32 for taxable years beginning after June 30, 1989, an

4

-69-

amount equal to 3% of the taxpayer's net income for the
 taxable year.

3 (4) (Blank).

(5) (Blank).

5 (6) In the case of a corporation, for taxable years 6 ending prior to July 1, 1989, an amount equal to 4% of 7 the taxpayer's net income for the taxable year.

8 (7) In the case of a corporation, for taxable years 9 beginning prior to July 1, 1989 and ending after June 30, 10 1989, an amount equal to the sum of (i) 4% of the 11 taxpayer's net income for the period prior to July 1, 12 1989, as calculated under Section 202.3, and (ii) 4.8% of 13 the taxpayer's net income for the period after June 30, 14 1989, as calculated under Section 202.3.

15 (8) In the case of a corporation, for taxable years
16 beginning after June 30, 1989, an amount equal to 4.8% of
17 the taxpayer's net income for the taxable year.

Personal Property Tax Replacement Income Tax. 18 (C) 19 Beginning on July 1, 1979 and thereafter, in addition to such income tax, there is also hereby imposed the Personal 20 21 Property Tax Replacement Income Tax measured by net income on 22 every corporation (including Subchapter S corporations), 23 partnership and trust, for each taxable year ending after June 30, 1979. Such taxes are imposed on the privilege of 24 25 earning or receiving income in or as a resident of this State. The Personal Property Tax Replacement Income Tax 26 shall be in addition to the income tax imposed by subsections 27 (a) and (b) of this Section and in addition to all other 28 29 occupation or privilege taxes imposed by this State or by any 30 municipal corporation or political subdivision thereof.

31 (d) Additional Personal Property Tax Replacement Income
32 Tax Rates. The personal property tax replacement income tax
33 imposed by this subsection and subsection (c) of this Section
34 in the case of a corporation, other than a Subchapter S

1 corporation and except as adjusted by subsection (d-1), shall 2 be an additional amount equal to 2.85% of such taxpayer's net income for the taxable year, except that beginning on January 3 4 1981, and thereafter, the rate of 2.85% specified in this 1, subsection shall be reduced to 2.5%, and in the case of 5 а partnership, trust or a Subchapter S corporation shall be an 6 7 additional amount equal to 1.5% of such taxpayer's net income 8 for the taxable year.

9 (d-1) Rate reduction for certain foreign insurers. Τn the case of a foreign insurer, as defined by Section 35A-5 of 10 11 the Illinois Insurance Code, whose state or country of domicile imposes on insurers domiciled in Illinois 12 а 13 retaliatory tax (excluding any insurer whose premiums from reinsurance assumed are 50% or more of its total insurance 14 15 premiums as determined under paragraph (2) of subsection (b) 16 of Section 304, except that for purposes of this 17 determination premiums from reinsurance do not include premiums from inter-affiliate reinsurance arrangements), 18 beginning with taxable years ending on or after December 31, 19 20 1999, the sum of the rates of tax imposed by subsections (b) 21 and (d) shall be reduced (but not increased) to the rate at 22 which the total amount of tax imposed under this Act, net of 23 all credits allowed under this Act, shall equal (i) the total amount of tax that would be imposed on the foreign insurer's 24 25 net income allocable to Illinois for the taxable year by such foreign insurer's state or country of domicile if that net 26 27 income were subject to all income taxes and taxes measured by net income imposed by such foreign insurer's state or country 28 29 of domicile, net of all credits allowed or (ii) a rate of 30 zero if no such tax is imposed on such income by the foreign insurer's state of domicile. For the purposes of this 31 subsection (d-1), an inter-affiliate includes a mutual 32 33 insurer under common management.

34

(1) For the purposes of subsection (d-1), in no

1 event shall the sum of the rates of tax imposed by 2 subsections (b) and (d) be reduced below the rate at 3 which the sum of:

4 (A) the total amount of tax imposed on such
5 foreign insurer under this Act for a taxable year,
6 net of all credits allowed under this Act, plus

7 (B) the privilege tax imposed by Section 409 8 of the Illinois Insurance Code, the fire insurance 9 company tax imposed by Section 12 of the Fire 10 Investigation Act, and the fire department taxes 11 imposed under Section 11-10-1 of the Illinois 12 Municipal Code,

equals 1.25% of the net taxable premiums written for the taxable year, as described by subsection (1) of Section 409 of the Illinois Insurance Code. This paragraph will in no event increase the rates imposed under subsections (b) and (d).

18 (2) Any reduction in the rates of tax imposed by
19 this subsection shall be applied first against the rates
20 imposed by subsection (b) and only after the tax imposed
21 by subsection (a) net of all credits allowed under this
22 Section other than the credit allowed under subsection
23 (i) has been reduced to zero, against the rates imposed
24 by subsection (d).

This subsection (d-1) is exempt from the provisions of Section 250.

(e) Investment credit. A taxpayer shall be allowed a
credit against the Personal Property Tax Replacement Income
Tax for investment in qualified property.

30 (1) A taxpayer shall be allowed a credit equal to
31 .5% of the basis of qualified property placed in service
32 during the taxable year, provided such property is placed
33 in service on or after July 1, 1984. There shall be
34 allowed an additional credit equal to .5% of the basis of

1 qualified property placed in service during the taxable 2 year, provided such property is placed in service on or after July 1, 1986, and the taxpayer's base employment 3 4 within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment 5 records filed with the Illinois Department of Employment 6 7 Taxpayers who are new to Illinois shall be Security. 8 deemed to have met the 1% growth in base employment for 9 the first year in which they file employment records with the Illinois Department of Employment Security. The 10 11 provisions added to this Section by Public Act 85-1200 (and restored by Public Act 87-895) shall be construed as 12 13 declaratory of existing law and not as a new enactment. If, in any year, the increase in base employment within 14 15 Illinois over the preceding year is less than 1%, the 16 additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and the 17 denominator of which is 1%, but shall not exceed .5%. 18 The investment credit shall not be allowed to the extent 19 20 that it would reduce a taxpayer's liability in any tax 21 year below zero, nor may any credit for qualified 22 property be allowed for any year other than the year in 23 which the property was placed in service in Illinois. For tax years ending on or after December 31, 1987, and on or 24 25 before December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, 26 or, if the amount of the credit exceeds the tax liability 27 for that year, whether it exceeds the original liability 28 or the liability as later amended, such excess may be 29 carried forward and applied to the tax liability of the 5 30 taxable years following the excess credit years if the 31 taxpayer (i) makes investments which cause the creation 32 of a minimum of 2,000 full-time equivalent jobs in 33 Illinois, (ii) is located in an enterprise 34 zone

1 established pursuant to the Illinois Enterprise Zone Act 2 and (iii) is certified by the Department of Commerce and Community Affairs as complying with the requirements 3 4 specified in clause (i) and (ii) by July 1, 1986. The Department of Commerce and Community Affairs shall notify 5 the Department of Revenue of all such certifications 6 7 immediately. For tax years ending after December 31, 8 1988, the credit shall be allowed for the tax year in 9 which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that 10 11 year, whether it exceeds the original liability or the liability as later amended, such excess may be carried 12 forward and applied to the tax liability of the 5 taxable 13 years following the excess credit years. The credit shall 14 15 be applied to the earliest year for which there is a 16 liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit 17 shall be applied first. 18

19 (2) The term "qualified property" means property20 which:

21 (A) is tangible, whether new or used, 22 including buildings and structural components of buildings and signs that are real property, but not 23 including land or improvements to real property that 24 25 are not a structural component of a building such as landscaping, sewer lines, local access roads, 26 27 fencing, parking lots, and other appurtenances;

(B) is depreciable pursuant to Section 167 of
the Internal Revenue Code, except that "3-year
property" as defined in Section 168(c)(2)(A) of that
Code is not eligible for the credit provided by this
subsection (e);

33 (C) is acquired by purchase as defined in
34 Section 179(d) of the Internal Revenue Code;

(D) is used in Illinois by a taxpayer who is
 primarily engaged in manufacturing, or in mining
 coal or fluorite, or in retailing; and

4 (E) has not previously been used in Illinois
5 in such a manner and by such a person as would
6 qualify for the credit provided by this subsection
7 (e) or subsection (f).

(3) For purposes of this subsection 8 (e), 9 "manufacturing" means the material staging and production of tangible personal property by procedures commonly 10 11 regarded as manufacturing, processing, fabrication, or assembling which changes some existing material into new 12 13 shapes, new qualities, or new combinations. For purposes of this subsection (e) the term "mining" shall have the 14 15 same meaning as the term "mining" in Section 613(c) of 16 the Internal Revenue Code. For purposes of this subsection (e), the term "retailing" means the sale of 17 tangible personal property or services rendered 18 in conjunction with the sale of tangible consumer goods or 19 commodities. 20

(4) The basis of qualified property shall be the
basis used to compute the depreciation deduction for
federal income tax purposes.

(5) If the basis of the property for federal income
tax depreciation purposes is increased after it has been
placed in service in Illinois by the taxpayer, the amount
of such increase shall be deemed property placed in
service on the date of such increase in basis.

29 (6) The term "placed in service" shall have the
30 same meaning as under Section 46 of the Internal Revenue
31 Code.

32 (7) If during any taxable year, any property ceases
33 to be qualified property in the hands of the taxpayer
34 within 48 months after being placed in service, or the

1 situs of any qualified property is moved outside Illinois 2 within 48 months after being placed in service, the Personal Property Tax Replacement Income Tax for such 3 4 taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which 5 would have been allowed for the year in which credit for 6 7 such property was originally allowed by eliminating such 8 property from such computation and, (ii) subtracting such 9 recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (7), a 10 11 reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be 12 deemed a disposition of qualified property to the extent 13 of such reduction. 14

15 (8) Unless the investment credit is extended by
16 law, the basis of qualified property shall not include
17 costs incurred after December 31, 2003, except for costs
18 incurred pursuant to a binding contract entered into on
19 or before December 31, 2003.

(9) Each taxable year ending before December 31, 20 21 2000, a partnership may elect to pass through to its partners the credits to which the partnership is entitled 22 23 under this subsection (e) for the taxable year. А partner may use the credit allocated to him or her under 24 this paragraph only against 25 the tax imposed in subsections (c) and (d) of this Section. If the 26 partnership makes that election, those credits shall be 27 allocated among the partners in the partnership 28 in 29 accordance with the rules set forth in Section 704(b) of the Internal Revenue Code, and the rules promulgated 30 under that Section, and the allocated amount of the 31 credits shall be allowed to the partners for that taxable 32 year. The partnership shall make this election on its 33 Personal Property Tax Replacement Income Tax return for 34

that taxable year. The election to pass through the
 credits shall be irrevocable.

For taxable years ending on or after December 31, 3 4 2000, a partner that qualifies its partnership for a subtraction under subparagraph (I) of paragraph (2) of 5 subsection (d) of Section 203 or a shareholder that 6 7 qualifies a Subchapter S corporation for a subtraction 8 under subparagraph (S) of paragraph (2) of subsection (b) 9 of Section 203 shall be allowed a credit under this subsection (e) equal to its share of the credit earned 10 11 under this subsection (e) during the taxable year by the partnership or Subchapter S corporation, determined in 12 accordance with the determination of 13 income and distributive share of income under Sections 702 and 704 14 15 and Subchapter S of the Internal Revenue Code. This 16 paragraph is exempt from the provisions of Section 250.

17

(f) Investment credit; Enterprise Zone.

(1) A taxpayer shall be allowed a credit against 18 the tax imposed by subsections (a) and (b) of this 19 Section for investment in qualified property which is 20 21 placed in service in an Enterprise Zone created pursuant 22 to the Illinois Enterprise Zone Act. For partners, 23 shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is 24 25 treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit 26 under this subsection (f) to be determined in accordance 27 with the determination of income and distributive share 28 of income under Sections 702 and 704 and Subchapter S of 29 30 the Internal Revenue Code. The credit shall be .5% of the basis for such property. The credit shall be 31 available only in the taxable year in which the property 32 is placed in service in the Enterprise Zone and shall not 33 allowed to the extent that it would reduce a 34 be

1 taxpayer's liability for the tax imposed by subsections 2 (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1985, the credit shall be 3 4 allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the 5 tax liability for that year, whether it exceeds the 6 7 original liability or the liability as later amended, 8 such excess may be carried forward and applied to the tax 9 liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest 10 11 year for which there is a liability. If there is credit from more than one tax year that is available to offset a 12 liability, the credit accruing first in time shall be 13 applied first. 14

15 (2) The term qualified property means property 16 which:

17 (A) is tangible, whether new or used,
18 including buildings and structural components of
19 buildings;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (f);

25 (C) is acquired by purchase as defined in
26 Section 179(d) of the Internal Revenue Code;

27 (D) is used in the Enterprise Zone by the28 taxpayer; and

(E) has not been previously used in Illinois
in such a manner and by such a person as would
qualify for the credit provided by this subsection
(f) or subsection (e).

33 (3) The basis of qualified property shall be the34 basis used to compute the depreciation deduction for

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federal income tax purposes.

2 (4) If the basis of the property for federal income tax depreciation purposes is increased after it has been 3 4 placed in service in the Enterprise Zone by the taxpayer, the amount of such increase shall be deemed property 5 placed in service on the date of such increase in basis.

(5) The term "placed in service" shall have the 7 same meaning as under Section 46 of the Internal Revenue 8 9 Code.

If during any taxable year, any property ceases 10 (6) 11 to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the 12 situs of any qualified property is moved outside the 13 Enterprise Zone within 48 months after being placed in 14 15 service, the tax imposed under subsections (a) and (b) of 16 this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the 17 investment credit which would have been allowed for the 18 year in which credit for such property was originally 19 20 allowed by eliminating such property from such 21 computation, and (ii) subtracting such recomputed credit 22 from the amount of credit previously allowed. For the 23 purposes of this paragraph (6), a reduction of the basis of qualified property resulting from a redetermination of 24 25 the purchase price shall be deemed a disposition of qualified property to the extent of such reduction. 26

(g) Jobs Tax Credit; Enterprise Zone and Foreign Trade 27 Zone or Sub-Zone. 28

29 (1) A taxpayer conducting a trade or business in an 30 enterprise zone or a High Impact Business designated by 31 the Department of Commerce and Community Affairs conducting a trade or business in a federally designated 32 Foreign Trade Zone or Sub-Zone shall be allowed a credit 33 34 against the tax imposed by subsections (a) and (b) of 3

-79-

this Section in the amount of \$500 per eligible employee
 hired to work in the zone during the taxable year.

(2) To qualify for the credit:

4 (A) the taxpayer must hire 5 or more eligible
5 employees to work in an enterprise zone or federally
6 designated Foreign Trade Zone or Sub-Zone during the
7 taxable year;

(B) the taxpayer's total employment within the 8 9 enterprise zone or federally designated Foreign Trade Zone or Sub-Zone must increase by 5 or more 10 11 full-time employees beyond the total employed in that zone at the end of the previous tax year for 12 which a jobs tax credit under this Section was 13 taken, or beyond the total employed by the taxpayer 14 as of December 31, 1985, whichever is later; and 15

16 (C) the eligible employees must be employed
17 180 consecutive days in order to be deemed hired for
18 purposes of this subsection.

19 (3) An "eligible employee" means an employee who
20 is:

(A) Certified by the Department of Commerce
and Community Affairs as "eligible for services"
pursuant to regulations promulgated in accordance
with Title II of the Job Training Partnership Act,
Training Services for the Disadvantaged or Title III
of the Job Training Partnership Act, Employment and
Training Assistance for Dislocated Workers Program.

(B) Hired after the enterprise zone or
federally designated Foreign Trade Zone or Sub-Zone
was designated or the trade or business was located
in that zone, whichever is later.

32 (C) Employed in the enterprise zone or Foreign
33 Trade Zone or Sub-Zone. An employee is employed in
34 an enterprise zone or federally designated Foreign

1Trade Zone or Sub-Zone if his services are rendered2there or it is the base of operations for the3services performed.

4 (D) A full-time employee working 30 or more 5 hours per week.

(4) For tax years ending on or after December 31, 6 7 1985 and prior to December 31, 1988, the credit shall be allowed for the tax year in which the eligible employees 8 9 are hired. For tax years ending on or after December 31, 1988, the credit shall be allowed for the tax year 10 11 immediately following the tax year in which the eligible employees are hired. If the amount of the credit exceeds 12 the tax liability for that year, whether it exceeds the 13 original liability or the liability as later amended, 14 15 such excess may be carried forward and applied to the tax 16 liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest 17 year for which there is a liability. If there is credit 18 from more than one tax year that is available to offset a 19 liability, earlier credit shall be applied first. 20

(5) The Department of Revenue shall promulgate such
rules and regulations as may be deemed necessary to carry
out the purposes of this subsection (g).

24 (6) The credit shall be available for eligible25 employees hired on or after January 1, 1986.

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(h) Investment credit; High Impact Business.

Subject to subsections (b) and (b-5) of Section 27 (1)5.5 of the Illinois Enterprise Zone Act, a taxpayer shall 28 29 be allowed a credit against the tax imposed bv 30 subsections (a) and (b) of this Section for investment in qualified property which is placed in service by a 31 Department of Commerce and Community Affairs designated 32 High Impact Business. The credit shall be .5% of the 33 34 basis for such property. The credit shall not be

1 available (i) until the minimum investments in qualified 2 property set forth in subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act have been 3 4 satisfied or (ii) until the time authorized in subsection (b-5) of the Illinois Enterprise Zone Act for entities 5 designated as High Impact Businesses under subdivisions 6 7 (a)(3)(B), (a)(3)(C), and (a)(3)(D) of Section 5.5 of the 8 Illinois Enterprise Zone Act, and shall not be allowed to 9 the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this 10 11 Section to below zero. The credit applicable to such investments shall be taken in the taxable year in which 12 such investments have been completed. 13 The credit for additional investments beyond the minimum investment by a 14 15 designated high impact business authorized under 16 subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act shall be available only in the 17 taxable year in which the property is placed in service 18 and shall not be allowed to the extent that it would 19 reduce a taxpayer's liability for the tax imposed by 20 21 subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1987, the 22 23 credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of 24 the 25 credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as 26 later amended, such excess may be carried forward and 27 applied to the tax liability of the 5 taxable years 28 29 following the excess credit year. The credit shall be 30 applied to the earliest year for which there is a If there is credit from more than one tax 31 liability. year that is available to offset a liability, the credit 32 accruing first in time shall be applied first. 33

34 Changes made in this subdivision (h)(1) by Public

-82-

Act 88-670 restore changes made by Public Act 85-1182 and
 reflect existing law.

3 (2) The term qualified property means property 4 which:

5 (A) is tangible, whether new or used, 6 including buildings and structural components of 7 buildings;

8 (B) is depreciable pursuant to Section 167 of 9 the Internal Revenue Code, except that "3-year 10 property" as defined in Section 168(c)(2)(A) of that 11 Code is not eligible for the credit provided by this 12 subsection (h);

13 (C) is acquired by purchase as defined in
14 Section 179(d) of the Internal Revenue Code; and

15 (D) is not eligible for the Enterprise Zone
16 Investment Credit provided by subsection (f) of this
17 Section.

18 (3) The basis of qualified property shall be the
19 basis used to compute the depreciation deduction for
20 federal income tax purposes.

(4) If the basis of the property for federal income
tax depreciation purposes is increased after it has been
placed in service in a federally designated Foreign Trade
Zone or Sub-Zone located in Illinois by the taxpayer, the
amount of such increase shall be deemed property placed
in service on the date of such increase in basis.

27 (5) The term "placed in service" shall have the
28 same meaning as under Section 46 of the Internal Revenue
29 Code.

30 (6) If during any taxable year ending on or before
31 December 31, 1996, any property ceases to be qualified
32 property in the hands of the taxpayer within 48 months
33 after being placed in service, or the situs of any
34 qualified property is moved outside Illinois within 48

1 months after being placed in service, the tax imposed 2 under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be 3 4 determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for 5 such property was originally allowed by eliminating such 6 7 property from such computation, and (ii) subtracting such 8 recomputed credit from the amount of credit previously 9 allowed. For the purposes of this paragraph (6), a reduction of the basis of qualified property resulting 10 11 from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent 12 of such reduction. 13

(7) Beginning with tax years ending after December 14 1996, if a taxpayer qualifies for the credit under 15 31, 16 this subsection (h) and thereby is granted a tax abatement and the taxpayer relocates its entire facility 17 in violation of the explicit terms and length of 18 the contract under Section 18-183 of the Property Tax Code, 19 the tax imposed under subsections (a) and (b) of this 20 21 Section shall be increased for the taxable year in which 22 the taxpayer relocated its facility by an amount equal to the amount of credit received by the taxpayer under this 23 24 subsection (h).

(i) Credit for Personal Property Tax Replacement Income 25 Tax. A credit shall be allowed against the tax imposed by 26 subsections (a) and (b) of this Section for the tax imposed 27 by subsections (c) and (d) of this Section. This credit 28 29 shall be computed by multiplying the tax imposed by subsections (c) and (d) of this Section by a fraction, the 30 numerator of which is base income allocable to Illinois and 31 the denominator of which is Illinois base income, and further 32 multiplying the product by the tax rate imposed 33 by subsections (a) and (b) of this Section. 34

1 Any credit earned on or after December 31, 1986 under 2 this subsection which is unused in the year the credit is computed because it exceeds the tax liability imposed by 3 4 subsections (a) and (b) for that year (whether it exceeds the 5 original liability or the liability as later amended) may be б carried forward and applied to the tax liability imposed by 7 subsections (a) and (b) of the 5 taxable years following the This credit shall be applied first to 8 excess credit year. 9 the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year 10 that is available to offset a liability the earliest credit 11 arising under this subsection shall be applied first. 12

If, during any taxable year ending on or after December 13 1986, the tax imposed by subsections (c) and (d) of this 14 31. Section for which a taxpayer has claimed a credit under this 15 16 subsection (i) is reduced, the amount of credit for such tax shall also be reduced. Such reduction shall be determined by 17 recomputing the credit to take into account the reduced tax 18 19 imposed by <u>subsections</u> subsection (c) and (d). If any portion of the reduced amount of credit has been carried to a 20 21 different taxable year, an amended return shall be filed for such taxable year to reduce the amount of credit claimed. 22

23 (j) Training expense credit. Beginning with tax years ending on or after December 31, 1986, a taxpayer shall be 24 25 allowed a credit against the tax imposed by subsections subsection (a) and (b) under this Section for all amounts 26 paid or accrued, on behalf of all persons employed by the 27 taxpayer in Illinois or Illinois residents employed outside 28 of Illinois by a taxpayer, for educational or vocational 29 30 training in semi-technical or technical fields or semi-skilled or skilled fields, which were deducted from 31 32 gross income in the computation of taxable income. The credit against the tax imposed by subsections (a) and 33 (b) 34 shall be 1.6% of such training expenses. For partners,

-84-

1 shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is 2 treated as a partnership for purposes of federal and State 3 4 income taxation, there shall be allowed a credit under this 5 subsection (j) to be determined in accordance with the 6 determination of income and distributive share of income 7 under Sections 702 and 704 and subchapter S of the Internal 8 Revenue Code.

9 Any credit allowed under this subsection which is unused in the year the credit is earned may be carried forward to 10 11 each of the 5 taxable years following the year for which the credit is first computed until it is used. This credit shall 12 be applied first to the earliest year for which there is 13 а If there is a credit under this subsection from 14 liability. more than one tax year that is available to offset a 15 16 liability the earliest credit arising under this subsection shall be applied first. 17

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(k) Research and development credit.

19 Beginning with tax years ending after July 1, 1990, a taxpayer shall be allowed a credit against the tax imposed by 20 subsections (a) and (b) of this Section for increasing 21 research activities in this State. The credit allowed 22 23 against the tax imposed by subsections (a) and (b) shall be equal to 6 1/2% of the qualifying expenditures for increasing 24 25 research activities in this State. For partners, shareholders of subchapter S corporations, and owners of 26 limited liability companies, if the liability company is 27 treated as a partnership for purposes of federal and State 28 29 income taxation, there shall be allowed a credit under this 30 subsection to be determined in accordance with the determination of income and distributive share of income 31 32 under Sections 702 and 704 and subchapter S of the Internal Revenue Code. 33

34 For purposes of this subsection, "qualifying

1 expenditures" means the qualifying expenditures as defined 2 for the federal credit for increasing research activities which would be allowable under Section 41 of the Internal 3 4 Revenue Code and which are conducted in this State. "qualifying expenditures for increasing research activities 5 б in this State" means the excess of qualifying expenditures 7 for the taxable year in which incurred over qualifying 8 expenditures for the base period, "qualifying expenditures 9 for the base period" means the average of the qualifying expenditures for each year in the base period, and "base 10 11 period" means the 3 taxable years immediately preceding the taxable year for which the determination is being made. 12

-86-

Any credit in excess of the tax liability for the taxable year may be carried forward. A taxpayer may elect to have the unused credit shown on its final completed return carried over as a credit against the tax liability for the following for the following taxable years or until it has been fully used, whichever occurs first.

19 If an unused credit is carried forward to a given year from 2 or more earlier years, that credit arising in the 20 21 earliest year will be applied first against the tax liability 22 for the given year. If a tax liability for the given year 23 still remains, the credit from the next earliest year will then be applied, and so on, until all credits have been used 24 25 or no tax liability for the given year remains. Anv remaining unused credit or credits then will be carried 26 forward to the next following year in which a tax liability 27 is incurred, except that no credit can be carried forward to 28 a year which is more than 5 years after the year in which the 29 30 expense for which the credit is given was incurred.

31 Unless extended by law, the credit shall not include 32 costs incurred after December 31, 2004, except for costs 33 incurred pursuant to a binding contract entered into on or 34 before December 31, 2004. -87-

No inference shall be drawn from this amendatory Act of
 the 91st General Assembly in construing this Section for
 taxable years beginning before January 1, 1999.

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(1) Environmental Remediation Tax Credit.

(i) For tax years ending after December 31, 1997 5 and on or before December 31, 2001, a taxpayer shall be 6 7 allowed a credit against the tax imposed by subsections and (b) of this Section for certain amounts paid for 8 (a) 9 unreimbursed eligible remediation costs, as specified in 10 this subsection. For purposes of this Section, 11 "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency 12 ("Agency") under Section 58.14 of the Environmental 13 Protection Act that were paid in performing environmental 14 15 remediation at a site for which a No Further Remediation 16 Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. 17 The credit must be claimed for the taxable year in which 18 Agency approval of the eligible remediation costs is 19 20 granted. The credit is not available to any taxpayer if 21 the taxpayer or any related party caused or contributed 22 to, in any material respect, a release of regulated 23 substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site 24 25 Remediation Program of the Environmental Protection Act. After the Pollution Control Board rules are adopted 26 pursuant to the Illinois Administrative Procedure Act for 27 the administration and enforcement of Section 58.9 of the 28 29 Environmental Protection Act, determinations as to credit availability for purposes of this Section shall be made 30 31 consistent with those rules. For purposes of this Section, "taxpayer" includes a person whose 32 tax attributes the taxpayer has succeeded to under Section 33 381 of the Internal Revenue Code and "related party" 34

1 includes the persons disallowed a deduction for losses by 2 paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related 3 4 taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and 5 shall be equal to 25% of the unreimbursed eligible 6 (b) 7 remediation costs in excess of \$100,000 per site, except that the \$100,000 threshold shall not apply to any site 8 9 contained in an enterprise zone as determined by the Department of Commerce and Community Affairs. The total 10 11 credit allowed shall not exceed \$40,000 per year with a maximum total of \$150,000 per site. For partners and 12 shareholders of subchapter S corporations, there shall be 13 allowed a credit under this subsection to be determined 14 in accordance with the determination of income and 15 16 distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code. 17

(ii) A credit allowed under this subsection that is 18 unused in the year the credit is earned may be carried 19 forward to each of the 5 taxable years following the year 20 21 for which the credit is first earned until it is used. The term "unused credit" does not include any amounts of 22 unreimbursed eligible remediation costs in excess of the 23 maximum credit per site authorized under paragraph (i). 24 25 This credit shall be applied first to the earliest year for which there is a liability. If there is a credit 26 under this subsection from more than one tax year that is 27 available to offset a liability, the earliest credit 28 arising under this subsection shall be applied first. 29 Α 30 credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation 31 site for which the credit was granted. The purchaser of 32 a remediation site and the tax credit shall succeed to 33 the unused credit and remaining carry-forward period of 34

1 the seller. To perfect the transfer, the assignor shall 2 record the transfer in the chain of title for the site and provide written notice to the Director of the 3 4 Illinois Department of Revenue of the assignor's intent to sell the remediation site and the amount of the tax 5 credit to be transferred as a portion of the sale. In no 6 7 event may a credit be transferred to any taxpayer if the 8 taxpayer or a related party would not be eligible under 9 the provisions of subsection (i).

10 (iii) For purposes of this Section, the term "site"
11 shall have the same meaning as under Section 58.2 of the
12 Environmental Protection Act.

13 (m) Education expense credit.

Beginning with tax years ending after December 31, 1999, 14 a taxpayer who is the custodian of one or more qualifying 15 16 pupils shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for qualified 17 education expenses incurred on behalf of the qualifying 18 19 pupils. The credit shall be equal to 25% of qualified education expenses, but in no event may the total credit 20 21 under this Section claimed by a family that is the custodian of qualifying pupils exceed \$500. In no event shall a credit 22 23 under this subsection reduce the taxpayer's liability under this Act to less than zero. This subsection is exempt from 24 25 the provisions of Section 250 of this Act.

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For purposes of this subsection :+

"Qualifying pupils" means individuals who 27 (i) are residents of the State of Illinois, (ii) are under the age of 28 29 21 at the close of the school year for which a credit is 30 sought, and (iii) during the school year for which a credit is sought were full-time pupils enrolled in a kindergarten 31 32 through twelfth grade education program at any school, as defined in this subsection. 33

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"Qualified education expense" means the amount incurred

1 on behalf of a qualifying pupil in excess of \$250 for 2 tuition, book fees, and lab fees at the school in which the 3 pupil is enrolled during the regular school year.

4 "School" means any public or nonpublic elementary or 5 secondary school in Illinois that is in compliance with Title 6 VI of the Civil Rights Act of 1964 and attendance at which 7 satisfies the requirements of Section 26-1 of the School 8 Code, except that nothing shall be construed to require a 9 child to attend any particular public or nonpublic school to 10 qualify for the credit under this Section.

11 "Custodian" means, with respect to qualifying pupils, an 12 Illinois resident who is a parent, the parents, a legal 13 guardian, or the legal guardians of the qualifying pupils. 14 (Source: P.A. 91-9, eff. 1-1-00; 91-357, eff. 7-29-99; 15 91-643, eff. 8-20-99; 91-644, eff. 8-20-99; 91-860, eff. 16 6-22-00; 91-913, eff. 1-1-01; 92-12, eff. 7-1-01; 92-16, eff. 17 6-28-01; revised 12-3-01.)

18 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

19 Sec. 203. Base income defined.

20 (a) Individuals.

(1) In general. In the case of an individual, base
income means an amount equal to the taxpayer's adjusted
gross income for the taxable year as modified by
paragraph (2).

(2) Modifications. The adjusted gross income
referred to in paragraph (1) shall be modified by adding
thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or
accrued to the taxpayer as interest or dividends
during the taxable year to the extent excluded from
gross income in the computation of adjusted gross
income, except stock dividends of qualified public
utilities described in Section 305(e) of the

-91-

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Internal Revenue Code;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of adjusted gross income for the taxable year;

(C) An amount equal to the amount received 6 7 during the taxable year as a recovery or refund of 8 real property taxes paid with respect to the 9 taxpayer's principal residence under the Revenue Act of 1939 and for which a deduction was previously 10 11 taken under subparagraph (L) of this paragraph (2) prior to July 1, 1991, the retrospective application 12 date of Article 4 of Public Act 87-17. In the case 13 of multi-unit or multi-use structures and farm 14 15 dwellings, the taxes on the taxpayer's principal 16 residence shall be that portion of the total taxes for the entire property which is attributable to 17 such principal residence; 18

19(D) An amount equal to the amount of the20capital gain deduction allowable under the Internal21Revenue Code, to the extent deducted from gross22income in the computation of adjusted gross income;

23 (D-5) An amount, to the extent not included in adjusted gross income, equal to the amount of money 24 25 withdrawn by the taxpayer in the taxable year from a medical care savings account and the interest earned 26 the account in the taxable year of a withdrawal 27 on pursuant to subsection (b) of Section 20 of the 28 29 Medical Care Savings Account Act or subsection (b) 30 of Section 20 of the Medical Care Savings Account Act of 2000; and 31

32 (D-10) For taxable years ending after December
33 31, 1997, an amount equal to any eligible
34 remediation costs that the individual deducted in

1 2 3 computing adjusted gross income and for which the individual claims a credit under subsection (1) of Section 201;

and by deducting from the total so obtained the sum ofthe following amounts:

(E) For taxable years ending before December 6 7 2001, any amount included in such total in 31, 8 respect of any compensation (including but not 9 limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in 10 11 action) paid to a resident by reason of being on active duty in the Armed Forces of the United States 12 13 and in respect of any compensation paid or accrued to a resident who as a governmental employee was a 14 15 prisoner of war or missing in action, and in respect 16 of any compensation paid to a resident in 1971 or thereafter for annual training performed pursuant to 17 Sections 502 and 503, Title 32, United States Code 18 as a member of the Illinois National Guard. For 19 taxable years ending on or after December 31, 2001, 20 21 any amount included in such total in respect of any 22 compensation (including but not limited to any compensation paid or accrued to a serviceman while a 23 prisoner of war or missing in action) paid to a 24 25 resident by reason of being a member of any component of the Armed Forces of the United States 26 and in respect of any compensation paid or accrued 27 to a resident who as a governmental employee was a 28 29 prisoner of war or missing in action, and in respect of any compensation paid to a resident in 2001 or 30 31 thereafter by reason of being a member of the Illinois National Guard. The provisions of this 32 amendatory Act of the 92nd General Assembly are 33 34 exempt from the provisions of Section 250;

1 (F) An amount equal to all amounts included in 2 such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 3 4 408 of the Internal Revenue Code, or included in such total as distributions under the provisions of 5 any retirement or disability plan for employees of 6 7 any governmental agency or unit, or retirement payments to retired partners, which payments are 8 9 excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue 10 11 Code and regulations adopted pursuant thereto;

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(G) The valuation limitation amount;

13 (H) An amount equal to the amount of any tax 14 imposed by this Act which was refunded to the 15 taxpayer and included in such total for the taxable 16 year;

17 (I) An amount equal to all amounts included in 18 such total pursuant to the provisions of Section 111 19 of the Internal Revenue Code as a recovery of items 20 previously deducted from adjusted gross income in 21 the computation of taxable income;

(J) An amount equal to those dividends
included in such total which were paid by a
corporation which conducts business operations in an
Enterprise Zone or zones created under the Illinois
Enterprise Zone Act, and conducts substantially all
of its operations in an Enterprise Zone or zones;

(K) An amount equal 28 to those dividends 29 included in such total that were paid by a 30 corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone 31 and that is designated a High Impact Business 32 located in Illinois; provided that dividends 33 34 eligible for the deduction provided in subparagraph 1 2

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(J) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (K);

4 (L) For taxable years ending after December 5 31, 1983, an amount equal to all social security 6 benefits and railroad retirement benefits included 7 in such total pursuant to Sections 72(r) and 86 of 8 the Internal Revenue Code;

9 (M) With the exception of any amounts subtracted under subparagraph (N), an amount equal 10 11 to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the 12 Internal Revenue Code of 1954, as now or hereafter 13 amended, and all amounts of expenses allocable to 14 interest and disallowed as deductions by Section 15 16 265(1) of the Internal Revenue Code of 1954, as now or hereafter amended; and (ii) for taxable years 17 ending on or after August 13, 1999, Sections 18 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the 19 Internal Revenue Code; the provisions of this 20 21 subparagraph are exempt from the provisions of 22 Section 250;

23 (N) An amount equal to all amounts included in such total which are exempt from taxation by this 24 25 State either by reason of its statutes or Constitution or by reason of the Constitution, 26 treaties or statutes of the United States; provided 27 that, in the case of any statute of this State that 28 29 exempts income derived from bonds or other 30 obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond 31 premium amortization; 32

33 (0) An amount equal to any contribution made34 to a job training project established pursuant to

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the Tax Increment Allocation Redevelopment Act;

(P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

-95-

8 (Q) An amount equal to any amounts included in 9 such total, received by the taxpayer as an 10 acceleration in the payment of life, endowment or 11 annuity benefits in advance of the time they would 12 otherwise be payable as an indemnity for a terminal 13 illness;

14 (R) An amount equal to the amount of any
15 federal or State bonus paid to veterans of the
16 Persian Gulf War;

(S) An amount, to the extent included in 17 adjusted gross income, equal to the amount of a 18 contribution made in the taxable year on behalf of 19 the taxpayer to a medical care savings account 20 21 established under the Medical Care Savings Account 22 Act or the Medical Care Savings Account Act of 2000 to the extent the contribution is accepted by the 23 account administrator as provided in that Act; 24

25 (T) An amount, to the extent included in adjusted gross income, equal to the amount of 26 interest earned in the taxable year on a medical 27 care savings account established under the Medical 28 29 Care Savings Account Act or the Medical Care Savings 30 Account Act of 2000 on behalf of the taxpayer, other than interest added pursuant to item (D-5) of this 31 paragraph (2); 32

33 (U) For one taxable year beginning on or after
 34 January 1, 1994, an amount equal to the total amount

1 of tax imposed and paid under subsections (a) and 2 (b) of Section 201 of this Act on grant amounts 3 received by the taxpayer under the Nursing Home 4 Grant Assistance Act during the taxpayer's taxable 5 years 1992 and 1993;

(V) Beginning with tax years ending on or 6 7 after December 31, 1995 and ending with tax years ending on or before December 31, 8 2004, an amount 9 equal to the amount paid by a taxpayer who is a self-employed taxpayer, a partner of a partnership, 10 11 or a shareholder in a Subchapter S corporation for 12 health insurance or long-term care insurance for 13 that taxpayer or that taxpayer's spouse or dependents, to the extent that the amount paid for 14 15 that health insurance or long-term care insurance 16 may be deducted under Section 213 of the Internal Revenue Code of 1986, has not been deducted on the 17 federal income tax return of the taxpayer, and does 18 not exceed the taxable income attributable to that 19 taxpayer's income, self-employment income, 20 or 21 Subchapter S corporation income; except that no deduction shall be allowed under this item (V) 22 if the taxpayer is eligible to participate in any 23 health insurance or long-term care insurance plan of 24 25 an employer of the taxpayer or the taxpayer's spouse. The amount of the health insurance and 26 long-term care insurance subtracted under this item 27 (V) shall be determined by multiplying total health 28 29 insurance and long-term care insurance premiums paid 30 by the taxpayer times a number that represents the fractional percentage of eligible medical expenses 31 under Section 213 of the Internal Revenue Code of 32 1986 not actually deducted on the taxpayer's federal 33 34 income tax return;

1 (W) For taxable years beginning on or after 2 January 1, 1998, all amounts included in the 3 taxpayer's federal gross income in the taxable year 4 from amounts converted from a regular IRA to a Roth 5 IRA. This paragraph is exempt from the provisions of 6 Section 250;

7 (X) For taxable year 1999 and thereafter, an 8 amount equal to the amount of any (i) distributions, 9 to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of 10 11 his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any 12 other Axis regime or as an heir of the victim and 13 (ii) items of income, to the extent includible in 14 15 gross income for federal income tax purposes, 16 attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise 17 lost to a victim of persecution for racial or 18 religious reasons by Nazi Germany or any other Axis 19 regime immediately prior to, during, and immediately 20 21 after World War II, including, but not limited to, 22 interest on the proceeds receivable as insurance under policies issued to a victim of persecution for 23 racial or religious reasons by Nazi Germany or any 24 25 other Axis regime by European insurance companies immediately prior to and during World War II; 26 27 provided, however, this subtraction from federal adjusted gross income does not apply to assets 28 29 acquired with such assets or with the proceeds from 30 the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the 31 first recipient of such assets after their recovery 32 and who is a victim of persecution for racial or 33 34 religious reasons by Nazi Germany or any other Axis 1 regime or as an heir of the victim. The amount of 2 and the eligibility for any public assistance, benefit, or similar entitlement is not affected by 3 4 inclusion of items (i) and (ii) of this the paragraph in gross income for federal income tax 5 purposes. This paragraph is exempt from the 6 7 provisions of Section 250; and

8 (Y) For taxable years beginning on or after 9 January 1, 2002, moneys contributed in the taxable 10 year to a College Savings Pool account under Section 11 16.5 of the State Treasurer Act. This subparagraph 12 (Y) is exempt from the provisions of Section 250.

13 (b) Corporations.

14 (1) In general. In the case of a corporation, base
15 income means an amount equal to the taxpayer's taxable
16 income for the taxable year as modified by paragraph (2).
17 (2) Modifications. The taxable income referred to
18 in paragraph (1) shall be modified by adding thereto the
19 sum of the following amounts:

20 (A) An amount equal to all amounts paid or 21 accrued to the taxpayer as interest and all 22 distributions received from regulated investment 23 companies during the taxable year to the extent 24 excluded from gross income in the computation of 25 taxable income;

26 (B) An amount equal to the amount of tax
27 imposed by this Act to the extent deducted from
28 gross income in the computation of taxable income
29 for the taxable year;

30 (C) In the case of a regulated investment
31 company, an amount equal to the excess of (i) the
32 net long-term capital gain for the taxable year,
33 over (ii) the amount of the capital gain dividends
34 designated as such in accordance with Section

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852(b)(3)(C) of the Internal Revenue Code and any amount designated under Section 852(b)(3)(D) of the Internal Revenue Code, attributable to the taxable year (this amendatory Act of 1995 (Public Act 89-89) is declarative of existing law and is not a new enactment);

7 (D) The amount of any net operating loss 8 deduction taken in arriving at taxable income, other 9 than a net operating loss carried forward from a 10 taxable year ending prior to December 31, 1986;

11 (E) For taxable years in which a net operating 12 loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of 13 taxable income under paragraph (1) of subsection (e) 14 or subparagraph (E) of paragraph (2) of subsection 15 16 (e), the amount by which addition modifications other than those provided by this subparagraph (E) 17 exceeded subtraction modifications in such earlier 18 taxable year, with the following limitations applied 19 in the order that they are listed: 20

21 (i) the addition modification relating to 22 the net operating loss carried back or forward 23 to the taxable year from any taxable year ending prior to December 31, 1986 shall be 24 25 reduced by the amount of addition modification under this subparagraph (E) which related to 26 that net operating loss and which was taken 27 into account in calculating the base income of 28 29 an earlier taxable year, and

30 (ii) the addition modification relating
31 to the net operating loss carried back or
32 forward to the taxable year from any taxable
33 year ending prior to December 31, 1986 shall
34 not exceed the amount of such carryback or

1 carryforward; 2 For taxable years in which there is a net operating loss carryback or carryforward from more 3 4 than one other taxable year ending prior to December 31, 1986, the addition modification provided in this 5 subparagraph (E) shall be the sum of the amounts 6 computed independently under the preceding 7 provisions of this subparagraph (E) for each such 8 9 taxable year; and (E-5) For taxable years ending after December 10 31, 1997, 11 an amount equal to any eligible remediation costs that the corporation deducted in 12 computing adjusted gross income and for which the 13 corporation claims a credit under subsection (1) of 14 15 Section 201; 16 and by deducting from the total so obtained the sum of 17 the following amounts: (F) An amount equal to the amount of any tax 18 19 imposed by this Act which was refunded to the taxpayer and included in such total for the taxable 20 21 year; 22 (G) An amount equal to any amount included in 23 such total under Section 78 of the Internal Revenue Code; 24 25 (H) In the case of a regulated investment company, an amount equal to the amount of exempt 26 interest dividends as defined in subsection (b) (5) 27 of Section 852 of the Internal Revenue Code, paid to 28 shareholders for the taxable year; 29 30 (I) With the exception of any amounts subtracted under subparagraph (J), an amount equal 31 to the sum of all amounts disallowed as deductions 32 by (i) Sections 171(a) (2), and 265(a)(2) and 33 34 amounts disallowed as interest expense by Section

1 291(a)(3) of the Internal Revenue Code, as now or 2 hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions 3 4 by Section 265(a)(1) of the Internal Revenue Code, as now or hereafter amended; and (ii) for taxable 5 years ending on or after August 13, 1999, Sections 6 7 171(a)(2), 265, 280C, 291(a)(3), and 832(b)(5)(B)(i) 8 of the Internal Revenue Code; the provisions of this 9 subparagraph are exempt from the provisions of Section 250; 10

11 (J) An amount equal to all amounts included in 12 such total which are exempt from taxation by this State either by reason of its statutes 13 or Constitution or by reason of the Constitution, 14 treaties or statutes of the United States; provided 15 16 that, in the case of any statute of this State that income derived from bonds or other 17 exempts obligations from the tax imposed under this Act, the 18 amount exempted shall be the interest net of bond 19 20 premium amortization;

(K) An amount equal to those dividends
included in such total which were paid by a
corporation which conducts business operations in an
Enterprise Zone or zones created under the Illinois
Enterprise Zone Act and conducts substantially all
of its operations in an Enterprise Zone or zones;

27 (L) An amount equal to those dividends included in such total that were paid by a 28 29 corporation that conducts business operations in a 30 federally designated Foreign Trade Zone or Sub-Zone 31 and that is designated a High Impact Business located in Illinois; provided that dividends 32 eligible for the deduction provided in subparagraph 33 (K) of paragraph 2 of this subsection shall not be 34

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eligible for the deduction provided under this subparagraph (L);

(M) For any taxpayer that is a financial 3 4 organization within the meaning of Section 304(c) of this Act, an amount included in such total as 5 interest income from a loan or loans made by such 6 7 taxpayer to a borrower, to the extent that such a 8 loan is secured by property which is eligible for 9 the Enterprise Zone Investment Credit. To determine the portion of a loan or loans that is secured by 10 11 property eligible for a Section 201(f) investment credit to the borrower, the entire principal amount 12 of the loan or loans between the taxpayer and the 13 borrower should be divided into the basis of the 14 15 Section 201(f) investment credit property which 16 secures the loan or loans, using for this purpose the original basis of such property on the date that 17 it was placed in service in the Enterprise Zone. 18 The subtraction modification available to taxpayer 19 in any year under this subsection shall be that 20 21 portion of the total interest paid by the borrower 22 with respect to such loan attributable to the 23 eligible property as calculated under the previous 24 sentence;

25 (M-1) For any taxpayer that is a financial organization within the meaning of Section 304(c) of 26 this Act, an amount included in such total as 27 interest income from a loan or loans made by such 28 taxpayer to a borrower, to the extent that such a 29 30 loan is secured by property which is eligible for the High Impact Business Investment Credit. To 31 determine the portion of a loan or loans that is 32 secured by property eligible for a Section 201(h) 33 34 investment credit to the borrower, the entire

1 principal amount of the loan or loans between the 2 taxpayer and the borrower should be divided into the basis of the Section 201(h) investment credit 3 4 property which secures the loan or loans, using for this purpose the original basis of such property on 5 the date that it was placed in service in a 6 7 federally designated Foreign Trade Zone or Sub-Zone 8 located in Illinois. No taxpayer that is eligible 9 for the deduction provided in subparagraph (M) of paragraph (2) of this subsection shall be eligible 10 11 for the deduction provided under this subparagraph (M-1). The subtraction modification available to 12 taxpayers in any year under this subsection shall be 13 that portion of the total interest paid by the 14 15 borrower with respect to such loan attributable to 16 the eligible property as calculated under the 17 previous sentence;

(N) Two times any contribution made during the 18 taxable year to a designated zone organization to 19 the extent that the contribution (i) qualifies as a 20 charitable contribution under subsection (c) of 21 Section 170 of the Internal Revenue Code and (ii) 22 must, by its terms, be used for a project approved 23 by the Department of Commerce and Community Affairs 24 25 under Section 11 of the Illinois Enterprise Zone Act; 26

(0) An amount equal to: (i) 85% for taxable 27 years ending on or before December 31, 1992, or, a 28 29 percentage equal to the percentage allowable under 30 Section 243(a)(1) of the Internal Revenue Code of 1986 for taxable years ending after December 31, 31 1992, of the amount by which dividends included in 32 taxable income and received from a corporation that 33 34 is not created or organized under the laws of the

1 United States or any state or political subdivision 2 thereof, including, for taxable years ending on or after December 31, 1988, dividends received or 3 4 deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue 5 Code, exceed the amount of the modification provided 6 7 under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends; 8 9 plus (ii) 100% of the amount by which dividends, included in taxable income and received, including, 10 11 for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid 12 or deemed paid under Sections 951 through 964 of the 13 Internal Revenue Code, from any such corporation 14 specified in clause (i) that would but for the 15 16 provisions of Section 1504 (b) (3) of the Internal Revenue Code be treated as a member 17 of the affiliated group which includes the dividend 18 recipient, exceed the amount of the modification 19 provided under subparagraph (G) of paragraph (2) of 20 21 this subsection (b) which is related to such 22 dividends;

(P) An amount equal to any contribution made
to a job training project established pursuant to
the Tax Increment Allocation Redevelopment Act;

26 (Q) An amount equal to the amount of the 27 deduction used to compute the federal income tax 28 credit for restoration of substantial amounts held 29 under claim of right for the taxable year pursuant 30 to Section 1341 of the Internal Revenue Code of 31 1986;

32 (R) In the case of an attorney-in-fact with
33 respect to whom an interinsurer or a reciprocal
34 insurer has made the election under Section 835 of

1 the Internal Revenue Code, 26 U.S.C. 835, an amount 2 equal to the excess, if any, of the amounts paid or incurred by that interinsurer or reciprocal insurer 3 4 in the taxable year to the attorney-in-fact over the deduction allowed to that interinsurer or reciprocal 5 insurer with respect to the attorney-in-fact under 6 Section 835(b) of the Internal Revenue Code for the 7 8 taxable year; and

9 (S) For taxable years ending on or after December 31, 1997, in the case of a Subchapter S 10 11 corporation, an amount equal to all amounts of income allocable to a shareholder subject to the 12 Personal Property Tax Replacement Income Tax imposed 13 by subsections (c) and (d) of Section 201 of this 14 15 Act, including amounts allocable to organizations 16 exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code. 17 This subparagraph (S) is exempt from the provisions of 18 Section 250. 19

20 (3) Special rule. For purposes of paragraph (2)
21 (A), "gross income" in the case of a life insurance
22 company, for tax years ending on and after December 31,
23 1994, shall mean the gross investment income for the
24 taxable year.

25 (c) Trusts and estates.

26 (1) In general. In the case of a trust or estate,
27 base income means an amount equal to the taxpayer's
28 taxable income for the taxable year as modified by
29 paragraph (2).

30 (2) Modifications. Subject to the provisions of
31 paragraph (3), the taxable income referred to in
32 paragraph (1) shall be modified by adding thereto the sum
33 of the following amounts:

34 (A) An amount equal to all amounts paid or

-106-

1accrued to the taxpayer as interest or dividends2during the taxable year to the extent excluded from3gross income in the computation of taxable income;

4 (B) In the case of (i) an estate, \$600; (ii) a
5 trust which, under its governing instrument, is
6 required to distribute all of its income currently,
7 \$300; and (iii) any other trust, \$100, but in each
8 such case, only to the extent such amount was
9 deducted in the computation of taxable income;

10 (C) An amount equal to the amount of tax 11 imposed by this Act to the extent deducted from 12 gross income in the computation of taxable income 13 for the taxable year;

14 (D) The amount of any net operating loss
15 deduction taken in arriving at taxable income, other
16 than a net operating loss carried forward from a
17 taxable year ending prior to December 31, 1986;

(E) For taxable years in which a net operating 18 loss carryback or carryforward from a taxable year 19 ending prior to December 31, 1986 is an element of 20 21 taxable income under paragraph (1) of subsection (e) 22 or subparagraph (E) of paragraph (2) of subsection 23 (e), the amount by which addition modifications other than those provided by this subparagraph (E) 24 25 exceeded subtraction modifications in such taxable year, with the following limitations applied in the 26 27 order that they are listed:

(i) the addition modification relating to
the net operating loss carried back or forward
to the taxable year from any taxable year
ending prior to December 31, 1986 shall be
reduced by the amount of addition modification
under this subparagraph (E) which related to
that net operating loss and which was taken

-107-

into account in calculating the base income of
 an earlier taxable year, and

3 (ii) the addition modification relating 4 to the net operating loss carried back or 5 forward to the taxable year from any taxable 6 year ending prior to December 31, 1986 shall 7 not exceed the amount of such carryback or 8 carryforward;

9 For taxable years in which there is a net operating loss carryback or carryforward from more 10 11 than one other taxable year ending prior to December 31, 1986, the addition modification provided in this 12 subparagraph (E) shall be the sum of the amounts 13 computed independently under 14 the preceding 15 provisions of this subparagraph (E) for each such 16 taxable year;

17 (F) For taxable years ending on or after 18 January 1, 1989, an amount equal to the tax deducted 19 pursuant to Section 164 of the Internal Revenue Code 20 if the trust or estate is claiming the same tax for 21 purposes of the Illinois foreign tax credit under 22 Section 601 of this Act;

(G) An amount equal to the amount of the
capital gain deduction allowable under the Internal
Revenue Code, to the extent deducted from gross
income in the computation of taxable income; and

27 (G-5) For taxable years ending after December 28 31, 1997, an amount equal to any eligible 29 remediation costs that the trust or estate deducted 30 in computing adjusted gross income and for which the 31 trust or estate claims a credit under subsection (1) 32 of Section 201;

33 and by deducting from the total so obtained the sum of 34 the following amounts:

1 (H) An amount equal to all amounts included in 2 such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a) and 3 4 408 of the Internal Revenue Code or included in such total as distributions under the provisions of any 5 retirement or disability plan for employees of any 6 7 governmental agency or unit, or retirement payments 8 to retired partners, which payments are excluded in 9 computing net earnings from self employment by Section 1402 of the Internal Revenue Code and 10 11 regulations adopted pursuant thereto;

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(I) The valuation limitation amount;

13 (J) An amount equal to the amount of any tax 14 imposed by this Act which was refunded to the 15 taxpayer and included in such total for the taxable 16 year;

(K) An amount equal to all amounts included in 17 taxable income as modified by subparagraphs (A), 18 (B), (C), (D), (E), (F) and (G) which are exempt 19 from taxation by this State either by reason of its 20 21 statutes or Constitution or by reason of the 22 Constitution, treaties or statutes of the United 23 States; provided that, in the case of any statute of this State that exempts income derived from bonds or 24 25 other obligations from the tax imposed under this Act, the amount exempted shall be the interest net 26 of bond premium amortization; 27

(L) With the exception of 28 any amounts 29 subtracted under subparagraph (K), an amount equal 30 to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2) and 265(a)(2) of the 31 Internal Revenue Code, as now or hereafter amended, 32 and all amounts of expenses allocable to interest 33 34 and disallowed as deductions by Section 265(1) of 1 the Internal Revenue Code of 1954, as now or 2 hereafter amended; and (ii) for taxable years ending 3 on or after August 13, 1999, Sections 171(a)(2), 4 265, 280C, and 832(b)(5)(B)(i) of the Internal 5 Revenue Code; the provisions of this subparagraph 6 are exempt from the provisions of Section 250;

7 (M) An amount equal to those dividends 8 included in such total which were paid by a 9 corporation which conducts business operations in an 10 Enterprise Zone or zones created under the Illinois 11 Enterprise Zone Act and conducts substantially all 12 of its operations in an Enterprise Zone or Zones;

(N) An amount equal to any contribution made
to a job training project established pursuant to
the Tax Increment Allocation Redevelopment Act;

16 (O) An amount equal to those dividends 17 included in such total that were paid by a corporation that conducts business operations in a 18 federally designated Foreign Trade Zone or Sub-Zone 19 and that is designated a High Impact Business 20 21 located in Illinois; provided that dividends eligible for the deduction provided in subparagraph 22 (M) of paragraph (2) of this subsection shall not be 23 eligible for the deduction provided under this 24 25 subparagraph (0);

26 (P) An amount equal to the amount of the 27 deduction used to compute the federal income tax 28 credit for restoration of substantial amounts held 29 under claim of right for the taxable year pursuant 30 to Section 1341 of the Internal Revenue Code of 31 1986; and

32 (Q) For taxable year 1999 and thereafter, an
33 amount equal to the amount of any (i) distributions,
34 to the extent includible in gross income for federal

1 income tax purposes, made to the taxpayer because of 2 his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any 3 4 other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in 5 gross income for federal income tax 6 purposes, 7 attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise 8 9 lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis 10 11 regime immediately prior to, during, and immediately after World War II, including, but not limited to, 12 13 interest on the proceeds receivable as insurance under policies issued to a victim of persecution for 14 15 racial or religious reasons by Nazi Germany or any 16 other Axis regime by European insurance companies immediately prior to and during World War II; 17 provided, however, this subtraction from federal 18 adjusted gross income does not apply to assets 19 acquired with such assets or with the proceeds from 20 21 the sale of such assets; provided, further, this 22 paragraph shall only apply to a taxpayer who was the 23 first recipient of such assets after their recovery and who is a victim of persecution for racial or 24 25 religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of 26 and the eligibility for any public assistance, 27 benefit, or similar entitlement is not affected by 28 29 the inclusion of items (i) and (ii) of this 30 paragraph in gross income for federal income tax 31 purposes. This paragraph is exempt from the provisions of Section 250. 32

33 (3) Limitation. The amount of any modification34 otherwise required under this subsection shall, under

regulations prescribed by the Department, be adjusted by any amounts included therein which were properly paid, credited, or required to be distributed, or permanently set aside for charitable purposes pursuant to Internal Revenue Code Section 642(c) during the taxable year.

6 (d) Partnerships.

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(1) In general. In the case of a partnership, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

10 (2) Modifications. The taxable income referred to 11 in paragraph (1) shall be modified by adding thereto the 12 sum of the following amounts:

13 (A) An amount equal to all amounts paid or
14 accrued to the taxpayer as interest or dividends
15 during the taxable year to the extent excluded from
16 gross income in the computation of taxable income;

17 (B) An amount equal to the amount of tax
18 imposed by this Act to the extent deducted from
19 gross income for the taxable year;

20 (C) The amount of deductions allowed to the 21 partnership pursuant to Section 707 (c) of the 22 Internal Revenue Code in calculating its taxable 23 income; and

(D) An amount equal to the amount of the
capital gain deduction allowable under the Internal
Revenue Code, to the extent deducted from gross
income in the computation of taxable income;

28 and by deducting from the total so obtained the following 29 amounts:

(E) The valuation limitation amount;

31 (F) An amount equal to the amount of any tax 32 imposed by this Act which was refunded to the 33 taxpayer and included in such total for the taxable 34 year;

1 (G) An amount equal to all amounts included in 2 taxable income as modified by subparagraphs (A), (B), (C) and (D) which are exempt from taxation by 3 4 this State either by reason of its statutes or Constitution or by reason of the Constitution, 5 treaties or statutes of the United States; provided 6 7 that, in the case of any statute of this State that exempts income derived from bonds or other 8 9 obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond 10 premium amortization; 11

(H) Any income of the partnership which constitutes personal service income as defined in Section 1348 (b) (1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership, whichever is greater;

(I) An amount equal to all amounts of income
distributable to an entity subject to the Personal
Property Tax Replacement Income Tax imposed by
subsections (c) and (d) of Section 201 of this Act
including amounts distributable to organizations
exempt from federal income tax by reason of Section
501(a) of the Internal Revenue Code;

(J) With the exception of any amounts 26 subtracted under subparagraph (G), an amount equal 27 to the sum of all amounts disallowed as deductions 28 by (i) Sections 171(a) (2), and 265(2) of the 29 Internal Revenue Code of 1954, as now or hereafter 30 amended, and all amounts of expenses allocable to 31 interest and disallowed as deductions by Section 32 265(1) of the Internal Revenue Code, as now or 33 hereafter amended; and (ii) for taxable years ending 34

-113-

on or after August 13, 1999, Sections 171(a)(2),
 265, 280C, and 832(b)(5)(B)(i) of the Internal
 Revenue Code; the provisions of this subparagraph
 are exempt from the provisions of Section 250;

5 (K) An amount equal to those dividends 6 included in such total which were paid by a 7 corporation which conducts business operations in an 8 Enterprise Zone or zones created under the Illinois 9 Enterprise Zone Act, enacted by the 82nd General 10 Assembly, and which does not conduct such operations 11 other than in an Enterprise Zone or Zones;

12 (L) An amount equal to any contribution made 13 to a job training project established pursuant to 14 the Real Property Tax Increment Allocation 15 Redevelopment Act;

16 (M) An amount equal to those dividends included in such total that were paid by a 17 corporation that conducts business operations in a 18 federally designated Foreign Trade Zone or Sub-Zone 19 and that is designated a High Impact Business 20 located in Illinois; provided that dividends 21 eligible for the deduction provided in subparagraph 22 23 (K) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this 24 25 subparagraph (M); and

(N) An amount equal to the amount of the
deduction used to compute the federal income tax
credit for restoration of substantial amounts held
under claim of right for the taxable year pursuant
to Section 1341 of the Internal Revenue Code of
1986.

(e) Gross income; adjusted gross income; taxable income.
(1) In general. Subject to the provisions of
paragraph (2) and subsection (b) (3), for purposes of

1 this Section and Section 803(e), a taxpayer's gross 2 income, adjusted gross income, or taxable income for the taxable year shall mean the amount of gross income, 3 4 adjusted gross income or taxable income properly 5 reportable for federal income tax purposes for the taxable year under the provisions of the Internal Revenue 6 7 Code. Taxable income may be less than zero. However, for 8 taxable years ending on or after December 31, 1986, net 9 operating loss carryforwards from taxable years ending prior to December 31, 1986, may not exceed the sum of 10 11 federal taxable income for the taxable year before net operating loss deduction, plus the excess of addition 12 modifications over subtraction modifications for the 13 taxable year. For taxable years ending prior to December 14 15 31, 1986, taxable income may never be an amount in excess 16 of the net operating loss for the taxable year as defined in subsections (c) and (d) of Section 172 of the Internal 17 Revenue Code, provided that when taxable income of a 18 corporation (other than a Subchapter S corporation), 19 20 trust, or estate is less than zero and addition 21 modifications, other than those provided by subparagraph 22 (E) of paragraph (2) of subsection (b) for corporations 23 or subparagraph (E) of paragraph (2) of subsection (c) for trusts and estates, exceed subtraction modifications, 24 addition modification must be made under those 25 an subparagraphs for any other taxable year to which the 26 27 taxable income less than zero (net operating loss) is applied under Section 172 of the Internal Revenue Code or 28 29 under subparagraph (E) of paragraph (2) of this subsection (e) applied in conjunction with Section 172 of 30 the Internal Revenue Code. 31

32 (2) Special rule. For purposes of paragraph (1) of
33 this subsection, the taxable income properly reportable
34 for federal income tax purposes shall mean:

1 (A) Certain life insurance companies. In the 2 case of a life insurance company subject to the tax imposed by Section 801 of the Internal Revenue Code, 3 4 life insurance company taxable income, plus the amount of distribution from pre-1984 policyholder 5 surplus accounts as calculated under Section 815a of 6 7 the Internal Revenue Code; 8 (B) Certain other insurance companies. In the

9 case of mutual insurance companies subject to the 10 tax imposed by Section 831 of the Internal Revenue 11 Code, insurance company taxable income;

12 (C) Regulated investment companies. In the 13 case of a regulated investment company subject to 14 the tax imposed by Section 852 of the Internal 15 Revenue Code, investment company taxable income;

16 (D) Real estate investment trusts. In the 17 case of a real estate investment trust subject to 18 the tax imposed by Section 857 of the Internal 19 Revenue Code, real estate investment trust taxable 20 income;

21 (E) Consolidated corporations. In the case of 22 a corporation which is a member of an affiliated 23 group of corporations filing a consolidated income tax return for the taxable year for federal income 24 25 tax purposes, taxable income determined as if such corporation had filed a separate return for federal 26 income tax purposes for the taxable year and each 27 preceding taxable year for which it was a member of 28 29 an affiliated group. For purposes of this 30 subparagraph, the taxpayer's separate taxable income shall be determined as if the election provided by 31 Section 243(b) (2) of the Internal Revenue Code had 32 33 been in effect for all such years;

34 (F) Cooperatives. In the case of a

-116-

cooperative corporation or association, the taxable
 income of such organization determined in accordance
 with the provisions of Section 1381 through 1388 of
 the Internal Revenue Code;

5 (G) Subchapter S corporations. In the case of: (i) a Subchapter S corporation for which there 6 7 is in effect an election for the taxable year under Section 1362 of the Internal Revenue Code, the 8 9 taxable income of such corporation determined in accordance with Section 1363(b) of the Internal 10 11 Revenue Code, except that taxable income shall take into account those items which are required by 12 Section 1363(b)(1) of the Internal Revenue Code to 13 be separately stated; and (ii) a Subchapter S 14 corporation for which there is in effect a federal 15 16 election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied 17 instead the prior federal Subchapter S rules as in 18 effect on July 1, 1982, the taxable income of such 19 20 corporation determined in accordance with the 21 federal Subchapter S rules as in effect on July 1, 22 1982; and

23 (H) Partnerships. In the case of а partnership, taxable income determined in accordance 24 25 with Section 703 of the Internal Revenue Code, except that taxable income shall take into account 26 those items which are required by Section 703(a)(1) 27 to be separately stated but which would be taken 28 29 into account by an individual in calculating his taxable income. 30

31 (f) Valuation limitation amount.

32 (1) In general. The valuation limitation amount
33 referred to in subsections (a) (2) (G), (c) (2) (I) and
34 (d)(2) (E) is an amount equal to:

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1 (A) The sum of the pre-August 1, 1969 2 appreciation amounts (to the extent consisting of 3 gain reportable under the provisions of Section 1245 4 or 1250 of the Internal Revenue Code) for all 5 property in respect of which such gain was reported 6 for the taxable year; plus

(B) The lesser of (i) the sum of 7 the 8 pre-August 1, 1969 appreciation amounts (to the 9 extent consisting of capital gain) for all property in respect of which such gain was reported for 10 11 federal income tax purposes for the taxable year, or (ii) the net capital gain for the taxable year, 12 reduced in either case by any amount of such gain 13 included in the amount determined under subsection 14 (a) (2) (F) or (c) (2) (H). 15

(2) Pre-August 1, 1969 appreciation amount.

If the fair market value of property 17 (A) referred to in paragraph (1) was 18 readily 19 ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is the 20 lesser of (i) the excess of such fair market value 21 over the taxpayer's basis (for determining gain) for 22 23 such property on that date (determined under the Internal Revenue Code as in effect on that date), or 24 25 (ii) the total gain realized and reportable for federal income tax purposes in respect of the sale, 26 exchange or other disposition of such property. 27

(B) If the fair market value of property
referred to in paragraph (1) was not readily
ascertainable on August 1, 1969, the pre-August 1,
1969 appreciation amount for such property is that
amount which bears the same ratio to the total gain
reported in respect of the property for federal
income tax purposes for the taxable year, as the

number of full calendar months in that part of the
 taxpayer's holding period for the property ending
 July 31, 1969 bears to the number of full calendar
 months in the taxpayer's entire holding period for
 the property.

6 (C) The Department shall prescribe such 7 regulations as may be necessary to carry out the 8 purposes of this paragraph.

9 (g) Double deductions. Unless specifically provided 10 otherwise, nothing in this Section shall permit the same item 11 to be deducted more than once.

Legislative intention. Except as expressly provided 12 (h) by this Section there shall be no modifications 13 or limitations on the amounts of income, gain, loss or deduction 14 15 taken into account in determining gross income, adjusted gross income or taxable income for federal income tax 16 17 purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income 18 under this Act for such taxable year, whether in respect of 19 20 property values as of August 1, 1969 or otherwise.

21 (Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99; 22 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff. 23 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16, 24 eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01; 25 revised 9-21-01.)

26 (35 ILCS 5/507V)

27 Sec. 507V. National World War II Memorial Fund checkoff. 28 The Department must print on its standard individual income 29 tax form a provision indicating that if the taxpayer wishes 30 to contribute to the National World War II Memorial Fund, as 31 authorized by this amendatory Act of the 91st General 32 Assembly, he or she may do so by stating the amount of the

-119-

1 contribution (not less than \$1) on the return and that the 2 contribution will reduce the taxpayer's refund or increase 3 the amount of payment to accompany the return. Failure to 4 remit any amount of increased payment reduces the 5 contribution accordingly. This Section does not apply to any 6 amended return.

7 (Source: P.A. 91-833, eff. 1-1-01; 91-836, eff. 1-1-01.)

8 (35 ILCS 5/507W)

Sec. <u>507W.</u> 507V. Korean War Veterans National Museum and 9 10 Library Fund checkoff. Beginning with taxable years ending on or after December 31, 2001, the Department shall print on 11 its standard individual income tax 12 form а provision indicating that if the taxpayer wishes to contribute to the 13 Korean War Veterans National Museum and Library Fund, 14 as 15 authorized by this amendatory Act of the 92nd General Assembly, he or she may do so by stating the amount of the 16 17 contribution (not less than \$1) on the return and that the contribution will reduce the taxpayer's refund or increase 18 the amount of payment to accompany the return. Failure to 19 20 remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to 21 any amended return. 22

23 (Source: P.A. 92-198, eff. 8-1-01; revised 10-17-01.)

24 (35 ILCS 5/509) (from Ch. 120, par. 5-509)

25

(Text of Section before amendment by P.A. 92-84)

Sec. 509. Tax checkoff explanations. All individual 26 27 income tax return forms shall contain appropriate 28 explanations and spaces to enable the taxpayers to designate contributions to the Child Abuse Prevention Fund, to the 29 30 Community Health Center Care Fund, to the Illinois Wildlife Preservation Fund as required by the Illinois Non-Game 31 Wildlife Protection Act, to the Alzheimer's Disease Research 32

1 Fund as required by the Alzheimer's Disease Research Act, to 2 the Assistance to the Homeless Fund as required by this Act, to the Heritage Preservation Fund as required by the Heritage 3 4 Preservation Act, to the Child Care Expansion Program Fund as required by the Child Care Expansion Program Act, to the Ryan 5 б White AIDS Victims Assistance Fund, to the Assistive Technology for Persons with Disabilities Fund, to the 7 8 Domestic Violence Shelter and Service Fund, to the United States Olympians Assistance Fund, to the Youth Drug Abuse 9 Prevention Fund, to the Persian Gulf Conflict Veterans Fund, 10 11 to the Literacy Advancement Fund, to the Ryan White Pediatric and Adult AIDS Fund, to the Illinois Special Olympics 12 Checkoff Fund, to the Penny Severns Breast and Cervical 13 Cancer Research Fund, to the Korean War Memorial Fund, to the 14 15 Heart Disease Treatment and Prevention Fund, to the 16 Hemophilia Treatment Fund, to the Mental Health Research Fund, to the Children's Cancer Fund, to the American Diabetes 17 Association Fund, to the National World War II Memorial Fund, 18 19 to the Prostate Cancer Research Fund, to the Korean War 20 Veterans National Museum and Library Fund, and to the Meals 21 on Wheels Fund. Each form shall contain a statement that the 22 contributions will reduce the taxpayer's refund or increase 23 the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the 24 25 contribution accordingly.

If, on October 1 of any year, the total contributions 26 to 27 any one of the funds made under this Section do not equal \$100,000 or more, the explanations and spaces for designating 28 29 contributions to the fund shall be removed from the 30 individual income tax return forms for the following and all subsequent years and all subsequent contributions to the fund 31 32 shall be refunded to the taxpayer.

33 (Source: P.A. 91-104, eff. 7-13-99; 91-107, eff. 7-13-99;
34 91-357, eff. 7-29-99; 91-833, eff. 1-1-01; 91-836, eff.

-121-

1 1-1-01; 92-198, eff. 8-1-01.)

2

(Text of Section after amendment by P.A. 92-84)

Sec. 509. Tax checkoff explanations. All individual 3 4 income tax return forms shall contain appropriate 5 explanations and spaces to enable the taxpayers to designate contributions to the Child Abuse Prevention Fund, to the 6 7 Illinois Wildlife Preservation Fund as required by the Illinois Non-Game Wildlife Protection Act, to the Alzheimer's 8 Disease Research Fund as required by the Alzheimer's Disease 9 Research Act, to the Assistance to the Homeless Fund as 10 required by this Act, to the Penny Severns Breast and 11 12 Cervical Cancer Research Fund, to the National World War II Memorial Fund, and to the Prostate Cancer Research Fund, and 13 14 to the Korean War Veterans National Museum and Library Fund7. Each form shall contain a statement that the contributions 15 will reduce the taxpayer's refund or increase the amount of 16 payment to accompany the return. Failure to remit any amount 17 18 of increased payment shall reduce the contribution 19 accordingly.

If, on October 1 of any year, the total contributions to any one of the funds made under this Section do not equal \$100,000 or more, the explanations and spaces for designating contributions to the fund shall be removed from the individual income tax return forms for the following and all subsequent years and all subsequent contributions to the fund shall be refunded to the taxpayer.

27 (Source: P.A. 91-104, eff. 7-13-99; 91-107, eff. 7-13-99; 28 91-357, eff. 7-29-99; 91-833, eff. 1-1-01; 91-836, eff. 29 1-1-01; 92-84, eff. 7-1-02; 92-198, eff. 8-1-01; revised 30 9-12-01.)

31 (35 ILCS 5/510) (from Ch. 120, par. 5-510)

32 (Text of Section before amendment by P.A. 92-84)

33 Sec. 510. Determination of amounts contributed. The

1 Department shall determine the total amount contributed to 2 each of the following: the Child Abuse Prevention Fund, the Illinois Wildlife Preservation Fund, the Community Health 3 4 Center Care Fund, the Assistance to the Homeless Fund, the Alzheimer's Disease Research Fund, the Heritage Preservation 5 6 Fund, the Child Care Expansion Program Fund, the Ryan White AIDS Victims Assistance Fund, the Assistive Technology for 7 8 Persons with Disabilities Fund, the Domestic Violence Shelter 9 and Service Fund, the United States Olympians Assistance Fund, the Youth Drug Abuse Prevention Fund, the Persian Gulf 10 11 Conflict Veterans Fund, the Literacy Advancement Fund, the Ryan White Pediatric and Adult AIDS Fund, the Illinois 12 Special Olympics Checkoff Fund, the Penny Severns Breast and 13 Cervical Cancer Research Fund, the Korean War Memorial Fund, 14 15 the Heart Disease Treatment and Prevention Fund, the 16 Hemophilia Treatment Fund, the Mental Health Research Fund, the Children's Cancer Fund, 17 the American Diabetes Association Fund, the National World War II Memorial Fund, 18 19 the Prostate Cancer Research Fund, the Korean War Veterans National Museum and Library Fund, and the Meals on Wheels 20 21 Fund; and shall notify the State Comptroller and the State 22 Treasurer of the amounts to be transferred from the General Revenue Fund to each fund, and upon receipt of 23 such notification the State Treasurer and Comptroller shall 24 25 transfer the amounts.

26 (Source: P.A. 91-104, eff. 7-13-99; 91-107, eff. 7-13-99; 27 91-833, eff. 1-1-01; 91-836, eff. 1-1-01; 92-198, eff. 28 8-1-01.)

(Text of Section after amendment by P.A. 92-84)
Sec. 510. Determination of amounts contributed. The
Department shall determine the total amount contributed to
each of the following: the Child Abuse Prevention Fund, the
Illinois Wildlife Preservation Fund, the Assistance to the

1 Homeless Fund, the Alzheimer's Disease Research Fund, the 2 Penny Severns Breast and Cervical Cancer Research Fund, the National World War II Memorial Fund, and the Prostate Cancer 3 4 Research Fund, and the Korean War Veterans National Museum and Library Fund; and shall notify the State Comptroller and 5 6 the State Treasurer of the amounts to be transferred from the 7 General Revenue Fund to each fund, and upon receipt of such 8 notification the State Treasurer and Comptroller shall transfer the amounts. 9

10 (Source: P.A. 91-104, eff. 7-13-99; 91-107, eff. 7-13-99; 11 91-833, eff. 1-1-01; 91-836, eff. 1-1-01; 92-84, eff. 7-1-02; 12 92-198, eff. 8-1-01; revised 9-12-01.)

Section 24. The Economic Development for a Growing Economy Tax Credit Act is amended by changing Section 5-5 as follows:

16 (35 ILCS 10/5-5)

17 Sec. 5-5. Definitions. As used in this Act:

18 "Agreement" means the Agreement between a Taxpayer and 19 the Department under the provisions of Section 5-50 of this 20 Act.

21 "Applicant" means a Taxpayer that is operating a business located or that the Taxpayer plans to locate within the State 22 23 of Illinois and that is engaged in interstate or intrastate 24 commerce for the purpose of manufacturing, processing, assembling, warehousing, or distributing products, conducting 25 research and development, providing tourism services, 26 or 27 providing services in interstate commerce, office industries, 28 or agricultural processing, but excluding retail, retail food, health, or professional services. "Applicant" does not 29 30 include a Taxpayer who closes or substantially reduces an operation at one location in the State and relocates 31 32 substantially the same operation to another location in the

1 State. This does not prohibit a Taxpayer from expanding its 2 operations at another location in the State, provided that existing operations of a similar nature located within the 3 4 State are not closed or substantially reduced. This also 5 does not prohibit a Taxpayer from moving its operations from 6 one location in the State to another location in the State 7 for the purpose of expanding the operation provided that the 8 Department determines that expansion cannot reasonably be 9 accommodated within the municipality in which the business is located, or in the case of a business located in an 10 11 incorporated area of the county, within the county in which the business is located, after conferring with the chief 12 elected official of the municipality or county and taking 13 into consideration any evidence offered by the municipality 14 15 or county regarding the ability to accommodate expansion 16 within the municipality or county.

17 "Committee" means the Illinois Business Investment
18 Committee created under Section 5-25 of this Act within the
19 Illinois Economic Development Board.

20 "Credit" means the amount agreed to between the 21 Department and Applicant under this Act, but not to exceed 22 the Incremental Income Tax attributable to the Applicant's 23 project.

24 "Department" means the Department of Commerce and25 Community Affairs.

26 "Director" means the Director of Commerce and Community27 Affairs.

28 "Full-time Employee" means an individual who is employed 29 for consideration for at least 35 hours each week or who 30 renders any other standard of service generally accepted by 31 industry custom or practice as full-time employment.

32 "Incremental Income Tax" means the total amount withheld 33 during the taxable year from the compensation of New 34 Employees under Article 7 of the Illinois Income Tax Act

-125-

1 arising from employment at a project that is the subject of 2 an Agreement. "New Employee" means: 3 4 (a) A Full-time Employee first employed by а 5 Taxpayer in the project that is the subject of an Agreement and who is hired after the Taxpayer enters into 6 7 the tax credit Agreement. (b) The term "New Employee" does not include: 8 9 (1) an employee of the Taxpayer who performs a job that was previously performed by another 10 11 employee, if that job existed for at least 6 months 12 before hiring the employee; 13 (2) an employee of the Taxpayer who was previously employed in Illinois by a Related Member 14 of the Taxpayer and whose employment was shifted to 15 16 the Taxpayer after the Taxpayer entered into the tax credit Agreement; or 17 (3) a child, grandchild, parent, or spouse, 18 19 other than a spouse who is legally separated from the individual, of any individual who has a direct 20 21 or an indirect ownership interest of at least 5% in 22 the profits, capital, or value of the Taxpayer. 23 (c) Notwithstanding paragraph (1) of subsection an employee may be considered a New Employee under 24 (b), 25 the Agreement if the employee performs a job that was previously performed by an employee who was: 26 treated under the Agreement as a New 27 (1) Employee; and 28 29 (2) promoted by the Taxpayer to another job. 30 Notwithstanding subsection (a), the Department (d) may award Credit to an Applicant with respect to an 31 employee hired prior to the date of the Agreement if: 32 (1) the Applicant is in receipt of a letter 33 34 from the Department stating an intent to enter into

-126-

1 a credit Agreement; 2 (2) the letter described in paragraph (1) is issued by the Department not later than 15 days 3 4 after the effective date of this Act; and (3) the employee was hired after the date the 5 letter described in paragraph (1) was issued. 6 "Noncompliance Date" means, in the case of a Taxpayer 7 8 that is not complying with the requirements of the Agreement or the provisions of this Act, the day following the last 9 date upon which the Taxpayer was in compliance with the 10 11 requirements of the Agreement and the provisions of this Act, as determined by the Director, pursuant to Section 5-65. 12 "Pass Through Entity" means an entity that is exempt from 13 the tax under subsection (b) or (c) of Section 205 of the 14 15 Illinois Income Tax Act. 16 "Related Member" means a person that, with respect to the Taxpayer during any portion of the taxable year, is any one 17 of the following: 18 19 (1) An individual stockholder, if the stockholder and the members of the stockholder's family (as defined 20 in Section 318 of the Internal Revenue Code) 21 own 22 directly, indirectly, beneficially, or constructively, in 23 aggregate, at least 50% of the value of the the 24 Taxpayer's outstanding stock. 25 (2) A partnership, estate, or trust and any partner 26

or beneficiary, if the partnership, estate, or trust, and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, <u>capital</u> eapitel, stock, or value of the Taxpayer.

31 (3) A corporation, and any party related to the 32 corporation in a manner that would require an attribution 33 of stock from the corporation to the party or from the 34 party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the Taxpayer
 owns directly, indirectly, beneficially, or
 constructively at least 50% of the value of the
 corporation's outstanding stock.

(4) A corporation and any party related to that 5 corporation in a manner that would require an attribution 6 7 of stock from the corporation to the party or from the party to the corporation under the attribution rules of 8 9 Section 318 of the Internal Revenue Code, if the corporation and all such related parties own in the 10 11 aggregate at least 50% of the profits, capital, stock, or 12 value of the Taxpayer.

(5) A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code, except, for purposes of determining whether a person is a Related Member under this paragraph, 20% shall be substituted for 5% wherever \$% appears in Section 1563(e) of the Internal Revenue Code.

20 "Taxpayer" means an individual, corporation, partnership, 21 or other entity that has any Illinois Income Tax liability. 22 (Source: P.A. 91-476, eff. 8-11-99; revised 12-04-01.)

23 Section 25. The Use Tax Act is amended by changing 24 Sections 3-5 and 9 as follows:

25 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

Sec. 3-5. Exemptions. Use of the following tangible 26 personal property is exempt from the tax imposed by this Act: 27 28 (1) Personal property purchased from a corporation, association, foundation, institution, 29 society, or 30 organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise 31 for the benefit of persons 65 years of age or older if the 32

personal property was not purchased by the enterprise for the
 purpose of resale by the enterprise.

3 (2) Personal property purchased by a not-for-profit
4 Illinois county fair association for use in conducting,
5 operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts 6 7 or cultural organization that establishes, by proof required 8 by the Department by rule, that it has received an exemption 9 under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or 10 11 support of arts or cultural programming, activities, or services. These organizations include, but are not limited 12 to, music and dramatic arts organizations such as symphony 13 orchestras and theatrical groups, arts and cultural service 14 15 organizations, local arts councils, visual arts 16 organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General 17 Assembly, however, an entity otherwise eligible for this 18 19 exemption shall not make tax-free purchases unless it has an active identification number issued by the Department. 20

21 (4) Personal property purchased by a governmental body, 22 by a corporation, society, association, foundation, or 23 institution organized and operated exclusively for charitable, religious, or educational purposes, or by a 24 25 not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers 26 or employees and that is organized and operated primarily for 27 the recreation of persons 55 years of age or older. A limited 28 liability company may qualify for the exemption under this 29 30 paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and 31 32 after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an 33 active exemption identification number issued 34 by the

-129-

1 Department.

2 (5) A passenger car that is a replacement vehicle to the
3 extent that the purchase price of the car is subject to the
4 Replacement Vehicle Tax.

5 (6) Graphic arts machinery and equipment, including 6 repair and replacement parts, both new and used, and 7 including that manufactured on special order, certified by the purchaser to be used primarily for graphic 8 arts 9 production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting 10 11 as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic 12 13 arts product.

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(7) Farm chemicals.

15 (8) Legal tender, currency, medallions, or gold or 16 silver coinage issued by the State of Illinois, the 17 government of the United States of America, or the government 18 of any foreign country, and bullion.

(9) Personal property purchased from a teacher-sponsored
student organization affiliated with an elementary or
secondary school located in Illinois.

(10) A motor vehicle of the first division, a motor 22 23 vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living 24 25 quarters for recreational, camping, or travel use, with direct walk through to the living quarters from the driver's 26 seat, or a motor vehicle of the second division that is of 27 the van configuration designed for the transportation of not 28 less than 7 nor more than 16 passengers, as defined in 29 30 Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting 31 32 Occupation and Use Tax Act.

33 (11) Farm machinery and equipment, both new and used,34 including that manufactured on special order, certified by

1 the purchaser to be used primarily for production agriculture agricultural programs, including 2 or State or federal individual replacement parts for the machinery and equipment, 3 4 including machinery and equipment purchased for lease, and 5 including implements of husbandry defined in Section 1-130 of б the Illinois Vehicle Code, farm machinery and agricultural 7 chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle 8 9 Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural 10 11 polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and 12 equipment under this item (11). Agricultural chemical tender 13 tanks and dry boxes shall include units sold separately from 14 15 a motor vehicle required to be licensed and units sold 16 mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated. 17

Farm machinery and equipment shall include precision 18 19 farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not 20 21 limited to, tractors, harvesters, sprayers, planters, 22 seeders, or spreaders. Precision farming equipment includes, 23 but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, 24 25 and other such equipment.

Farm machinery and equipment also includes computers, 26 27 sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture 28 facilities, equipment, and activities such as, but not 29 30 limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal 31 32 diets and agricultural chemicals. This item (11) is exempt 33 from the provisions of Section 3-90.

34 (12) Fuel and petroleum products sold to or used by an

1 air common carrier, certified by the carrier to be used for 2 consumption, shipment, or storage in the conduct of its 3 business as an air common carrier, for a flight destined for 4 or returning from a location or locations outside the United 5 States without regard to previous or subsequent domestic 6 stopovers.

7 (13) Proceeds of mandatory service charges separately 8 stated on customers' bills for the purchase and consumption 9 of food and beverages purchased at retail from a retailer, to the extent that the proceeds of the service charge are in 10 11 fact turned over as tips or as a substitute for tips to the 12 employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with 13 respect to which the service charge is imposed. 14

15 (14) Oil field exploration, drilling, and production 16 equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular 17 goods, including casing and drill strings, (iii) pumps and 18 19 pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, 20 21 drilling, and production equipment, and (vi) machinery and 22 equipment purchased for lease; but excluding motor vehicles 23 required to be registered under the Illinois Vehicle Code.

(15) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

30 (16) Coal exploration, mining, offhighway hauling, 31 processing, maintenance, and reclamation equipment, including 32 replacement parts and equipment, and including equipment 33 purchased for lease, but excluding motor vehicles required to 34 be registered under the Illinois Vehicle Code. 1 (17) Distillation machinery and equipment, sold as a 2 unit or kit, assembled or installed by the retailer, 3 certified by the user to be used only for the production of 4 ethyl alcohol that will be used for consumption as motor fuel 5 or as a component of motor fuel for the personal use of the 6 user, and not subject to sale or resale.

7 (18) Manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or 8 9 assembling tangible personal property for wholesale or retail sale or lease, whether that sale or lease is made directly by 10 11 the manufacturer or by some other person, whether the 12 materials used in the process are owned by the manufacturer or some other person, or whether that sale or lease is made 13 apart from or as an incident to the seller's engaging in the 14 15 service occupation of producing machines, tools, dies, jigs, 16 patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser. 17

18 (19) Personal property delivered to a purchaser or 19 purchaser's donee inside Illinois when the purchase order for 20 that personal property was received by a florist located 21 outside Illinois who has a florist located inside Illinois 22 deliver the personal property.

23 (20) Semen used for artificial insemination of livestock24 for direct agricultural production.

(21) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes.

31 (22) Computers and communications equipment utilized for 32 any hospital purpose and equipment used in the diagnosis, 33 analysis, or treatment of hospital patients purchased by a 34 lessor who leases the equipment, under a lease of one year or

1 longer executed or in effect at the time the lessor would 2 otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption 3 4 identification number by the Department under Section 1g of 5 the Retailers' Occupation Tax Act. If the equipment is 6 leased in a manner that does not qualify for this exemption 7 or is used in any other non-exempt manner, the lessor shall liable for the tax imposed under this Act or the Service 8 be 9 Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use 10 11 occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that 12 lessor for the tax imposed by this Act or the Service Use Tax 13 Act, as the case may be, if the tax has not been paid by the 14 15 lessor. If a lessor improperly collects any such amount from 16 the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that 17 amount is not refunded to the lessee for any reason, the 18 19 lessor is liable to pay that amount to the Department.

(23) Personal property purchased by a lessor who leases 20 21 the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be 22 23 subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption 24 25 identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased 26 in a manner that does not qualify for this exemption or used 27 in any other non-exempt manner, the lessor shall be liable 28 for the tax imposed under this Act or the Service Use Tax 29 30 Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. 31 No 32 lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the 33 34 tax imposed by this Act or the Service Use Tax Act, as the 1 case may be, if the tax has not been paid by the lessor. If 2 a lessor improperly collects any such amount from the lessee, 3 the lessee shall have a legal right to claim a refund of that 4 amount from the lessor. If, however, that amount is not 5 refunded to the lessee for any reason, the lessor is liable 6 to pay that amount to the Department.

(24) Beginning with taxable years ending on or after 7 8 December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated 9 for disaster relief to be used in a State or federally 10 11 declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to 12 13 а corporation, society, association, foundation, or institution that has been issued a sales tax exemption 14 15 identification number by the Department that assists victims 16 of the disaster who reside within the declared disaster area.

(25) Beginning with taxable years ending on or after 17 December 31, 1995 and ending with taxable years ending on or 18 before December 31, 2004, personal property that is used in 19 the performance of infrastructure repairs in this State, 20 21 including but not limited to municipal roads and streets, 22 access roads, bridges, sidewalks, waste disposal systems, 23 water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention 24 25 facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering 26 27 Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after 28 29 the disaster.

30 (26) Beginning July 1, 1999, game or game birds 31 purchased at a "game breeding and hunting preserve area" or 32 an "exotic game hunting area" as those terms are used in the 33 Wildlife Code or at a hunting enclosure approved through 34 rules adopted by the Department of Natural Resources. This

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paragraph is exempt from the provisions of Section 3-90.

-135-

2 (27) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a 3 4 corporation, limited liability company, society, association, 5 institution that is determined by the foundation, or б Department to be organized and operated exclusively for educational purposes. 7 For purposes of this exemption, "a 8 corporation, limited liability company, society, association, 9 foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public 10 11 schools, private schools that offer systematic instruction in useful branches of learning by methods common to public 12 schools and that compare favorably in their scope and 13 intensity with the course of study presented in tax-supported 14 schools, and vocational or technical schools or institutes 15 16 organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to 17 prepare individuals to follow a trade or to pursue a manual, 18 19 technical, mechanical, industrial, business, or commercial 20 occupation.

(28) Beginning January 1, 2000, 21 personal property, 22 including food, purchased through fundraising events for the 23 benefit of a public or private elementary or secondary school, a group of those schools, or one or more school 24 25 districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers 26 27 and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for 28 29 the benefit of private home instruction or (ii) for which the 30 fundraising entity purchases the personal property sold at the events from another individual or entity that sold the 31 32 property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. 33 34 This paragraph is exempt from the provisions of Section 3-90.

(29) Beginning January 1, 2000 and through December 31, 1 2 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and 3 4 other items, and replacement parts for these machines. Beginning January 1, 2002, machines and parts for machines 5 б in commercial, coin-operated amusement and vending used 7 business if a use or occupation tax is paid on the gross 8 receipts derived from the use of the commercial, 9 coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-90. 10

11 (30) Food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic 12 beverages, soft drinks, and food that has been prepared for 13 immediate consumption) and prescription and nonprescription 14 15 medicines, drugs, medical appliances, and insulin, urine 16 testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving 17 medical assistance under Article 5 of the Illinois Public Aid 18 Code who resides in a licensed long-term care facility, as 19 20 defined in the Nursing Home Care Act.

21 (31) Beginning on the effective date of this amendatory 22 Act of the 92nd General Assembly, computers and 23 communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment 24 25 of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in 26 effect at the time the lessor would otherwise be subject to 27 the tax imposed by this Act, to a hospital that has been 28 29 issued an active tax exemption identification number by the 30 Department under Section 1g of the Retailers' Occupation Tax If the equipment is leased in a manner that does not 31 Act. 32 qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under 33 34 this Act or the Service Use Tax Act, as the case may be,

1 based on the fair market value of the property at the time 2 the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that 3 4 purports to reimburse that lessor for the tax imposed by this 5 Act or the Service Use Tax Act, as the case may be, if the б tax has not been paid by the lessor. If a lessor improperly 7 collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the 8 9 If, however, that amount is not refunded to the lessor. lessee for any reason, the lessor is liable to pay that 10 11 amount to the Department. This paragraph is exempt from the provisions of Section 3-90. 12

(32) Beginning on the effective date of this amendatory 13 Act of the 92nd General Assembly, personal property purchased 14 15 a lessor who leases the property, under a lease of one bv 16 year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to 17 a governmental body that has been issued an active sales tax 18 19 exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. 20 Τf the 21 property is leased in a manner that does not qualify for this 22 exemption or used in any other nonexempt manner, the lessor 23 shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair 24 25 market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an 26 27 amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax 28 29 Act, as the case may be, if the tax has not been paid by the 30 lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a 31 32 refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the 33 34 lessor is liable to pay that amount to the Department. This

1 paragraph is exempt from the provisions of Section 3-90.

2 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97; 3 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff. 4 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644, 5 eff. 8-20-99; 91-901, eff. 1-1-01; 92-35, eff. 7-1-01; 6 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 7 8-23-01; revised 10-10-01.)

8 (35 ILCS 105/9) (from Ch. 120, par. 439.9)

9. Except as to motor vehicles, watercraft, 9 Sec. 10 aircraft, and trailers that are required to be registered with an agency of this State, each retailer required or 11 authorized to collect the tax imposed by this Act shall pay 12 to the Department the amount of such tax (except as otherwise 13 provided) at the time when he is required to file his return 14 15 for the period during which such tax was collected, less a discount of 2.1% prior to January 1, 1990, and 1.75% on and 16 17 after January 1, 1990, or \$5 per calendar year, whichever is 18 greater, which is allowed to reimburse the retailer for expenses incurred in collecting the tax, keeping records, 19 20 preparing and filing returns, remitting the tax and supplying 21 data to the Department on request. In the case of retailers 22 who report and pay the tax on a transaction by transaction basis, as provided in this Section, such discount shall be 23 24 taken with each such tax remittance instead of when such retailer files his periodic return. A retailer need not 25 remit that part of any tax collected by him to the extent 26 that he is required to remit and does remit the tax imposed 27 by the Retailers' Occupation Tax Act, with respect to the 28 29 sale of the same property.

Where such tangible personal property is sold under a conditional sales contract, or under any other form of sale wherein the payment of the principal sum, or a part thereof, is extended beyond the close of the period for which the 1 return is filed, the retailer, in collecting the tax (except 2 as to motor vehicles, watercraft, aircraft, and trailers that 3 are required to be registered with an agency of this State), 4 may collect for each tax return period, only the tax 5 applicable to that part of the selling price actually 6 received during such tax return period.

Except as provided in this Section, on or before the twentieth day of each calendar month, such retailer shall file a return for the preceding calendar month. Such return shall be filed on forms prescribed by the Department and shall furnish such information as the Department may reasonably require.

The Department may require returns to be filed on a 13 quarterly basis. If so required, a return for each calendar 14 quarter shall be filed on or before the twentieth day of the 15 16 calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for 17 each of the first two months of each calendar quarter, on or 18 19 before the twentieth day of the following calendar month, 20 stating:

21

1. The name of the seller;

22 2. The address of the principal place of business
23 from which he engages in the business of selling tangible
24 personal property at retail in this State;

3. The total amount of taxable receipts received by him during the preceding calendar month from sales of tangible personal property by him during such preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;

30 4. The amount of credit provided in Section 2d of31 this Act;

32 5. The amount of tax due;

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33 5-5. The signature of the taxpayer; and
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34 6. Such other reasonable information as the

-140-

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Department may require.

If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed.

Beginning October 1, 1993, a taxpayer who has an average 6 monthly tax liability of \$150,000 or more shall make all 7 payments required by rules of the Department by electronic 8 9 funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall 10 11 make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 12 1995, a taxpayer who has an average monthly tax liability of \$50,000 13 or more shall make all payments required by rules of 14 the Department by electronic funds transfer. Beginning October 1, 15 16 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of 17 the Department by electronic funds transfer. The term "annual 18 19 tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and 20 local 21 occupation and use tax laws administered by the Department, 22 for the immediately preceding calendar year. The term 23 monthly tax liability" means the sum of "average the taxpayer's liabilities under this Act, and under all other 24 25 State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year 26 divided by 12. Beginning on October 1, 2002, a taxpayer who 27 has a tax liability in the amount set forth in subsection (b) 28 29 of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by 30 electronic funds transfer. 31

32 Before August 1 of each year beginning in 1993, the 33 Department shall notify all taxpayers required to make 34 payments by electronic funds transfer. All taxpayers required to make payments by electronic funds transfer shall make
 those payments for a minimum of one year beginning on October
 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

7 All taxpayers required to make payment by electronic 8 funds transfer and any taxpayers authorized to voluntarily 9 make payments by electronic funds transfer shall make those 10 payments in the manner authorized by the Department.

11 The Department shall adopt such rules as are necessary to 12 effectuate a program of electronic funds transfer and the 13 requirements of this Section.

Before October 1, 2000, if the taxpayer's average monthly 14 15 tax liability to the Department under this Act, the 16 Retailers' Occupation Tax Act, the Service Occupation Tax Act, the Service Use Tax Act was \$10,000 or more during the 17 preceding 4 complete calendar quarters, he shall file a 18 19 return with the Department each month by the 20th day of the month next following the month during which such 20 tax liability is incurred and shall make payments to the 21 Department on or before the 7th, 15th, 22nd and last day of 22 23 the month during which such liability is incurred. On and after October 1, 2000, if the taxpayer's average monthly 24 tax 25 liability to the Department under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, and the 26 Service Use Tax Act was \$20,000 or more during the preceding 27 4 complete calendar quarters, he shall file a return with the 28 Department each month by the 20th day of the month next 29 30 following the month during which such tax liability is incurred and shall make payment to the Department on or 31 32 before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which 33 such tax liability is incurred began prior to January 1, 34

1 1985, each payment shall be in an amount equal to 1/4 of the 2 taxpayer's actual liability for the month or an amount set by the Department not to exceed 1/4 of the average monthly 3 4 liability of the taxpayer to the Department for the preceding 5 4 complete calendar quarters (excluding the month of highest 6 liability and the month of lowest liability in such 4 quarter 7 period). If the month during which such tax liability is incurred begins on or after January 1, 1985, and prior to 8 9 January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 10 11 27.5% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax 12 liability is incurred begins on or after January 1, 1987, and 13 prior to January 1, 1988, each payment shall be in an amount 14 equal to 22.5% of the taxpayer's actual liability for the 15 16 month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during 17 which such tax liability is incurred begins on or after 18 19 January 1, 1988, and prior to January 1, 1989, or begins on or after January 1, 1996, each payment shall be in an amount 20 21 equal to 22.5% of the taxpayer's actual liability for the 22 month or 25% of the taxpayer's liability for the same 23 calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after 24 25 January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual 26 liability for the month or 25% of the taxpayer's liability 27 for the same calendar month of the preceding year or 100% of 28 29 the taxpayer's actual liability for the quarter monthly 30 period. The amount of such quarter monthly reporting payments shall be credited against the final tax liability of 31 32 the taxpayer's return for that month. Before October 1, 2000, once applicable, the requirement of the making of 33 34 quarter monthly payments to the Department shall continue

1 until such taxpayer's average monthly liability to the 2 Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of 3 is less than \$9,000, or until such 4 liability) lowest 5 taxpayer's average monthly liability to the Department as б computed for each calendar quarter of the 4 preceding 7 complete calendar quarter period is less than \$10,000. 8 However, if a taxpayer can show the Department that a 9 substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average 10 11 monthly tax liability for the reasonably foreseeable future will fall below the \$10,000 threshold stated above, then such 12 13 taxpayer may petition the Department for change in such taxpayer's reporting status. On and after October 1, 2000, 14 15 once applicable, the requirement of the making of quarter 16 monthly payments to the Department shall continue until such taxpayer's average monthly liability to the Department during 17 18 the preceding 4 complete calendar quarters (excluding the 19 month of highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly 20 21 liability to the Department as computed for each calendar 22 quarter of the 4 preceding complete calendar quarter period 23 is less than \$20,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's 24 25 business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably 26 foreseeable future will fall below the \$20,000 threshold 27 stated above, then such taxpayer may petition the Department 28 29 for a change in such taxpayer's reporting status. The 30 Department shall change such taxpayer's reporting status unless it finds that such change is seasonal in nature and 31 32 not likely to be long term. If any such quarter monthly payment is not paid at the time or in the amount required by 33 34 this Section, then the taxpayer shall be liable for penalties

1 and interest on the difference between the minimum amount due 2 and the amount of such quarter monthly payment actually and timely paid, except insofar as the taxpayer has previously 3 4 made payments for that month to the Department in excess of 5 the minimum payments previously due as provided in this б Section. The Department shall make reasonable rules and 7 regulations to govern the quarter monthly payment amount and 8 quarter monthly payment dates for taxpayers who file on other 9 than a calendar monthly basis.

If any such payment provided for in this Section exceeds 10 11 the taxpayer's liabilities under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act and the 12 Service Use Tax Act, as shown by an original monthly return, 13 shall issue to the taxpayer a credit 14 the Department 15 memorandum no later than 30 days after the date of payment, 16 which memorandum may be submitted by the taxpayer to the Department in payment of tax liability subsequently to be 17 remitted by the taxpayer to the Department or be assigned by 18 19 the taxpayer to a similar taxpayer under this Act, the 20 Retailers' Occupation Tax Act, the Service Occupation Tax Act 21 or the Service Use Tax Act, in accordance with reasonable 22 rules and regulations to be prescribed by the Department, 23 except that if such excess payment is shown on an original monthly return and is made after December 31, 1986, no credit 24 25 memorandum shall be issued, unless requested by the taxpayer. If no such request is made, the taxpayer may credit such 26 27 excess payment against tax liability subsequently to be remitted by the taxpayer to the Department under this Act, 28 the Retailers' Occupation Tax Act, the Service Occupation Tax 29 30 Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the Department. If the 31 32 Department subsequently determines that all or any part of 33 the credit taken was not actually due to the taxpayer, the taxpayer's 2.1% or 1.75% vendor's discount shall be reduced 34

by 2.1% or 1.75% of the difference between the credit taken and that actually due, and the taxpayer shall be liable for penalties and interest on such difference.

4 If the retailer is otherwise required to file a monthly 5 return and if the retailer's average monthly tax liability to the Department does not exceed \$200, the Department may 6 7 authorize his returns to be filed on a quarter annual basis, 8 with the return for January, February, and March of a given year being due by April 20 of such year; with the return for 9 April, May and June of a given year being due by July 20 of 10 11 such year; with the return for July, August and September of a given year being due by October 20 of such year, and with 12 the return for October, November and December of a given year 13 being due by January 20 of the following year. 14

15 If the retailer is otherwise required to file a monthly 16 or quarterly return and if the retailer's average monthly tax 17 liability to the Department does not exceed \$50, the 18 Department may authorize his returns to be filed on an annual 19 basis, with the return for a given year being due by January 20 of the following year.

21 Such quarter annual and annual returns, as to form and 22 substance, shall be subject to the same requirements as 23 monthly returns.

Notwithstanding any other provision 24 in this Act 25 concerning the time within which a retailer may file his return, in the case of any retailer who ceases to engage in a 26 kind of business which makes him responsible for filing 27 returns under this Act, such retailer shall file a final 28 29 return under this Act with the Department not more than one 30 month after discontinuing such business.

In addition, with respect to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, every retailer selling this kind of tangible personal property shall file, with the

1 Department, upon a form to be prescribed and supplied by the 2 Department, a separate return for each such item of tangible personal property which the retailer sells, except that if, 3 4 in the same transaction, (i) a retailer of aircraft, 5 watercraft, motor vehicles or trailers transfers more than б one aircraft, watercraft, motor vehicle or trailer to another 7 aircraft, watercraft, motor vehicle or trailer retailer for 8 the purpose of resale or (ii) a retailer of aircraft, 9 watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer to a 10 11 purchaser for use as a qualifying rolling stock as provided in Section 3-55 of this Act, then that seller may report the 12 transfer of all the aircraft, watercraft, motor vehicles or 13 trailers involved in that transaction to the Department on 14 15 the same uniform invoice-transaction reporting return form. For purposes of this Section, "watercraft" means a Class 2, 16 Class 3, or Class 4 watercraft as defined in Section 3-2 of 17 the Boat Registration and Safety Act, a personal watercraft, 18 19 or any boat equipped with an inboard motor.

20 The transaction reporting return in the case of motor 21 vehicles or trailers that are required to be registered with 22 an agency of this State, shall be the same document as the 23 Uniform Invoice referred to in Section 5-402 of the Illinois Vehicle Code and must show the name and address of 24 the 25 seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the 26 27 retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, 28 any, to the extent to which Section 2 of this Act allows 29 if 30 an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the 31 32 total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected 33 34 from the purchaser by the retailer on such transaction (or

1 satisfactory evidence that such tax is not due in that 2 particular instance, if that is claimed to be the fact); the 3 place and date of the sale; a sufficient identification of 4 the property sold; such other information as is required in 5 Section 5-402 of the Illinois Vehicle Code, and such other 6 information as the Department may reasonably require.

The transaction reporting return in 7 the case of watercraft and aircraft must show the name and address of the 8 seller; the name and address of the purchaser; the amount of 9 the selling price including the amount allowed by 10 the 11 retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, 12 if any, to the extent to which Section 2 of this Act allows 13 an exemption for the value of traded-in property; the balance 14 15 payable after deducting such trade-in allowance from the 16 total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected 17 from the purchaser by the retailer on such transaction 18 (or 19 satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); 20 the place and date of the sale, a sufficient identification of 21 22 the property sold, and such other information as the 23 Department may reasonably require.

Such transaction reporting return shall be filed not 24 25 later than 20 days after the date of delivery of the item that is being sold, but may be filed by the retailer at any 26 sooner than that if he chooses to do 27 time so. The transaction reporting return and tax remittance or proof of 28 29 exemption from the tax that is imposed by this Act may be 30 transmitted to the Department by way of the State agency with which, or State officer with whom, the tangible personal 31 32 property must be titled or registered (if titling or registration is required) if the Department and such agency 33 or State officer determine that this procedure will expedite 34

1 the processing of applications for title or registration.

-148-

2 With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit 3 4 satisfactory evidence that the sale is not taxable if that is 5 the case), to the Department or its agents, whereupon the б Department shall issue, in the purchaser's name, a tax 7 receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such 8 9 purchaser may submit to the agency with which, or State officer with whom, he must title or register the tangible 10 11 personal property that is involved (if titling or registration is required) in support of such purchaser's 12 application for an Illinois certificate or other evidence of 13 title or registration to such tangible personal property. 14

No retailer's failure or refusal to remit tax under this 15 16 Act precludes a user, who has paid the proper tax to the retailer, from obtaining his certificate of title or other 17 evidence of title or registration (if titling or registration 18 19 is required) upon satisfying the Department that such user 20 has paid the proper tax (if tax is due) to the retailer. The 21 Department shall adopt appropriate rules to carry out the 22 mandate of this paragraph.

23 If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment 24 25 of tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user 26 has not paid the tax to the retailer, such user may certify 27 to the fact of such delay by the retailer, and may (upon the 28 29 Department being satisfied of the truth of such 30 certification) transmit the information required by the transaction reporting return and the remittance for tax or 31 32 proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the 33 34 transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 2.1% or 1.75% discount provided for in this Section being allowed. When the user pays the tax directly to the Department, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

8 Where a retailer collects the tax with respect to the 9 selling price of tangible personal property which he sells and the purchaser thereafter returns such tangible personal 10 11 property and the retailer refunds the selling price thereof to the purchaser, such retailer shall also refund, to the 12 purchaser, the tax so collected from the purchaser. When 13 filing his return for the period in which he refunds such tax 14 15 to the purchaser, the retailer may deduct the amount of the 16 tax so refunded by him to the purchaser from any other use tax which such retailer may be required to pay or remit to 17 the Department, as shown by such return, if the amount of the 18 tax to be deducted was previously remitted to the Department 19 by such retailer. If the retailer has not previously 20 remitted the amount of such tax to the Department, he is 21 22 entitled to no deduction under this Act upon refunding such 23 tax to the purchaser.

Any retailer filing a return under this Section shall 24 25 also include (for the purpose of paying tax thereon) the total tax covered by such return upon the selling price of 26 tangible personal property purchased by him at retail from a 27 retailer, but as to which the tax imposed by this Act was not 28 29 collected from the retailer filing such return, and such 30 retailer shall remit the amount of such tax to the Department when filing such return. 31

32 If experience indicates such action to be practicable, 33 the Department may prescribe and furnish a combination or 34 joint return which will enable retailers, who are required to file returns hereunder and also under the Retailers'
 Occupation Tax Act, to furnish all the return information
 required by both Acts on the one form.

Where the retailer has more than one business registered with the Department under separate registration under this Act, such retailer may not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.

Beginning January 1, 1990, each month the Department 10 11 shall pay into the State and Local Sales Tax Reform Fund, a special fund in the State Treasury which is hereby created, 12 the net revenue realized for the preceding month from the 1% 13 tax on sales of food for human consumption which is to be 14 consumed off the premises where it is sold (other than 15 16 alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and 17 nonprescription medicines, drugs, medical appliances and 18 19 insulin, urine testing materials, syringes and needles used by diabetics. 20

Beginning January 1, 1990, each month the Department shall pay into the County and Mass Transit District Fund 4% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered by an agency of this State's government.

Beginning January 1, 1990, each month the Department shall pay into the State and Local Sales Tax Reform Fund, a special fund in the State Treasury, 20% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property, other than tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or

-151- LR

1 registered by an agency of this State's government.

Beginning August 1, 2000, each month the Department shall pay into the State and Local Sales Tax Reform Fund 100% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol.

6 Beginning January 1, 1990, each month the Department 7 shall pay into the Local Government Tax Fund 16% of the net 8 revenue realized for the preceding month from the 6.25% 9 general rate on the selling price of tangible personal 10 property which is purchased outside Illinois at retail from a 11 retailer and which is titled or registered by an agency of 12 this State's government.

Of the remainder of the moneys received by the Department 13 pursuant to this Act, (a) 1.75% thereof shall be paid into 14 15 the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid 16 into the Build Illinois Fund; provided, however, that if in 17 any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, 18 19 as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant 20 21 to Section 3 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, and 22 23 Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% 24 25 or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred 26 to the Build Illinois Fund from the State and Local Sales Tax 27 Reform Fund shall be less than the Annual Specified Amount 28 (as defined in Section 3 of the Retailers' Occupation Tax 29 Act), an amount equal to the difference shall be immediately 30 paid into the Build Illinois Fund from other moneys received 31 by the Department pursuant to the Tax Acts; and further 32 provided, that if on the last business day of any month the 33 34 sum of (1) the Tax Act Amount required to be deposited into

-152-

1 the Build Illinois Bond Account in the Build Illinois Fund 2 during such month and (2) the amount transferred during such month to the Build Illinois Fund from the State and Local 3 4 Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference 5 б shall be immediately paid into the Build Illinois Fund from 7 other moneys received by the Department pursuant to the Tax 8 Acts; and, further provided, that in no event shall the 9 payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to 10 11 this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount 12 for such fiscal year; and, further provided, that the amounts 13 payable into the Build Illinois Fund under this clause 14 (b) 15 shall be payable only until such time as the aggregate amount 16 on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is 17 sufficient, taking into account any future investment income, 18 19 to fully provide, in accordance with such indenture, for the 20 defeasance of or the payment of the principal of, premium, if 21 any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees 22 23 and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget. If on the last 24 25 business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of the 26 moneys deposited in the Build Illinois Bond Account in the 27 Build Illinois Fund in such month shall be less than the 28 29 amount required to be transferred in such month from the 30 Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the 31 32 Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the 33 34 Department pursuant to the Tax Acts to the Build Illinois

1 Fund; provided, however, that any amounts paid to the Build 2 Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) 3 4 of the preceding sentence and shall reduce the amount 5 otherwise payable for such fiscal year pursuant to clause (b) 6 of the preceding sentence. The moneys received by the Department pursuant to this Act and required to be deposited 7 into the Build Illinois Fund are subject to the pledge, claim 8 9 and charge set forth in Section 12 of the Build Illinois Bond Act. 10

Subject to payment of amounts into the Build Illinois 11 Fund as provided in the preceding paragraph or in any 12 amendment thereto hereafter enacted, the following specified 13 monthly installment of the amount requested in 14 the certificate of the Chairman of the Metropolitan Pier and 15 16 Exposition Authority provided under Section 8.25f of the State Finance Act, but not in excess of the sums designated 17 as "Total Deposit", shall be deposited in the aggregate from 18 19 collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation 20 21 Tax Act, and Section 3 of the Retailers' Occupation Tax Act 22 into the McCormick Place Expansion Project Fund in the 23 specified fiscal years.

24	Fiscal Year	Total Deposit
25	1993	\$0
26	1994	53,000,000
27	1995	58,000,000
28	1996	61,000,000
29	1997	64,000,000
30	1998	68,000,000
31	1999	71,000,000
32	2000	75,000,000
33	2001	80,000,000
34	2002	93,000,000

SB185	4 Engrossed	-154-	LRB9215370EGfg
1	2003		99,000,000
2	2004		103,000,000
3	2005		108,000,000
4	2006		113,000,000
5	2007		119,000,000
6	2008		126,000,000
7	2009		132,000,000
8	2010		139,000,000
9	2011		146,000,000
10	2012		153,000,000
11	2013		161,000,000
12	2014		170,000,000
13	2015		179,000,000
14	2016		189,000,000
15	2017		199,000,000
16	2018		210,000,000
17	2019		221,000,000
18	2020		233,000,000
19	2021		246,000,000
20	2022		260,000,000
21	2023 and		275,000,000
22	each fiscal year		
23	thereafter that bonds		

- 24 are outstanding under
- 25 Section 13.2 of the
- 26 Metropolitan Pier and
- 27 Exposition Authority
- 28 Act, but not after fiscal year 2042.

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition
 Authority Act, plus cumulative deficiencies in the deposits
 required under this Section for previous months and years,
 shall be deposited into the McCormick Place Expansion Project
 Fund, until the full amount requested for the fiscal year,
 but not in excess of the amount specified above as "Total
 Deposit", has been deposited.

Subject to payment of amounts into the Build 8 Illinois 9 Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendment thereto 10 11 hereafter enacted, each month the Department shall pay into the Local Government Distributive Fund .4% of the net revenue 12 realized for the preceding month from the 5% general rate, or 13 .4% of 80% of the net revenue realized for the preceding 14 15 month from the 6.25% general rate, as the case may be, on the 16 selling price of tangible personal property which amount shall, subject to appropriation, be distributed as provided 17 in Section 2 of the State Revenue Sharing Act. No payments or 18 19 distributions pursuant to this paragraph shall be made if the tax imposed by this Act on photoprocessing products is 20 21 declared unconstitutional, or if the proceeds from such tax 22 are unavailable for distribution because of litigation.

23 Subject to payment of amounts into the Build Illinois Fund, the McCormick Place Expansion Project Fund, and the 24 25 Local Government Distributive Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, 26 beginning July 1, 1993, the Department shall each month pay 27 into the Illinois Tax Increment Fund 0.27% of 80% of the net 28 revenue realized for the preceding month from the 6.25% 29 30 general rate on the selling price of tangible personal 31 property.

32 Subject to payment of amounts into the Build Illinois 33 Fund, the McCormick Place Expansion Project Fund, and the 34 Local Government Distributive Fund pursuant to the preceding

1 paragraphs or in any amendments thereto hereafter enacted, 2 beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25-year period, 3 4 the Department shall each month pay into the Energy 5 Infrastructure Fund 80% of the net revenue realized from the 6 6.25% general rate on the selling price of Illinois-mined 7 coal that was sold to an eligible business. For purposes of 8 this paragraph, the term "eligible business" means a new 9 electric generating facility certified pursuant to Section 605-332 of the Department of Commerce and Community Affairs 10 11 Law of the Civil Administrative Code of Illinois.

12 Of the remainder of the moneys received by the Department 13 pursuant to this Act, 75% thereof shall be paid into the 14 State Treasury and 25% shall be reserved in a special account 15 and used only for the transfer to the Common School Fund as 16 part of the monthly transfer from the General Revenue Fund in 17 accordance with Section 8a of the State Finance Act.

18 As soon as possible after the first day of each month, 19 upon certification of the Department of Revenue, the Comptroller shall order transferred and the Treasurer shall 20 21 transfer from the General Revenue Fund to the Motor Fuel Tax 22 Fund an amount equal to 1.7% of 80% of the net revenue 23 realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required 24 25 and shall not be made.

26 Net revenue realized for a month shall be the revenue 27 collected by the State pursuant to this Act, less the amount 28 paid out during that month as refunds to taxpayers for 29 overpayment of liability.

For greater simplicity of administration, manufacturers, importers and wholesalers whose products are sold at retail in Illinois by numerous retailers, and who wish to do so, may assume the responsibility for accounting and paying to the Department all tax accruing under this Act with respect to such sales, if the retailers who are affected do not make written objection to the Department to this arrangement. (Source: P.A. 91-37, eff. 7-1-99; 91-51, eff. 6-30-99; 91-101, eff. 7-12-99; 91-541, eff. 8-13-99; 91-872, eff. 7-1-00; 91-901, eff. 1-1-01; 92-12, eff. 7-1-01; 92-16, eff. 6 -28-01; 92-208, eff. 8-2-01; 92-492, eff. 1-1-02; revised 7 9-14-01.)

8 Section 26. The Service Use Tax Act is amended by 9 changing Sections 3-5 and 9 as follows:

10 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

Sec. 3-5. Exemptions. Use of the following tangible 11 personal property is exempt from the tax imposed by this Act: 12 13 (1) Personal property purchased from a corporation, 14 society, association, foundation, institution, or organization, other than a limited liability company, that is 15 16 organized and operated as a not-for-profit service enterprise 17 for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the 18 19 purpose of resale by the enterprise.

(2) Personal property purchased by a non-profit Illinois
 county fair association for use in conducting, operating, or
 promoting the county fair.

23 (3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required 24 25 by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that 26 27 is organized and operated primarily for the presentation or 28 support of arts or cultural programming, activities, or These organizations include, but are not limited 29 services. 30 to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service 31 32 organizations, local arts councils, visual arts

organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

6 (4) Legal tender, currency, medallions, or gold or 7 silver coinage issued by the State of Illinois, the 8 government of the United States of America, or the government 9 of any foreign country, and bullion.

10 (5) Graphic arts machinery and equipment, including 11 repair and replacement parts, both new and used, and 12 including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for 13 graphic arts production. Equipment includes chemicals or 14 15 chemicals acting as catalysts but only if the chemicals or 16 chemicals acting as catalysts effect a direct and immediate 17 change upon a graphic arts product.

18 (6) Personal property purchased from a teacher-sponsored
19 student organization affiliated with an elementary or
20 secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, 21 22 including that manufactured on special order, certified by 23 the purchaser to be used primarily for production agriculture federal agricultural programs, including 24 State or or 25 individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and 26 including implements of husbandry defined in Section 1-130 of 27 the Illinois Vehicle Code, farm machinery and agricultural 28 29 chemical and fertilizer spreaders, and nurse wagons required 30 to be registered under Section 3-809 of the Illinois Vehicle 31 Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural 32 33 polyhouses or hoop houses used for propagating, growing, or 34 overwintering plants shall be considered farm machinery and

equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

б Farm machinery and equipment shall include precision 7 farming equipment that is installed or purchased to be 8 installed on farm machinery and equipment including, but not 9 limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, 10 11 but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, 12 13 and other such equipment.

Farm machinery and equipment also includes computers, 14 sensors, software, and related equipment used primarily in 15 16 the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not 17 limited to, the collection, monitoring, and correlation of 18 19 animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt 20 21 from the provisions of Section 3-75.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages acquired as an incident to the purchase of a service from a serviceman, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or
 cleaning up the food or beverage function with respect to
 which the service charge is imposed.

4 (10) Oil field exploration, drilling, and production 5 equipment, including (i) rigs and parts of rigs, rotary rigs, б cable tool rigs, and workover rigs, (ii) pipe and tubular 7 goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any 8 9 individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and 10 11 equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code. 12

(11) Proceeds from the sale of photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

19 (12) Coal exploration, mining, offhighway hauling, 20 processing, maintenance, and reclamation equipment, including 21 replacement parts and equipment, and including equipment 22 purchased for lease, but excluding motor vehicles required to 23 be registered under the Illinois Vehicle Code.

24 (13) Semen used for artificial insemination of livestock25 for direct agricultural production.

(14) Horses, or interests in horses, registered with and
meeting the requirements of any of the Arabian Horse Club
Registry of America, Appaloosa Horse Club, American Quarter
Horse Association, United States Trotting Association, or
Jockey Club, as appropriate, used for purposes of breeding or
racing for prizes.

32 (15) Computers and communications equipment utilized for
33 any hospital purpose and equipment used in the diagnosis,
34 analysis, or treatment of hospital patients purchased by a

1 lessor who leases the equipment, under a lease of one year or 2 longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a 3 4 hospital that has been issued an active tax exemption 5 identification number by the Department under Section 1g of б the Retailers' Occupation Tax Act. If the equipment is leased 7 in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be 8 9 liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the 10 11 property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however 12 13 designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may 14 be, if the tax has not been paid by the lessor. If a lessor 15 16 improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that 17 amount from the lessor. If, however, that amount is 18 not 19 refunded to the lessee for any reason, the lessor is liable 20 to pay that amount to the Department.

21 (16) Personal property purchased by a lessor who leases 22 the property, under a lease of one year or longer executed or 23 in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that 24 25 has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' 26 27 Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any 28 other non-exempt manner, the lessor shall be liable for 29 the 30 tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the 31 32 time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that 33 34 purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(17) Beginning with taxable years ending on or after 8 9 December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated 10 11 for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a 12 manufacturer or retailer that is registered in this State to 13 corporation, society, association, foundation, 14 а or 15 institution that has been issued a sales tax exemption 16 identification number by the Department that assists victims of the disaster who reside within the declared disaster area. 17

(18) Beginning with taxable years ending on or after 18 19 December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in 20 21 the performance of infrastructure repairs in this State, 22 including but not limited to municipal roads and streets, 23 access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and 24 25 purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a 26 State or federally declared disaster in Illinois or bordering 27 Illinois when such repairs are initiated on facilities 28 located in the declared disaster area within 6 months after 29 the disaster. 30

31 (19) Beginning July 1, 1999, game or game birds 32 purchased at a "game breeding and hunting preserve area" or 33 an "exotic game hunting area" as those terms are used in the 34 Wildlife Code or at a hunting enclosure approved through

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rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-75.

(20) A motor vehicle, as that term is defined in Section 3 4 1-146 of the Illinois Vehicle Code, that is donated to a 5 corporation, limited liability company, society, association, б foundation, or institution that is determined by the 7 Department to be organized and operated exclusively for 8 educational purposes. For purposes of this exemption, "a 9 corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively 10 11 for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in 12 useful branches of learning by methods common to public 13 schools and that compare favorably in their scope and 14 15 intensity with the course of study presented in tax-supported 16 schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of 17 study of not less than 6 weeks duration and designed to 18 19 prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial 20 21 occupation.

(21) Beginning January 1, 2000, personal property, 22 23 including food, purchased through fundraising events for the benefit of a public or private elementary or secondary 24 25 school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized 26 by the school district that consists primarily of volunteers 27 and includes parents and teachers of the school children. 28 29 This paragraph does not apply to fundraising events (i) for 30 the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at 31 32 the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity 33 34 and that profits from the sale to the fundraising entity.

1 This paragraph is exempt from the provisions of Section 3-75.

-164-

2 (22) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and 3 4 serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. 5 Beginning January 1, 2002, machines and parts for machines 6 7 used in commercial, coin-operated amusement and vending 8 business if a use or occupation tax is paid on the gross 9 receipts derived from the of the use commercial, coin-operated amusement and vending machines. This paragraph 10 11 is exempt from the provisions of Section 3-75.

12 (23) Food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic 13 beverages, soft drinks, and food that has been prepared for 14 15 immediate consumption) and prescription and nonprescription 16 medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, 17 for human use, when purchased for use by a person receiving 18 19 medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as 20 21 defined in the Nursing Home Care Act.

22 (24) (23) Beginning on the effective date of this 23 amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose 24 25 and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the 26 equipment, under a lease of one year or longer executed or in 27 effect at the time the lessor would otherwise be subject to 28 29 the tax imposed by this Act, to a hospital that has been 30 issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax 31 32 If the equipment is leased in a manner that does not Act. qualify for this exemption or is used in any other nonexempt 33 34 manner, the lessor shall be liable for the tax imposed under

1 this Act or the Use Tax Act, as the case may be, based on the 2 market value of the property at the time the fair nonqualifying use occurs. No lessor shall collect or attempt 3 4 to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or 5 the Use Tax Act, as the case may be, if the tax has not been paid 6 7 by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right 8 9 to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for 10 any 11 reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of 12 Section 3-75. 13

(25) (24) Beginning on the effective date of 14 this 15 amendatory Act of the 92nd General Assembly, personal 16 property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at 17 the time the lessor would otherwise be subject to the tax imposed 18 19 by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department 20 21 under Section 1g of the Retailers' Occupation Tax Act. Τf 22 the property is leased in a manner that does not qualify for 23 this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or 24 25 the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use 26 occurs. No lessor shall collect or attempt to collect an 27 amount (however designated) that purports to reimburse that 28 29 lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. 30 If a lessor improperly collects any such amount from the 31 lessee, the lessee shall have a legal right to claim a refund 32 of that amount from the lessor. If, however, that amount is 33 34 not refunded to the lessee for any reason, the lessor is

revised 10-10-01.)

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liable to pay that amount to the Department. This paragraph
is exempt from the provisions of Section 3-75.
(Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644, eff.
8-20-99; 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;

8 (35 ILCS 110/9) (from Ch. 120, par. 439.39)

9. Each serviceman required or authorized to 9 Sec. 10 collect the tax herein imposed shall pay to the Department the amount of such tax (except as otherwise provided) at the 11 time when he is required to file his return for the period 12 during which such tax was collected, less a discount of 2.1% 13 prior to January 1, 1990 and 1.75% on and after January 1, 14 15 1990, or \$5 per calendar year, whichever is greater, which is allowed to reimburse the serviceman for expenses incurred in 16 17 collecting the tax, keeping records, preparing and filing remitting the tax and supplying data to 18 returns, the Department on request. A serviceman need not remit that part 19 20 of any tax collected by him to the extent that he is required 21 to pay and does pay the tax imposed by the Service Occupation 22 Tax Act with respect to his sale of service involving the incidental transfer by him of the same property. 23

Except as provided hereinafter in this Section, on or before the twentieth day of each calendar month, such serviceman shall file a return for the preceding calendar month in accordance with reasonable Rules and Regulations to be promulgated by the Department. Such return shall be filed on a form prescribed by the Department and shall contain such information as the Department may reasonably require.

31 The Department may require returns to be filed on a 32 quarterly basis. If so required, a return for each calendar 33 quarter shall be filed on or before the twentieth day of the

-167-

1 calendar month following the end of such calendar quarter. 2 The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or 3 4 before the twentieth day of the following calendar month, 5 stating: 1. The name of the seller; 6 7 2. The address of the principal place of business from which he engages in business as a serviceman in this 8 9 State; The total amount of taxable receipts received by 10 3. 11 him during the preceding calendar month, including receipts from charge and time sales, but less all 12 deductions allowed by law; 13 4. The amount of credit provided in Section 2d of 14 15 this Act; 16 5. The amount of tax due; 5-5. The signature of the taxpayer; and 17 6. Such other reasonable information as 18 the Department may require. 19 If a taxpayer fails to sign a return within 30 days after 20 21 the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to 22

23 be due on the return shall be deemed assessed.

Beginning October 1, 1993, a taxpayer who has an average 24 25 monthly tax liability of \$150,000 or more shall make all payments required by rules of the Department by electronic 26 funds transfer. Beginning October 1, 1994, a taxpayer who 27 has an average monthly tax liability of \$100,000 or more 28 29 shall make all payments required by rules of the Department 30 by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 31 32 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 33 2000, a taxpayer who has an annual tax liability of \$200,000 34

1 or more shall make all payments required by rules of the 2 Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities 3 4 under this Act, and under all other State and local 5 occupation and use tax laws administered by the Department, б for the immediately preceding calendar year. The term 7 "average monthly tax liability" means the sum of the taxpayer's liabilities under this Act, and under all other 8 9 State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year 10 11 divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) 12 of Section 2505-210 of the Department of Revenue Law shall 13 make all payments required by rules of the Department by 14 15 electronic funds transfer.

Before August 1 of each year beginning in 1993, the Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make payments by electronic funds transfer shall make those payments for a minimum of one year beginning on October 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

All taxpayers required to make payment by electronic funds transfer and any taxpayers authorized to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

The Department shall adopt such rules as are necessary to effectuate a program of electronic funds transfer and the requirements of this Section.

If the serviceman is otherwise required to file a monthly return and if the serviceman's average monthly tax liability to the Department does not exceed \$200, the Department may 1 authorize his returns to be filed on a quarter annual basis, 2 with the return for January, February and March of a given year being due by April 20 of such year; with the return for 3 4 April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of 5 a given year being due by October 20 of such year, and with 6 7 the return for October, November and December of a given year being due by January 20 of the following year. 8

9 If the serviceman is otherwise required to file a monthly 10 or quarterly return and if the serviceman's average monthly 11 tax liability to the Department does not exceed \$50, the 12 Department may authorize his returns to be filed on an annual 13 basis, with the return for a given year being due by January 14 20 of the following year.

Such quarter annual and annual returns, as to form and substance, shall be subject to the same requirements as monthly returns.

Notwithstanding any other provision in this Act 18 concerning the time within which a serviceman may file his 19 20 return, in the case of any serviceman who ceases to engage in 21 a kind of business which makes him responsible for filing returns under this Act, such serviceman shall file a final 22 23 return under this Act with the Department not more than 1 month after discontinuing such business. 24

25 Where a serviceman collects the tax with respect to the selling price of property which he sells and the purchaser 26 27 thereafter returns such property and the serviceman refunds the selling price thereof to the purchaser, such serviceman 28 shall also refund, to the purchaser, the tax so collected 29 30 from the purchaser. When filing his return for the period in which he refunds such tax to the purchaser, the serviceman 31 may deduct the amount of the tax so refunded by him to the 32 33 purchaser from any other Service Use Tax, Service Occupation 34 Tax, retailers' occupation tax or use tax which such

serviceman may be required to pay or remit to the Department, as shown by such return, provided that the amount of the tax to be deducted shall previously have been remitted to the Department by such serviceman. If the serviceman shall not previously have remitted the amount of such tax to the Department, he shall be entitled to no deduction hereunder upon refunding such tax to the purchaser.

8 Any serviceman filing a return hereunder shall also 9 include the total tax upon the selling price of tangible 10 personal property purchased for use by him as an incident to 11 a sale of service, and such serviceman shall remit the amount 12 of such tax to the Department when filing such return.

13 If experience indicates such action to be practicable, 14 the Department may prescribe and furnish a combination or 15 joint return which will enable servicemen, who are required 16 to file returns hereunder and also under the Service 17 Occupation Tax Act, to furnish all the return information 18 required by both Acts on the one form.

19 Where the serviceman has more than one business 20 registered with the Department under separate registration 21 hereunder, such serviceman shall not file each return that is 22 due as a single return covering all such registered 23 businesses, but shall file separate returns for each such 24 registered business.

25 Beginning January 1, 1990, each month the Department shall pay into the State and Local Tax Reform Fund, a special 26 fund in the State Treasury, the net revenue realized for 27 the preceding month from the 1% tax on sales of food for human 28 29 consumption which is to be consumed off the premises where it 30 is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and 31 32 prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and 33 needles used by diabetics. 34

1 Beginning January 1, 1990, each month the Department 2 shall pay into the State and Local Sales Tax Reform Fund 20% of the net revenue realized for the preceding month from the 3 4 6.25% general rate on transfers of tangible personal property, other than tangible personal property which is 5 purchased outside Illinois at retail from a retailer and 6 7 which is titled or registered by an agency of this State's 8 government.

9 Beginning August 1, 2000, each month the Department shall 10 pay into the State and Local Sales Tax Reform Fund 100% of 11 the net revenue realized for the preceding month from the 12 1.25% rate on the selling price of motor fuel and gasohol.

Of the remainder of the moneys received by the Department 13 pursuant to this Act, (a) 1.75% thereof shall be paid into 14 the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% 15 and on and after July 1, 1989, 3.8% thereof shall be 16 paid into the Build Illinois Fund; provided, however, that if in 17 any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, 18 as the case may be, of the moneys received by the Department 19 and required to be paid into the Build Illinois Fund pursuant 20 21 to Section 3 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, and 22 23 Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% 24 25 or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred 26 to the Build Illinois Fund from the State and Local Sales Tax 27 Reform Fund shall be less than the Annual Specified 28 Amount. (as defined in Section 3 of the Retailers' Occupation Tax 29 Act), an amount equal to the difference shall be immediately 30 paid into the Build Illinois Fund from other moneys received 31 by the Department pursuant to the Tax Acts; and further 32 provided, that if on the last business day of any month the 33 34 sum of (1) the Tax Act Amount required to be deposited into

1 the Build Illinois Bond Account in the Build Illinois Fund 2 during such month and (2) the amount transferred during such month to the Build Illinois Fund from the State and Local 3 4 Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference 5 б shall be immediately paid into the Build Illinois Fund from 7 other moneys received by the Department pursuant to the Tax 8 Acts; and, further provided, that in no event shall the 9 payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to 10 11 this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount 12 for such fiscal year; and, further provided, that the amounts 13 payable into the Build Illinois Fund under this clause 14 (b) 15 shall be payable only until such time as the aggregate amount 16 on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is 17 sufficient, taking into account any future investment income, 18 19 to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if 20 21 any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees 22 23 and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget. If on the last 24 25 business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of the 26 moneys deposited in the Build Illinois Bond Account in the 27 Build Illinois Fund in such month shall be less than the 28 29 amount required to be transferred in such month from the 30 Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the 31 32 Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the 33 34 Department pursuant to the Tax Acts to the Build Illinois

1 Fund; provided, however, that any amounts paid to the Build 2 Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) 3 4 of the preceding sentence and shall reduce the amount 5 otherwise payable for such fiscal year pursuant to clause (b) 6 of the preceding sentence. The moneys received by the Department pursuant to this Act and required to be deposited 7 into the Build Illinois Fund are subject to the pledge, claim 8 9 and charge set forth in Section 12 of the Build Illinois Bond Act. 10

Subject to payment of amounts into the Build Illinois 11 Fund as provided in the preceding paragraph or in any 12 amendment thereto hereafter enacted, the following specified 13 monthly installment of the amount requested in 14 the certificate of the Chairman of the Metropolitan Pier and 15 16 Exposition Authority provided under Section 8.25f of the State Finance Act, but not in excess of the sums designated 17 as "Total Deposit", shall be deposited in the aggregate from 18 19 collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation 20 Tax Act, and Section 3 of the Retailers' Occupation Tax Act 21 22 into the McCormick Place Expansion Project Fund in the 23 specified fiscal years.

24	Fiscal Year	Total Deposit
25	1993	\$0
26	1994	53,000,000
27	1995	58,000,000
28	1996	61,000,000
29	1997	64,000,000
30	1998	68,000,000
31	1999	71,000,000
32	2000	75,000,000
33	2001	80,000,000
34	2002	93,000,000

SB1854 Engrossed	-174-	LRB9215370EGfg
1	2003	99,000,000
2	2004	103,000,000
3	2005	108,000,000
4	2006	113,000,000
5	2007	119,000,000
6	2008	126,000,000
7	2009	132,000,000
8	2010	139,000,000
9	2011	146,000,000
10	2012	153,000,000
11	2013	161,000,000
12	2014	170,000,000
13	2015	179,000,000
14	2016	189,000,000
15	2017	199,000,000
16	2018	210,000,000
17	2019	221,000,000
18	2020	233,000,000
19	2021	246,000,000
20	2022	260,000,000
21	2023 and	275,000,000

22 each fiscal year

- 23 thereafter that bonds
- 24 are outstanding under
- 25 Section 13.2 of the
- 26 Metropolitan Pier and
- 27 Exposition Authority Act,
- 28 but not after fiscal year 2042.

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition
Authority Act, plus cumulative deficiencies in the deposits
required under this Section for previous months and years,
shall be deposited into the McCormick Place Expansion Project
Fund, until the full amount requested for the fiscal year,
but not in excess of the amount specified above as "Total
Deposit", has been deposited.

Subject to payment of amounts into the Build 8 Illinois 9 Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendment thereto 10 11 hereafter enacted, each month the Department shall pay into the Local Government Distributive Fund 0.4% of the net 12 revenue realized for the preceding month from the 5% general 13 rate or 0.4% of 80% of the net revenue realized for 14 the preceding month from the 6.25% general rate, as the case may 15 16 be, on the selling price of tangible personal property which amount shall, subject to appropriation, be distributed as 17 provided in Section 2 of the State Revenue Sharing Act. No 18 19 payments or distributions pursuant to this paragraph shall be made if the tax imposed by this Act on photo processing 20 products is declared unconstitutional, or if the proceeds 21 22 from such tax are unavailable for distribution because of 23 litigation.

Subject to payment of amounts into the Build Illinois 24 25 Fund, the McCormick Place Expansion Project Fund, and the Local Government Distributive Fund pursuant to the preceding 26 paragraphs or in any amendments thereto hereafter enacted, 27 beginning July 1, 1993, the Department shall each month pay 28 into the Illinois Tax Increment Fund 0.27% of 80% of the net 29 30 revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal 31 32 property.

33 Subject to payment of amounts into the Build Illinois 34 Fund, the McCormick Place Expansion Project Fund, and the

1 Local Government Distributive Fund pursuant to the preceding 2 paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid 3 4 by an eligible business and continuing for a 25-year period, 5 the Department shall each month pay into the Energy 6 Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined 7 coal that was sold to an eligible business. For purposes of 8 9 this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 10 11 605-332 of the Department of Commerce and Community Affairs Law of the Civil Administrative Code of Illinois. 12

13 All remaining moneys received by the Department pursuant 14 to this Act shall be paid into the General Revenue Fund of 15 the State Treasury.

16 As soon as possible after the first day of each month, upon certification of the Department of Revenue, 17 the Comptroller shall order transferred and the Treasurer shall 18 19 transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue 20 realized under this Act for the second preceding month. 21 Beginning April 1, 2000, this transfer is no longer required 22 23 and shall not be made.

Net revenue realized for a month shall be the revenue collected by the State pursuant to this Act, less the amount paid out during that month as refunds to taxpayers for overpayment of liability.

28 (Source: P.A. 91-37, eff. 7-1-99; 91-51, eff. 6-30-99; 91-101, eff. 7-12-99; 91-541, eff. 8-13-99; 91-872, eff. 30 7-1-00; 92-12, eff. 7-1-01; 92-208, eff. 8-2-01; 92-492, eff. 31 1-1-02; revised 9-14-01.)

32 Section 27. The Service Occupation Tax Act is amended by 33 changing Sections 3-5 and 9 as follows: 1 2

3

(35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5) Sec. 3-5. Exemptions. The following tangible personal property is exempt from the tax imposed by this Act:

4 (1) Personal property sold by a corporation, society, 5 association, foundation, institution, or organization, other 6 than a limited liability company, that is organized and 7 operated as a not-for-profit service enterprise for the 8 benefit of persons 65 years of age or older if the personal 9 property was not purchased by the enterprise for the purpose 10 of resale by the enterprise.

11 (2) Personal property purchased by a not-for-profit 12 Illinois county fair association for use in conducting, 13 operating, or promoting the county fair.

(3) Personal property purchased by any not-for-profit 14 arts or cultural organization that establishes, by proof 15 16 required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue 17 18 Code and that is organized and operated primarily for the 19 presentation or support of arts or cultural programming, activities, or services. These organizations include, but 20 are not limited to, music and dramatic arts organizations 21 such as symphony orchestras and theatrical groups, arts and 22 23 cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and 24 25 after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for 26 this exemption shall not make tax-free purchases unless it 27 has an active identification number issued by the Department. 28

(4) Legal tender, currency, medallions, or gold or
silver coinage issued by the State of Illinois, the
government of the United States of America, or the government
of any foreign country, and bullion.

33 (5) Graphic arts machinery and equipment, including34 repair and replacement parts, both new and used, and

including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

7 (6) Personal property sold by a teacher-sponsored
8 student organization affiliated with an elementary or
9 secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, 10 11 including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture 12 federal agricultural programs, including 13 or State or individual replacement parts for the machinery and equipment, 14 15 including machinery and equipment purchased for lease, and 16 including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural 17 chemical and fertilizer spreaders, and nurse wagons required 18 19 to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to 20 be registered under the Illinois Vehicle Code. Horticultural 21 polyhouses or hoop houses used for propagating, growing, 22 or 23 overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender 24 25 tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold 26 mounted on a motor vehicle required to be licensed if the 27 selling price of the tender is separately stated. 28

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems,
 and other such equipment.

Farm machinery and equipment also includes computers, 3 4 sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture 5 б facilities, equipment, and activities such as, but not 7 limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal 8 9 diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-55. 10

11 (8) Fuel and petroleum products sold to or used by an 12 air common carrier, certified by the carrier to be used for 13 consumption, shipment, or storage in the conduct of its 14 business as an air common carrier, for a flight destined for 15 or returning from a location or locations outside the United 16 States without regard to previous or subsequent domestic 17 stopovers.

(9) Proceeds of mandatory service charges separately 18 19 stated on customers' bills for the purchase and consumption 20 of food and beverages, to the extent that the proceeds of the 21 service charge are in fact turned over as tips or as a 22 substitute for tips to the employees who participate directly 23 in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is 24 25 imposed.

(10) Oil field exploration, drilling, and production 26 equipment, including (i) rigs and parts of rigs, rotary rigs, 27 cable tool rigs, and workover rigs, (ii) pipe and tubular 28 29 goods, including casing and drill strings, (iii) pumps and 30 pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, 31 32 drilling, and production equipment, and (vi) machinery and 33 equipment purchased for lease; but excluding motor vehicles 34 required to be registered under the Illinois Vehicle Code.

1 (11) Photoprocessing machinery and equipment, including 2 repair and replacement parts, both new and used, including 3 that manufactured on special order, certified by the 4 purchaser to be used primarily for photoprocessing, and 5 including photoprocessing machinery and equipment purchased 6 for lease.

7 (12) Coal exploration, mining, offhighway hauling, 8 processing, maintenance, and reclamation equipment, including 9 replacement parts and equipment, and including equipment 10 purchased for lease, but excluding motor vehicles required to 11 be registered under the Illinois Vehicle Code.

12 (13) Food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic 13 beverages, soft drinks and food that has been prepared for 14 15 immediate consumption) and prescription and non-prescription 16 medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, 17 for human use, when purchased for use by a person receiving 18 19 medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as 20 21 defined in the Nursing Home Care Act.

(14) Semen used for artificial insemination of livestockfor direct agricultural production.

(15) Horses, or interests in horses, registered with and
meeting the requirements of any of the Arabian Horse Club
Registry of America, Appaloosa Horse Club, American Quarter
Horse Association, United States Trotting Association, or
Jockey Club, as appropriate, used for purposes of breeding or
racing for prizes.

30 (16) Computers and communications equipment utilized for 31 any hospital purpose and equipment used in the diagnosis, 32 analysis, or treatment of hospital patients sold to a lessor 33 who leases the equipment, under a lease of one year or longer 34 executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption
 identification number by the Department under Section 1g of
 the Retailers' Occupation Tax Act.

4 (17) Personal property sold to a lessor who leases the 5 property, under a lease of one year or longer executed or in 6 effect at the time of the purchase, to a governmental body 7 that has been issued an active tax exemption identification 8 number by the Department under Section 1g of the Retailers' 9 Occupation Tax Act.

(18) Beginning with taxable years ending on or after 10 11 December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated 12 for disaster relief to be used in a State or federally 13 declared disaster area in Illinois or bordering Illinois by a 14 15 manufacturer or retailer that is registered in this State to 16 а corporation, society, association, foundation, or 17 institution that has been issued a sales tax exemption identification number by the Department that assists victims 18 of the disaster who reside within the declared disaster area. 19

20 (19) Beginning with taxable years ending on or after 21 December 31, 1995 and ending with taxable years ending on or 22 before December 31, 2004, personal property that is used in 23 the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, 24 25 access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and 26 purification facilities, storm water drainage and retention 27 facilities, and sewage treatment facilities, resulting from a 28 29 State or federally declared disaster in Illinois or bordering 30 Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after 31 the disaster. 32

33 (20) Beginning July 1, 1999, game or game birds sold at
34 a "game breeding and hunting preserve area" or an "exotic

-182-

game hunting area" as those terms are used in the Wildlife
 Code or at a hunting enclosure approved through rules adopted
 by the Department of Natural Resources. This paragraph is
 exempt from the provisions of Section 3-55.

5 (21) A motor vehicle, as that term is defined in Section б 1-146 of the Illinois Vehicle Code, that is donated to a 7 corporation, limited liability company, society, association, 8 foundation, or institution that is determined by the 9 Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a 10 11 corporation, limited liability company, society, association, 12 foundation, or institution organized and operated exclusively 13 for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in 14 15 useful branches of learning by methods common to public 16 schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported 17 schools, and vocational or technical schools or institutes 18 organized and operated exclusively to provide a course of 19 study of not less than 6 weeks duration and designed to 20 21 prepare individuals to follow a trade or to pursue a manual, 22 technical, mechanical, industrial, business, or commercial 23 occupation.

(22) Beginning January 1, 2000, personal property, 24 25 including food, purchased through fundraising events for the benefit of a public or private elementary or secondary 26 school, a group of those schools, or one or more school 27 districts if the events are sponsored by an entity recognized 28 by the school district that consists primarily of volunteers 29 30 and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for 31 32 the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at 33 the events from another individual or entity that sold the 34

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property for the purpose of resale by the fundraising entity
 and that profits from the sale to the fundraising entity.
 This paragraph is exempt from the provisions of Section 3-55.

4 (23) Beginning January 1, 2000 and through December 31, 5 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and 6 7 other items, and replacement parts for these machines. Beginning January 1, 2002, machines and parts for machines 8 9 used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross 10 11 receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph 12 is exempt from the provisions of Section 3-55. 13

(24) Beginning on the effective date of this amendatory 14 15 Act of the 92nd General Assembly, computers and 16 communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment 17 of hospital patients sold to a lessor who leases the 18 equipment, under a lease of one year or longer executed or in 19 effect at the time of the purchase, to a hospital that has 20 21 been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation 22 23 Tax Act. This paragraph is exempt from the provisions of Section 3-55. 24

25 (25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property sold to a 26 27 lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to 28 a governmental body that has been issued an active tax 29 30 exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. 31 This paragraph is exempt from the provisions of Section 3-55. 32

33 (26) (24) Beginning on January 1, 2002, tangible
 34 personal property purchased from an Illinois retailer by a

-183-

SB1854 Engrossed

1 taxpayer engaged in centralized purchasing activities in 2 Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the 3 4 purpose of subsequently transporting it outside this State 5 for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or 6 manufactured into, attached to, or incorporated into other 7 8 tangible personal property to be transported outside this 9 State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules 10 11 adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good 12 standing with the Department who is eligible for the 13 exemption under this paragraph (26) (24). The permit issued 14 15 under this paragraph (26) (24) shall authorize the holder, to 16 the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a 17 retailer exempt from the taxes imposed by 18 this Act. 19 Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible 20 21 personal property outside of the State of Illinois.

22 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99; 23 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637, eff. 24 8-20-99; 91-644, eff. 8-20-99; 92-16, eff. 6-28-01; 92-35, 25 eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 26 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; revised 1-15-02.)

27

(35 ILCS 115/9) (from Ch. 120, par. 439.109)

Sec. 9. Each serviceman required or authorized to collect the tax herein imposed shall pay to the Department the amount of such tax at the time when he is required to file his return for the period during which such tax was collectible, less a discount of 2.1% prior to January 1, 1990, and 1.75% on and after January 1, 1990, or \$5 per 1 calendar year, whichever is greater, which is allowed to 2 reimburse the serviceman for expenses incurred in collecting 3 the tax, keeping records, preparing and filing returns, 4 remitting the tax and supplying data to the Department on 5 request.

Where such tangible personal property is sold under a 6 7 conditional sales contract, or under any other form of sale 8 wherein the payment of the principal sum, or a part thereof, 9 is extended beyond the close of the period for which the return is filed, the serviceman, in collecting the tax may 10 11 collect, for each tax return period, only the tax applicable to the part of the selling price actually received during 12 such tax return period. 13

Except as provided hereinafter in this Section, on or 14 before the twentieth day of each calendar month, such 15 16 serviceman shall file a return for the preceding calendar month in accordance with reasonable rules and regulations to 17 be promulgated by the Department of Revenue. Such return 18 19 shall be filed on a form prescribed by the Department and shall contain such information as the Department 20 may 21 reasonably require.

22 The Department may require returns to be filed on a 23 quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the 24 25 calendar month following the end of such calendar quarter. The taxpayer shall also file a return with the Department for 26 each of the first two months of each calendar quarter, on or 27 before the twentieth day of the following calendar month, 28 29 stating:

30

1. The name of the seller;

31 2. The address of the principal place of business
32 from which he engages in business as a serviceman in this
33 State;

34

3. The total amount of taxable receipts received by

him during the preceding calendar month, including
 receipts from charge and time sales, but less all
 deductions allowed by law;

4 4. The amount of credit provided in Section 2d of
5 this Act;

6

7

5. The amount of tax due;

5-5. The signature of the taxpayer; and

8 6. Such other reasonable information as the9 Department may require.

10 If a taxpayer fails to sign a return within 30 days after 11 the proper notice and demand for signature by the Department, 12 the return shall be considered valid and any amount shown to 13 be due on the return shall be deemed assessed.

A serviceman may accept a Manufacturer's Purchase Credit 14 15 certification from a purchaser in satisfaction of Service Use 16 Tax as provided in Section 3-70 of the Service Use Tax Act if the purchaser provides the appropriate documentation as 17 required by Section 3-70 of the Service Use Tax Act. A 18 19 Manufacturer's Purchase Credit certification, accepted by a serviceman as provided in Section 3-70 of the Service Use Tax 20 21 Act, may be used by that serviceman to satisfy Service Occupation Tax liability in the amount claimed in the 22 23 certification, not to exceed 6.25% of the receipts subject to tax from a qualifying purchase. 24

If the serviceman's average monthly tax liability to the 25 Department does not exceed \$200, the Department may authorize 26 his returns to be filed on a quarter annual basis, with the 27 return for January, February and March of a given year being 28 29 due by April 20 of such year; with the return for April, May 30 and June of a given year being due by July 20 of such year; with the return for July, August and September of a given 31 year being due by October 20 of such year, and with the 32 return for October, November and December of a given year 33 being due by January 20 of the following year. 34

1 If the serviceman's average monthly tax liability to the 2 Department does not exceed \$50, the Department may authorize 3 his returns to be filed on an annual basis, with the return 4 for a given year being due by January 20 of the following 5 year.

6 Such quarter annual and annual returns, as to form and 7 substance, shall be subject to the same requirements as 8 monthly returns.

9 Notwithstanding any other provision in this Act concerning the time within which a serviceman may file his 10 11 return, in the case of any serviceman who ceases to engage in a kind of business which makes him responsible for filing 12 returns under this Act, such serviceman shall file a final 13 return under this Act with the Department not more than 1 14 15 month after discontinuing such business.

16 Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all 17 payments required by rules of the Department by electronic 18 19 funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more 20 21 shall make all payments required by rules of the Department 22 by electronic funds transfer. Beginning October 1, 1995, a 23 taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the 24 25 Department by electronic funds transfer. Beginning October 2000, a taxpayer who has an annual tax liability of 26 1, \$200,000 or more shall make all payments required by rules of 27 the Department by electronic funds transfer. 28 The term "annual tax liability" shall be the sum of the taxpayer's 29 30 liabilities under this Act, and under all other State and local occupation and use tax laws administered by the 31 32 Department, for the immediately preceding calendar year. The term "average monthly tax liability" means the sum of the 33 taxpayer's liabilities under this Act, and under all other 34

1 State and local occupation and use tax laws administered by 2 the Department, for the immediately preceding calendar year 3 divided by 12. Beginning on October 1, 2002, a taxpayer who 4 has a tax liability in the amount set forth in subsection (b) 5 of Section 2505-210 of the Department of Revenue Law shall 6 make all payments required by rules of the Department by 7 electronic funds transfer.

8 Before August 1 of each year beginning in 1993, the 9 Department shall notify all taxpayers required to make 10 payments by electronic funds transfer. All taxpayers 11 required to make payments by electronic funds transfer shall 12 make those payments for a minimum of one year beginning on 13 October 1.

Any taxpayer not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

17 All taxpayers required to make payment by electronic 18 funds transfer and any taxpayers authorized to voluntarily 19 make payments by electronic funds transfer shall make those 20 payments in the manner authorized by the Department.

The Department shall adopt such rules as are necessary to effectuate a program of electronic funds transfer and the requirements of this Section.

Where a serviceman collects the tax with respect to the 24 25 selling price of tangible personal property which he sells and the purchaser thereafter returns such tangible personal 26 property and the serviceman refunds the selling price thereof 27 to the purchaser, such serviceman shall also refund, to the 28 29 purchaser, the tax so collected from the purchaser. When 30 filing his return for the period in which he refunds such tax to the purchaser, the serviceman may deduct the amount of the 31 32 tax so refunded by him to the purchaser from any other 33 Service Occupation Tax, Service Use Tax, Retailers' 34 Occupation Tax or Use Tax which such serviceman may be 1 required to pay or remit to the Department, as shown by such 2 return, provided that the amount of the tax to be deducted shall previously have been remitted to the Department by such 3 4 If the serviceman shall not previously have serviceman. 5 remitted the amount of such tax to the Department, he shall be entitled to no deduction hereunder upon refunding such tax 6 7 to the purchaser.

8 If experience indicates such action to be practicable, 9 the Department may prescribe and furnish a combination or 10 joint return which will enable servicemen, who are required 11 to file returns hereunder and also under the Retailers' 12 Occupation Tax Act, the Use Tax Act or the Service Use Tax 13 Act, to furnish all the return information required by all 14 said Acts on the one form.

15 Where the serviceman has more than one business 16 registered with the Department under separate registrations 17 hereunder, such serviceman shall file separate returns for 18 each registered business.

19 Beginning January 1, 1990, each month the Department 20 shall pay into the Local Government Tax Fund the revenue 21 realized for the preceding month from the 1% tax on sales of 22 food for human consumption which is to be consumed off the 23 premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate 24 25 consumption) and prescription and nonprescription medicines, 26 drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. 27

Beginning January 1, 1990, each month the Department shall pay into the County and Mass Transit District Fund 4% of the revenue realized for the preceding month from the 6.25% general rate.

Beginning August 1, 2000, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue realized for the preceding month from the 1.25% 1 rate on the selling price of motor fuel and gasohol.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund 16% of the revenue realized for the preceding month from the 6.25% general rate on transfers of tangible personal property.

Beginning August 1, 2000, each month the Department shall
pay into the Local Government Tax Fund 80% of the net revenue
realized for the preceding month from the 1.25% rate on the
selling price of motor fuel and gasohol.

Of the remainder of the moneys received by the Department 10 11 pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% 12 and on and after July 1, 1989, 3.8% thereof shall be 13 paid into the Build Illinois Fund; provided, however, that if in 14 15 any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, 16 as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant 17 to Section 3 of the Retailers' Occupation Tax Act, Section 9 18 19 of the Use Tax Act, Section 9 of the Service Use Tax Act, and Section 9 of the Service Occupation Tax Act, such Acts being 20 21 hereinafter called the "Tax Acts" and such aggregate of 2.2% 22 or 3.8%, as the case may be, of moneys being hereinafter 23 called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax 24 25 Reform Fund shall be less than the Annual Specified Amount (as defined in Section 3 of the Retailers' Occupation Tax 26 Act), an amount equal to the difference shall be immediately 27 paid into the Build Illinois Fund from other moneys received 28 29 by the Department pursuant to the Tax Acts; and further 30 provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into 31 32 the Build Illinois Account in the Build Illinois Fund during such month and (2) the amount transferred during such month 33 34 to the Build Illinois Fund from the State and Local Sales Tax

1 Reform Fund shall have been less than 1/12 of the Annual 2 Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other 3 4 moneys received by the Department pursuant to the Tax Acts; 5 and, further provided, that in no event shall the payments б required under the preceding proviso result in aggregate 7 payments into the Build Illinois Fund pursuant to this clause 8 (b) for any fiscal year in excess of the greater of (i) the 9 Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year; and, further provided, that the amounts payable 10 11 into the Build Illinois Fund under this clause (b) shall be payable only until such time as the aggregate amount on 12 deposit under each trust indenture securing Bonds issued and 13 outstanding pursuant to the Build Illinois Bond Act is 14 15 sufficient, taking into account any future investment income, 16 to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if 17 any, and interest on the Bonds secured by such indenture and 18 19 on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by 20 21 the Director of the Bureau of the Budget. If on the last business day of any month in which Bonds are outstanding 22 23 pursuant to the Build Illinois Bond Act, the aggregate of the moneys deposited in the Build Illinois Bond Account 24 in the 25 Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the 26 Build Illinois Bond Account to the Build Illinois Bond 27 Retirement and Interest Fund pursuant to Section 13 of 28 the 29 Build Illinois Bond Act, an amount equal to such deficiency 30 shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois 31 32 Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence 33 34 shall be deemed to constitute payments pursuant to clause (b)

1 of the preceding sentence and shall reduce the amount 2 otherwise payable for such fiscal year pursuant to clause (b) 3 of the preceding sentence. The moneys received by the 4 Department pursuant to this Act and required to be deposited 5 into the Build Illinois Fund are subject to the pledge, claim 6 and charge set forth in Section 12 of the Build Illinois Bond 7 Act.

Subject to payment of amounts into the Build Illinois 8 9 Fund as provided in the preceding paragraph or in any amendment thereto hereafter enacted, the following specified 10 11 monthly installment of the amount requested in the certificate of the Chairman of the Metropolitan Pier and 12 Exposition Authority provided under Section 8.25f of the 13 State Finance Act, but not in excess of the sums designated 14 as "Total Deposit", shall be deposited in the aggregate from 15 16 collections under Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, Section 9 of the Service Occupation 17 Tax Act, and Section 3 of the Retailers' Occupation Tax Act 18 19 into the McCormick Place Expansion Project Fund in the specified fiscal years. 20

21	Fiscal Year	Total Deposit
22	1993	\$0
23	1994	53,000,000
24	1995	58,000,000
25	1996	61,000,000
26	1997	64,000,000
27	1998	68,000,000
28	1999	71,000,000
29	2000	75,000,000
30	2001	80,000,000
31	2002	93,000,000
32	2003	99,000,000
33	2004	103,000,000
34	2005	108,000,000

SB1854 Engro	ssed -193-	LRB9215370EGfg
1	2006	113,000,000
2	2007	119,000,000
3	2008	126,000,000
4	2009	132,000,000
5	2010	139,000,000
б	2011	146,000,000
7	2012	153,000,000
8	2013	161,000,000
9	2014	170,000,000
10	2015	179,000,000
11	2016	189,000,000
12	2017	199,000,000
13	2018	210,000,000
14	2019	221,000,000
15	2020	233,000,000
16	2021	246,000,000
17	2022	260,000,000
18	2023 and	275,000,000

19 each fiscal year

20 thereafter that bonds

21 are outstanding under

22 Section 13.2 of the

23 Metropolitan Pier and

24 Exposition Authority

25 Act, but not after fiscal year 2042.

Beginning July 20, 1993 and in each month of each fiscal 26 year thereafter, one-eighth of the amount requested in the 27 certificate of the Chairman of the Metropolitan Pier and 28 Exposition Authority for that fiscal year, less the amount 29 deposited into the McCormick Place Expansion Project Fund by 30 31 the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition 32 33 Authority Act, plus cumulative deficiencies in the deposits 34 required under this Section for previous months and years,

shall be deposited into the McCormick Place Expansion Project
 Fund, until the full amount requested for the fiscal year,
 but not in excess of the amount specified above as "Total
 Deposit", has been deposited.

Subject to payment of amounts into the Build Illinois 5 б Fund and the McCormick Place Expansion Project Fund pursuant 7 to the preceding paragraphs or in any amendment thereto 8 hereafter enacted, each month the Department shall pay into 9 the Local Government Distributive Fund 0.4% of the net revenue realized for the preceding month from the 5% general 10 11 rate or 0.4% of 80% of the net revenue realized for the preceding month from the 6.25% general rate, as the case may 12 be, on the selling price of tangible personal property which 13 amount shall, subject to appropriation, be distributed as 14 provided in Section 2 of the State Revenue Sharing Act. 15 No 16 payments or distributions pursuant to this paragraph shall be made if the tax imposed by this Act on photoprocessing 17 18 products is declared unconstitutional, or if the proceeds from such tax are unavailable for distribution because of 19 20 litigation.

21 Subject to payment of amounts into the Build Illinois 22 Fund, the McCormick Place Expansion Project Fund, and the 23 Local Government Distributive Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, 24 25 beginning July 1, 1993, the Department shall each month pay into the Illinois Tax Increment Fund 0.27% of 80% of the net 26 revenue realized for the preceding month from the 6.25% 27 general rate on the selling price of tangible personal 28 29 property.

30 Subject to payment of amounts into the Build Illinois 31 Fund, the McCormick Place Expansion Project Fund, and the 32 Local Government Distributive Fund pursuant to the preceding 33 paragraphs or in any amendments thereto hereafter enacted, 34 beginning with the receipt of the first report of taxes paid

1 by an eligible business and continuing for a 25-year period, 2 Department shall each month pay into the Energy the Infrastructure Fund 80% of the net revenue realized from the 3 4 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of 5 б this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 7 8 605-332 of the Department of Commerce and Community Affairs 9 Law of the Civil Administrative Code of Illinois.

10 Remaining moneys received by the Department pursuant to 11 this Act shall be paid into the General Revenue Fund of the 12 State Treasury.

13 The Department may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the 14 15 Department on a form prescribed by the Department within not 16 less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. 17 annual return to the Department shall include a 18 Such statement of gross receipts as shown by the taxpayer's last 19 Federal income tax return. If the total receipts of the 20 21 business as reported in the Federal income tax return do not 22 agree with the gross receipts reported to the Department of 23 Revenue for the same period, the taxpayer shall attach to his annual return a schedule showing a reconciliation of the 2 24 25 amounts and the reasons for the difference. The taxpayer's annual return to the Department shall also disclose the cost 26 27 of goods sold by the taxpayer during the year covered by such return, opening and closing inventories of such goods for 28 such year, cost of goods used from stock or taken from stock 29 30 and given away by the taxpayer during such year, pay roll information of the taxpayer's business during such year and 31 32 any additional reasonable information which the Department deems would be helpful in determining the accuracy of the 33 34 monthly, quarterly or annual returns filed by such taxpayer -196-

1 as hereinbefore provided for in this Section.

2 If the annual information return required by this Section 3 is not filed when and as required, the taxpayer shall be 4 liable as follows:

5 (i) Until January 1, 1994, the taxpayer shall be 6 liable for a penalty equal to 1/6 of 1% of the tax due 7 from such taxpayer under this Act during the period to be 8 covered by the annual return for each month or fraction 9 of a month until such return is filed as required, the 10 penalty to be assessed and collected in the same manner 11 as any other penalty provided for in this Act.

(ii) On and after January 1, 1994, the taxpayer
shall be liable for a penalty as described in Section 3-4
of the Uniform Penalty and Interest Act.

The chief executive officer, proprietor, owner or highest 15 16 ranking manager shall sign the annual return to certify the accuracy of the information contained therein. Any person 17 who willfully signs the annual return containing false or 18 19 inaccurate information shall be guilty of perjury and punished accordingly. The annual return form prescribed by 20 the Department shall include a warning that the person 21 signing the return may be liable for perjury. 22

The foregoing portion of this Section concerning the filing of an annual information return shall not apply to a serviceman who is not required to file an income tax return with the United States Government.

As soon as possible after the first day of each month, 27 upon certification of the Department of Revenue, 28 the Comptroller shall order transferred and the Treasurer shall 29 30 transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue 31 32 realized under this Act for the second preceding month. 33 Beginning April 1, 2000, this transfer is no longer required and shall not be made. 34

1 Net revenue realized for a month shall be the revenue 2 collected by the State pursuant to this Act, less the amount 3 paid out during that month as refunds to taxpayers for 4 overpayment of liability.

5 For greater simplicity of administration, it shall be 6 permissible for manufacturers, importers and wholesalers 7 whose products are sold by numerous servicemen in Illinois, 8 and who wish to do so, to assume the responsibility for 9 accounting and paying to the Department all tax accruing under this Act with respect to such sales, if the servicemen 10 11 who are affected do not make written objection to the Department to this arrangement. 12

13 (Source: P.A. 91-37, eff. 7-1-99; 91-51, eff. 6-30-99; 14 91-101, eff. 7-12-99; 91-541, eff. 8-13-99; 91-872, eff. 15 7-1-00; 92-12, eff. 7-1-01; 92-208, eff. 8-2-01; 92-492, eff. 16 1-1-02; revised 9-14-01.)

Section 28. The Retailers' Occupation Tax Act is amended by changing Sections 2-5 and 3 as follows:

19 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

20 Sec. 2-5. Exemptions. Gross receipts from proceeds from 21 the sale of the following tangible personal property are 22 exempt from the tax imposed by this Act:

23 (1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, 24 including that manufactured on special order, certified by 25 the purchaser to be used primarily for production agriculture 26 27 State or federal agricultural programs, including or 28 individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and 29 30 including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural 31 chemical and fertilizer spreaders, and nurse wagons required 32

1 to be registered under Section 3-809 of the Illinois Vehicle 2 Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural 3 4 polyhouses or hoop houses used for propagating, growing, or 5 overwintering plants shall be considered farm machinery and б equipment under this item (2). Agricultural chemical tender 7 tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold 8 9 mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated. 10

11 Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be 12 installed on farm machinery and equipment including, but not 13 tractors, harvesters, sprayers, planters, 14 limited to, 15 seeders, or spreaders. Precision farming equipment includes, 16 but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, 17 and other such equipment. 18

19 Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in 20 21 the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not 22 23 limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal 24 25 diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 2-70. 26

(3) Distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

33 (4) Graphic arts machinery and equipment, including34 repair and replacement parts, both new and used, and

including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(5) A motor vehicle of the first division, a motor 7 8 vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living 9 quarters for recreational, camping, or travel use, with 10 11 direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that 12 is of the van configuration designed for the transportation 13 of not less than 7 nor more than 16 passengers, as defined in 14 Section 1-146 of the Illinois Vehicle Code, that is used for 15 16 automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act. 17

18 (6) Personal property sold by a teacher-sponsored 19 student organization affiliated with an elementary or 20 secondary school located in Illinois.

(7) Proceeds of that portion of the selling price of a passenger car the sale of which is subject to the Replacement Vehicle Tax.

(8) Personal property sold to an Illinois county fair
 association for use in conducting, operating, or promoting
 the county fair.

(9) Personal property sold to a not-for-profit arts or 27 cultural organization that establishes, by proof required by 28 the Department by rule, that it has received an exemption 29 30 under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or 31 support of arts or cultural programming, activities, or 32 33 services. These organizations include, but are not limited 34 to, music and dramatic arts organizations such as symphony

1 orchestras and theatrical groups, arts and cultural service 2 organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the 3 4 effective date of this amendatory Act of the 92nd General 5 Assembly, however, an entity otherwise eligible for this б exemption shall not make tax-free purchases unless it has an 7 active identification number issued by the Department.

Personal property sold by a corporation, society, 8 (10)9 association, foundation, institution, or organization, other than a limited liability company, that is organized and 10 11 operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal 12 property was not purchased by the enterprise for the purpose 13 of resale by the enterprise. 14

(11) Personal property sold to a governmental body, to a 15 16 corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, 17 or educational purposes, or to a not-for-profit corporation, 18 19 society, association, foundation, institution, or organization that has no compensated officers or employees 20 21 and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited 22 23 liability company may qualify for the exemption under this paragraph only if the limited liability company is organized 24 25 and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for 26 this exemption shall make tax-free purchases unless it has an 27 active identification number issued by the Department. 28

(12) Personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors under leases of one year or longer executed or in effect at the time of purchase by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications
 Commission, which is permanently installed in or affixed to
 aircraft moving in interstate commerce.

4 (13) Proceeds from sales to owners, lessors, or shippers 5 of tangible personal property that is utilized by interstate б carriers for hire for use as rolling stock moving in 7 interstate commerce and equipment operated by а telecommunications provider, licensed as a common carrier by 8 9 the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate 10 11 commerce.

(14) Machinery and equipment that will be used by the 12 purchaser, or a lessee of the purchaser, primarily in the 13 process of manufacturing or assembling tangible personal 14 property for wholesale or retail sale or lease, whether 15 the 16 sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are 17 owned by the manufacturer or some other person, or whether 18 19 the sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing 20 21 machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a 22 23 particular purchaser.

(15) Proceeds of mandatory service charges separately 24 25 stated on customers' bills for purchase and consumption of food and beverages, to the extent that the proceeds of the 26 27 service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly 28 29 in preparing, serving, hosting or cleaning up the food or 30 beverage function with respect to which the service charge is 31 imposed.

32 (16) Petroleum products sold to a purchaser if the 33 seller is prohibited by federal law from charging tax to the 34 purchaser. 1 (17) Tangible personal property sold to a common carrier 2 by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or 3 4 shares with another common carrier in the transportation of 5 the property, out of Illinois on a standard uniform bill of б lading showing the seller of the property as the shipper or 7 consignor of the property to a destination outside Illinois, 8 for use outside Illinois.

9 (18) Legal tender, currency, medallions, or gold or 10 silver coinage issued by the State of Illinois, the 11 government of the United States of America, or the government 12 of any foreign country, and bullion.

(19) Oil field exploration, drilling, and production 13 equipment, including (i) rigs and parts of rigs, rotary rigs, 14 15 cable tool rigs, and workover rigs, (ii) pipe and tubular 16 goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any 17 18 individual replacement part for oil field exploration, 19 drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles 20 21 required to be registered under the Illinois Vehicle Code.

(20) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(21) Coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

33 (22) Fuel and petroleum products sold to or used by an34 air carrier, certified by the carrier to be used for

1 consumption, shipment, or storage in the conduct of its 2 business as an air common carrier, for a flight destined for 3 or returning from a location or locations outside the United 4 States without regard to previous or subsequent domestic 5 stopovers.

6 (23) A transaction in which the purchase order is 7 received by a florist who is located outside Illinois, but 8 who has a florist located in Illinois deliver the property to 9 the purchaser or the purchaser's donee in Illinois.

10 (24) Fuel consumed or used in the operation of ships, 11 barges, or vessels that are used primarily in or for the 12 transportation of property or the conveyance of persons for 13 hire on rivers bordering on this State if the fuel is 14 delivered by the seller to the purchaser's barge, ship, or 15 vessel while it is afloat upon that bordering river.

16 (25) A motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident 17 in this State, if the motor vehicle is not to be titled in 18 19 this State, and if a driveaway decal permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois 20 21 Vehicle Code or if the nonresident purchaser has vehicle 22 registration plates to transfer to the motor vehicle upon 23 returning to his or her home state. The issuance of the driveaway decal permit or having the out-of-state 24 25 registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State. 26

27 (26) Semen used for artificial insemination of livestock28 for direct agricultural production.

29 (27) Horses, or interests in horses, registered with and 30 meeting the requirements of any of the Arabian Horse Club 31 Registry of America, Appaloosa Horse Club, American Quarter 32 Horse Association, United States Trotting Association, or 33 Jockey Club, as appropriate, used for purposes of breeding or 34 racing for prizes. 1 (28) Computers and communications equipment utilized for 2 any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor 3 4 who leases the equipment, under a lease of one year or longer 5 executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption 6 7 identification number by the Department under Section 1g of 8 this Act.

9 (29) Personal property sold to a lessor who leases the 10 property, under a lease of one year or longer executed or in 11 effect at the time of the purchase, to a governmental body 12 that has been issued an active tax exemption identification 13 number by the Department under Section 1g of this Act.

(30) Beginning with taxable years ending on or after 14 15 December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated 16 for disaster relief to be used in a State or federally 17 declared disaster area in Illinois or bordering Illinois by a 18 19 manufacturer or retailer that is registered in this State to 20 a corporation, society, association, foundation, or institution that has been issued a sales tax exemption 21 22 identification number by the Department that assists victims 23 of the disaster who reside within the declared disaster area.

(31) Beginning with taxable years ending on or after 24 25 December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in 26 the performance of infrastructure repairs in this State, 27 including but not limited to municipal roads and streets, 28 29 access roads, bridges, sidewalks, waste disposal systems, 30 water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention 31 facilities, and sewage treatment facilities, resulting from a 32 33 State or federally declared disaster in Illinois or bordering 34 Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after
 the disaster.

3 (32) Beginning July 1, 1999, game or game birds sold at 4 a "game breeding and hunting preserve area" or an "exotic 5 game hunting area" as those terms are used in the Wildlife 6 Code or at a hunting enclosure approved through rules adopted 7 by the Department of Natural Resources. This paragraph is 8 exempt from the provisions of Section 2-70.

9 (33) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a 10 11 corporation, limited liability company, society, association, institution that is determined by the 12 foundation, or 13 Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a 14 15 corporation, limited liability company, society, association, 16 foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public 17 schools, private schools that offer systematic instruction in 18 19 useful branches of learning by methods common to public schools and that compare favorably in their scope and 20 21 intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes 22 23 organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to 24 25 prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial 26 27 occupation.

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. 1 This paragraph does not apply to fundraising events (i) for 2 the benefit of private home instruction or (ii) for which the 3 fundraising entity purchases the personal property sold at 4 the events from another individual or entity that sold the 5 property for the purpose of resale by the fundraising entity 6 and that profits from the sale to the fundraising entity. 7 This paragraph is exempt from the provisions of Section 2-70.

-206-

Beginning January 1, 2000 and through December 31, 8 (35) 9 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and 10 11 other items, and replacement parts for these machines. Beginning January 1, 2002, machines and parts for machines 12 used in commercial, coin-operated amusement and vending 13 business if a use or occupation tax is paid on the gross 14 15 receipts derived from the use of the commercial, 16 coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70. 17

(36) Beginning on the effective date of this amendatory 18 19 Act of the 92nd General Assembly, computers and 20 communications equipment utilized for any hospital purpose 21 and equipment used in the diagnosis, analysis, or treatment 22 of hospital patients sold to a lessor who leases the 23 equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has 24 25 been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph 26 is exempt from the provisions of Section 2-70. 27

(37) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the SB1854 Engrossed

-207-

1 provisions of Section 2-70.

(38) (36) Beginning on January 1, 2002, 2 tangible personal property purchased from an Illinois retailer by a 3 4 taxpayer engaged in centralized purchasing activities in 5 Illinois who will, upon receipt of the property in Illinois, 6 temporarily store the property in Illinois (i) for the 7 purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State 8 9 (ii) for the purpose of being processed, fabricated, or or manufactured into, attached to, or incorporated into other 10 11 tangible personal property to be transported outside this State and thereafter used or consumed solely outside this 12 The Director of Revenue shall, pursuant to rules 13 State. adopted in accordance with the Illinois Administrative 14 15 Procedure Act, issue a permit to any taxpayer in good 16 standing with the Department who is eligible for the exemption under this paragraph (38) (36). The permit issued 17 18 under this paragraph (38) (36) shall authorize the holder, to 19 the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a 20 21 retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to 22 23 substantiate the use and consumption of all such tangible personal property outside of the State of Illinois. 24

25 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
26 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637, eff.
27 8-20-99; 91-644, eff. 8-20-99; 92-16, eff. 6-28-01; 92-35,
28 eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01;
29 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; revised 1-15-02.)

30 (35 ILCS 120/3) (from Ch. 120, par. 442)
31 Sec. 3. Except as provided in this Section, on or before
32 the twentieth day of each calendar month, every person
33 engaged in the business of selling tangible personal property

-208-

1 at retail in this State during the preceding calendar month 2 shall file a return with the Department, stating: 1. The name of the seller; 3 4 2. His residence address and the address of his principal place of business and the address of the 5 principal place of business (if that is a different 6 7 address) from which he engages in the business of selling tangible personal property at retail in this State; 8 9 3. Total amount of receipts received by him during the preceding calendar month or quarter, as the case may 10 11 be, from sales of tangible personal property, and from services furnished, by him during such preceding calendar 12 13 month or quarter; 4. Total amount received by him 14 during the 15 preceding calendar month or quarter on charge and time 16 sales of tangible personal property, and from services furnished, by him prior to the month or quarter for which 17 the return is filed; 18 19 5. Deductions allowed by law; 6. Gross receipts which were received by him during 20 21 the preceding calendar month or quarter and upon the 22 basis of which the tax is imposed; 23 7. The amount of credit provided in Section 2d of this Act; 24 25 8. The amount of tax due; 9. The signature of the taxpayer; and 26 27 10. Such other reasonable information as the Department may require. 28 29 If a taxpayer fails to sign a return within 30 days after 30 the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to 31 be due on the return shall be deemed assessed. 32

Each return shall be accompanied by the statement ofprepaid tax issued pursuant to Section 2e for which credit is

SB1854 Engrossed

1 claimed.

A retailer may accept a Manufacturer's Purchase Credit 2 certification from a purchaser in satisfaction of Use Tax as 3 provided in Section 3-85 of the Use Tax Act if the purchaser 4 provides the appropriate documentation as required by Section 5 6 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit certification, accepted by a retailer as provided in Section 7 the Use Tax Act, may be used by that retailer to 8 3-85 of 9 satisfy Retailers' Occupation Tax liability in the amount claimed in the certification, not to exceed 6.25% of the 10 11 receipts subject to tax from a qualifying purchase.

12 The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar 13 quarter shall be filed on or before the twentieth day of the 14 calendar month following the end of such calendar quarter. 15 16 The taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or 17 18 before the twentieth day of the following calendar month, 19 stating:

20

1. The name of the seller;

21 2. The address of the principal place of business
22 from which he engages in the business of selling tangible
23 personal property at retail in this State;

3. The total amount of taxable receipts received by him during the preceding calendar month from sales of tangible personal property by him during such preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;

4. The amount of credit provided in Section 2d ofthis Act;

5. The amount of tax due; and
6. Such other reasonable information as the
Department may require.

34 If a total amount of less than \$1 is payable, refundable

or creditable, such amount shall be disregarded if it is less
 than 50 cents and shall be increased to \$1 if it is 50 cents
 or more.

4 Beginning October 1, 1993, a taxpayer who has an average 5 monthly tax liability of \$150,000 or more shall make all б payments required by rules of the Department by electronic 7 funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or 8 more 9 shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a 10 11 taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the 12 Department by electronic funds transfer. Beginning October 13 1, 2000, a taxpayer who has an annual tax liability of 14 \$200,000 or more shall make all payments required by rules of 15 16 the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's 17 liabilities under this Act, and under all other State and 18 19 local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The 20 21 term "average monthly tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other 22 23 State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year 24 25 divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) 26 of Section 2505-210 of the Department of Revenue Law shall 27 make all payments required by rules of the Department by 28 electronic funds transfer. 29

30 Before August 1 of each year beginning in 1993, the 31 Department shall notify all taxpayers required to make 32 payments by electronic funds transfer. All taxpayers 33 required to make payments by electronic funds transfer shall 34 make those payments for a minimum of one year beginning on 1 October 1.

2 Any taxpayer not required to make payments by electronic 3 funds transfer may make payments by electronic funds transfer 4 with the permission of the Department.

5 All taxpayers required to make payment by electronic 6 funds transfer and any taxpayers authorized to voluntarily 7 make payments by electronic funds transfer shall make those 8 payments in the manner authorized by the Department.

9 The Department shall adopt such rules as are necessary to 10 effectuate a program of electronic funds transfer and the 11 requirements of this Section.

12 Any amount which is required to be shown or reported on 13 any return or other document under this Act shall, if such 14 amount is not a whole-dollar amount, be increased to the 15 nearest whole-dollar amount in any case where the fractional 16 part of a dollar is 50 cents or more, and decreased to the 17 nearest whole-dollar amount where the fractional part of a 18 dollar is less than 50 cents.

19 If the retailer is otherwise required to file a monthly 20 return and if the retailer's average monthly tax liability to 21 the Department does not exceed \$200, the Department may authorize his returns to be filed on a quarter annual basis, 22 23 with the return for January, February and March of a given year being due by April 20 of such year; with the return for 24 25 April, May and June of a given year being due by July 20 of such year; with the return for July, August and September of 26 a given year being due by October 20 of such year, and with 27 the return for October, November and December of a given year 28 being due by January 20 of the following year. 29

If the retailer is otherwise required to file a monthly or quarterly return and if the retailer's average monthly tax liability with the Department does not exceed \$50, the Department may authorize his returns to be filed on an annual basis, with the return for a given year being due by January SB1854 Engrossed

-212-

1 20 of the following year.

2 Such quarter annual and annual returns, as to form and 3 substance, shall be subject to the same requirements as 4 monthly returns.

5 Notwithstanding any other provision in this Act 6 concerning the time within which a retailer may file his 7 return, in the case of any retailer who ceases to engage in a 8 kind of business which makes him responsible for filing 9 returns under this Act, such retailer shall file a final 10 return under this Act with the Department not more than one 11 month after discontinuing such business.

12 Where the same person has more than one business 13 registered with the Department under separate registrations 14 under this Act, such person may not file each return that is 15 due as a single return covering all such registered 16 businesses, but shall file separate returns for each such 17 registered business.

In addition, with respect to motor vehicles, watercraft, 18 19 aircraft, and trailers that are required to be registered with an agency of this State, every retailer selling this 20 kind of tangible personal property shall file, with the 21 Department, upon a form to be prescribed and supplied by the 22 23 Department, a separate return for each such item of tangible personal property which the retailer sells, except that if, 24 25 in the same transaction, (i) a retailer of aircraft, watercraft, motor vehicles or trailers transfers more than 26 one aircraft, watercraft, motor vehicle or trailer to another 27 aircraft, watercraft, motor vehicle retailer or trailer 28 29 retailer for the purpose of resale or (ii) a retailer of 30 aircraft, watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer 31 32 to a purchaser for use as a qualifying rolling stock as provided in Section 2-5 of this Act, then that seller may 33 report the transfer of all aircraft, watercraft, motor 34

vehicles or trailers involved in that transaction to the Department on the same uniform invoice-transaction reporting return form. For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act, a personal watercraft, or any boat equipped with an inboard motor.

Any retailer who sells only motor vehicles, watercraft, 8 9 aircraft, or trailers that are required to be registered with an agency of this State, so that all retailers' occupation 10 11 tax liability is required to be reported, and is reported, on 12 such transaction reporting returns and who is not otherwise 13 required to file monthly or quarterly returns, need not file monthly or quarterly returns. However, those retailers shall 14 15 be required to file returns on an annual basis.

16 The transaction reporting return, in the case of motor vehicles or trailers that are required to be registered with 17 an agency of this State, shall be the same document as the 18 19 Uniform Invoice referred to in Section 5-402 of The Illinois Vehicle Code and must show the name and address of the 20 21 seller; the name and address of the purchaser; the amount of 22 the selling price including the amount allowed by the 23 retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, 24 25 if any, to the extent to which Section 1 of this Act allows an exemption for the value of traded-in property; the balance 26 27 payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer 28 29 with respect to such transaction; the amount of tax collected 30 from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that 31 32 particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of 33 34 the property sold; such other information as is required in Section 5-402 of The Illinois Vehicle Code, and such other
 information as the Department may reasonably require.

3 The transaction reporting return in the case of 4 watercraft or aircraft must show the name and address of the seller; the name and address of the purchaser; the amount of 5 6 the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed 7 by the retailer for the traded-in tangible personal property, 8 9 any, to the extent to which Section 1 of this Act allows if an exemption for the value of traded-in property; the balance 10 11 payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer 12 with respect to such transaction; the amount of tax collected 13 from the purchaser by the retailer on such transaction 14 (or satisfactory evidence that such tax is not due in that 15 16 particular instance, if that is claimed to be the fact); the place and date of the sale, a sufficient identification of 17 the property sold, and such other information as 18 the 19 Department may reasonably require.

Such transaction reporting return shall be filed not 20 21 later than 20 days after the day of delivery of the item that is being sold, but may be filed by the retailer at any time 22 23 sooner than that if he chooses to do so. The transaction reporting return and tax remittance or proof of exemption 24 25 the Illinois use tax may be transmitted to the from Department by way of the State agency with which, or State 26 officer with whom the tangible personal property must be 27 titled or registered (if titling or registration is required) 28 29 if the Department and such agency or State officer determine 30 that this procedure will expedite the processing of applications for title or registration. 31

With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is

1 the case), to the Department or its agents, whereupon the 2 Department shall issue, in the purchaser's name, a use tax receipt (or a certificate of exemption if the Department is 3 4 satisfied that the particular sale is tax exempt) which such 5 purchaser may submit to the agency with which, or State б officer with whom, he must title or register the tangible property that 7 involved personal is (if titling or 8 registration is required) in support of such purchaser's 9 application for an Illinois certificate or other evidence of title or registration to such tangible personal property. 10

11 No retailer's failure or refusal to remit tax under this Act precludes a user, who has paid the proper tax to the 12 retailer, from obtaining his certificate of title or other 13 evidence of title or registration (if titling or registration 14 15 is required) upon satisfying the Department that such user 16 has paid the proper tax (if tax is due) to the retailer. The Department shall adopt appropriate rules to carry out 17 the 18 mandate of this paragraph.

19 If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment 20 21 of the tax or proof of exemption made to the Department 22 before the retailer is willing to take these actions and such 23 user has not paid the tax to the retailer, such user may certify to the fact of such delay by the retailer and may 24 25 (upon the Department being satisfied of the truth of such certification) transmit the information required by the 26 transaction reporting return and the remittance for tax or 27 proof of exemption directly to the Department and obtain his 28 29 tax receipt or exemption determination, in which event the 30 transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to 31 32 the proper retailer's account with the Department, but. without the 2.1% or 1.75% discount provided for in 33 this 34 Section being allowed. When the user pays the tax directly -216-

1 to the Department, he shall pay the tax in the same amount 2 and in the same form in which it would be remitted if the tax 3 had been remitted to the Department by the retailer.

4 Refunds made by the seller during the preceding return 5 period to purchasers, on account of tangible personal property returned to the seller, shall be allowed as a 6 7 deduction under subdivision 5 of his monthly or quarterly return, 8 as the case may be, in case the seller had 9 theretofore included the receipts from the sale of such tangible personal property in a return filed by him and had 10 11 paid the tax imposed by this Act with respect to such 12 receipts.

13 Where the seller is a corporation, the return filed on 14 behalf of such corporation shall be signed by the president, 15 vice-president, secretary or treasurer or by the properly 16 accredited agent of such corporation.

Where the seller is a limited liability company, the return filed on behalf of the limited liability company shall be signed by a manager, member, or properly accredited agent of the limited liability company.

Except as provided in this Section, the retailer filing 21 the return under this Section shall, at the time of filing 22 23 such return, pay to the Department the amount of tax imposed by this Act less a discount of 2.1% prior to January 1, 1990 24 25 and 1.75% on and after January 1, 1990, or \$5 per calendar year, whichever is greater, which is allowed to reimburse the 26 27 retailer for the expenses incurred in keeping records, preparing and filing returns, remitting the tax and supplying 28 29 data to the Department on request. Any prepayment made 30 pursuant to Section 2d of this Act shall be included in the amount on which such 2.1% or 1.75% discount is computed. 31 In 32 the case of retailers who report and pay the tax on a transaction by transaction basis, as provided in this 33 34 Section, such discount shall be taken with each such tax remittance instead of when such retailer files his periodic
 return.

Before October 1, 2000, if the taxpayer's average monthly 3 4 tax liability to the Department under this Act, the Use Тах Act, the Service Occupation Tax Act, and the Service Use Tax 5 Act, excluding any liability for prepaid sales tax to be 6 remitted in accordance with Section 2d of this Act, was 7 \$10,000 or more during the preceding 4 complete calendar 8 9 quarters, he shall file a return with the Department each month by the 20th day of the month next following the month 10 11 during which such tax liability is incurred and shall make payments to the Department on or before the 7th, 15th, 12 22nd and last day of the month during which such liability is 13 incurred. On and after October 1, 2000, if the taxpayer's 14 average monthly tax liability to the Department under this 15 16 Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid 17 sales tax to be remitted in accordance with Section 2d of 18 19 this Act, was \$20,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department 20 21 each month by the 20th day of the month next following the month during which such tax liability is incurred and shall 22 23 make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is 24 25 If the month during which such tax liability is incurred. incurred began prior to January 1, 1985, each payment shall 26 in an amount equal to 1/4 of the taxpayer's actual 27 be liability for the month or an amount set by the Department 28 not to exceed 1/4 of the average monthly liability of the 29 30 taxpayer to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability 31 and the month of lowest liability in such 4 quarter period). 32 If the month during which such tax liability is incurred 33 begins on or after January 1, 1985 and prior to January 1, 34

SB1854 Engrossed

1 1987, each payment shall be in an amount equal to 22.5% of 2 the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of 3 the 4 preceding year. If the month during which such tax liability 5 is incurred begins on or after January 1, 1987 and prior to б January 1, 1988, each payment shall be in an amount equal to 7 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar 8 9 month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1988, 10 11 and prior to January 1, 1989, or begins on or after January 1, 1996, each payment shall be in an amount equal to 22.5% of 12 the taxpayer's actual liability for the month or 25% of the 13 taxpayer's liability for the same calendar month of 14 the 15 preceding year. If the month during which such tax liability 16 is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 17 22.5% of the taxpayer's actual liability for the month or 25% 18 19 of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual liability 20 21 for the quarter monthly reporting period. The amount of such quarter monthly payments shall be credited against the final 22 23 tax liability of the taxpayer's return for that month. Before October 1, 2000, once applicable, the requirement of 24 25 the making of quarter monthly payments to the Department by taxpayers having an average monthly tax liability of \$10,000 26 or more as determined in the manner provided above shall 27 continue until such taxpayer's average monthly liability to 28 the Department during the preceding 4 complete calendar 29 30 quarters (excluding the month of highest liability and the month of lowest liability) is less than \$9,000, or until such 31 32 taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding 33 complete calendar quarter period is less than \$10,000. 34

1 However, if a taxpayer can show the Department that a 2 substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average 3 4 monthly tax liability for the reasonably foreseeable future 5 will fall below the \$10,000 threshold stated above, then such б taxpayer may petition the Department for a change in such taxpayer's reporting status. On and after October 1, 2000, 7 8 once applicable, the requirement of the making of quarter 9 monthly payments to the Department by taxpayers having an average monthly tax liability of \$20,000 or more as 10 11 determined in the manner provided above shall continue until such taxpayer's average monthly liability to the Department 12 during the preceding 4 complete calendar quarters (excluding 13 the month of highest liability and the month of lowest 14 liability) is less than \$19,000 or until such taxpayer's 15 16 average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar 17 quarter period is less than \$20,000. However, if a taxpayer 18 19 can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to 20 21 anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$20,000 22 23 threshold stated above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. 24 25 The Department shall change such taxpayer's reporting status unless it finds that such change is seasonal in nature and 26 27 not likely to be long term. If any such quarter monthly payment is not paid at the time or in the amount required by 28 29 this Section, then the taxpayer shall be liable for penalties 30 and interest on the difference between the minimum amount due as a payment and the amount of such quarter monthly payment 31 actually and timely paid, except insofar as the taxpayer has 32 previously made payments for that month to the Department in 33 34 excess of the minimum payments previously due as provided in

1 this Section. The Department shall make reasonable rules and 2 regulations to govern the quarter monthly payment amount and 3 quarter monthly payment dates for taxpayers who file on other 4 than a calendar monthly basis.

5 The provisions of this paragraph apply before October 1, б 2001. Without regard to whether a taxpayer is required to 7 quarter monthly payments as specified above, any make taxpayer who is required by Section 2d of this Act to collect 8 9 and remit prepaid taxes and has collected prepaid taxes which average in excess of \$25,000 per month during the preceding 2 10 11 complete calendar quarters, shall file a return with the Department as required by Section 2f and shall make payments 12 to the Department on or before the 7th, 15th, 22nd and last 13 day of the month during which such liability is incurred. 14 Τf the month during which such tax liability is incurred began 15 16 prior to the effective date of this amendatory Act of 1985, each payment shall be in an amount not less than 22.5% of the 17 taxpayer's actual liability under Section 2d. If the month 18 19 during which such tax liability is incurred begins on or after January 1, 1986, each payment shall be in an amount 20 equal to 22.5% of the taxpayer's actual liability for 21 the month or 27.5% of the taxpayer's liability for the same 22 23 calendar month of the preceding calendar year. If the month during which such tax liability is incurred begins on or 24 25 after January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the 26 month or 26.25% of the taxpayer's liability for the 27 same calendar month of the preceding year. The amount of such 28 quarter monthly payments shall be credited against the final 29 30 tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. 31 Once 32 applicable, the requirement of the making of quarter monthly 33 payments to the Department pursuant to this paragraph shall 34 continue until such taxpayer's average monthly prepaid tax

1 collections during the preceding 2 complete calendar quarters 2 is \$25,000 or less. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer 3 4 shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously 5 б made payments for that month in excess of the minimum 7 payments previously due.

The provisions of this paragraph apply on and after 8 9 October 1, 2001. Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, 10 11 any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid 12 taxes that average in excess of \$20,000 per month during the 13 preceding 4 complete calendar quarters shall file a return 14 with the Department as required by Section 2f and shall make 15 16 payments to the Department on or before the 7th, 15th, 2.2nd and last day of the month during which the liability is 17 incurred. Each payment shall be in an amount equal to 22.5% 18 19 of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the 20 21 preceding year. The amount of the quarter monthly payments shall be credited against the final tax liability of 22 the 23 taxpayer's return for that month filed under this Section or 24 Section 2f, as the case may be. Once applicable, the 25 requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until 26 the taxpayer's average monthly prepaid tax collections during 27 the preceding 4 complete calendar quarters (excluding the 28 month of highest liability and the month of lowest liability) 29 30 is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar 31 32 quarter of the 4 preceding complete calendar quarters is less 33 than \$20,000. If any such quarter monthly payment is not 34 paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such
 difference, except insofar as the taxpayer has previously
 made payments for that month in excess of the minimum
 payments previously due.

5 If any payment provided for in this Section exceeds the б taxpayer's liabilities under this Act, the Use Tax Act, the 7 Service Occupation Tax Act and the Service Use Tax Act, as 8 shown on an original monthly return, the Department shall, if 9 requested by the taxpayer, issue to the taxpayer a credit memorandum no later than 30 days after the date of payment. 10 11 The credit evidenced by such credit memorandum may be assigned by the taxpayer to a similar taxpayer under this 12 Act, the Use Tax Act, the Service Occupation Tax Act or 13 the Service Use Tax Act, in accordance with reasonable rules and 14 regulations to be prescribed by the Department. If no such 15 16 request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted to 17 the 18 Department under this Act, the Use Tax Act, the Service 19 Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the 20 21 Department. If the Department subsequently determined that 22 all or any part of the credit taken was not actually due to 23 the taxpayer, the taxpayer's 2.1% and 1.75% vendor's discount shall be reduced by 2.1% or 1.75% of the difference between 24 25 the credit taken and that actually due, and that taxpayer shall be liable for penalties and 26 interest on such difference. 27

If a retailer of motor fuel is entitled to a credit under Section 2d of this Act which exceeds the taxpayer's liability to the Department under this Act for the month which the taxpayer is filing a return, the Department shall issue the taxpayer a credit memorandum for the excess.

33 Beginning January 1, 1990, each month the Department 34 shall pay into the Local Government Tax Fund, a special fund 1 in the State treasury which is hereby created, the net 2 revenue realized for the preceding month from the 1% tax on sales of food for human consumption which is to be consumed 3 4 off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for 5 б immediate consumption) and prescription and nonprescription 7 medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. 8

Beginning January 1, 1990, each month the Department
shall pay into the County and Mass Transit District Fund, a
special fund in the State treasury which is hereby created,
4% of the net revenue realized for the preceding month from
the 6.25% general rate.

Beginning August 1, 2000, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol.

Beginning January 1, 1990, each month the Department shall pay into the Local Government Tax Fund 16% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property.

Beginning August 1, 2000, each month the Department shall pay into the Local Government Tax Fund 80% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol.

Of the remainder of the moneys received by the Department 27 pursuant to this Act, (a) 1.75% thereof shall be paid into 28 the Build Illinois Fund and (b) prior to July 1, 1989, 29 2.2% 30 and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in 31 any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, 32 as the case may be, of the moneys received by the Department 33 34 and required to be paid into the Build Illinois Fund pursuant

1 to this Act, Section 9 of the Use Tax Act, Section 9 of the 2 Service Use Tax Act, and Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" 3 4 and such aggregate of 2.2% or 3.8%, as the case may be, of 5 moneys being hereinafter called the "Tax Act Amount", and (2) 6 the amount transferred to the Build Illinois Fund from the 7 State and Local Sales Tax Reform Fund shall be less than the 8 Annual Specified Amount (as hereinafter defined), an amount 9 equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the 10 11 Department pursuant to the Tax Acts; the "Annual Specified Amount" means the amounts specified below for fiscal years 12 1986 through 1993: 13

14	Fiscal Year	Annual Specified Amount
15	1986	\$54,800,000
16	1987	\$76,650,000
17	1988	\$80,480,000
18	1989	\$88,510,000
19	1990	\$115,330,000
20	1991	\$145,470,000
21	1992	\$182,730,000
22	1993	\$206,520,000;

23 and means the Certified Annual Debt Service Requirement (as defined in Section 13 of the Build Illinois Bond Act) or the 24 25 Tax Act Amount, whichever is greater, for fiscal year 1994 and each fiscal year thereafter; and further provided, that 26 if on the last business day of any month the sum of (1) the 27 Tax Act Amount required to be deposited into the Build 28 Illinois Bond Account in the Build Illinois Fund during such 29 30 month and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall 31 32 have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into 33 the Build Illinois Fund from other moneys received by the 34

SB1854 Engrossed

1 Department pursuant to the Tax Acts; and, further provided, 2 that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build 3 4 Illinois Fund pursuant to this clause (b) for any fiscal year 5 in excess of the greater of (i) the Tax Act Amount or (ii) б the Annual Specified Amount for such fiscal year. The amounts payable into the Build Illinois Fund under clause (b) 7 8 of the first sentence in this paragraph shall be payable only 9 until such time as the aggregate amount on deposit under each indenture securing Bonds issued and outstanding 10 trust 11 pursuant to the Build Illinois Bond Act is sufficient, taking into account any future investment income, to fully provide, 12 in accordance with such indenture, for the defeasance of or 13 the payment of the principal of, premium, if any, 14 and 15 interest on the Bonds secured by such indenture and on any 16 Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by 17 the Director of the Bureau of the Budget. If on the 18 last 19 business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of 20 21 moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the 22 23 amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond 24 25 Retirement and Interest Fund pursuant to Section 13 of the 26 Build Illinois Bond Act, an amount equal to such deficiency immediately paid from other moneys received by the 27 shall be Department pursuant to the Tax Acts to the Build Illinois 28 29 Fund; provided, however, that any amounts paid to the Build 30 Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) 31 32 of the first sentence of this paragraph and shall reduce the amount otherwise payable for such fiscal year pursuant to 33 that clause (b). The moneys received by the Department 34

pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act.

5 Subject to payment of amounts into the Build Illinois б Fund as provided in the preceding paragraph or in any 7 amendment thereto hereafter enacted, the following specified monthly installment of the amount 8 requested in the 9 certificate of the Chairman of the Metropolitan Pier and Exposition Authority provided under Section 8.25f of the 10 State Finance Act, but not in excess of sums designated as 11 "Total Deposit", shall be deposited in the aggregate from 12 collections under Section 9 of the Use Tax Act, Section 9 of 13 the Service Use Tax Act, Section 9 of the Service Occupation 14 Tax Act, and Section 3 of the Retailers' Occupation Tax Act 15 16 into the McCormick Place Expansion Project Fund in the specified fiscal years. 17

18 Fiscal Year Total Deposit 19 1993 \$0 53,000,000 20 1994 58,000,000 21 1995 61,000,000 22 1996 64,000,000 23 1997 1998 68,000,000 24 71,000,000 25 1999 2000 75,000,000 26 80,000,000 27 2001 93,000,000 28 2002 2003 99,000,000 29 103,000,000 30 2004 2005 108,000,000 31 113,000,000 32 2006 2007 119,000,000 33 34 2008 126,000,000

SB1854 Engrossed	-227-	LRB9215370EGfg
1	2009	132,000,000
2	2010	139,000,000
3	2011	146,000,000
4	2012	153,000,000
5	2013	161,000,000
б	2014	170,000,000
7	2015	179,000,000
8	2016	189,000,000
9	2017	199,000,000
10	2018	210,000,000
11	2019	221,000,000
12	2020	233,000,000
13	2021	246,000,000
14	2022	260,000,000
15	2023 and	275,000,000

16 each fiscal year

17 thereafter that bonds

18 are outstanding under

19 Section 13.2 of the

20 Metropolitan Pier and

21 Exposition Authority

22 Act, but not after fiscal year 2042.

Beginning July 20, 1993 and in each month of each fiscal 23 24 year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and 25 Exposition Authority for that fiscal year, less the amount 26 27 deposited into the McCormick Place Expansion Project Fund by 28 the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition 29 30 Authority Act, plus cumulative deficiencies in the deposits required under this Section for previous months and years, 31 shall be deposited into the McCormick Place Expansion Project 32 Fund, until the full amount requested for the fiscal year, 33 34 but not in excess of the amount specified above as "Total

SB1854 Engrossed

-228-

1 Deposit", has been deposited.

Subject to payment of amounts into the Build 2 Illinois Fund and the McCormick Place Expansion Project Fund pursuant 3 4 to the preceding paragraphs or in any amendment thereto 5 hereafter enacted, each month the Department shall pay into 6 the Local Government Distributive Fund 0.4% of the net 7 revenue realized for the preceding month from the 5% general 8 rate or 0.4% of 80% of the net revenue realized for the preceding month from the 6.25% general rate, as the case may 9 be, on the selling price of tangible personal property which 10 11 amount shall, subject to appropriation, be distributed as provided in Section 2 of the State Revenue Sharing Act. 12 No payments or distributions pursuant to this paragraph shall be 13 the tax imposed by this Act on photoprocessing 14 made if products is declared unconstitutional, or if the proceeds 15 16 from such tax are unavailable for distribution because of 17 litigation.

Subject to payment of amounts into the Build Illinois 18 19 Fund, and the McCormick Place Expansion Project Fund, and the 20 Local Government Distributive Fund pursuant to the preceding 21 paragraphs or in any amendments thereto hereafter enacted, 22 beginning July 1, 1993, the Department shall each month pay 23 into the Illinois Tax Increment Fund 0.27% of 80% of the net revenue realized for the preceding month from the 6.25% 24 25 general rate on the selling price of tangible personal 26 property.

to payment of amounts into the Build Illinois 27 Subject Fund, the McCormick Place Expansion Project Fund, 28 and the 29 Local Government Distributive Fund pursuant to the preceding 30 paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid 31 32 by an eligible business and continuing for a 25-year period, shall each month pay into the Energy 33 Department the Infrastructure Fund 80% of the net revenue realized from the 34

1 6.25% general rate on the selling price of Illinois-mined 2 coal that was sold to an eligible business. For purposes of 3 this paragraph, the term "eligible business" means a new 4 electric generating facility certified pursuant to Section 5 605-332 of the Department of Commerce and Community Affairs 6 Law of the Civil Administrative Code of Illinois.

7 Of the remainder of the moneys received by the Department 8 pursuant to this Act, 75% thereof shall be paid into the 9 State Treasury and 25% shall be reserved in a special account 10 and used only for the transfer to the Common School Fund as 11 part of the monthly transfer from the General Revenue Fund in 12 accordance with Section 8a of the State Finance Act.

13 The Department may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the 14 Department on a form prescribed by the Department within not 15 16 less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. 17 annual return to the Department shall include a 18 Such 19 statement of gross receipts as shown by the retailer's last Federal income tax return. If the total receipts of the 20 21 business as reported in the Federal income tax return do not 22 agree with the gross receipts reported to the Department of 23 Revenue for the same period, the retailer shall attach to his annual return a schedule showing a reconciliation of the 2 24 25 amounts and the reasons for the difference. The retailer's annual return to the Department shall also disclose the cost 26 of goods sold by the retailer during the year covered by such 27 return, opening and closing inventories of such goods for 28 such year, costs of goods used from stock or taken from stock 29 30 and given away by the retailer during such year, payroll information of the retailer's business during such year and 31 32 any additional reasonable information which the Department deems would be helpful in determining the accuracy of the 33 34 monthly, quarterly or annual returns filed by such retailer -230-

1 as provided for in this Section.

2 If the annual information return required by this Section 3 is not filed when and as required, the taxpayer shall be 4 liable as follows:

5 (i) Until January 1, 1994, the taxpayer shall be 6 liable for a penalty equal to 1/6 of 1% of the tax due 7 from such taxpayer under this Act during the period to be 8 covered by the annual return for each month or fraction 9 of a month until such return is filed as required, the 10 penalty to be assessed and collected in the same manner 11 as any other penalty provided for in this Act.

(ii) On and after January 1, 1994, the taxpayer
shall be liable for a penalty as described in Section 3-4
of the Uniform Penalty and Interest Act.

The chief executive officer, proprietor, owner or highest 15 16 ranking manager shall sign the annual return to certify the accuracy of the information contained therein. Any person 17 who willfully signs the annual return containing false or 18 19 inaccurate information shall be guilty of perjury and punished accordingly. The annual return form prescribed by 20 the Department shall include a warning that the person 21 22 signing the return may be liable for perjury.

The provisions of this Section concerning the filing of an annual information return do not apply to a retailer who is not required to file an income tax return with the United States Government.

As soon as possible after the first day of each month, 27 upon certification of the Department of Revenue, 28 the Comptroller shall order transferred and the Treasurer shall 29 30 transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue 31 32 realized under this Act for the second preceding month. 33 Beginning April 1, 2000, this transfer is no longer required and shall not be made. 34

Net revenue realized for a month shall be the revenue
 collected by the State pursuant to this Act, less the amount
 paid out during that month as refunds to taxpayers for
 overpayment of liability.

5 For greater simplicity of administration, manufacturers, 6 importers and wholesalers whose products are sold at retail 7 in Illinois by numerous retailers, and who wish to do so, may 8 assume the responsibility for accounting and paying to the 9 Department all tax accruing under this Act with respect to 10 such sales, if the retailers who are affected do not make 11 written objection to the Department to this arrangement.

Any person who promotes, organizes, provides retail 12 selling space for concessionaires or other types of sellers 13 at the Illinois State Fair, DuQuoin State Fair, county fairs, 14 15 local fairs, art shows, flea markets and similar exhibitions 16 or events, including any transient merchant as defined by Section 2 of the Transient Merchant Act of 1987, is required 17 to file a report with the Department providing the name of 18 19 the merchant's business, the name of the person or persons engaged in merchant's business, the permanent address and 20 21 Illinois Retailers Occupation Tax Registration Number of the 22 merchant, the dates and location of the event and other 23 reasonable information that the Department may require. The report must be filed not later than the 20th day of the month 24 25 next following the month during which the event with retail sales was held. Any person who fails to file a report 26 required by this Section commits a business offense and is 27 subject to a fine not to exceed \$250. 28

Any person engaged in the business of selling tangible personal property at retail as a concessionaire or other type of seller at the Illinois State Fair, county fairs, art shows, flea markets and similar exhibitions or events, or any transient merchants, as defined by Section 2 of the Transient Merchant Act of 1987, may be required to make a daily report

1 of the amount of such sales to the Department and to make a 2 daily payment of the full amount of tax due. The Department shall impose this requirement when it finds that there is a 3 significant risk of loss of revenue to the State at such an 4 5 exhibition or event. Such a finding shall be based on 6 evidence that a substantial number of concessionaires or 7 other sellers who are not residents of Illinois will be in the business of selling tangible personal 8 engaging 9 property at retail at the exhibition or event, or other evidence of a significant risk of loss of revenue to the 10 11 State. The Department shall notify concessionaires and other sellers affected by the imposition of this requirement. 12 In of notification by the Department, the 13 the absence concessionaires and other sellers shall file their returns as 14 otherwise required in this Section. 15

16 (Source: P.A. 91-37, eff. 7-1-99; 91-51, eff. 6-30-99; 17 91-101, eff. 7-12-99; 91-541, eff. 8-13-99; 91-872, eff. 18 7-1-00; 91-901, eff. 1-1-01; 92-12, eff. 7-1-01; 92-16, eff. 19 6-28-01; 92-208, eff. 8-2-01; 92-484, eff. 8-23-01; 92-492, 20 eff. 1-1-02; revised 9-14-01.)

Section 29. The Property Tax Code is amended by changing
Sections 15-25, 18-165, and 31-5 as follows:

23 (35 ILCS 200/15-25)

Sec. 15-25. Removal of exemptions. 24 If the Department determines that any property has been unlawfully exempted 25 from taxation, or is no longer entitled to exemption, 26 the 27 Department shall, before January 1 of any year, direct the 28 chief county assessment officer to assess the property and return it to the assessment rolls for the next assessment 29 30 year. The Department shall give notice of its decision to the owner of the property by certified mail. The decision 31 shall be subject to review and hearing under with Section 32

SB1854 Engrossed

1 8-35, upon application by the owner filed within 10 days 2 after the notice of decision is mailed. However, the 3 extension of taxes on the assessment shall not be delayed by 4 any proceedings under this Section. If the property is 5 determined to be exempt, any taxes extended upon the 6 assessment shall be abated or, if already paid, be refunded. 7 (Source: P.A. 82-554; 88-455; revised 12-04-01.)

8

(35 ILCS 200/18-165)

9 Sec. 18-165. Abatement of taxes.

10 (a) Any taxing district, upon a majority vote of its 11 governing authority, may, after the determination of the 12 assessed valuation of its property, order the clerk of that 13 county to abate any portion of its taxes on the following 14 types of property:

15

(1) Commercial and industrial.

(A) The property of any commercial or 16 17 industrial firm, including but not limited to the any firm that is used for property of (i) 18 collecting, separating, storing, 19 or processing recyclable materials, locating within the taxing 20 21 district during the immediately preceding year from another state, territory, or country, or having been 22 newly created within this State during the 23 24 immediately preceding year, or expanding an existing facility, or (ii) any firm that is used for the 25 generation and transmission of electricity locating 26 within the taxing district during the immediately 27 preceding year or expanding its presence within the 28 29 taxing district during the immediately preceding year by construction of a new electric generating 30 facility that uses natural gas as its fuel, or any 31 firm that is used for production operations at a 32 33 new, expanded, or reopened coal mine within the

1 taxing district, that has been certified as a High 2 Impact Business by the Illinois Department of Commerce and Community Affairs. The property of any 3 4 firm used for the generation and transmission of electricity shall include all property of the firm 5 used for transmission facilities as defined in 6 Section 5.5 of the Illinois Enterprise Zone Act. 7 8 The abatement shall not exceed a period of 10 years 9 and the aggregate amount of abated taxes for all taxing districts combined shall not exceed 10 \$4,000,000. 11

12 (A-5) Any property in the taxing district of a
13 new electric generating facility, as defined in
14 Section 605-332 of the Department of Commerce and
15 Community Affairs Law of the Civil Administrative
16 Code of Illinois. The abatement shall not exceed a
17 period of 10 years. The abatement shall be subject
18 to the following limitations:

19 (i) if the equalized assessed valuation of the new electric generating facility is 20 21 equal to or greater than \$25,000,000 but less than \$50,000,000, then the abatement may not 22 23 exceed (i) over the entire term of the abatement, 5% of 24 the taxing district's aggregate taxes from the new electric 25 generating facility and (ii) in any one year of 26 20% of the taxing district's taxes 27 abatement, from the new electric generating facility; 28

(ii) if the equalized assessed valuation
of the new electric generating facility is
equal to or greater than \$50,000,000 but less
than \$75,000,000, then the abatement may not
exceed (i) over the entire term of the
abatement, 10% of the taxing district's

-235-

1aggregate taxes from the new electric2generating facility and (ii) in any one year of3abatement, 35% of the taxing district's taxes4from the new electric generating facility;

5 (iii) if the equalized assessed valuation 6 of the new electric generating facility is 7 equal to or greater than \$75,000,000 but less than \$100,000,000, then the abatement may not 8 9 exceed (i) over the entire term of the 20% of the taxing district's 10 abatement, aggregate taxes from the 11 new electric generating facility and (ii) in any one year of 12 abatement, 50% of the taxing district's taxes 13 from the new electric generating facility; 14

(iv) if the equalized assessed valuation 15 16 of the new electric generating facility is equal to or greater than \$100,000,000 but less 17 than \$125,000,000, then the abatement may not 18 19 exceed (i) over the entire term of the taxing district's abatement, 30% of the 20 21 aggregate taxes from the new electric generating facility and (ii) in any one year of 22 23 abatement, 60% of the taxing district's taxes from the new electric generating facility; 24

25 (v) if the equalized assessed valuation of the new electric generating facility is 26 equal to or greater than \$125,000,000 but less 27 than \$150,000,000, then the abatement may not 28 exceed (i) over the entire term of 29 the 30 abatement, 40% of the taxing district's aggregate taxes from the new electric 31 generating facility and (ii) in any one year of 32 abatement, 60% of the taxing district's taxes 33 34 from the new electric generating facility;

1 (vi) if the equalized assessed valuation 2 of the new electric generating facility is equal to or greater than \$150,000,000, then the 3 4 abatement may not exceed (i) over the entire term of the abatement, 50% of the taxing 5 district's aggregate taxes from the 6 new 7 electric generating facility and (ii) in any one year of abatement, 60% of the taxing 8 9 district's taxes from the new electric generating facility. 10

The abatement is not effective unless the owner 11 12 of the new electric generating facility agrees to repay to the taxing district all amounts previously 13 abated, together with interest computed at the rate 14 and in the manner provided for delinquent taxes, in 15 16 the event that the owner of the new electric generating facility closes the new electric 17 generating facility before the expiration of the 18 entire term of the abatement. 19

20The authorization of taxing districts to abate21taxes under this subdivision (a)(1)(A-5) expires on22January 1, 2010.

(B) The property of any commercial or
industrial development of at least 500 acres having
been created within the taxing district. The
abatement shall not exceed a period of 20 years and
the aggregate amount of abated taxes for all taxing
districts combined shall not exceed \$12,000,000.

29 (C) The property of any commercial or 30 industrial firm currently located in the taxing 31 district that expands a facility or its number of 32 employees. The abatement shall not exceed a period 33 of 10 years and the aggregate amount of abated taxes 34 for all taxing districts combined shall not exceed 1 2 \$4,000,000. The abatement period may be renewed at the option of the taxing districts.

3 (2) Horse racing. Any property in the taxing 4 district which is used for the racing of horses and upon which capital improvements consisting of expansion, 5 improvement or replacement of existing facilities have 6 been made since July 1, 1987. The combined abatements 7 8 for such property from all taxing districts in any county 9 shall not exceed \$5,000,000 annually and shall not exceed a period of 10 years. 10

11 (3) Auto racing. Any property designed exclusively 12 for the racing of motor vehicles. Such abatement shall 13 not exceed a period of 10 years.

(4) Academic or research institute. The property 14 15 of any academic or research institute in the taxing 16 district that (i) is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue 17 Code, (ii) operates for the benefit of the public by 18 actually and exclusively performing scientific research 19 and making the results of the research available to the 20 21 interested public on a non-discriminatory basis, and 22 (iii) employs more than 100 employees. An abatement 23 granted under this paragraph shall be for at least 15 years and the aggregate amount of abated taxes for all 24 25 taxing districts combined shall not exceed \$5,000,000.

(5) Housing for older persons. Any property in the 26 taxing district that is devoted exclusively to affordable 27 housing for older households. For purposes of this 28 29 paragraph, "older households" means those households (i) 30 living in housing provided under any State or federal program that the Department of Human Rights determines is 31 specifically designed and operated to assist elderly 32 persons and is solely occupied by persons 55 years of age 33 34 or older and (ii) whose annual income does not exceed 80%

1 of the area gross median income, adjusted for family 2 as such gross income and median income are size, determined from time to time by the United States 3 4 Department of Housing and Urban Development. The abatement shall not exceed a period of 15 years, and the 5 aggregate amount of abated taxes for all taxing districts 6 7 shall not exceed \$3,000,000.

8 (6) Historical society. For assessment years 1998
9 through 2003, the property of an historical society
10 qualifying as an exempt organization under Section
11 501(c)(3) of the federal Internal Revenue Code.

(7) Recreational facilities. Any property in the 12 taxing district (i) that is used for a municipal airport, 13 (ii) that is subject to a leasehold assessment under 14 Section 9-195 of this Code and (iii) which is sublet from 15 16 a park district that is leasing the property from a municipality, but only if the property is 17 used exclusively for recreational facilities or for parking 18 lots used exclusively for those facilities. The 19 abatement shall not exceed a period of 10 years. 20

21 (8) Relocated corporate headquarters. If approval 22 occurs within 5 years after the effective date of this 23 amendatory Act of the 92nd General Assembly, any property or a portion of any property in a taxing district that is 24 25 used by an eligible business for a corporate headquarters as defined in the Corporate Headquarters Relocation Act. 26 Instead of an abatement under this paragraph (8), a 27 taxing district may enter into an agreement with an 28 29 eligible business to make annual payments to that 30 eligible business in an amount not to exceed the property taxes paid directly or indirectly by that eligible 31 business to the taxing district and any other taxing 32 districts for premises occupied pursuant to a written 33 34 lease and may make those payments without the need for an

1 annual appropriation. No school district, however, may 2 enter into an agreement with, or abate taxes for, an eligible business unless the municipality in which the 3 4 corporate headquarters is located agrees to provide funding to the school district in an amount equal to the 5 amount abated or paid by the school district as provided 6 7 in this paragraph (8). Any abatement ordered or 8 agreement entered into under this paragraph (8) may be 9 effective for the entire term specified by the taxing district, except the term of the abatement or annual 10 11 payments may not exceed 20 years.

(b) Upon a majority vote of its governing authority, any municipality may, after the determination of the assessed valuation of its property, order the county clerk to abate any portion of its taxes on any property that is located within the corporate limits of the municipality in accordance with Section 8-3-18 of the Illinois Municipal Code.

18 (Source: P.A. 91-644, eff. 8-20-99; 91-885, eff. 7-6-00; 19 92-12, eff. 7-1-01; 92-207, eff. 8-1-01; 92-247, eff. 8-3-01; 20 revised 9-19-01.)

21 (35 ILCS 200/31-5)

27

Sec. 31-5. Definitions. "Recordation" includes the issuance of certificates of title by Registrars of Title under the Registered Titles (Torrens) Act pursuant to the filing of deeds or trust documents for that purpose, as well as the recording of deeds or trust documents by recorders.

"Department" means the Department of Revenue.

28 "Person" means any natural individual, firm, partnership, 29 association, joint stock company, joint adventure, public or 30 private corporation, limited liability company, or a 31 receiver, executor, trustee, guardian or other representative 32 appointed by order of any court.

33 "Value" means the amount of the full actual

SB1854 Engrossed

-240-

consideration, including the amount of any lien assumed by
 the buyer.

3 "Trust document" means a document required to be recorded
4 under the Land Trust Recordation <u>and Transfer Tax</u> Act.

5 (Source: P.A. 88-455; incorporates 88-480; 88-670, eff. 6 12-2-94; revised 12-13-01.)

7 Section 30. The Motor Fuel Tax Law is amended by 8 changing Section 15 as follows:

9 (35 ILCS 505/15) (from Ch. 120, par. 431)

1. Any person who knowingly acts as a 10 Sec. 15. distributor of motor fuel or supplier of special fuel, 11 or receiver of fuel without having a license so to do, or who 12 knowingly fails or refuses to file a return with 13 the 14 Department as provided in Section 2b, Section 5, or Section 5a of this Act, or who knowingly fails or refuses to make 15 payment to the Department as provided either in Section 2b, 16 17 Section 6, Section 6a, or Section 7 of this Act, shall be guilty of a Class 3 felony. Each day any person knowingly 18 acts as a distributor of motor fuel, supplier of special 19 fuel, or receiver of fuel without having a license so to do 20 21 or after such a license has been revoked, constitutes a separate offense. 22

23 2. Any person who acts as a motor carrier without having a valid motor fuel use tax license, issued by the Department 24 or by a member jurisdiction under the provisions of the 25 International Fuel Tax Agreement, or a valid single trip 26 permit is guilty of a Class A misdemeanor for a first offense 27 28 and is guilty of a Class 4 felony for each subsequent offense. Any person (i) who fails or refuses to make payment 29 30 to the Department as provided in Section 13a.1 of this Act or in the International Fuel Tax Agreement referenced in Section 31 14a, or (ii) who fails or refuses to make the quarterly 32

return as provided in Section 13a.3 is guilty of a Class 4
 felony; and for each subsequent offense, such person is
 guilty of a Class 3 felony.

4 3. In case such person acting as a distributor, 5 receiver, supplier, or motor carrier is a corporation, then б the officer or officers, agent or agents, employee or 7 employees, of such corporation responsible for any act of such corporation, or failure of such corporation to act, 8 9 which acts or failure to act constitutes a violation of any of the provisions of this Act as enumerated in paragraphs 1 10 11 and 2 of this Section, shall be punished by such fine or imprisonment, or by both such fine and imprisonment as 12 provided in those paragraphs. 13

3.5. Any person who knowingly enters false information
on any supporting documentation required to be kept by
Section 6 or 6a of this Act is guilty of a Class 3 felony.

17 3.7. Any person who knowingly attempts in any manner to 18 evade or defeat any tax imposed by this Act or the payment of 19 any tax imposed by this Act is guilty of a Class 2 felony.

4. Any person who refuses, upon demand, to submit for 20 inspection, books and records, or who fails or refuses to 21 keep books and records in violation of Section 12 of this 22 23 Act, or any distributor, receiver, or supplier who violates any reasonable rule or regulation adopted by the Department 24 25 for the enforcement of this Act is guilty of a Class A misdemeanor. Any person who acts as a blender in violation 26 of Section 3 of this Act or who having transported reportable 27 motor fuel within Section 7b of this Act fails to make the 28 return required by that Section, is guilty of a Class 4 29 30 felony.

5. Any person licensed under Section 13a.4, 13a.5, or the International Fuel Tax Agreement who: (a) fails or refuses to keep records and books, as provided in Section 13a.2 or as required by the terms of the International Fuel 1 Tax Agreement, (b) refuses upon demand by the Department to 2 submit for inspection and examination the records required by Section 13a.2 of this Act or by the terms 3 of the 4 International Fuel Tax Agreement, or (c) violates anv reasonable rule or regulation adopted by the Department for 5 the enforcement of this Act, is guilty of a Class A 6 misdemeanor. 7

8 6. Any person who makes any false return or report to 9 the Department as to any material fact required by Sections 10 2b, 5, 5a, 7, 13, or 13a.3 of this Act or by the 11 International Fuel Tax Agreement is guilty of a Class 2 12 felony.

7. A prosecution for any violation of this Section may 13 be commenced anytime within 5 years of the commission of that 14 15 violation. A prosecution for tax evasion as set forth in 16 paragraph 3.7 of this Section may be prosecuted any time within 5 years of the commission of the last act in 17 18 furtherance of evasion. The running of the period of 19 limitations under this Section shall be suspended while any proceeding or appeal from any proceeding relating to the 20 21 quashing or enforcement of any grand jury or administrative subpoena issued in connection with an investigation of 22 the 23 violation of any provision of this Act is pending.

8. Any person who provides false documentation requiredby any Section of this Act is guilty of a Class 4 felony.

9. Any person filing a fraudulent application or order form under any provision of this Act is guilty of a Class A misdemeanor. For each subsequent offense, the person is guilty of a Class 4 felony.

30 10. Any person who acts as a motor carrier and who fails
31 to carry a manifest as provided in Section 5.5 is guilty of a
32 Class A misdemeanor. For each subsequent offense, the person
33 is guilty of a Class 4 felony.

34 11. Any person who knowingly sells or attempts to sell

1 dyed diesel fuel for highway use or for use by 2 recreational-type watercraft on the waters of this State is 3 guilty of a Class 4 felony. For each subsequent offense, the 4 person is guilty of a Class 2 felony.

5 12. Any person who knowingly possesses dyed diesel fuel 6 for highway use or for use by recreational-type watercraft on 7 the waters of this State is guilty of a Class A misdemeanor. 8 For each subsequent offense, the person is guilty of a Class 9 4 felony.

10 13. Any person who sells or transports dyed diesel fuel 11 without the notice required by Section 4e shall pay the 12 following penalty:

First occurrence.....\$ 500 Second and each occurrence thereafter......\$1,000 14. Any person who owns, operates, or controls any 16. container, storage tank, or facility used to store or 17. distribute dyed diesel fuel without the notice required by 18. Section 4f shall pay the following penalty:

 19
 First occurrence.....\$ 500

Second and each occurrence thereafter.....\$1,000 20 21 15. If a motor vehicle required to be registered for highway purposes is found to have dyed diesel fuel within the 22 23 ordinary fuel tanks attached to the motor vehicle or if a recreational-type watercraft on the waters of this State is 24 25 found to have dyed diesel fuel within the ordinary fuel tanks attached to the watercraft, the operator shall pay the 26 following penalty: 27

First occurrence.....\$2,500 Second and each occurrence thereafter.....\$5,000 16. Any licensed motor fuel distributor or licensed supplier who sells or attempts to sell dyed diesel fuel for highway use or for use by recreational-type watercraft on the waters of this State shall pay the following penalty: First occurrence.....\$5,000 Second and each occurrence thereafter.....\$10,000
 17. Any person who knowingly sells or distributes dyed
 diesel fuel without the notice required by Section 4e is
 guilty of a petty offense. For each subsequent offense, the
 person is guilty of a Class A misdemeanor.

6 18. Any person who knowingly owns, operates, or controls 7 any container, storage tank, or facility used to store or 8 distribute dyed diesel fuel without the notice required by 9 Section 4f is guilty of a petty offense. For each subsequent 10 offense the person is guilty of a Class A misdemeanor.

For purposes of this Section, dyed diesel fuel means any dyed diesel fuel whether or not dyed pursuant to Section 4d of this Law.

Any person aggrieved by any action of the Department under item 13, 14, 15, or 16 of this Section may protest the action by making a written request for a hearing within 60 days of the original action. If the hearing is not requested in writing within 60 days, the original action is final.

All penalties received under items 13, 14, 15, and 16 of this Section shall be deposited into the Tax Compliance and Administration Fund.

22 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01; 23 92-232, eff. 8-2-01; revised 9-19-01.)

24 Section 31. The Illinois Pension Code is amended by 25 changing Sections 1-113.7, 11-167, 14-110, 14-114, 16-106, 26 and 17-119.1 as follows:

27 (40 ILCS 5/1-113.7)

Sec. 1-113.7. Registration of investments; custody and safekeeping. The board of trustees may register the investments of its pension fund in the name of the pension fund, in the nominee name of a bank or trust company authorized to conduct a trust business in Illinois, or in the nominee name of the Illinois Public Treasurer's Investment
 Pool.

The assets of the pension fund and ownership of its 3 4 investments shall be protected through third-party custodial safekeeping. The board of trustees may appoint as custodian 5 6 of the investments of its pension fund the treasurer of the 7 municipality, a bank or trust company authorized to conduct a 8 trust business in Illinois, or the Illinois Public 9 Treasurer's Investment Pool.

A dealer may not maintain possession of or control over 10 11 securities of a pension fund subject to the provisions of this Section unless it is registered as a broker-dealer with 12 the U.S. Securities and Exchange Commission and is a member 13 in good standing of the National Association of Securities 14 15 Dealers, and (1) with respect to securities that are not 16 issued only in book-entry form, (A) all such securities of fund are either held in safekeeping in a place 17 each reasonably free from risk of destruction or held in custody 18 by a securities depository that is a "clearing agency" 19 registered with the U.S. Securities and Exchange Commission, 20 (B) the dealer is a member of the Securities Investor 21 Protection Corporation, (C) the dealer sends to each fund, no 22 23 less frequently than each calendar quarter, an itemized statement showing the moneys and securities in the custody or 24 25 possession of the dealer at the end of such period, and (D) an independent certified public <u>accountant</u> account conducts 26 an audit, no less frequently than each calendar year, that 27 reviews the dealer's internal accounting controls 28 and procedures for safeguarding securities; and (2) with respect 29 30 to securities that are issued only in book-entry form, (A) all such securities of each fund are held either in a 31 32 securities depository that is a "clearing agency" registered with the U.S. Securities and Exchange Commission or in a bank 33 34 that is a member of the Federal Reserve System, (B) the

1 dealer records the ownership interest of the funds in such 2 securities on the dealer's books and records, (C) the dealer the Securities Investor Protection 3 is a member of 4 Corporation, (D) the dealer sends to each fund, no less 5 frequently than each calendar quarter, an itemized statement б showing the moneys and securities in the custody or 7 possession of the dealer at the end of such period, and (E) the dealer's financial statement (which shall contain among 8 9 other things a statement of the dealer's net capital and its required net capital computed in accordance with Rule 15c3-1 10 11 under the Securities Exchange Act of 1934) is audited annually by an independent certified public accountant, and 12 the dealer's most recent audited financial statement is 13 furnished to the fund. No broker-dealer serving as 14 а custodian for any public pension fund as provided by this Act 15 16 shall be authorized to serve as an investment advisor for that same public pension fund as described in Section 1-101.4 17 of this Code, to the extent that the investment advisor 18 19 acquires or disposes of any asset of that same public pension fund. Notwithstanding the foregoing, in no event may a 20 21 broker or dealer that is a natural person maintain possession 22 of or control over securities or other assets of a pension 23 fund subject to the provisions of this Section. Τn maintaining securities of a pension fund subject to the 24 25 provisions of this Section, each dealer must maintain those in conformity with the provisions of Rule 26 securities 15c3-3(b) of the Securities Exchange Act of 27 1934 (Physical Possession or Control of Securities). The Director of the 28 29 Department of Insurance may adopt such rules and regulations 30 as shall be necessary and appropriate in his or her judgment to effectuate the purposes of this Section. 31

A bank or trust company authorized to conduct a trust business in Illinois shall register, deposit, or hold investments for safekeeping, all in accordance with the SB1854 Engrossed

-247-

obligations and subject to the limitations of the Securities
 in Fiduciary Accounts Act.

3 (Source: P.A. 90-507, eff. 8-22-97; revised 12-13-01.)

4 (40 ILCS 5/11-167) (from Ch. 108 1/2, par. 11-167)
5 Sec. 11-167. Refunds in lieu of annuity. In lieu of an
6 annuity, an employee who withdraws, and whose annuity would
7 amount to less than \$800 a month for life may elect to
8 receive a refund of the total sum accumulated to his credit
9 from employee contributions for annuity purposes.

10 The widow of any employee, eligible for annuity upon the death of her husband, whose annuity would amount to less than 11 \$800 a month for life, may, in lieu of a widow's annuity, 12 elect to receive a refund of the accumulated contributions 13 for annuity purposes, based on the amounts contributed by her 14 15 deceased employee husband, but reduced by any amounts theretofore paid to him in the form of an annuity or refund 16 out of such accumulated contributions. 17

Accumulated contributions shall mean the amounts 18 including interest credited thereon contributed by 19 the 20 employee for age and service and widow's annuity to the date 21 of his withdrawal or death, whichever first occurs, and 22 including the accumulations from any amounts contributed for him as salary deductions while receiving duty disability 23 24 benefits; provided that such amounts contributed by the city after December 31, 1983 while the employee is receiving duty 25 disability benefits shall not be included. 26

The acceptance of such refund in lieu of widow's annuity, on the part of a widow, shall not deprive a child or children of the right to receive a child's annuity as provided for in Sections 11-153 and 11-154 of this Article, and neither shall the payment of a child's annuity in the case of such refund to a widow reduce the amount herein set forth as refundable to such widow electing a refund in lieu of widow's annuity. -248-

1 (Source: P.A. 90-655, eff. 7-30-98; 91-887, eff. 7-6-00; 2 revised 9-17-01.)

3 4 (40 ILCS 5/14-110) (from Ch. 108 1/2, par. 14-110)

Sec. 14-110. Alternative retirement annuity.

(a) Any member who has withdrawn from service with not 5 less than 20 years of eligible creditable service and has б attained age 55, and any member who has withdrawn from 7 service with not less than 25 years of eligible creditable 8 service and has attained age 50, regardless of whether the 9 10 attainment of either of the specified ages occurs while the member is still in service, shall be entitled to receive at 11 the option of the member, in lieu of the regular or minimum 12 retirement annuity, a retirement annuity computed 13 as 14 follows:

15 (i) for periods of service as a noncovered employee: if retirement occurs on or after January 1, 16 17 2001, 3% of final average compensation for each year of creditable service; if retirement occurs before January 18 1, 2001, 2 1/4% of final average compensation for each of 19 20 the first 10 years of creditable service, 2 1/2% for each 21 year above 10 years to and including 20 years of creditable service, and 2 3/4% for each year of 22 creditable service above 20 years; and 23

24 (ii) for periods of eligible creditable service as a covered employee: if retirement occurs on or after 25 January 1, 2001, 2.5% of final average compensation for 26 each year of creditable service; if retirement occurs 27 before January 1, 2001, 28 1.67% of final average compensation for each of the first 10 years of such 29 service, 1.90% for each of the next 10 years of such 30 service, 2.10% for each year of such service in excess of 31 20 but not exceeding 30, and 2.30% for each year in 32 excess of 30. 33

SB1854 Engrossed

1 Such annuity shall be subject to a maximum of 75% of 2 final average compensation if retirement occurs before January 1, 2001 or to a maximum of 80% of final average 3 4 compensation if retirement occurs on or after January 1, 5 2001. 6 These rates shall not be applicable to any service 7 performed by a member as a covered employee which is not eligible creditable service. Service as a covered employee 8 9 which is not eligible creditable service shall be subject to the rates and provisions of Section 14-108. 10 11 (b) For the purpose of this Section, "eligible creditable service means creditable service resulting from 12 service in one or more of the following positions: 13 (1) State policeman; 14 (2) fire fighter in the fire protection service of 15 16 a department; (3) air pilot; 17 (4) special agent; 18 19 (5) investigator for the Secretary of State; (6) conservation police officer; 20 21 (7) investigator for the Department of Revenue; 22 (8) security employee of the Department of Human 23 Services; (9) Central Management Services security police 24 25 officer; (10) security employee of the Department 26 of Corrections; 27 (11) dangerous drugs investigator; 28 29 (12)investigator for the Department of State 30 Police; investigator for the Office of the Attorney 31 (13) 32 General; (14) controlled substance inspector; 33

34 (15) investigator for the Office of the State's

-250-

1

Attorneys Appellate Prosecutor;

2

(16) Commerce Commission police officer;

3

(17) arson investigator;

4

(18) State highway maintenance worker.

A person employed in one of the positions specified in 5 6 this subsection is entitled to eligible creditable service 7 for service credit earned under this Article while undergoing the basic police training course approved by the Illinois Law 8 Enforcement Training Standards Board, if completion of that 9 training is required of persons serving in that position. For 10 11 the purposes of this Code, service during the required basic police training course shall be deemed performance of the 12 duties of the specified position, even though the person is 13 not a sworn peace officer at the time of the training. 14

15

(c) For the purposes of this Section:

16 (1) The term "state policeman" includes any title
17 or position in the Department of State Police that is
18 held by an individual employed under the State Police
19 Act.

20 (2) The term "fire fighter in the fire protection 21 service of a department" includes all officers in such 22 fire protection service including fire chiefs and 23 assistant fire chiefs.

(3) The term "air pilot" includes any employee 24 25 whose official job description on file in the Department of Central Management Services, or in the department by 26 which he is employed if that department is not covered by 27 the Personnel Code, states that his principal duty is the 28 operation of aircraft, and who possesses a pilot's 29 30 license; however, the change in this definition made by this amendatory Act of 1983 shall not operate to exclude 31 any noncovered employee who was an "air pilot" for the 32 purposes of this Section on January 1, 1984. 33

34 (4) The term "special agent" means any person who

1 by reason of employment by the Division of Narcotic 2 Control, the Bureau of Investigation or, after July 1, 1977, the Division of Criminal Investigation, the 3 4 Division of Internal Investigation, the Division of Operations, or any other Division or organizational 5 entity in the Department of State Police is vested by law 6 with duties to maintain public order, investigate 7 violations of the criminal law of this State, enforce the 8 9 laws of this State, make arrests and recover property. The term "special agent" includes any title or position 10 11 in the Department of State Police that is held by an individual employed under the State Police Act. 12

(5) The term "investigator for the Secretary of
State" means any person employed by the Office of the
Secretary of State and vested with such investigative
duties as render him ineligible for coverage under the
Social Security Act by reason of Sections 218(d)(5)(A),
218(d)(8)(D) and 218(1)(1) of that Act.

19 A person who became employed as an investigator for the Secretary of State between January 1, 1967 and 20 December 31, 1975, and who has served as such until 21 attainment of age 60, either continuously or with a 22 23 single break in service of not more than 3 years duration, which break terminated before January 1, 1976, 24 25 shall be entitled to have his retirement annuity calculated in accordance with subsection (a), 26 notwithstanding that he has less than 20 years of credit 27 for such service. 28

(6) The term "Conservation Police Officer" means
any person employed by the Division of Law Enforcement of
the Department of Natural Resources and vested with such
law enforcement duties as render him ineligible for
coverage under the Social Security Act by reason of
Sections 218(d)(5)(A), 218(d)(8)(D), and 218(1)(1) of

that Act. The term "Conservation Police Officer"
 includes the positions of Chief Conservation Police
 Administrator and Assistant Conservation Police
 Administrator.

5 (7) The term "investigator for the Department of 6 Revenue" means any person employed by the Department of 7 Revenue and vested with such investigative duties as 8 render him ineligible for coverage under the Social 9 Security Act by reason of Sections 218(d)(5)(A), 10 218(d)(8)(D) and 218(1)(1) of that Act.

11 (8) The term "security employee of the Department 12 of Human Services" means any person employed by the Department of Human Services who (i) is employed at the 13 Chester Mental Health Center and has daily contact with 14 the residents thereof, (ii) is employed within a security 15 16 unit at a facility operated by the Department and has daily contact with the residents of the security unit, 17 (iii) is employed at a facility operated by the 18 Department that includes a security unit and is regularly 19 scheduled to work at least 50% of his or her working 20 hours within that security unit, or (iv) is a mental 21 22 health police officer. "Mental health police officer" 23 means any person employed by the Department of Human Services in a position pertaining to the Department's 24 25 mental health and developmental disabilities functions who is vested with such law enforcement duties as render 26 27 the person ineligible for coverage under the Social Security Act by reason of Sections 218(d)(5)(A), 28 218(d)(8)(D) and 218(1)(1) of that Act. "Security unit" 29 30 means that portion of a facility that is devoted to the care, containment, and treatment of persons committed to 31 the Department of Human Services as sexually violent 32 persons, persons unfit to stand trial, or persons not 33 guilty by reason of insanity. With respect to past 34

employment, references to the Department of Human
 Services include its predecessor, the Department of
 Mental Health and Developmental Disabilities.

The changes made to this subdivision (c)(8) by <u>Public Act 92-14</u> this-amendatory-Act-of-the-92nd-General Assembly apply to persons who retire on or after January 1, 2001, notwithstanding Section 1-103.1.

8 (9) "Central Management Services security police 9 officer" means any person employed by the Department of 10 Central Management Services who is vested with such law 11 enforcement duties as render him ineligible for coverage 12 under the Social Security Act by reason of Sections 13 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act.

(10) The term "security employee of the Department 14 15 of Corrections" means any employee of the Department of 16 Corrections or the former Department of Personnel, and any member or employee of the Prisoner Review Board, who 17 has daily contact with inmates by working within a 18 correctional facility or who is a parole officer or an 19 employee who has direct contact with committed persons in 20 21 the performance of his or her job duties.

(11) The term "dangerous drugs investigator" means
any person who is employed as such by the Department of
Human Services.

(12) The term "investigator for the Department of
State Police" means a person employed by the Department
of State Police who is vested under Section 4 of the
Narcotic Control Division Abolition Act with such law
enforcement powers as render him ineligible for coverage
under the Social Security Act by reason of Sections
218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act.

32 (13) "Investigator for the Office of the Attorney
33 General" means any person who is employed as such by the
34 Office of the Attorney General and is vested with such

investigative duties as render him ineligible for
coverage under the Social Security Act by reason of
Sections 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that
Act. For the period before January 1, 1989, the term
includes all persons who were employed as investigators
by the Office of the Attorney General, without regard to
social security status.

(14) "Controlled substance inspector" means any 8 9 person who is employed as such by the Department of Professional Regulation and is vested with such law 10 11 enforcement duties as render him ineligible for coverage under the Social Security Act by reason of Sections 12 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act. 13 The term "controlled substance inspector" includes the 14 Program Executive of Enforcement and the Assistant 15 16 Program Executive of Enforcement.

17 (15) The term "investigator for the Office of the 18 State's Attorneys Appellate Prosecutor" means a person 19 employed in that capacity on a full time basis under the 20 authority of Section 7.06 of the State's Attorneys 21 Appellate Prosecutor's Act.

(16) "Commerce Commission police officer" means any
person employed by the Illinois Commerce Commission who
is vested with such law enforcement duties as render him
ineligible for coverage under the Social Security Act by
reason of Sections 218(d)(5)(A), 218(d)(8)(D), and
218(1)(1) of that Act.

(17) "Arson investigator" means any person who is
employed as such by the Office of the State Fire Marshal
and is vested with such law enforcement duties as render
the person ineligible for coverage under the Social
Security Act by reason of Sections 218(d)(5)(A),
218(d)(8)(D), and 218(1)(1) of that Act. A person who
was employed as an arson investigator on January 1, 1995

1 and is no longer in service but not yet receiving a 2 retirement annuity may convert his or her creditable service for employment as an arson investigator into 3 4 eligible creditable service by paying to the System the difference between the employee contributions actually 5 paid for that service and the amounts that would have 6 7 been contributed if the applicant were contributing at 8 the rate applicable to persons with the same social 9 security status earning eligible creditable service on the date of application. 10

11 (18) The term "State highway maintenance worker" 12 means a person who is either of the following:

(i) A person employed on a full-time basis by 13 the Illinois Department of Transportation in the 14 15 position of highway maintainer, highway maintenance 16 lead worker, highway maintenance lead/lead worker, heavy construction equipment operator, power shovel 17 operator, or bridge mechanic; and whose principal 18 responsibility is to perform, on the roadway, the 19 actual maintenance necessary to keep the highways 20 21 that form a part of the State highway system in serviceable condition for vehicular traffic. 22

23 (ii) A person employed on a full-time basis by the Illinois State Toll Highway Authority in the 24 25 of equipment operator/laborer position H-4, equipment operator/laborer H-6, welder H-4, 26 Н−б, mechanical/electrical 27 welder H-4, Н−б, mechanical/electrical 28 water/sewer H-4, 29 water/sewer H-6, sign maker/hanger H-4, sign 30 maker/hanger H-6, roadway lighting H-4, roadway lighting H-6, structural H-4, structural H-6, 31 painter H-4, or painter H-6; and whose principal 32 responsibility is to perform, on the roadway, the 33 34 actual maintenance necessary to keep the Authority's

-256-

1 tollways in serviceable condition for vehicular 2 traffic. A security employee of the Department 3 (d) of 4 Corrections, and a security employee of the Department of Human Services who is not a mental health police officer, 5 6 shall not be eligible for the alternative retirement annuity 7 provided by this Section unless he or she meets the following 8 minimum age and service requirements at the time of 9 retirement: (i) 25 years of eligible creditable service and age 10 55; or 11 (ii) beginning January 1, 1987, 25 12 years of eligible creditable service and age 54, or 24 years of 13 eligible creditable service and age 55; or 14 (iii) beginning January 1, 1988, 25 years 15 of 16 eligible creditable service and age 53, or 23 years of eligible creditable service and age 55; or 17 (iv) beginning January 1, 1989, 25 of 18 years 19 eligible creditable service and age 52, or 22 years of eligible creditable service and age 55; or 20 21 (v) beginning January 1, 1990, 25 years of eligible creditable service and age 51, or 21 years of eligible 22 23 creditable service and age 55; or (vi) beginning January 1, 1991, 24 25 years of 25 eligible creditable service and age 50, or 20 years of eligible creditable service and age 55. 26 Persons who have service credit under Article 16 of this 27 Code for service as a security employee of the Department of 28 29 Corrections or the Department of Human Services in a position 30 requiring certification as a teacher may count such service toward establishing their eligibility under the service 31 32 requirements of this Section; but such service may be used only for establishing such eligibility, and not for the 33 purpose of increasing or calculating any benefit. 34

1 (e) If a member enters military service while working in 2 a position in which eligible creditable service may be earned, and returns to State service in the same or another 3 4 such position, and fulfills in all other respects the conditions prescribed in this Article for credit for military 5 б service, such military service shall be credited as eligible 7 creditable service for the purposes of the retirement annuity 8 prescribed in this Section.

9 For purposes of calculating retirement annuities (f) under this Section, periods of service rendered 10 after 11 December 31, 1968 and before October 1, 1975 as a covered employee in the position of special agent, conservation 12 police officer, mental health police officer, or investigator 13 for the Secretary of State, shall be deemed to have been 14 service as a noncovered employee, provided that the employee 15 16 pays to the System prior to retirement an amount equal to (1) the difference between the employee contributions that would 17 have been required for such service as a noncovered employee, 18 19 and the amount of employee contributions actually paid, plus if payment is made after July 31, 1987, regular interest 20 (2) 21 on the amount specified in item (1) from the date of service 22 to the date of payment.

23 For purposes of calculating retirement annuities under this Section, periods of service rendered after December 24 31, 25 1968 and before January 1, 1982 as a covered employee in the position of investigator for the Department of Revenue shall 26 27 be deemed to have been service as a noncovered employee, provided that the employee pays to the System prior to 28 29 retirement an amount equal to (1) the difference between the 30 employee contributions that would have been required for such service as a noncovered employee, and the amount of employee 31 32 contributions actually paid, plus (2) if payment is made after January 1, 1990, regular interest on the amount 33 specified in item (1) from the date of service to the date of 34

1 payment.

2 (g) A State policeman may elect, not later than January 1990, to establish eligible creditable service for up to 3 1. 4 10 years of his service as a policeman under Article 3, by 5 filing a written election with the Board, accompanied by б payment of an amount to be determined by the Board, equal to 7 (i) the difference between the amount of employee and employer contributions transferred to the System under 8 9 Section 3-110.5, and the amounts that would have been contributed had such contributions been made at the rates 10 11 applicable to State policemen, plus (ii) interest thereon at the effective rate for each year, compounded annually, from 12 the date of service to the date of payment. 13

Subject to the limitation in subsection (i), a State 14 15 policeman may elect, not later than July 1, 1993, to 16 establish eligible creditable service for up to 10 years of his service as a member of the County Police Department under 17 18 Article 9, by filing a written election with the Board, 19 accompanied by payment of an amount to be determined by the Board, equal to (i) the difference between the amount of 20 21 employee and employer contributions transferred to the System under Section 9-121.10 and the amounts that would have been 22 contributed had those contributions been made at the rates 23 applicable to State policemen, plus (ii) interest thereon at 24 25 the effective rate for each year, compounded annually, from the date of service to the date of payment. 26

Subject to the limitation in subsection (i), a State 27 (h) policeman or investigator for the Secretary of State may 28 elect to establish eligible creditable service for up to 12 29 30 years of his service as a policeman under Article 5, bv filing a written election with the Board on or before January 31 31, 1992, and paying to the System by January 31, 1994 an 32 amount to be determined by the Board, equal to (i) the 33 34 difference between the amount of employee and employer 1 contributions transferred to the System under Section 5-236, 2 and the amounts that would have been contributed had such 3 contributions been made at the rates applicable to State 4 policemen, plus (ii) interest thereon at the effective rate 5 for each year, compounded annually, from the date of service 6 to the date of payment.

7 Subject to the limitation in subsection (i), a State 8 policeman, conservation police officer, or investigator for 9 the Secretary of State may elect to establish eligible 10 creditable service for up to 10 years of service as a 11 sheriff's law enforcement employee under Article 7, by filing a written election with the Board on or before January 31, 12 1993, and paying to the System by January 31, 1994 an amount 13 to be determined by the Board, equal to (i) the difference 14 15 between the amount of employee and employer contributions 16 transferred to the System under Section 7-139.7, and the would have been contributed had such 17 amounts that contributions been made at the rates applicable to State 18 19 policemen, plus (ii) interest thereon at the effective rate for each year, compounded annually, from the date of service 20 21 to the date of payment.

(i) The total amount of eligible creditable service
established by any person under subsections (g), (h), (j),
(k), and (l) of this Section shall not exceed 12 years.

25 (j) Subject to the limitation in subsection (i), an investigator for the Office of the State's 26 Attorneys Appellate Prosecutor or a controlled substance inspector may 27 elect to establish eligible creditable service for up to 10 28 29 years of his service as a policeman under Article 3 or a 30 sheriff's law enforcement employee under Article 7, by filing a written election with the Board, accompanied by payment of 31 32 an amount to be determined by the Board, equal to (1) the difference between the amount of employee and employer 33 34 contributions transferred to the System under Section 3-110.6

-259-

or 7-139.8, and the amounts that would have been contributed had such contributions been made at the rates applicable to State policemen, plus (2) interest thereon at the effective rate for each year, compounded annually, from the date of service to the date of payment.

(k) Subject to the limitation in subsection (i) of this 6 7 Section, an alternative formula employee may elect to establish eligible creditable service for periods spent as a 8 9 full-time law enforcement officer or full-time corrections officer employed by the federal government or by a state or 10 11 local government located outside of Illinois, for which 12 credit is not held in any other public employee pension fund or retirement system. To obtain this credit, the applicant 13 must file a written application with the Board by March 14 31. 1998, accompanied by evidence of eligibility acceptable to 15 16 the Board and payment of an amount to be determined by the Board, equal to (1) employee contributions for the credit 17 being established, based upon the applicant's salary on 18 the 19 first day as an alternative formula employee after the employment for which credit is being established and 20 the 21 rates then applicable to alternative formula employees, plus (2) an amount determined by the Board to be the employer's 22 23 normal cost of the benefits accrued for the credit being established, plus (3) regular interest on the amounts in 24 25 items (1) and (2) from the first day as an alternative formula employee after the employment for which credit is 26 being established to the date of payment. 27

(1) Subject to the limitation in subsection (i), a security employee of the Department of Corrections may elect, not later than July 1, 1998, to establish eligible creditable service for up to 10 years of his or her service as a policeman under Article 3, by filing a written election with the Board, accompanied by payment of an amount to be determined by the Board, equal to (i) the difference between

1 the amount of employee and employer contributions transferred 2 to the System under Section 3-110.5, and the amounts that would have been contributed had such contributions been made 3 4 the rates applicable to security employees of at. the Department of Corrections, plus (ii) interest thereon at 5 the б effective rate for each year, compounded annually, from the 7 date of service to the date of payment.

(Source: P.A. 91-357, eff. 7-29-99; 91-760, eff. 1-1-01; 8 9 92-14, eff. 6-28-01; 92-257, eff. 8-6-01; revised 9-10-01.)

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(40 ILCS 5/14-114) (from Ch. 108 1/2, par. 14-114)

11

Sec. 14-114. Automatic increase in retirement annuity.

Any person receiving a retirement annuity under this 12 (a) Article who retires having attained age 60, or who retires 13 before age 60 having at least 35 years of creditable service, 14 15 or who retires on or after January 1, 2001 at an age which, when added to the number of years of his or her creditable 16 service, equals at least 85, shall, on January 1 next 17 following the first full year of retirement, have the amount 18 of the then fixed and payable monthly retirement annuity 19 20 increased 3%. Any person receiving a retirement annuity under this Article who retires before attainment of age 60 21 22 and with less than (i) 35 years of creditable service if retirement is before January 1, 2001, or (ii) the number 23 of 24 years of creditable service which, when added to the member's age, would equal 85, if retirement is on or after January 1, 25 2001, shall have the amount of the fixed and payable 26 retirement annuity increased by 3% on the January 1 occurring 27 on or next following (1) attainment of age 60, or (2) 28 the 29 first anniversary of retirement, whichever occurs later. However, for persons who receive the alternative retirement 30 annuity under Section 14-110, references in this subsection 31 (a) to attainment of age 60 shall be deemed to refer to 32 attainment of age 55. For a person receiving early 33

1 retirement incentives under Section 14-108.3 whose retirement 2 annuity began after January 1, 1992 pursuant to an extension granted under subsection (e) of that Section, the first 3 4 anniversary of retirement shall be deemed to be January 1, 5 1993. For a person who retires on or after June 28, 2001 the 6 effective-date-of-this-amendatory-Act--of--the--92nd--General 7 Assembly and on or before October 1, 2001 the-first-day-of 8 the-fourth-calendar-month-following-the-month-in--which--this 9 amendatory--Act-takes-effect, and whose retirement annuity is calculated, in whole or in part, under Section 14-110 or 10 11 subsection (g) or (h) of Section 14-108, the first 12 anniversary of retirement shall be deemed to be January 1, 2002. 13

14 On each January 1 following the date of the initial 15 increase under this subsection, the employee's monthly 16 retirement annuity shall be increased by an additional 3%.

Beginning January 1, 1990, all automatic annual increases payable under this Section shall be calculated as a percentage of the total annuity payable at the time of the increase, including previous increases granted under this Article.

(b) The provisions of subsection (a) of this Section 22 23 shall be applicable to an employee only if the employee makes the additional contributions required after December 31, 1969 24 25 for the purpose of the automatic increases for not less than the equivalent of one full year. If an employee becomes an 26 annuitant before his additional contributions equal one full 27 year's contributions based on his salary at the date of 28 29 retirement, the employee may pay the necessary balance of the 30 contributions to the system, without interest, and be 31 eligible for the increasing annuity authorized by this 32 Section.

33 (c) The provisions of subsection (a) of this Section34 shall not be applicable to any annuitant who is on retirement

1 on December 31, 1969, and thereafter returns to State 2 service, unless the member has established at least one year 3 of additional creditable service following reentry into 4 service.

(d) In addition to other increases which may be provided 5 6 by this Section, on January 1, 1981 any annuitant who was 7 receiving a retirement annuity on or before January 1, 1971 shall have his retirement annuity then being paid increased 8 \$1 per month for each year of creditable service. On January 9 1, 1982, any annuitant who began receiving a retirement 10 11 annuity on or before January 1, 1977, shall have his retirement annuity then being paid increased \$1 per month for 12 each year of creditable service. 13

On January 1, 1987, any annuitant who began receiving a retirement annuity on or before January 1, 1977, shall have the monthly retirement annuity increased by an amount equal to 8¢ per year of creditable service times the number of years that have elapsed since the annuity began.

(e) Every person who receives the alternative retirement 19 annuity under Section 14-110 and who is eligible to receive 20 21 the 3% increase under subsection (a) on January 1, 1986, shall also receive on that date a one-time increase in 22 23 retirement annuity equal to the difference between (1) his actual retirement annuity on that date, including 24 anv 25 increases received under subsection (a), and (2) the amount of retirement annuity he would have received on that date if 26 the amendments to subsection (a) made by Public Act 84-162 27 had been in effect since the date of his retirement. 28

29 (Source: P.A. 91-927, eff. 12-14-00; 92-14, eff. 6-28-01; 30 revised 9-10-01.)

31 (40 ILCS 5/16-106) (from Ch. 108 1/2, par. 16-106)
32 Sec. 16-106. Teacher. "Teacher": The following
33 individuals, provided that, for employment prior to July 1,

1 1990, they are employed on a full-time basis, or if not 2 full-time, on a permanent and continuous basis in a position 3 in which services are expected to be rendered for at least 4 one school term:

5 (1) Any educational, administrative, professional 6 or other staff employed in the public common schools 7 included within this system in a position requiring 8 certification under the law governing the certification 9 of teachers;

(2) Any educational, administrative, professional 10 11 or other staff employed in any facility of the Department of Children and Family Services or the Department of 12 Human Services, in a position requiring certification 13 under the law governing the certification of teachers, 14 15 and any person who (i) works in such a position for the 16 Department of Corrections, (ii) was a member of this System on May 31, 1987, and (iii) did not elect to become 17 a member of the State Employees' Retirement System 18 pursuant to Section 14-108.2 of this Code; except that 19 "teacher" does not include any person who (A) becomes a 20 21 security employee of the Department of Human Services, as 22 defined in Section 14-110, after June 28, 2001 (the 23 effective date of Public Act 92-14) this-amendatory-Act of-the-92nd-General-Assembly, or (B) becomes a member of 24 State Employees' Retirement System pursuant to 25 the Section 14-108.2c of this Code; 26

(3) Any regional superintendent of 27 schools, assistant regional superintendent of schools, 28 State 29 Superintendent of Education; any person employed by the 30 State Board of Education as an executive; any executive of the boards engaged in the service of public common 31 school education in school districts covered under this 32 system of which the State Superintendent of Education is 33 an ex-officio member; 34

1	(4) Any employee of a school board association
2	operating in compliance with Article 23 of the School
3	Code who is certificated under the law governing the
4	certification of teachers;

5 (5) Any person employed by the retirement system 6 who:

(i) was an employee of and a participant in
 the system on <u>August 17, 2001 (</u>the effective date of
 <u>Public Act 92-416</u>) this-amendatory-Act-of-the-92nd
 General-Assembly, or

11 (ii) becomes an employee of the system on or 12 after <u>August 17, 2001</u> the-effective-date-of-this 13 amendatory-Act-of-the-92nd-General-Assembly;

(6) Any educational, administrative, professional 14 or other staff employed by and under the supervision and 15 16 control of a regional superintendent of schools, provided such employment position requires the person to be 17 certificated under the law governing the certification of 18 teachers and is in an educational program serving 2 or 19 more districts in accordance with a joint agreement 20 21 authorized by the School Code or by federal legislation;

(7) Any educational, administrative, professional or other staff employed in an educational program serving 2 or more school districts in accordance with a joint agreement authorized by the School Code or by federal legislation and in a position requiring certification under the laws governing the certification of teachers;

29 (8) Any officer or employee of a statewide teacher 30 organization or officer of a national teacher 31 organization who is certified under the law governing 32 certification of teachers, provided: (i) the individual 33 had previously established creditable service under this 34 Article, (ii) the individual files with the system an 1 irrevocable election to become a member, and (iii) the 2 individual does not receive credit for such service under 3 any other Article of this Code;

4 (9) Any educational, administrative, professional,
5 or other staff employed in a charter school operating in
6 compliance with the Charter Schools Law who is
7 certificated under the law governing the certification of
8 teachers.

9 An annuitant receiving a retirement annuity under this Article or under Article 17 of this Code who is temporarily 10 11 employed by a board of education or other employer not exceeding that permitted under Section 16-118 is not a 12 "teacher" for purposes of this Article. A person who has 13 a single-sum retirement benefit under Section 14 received 15 16-136.4 of this Article is not a "teacher" for purposes of 16 this Article.

17 (Source: P.A. 92-14, eff. 6-28-01; 92-416, eff. 8-17-01; 18 revised 10-18-01.)

19 (40 ILCS 5/17-119.1)

20 Sec. 17-119.1. Optional increase in retirement annuity.

21 (a) A member of the Fund may qualify for the augmented 22 rate under subdivision (b)(3) of Section 17-116 for all years of creditable service earned before July 1, 1998 by making 23 24 the optional contribution specified in subsection (b); except that a member who retires on or after July 1, 1998 with at 25 least 30 years of creditable service at retirement qualifies 26 for the augmented rate without making any contribution under 27 28 subsection (b). Any member who retires on or after July 1, 29 1998 and before the effective date of this amendatory Act of 92nd General Assembly with at least 30 years of 30 the creditable service shall be paid a lump sum equal to the 31 amount he or she would have received under the augmented rate 32 33 minus the amount he or she actually received. A member may not elect to qualify for the augmented rate for only a
 portion of his or her creditable service earned before July
 1, 1998.

4 (b) The contribution shall be an amount equal to 1.0% of 5 the member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year 6 7 in which the application occurs, multiplied by the number of years of creditable service earned by the member before July 8 1, 1998 or 20, whichever is less. This contribution shall be 9 reduced by 1.0% of that salary rate for every 3 full years of 10 11 creditable service earned by the member after June 30, 1998. The contribution shall be further reduced at the rate of 25% 12 of the contribution (as reduced for service after June 30, 13 1998) for each year of the member's total creditable service 14 15 in excess of 34 years. The contribution shall not in any 16 event exceed 20% of that salary rate.

The member shall pay to the Fund the amount of the 17 contribution as calculated at the time of application under 18 19 this Section. The amount of the contribution determined under this subsection shall be recalculated at the time of 20 21 retirement, and if the Fund determines that the amount paid 22 by the member exceeds the recalculated amount, the Fund shall 23 refund the difference to the member with regular interest from the date of payment to the date of refund. 24

The contribution required by this subsection shall be paid in one of the following ways or in a combination of the following ways that does not extend over more than 5 years:

28 (i) in a lump sum on or before the date of 29 retirement;

30 (ii) in substantially equal installments over a 31 period of time not to exceed 5 years, as a deduction from 32 salary in accordance with Section 17-130.2;

33 (iii) if the member becomes an annuitant before
34 June 30, 2003, in substantially equal monthly

installments over a 24-month period, by a deduction from
 the annuitant's monthly benefit.

3 (c) If the member fails to make the full contribution 4 under this Section in a timely fashion, the payments made 5 under this Section shall be refunded to the member, without 6 interest. If the member dies before making the full 7 contribution, the payments made under this Section shall be 8 refunded to the member's designated beneficiary.

9 (d) For purposes of this Section and subsection (b) of 10 Section 17-116, optional creditable service established by a 11 member shall be deemed to have been earned at the time of the 12 employment or other qualifying event upon which the service 13 is based, rather than at the time the credit was established 14 in this Fund.

(e) The contributions required under this Section are 15 16 the responsibility of the teacher and not the teacher's However, an employer of teachers <u>may</u> 3ay, after 17 employer. the effective date of this amendatory Act of 18 1998. 19 specifically agree, through collective bargaining or otherwise, to make the contributions required by this Section 20 21 on behalf of those teachers.

22 (Source: P.A. 91-17, eff. 6-4-99; 92-416, eff. 8-17-01; 23 revised 10-4-01.)

24 Section 32. The Counties Code is amended by changing 25 Sections 5-1083 and 5-1098 as follows:

26 (55 ILCS 5/5-1083) (from Ch. 34, par. 5-1083)

Sec. 5-1083. Purchase or lease of property. A county board may purchase or lease any real estate or personal property for public purposes under contracts providing for payment in installments over a period of time of not more than 20 years in the case of real estate, and not more than years in the case of personal property, with interest on

1 the unpaid balance owing not to exceed the maximum rate 2 authorized by the Bond Authorization Act, as amended at the 3 time of the making of the contract. The indebtedness 4 incurred under this Section when aggregated with existing 5 indebtedness may not exceed the debt limits provided in 6 Section <u>5-1012</u> 5-1008.

7 With respect to instruments for the payment of money issued under this Section or its predecessor either before, 8 9 on, or after the effective date of Public Act 86-4, it is and always has been the intention of the General Assembly (i) 10 11 that the Omnibus Bond Acts are and always have been supplementary grants of power to issue instruments 12 in accordance with the Omnibus Bond Acts, regardless of any 13 provision of this Act or "An Act to revise the law 14 in relation to counties", approved March 31, 1874, that may 15 appear to be or to have been more restrictive than those 16 Acts, (ii) that the provisions of this Section or its 17 predecessor are not a limitation on the supplementary 18 19 authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section or its predecessor 20 21 within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this 22 23 Act or "An Act to revise the law in relation to counties", approved March 31, 1874, that may appear to be or to have 24 25 been more restrictive than those Acts.

26 (Source: P.A. 86-962; 86-1028; revised 12-13-01.)

27

(55 ILCS 5/5-1098) (from Ch. 34, par. 5-1098)

Sec. 5-1098. Cooperation with Department on Aging. A county board may cooperate with the Department on Aging, created by the "Illinois Act on <u>the Aging</u>", and appropriate county funds and provide in kind services to assist such department in carrying out its programs.

33 (Source: P.A. 86-962; revised 12-07-01.)

-270-

Section 33. The Township Code is amended by changing
 Section 35-55 as follows:

3 (60 ILCS 1/35-55)

4 Sec. 35-55. Senior citizens services; authorization of 5 tax levy.

(a) The electors may authorize the township board to 6 7 levy a tax (at a rate of not more than 0.15% of the value, as equalized and assessed by the Department of Revenue, of all 8 taxable property in the township) for the sole and exclusive 9 10 purpose of providing services to senior citizens under Article 220 270. If the board desires to levy the tax, 11 it shall order a referendum on the proposition to be held at an 12 election in accordance with the general election law. 13 The 14 board shall certify the proposition to the proper election 15 officials, who shall submit the proposition to the voters at an election in accordance with the general election law. If a 16 17 majority of the votes cast on the proposition is in favor of 18 the proposition, the board may annually levy the tax.

If the township board of any township authorized to 19 (b) 20 levy a tax under this Section pursuant to a referendum held before January 1, 1987, desires to increase the maximum rate 21 22 of the tax to 0.15% of the value, as equalized and assessed by the Department of Revenue, of all taxable property in the 23 24 township, it shall order a referendum on that proposition to be held at an election in accordance with the general 25 election law. The board shall certify the proposition to the 26 proper election officials, who shall submit the proposition 27 to the voters at an election in accordance with the general 28 29 election law. If a majority of the votes cast on the proposition is in favor of the proposition, the maximum tax 30 rate shall be so increased. 31

32 (Source: P.A. 85-742; 88-62; revised 12-13-01.)

Section 34. The Illinois Municipal Code is amended by changing Sections 3.1-20-10, 3.1-55-10, 11-73-2, 11-74.4-3, 11-74.4-7, and 11-95-7 and renumbering Section 11-21.1-5 as follows:

(65 ILCS 5/3.1-20-10) (from Ch. 24, par. 3.1-20-10) 5 Sec. 3.1-20-10. Aldermen; number. Except as otherwise б provided in Section 3.1-20-20 or as otherwise provided in the 7 case of aldermen-at-large, the number of aldermen, when not 8 elected by the minority representation plan, shall be as 9 follows: in cities not exceeding 3,000 inhabitants, 6 10 aldermen; exceeding 3,000 but not exceeding 15,000, 11 8 aldermen; exceeding 15,000 but not exceeding 20,000, 10 12 aldermen; exceeding 20,000 but not exceeding 50,000, 14 13 14 aldermen; exceeding 50,000 but not exceeding 70,000, 16 aldermen; exceeding 70,000 but not exceeding 90,000, 18 15 aldermen alderman; and from 90,000 to 500,000, 20 aldermen 16 17 alderman. Except--as--otherwise--provided--in--the--case--of aldermen-at-large. No redistricting shall be required in 18 order to reduce the number of aldermen in order to comply 19 20 with this Section.

21 (Source: P.A. 87-1119; revised 12-04-01.)

22

(65 ILCS 5/3.1-55-10)

23 Sec. 3.1-55-10. Interests in contracts.

(a) A municipal officer shall not be financially 24 interested directly in the officer's own name or indirectly 25 in the name of any other person, association, trust, or 26 corporation, in any contract, work, or business of the 27 28 municipality or in the sale of any article whenever the expense, price, or consideration of the contract, work, 29 30 business, or sale is paid either from the treasury or by an assessment levied by statute or ordinance. A municipal 31 officer shall not be interested, directly or indirectly, in 32

1 the purchase of any property that (i) belongs to the 2 municipality, (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of 3 the 4 municipality. For the purposes of this Section only, however, a municipal officer shall not be deemed interested 5 6 if the officer is an employee of a company or owns or holds 7 interest of 1% or less in the municipal officer's an 8 individual name in a company, or both, that company is 9 involved in the transaction of business with the municipality, and that company's stock is traded on a 10 11 nationally recognized securities market, provided the interested member (i) publicly discloses the fact that he or 12 she is an employee or holds an interest of 1% or of less in a 13 company before deliberation of the proposed award of 14 the refrains from evaluating, recommending, 15 contract; (ii) 16 approving, deliberating, or otherwise participating in the negotiation, approval, or both, of the contract, work, or 17 business; (iii) abstains from voting on the award of 18 the 19 contract though he or she shall be considered present for purposes of establishing a quorum; and (iv) the contract is 20 21 approved by a majority vote of those members currently 22 holding office.

A municipal officer shall not be deemed interested if the officer owns or holds an interest of 1% or less, not in the officer's individual name but through a mutual fund, in a company, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market.

This Section does not prohibit any person serving on a municipal advisory panel or commission or nongoverning board or commission from having an interest in a contract, work, or business of the municipality unless the municipal officer's duties include evaluating, recommending, approving, or voting to recommend or approve the contract, work, or business. 1 (b) Any elected or appointed member of the governing 2 body may, however, provide materials, merchandise, property, 3 services, or labor, subject to the following provisions under 4 either (1) or (2):

5 (1) If:

6 (A) the contract is with a person, firm, 7 partnership, association, corporation, or cooperative 8 association in which the interested member of the 9 governing body of the municipality member has less than a 10 7 1/2% share in the ownership;

(B) the interested member publicly discloses the nature and extent of the interest before or during deliberations concerning the proposed award of the contract;

15 (C) the interested member abstains from voting on 16 the award of the contract (though the member shall be 17 considered present for the purposes of establishing a 18 quorum);

19 (D) the contract is approved by a majority vote of
20 those members presently holding office;

(E) the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds \$1,500 (but the contract may be awarded without bidding if the amount is less than \$1,500); and

(F) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed \$25,000.

30 (2) If:

31 (A) the award of the contract is approved by a 32 majority vote of the governing body of the municipality 33 (provided that the interested member shall abstain from 34 voting); 1 (B) the amount of the contract does not exceed 2 \$2,000;

3 (C) the award of the contract would not cause the 4 aggregate amount of all contracts so awarded to the same 5 person, firm, association, partnership, corporation, or 6 cooperative association in the same fiscal year to exceed 7 \$4,000;

8 (D) the interested member publicly discloses the 9 nature and extent of his interest before or during 10 deliberations concerning the proposed award of the 11 contract; and

12 (E) the interested member abstains from voting on 13 the award of the contract (though the member shall be 14 considered present for the purposes of establishing a 15 quorum).

16 (b-5) In addition to the above exemptions, any elected 17 or appointed member of the governing body may provide 18 materials, merchandise, property, services, or labor if:

(1) the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a 1% share in the ownership; and

(2) the award of the contract is approved by a
majority vote of the governing body of the municipality
provided that any such interested member shall abstain
from voting; and

(3) such interested member publicly discloses the
nature and extent of his interest before or during
deliberations concerning the proposed award of the
contract; and

32 (4) such interested member abstains from voting on
33 the award of the contract, though he shall be considered
34 present for the purposes of establishing a quorum.

1 (C) A contract for the procurement of public utility 2 services by a municipality with a public utility company is not barred by this Section by one or more members of the 3 4 governing body being an officer or employee of the public 5 utility company, or holding an ownership interest in no more б than 7 1/2% in the public utility company, or holding an 7 ownership interest of any size if the municipality has a population of less than 7,500 and the public utility's rates 8 9 are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body or a nongoverning 10 11 board or commission having an interest described in this subsection (d) does not have a prohibited interest under this 12 13 Section.

(d) An officer who violates this Section is guilty of a
Class 4 felony. In addition, any office held by an officer
so convicted shall become vacant and shall be so declared as
part of the judgment of the court.

Nothing contained in this Section, including the 18 (e) 19 restrictions set forth in subsections (b) and (c), shall preclude a contract of deposit of moneys, loans, or other 20 21 financial services by a municipality with a local bank or 22 local savings and loan association, regardless of whether a 23 member the governing body of the municipality is of interested in the bank or savings and loan association as an 24 25 officer or employee or as a holder of less than 7 1/2% of the total ownership interest. A member holding an interest 26 described in this subsection (e) in a contract does not hold 27 prohibited interest for purposes of this Act. 28 а The 29 interested member of the governing body must publicly state 30 the nature and extent of the interest during deliberations concerning the proposed award of the contract but shall not 31 participate in any further deliberations concerning the 32 33 proposed award. The interested member shall not vote on the 34 proposed award. A member abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of the contract shall require approval by a majority vote of those members presently holding office. Consideration and award of a contract in which a member is interested may only be made at a regularly scheduled public meeting of the governing body of the municipality.

Notwithstanding any other provision of this Section 8 (f) 9 any other law to the contrary, until January 1, 1994, a or member of the city council of a municipality with 10 а 11 population under 20,000 may purchase real estate from the municipality, at a price of not less than 100% of the value 12 of the real estate as determined by a written MAI certified 13 appraisal or by a written certified appraisal of a State 14 15 certified or licensed real estate appraiser, if the purchase 16 is approved by a unanimous vote of the city council members then holding office (except for the member desiring to 17 purchase the real estate, who shall not vote on 18 the 19 question).

20 (Source: P.A. 90-364, eff. 1-1-98; revised 12-13-01.)

21

(65 ILCS 5/11-21.5-5)

22 Sec. <u>11-21.5-5.</u> 11-21-1-5- Local emergency energy plans. 23 Any municipality, including а home rule (a) 24 municipality, may, by ordinance, require any electric utility (i) that serves more than 1,000,000 customers in Illinois and 25 (ii) that is operating within the corporate limits of the 26 municipality to adopt and to provide the municipality with a 27 28 local emergency energy plan. For the purposes of this 29 Section, (i) "local emergency energy plan" or "plan" means a planned course of action developed by the electric utility 30 31 that is implemented when the demand for electricity exceeds, or is at significant risk of exceeding, the supply of 32 33 electricity available to the electric utility and (ii) "local

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-277-

1 emergency energy plan ordinance" means an ordinance adopted 2 by the corporate authorities of the municipality under this Section that requires local emergency energy plans. 3 4 A local emergency energy plan must include the (b) 5 following information: б (1) the circumstances that would require the 7 implementation of the plan; the levels or stages of the plan; 8 (2) 9 (3) approximate geographic limits of each the outage area provided for in the plan; 10 11 (4) the approximate number of customers within each outage area provided for in the plan; 12 facilities, fire 13 (5) any police stations, hospitals, nursing homes, schools, day care centers, 14 senior citizens centers, community health 15 centers, 16 dialysis centers, community mental health centers, correctional facilities, wastewater 17 stormwater and treatment or pumping facilities, water-pumping stations, 18 19 buildings in excess of 80 feet in height that have been identified by the municipality, and persons on life 20 21 support systems that are known to the electric utility 22 that could be affected by controlled rotating

(6) the anticipated sequence and duration of
intentional interruptions of electric service to each
outage area under the plan.

interruptions of electric service under the plan; and

A local emergency energy plan ordinance may require 27 (C) that, when an electric utility determines it is necessary to 28 29 implement a controlled rotating interruption of electric 30 service because the demand for electricity exceeds, or is at significant risk of exceeding, the supply of electricity 31 32 available to the electric utility, the electric utility notify a designated municipal officer that the electric 33 utility will be implementing its local emergency energy plan. 34

1 The notification shall be made pursuant to a procedure 2 approved by the municipality after consultation with the 3 electric utility.

4 (d) After providing the notice required in subsection 5 (c), an electric utility shall reasonably and separately 6 advise designated municipal officials before it implements 7 each level or stage of the plan, which shall include (i) a 8 request for emergency help from neighboring utilities, (ii) a 9 declaration of a control area emergency, and (iii) a public 10 appeal for voluntary curtailment of electricity use.

11 (e) The electric utility must give a separate notice to designated municipal official immediately after it 12 a determines that there will be 13 a controlled rotating interruption of electric service under the local emergency 14 energy plan. The notification must include (i) the areas in 15 16 which service will be interrupted, (ii) the sequence and estimated duration of the service outage for each area, (iii) 17 the affected feeders, and (iv) the number of affected 18 19 customers in each area. Whenever practical, the notification shall be made at least 2 hours before the time of the 20 21 outages. If the electric utility is aware that controlled rotating interruptions may be required, the notification may 22 23 not be made less than 30 minutes before the outages.

(f) A local emergency energy plan ordinance may provide civil penalties for violations of its provisions. The penalties must be permitted under the Illinois Municipal Code.

(g) The notifications required by this Section are in addition to the notification requirements of any applicable franchise agreement or ordinance and to the notification requirements of any applicable federal or State law, rule, and regulation.

33 (h) Except for any penalties or remedies that may be34 provided in a local emergency energy plan ordinance, in this

Act, or in rules adopted by the Illinois Commerce Commission, nothing in this Section shall be construed to impose liability for or prevent a utility from taking any actions that are necessary at any time, in any order, and with or without notice that are required to preserve the integrity of the electric utility's electrical system and interconnected network.

8 (i) Nothing in this Section, a local emergency energy plan ordinance, or a local emergency energy plan creates any 9 duty of a municipality to any person or entity. 10 No 11 municipality may be subject to any claim or cause of action arising, directly or indirectly, from its decision to adopt 12 13 or to refrain from adopting a local emergency energy plan No municipality may be subject to any claim or 14 ordinance. 15 cause of action arising, directly or indirectly, from any act 16 or omission under the terms of or information provided in a 17 local emergency energy plan filed under a local emergency energy plan ordinance. 18

19 (Source: P.A. 91-137, eff. 7-16-99; revised 12-13-01.)

20

(65 ILCS 5/11-73-2) (from Ch. 24, par. 11-73-2)

Sec. 11-73-2. This Division 73 shall not be in force in any municipality until the question of its adoption is submitted to the electors of the municipality and approved by a majority of those voting on the question. The municipal clerk shall certify the question to the proper election authority shall submit the question <u>at an</u> at--a election in accordance with the general election law.

31 Shall Division 73 of the

32 Illinois Municipal Code permitting

33 municipalities to levy an additional YES

-280-

1 annual tax of not to exceed 0.05% -05%
2 for the establishment and maintenance -----3 of a long term forestry program
4 for the propagation and preservation NO
5 of community trees and for the removal
6 of dead or diseased trees be adopted?

7 -----

8 If a majority of the votes cast on the question are in 9 favor of adopting this Division 73, the Division is adopted. 10 It shall be in force in the adopting municipality for the 11 purpose of the fiscal years succeeding the year in which the 12 election is held.

13 (Source: P.A. 81-1489; revised 12-13-01.)

14 (65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

19 (a) For any redevelopment project area that has been 20 designated pursuant to this Section by an ordinance adopted 21 prior to November 1, 1999 (the effective date of Public Act 22 91-478), "blighted area" shall have the meaning set forth in 23 this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where:

(1) If improved, industrial, commercial, and
residential buildings or improvements are detrimental to
the public safety, health, or welfare because of a
combination of 5 or more of the following factors, each
of which is (i) present, with that presence documented,
to a meaningful extent so that a municipality may

-281-

reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

5 (A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the 6 7 primary structural components of buildings or 8 improvements in such a combination that a documented 9 building condition analysis determines that major repair is required or the defects are so serious and 10 11 so extensive that the buildings must be removed.

12 (B) Obsolescence. The condition or process of
13 falling into disuse. Structures have become
14 ill-suited for the original use.

15 (C) Deterioration. With respect to buildings, 16 defects including, but not limited to, major defects in the secondary building components such as doors, 17 windows, porches, gutters and downspouts, and 18 fascia. With respect to surface improvements, that 19 the condition of roadways, alleys, curbs, gutters, 20 21 sidewalks, off-street parking, and surface storage 22 areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, 23 24 depressions, loose paving material, and weeds 25 protruding through paved surfaces.

26 (D) Presence of structures below minimum code 27 standards. All structures that do not meet the 28 standards of zoning, subdivision, building, fire, 29 and other governmental codes applicable to property, 30 but not including housing and property maintenance 31 codes.

32 (E) Illegal use of individual structures. The
33 use of structures in violation of applicable
34 federal, State, or local laws, exclusive of those

1 2 applicable to the presence of structures below minimum code standards.

3 (F) Excessive vacancies. The presence of 4 buildings that are unoccupied or under-utilized and 5 that represent an adverse influence on the area 6 because of the frequency, extent, or duration of the 7 vacancies.

(G) Lack of ventilation, light, or sanitary 8 9 facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without 10 11 windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. 12 13 Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces 14 15 or rooms and improper window sizes and amounts by 16 room area to window area ratios. Inadequate sanitary facilities refers to the absence or 17 inadequacy of garbage storage and enclosure, 18 bathroom facilities, hot water and kitchens, and 19 structural inadequacies preventing 20 ingress and 21 egress to and from all rooms and units within a 22 building.

23 (H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm 24 25 drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to 26 be inadequate. Inadequate utilities are those that 27 are: (i) of insufficient capacity to serve the uses 28 29 in the redevelopment project area, (ii) 30 deteriorated, antiquated, obsolete, or in disrepair, 31 or (iii) lacking within the redevelopment project 32 area.

33 (I) Excessive land coverage and overcrowding34 of structures and community facilities. The

1 over-intensive use of property and the crowding of 2 buildings and accessory facilities onto a site. 3 Examples of problem conditions warranting the 4 designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings 5 either improperly situated on parcels or located on 6 7 parcels of inadequate size and shape in relation to 8 present-day standards of development for health and 9 safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of 10 11 excessive land coverage, these parcels must exhibit one or more of the following conditions: 12 insufficient provision for light and air within or 13 around buildings, increased threat of spread of fire 14 15 due to the close proximity of buildings, lack of 16 adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or 17 inadequate provision for loading and service. 18

19 (J) Deleterious land use or layout. The
20 existence of incompatible land-use relationships,
21 buildings occupied by inappropriate mixed-uses, or
22 uses considered to be noxious, offensive, or
23 unsuitable for the surrounding area.

(K) Environmental clean-up. 24 The proposed 25 redevelopment project area has incurred Illinois Environmental Protection Agency or United States 26 27 Environmental Protection Agency remediation costs for, or a study conducted by an 28 independent 29 consultant recognized as having expertise in 30 environmental remediation has determined a need for, 31 the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by 32 State or federal law, provided that the remediation 33 34 costs constitute a material impediment to the 1 2 development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed 3 4 redevelopment project area was developed prior to or without the benefit or guidance of a community plan. 5 This means that the development occurred prior to 6 7 the adoption by the municipality of a comprehensive 8 or other community plan or that the plan was not 9 followed at the time of the area's development. This factor must be documented by evidence of 10 11 adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, 12 13 parcels of inadequate shape and size to meet contemporary development standards, or 14 other 15 evidence demonstrating an absence of effective 16 community planning.

The total equalized assessed value of the 17 (M) proposed redevelopment project area has declined for 18 3 of the last 5 calendar years prior to the year in 19 which the redevelopment project area is designated 20 21 or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 22 calendar years for which information is available or 23 is increasing at an annual rate that is less than 24 25 the Consumer Price Index for All Urban Consumers published by the United States Department of Labor 26 or successor agency for 3 of the last 5 calendar 27 years prior to the year in which the redevelopment 28 29 project area is designated.

30 (2) If vacant, the sound growth of the redevelopment project area is impaired by a combination 31 of 2 or more of the following factors, each of which is 32 (i) present, with that presence documented, 33 to a 34 meaningful extent so that a municipality may reasonably -285-

find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that 5 results in parcels of limited or narrow size or 6 7 configurations of parcels of irregular size or shape that would be difficult to develop on a planned 8 9 basis and in a manner compatible with contemporary standards and requirements, or platting that failed 10 11 to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for 12 streets, alleys, or other public rights-of-way or 13 that omitted easements for public utilities. 14

(B) Diversity of ownership of parcels of
vacant land sufficient in number to retard or impede
the ability to assemble the land for development.

18 (C) Tax and special assessment delinquencies
19 exist or the property has been the subject of tax
20 sales under the Property Tax Code within the last 5
21 years.

(D) Deterioration of structures or site
 improvements in neighboring areas adjacent to the
 vacant land.

25 has incurred Illinois (E) The area Environmental Protection Agency or United States 26 27 Environmental Protection Agency remediation costs for, or a study conducted by an 28 independent 29 consultant recognized as having expertise in 30 environmental remediation has determined a need for, 31 the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by 32 State or federal law, provided that the remediation 33 34 costs constitute a material impediment to the 1

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development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the 3 4 proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in 5 which the redevelopment project area is designated 6 7 or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 8 9 calendar years for which information is available or is increasing at an annual rate that is less than 10 the Consumer Price Index for All Urban Consumers 11 published by the United States Department of Labor 12 or successor agency for 3 of the last 5 calendar 13 years prior to the year in which the redevelopment 14 15 project area is designated.

16 (3) If vacant, the sound growth of the 17 redevelopment project area is impaired by one of the following factors that (i) is present, with that presence 18 documented, to a meaningful extent so that a municipality 19 may reasonably find that the factor is clearly present 20 within the intent of the Act and (ii) is reasonably 21 distributed throughout the vacant 22 part of the redevelopment project area to which it pertains: 23

24 (A) The area consists of one or more unused
 25 quarries, mines, or strip mine ponds.

26 (B) The area consists of unused railyards,
27 rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is
subject to chronic flooding that adversely impacts
on real property in the area as certified by a
registered professional engineer or appropriate
regulatory agency.

33 (D) The area consists of an unused or illegal
 34 disposal site containing earth, stone, building

-287-

debris, or similar materials that were removed from
 construction, demolition, excavation, or dredge
 sites.

4 (E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of 5 which is vacant (notwithstanding that the area has 6 7 used for commercial agricultural purposes been 8 within 5 years prior to the designation of the 9 redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) 10 11 of this subsection, the area has been designated as 12 a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, 13 and the area has not been developed for that 14 15 designated purpose.

16 (F) The area qualified as a blighted improved
17 area immediately prior to becoming vacant, unless
18 there has been substantial private investment in the
19 immediately surrounding area.

20 (b) For any redevelopment project area that has been 21 designated pursuant to this Section by an ordinance adopted 22 prior to November 1, 1999 (the effective date of Public Act 23 91-478), "conservation area" shall have the meaning set forth 24 in this Section prior to that date.

On and after November 1, 1999, "conservation area" means 25 any improved area within the boundaries of a redevelopment 26 project area located within the territorial limits of the 27 municipality in which 50% or more of the structures in the 28 29 area have an age of 35 years or more. Such an area is not 30 yet a blighted area but because of a combination of 3 or more of the following factors is detrimental to the public safety, 31 32 health, morals or welfare and such an area may become a 33 blighted area:

34

(1) Dilapidation. An advanced state of disrepair

or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

7 (2) Obsolescence. The condition or process of
8 falling into disuse. Structures have become ill-suited
9 for the original use.

(3) Deterioration. With respect to buildings, 10 11 defects including, but not limited to, major defects in 12 the secondary building components such as doors, windows, 13 porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of 14 15 roadways, alleys, curbs, gutters, sidewalks, off-street 16 parking, and surface storage areas evidence 17 deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving 18 material, and weeds protruding through paved surfaces. 19

20 (4) Presence of structures below minimum code
21 standards. All structures that do not meet the standards
22 of zoning, subdivision, building, fire, and other
23 governmental codes applicable to property, but not
24 including housing and property maintenance codes.

(5) Illegal use of individual structures. The use
of structures in violation of applicable federal, State,
or local laws, exclusive of those applicable to the
presence of structures below minimum code standards.

29 (6) Excessive vacancies. The presence of buildings
30 that are unoccupied or under-utilized and that represent
31 an adverse influence on the area because of the
32 frequency, extent, or duration of the vacancies.

33 (7) Lack of ventilation, light, or sanitary34 facilities. The absence of adequate ventilation for

1 light or air circulation in spaces or rooms without 2 windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate 3 4 natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or 5 rooms and improper window sizes and amounts by room area 6 to window area ratios. Inadequate sanitary facilities 7 refers to the absence or inadequacy of garbage storage 8 9 and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress 10 11 and egress to and from all rooms and units within a building. 12

(8) Inadequate utilities. Underground and overhead 13 utilities such as storm sewers and storm drainage, 14 15 sanitary sewers, water lines, and gas, telephone, and 16 electrical services that are shown to be inadequate. Inadequate utilities are those that are: 17 (i) of insufficient capacity to serve the uses in the 18 redevelopment project (ii) deteriorated, 19 area, antiquated, obsolete, or in disrepair, or (iii) lacking 20 21 within the redevelopment project area.

22 (9) Excessive land coverage and overcrowding of 23 structures and community facilities. The over-intensive use of property and the crowding of buildings and 24 accessory facilities onto a site. Examples of problem 25 conditions warranting the designation of an area as one 26 exhibiting excessive land coverage are: the presence of 27 buildings either improperly situated on parcels or 28 29 located on parcels of inadequate size and shape in relation to present-day standards of development for 30 health and safety and the presence of multiple buildings 31 on a single parcel. For there to be a finding of 32 excessive land coverage, these parcels must exhibit one 33 more of the following conditions: insufficient 34 or

provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

7 (10) Deleterious land use or layout. The existence
8 of incompatible land-use relationships, buildings
9 occupied by inappropriate mixed-uses, or uses considered
10 to be noxious, offensive, or unsuitable for the
11 surrounding area.

(11) Lack of community planning. The proposed 12 13 redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This 14 15 means that the development occurred prior to the adoption 16 by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the 17 area's development. This factor must be documented by 18 evidence of adverse or incompatible land-use 19 20 relationships, inadequate street layout, improper 21 subdivision, parcels of inadequate shape and size to meet 22 contemporary development standards, or other evidence demonstrating an absence of effective community planning. 23

(12) The area has incurred Illinois Environmental 24 Agency or United States Environmental 25 Protection Protection Agency remediation costs for, or a study 26 conducted by an independent consultant recognized as 27 having expertise in environmental remediation 28 has 29 determined a need for, the clean-up of hazardous waste, 30 hazardous substances, or underground storage tanks required by State or federal law, provided that the 31 remediation costs constitute a material impediment to the 32 development or redevelopment of the redevelopment project 33 34 area.

1 (13) The total equalized assessed value of the 2 proposed redevelopment project area has declined for 3 of the last 5 calendar years for which information is 3 4 available or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 5 calendar years for which information is available or is 6 7 increasing at an annual rate that is less than the 8 Consumer Price Index for All Urban Consumers published by 9 the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information 10 11 is available.

(c) "Industrial park" means an area in a blighted or 12 13 conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, 14 of 15 facilities to include but not be limited to factories, mills, 16 processing plants, assembly plants, packing plants, fabricating plants, industrial distribution centers, 17 warehouses, repair overhaul or service facilities, freight 18 19 terminals, research facilities, test facilities or railroad facilities. 20

21 (d) "Industrial park conservation area" means an area 22 within the boundaries of a redevelopment project area located 23 within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the 24 25 territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; 26 which area is zoned as industrial no later than at the time 27 the municipality by ordinance designates the redevelopment 28 29 project area, and which area includes both vacant land 30 suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land. 31

32 (e) "Labor surplus municipality" means a municipality in 33 which, at any time during the 6 months before the 34 municipality by ordinance designates an industrial park

1 conservation area, the unemployment rate was over 6% and was 2 also 100% or more of the national average unemployment rate for that same time as published in the United States 3 4 Department of Labor Bureau of Labor Statistics publication 5 entitled "The Employment Situation" its successor or б publication. For the purpose of this subsection, if 7 unemployment rate statistics for the municipality are not 8 available, the unemployment rate in the municipality shall be 9 deemed to be the same as the unemployment rate in the principal county in which the municipality is located. 10

11 (f) "Municipality" shall mean a city, village or 12 incorporated town.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

"Revised Initial Sales Tax Amounts" means 20 (q-1) the 21 amount of taxes paid under the Retailers' Occupation Tax Act, 22 Use Tax Act, Service Use Tax Act, the Service Occupation Tax 23 Act, the Municipal Retailers' Occupation Tax Act, and the Service Occupation Tax Act by retailers and 24 Municipal 25 servicemen on transactions at places located within the State 26 Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act. 27

"Municipal Sales Tax Increment" means an amount 28 (h) 29 equal to the increase in the aggregate amount of taxes paid 30 to a municipality from the Local Government Tax Fund arising 31 from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as 32 33 the case may be, for as long as the redevelopment project 34 area or State Sales Tax Boundary, as the case may be, exist

1 over and above the aggregate amount of taxes as certified by 2 the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal 3 4 Service Occupation Tax Act by retailers and servicemen, on 5 transactions at places of business located in the б redevelopment project area or State Sales Tax Boundary, as 7 the case may be, during the base year which shall be the 8 calendar year immediately prior to the year in which the 9 municipality adopted tax increment allocation financing. For purposes of computing the aggregate amount of such taxes for 10 11 base years occurring prior to 1985, the Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes 12 and deduct therefrom an amount equal to 4% of the aggregate 13 amount of taxes per year for each year the base year is prior 14 to 1985, but not to exceed a total deduction of 12%. 15 The 16 amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of 17 determining the Municipal Sales Tax Increment, the Department of Revenue 18 19 shall for each period subtract from the amount paid to the municipality from the Local Government Tax Fund arising from 20 21 sales by retailers and servicemen on transactions located in 22 the redevelopment project area or the State Sales Tax 23 Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the 24 25 Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service 26 Occupation Tax Act. For the State Fiscal 27 Year 1989, this calculation shall be made by utilizing the calendar year 1987 28 to determine the tax amounts received. For the State Fiscal 29 30 Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to 31 32 determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation 33 Tax and the Municipal Service Occupation Tax Act, which shall 34

1 have deducted therefrom nine-twelfths of the certified 2 Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax 3 Amounts as 4 appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, 5 б to June 30, 1989, to determine the tax amounts received from 7 retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act 8 9 which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales 10 11 Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the 12 applicable period shall be the 12 months beginning July 1 and 13 ending June 30 to determine the tax amounts received which 14 shall have deducted therefrom the certified Initial Sales Tax 15 16 Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be. 17

-294-

"Net State Sales Tax Increment" means the sum of the 18 (i) 19 following: (a) 80% of the first \$100,000 of State Sales Tax 20 Increment annually generated within a State Sales Tax 21 Boundary; (b) 60% of the amount in excess of \$100,000 but not exceeding \$500,000 of State Sales Tax Increment annually 22 23 generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of \$500,000 of State Sales Tax 24 25 Increment annually generated within a State Sales Тах Boundary. If, however, a municipality established a tax 26 increment financing district in a county with a population in 27 excess of 3,000,000 before January 1, 1986, 28 and the 29 municipality entered into a contract or issued bonds after 30 January 1, 1986, but before December 31, 1986, to finance redevelopment project costs within a State Sales Tax 31 32 Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 33 100% of the State Sales Tax Increment annually generated 34

1 within a State Sales Tax Boundary; and notwithstanding any 2 other provision of this Act, for those fiscal years the Revenue shall distribute to 3 Department of those 4 municipalities 100% of their Net State Sales Tax Increment any distribution to any other municipality and 5 before б regardless of whether or not those other municipalities will 7 receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 8 9 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to 10 11 finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall 12 be calculated as follows: By multiplying the Net State Sales Tax 13 Increment by 90% in the State Fiscal Year 1999; 80% in the 14 State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 15 16 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the 17 State Fiscal Year 2005; 20% in the State Fiscal Year 2006; 18 19 and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. 20

Municipalities that issued bonds in connection with a 21 22 redevelopment project in a redevelopment project area within 23 the State Sales Tax Boundary prior to July 29, 1991, or that entered into contracts in connection with a redevelopment 24 25 project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the 26 Illinois Tax Increment Fund distribution until the date on 27 which the redevelopment project is completed or terminated. 28 29 If, however, a municipality that issued bonds in connection 30 with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 31 32 retires the bonds prior to June 30, 2007 or a municipality 33 entered into contracts in connection with a that 34 redevelopment project in a redevelopment project area before

1 June 1, 1988 completes the contracts prior to June 30, 2007, 2 then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be 3 4 calculated, beginning on the date on which the bonds are 5 retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the 6 State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 7 40% in the State Fiscal Year 2004; 30% in the State Fiscal 8 Year 2005; 20% in the State Fiscal Year 2006; and 10% in the 9 State Fiscal Year 2007. No payment shall be made for State 10 11 Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State 12 13 Sales Tax Increment.

"State Utility Tax Increment Amount" means an amount 14 (j) 15 equal to the aggregate increase in State electric and gas tax 16 charges imposed on owners and tenants, other than residential customers, of properties located within the redevelopment 17 project area under Section 9-222 of the Public Utilities Act, 18 over and above the aggregate of such charges as certified by 19 the Department of Revenue and paid by owners and tenants, 20 21 other than residential customers, of properties within the 22 redevelopment project area during the base year, which shall 23 be the calendar year immediately prior to the year of the the ordinance authorizing tax increment 24 adoption of 25 allocation financing.

(k) "Net State Utility Tax Increment" means the sum of 26 the following: (a) 80% of the first \$100,000 of State Utility 27 Tax Increment annually generated by a redevelopment project 28 area; (b) 60% of the amount in excess of \$100,000 but not 29 30 exceeding \$500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and 31 (C) 40% of all amounts in excess of \$500,000 of State Utility Tax 32 Increment annually generated by a redevelopment project area. 33 For the State Fiscal Year 1999, and every year thereafter 34

-296-

SB1854 Engrossed

until the year 2007, for any municipality that has not 1 2 entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a 3 4 redevelopment project area, the Net State Utility Тах Increment shall be calculated as follows: By multiplying the 5 б Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the 7 State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 8 9 in the State Fiscal Year 2003; 40% in the State Fiscal 50% Year 2004; 30% in the State Fiscal Year 2005; 20% in the 10 11 State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 12 and thereafter. 13

Municipalities that issue bonds in connection with 14 the 15 redevelopment project during the period from June 1, 1988 16 until 3 years after the effective date of this Amendatory Act of 1988 shall receive the Net State Utility Tax Increment, 17 subject to appropriation, for 15 State Fiscal Years after the 18 19 issuance of such bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State 20 21 Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% 22 in 23 year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 24 25 1988, shall not alter the revised Net State Utility Tax 1. Increment payments set forth above. 26

(1) "Obligations" mean bonds, loans, debentures, notes,
special certificates or other evidence of indebtedness issued
by the municipality to carry out a redevelopment project or
to refund outstanding obligations.

31 (m) "Payment in lieu of taxes" means those estimated tax 32 revenues from real property in a redevelopment project area 33 derived from real property that has been acquired by a 34 municipality which according to the redevelopment project or 1 plan is to be used for a private use which taxing districts 2 would have received had a municipality not acquired the real property and adopted tax increment allocation financing and 3 4 which would result from levies made after the time of the adoption of tax increment allocation financing to the time 5 б the current equalized value of real property in the 7 redevelopment project area exceeds the total initial 8 equalized value of real property in said area.

9 "Redevelopment plan" means the comprehensive program (n) of the municipality for development or redevelopment intended 10 11 by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified 12 13 the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial 14 15 park conservation area," and thereby to enhance the tax bases 16 of the taxing districts which extend into the redevelopment project area. On and after November 1, 1999 (the effective 17 date of Public Act 91-478), no redevelopment plan may be 18 19 approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other 20 21 facilities or (ii) designated by federal, State, county, or 22 municipal government as public land for outdoor recreational 23 activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment 24 25 purpose of this subsection, "recreational plan. For the activities" is limited to mean camping and hunting. Each 26 redevelopment plan shall set forth in writing the program to 27 be undertaken to accomplish the objectives and shall include 28 but not be limited to: 29

30

(A) an itemized list of estimated redevelopment project costs; 31

(B) evidence indicating that the redevelopment 32 project area on the whole has not been subject to growth 33 34 and development through investment by private enterprise;

1	(C) an assessment of any financial impact of the
2	redevelopment project area on or any increased demand for
3	services from any taxing district affected by the plan
4	and any program to address such financial impact or
5	increased demand;
6	(D) the sources of funds to pay costs;
7	(E) the nature and term of the obligations to be
8	issued;

9 (F) the most recent equalized assessed valuation of 10 the redevelopment project area;

(G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;

14 (H) a commitment to fair employment practices and15 an affirmative action plan;

16 (I) if it concerns an industrial park conservation area, the plan shall also include a general description 17 of any proposed developer, user and tenant of any 18 19 property, a description of the type, structure and general character of the facilities to be developed, a 20 21 description of the type, class and number of new employees to be employed in the operation of 22 the 23 facilities to be developed; and

(J) if property is to be annexed to the
municipality, the plan shall include the terms of the
annexation agreement.

The provisions of items (B) and (C) of this subsection 27 (n) shall not apply to a municipality that before March 28 14, 1994 (the effective date of Public Act 88-537) had fixed, 29 30 either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time 31 32 and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted 33 unless a municipality complies with all of the following 34

-300-

1 requirements:

2 (1) The municipality finds that the redevelopment 3 project area on the whole has not been subject to growth 4 and development through investment by private enterprise 5 and would not reasonably be anticipated to be developed 6 without the adoption of the redevelopment plan.

7 (2) The municipality finds that the redevelopment 8 plan and project conform to the comprehensive plan for 9 the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, 10 11 regardless of when the redevelopment plan and project was adopted, the redevelopment plan and project either: (i) 12 conforms to the strategic economic 13 development or redevelopment plan issued by the designated planning 14 authority of the municipality, or (ii) includes land uses 15 16 that have been approved by the planning commission of the 17 municipality.

(3) The redevelopment plan establishes the 18 19 estimated dates of completion of the redevelopment project and retirement of obligations issued to finance 20 21 redevelopment project costs. Those dates shall not be later than December 31 of the year in which the payment 22 23 to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with 24 25 respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance 26 approving the redevelopment project area is adopted if 27 the ordinance was adopted on or after January 15, 1981, 28 and not later than December 31 of the year in which the 29 payment to the municipal treasurer as provided 30 in subsection (b) of Section 11-74.4-8 of this Act is to be 31 made with respect to ad valorem taxes levied in the 32 thirty-fifth calendar year after the year in which the 33 ordinance approving the redevelopment project area is 34

-301-

1 adopted: 2 (A) if the ordinance was adopted before January 15, 1981, or 3 4 (B) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989, or 5 (C) if the ordinance was adopted in December 6 7 1987 and the redevelopment project is located within one mile of Midway Airport, or 8 9 (D) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, 10 11 or (E) if the municipality is subject to the 12 Local Government Financial Planning and Supervision 13 Act or the Financially Distressed City Law, or 14 15 (F) if the ordinance was adopted in December 16 1984 by the Village of Rosemont, or (G) if the ordinance was adopted on December 17 31, 1986 by a municipality located in Clinton County 18 19 for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the 20 21 ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 22 23 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least 24 25 \$250,000 of tax increment bonds were authorized on June 17, 1997, or 26 (H) if the ordinance was adopted on October 5, 27 1982 by the City of Kankakee, or if the ordinance 28 was adopted on December 29, 1986 by East St. Louis, 29 30 or (I) if the ordinance was adopted on November 31 12, 1991 by the Village of Sauget, or 32 (J) if the ordinance was adopted on February 33 11, 1985 by the City of Rock Island, or 34

SB1854 Engrossed

-302-

1 (K) if the ordinance was adopted before December 18, 1986 by the City of Moline, or 2 (L) if the ordinance was adopted in September 3 4 1988 by Sauk Village, or if the ordinance was adopted in October 5 (M) 1993 by Sauk Village, or 6 7 if the ordinance was adopted on December (N) 8 29, 1986 by the City of Galva, or 9 if the ordinance was adopted in March 1991 (0) by the City of Centreville, or 10 11 (P) (b) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis. 12 However, for redevelopment project areas for which 13 bonds were issued before July 29, 1991, or for which 14 contracts were entered into before June 1, 1988, in 15 16 connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates 17 of completion of the redevelopment project and retirement 18 of obligations to finance redevelopment project costs may 19 be extended by municipal ordinance to December 31, 2013. 20 21 The extension allowed by this amendatory Act of 1993 22 shall not apply to real property tax increment allocation 23 financing under Section 11-74.4-8.

A municipality may by municipal ordinance amend an 24 25 existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal 26 ordinance may be adopted without further hearing or 27 notice and without complying with the procedures provided 28 29 in this Act pertaining to an amendment to or the initial 30 approval of a redevelopment plan and project and designation of a redevelopment project area. 31

32 Those dates, for purposes of real property tax 33 increment allocation financing pursuant to Section 34 11-74.4-8 only, shall be not more than 35 years for

1 redevelopment project areas that were adopted on or after 2 December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 3 4 19, 1989 but before January 1, 1990; provided that the 5 municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of 6 7 an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise 8 9 constitute the joint review board for the redevelopment project area, before the adoption of the ordinance. 10

11 Those dates, for purposes of real property tax 12 increment allocation financing pursuant to Section 13 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or 14 15 after December 1, 1981 but before January 1, 1982 and for 16 which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but 17 before July 1, 1991; provided that the municipality 18 elects to extend the life of the redevelopment project 19 area to 35 years by the adoption of an ordinance after at 20 21 least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint 22 23 review board for the redevelopment project area, before the adoption of the ordinance. 24

25 (3.5)The municipality finds, in the case of an industrial park conservation area, also 26 that the municipality is a labor surplus municipality and that the 27 implementation of the redevelopment plan will reduce 28 29 unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts 30 that extend into the redevelopment project area. 31

32 (4) If any incremental revenues are being utilized
33 under Section 8(a)(1) or 8(a)(2) of this Act in
34 redevelopment project areas approved by ordinance after

1 January 1, 1986, the municipality finds: (a) that the 2 redevelopment project area would not reasonably be developed without the use of such incremental revenues, 3 4 that such incremental revenues will be and (b) 5 exclusively utilized for the development of the redevelopment project area. 6

7 (5) On and after November 1, 1999, if the 8 redevelopment plan will not result in displacement of 10 9 residents from inhabited units, and the or more municipality certifies in the plan that such displacement 10 11 will not result from the plan, a housing impact study need not be performed. If, however, the redevelopment 12 plan would result in the displacement of residents from 13 10 or more inhabited residential units, or if the 14 redevelopment project area contains 75 or more inhabited 15 16 residential units and no certification is made, then the municipality shall prepare, as part of the separate 17 feasibility report required by subsection (a) of Section 18 11-74.4-5, a housing impact study. 19

Part I of the housing impact study shall include (i) 20 21 data as to whether the residential units are single 22 family or multi-family units, (ii) the number and type of 23 rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as 24 25 determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of 26 Section 11-74.4-5 is passed, and (iv) data as to the 27 racial and ethnic composition of the residents in the 28 29 inhabited residential units. The data requirement as to 30 the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully 31 satisfied by data from the most recent federal census. 32

33 Part II of the housing impact study shall identify34 the inhabited residential units in the proposed

1 redevelopment project area that are to be or may be 2 If inhabited residential units are to be removed. removed, then the housing impact study shall identify (i) 3 4 the number and location of those units that will or may be removed, (ii) the municipality's plans for relocation 5 assistance for those residents in the proposed 6 7 redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing 8 9 for those residents whose residences are to be removed, and shall identify the type, location, and cost of the 10 11 housing, and (iv) the type and extent of relocation assistance to be provided. 12

13 (6) On and after November 1, 1999, the housing
14 impact study required by paragraph (5) shall be
15 incorporated in the redevelopment plan for the
16 redevelopment project area.

(7) On and after November 1, 1999, no redevelopment 17 plan shall be adopted, nor an existing plan amended, 18 nor shall residential housing that is occupied by households 19 20 of low-income and very low-income persons in currently 21 existing redevelopment project areas be removed after 22 November 1, 1999 unless the redevelopment plan provides, 23 with respect to inhabited housing units that are to be removed for households of low-income and very low-income 24 persons, affordable housing and relocation assistance not 25 less than that which would be provided under the federal 26 27 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations 28 29 under that Act, including the eligibility criteria. Affordable housing may be either existing or newly 30 constructed housing. For purposes of this paragraph (7), 31 "low-income households", "very low-income households", 32 and "affordable housing" have the meanings set forth in 33 34 the Illinois Affordable Housing Act. The municipality -306-

shall make a good faith effort to ensure that this
 affordable housing is located in or near the
 redevelopment project area within the municipality.

4 (8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment 5 project area, any municipality desires to amend its 6 7 redevelopment plan to remove more inhabited residential 8 units than specified in its original redevelopment plan, 9 that increase in the number of units to be removed shall to be a change in the nature of 10 be deemed the 11 redevelopment plan as to require compliance with the procedures in this Act pertaining to the initial approval 12 13 of a redevelopment plan.

redevelopment project areas designated 14 (9) For prior to November 1, 1999, the redevelopment plan may be 15 16 amended without further joint review board meeting or hearing, provided that the municipality shall give notice 17 of any such changes by mail to each affected taxing 18 19 district and registrant on the interested party registry, 20 to authorize the municipality to expend tax increment 21 revenues for redevelopment project costs defined by 22 paragraphs (5) and (7.5), subparagraphs (E) and (F) of 23 paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the changes do not increase 24 25 the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% 26 after adjustment for inflation from the date the plan was 27 adopted. 28

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and 1 other facilities or (ii) designated by federal, State, 2 county, or municipal government as public land for outdoor 3 recreational activities or for nature preserves and used for 4 that purpose within 5 years prior to the adoption of the 5 redevelopment plan. For the purpose of this subsection, 6 "recreational activities" is limited to mean camping and 7 hunting.

(p) "Redevelopment project 8 area" means an area 9 designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the 10 11 municipality has made a finding that there exist conditions which cause the area to be classified as an industrial park 12 13 conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation 14 15 areas.

16 (q) "Redevelopment project costs" mean and include the 17 sum total of all reasonable or necessary costs incurred or 18 estimated to be incurred, and any such costs incidental to a 19 redevelopment plan and a redevelopment project. Such costs 20 include, without limitation, the following:

21 (1) Costs of studies, surveys, development of 22 plans, and specifications, implementation and 23 administration of the redevelopment plan including but not limited to staff and professional service costs for 24 architectural, engineering, legal, financial, planning or 25 other services, provided however that no charges for 26 professional services may be based on a percentage of the 27 tax increment collected; except that on and 28 after November 1, 1999 (the effective date of Public Act 29 30 91-478), no contracts for professional services, excluding architectural and engineering services, may be 31 entered into if the terms of the contract extend beyond a 32 period of 3 years. In addition, "redevelopment project 33 34 costs" shall not include lobbying expenses. After

consultation with the municipality, each tax increment 1 2 consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area 3 4 shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with 5 entities or individuals that have received, or are 6 7 receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect 8 9 to which the consultant or advisor has performed, or will be performing, service for the municipality. 10 This 11 requirement shall be satisfied by the consultant or advisor before the commencement of services for the 12 municipality and thereafter whenever any other contracts 13 with those individuals or entities are executed by the 14 15 consultant or advisor;

16 (1.5) After July 1, 1999, annual administrative shall not include 17 costs general overhead or administrative costs of the municipality that would still 18 have been incurred by the municipality if the 19 municipality had not designated a redevelopment project 20 21 area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the
redevelopment project area to prospective businesses,
developers, and investors;

25 (2) Property assembly costs, including but not limited to acquisition of land and other property, real 26 or personal, or rights or interests therein, demolition 27 of buildings, site preparation, site improvements that 28 29 serve as an engineered barrier addressing ground level or 30 below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt 31 barriers, and the clearing and grading of land; 32

33 (3) Costs of rehabilitation, reconstruction or
 34 repair or remodeling of existing public or private

buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;

7 (4) Costs of the construction of public works or 8 improvements, except that on and after November 1, 1999, 9 redevelopment project costs shall not include the cost of constructing a new municipal public building principally 10 11 used to provide offices, storage space, or conference 12 facilities or vehicle storage, maintenance, or repair for 13 administrative, public safety, or public works personnel and that is not intended to replace an existing public 14 15 building as provided under paragraph (3) of subsection 16 (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a 17 redevelopment project that included 18 was in a redevelopment plan that was adopted by the municipality 19 prior to November 1, 1999 or (ii) the municipality makes 20 21 a reasonable determination in the redevelopment plan, 22 supported by information that provides the basis for that 23 determination, that the new municipal building is 24 required to meet an increase in the need for public safety purposes anticipated to 25 result from the implementation of the redevelopment plan; 26

(5) Costs of job training and retraining projects,
including the cost of "welfare to work" programs
implemented by businesses located within the
redevelopment project area;

31 (6) Financing costs, including but not limited to 32 all necessary and incidental expenses related to the 33 issuance of obligations and which may include payment of 34 interest on any obligations issued hereunder including 1 interest accruing during the estimated period of 2 construction of any redevelopment project for which such 3 obligations are issued and for not exceeding 36 months 4 thereafter and including reasonable reserves related 5 thereto;

6 (7) To the extent the municipality by written 7 agreement accepts and approves the same, all or a portion 8 of a taxing district's capital costs resulting from the 9 redevelopment project necessarily incurred or to be 10 incurred within a taxing district in furtherance of the 11 objectives of the redevelopment plan and project.

(7.5) For redevelopment project areas designated 12 13 (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted 14 15 housing units) on or after November 1, 1999, an 16 elementary, secondary, or unit school district's increased costs attributable to assisted housing units 17 located within the redevelopment project area for which 18 the developer or redeveloper receives financial 19 assistance through an agreement with the municipality or 20 21 because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the 22 assisted housing sites necessary for the completion of 23 that housing as authorized by this Act, and which costs 24 shall be paid by the municipality from the Special Tax 25 Allocation Fund when the tax increment revenue 26 is received as a result of the assisted housing units and 27 shall be calculated annually as follows: 28

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the SB1854 Engrossed

1 redevelopment project area that have received 2 financial assistance through an agreement with the municipality or because the municipality incurs the 3 4 cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for 5 the completion of that housing as authorized by this 6 7 Act since the designation of the redevelopment project area by the most recently available per 8 9 capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general 10 State aid as defined in Section 18-8.05 of the 11 School Code attributable to these added new students 12 subject to the following annual limitations: 13

14 (i) for unit school districts with a
15 district average 1995-96 Per Capita Tuition
16 Charge of less than \$5,900, no more than 25% of
17 the total amount of property tax increment
18 revenue produced by those housing units that
19 have received tax increment finance assistance
20 under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita Tuition Charge of less than \$5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with
a district average 1995-96 Per Capita Tuition
Charge of less than \$5,900, no more than 8% of
the total amount of property tax increment
revenue produced by those housing units that
have received tax increment finance assistance
under this Act.

1 (B) For alternate method districts, flat grant 2 districts, and foundation districts with a district average 1995-96 Per Capita Tuition Charge equal to 3 4 or more than \$5,900, excluding any school district with a population in excess of 1,000,000, 5 by multiplying the district's increase in attendance 6 7 resulting from the net increase in new students enrolled in that school district who reside in 8 9 housing units within the redevelopment project area that have received financial assistance through an 10 11 agreement with the municipality or because the municipality incurs the cost of necessary 12 infrastructure improvements within the boundaries of 13 the housing sites necessary for the completion of 14 that housing as authorized by this Act since the 15 16 designation of the redevelopment project area by the most recently available per capita tuition cost as 17 defined in Section 10-20.12a of the School Code less 18 any increase in general state aid as defined in 19 Section 18-8.05 of the School Code attributable to 20 21 these added new students subject to the following annual limitations: 22

(i) for unit school districts, no more
than 40% of the total amount of property tax
increment revenue produced by those housing
units that have received tax increment finance
assistance under this Act;

(ii) for elementary school districts, no
more than 27% of the total amount of property
tax increment revenue produced by those housing
units that have received tax increment finance
assistance under this Act; and

33 (iii) for secondary school districts, no
34 more than 13% of the total amount of property

SB1854 Engrossed

-313-

1tax increment revenue produced by those housing2units that have received tax increment finance3assistance under this Act.

4 (C) For any school district in a municipality 5 with a population in excess of 1,000,000, the 6 following restrictions shall apply to the 7 reimbursement of increased costs under this 8 paragraph (7.5):

9 (i) no increased costs shall be 10 reimbursed unless the school district certifies 11 that each of the schools affected by the 12 assisted housing project is at or over its 13 student capacity;

14 (ii) the amount reimburseable shall be 15 reduced by the value of any land donated to the 16 school district by the municipality or 17 developer, and by the value of any physical 18 improvements made to the schools by the 19 municipality or developer; and

20 (iii) the amount reimbursed may not 21 affect amounts otherwise obligated by the terms 22 of any bonds, notes, or other funding 23 instruments, or the terms of any redevelopment 24 agreement.

25 Any school district seeking payment under this paragraph (7.5) shall, after July 1 and before 26 September 30 of each year, provide the municipality 27 with reasonable evidence to support its claim for 28 29 reimbursement before the municipality shall be 30 required to approve or make the payment to the school district. If the school district fails to 31 provide the information during this period in any 32 year, it shall forfeit any claim to reimbursement 33 for that year. School districts may adopt a 34

1 resolution waiving the right to all or a portion of 2 reimbursement otherwise required by this the 3 paragraph (7.5). By acceptance of this 4 reimbursement the school district waives the right 5 to directly or indirectly set aside, modify, or contest in any manner the establishment of the 6 7 redevelopment project area or projects;

8 (8) Relocation costs to the extent that а 9 municipality determines that relocation costs shall be paid or is required to make payment of relocation costs 10 11 by federal or State law or in order to satisfy subparagraph (7) of subsection (n); 12

13

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced 14 15 vocational education or career education, including but 16 not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred 17 by one or more taxing districts, provided that such costs 18 (i) are related to the establishment and maintenance of 19 additional job training, advanced vocational education or 20 21 career education programs for persons employed or to be 22 employed by employers located in a redevelopment project 23 area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set 24 forth in a written agreement by or among the municipality 25 and the taxing district or taxing districts, which 26 describes the program to be undertaken, 27 agreement including but not limited to the number of employees to 28 29 be trained, a description of the training and services to 30 be provided, the number and type of positions available or to be available, itemized costs of the program and 31 sources of funds to pay for the same, and the term of the 32 agreement. Such costs include, specifically, the payment 33 by community college districts of costs pursuant to 34

Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public
 Community College Act and by school districts of costs
 pursuant to Sections 10-22.20a and 10-23.3a of The School
 Code;

5 (11) Interest cost incurred by a redeveloper 6 related to the construction, renovation or rehabilitation 7 of a redevelopment project provided that:

8 (A) such costs are to be paid directly from 9 the special tax allocation fund established pursuant 10 to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

15 (C) if there are not sufficient funds 16 available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the 17 amounts so due shall accrue and be payable when 18 sufficient funds are available in the special tax 19 allocation fund; 20

(D) the total of such interest payments paid
pursuant to this Act may not exceed 30% of the total
(i) cost paid or incurred by the redeveloper for the
redevelopment project plus (ii) redevelopment
project costs excluding any property assembly costs
and any relocation costs incurred by a municipality
pursuant to this Act; and

(E) the cost limits set forth in subparagraphs
(B) and (D) of paragraph (11) shall be modified for
the financing of rehabilitated or new housing units
for low-income households and very low-income
households, as defined in Section 3 of the Illinois
Affordable Housing Act. The percentage of 75% shall
be substituted for 30% in subparagraphs (B) and (D)

1

of paragraph (11).

2 Instead of the eligible costs provided by (F) subparagraphs (B) and (D) of paragraph (11), as 3 4 modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, 5 the municipality may pay from tax increment revenues 6 7 up to 50% of the cost of construction of new housing units to be occupied by low-income households and 8 9 very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of 10 11 construction of those units may be derived from the proceeds of bonds issued by the municipality under 12 this Act or other constitutional or statutory 13 authority or from other sources of municipal revenue 14 that may be reimbursed from tax increment revenues 15 16 or the proceeds of bonds issued to finance the construction of that housing. 17

The eligible costs provided under this 18 subparagraph (F) of paragraph (11) shall be an 19 eligible cost for the construction, renovation, and 20 rehabilitation of all low and very low-income 21 housing units, as defined in Section 3 of the 22 23 Illinois Affordable Housing Act, within the 24 redevelopment project area. If the low and very low-income units are part 25 of a residential redevelopment project that includes units not 26 affordable to low and very low-income households, 27 only the low and very low-income units shall be 28 29 eligible for benefits under subparagraph (F) of 30 paragraph (11). The standards for maintaining the occupancy by low-income households and very 31 low-income households, as defined in Section 3 of 32 the Illinois Affordable Housing Act, of those units 33 34 constructed with eligible costs made available under SB1854 Engrossed

the provisions of this subparagraph (F) of paragraph 1 2 (11) shall be established by guidelines adopted by the municipality. The responsibility for annually 3 4 documenting the initial occupancy of the units by 5 low-income households and very low-income households, as defined in Section 3 of the Illinois 6 7 Affordable Housing Act, shall be that of the then 8 current owner of the property. For ownership units, 9 the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate 10 11 methods designed to preserve the original affordability of the ownership units. For rental 12 units, the guidelines will provide, at a minimum, 13 for the affordability of rent to low and very 14 15 low-income households. As units become available, 16 they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time 17 to time; the guidelines, however, shall be in effect 18 for as long as tax increment revenue is being used 19 to pay for costs associated with the units or for 20 21 the retirement of bonds issued to finance the units 22 or for the life of the redevelopment project area, whichever is later. 23

(11.5) If the redevelopment project area is located 24 within a municipality with a population of more than 25 100,000, the cost of day care services for children of 26 employees from low-income families working for businesses 27 located within the redevelopment project area and all or 28 29 a portion of the cost of operation of day care centers established by redevelopment project area businesses to 30 31 serve employees from low-income families working in businesses located in the redevelopment project area. 32 For the purposes of this paragraph, "low-income families" 33 means families whose annual income does not exceed 80% of 34

the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

6 (12) Unless explicitly stated herein the cost of 7 construction of new privately-owned buildings shall not 8 be an eligible redevelopment project cost.

9 (13) After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project 10 11 costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide 12 direct financial support to a retail entity initiating 13 operations in the redevelopment project area 14 while 15 terminating operations at another Illinois location 16 within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area 17 municipality. For purposes of this 18 paragraph, 19 termination means a closing of a retail operation that is directly related to the opening of the same operation or 20 21 like retail entity owned or operated by more than 50% of 22 the original ownership in a redevelopment project area, 23 but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by 24 25 the retail entity, subject to a reasonable finding by the municipality that the current location contained 26 inadequate space, had become economically obsolete, or 27 was no longer a viable location for the retailer or 28 serviceman. 29

30 If a special service area has been established pursuant 31 to the Special Service Area Tax Act or Special Service Area 32 Tax Law, then any tax increment revenues derived from the tax 33 imposed pursuant to the Special Service Area Tax Act or 34 Special Service Area Tax Law may be used within the -319-

redevelopment project area for the purposes permitted by that
 Act or Law as well as the purposes permitted by this Act.

(r) "State Sales Tax Boundary" means the redevelopment 3 4 project area or the amended redevelopment project area 5 boundaries which are determined pursuant to subsection (9) of Section 11-74.4-8a of this Act. The Department of Revenue 6 7 shall certify pursuant to subsection (9) of Section 8 11-74.4-8a the appropriate boundaries eligible for the 9 determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to 10 11 the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen 12 13 subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary 14 15 pursuant to the Retailers' Occupation Tax Act, the Use Tax 16 Act, the Service Use Tax Act, and the Service Occupation Tax Act, except such portion of such increase that is paid into 17 the State and Local Sales Tax Reform Fund, the Local 18 19 Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as 20 21 long as State participation exists, over and above the 22 Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts 23 or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those 24 25 Acts by retailers and servicemen on transactions at places of business located within the State Sales Tax Boundary during 26 the base year which shall be the calendar year immediately 27 prior to the year in which the municipality adopted tax 28 increment allocation financing, less 3.0% of such amounts 29 30 generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax 31 32 Act, which sum shall be appropriated to the Department of Revenue to cover its costs of administering and enforcing 33 34 this Section. For purposes of computing the aggregate amount

1 of such taxes for base years occurring prior to 1985, the 2 Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 3 4 4% of the aggregate amount of taxes per year for each year 5 the base year is prior to 1985, but not to exceed a total 6 deduction of 12%. The amount so determined shall be known as 7 the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of 8 9 Revenue shall for each period subtract from the tax amounts received from retailers and servicemen on transactions 10 11 located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts 12 or Revised Initial Sales Tax Amounts for the Retailers' 13 Occupation Tax Act, the Use Tax Act, the Service Use Tax Act 14 15 and the Service Occupation Tax Act. For the State Fiscal 16 Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For 17 the State Fiscal Year 1990, this calculation shall be made by 18 19 utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received 20 from 21 retailers and servicemen, which shall have deducted therefrom 22 nine-twelfths of the certified Initial Sales Tax Amounts, 23 Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 24 25 1991, this calculation shall be made by utilizing the period from October 1, 1988, until June 30, 1989, to determine the 26 tax amounts received from retailers and servicemen, which 27 shall have deducted therefrom nine-twelfths of the certified 28 29 Initial State Sales Tax Amounts, Adjusted Initial Sales Tax 30 Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the 31 32 applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received 33 34 which shall have deducted therefrom the certified Initial

Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the
 Revised Initial Sales Tax Amounts. Municipalities intending
 to receive a distribution of State Sales Tax Increment must
 report a list of retailers to the Department of Revenue by
 October 31, 1988 and by July 31, of each year thereafter.

6 (t) "Taxing districts" means counties, townships, cities 7 and incorporated towns and villages, school, road, park, 8 sanitary, mosquito abatement, forest preserve, public health, 9 fire protection, river conservancy, tuberculosis sanitarium 10 and any other municipal corporations or districts with the 11 power to levy taxes.

12 (u) "Taxing districts' capital costs" means those costs 13 of taxing districts for capital improvements that are found 14 by the municipal corporate authorities to be necessary and 15 directly result from the redevelopment project.

16 (v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of 17 parcels of real property without industrial, commercial, and 18 residential buildings which has not been used for commercial 19 agricultural purposes within 5 years prior to the designation 20 21 of the redevelopment project area, unless the parcel is 22 included in an industrial park conservation area or the 23 parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more 24 25 smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to 26 have been subdivided, and all proceedings and actions of the 27 municipality taken in that connection with respect to any 28 29 previously approved or designated redevelopment project area 30 or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes 31 32 this Act. For purposes of this Section and only for land of 33 subject to the subdivision requirements of the Plat Act, land 34 is subdivided when the original plat of the proposed

1 Redevelopment Project Area or relevant portion thereof has 2 been properly certified, acknowledged, approved, and recorded 3 or filed in accordance with the Plat Act and a preliminary 4 plat, if any, for any subsequent phases of the proposed 5 Redevelopment Project Area or relevant portion thereof has 6 been properly approved and filed in accordance with the 7 applicable ordinance of the municipality.

"Annual Total Increment" means the sum of 8 (w) each 9 municipality's annual Net Sales Tax Increment and each municipality's annual Net Utility Tax Increment. The ratio 10 11 of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most 12 recently calculated by the Department, shall determine the 13 proportional shares of the Illinois Tax Increment Fund to be 14 15 distributed to each municipality.

16 (Source: P.A. 91-261, eff. 7-23-99; 91-477, eff. 8-11-99; 17 91-478, eff. 11-1-99; 91-642, eff. 8-20-99; 91-763, eff. 18 6-9-00; 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; revised 19 9-19-01.)

20 (65 ILCS 5/11-74.4-7) (from Ch. 24, par. 11-74.4-7)

Sec. 11-74.4-7. Obligations secured by the special 21 tax allocation fund set forth in Section 11-74.4-8 for the 22 redevelopment project area may be issued to provide for 23 24 redevelopment project costs. Such obligations, when so issued, shall be retired in the manner provided in the 25 ordinance authorizing the issuance of such obligations by the 26 receipts of taxes levied as specified in Section 11-74.4-9 27 28 against the taxable property included in the area, bv 29 revenues as specified by Section 11-74.4-8a and other revenue designated by the municipality. A municipality may in the 30 31 ordinance pledge all or any part of the funds in and to be deposited in the special tax allocation fund created pursuant 32 to Section 11-74.4-8 to the payment of the redevelopment 33

SB1854 Engrossed

-323-

1 project costs and obligations. Any pledge of funds in the 2 special tax allocation fund shall provide for distribution to the taxing districts and to the Illinois Department of 3 4 Revenue of moneys not required, pledged, earmarked, or 5 otherwise designated for payment and securing of the б obligations and anticipated redevelopment project costs and 7 such excess funds shall be calculated annually and deemed to 8 be "surplus" funds. In the event a municipality only applies 9 pledges a portion of the funds in the special tax or allocation fund for the payment or securing of anticipated 10 11 redevelopment project costs or of obligations, any such funds remaining in the special tax allocation fund after complying 12 with the requirements of the application or pledge, shall 13 also be calculated annually and deemed "surplus" funds. All 14 surplus funds in the special tax allocation fund shall 15 be 16 distributed annually within 180 days after the close of the municipality's fiscal year by being paid by the municipal 17 treasurer to the County Collector, to the Department of 18 19 Revenue and to the municipality in direct proportion to the tax incremental revenue received as a result of an increase 20 21 in the equalized assessed value of property in the 22 redevelopment project area, tax incremental revenue received 23 from the State and tax incremental revenue received from the municipality, but not to exceed as to each such source the 24 25 total incremental revenue received from that source. The County Collector shall thereafter make distribution to the 26 respective taxing districts in the same manner and proportion 27 as the most recent distribution by the county collector to 28 the affected districts of real property taxes from real 29 30 property in the redevelopment project area.

31 Without limiting the foregoing in this Section, the 32 municipality may in addition to obligations secured by the 33 special tax allocation fund pledge for a period not greater 34 than the term of the obligations towards payment of such 1 obligations any part or any combination of the following: (a) 2 net revenues of all or part of any redevelopment project; (b) taxes levied and collected on any or all property in 3 the 4 municipality; (c) the full faith and credit of the 5 municipality; (d) a mortgage on part or all of the redevelopment project; or (e) any other taxes or anticipated 6 7 receipts that the municipality may lawfully pledge.

8 Such obligations may be issued in one or more series 9 bearing interest at such rate or rates as the corporate authorities of the municipality shall determine by ordinance. 10 11 Such obligations shall bear such date or dates, mature at such time or times not exceeding 20 years from their 12 respective dates, be in such denomination, carry such 13 registration privileges, be executed in such manner, 14 be 15 payable in such medium of payment at such place or places, 16 contain such covenants, terms and conditions, and be subject to redemption as such ordinance shall provide. Obligations 17 issued pursuant to this Act may be sold at public or private 18 19 sale at such price as shall be determined by the corporate authorities of the municipalities. No referendum approval of 20 21 the electors shall be required as a condition to the issuance 22 of obligations pursuant to this Division except as provided 23 in this Section.

In the event the municipality authorizes issuance of 24 25 obligations pursuant to the authority of this Division secured by the full faith and credit of the municipality, 26 which obligations are other than obligations which may be 27 issued under home rule powers provided by Article VII, 28 29 Section 6 of the Illinois Constitution, or pledges taxes 30 pursuant to (b) or (c) of the second paragraph of this section, the ordinance authorizing the issuance of such 31 32 obligations or pledging such taxes shall be published within 33 10 days after such ordinance has been passed in one or more 34 newspapers, with general circulation within such 1 municipality. The publication of the ordinance shall be 2 accompanied by a notice of (1) the specific number of voters required to sign a petition requesting the question of the 3 4 issuance of such obligations or pledging taxes to be 5 submitted to the electors; (2) the time in which such petition must be filed; and (3) the date of the prospective 6 7 The municipal clerk shall provide a petition referendum. form to any individual requesting one. 8

9 If no petition is filed with the municipal clerk, as hereinafter provided in this Section, within 30 days after 10 11 the publication of the ordinance, the ordinance shall be in But, if within that 30 day period a petition is 12 effect. filed with the municipal clerk, signed by electors 13 in the municipality numbering 10% or more of the number 14 of 15 registered voters in the municipality, asking that the 16 question of issuing obligations using full faith and credit of the municipality as security for the cost of paying for 17 redevelopment project costs, or of pledging taxes for the 18 19 payment of such obligations, or both, be submitted to the electors of the municipality, the corporate authorities of 20 21 the municipality shall call a special election in the manner provided by law to vote upon that question, or, if a general, 22 23 State or municipal election is to be held within a period of not less than 30 or more than 90 days from the date such 24 25 petition is filed, shall submit the question at the next general, State or municipal election. If it appears upon the 26 canvass of the election by the corporate authorities that a 27 majority of electors voting upon the question voted in favor 28 thereof, the ordinance shall be in effect, but if a majority 29 30 of the electors voting upon the question are not in favor thereof, the ordinance shall not take effect. 31

32 The ordinance authorizing the obligations may provide 33 that the obligations shall contain a recital that they are 34 issued pursuant to this Division, which recital shall be conclusive evidence of their validity and of the regularity
 of their issuance.

In the event the municipality authorizes issuance of 3 4 obligations pursuant to this Section secured by the full and credit of the municipality, the ordinance 5 faith authorizing the obligations may provide for the levy and 6 7 collection of a direct annual tax upon all taxable property 8 within the municipality sufficient to pay the principal thereof and interest thereon as it matures, which levy may be 9 in addition to and exclusive of the maximum of all other 10 11 taxes authorized to be levied by the municipality, which levy, however, shall be abated to the extent that monies from 12 other sources are available for payment of the obligations 13 and the municipality certifies the amount of said monies 14 15 available to the county clerk.

A certified copy of such ordinance shall be filed with the county clerk of each county in which any portion of the municipality is situated, and shall constitute the authority for the extension and collection of the taxes to be deposited in the special tax allocation fund.

21 A municipality may also issue its obligations to refund 22 in whole or in part, obligations theretofore issued by such 23 municipality under the authority of this Act, whether at or prior to maturity, provided however, that the last maturity 24 25 of the refunding obligations shall not be expressed to mature later than December 31 of the year in which the payment to 26 the municipal treasurer as provided in subsection (b) of 27 Section 11-74.4-8 of this Act is to be made with respect to 28 29 ad valorem taxes levied in the twenty-third calendar year 30 after the year in which the ordinance approving the redevelopment project area is adopted if the ordinance was 31 adopted on or after January 15, 1981, and not later than 32 December 31 of the year in which the payment to the municipal 33 treasurer as provided in subsection (b) of Section 11-74.4-8 34

1 of this Act is to be made with respect to ad valorem taxes 2 levied in the thirty-fifth calendar year after the year in which the ordinance approving the redevelopment project area 3 4 is adopted (A) if the ordinance was adopted before January 5 15, 1981, or (B) if the ordinance was adopted in December б 1983, April 1984, July 1985, or December 1989, or (C) if the ordinance was adopted in December, 1987 and the redevelopment 7 project is located within one mile of Midway Airport, or 8 (D) 9 if the ordinance was adopted before January 1, 1987 by a municipality in Mason County, or (E) if the municipality is 10 11 subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law, or 12 (F) if the ordinance was adopted in December 1984 by the 13 Village of Rosemont, or (G) if the ordinance was adopted on 14 December 31, 1986 by a municipality located in Clinton County 15 16 for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted 17 on December 31, 1986 by a municipality with a population in 18 19 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least 20 21 \$250,000 of tax increment bonds were authorized on June 17, 22 1997, or (H) if the ordinance was adopted on October 5, 1982 23 by the City of Kankakee, or (I) if the ordinance was adopted on December 29, 1986 by East St. Louis, or if the ordinance 24 25 was adopted on November 12, 1991 by the Village of Sauget, or (J) if the ordinance was adopted on February 11, 1985 by the 26 City of Rock Island, or (K) if the ordinance was adopted 27 before December 18, 1986 by the City of Moline, or (L) if the 28 ordinance was adopted in September 1988 by Sauk Village, 29 or 30 if the ordinance was adopted in October 1993 by Sauk (M) Village, or (N) if the ordinance was adopted on December 31 29, 32 1986 by the City of Galva, or (0) if the ordinance was adopted in March 1991 by the City of Centreville, or (P) (b) 33 34 if the ordinance was adopted on January 23, 1991 by the City

1 of East St. Louis and, for redevelopment project areas for 2 which bonds were issued before July 29, 1991, in connection with a redevelopment project in the area within the State 3 4 Sales Tax Boundary and which were extended by municipal ordinance under subsection (n) of Section 11-74.4-3, the last 5 maturity of the refunding obligations shall not be expressed 6 7 to mature later than the date on which the redevelopment project area is terminated or December 31, 2013, whichever 8 date occurs first. 9

In the event a municipality issues obligations under home 10 11 rule powers or other legislative authority the proceeds of 12 which are pledged to pay for redevelopment project costs, the municipality may, if it has followed the procedures in 13 conformance with this division, retire said obligations from 14 15 funds in the special tax allocation fund in amounts and in 16 such manner as if such obligations had been issued pursuant to the provisions of this division. 17

All obligations heretofore or hereafter issued pursuant 18 to this Act shall not be regarded as indebtedness of the 19 municipality issuing such obligations or any other taxing 20 21 district for the purpose of any limitation imposed by law. (Source: P.A. 91-261, eff. 7-23-99; 91-477, eff. 8-11-99; 22 23 91-478, eff. 11-1-99; 91-642, eff. 8-20-99; 91-763, eff. 6-9-00; 92-263, eff. 8-7-01; 92-406, eff. 1-1-02; revised 24 25 10 - 10 - 01.)

26

(65 ILCS 5/11-95-7) (from Ch. 24, par. 11-95-7)

Sec. 11-95-7. Whenever a petition signed by at least 10% 27 28 of the electors of a municipality with a population of less than 500,000 is filed with the municipal clerk the municipal 29 30 clerk shall certify the question of the establishment, maintenance, and conduct of a recreation 31 system for submission to the electors at an election in accordance with 32 33 the general election law. to--the--electors. The petition

1 shall request the corporate authorities of the municipality 2 to establish, maintain, and conduct a supervised recreation system and to levy an annual tax for the establishment, 3 4 conduct, and maintenance thereof. The petition shall 5 designate the minimum tax to be levied except that in no case б shall the tax be more than 0.09% -09% of the value, as 7 equalized or assessed by the Department of Revenue, of all 8 taxable property within the corporate limits of the 9 municipality.

10 The corporate authorities may accumulate funds from the 11 proceeds of such tax for the purpose of building, repairs and 12 improvements for recreation purposes in excess of current 13 requirements for such purposes but subject to the limitation 14 set herein.

15 (Source: P.A. 81-1489; 81-1509; revised 12-13-01.)

16 Section 35. The Metropolitan Water Reclamation District 17 Act is amended by setting forth and renumbering multiple 18 versions of Sections 283 and 285 as follows:

19

(70 ILCS 2605/283)

20 Sec. 283. District enlarged. Upon the effective date of 21 this amendatory Act of the 91st General Assembly, the 22 corporate limits of the Metropolitan Water Reclamation 23 District Act are extended to include within those limits the 24 following described tract of land, and that tract is annexed 25 to the District.

26THAT PART OF SECTIONS 21, 28 AND 33, TOWNSHIP42NORTH,27RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS28FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE29NORTHEAST QUARTER OF SAID SECTION 28; THENCE SOUTH 0030DEGREES 19 MINUTES 35 SECONDS EAST ALONG THE EAST LINE OF31THE SOUTHEAST QUARTER OF SAID SECTION 28, A DISTANCE OF322624.22 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 28;

THENCE SOUTH 00 DEGREES 04 MINUTES 45 SECONDS EAST ALONG 1 2 THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33, A DISTANCE OF 643.38 FEET; THENCE SOUTH 89 DEGREES 40 3 4 MINUTES 35 SECONDS WEST, A DISTANCE OF 1079.11 FEET TO A POINT ON A LINE 1079.10 FEET WEST OF AND PARALLEL WITH 5 THE EAST LINE OF SAID SECTION 33; THENCE SOUTH 00 DEGREES 6 7 04 MINUTES 45 SECONDS EAST ALONG SAID PARALLEL LINE, A 8 DISTANCE OF 281.47 FEET; THENCE NORTH 89 DEGREES 40 9 MINUTES 35 SECONDS EAST, A DISTANCE OF 1079.11 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 33; THENCE SOUTH 10 11 00 DEGREES 04 MINUTES 45 SECONDS EAST ALONG SAID EAST LINE, A DISTANCE OF 1707.93 FEET TO THE SOUTHEAST CORNER 12 OF THE NORTHEAST QUARTER OF SAID SECTION 33; THENCE NORTH 13 89 DEGREES 58 MINUTES 22 SECONDS WEST ALONG THE SOUTH 14 15 LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1079.10 16 FEET TO A POINT ON A LINE 1079.10 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID SECTION 33; THENCE 17 NORTH 00 DEGREES 04 MINUTES 45 SECONDS WEST ALONG SAID 18 PARALLEL LINE, A DISTANCE OF 1313.07 FEET TO A POINT ON 19 THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER 20 21 OF SAID SECTION 33; THENCE SOUTH 89 DEGREES 51 MINUTES 05 22 SECONDS WEST ALONG THE SOUTH LINE OF THE NORTH HALF OF SAID NORTHEAST QUARTER, A DISTANCE OF 1334.88 FEET; 23 THENCE NORTH 22 DEGREES 20 MINUTES 04 SECONDS EAST A 24 25 DISTANCE OF 241.05 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE 26 NORTHEASTERLY AND HAVING A RADIUS OF 165.00 FEET AND A 27 CHORD BEARING OF NORTH 42 DEGREES 58 MINUTES 45 SECONDS 28 29 WEST, AN ARC LENGTH OF 91.17 FEET TO A POINT ON A 30 NON-TANGENT LINE; THENCE SOUTH 62 DEGREES 51 MINUTES 00 SECONDS WEST, A DISTANCE OF 135.00 FEET; THENCE NORTH 50 31 DEGREES 00 MINUTES 12 SECONDS WEST, A DISTANCE OF 114.07 32 FEET TO A POINT ON THE EAST LINE OF ILLINOIS ROUTE 59; 33 34 THENCE NORTH 00 DEGREES 11 MINUTES 17 SECONDS WEST ALONG

1 SAID EAST LINE, A DISTANCE OF 523.87 FEET; THENCE SOUTH 2 84 DEGREES 58 MINUTES 24 SECONDS EAST, A DISTANCE OF 228.14 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE 3 4 NORTHERLY ALONG A CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 1501.93 FEET AND A CHORD BEARING OF NORTH 01 5 DEGREES 29 MINUTES 47 SECONDS WEST, AN ARC LENGTH OF 6 7 341.98 FEET; THENCE SOUTH 81 DEGREES 58 MINUTES 50 8 SECONDS WEST, A DISTANCE OF 221.47 FEET TO A POINT ON 9 SAID EASTERLY RIGHT OF WAY LINE OF ILLINOIS ROUTE 59; THENCE NORTHERLY ALONG THE EAST LINE OF SAID ILLINOIS 10 11 ROUTE 59 FOR THE FOLLOWING EIGHT COURSES; (1) THENCE NORTH 00 DEGREES 11 MINUTES 17 SECONDS WEST, A DISTANCE 12 OF 193.36 FEET TO A POINT ON THE SOUTH LINE OF SAID 13 SECTION 28; (2) THENCE NORTH 00 DEGREES 11 MINUTES 05 14 15 SECONDS WEST, A DISTANCE OF 2637.83 FEET TO A POINT ON 16 THE SOUTH LINE OF THE NORTH HALF OF SAID SECTION 28; (3) THENCE NORTH 00 DEGREES 12 MINUTES 10 SECONDS WEST, A 17 DISTANCE OF 485.70 FEET TO A POINT ON A CURVE; (4) THENCE 18 NORTHERLY ALONG A NON-TANGENT CURVE CONCAVE EASTERLY 19 HAVING A RADIUS OF 4724.70 FEET AND A CHORD BEARING OF 20 21 NORTH 06 DEGREES 32 MINUTES 11 SECONDS EAST WITH AN ARC 22 LENGTH OF 1111.22; (5) THENCE NORTH 13 DEGREES 16 MINUTES 19 SECONDS EAST, A DISTANCE OF 303.90 FEET TO A POINT ON 23 A CURVE; (6) THENCE NORTHERLY ALONG A NON-TANGENT CURVE 24 CONCAVE WESTERLY HAVING A RADIUS OF 1482.40 FEET AND A 25 CHORD BEARING OF NORTH 06 DEGREES 58 MINUTES 21 SECONDS 26 WEST WITH AN ARC LENGTH OF 1047.56 FEET; (7) THENCE 27 NORTHERLY ALONG A NON-TANGENT CURVE CONCAVE EASTERLY 28 HAVING A RADIUS OF 2242.01 FEET AND A CHORD BEARING OF 29 NORTH 20 DEGREES 03 MINUTES 26 SECONDS EAST WITH AN ARC 30 LENGTH OF 384.99 FEET; (8) THENCE NORTH 24 DEGREES 58 31 MINUTES 30 SECONDS EAST, A DISTANCE OF 2212.09 FEET TO A 32 POINT ON THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 33 21; THENCE SOUTH 89 DEGREES 51 MINUTES 08 SECONDS EAST 34

1 ALONG SAID NORTH LINE, A DISTANCE OF 533.41 FEET; THENCE 2 NORTH 00 DEGREES 21 MINUTES 39 SECONDS WEST, A DISTANCE OF 1131.30 FEET TO A POINT ON THE EAST LINE OF SAID 3 4 ILLINOIS ROUTE 59; THENCE NORTHERLY ALONG SAID EAST LINE FOR THE FOLLOWING 3 COURSES; (1) THENCE NORTH 24 DEGREES 5 58 MINUTES 30 SECONDS EAST, A DISTANCE OF 1195.93 FEET; 6 7 (2) THENCE NORTH 27 DEGREES 49 MINUTES 55 SECONDS EAST, A 8 DISTANCE OF 200.22 FEET; (3) THENCE NORTH 24 DEGREES 58 9 MINUTES 12 SECONDS EAST, A DISTANCE OF 257.37 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 21; THENCE NORTH 10 11 89 DEGREES 57 MINUTES 47 SECONDS EAST ALONG SAID NORTH LINE, A DISTANCE OF 134.37 FEET; THENCE SOUTH 36 DEGREES 12 57 MINUTES 24 SECONDS WEST, A DISTANCE OF 285.13 FEET; 13 THENCE SOUTH 00 DEGREES 14 MINUTES 47 SECONDS EAST, A 14 15 DISTANCE OF 600.00 FEET; THENCE SOUTH 82 DEGREES 06 16 MINUTES 19 SECONDS EAST, A DISTANCE OF 221.79 FEET TO A POINT ON A CURVE BEING THE WEST LINE OF BARTLETT ROAD; 17 THENCE ALONG THE WEST LINE OF SAID BARTLETT ROAD FOR THE 18 FOLLOWING SEVEN COURSES; (1) THENCE SOUTHERLY ALONG A 19 NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 20 21 5779.65 FEET AND A CHORD BEARING OF SOUTH 06 DEGREES 40 22 MINUTES 43 SECONDS WEST WITH AN ARC LENGTH OF 182.71 FEET; (2) THENCE SOUTH 89 DEGREES 50 MINUTES 29 SECONDS 23 24 WEST, A DISTANCE OF 13.94 FEET; (3) THENCE SOUTH 00 DEGREES 09 MINUTES 31 SECONDS EAST, A DISTANCE OF 154.30 25 FEET TO A POINT ON A CURVE; (4) THENCE SOUTHERLY ALONG A 26 NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 27 5779.65 FEET AND A CHORD BEARING OF SOUTH 02 DEGREES 02 28 MINUTES 21 SECONDS WEST WITH AN ARC LENGTH 443.40 FEET; 29 30 (5) THENCE NORTH 89 DEGREES 50 MINUTES 29 SECONDS EAST, A DISTANCE OF 17.00 FEET; (6) THENCE SOUTH 00 DEGREES 09 31 MINUTES 31 SECONDS EAST, A DISTANCE OF 991.17 FEET; (7) 32 THENCE SOUTH 00 DEGREES 11 MINUTES 19 SECONDS EAST, A 33 DISTANCE OF 389.83 FEET; THENCE NORTH 89 DEGREES 48 34

1 MINUTES 41 SECONDS EAST, A DISTANCE OF 33.00 FEET TO A 2 POINT ON THE EAST LINE OF SAID SECTION 21; THENCE SOUTH 00 DEGREES 11 MINUTES 19 SECONDS EAST ALONG SAID EAST 3 4 LINE, A DISTANCE OF 2245.24 FEET TO THE NORTHEAST CORNER OF SAID SECTION 28; THENCE NORTH 89 DEGREES 50 MINUTES 29 5 SECONDS WEST ALONG THE NORTH LINE OF SAID SECTION 28, A 6 DISTANCE OF 123.76 FEET TO A POINT ON A LINE 123.76 FEET 7 WEST OF AND PARALLEL WITH THE EAST LINE OF THE NORTHEAST 8 QUARTER OF SAID SECTION 28; THENCE SOUTH 00 DEGREES 27 9 MINUTES 50 SECONDS EAST ALONG SAID PARALLEL LINE; A 10 DISTANCE OF 173.25 FEET TO A POINT ON A LINE 173.24 FEET 11 SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SECTION 12 THENCE SOUTH 89 DEGREES 50 MINUTES 29 SECONDS EAST 13 28; ALONG SAID PARALLEL LINE, A DISTANCE OF 123.76 FEET TO A 14 POINT ON THE EAST LINE OF SAID SECTION 28; THENCE SOUTH 15 16 00 DEGREES 27 MINUTES 50 SECONDS EAST ALONG SAID EAST LINE, A DISTANCE OF 2454.80 FEET TO THE POINT OF 17 BEGINNING, IN COOK COUNTY, ILLINOIS. 18

19 (Source: P.A. 91-945, eff. 2-9-01.)

20 (70 ILCS 2605/285)

Sec. 285. District enlarged. Upon the effective date of this amendatory Act of the 91st General Assembly, the corporate limits of the Metropolitan Water Reclamation District Act are extended to include within those limits the following described tracts of land, and those tracts are annexed to the District.

27 PARCEL 2:

28 THAT PART OF THE SOUTHWEST 1/4 OF SECTION 30 LYING SOUTH 29 OF THE SOUTHERLY RIGHT OF WAY LINE OF ILLINOIS STATE 30 ROUTE 72, COMMONLY KNOWN AS NEW HIGGINS ROAD, (EXCEPT THE 31 WEST 190 FEET THEREOF) ALL IN TOWNSHIP 42 NORTH, RANGE 9, 32 EAST OF THE THIRD PRINCIPAL MERIDIAN,

33 ALSO THE NORTHWEST 1/4 OF SECTION 31 (EXCEPT THE WEST 190

1 FEET THEREOF AND EXCEPT THE SOUTH 1501.64 FEET AS 2 MEASURED ALONG THE EAST AND WEST LINES THEREOF), ALL IN 3 TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL 4 MERIDIAN,

ALSO COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST 5 1/4 OF SECTION 31, TOWNSHIP 42 NORTH, RANGE 9, EAST OF 6 7 THE THIRD PRINCIPAL MERIDIAN, FOR A PLACE OF BEGINNING; THENCE SOUTH 0 DEGREES 12 MINUTES WEST 2640.0 FEET TO A 8 9 FENCE CORNER AND THE CENTER OF SAID SECTION 31; THENCE SOUTH 89 DEGREES 54 MINUTES EAST 2640.70 FEET TO THE 10 11 SOUTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 31; THENCE NORTHERLY ALONG A FENCE LINE 1306.73 FEET TO A 12 FENCE CORNER; THENCE NORTH 89 DEGREES 20 MINUTES WEST 13 ALONG A FENCE LINE 1318.55 FEET TO THE CENTER LINE OF A 14 15 PUBLIC ROAD KNOWN AS BEVERLY LAKE ROAD; THENCE NORTH 0 16 DEGREES 14 MINUTES WEST ALONG THE CENTER OF SAID ROAD 958.02 FEET; THENCE NORTH 89 DEGREES 10 MINUTES WEST 17 ALONG A CYCLONE FENCE 218.60 FEET TO A FENCE CORNER; 18 19 THENCE NORTHERLY ALONG A CYCLONE FENCE 195.0 FEET TO A RIGHT OF WAY MONUMENT; THENCE NORTH 80 DEGREES 40 MINUTES 20 21 WEST ALONG THE SOUTH RIGHT OF WAY OF ROUTE 72, 238.0 FEET TO A RIGHT OF WAY MONUMENT; THENCE NORTH 78 DEGREES 35 22 23 MINUTES WEST ALONG THE SOUTH RIGHT OF ACCESS LINE OF SAID ROUTE 72, 507.0 FEET TO A RIGHT OF WAY MONUMENT; THENCE 24 25 NORTH 76 DEGREES 12 MINUTES WEST ALONG THE SOUTH RIGHT OF WAY OF ROUTE 72, 336.50 FEET TO A CONCRETE RIGHT OF WAY 26 MONUMENT ON THE WEST LINE OF THE SOUTHEAST 1/4 OF SECTION 27 30; THENCE SOUTH 0 DEGREES 12 MINUTES WEST 49.31 FEET TO 28 29 THE PLACE OF BEGINNING,

30 (EXCEPT THAT PART LYING EAST OF THE CENTER LINE OF 31 BEVERLY ROAD;

32 AND EXCEPT THAT PART FALLING WITHIN THE FOLLOWING33 DESCRIBED TRACT OF LAND:

34 BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF

BEVERLY ROAD AND THE RIGHT OF WAY LINE OF HIGGINS ROAD IN 1 SECTION 31, TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD 2 PRINCIPAL MERIDIAN; THENCE SOUTHERLY ALONG THE CENTER 3 4 LINE OF BEVERLY ROAD 165 FEET; THENCE WESTERLY 243.59 FEET; THENCE NORTHERLY 195.81 FEET TO THE SOUTH RIGHT OF 5 WAY LINE OF HIGGINS ROAD; THENCE SOUTHEASTERLY ALONG THE 6 7 SOUTH RIGHT OF WAY LINE OF HIGGINS ROAD TO THE PLACE OF 8 BEGINNING;

AND EXCEPT THAT PART DEDICATED FOR BEVERLY ROAD BY PLAT
OF DEDICATION RECORDED SEPTEMBER 16, 1988 AS DOCUMENT
11 88424906),

12 ALSO THE SOUTH 1501.64 FEET AS MEASURED ALONG THE EAST 13 AND WEST LINES OF THE NORTHWEST 1/4 OF SECTION 31 (EXCEPT 14 THE WEST 190 FEET THEREOF), ALL IN TOWNSHIP 42 NORTH, 15 RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN,

16 ALSO THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTH 10 RODS OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4; THE 17 NORTH 1/2 OF THE SOUTHWEST 1/4 AND THE NORTH 10 RODS OF 18 THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 ALL IN SECTION 31, 19 TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL 20 MERIDIAN, (EXCEPT THEREFROM THE WEST 190 FEET OF THE 21 NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 31 AND 22 EXCEPT THE SOUTH 75.00 FEET OF THE WEST 211.00 FEET OF 23 THE EAST 370.75 FEET OF THE NORTHEAST 1/4 OF THE 24 SOUTHWEST 1/4 OF SECTION 31, TOWNSHIP 42 NORTH, RANGE 9, 25 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND EXCEPT THE 26 NORTH 10 RODS (165.00 FEET) OF THE WEST 211.00 FEET OF 27 THE EAST 370.75 FEET OF THE SOUTHEAST 1/4 OF THE 28 29 SOUTHWEST 1/4 OF SECTION 31, TOWNSHIP 42 NORTH, RANGE 9, 30 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, 31 ILLINOIS.

ALSO THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION
31, TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD
PRINCIPAL MERIDIAN (EXCEPT THE WEST 190 FEET THEREOF AND

1 EXCEPT THAT PART OF THE SOUTHWEST 1/4 OF SECTION 31, 2 TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS BEGINNING AT A POINT ON THE SOUTH 3 4 LINE OF SAID SECTION WHICH IS 190.0 FEET EAST OF THE SOUTHWEST CORNER OF SAID SECTION; THENCE NORTH ALONG A 5 STRAIGHT LINE 190.0 FEET EAST OF AND PARALLEL WITH THE 6 7 WEST LINE OF SAID SECTION FOR A DISTANCE OF 150.0 FEET; THENCE SOUTHEASTERLY TO A POINT ON THE SOUTH LINE OF SAID 8 9 SECTION WHICH IS 250.0 FEET EAST OF THE POINT OF BEGINNING; THENCE WEST ALONG THE SOUTH LINE OF SAID 10 11 SECTION 250.0 FEET TO THE POINT OF BEGINNING), IN COOK COUNTY, ILLINOIS. 12

ALSO THAT PART OF THE SOUTHWEST 1/4 OF SECTION 31, 13 TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL 14 MERIDIAN, DESCRIBED AS BEGINNING AT A POINT ON THE SOUTH 15 16 LINE OF SAID SECTION WHICH IS 190.0 FEET EAST OF THE SOUTHWEST CORNER OF SAID SECTION; THENCE NORTH ALONG A 17 STRAIGHT LINE 190.0 FEET EAST OF AND PARALLEL WITH THE 18 19 WEST LINE OF SAID SECTION FOR A DISTANCE OF 150.0 FEET; THENCE SOUTHEASTERLY TO A POINT ON THE SOUTH LINE OF SAID 20 SECTION WHICH IS 250.0 FEET EAST OF THE POINT OF 21 22 BEGINNING; THENCE WEST ALONG THE SOUTH LINE OF SAID 23 SECTION 250.0 FEET TO THE POINT OF BEGINNING, IN COOK 24 COUNTY, ILLINOIS.

ALSO THAT PART OF SECTION 5, TOWNSHIP 41 NORTH, RANGE 9, 25 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTHERLY OF 26 THE NORTHERLY LINE OF PREMISES CONVEYED TO THE ILLINOIS 27 STATE TOLL HIGHWAY COMMISSION BY WARRANTY DEED DATED JUNE 28 11, 1956 AND RECORDED JUNE 12, 1956 AS DOCUMENT NUMBER 29 30 16607889 AND LYING EASTERLY OF THE PREMISES CONVEYED TO COMMONWEALTH EDISON COMPANY BY WARRANTY DEED DATED 31 JANUARY 2, 1963 AND RECORDED JANUARY 7, 1963 AS DOCUMENT 32 NUMBER 18690041, AND LYING WESTERLY OF THE EAST LINE OF 33 THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 31, 34

TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL
 MERIDIAN, EXTENDED SOUTHERLY TO THE AFORESAID NORTHERLY
 LINE OF ILLINOIS STATE TOLL HIGHWAY,

ALSO THAT PART OF THE NORTHEAST 1/4 OF SECTION 31,
TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL
MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF 7 BEVERLY ROAD AND THE SOUTH RIGHT OF WAY LINE OF HIGGINS 8 9 ROAD; THENCE SOUTHERLY ALONG THE CENTER LINE OF BEVERLY ROAD 165 FEET; THENCE WESTERLY 243.59 FEET; THENCE 10 11 NORTHERLY 195.81 FEET TO THE SOUTH RIGHT OF WAY LINE OF HIGGINS ROAD; THENCE SOUTHERLY ALONG THE SOUTH RIGHT OF 12 WAY LINE OF HIGGINS ROAD TO THE PLACE OF BEGINNING, ALL 13 IN COOK COUNTY, ILLINOIS. 14

15 PARCEL 3:

16 THE SOUTH 70 RODS (1155.00 FEET) OF THE SOUTHEAST 1/4 OF 17 THE SOUTHWEST 1/4 OF SECTION 31, TOWNSHIP 42 NORTH, RANGE 18 9 EAST OF THE THIRD PRINCIPAL MERIDIAN,

ALSO THE SOUTH 70 RODS (1155.00 FEET) OF THE SOUTHWEST 19 1/4 OF THE SOUTHEAST 1/4 OF SECTION 31, TOWNSHIP 42 20 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN 21 (EXCEPTING THAT PART THEREOF LYING EAST AND SOUTH OF THE 22 WEST AND NORTH LINES OF THE LAND CONVEYED TO THE ILLINOIS 23 STATE TOLL HIGHWAY AUTHORITY BY DEED RECORDED JULY 29, 24 1994 AS DOCUMENT NO. 94-667,873, SAID WEST AND NORTH 25 LINES DESCRIBED AS COMMENCING AT THE SOUTHEAST CORNER OF 26 SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER FOR A 27 28 POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 47 MINUTES 33 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 31 A 29 DISTANCE OF 32.56 FEET; THENCE NORTH 06 DEGREES 06 30 MINUTES 43 SECONDS WEST 297.65 FEET; THENCE NORTH 00 31 DEGREES 52 MINUTES 23 SECONDS EAST 400.65 FEET; THENCE 32 33 SOUTH 89 DEGREES 54 MINUTES 16 SECONDS EAST 58.81 FEET TO THE EAST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST 34

1 QUARTER),

2 ALSO ALL THAT PART OF FRACTIONAL SECTION 5, TOWNSHIP 41 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, 3 4 LYING (i) NORTHERLY OF THE NORTHERLY LINE OF THE PREMISES CONVEYED TO THE ILLINOIS STATE TOLL HIGHWAY COMMISSION BY 5 DEED RECORDED JUNE 12, 1956 AS DOCUMENT NO. 16607889; 6 7 (ii) EASTERLY OF THE EAST LINE OF THE SOUTHWEST 1/4 OF 8 THE SOUTHWEST 1/4 OF SECTION 31, TOWNSHIP 42 NORTH, RANGE 9 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXTENDED SOUTHERLY TO THE AFORESAID NORTHERLY LINE OF THE ILLINOIS 10 11 STATE TOLL HIGHWAY; AND (iii) WESTERLY OF THE EAST 279.0 FEET OF SAID SECTION 5, EXCEPTING THEREFROM THE FOLLOWING 12 DESCRIBED TRACT CONVEYED TO THE ILLINOIS STATE TOLL 13 HIGHWAY AUTHORITY BY DEED RECORDED JULY 29, 1994 AS 14 DOCUMENT NO. 94-667,873: 15

16 COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 5; THENCE SOUTH 89 DEGREES 58 MINUTES 08 SECONDS WEST ALONG 17 THE NORTH LINE OF SAID SECTION 5 A DISTANCE OF 279.00 18 19 FEET TO THE WEST LINE OF THE EAST 279.00 FEET OF SAID SECTION 5 FOR A POINT OF BEGINNING; THENCE CONTINUING 20 21 SOUTH 89 DEGREES 58 MINUTES 08 SECONDS WEST ALONG SAID NORTH LINE 13.53 FEET; THENCE SOUTH 06 DEGREES 06 MINUTES 22 23 43 SECONDS EAST 61.86 FEET TO THE NORTH RIGHT OF WAY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY AS CONVEYED BY DEED 24 25 DOCUMENT NO. 16607889 RECORDED JUNE 12, 1956; THENCE NORTH 89 DEGREES 51 MINUTES 14 SECONDS EAST ALONG SAID 26 NORTH RIGHT OF WAY LINE 6.71 FEET TO SAID WEST LINE OF 27 THE EAST 279.00 FEET; THENCE NORTH 00 DEGREES 13 MINUTES 28 29 12 SECONDS EAST ALONG SAID WEST LINE 61.50 FEET TO THE 30 POINT OF BEGINNING;

31 SAID PREMISES ALSO BEING CAPABLE OF BEING LEGALLY32 DESCRIBED AS FOLLOWS:

THAT PART OF FRACTIONAL SECTION 5, TOWNSHIP 41 NORTH,
RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING (i)

NORTHERLY OF THE PREMISES CONVEYED TO THE ILLINOIS STATE 1 2 TOLL HIGHWAY COMMISSION BY DEED RECORDED JUNE 12, 1956 AS DOCUMENT NO. 16607889; (ii) EAST OF THE WEST LINE OF THE 3 4 SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 31, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL 5 MERIDIAN, EXTENDED STRAIGHT SOUTH; AND (iii) WESTERLY OF 6 7 THE FOLLOWING DESCRIBED LINE; BEGINNING AT A POINT ON THE NORTH LINE OF SAID FRACTIONAL SECTION 5, 13.53 FEET WEST 8 9 OF THE WEST LINE OF THE EAST 279.00 FEET OF SAID FRACTIONAL SECTION 5; AND THENCE SOUTHEASTERLY ALONG A 10 11 STRAIGHT LINE 61.86 FEET, MORE OR LESS, TO A POINT ON THE NORTHERLY LINE OF SAID PREMISES CONVEYED BY DOCUMENT NO. 12 16607889, 6.71 FEET WESTERLY OF SAID WEST LINE OF THE 13 EAST 279.00 FEET OF FRACTIONAL SECTION 5, ALL IN COOK 14 15 COUNTY, ILLINOIS.

16 PARCEL 4:

17 THAT PART OF THE FOLLOWING DESCRIBED TRACT:

18 THAT PART OF FRACTIONAL SECTIONS 5 AND 6, TOWNSHIP 41 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER 20 OF SAID FRACTIONAL SECTION 5; THENCE EAST ALONG THE NORTH 21 LINE OF SAID FRACTIONAL SECTION 5, 1128.36 FEET, MORE OR 22 23 LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF PUBLIC SERVICE COMPANY (NOW COMMONWEALTH EDISON COMPANY) BY 24 DEED 25 DOCUMENT NO. 9693090 RECORDED JUNE 21, 1927; THENCE SOUTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF PUBLIC 26 SERVICE COMPANY 3725.69 FEET, MORE OR LESS, TO THE CENTER 27 28 LINE OF SHOE FACTORY ROAD BY DOCUMENT NO. 9202301 RECORDED MARCH 10, 1926; THENCE WESTERLY ALONG SAID 29 CENTER LINE OF SHOE FACTORY ROAD 1079.49 FEET, MORE OR 30 LESS, TO A POINT ON THE CENTER LINE OF SHOE FACTORY ROAD 31 BY DOCUMENT NO. 13018010 RECORDED JANUARY 15, 1943, 75.40 32 33 FEET EASTERLY OF THE POINT OF INTERSECTION OF THE EAST LINE OF SECTION 7 IN THE AFORESAID TOWNSHIP AND RANGE AND 34

1 SAID CENTER LINE OF SHOE FACTORY ROAD AS MEASURED ALONG 2 SAID CENTER LINE OF SHOE FACTORY ROAD; THENCE NORTHERLY ALONG A STRAIGHT LINE 3828.58 FEET, MORE OR LESS, TO A 3 4 POINT ON THE NORTH LINE OF SAID FRACTIONAL SECTION 6, 33.00 FEET WEST OF THE AFORESAID NORTHWEST CORNER OF 5 FRACTIONAL SECTION 5; AND THENCE EAST ALONG SAID NORTH 6 LINE OF FRACTIONAL SECTION 6, 33.00 FEET TO THE CORNER OF 7 BEGINNING, EXCEPT THAT PART THEREOF LYING SOUTHERLY OF 8 9 THE NORTHERLY RIGHT-OF-WAY LINE OF THE ILLINOIS STATE TOLL HIGHWAY AS CONVEYED TO OR TAKEN BY THE ILLINOIS 10 11 STATE TOLL HIGHWAY COMMISSION, AS SAID NORTHERLY RIGHT-OF-WAY LINE IS OCCUPIED AND MONUMENTED; THAT LIES 12 EAST OF A LINE DRAWN AT AN ANGLE OF SOUTH 1 DEGREE 30 13 MINUTES EAST FROM THE NORTHWEST CORNER OF FRACTIONAL 14 15 SECTION 5.

16 PARCEL 5:

17 THAT PART OF THE FOLLOWING DESCRIBED TRACT:

18 THAT PART OF FRACTIONAL SECTIONS 5 AND 6, TOWNSHIP 41 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER 20 21 OF SAID FRACTIONAL SECTION 5; THENCE EAST ALONG THE NORTH LINE OF SAID FRACTIONAL SECTION 5, 1128.36 FEET, MORE OR 22 23 LESS, TO THE WESTERLY RIGHT-OF-WAY LINE OF PUBLIC SERVICE COMPANY (NOW COMMONWEALTH EDISON COMPANY) BY DEED 24 DOCUMENT NO. 9693090 RECORDED JUNE 21, 1927; THENCE 25 SOUTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF PUBLIC 26 SERVICE COMPANY 3725.69 FEET, MORE OR LESS, TO THE CENTER 27 28 LINE OF SHOE FACTORY ROAD BY DOCUMENT NO. 9202301 RECORDED MARCH 10, 1926; THENCE WESTERLY ALONG SAID 29 CENTER LINE OF SHOE FACTORY ROAD 1079.49 FEET, MORE OR 30 LESS, TO A POINT ON THE CENTER LINE OF SHOE FACTORY ROAD 31 BY DOCUMENT NO. 13018010 RECORDED JANUARY 15, 1943, 75.40 32 33 FEET EASTERLY OF THE POINT OF INTERSECTION OF THE EAST LINE OF SECTION 7 IN THE AFORESAID TOWNSHIP AND RANGE AND 34

1 SAID CENTER LINE OF SHOE FACTORY ROAD AS MEASURED ALONG 2 SAID CENTER LINE OF SHOE FACTORY ROAD; THENCE NORTHERLY ALONG A STRAIGHT LINE 3828.58 FEET, MORE OR LESS, TO A 3 4 POINT ON THE NORTH LINE OF SAID FRACTIONAL SECTION 6, 33.00 FEET WEST OF THE AFORESAID NORTHWEST CORNER OF 5 FRACTIONAL SECTION 5; AND THENCE EAST ALONG SAID NORTH 6 LINE OF FRACTIONAL SECTION 6, 33.00 FEET TO THE CORNER OF 7 BEGINNING, EXCEPT THAT PART THEREOF LYING SOUTHERLY OF 8 9 THE NORTHERLY RIGHT-OF-WAY LINE OF THE ILLINOIS STATE TOLL HIGHWAY AS CONVEYED TO OR TAKEN BY THE ILLINOIS 10 11 STATE TOLL HIGHWAY COMMISSION, AS SAID NORTHERLY RIGHT-OF-WAY LINE IS OCCUPIED AND MONUMENTED; 12

13 WHICH LIES WEST OF A LINE DRAWN AT AN ANGLE OF SOUTH 1€
14 30' EAST FROM THE NORTHWEST CORNER OF FRACTIONAL SECTION
15 5,

ALSO THAT PART OF FRACTIONAL SECTION 6, TOWNSHIP 41 16 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, 17 DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF 18 19 INTERSECTION OF THE EAST LINE OF SECTION 7 IN THE AFORESAID TOWNSHIP AND RANGE AND THE CENTER LINE OF SHOE 20 FACTORY ROAD BY DOCUMENT NO. 13018010 RECORDED JANUARY 21 15, 1943; THENCE WESTERLY ALONG SAID CENTER LINE OF SHOE 22 23 FACTORY ROAD 208.65 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY LINE OF THE L. CURCE FARM BY DOCUMENT NO. 24 16785517 RECORDED DECEMBER 20, 1956 EXTENDED SOUTHERLY TO 25 SAID CENTER LINE OF SHOE FACTORY ROAD; THENCE NORTHERLY 26 ALONG SAID EASTERLY LINE OF THE L. CURCE FARM EXTENDED 27 SOUTHERLY AND SAID EASTERLY LINE OF THE L. CURCE FARM 28 3827.48 FEET, MORE OR LESS, TO A POINT ON THE NORTH LINE 29 OF SAID FRACTIONAL SECTION 6, 238.48 FEET WEST OF THE 30 NORTHWEST CORNER OF FRACTIONAL SECTION 5 IN THE AFORESAID 31 TOWNSHIP AND RANGE; THENCE EAST ALONG SAID NORTH LINE OF 32 SECTION 6, 205.48 FEET, MORE OR LESS, TO A POINT 33.00 33 FEET WEST OF SAID NORTHWEST CORNER OF FRACTIONAL SECTION 34

1 5; THENCE SOUTHERLY ALONG A STRAIGHT LINE 3828.58 FEET, 2 MORE OR LESS, TO A POINT ON SAID CENTER LINE OF SHOE FACTORY ROAD 75.40 FEET EASTERLY OF THE POINT OF 3 4 BEGINNING AS MEASURED ALONG SAID CENTER LINE OF SHOE FACTORY ROAD; AND THENCE WESTERLY ALONG SAID CENTER LINE 5 OF SHOE FACTORY ROAD 75.40 FEET TO THE POINT OF 6 BEGINNING, EXCEPT THAT PART THEREOF LYING SOUTHERLY OF 7 THE NORTHERLY RIGHT-OF-WAY LINE OF THE ILLINOIS STATE 8 9 TOLL HIGHWAY AS CONVEYED TO OR TAKEN BY THE ILLINOIS STATE TOLL HIGHWAY COMMISSION, AS SAID NORTHERLY 10 RIGHT-OF-WAY LINE IS OCCUPIED AND MONUMENTED, ALL IN COOK 11 COUNTY, ILLINOIS. 12

13 (Source: P.A. 91-945, eff. 2-9-01.)

14 (70 ILCS 2605/286)

Sec. <u>286.</u> 283- District enlarged. Upon the effective date of this amendatory Act of the 91st General Assembly, the corporate limits of the Metropolitan Water Reclamation District are extended to include within those limits the following described tracts of land that are annexed to the District:

21 Parcel 1:

The Northwest 1/4 of the Northeast 1/4 of Section 15, 22 Township 35 North, Range 14, East of the Third Principal 23 24 Meridian (except the South 66 feet thereof conveyed to Chicago District Pipeline Company, a corporation by deed 25 recorded as document 14832873 and except the North 49.50 26 feet of the South 115.5 of the East 660.0 feet thereof, 27 28 conveyed to Chicago District Pipeline Company, a 29 corporation, by deed recorded on September 3, 1958 as document 17306418). 30

31 Parcel 2:

32 The South 66 feet of the Northwest 1/4 of the Northeast
33 1/4 of Section 15, Township 35 North, Range 14 East of

-343-

the Third Principal Meridian in Cook County, Illinois.
Parcel 3:
The South 66 feet of the Northeast 1/4 of the Northeast
1/4 of Section 15, Township 35 North, Range 14 East of
the Third Principal Meridian, in Cook County, Illinois.
Parcel 4:
That part of the Northeast quarter of the Northeast

quarter of Section 15, Township 35 North, Range 8 14 East 9 of the Third Principal Meridian, Cook County, Illinois, described as follows: commencing at the Northeast corner 10 11 of said Northeast quarter; thence South 89 degrees 11 minutes 17 seconds West along the North line of said 12 Northeast quarter a distance of 604.04 feet to the point 13 of beginning; thence South 00 degrees 58 minutes 21 14 seconds East a distance of 1209.86 feet to an iron rod on 15 16 the North line of the South 115.50 feet of the Northeast quarter of the Northeast quarter of said Section 15; 17 thence South 89 degrees 13 minutes 25 seconds West along 18 19 last said North line a distance of 720.22 feet to an iron rod on the West line of the Northeast quarter of the 20 Northeast quarter of said Section 15; thence North 00 21 degrees 58 minutes 21 seconds West along last said West 22 23 line a distance of 1209.41 feet to an iron rod being the Northwest corner of the Northeast quarter 24 of the 25 Northeast quarter of said Section 15; thence North 89 degrees 11 minutes 17 seconds East along the North line 26 of said Northeast quarter a distance of 720.22 feet to 27 the point of beginning, containing 20.00 acres. 28

29 (Source: P.A. 91-942, eff. 2-9-01; revised 3-19-01.)

30 (70 ILCS 2605/287)

31 Sec. <u>287.</u> 285. District enlarged. Upon the effective 32 date of this amendatory Act of the 92nd General Assembly, the 33 corporate limits of the Metropolitan Water Reclamation District are extended to include within those limits the following described tract of land, and that tract is annexed to the District.

4 THAT PART OF THE NORTH HALF OF SECTION 8, TOWNSHIP 41
5 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED
6 AS FOLLOWS:

7 COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 8, THENCE SOUTH 00 DEGREES 29 MINUTES 11 SECONDS WEST 8 (ILLINOIS STATE PLACE GRID - EAST ZONE), ALONG THE WEST 9 LINE OF SAID SECTION 8, AS MONUMENTED, A DISTANCE OF 10 11 1138.22 FEET TO THE CENTERLINE OF SHOE FACTORY ROAD PER DOCUMENT NUMBER 12259969; THENCE THE FOLLOWING ONE COURSE 12 AND DISTANCE ALONG SAID CENTERLINE, SOUTH 89 DEGREES 56 13 MINUTES 54 SECONDS EAST A DISTANCE OF 75.47 FEET TO THE 14 SOUTHEAST CORNER OF A PARCEL OF LAND CONVEYED TO COOK 15 COUNTY ILLINOIS BY DOCUMENT NUMBER 14665399, THENCE NORTH 16 01 DEGREE 16 MINUTES 56 SECONDS WEST, ALONG THE EAST LINE 17 18 OF SAID PARCEL, A DISTANCE OF 50.01 FEET TO THE NORTHEAST 19 CORNER OF SAID PARCEL; THENCE SOUTH 89 DEGREES 56 MINUTES 54 SECONDS EAST A DISTANCE OF 95.80 FEET TO A POINT OF 20 21 CURVATURE; THENCE EASTERLY ALONG THE ARC OF A TANGENTIAL CURVE, CONCAVE TO THE NORTH AND HAVING A RADIUS OF 22 23 4000.00 FEET, A DISTANCE OF 697.96 FEET TO A POINT OF TANGENCY; THENCE NORTH 80 DEGREES 03 MINUTES 14 SECONDS 24 EAST A DISTANCE OF 286.47 FEET TO THE WEST LINE OF THE 25 190.00 FOOT-WIDE COMED PARCEL, AS MONUMENTED AND 26 OCCUPIED, PER DOCUMENT NUMBERS 9693094, 9693090 AND 27 28 18690041, POINT ALSO BEING THE NORTHWEST CORNER OF A PARCEL OF LAND CONVEYED FOR PUBLIC RIGHT-OF-WAY PURPOSES 29 PER DOCUMENT NUMBER 14176170, ALSO BEING THE POINT OF 30 BEGINNING; THENCE CONTINUING NORTH 80 DEGREES 03 MINUTES 31 32 14 SECONDS EAST, ALONG THE NORTH LINE OF SAID 33 RIGHT-OF-WAY PARCEL, A DISTANCE OF 152.32 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH 00 DEGREES 04 34

MINUTES 04 SECONDS WEST, ALONG THE EAST LINE OF SAID 1 2 PARCEL, A DISTANCE OF 50.77 FEET TO THE NORTHWEST CORNER OF BERNER ESTATES, ACCORDING TO THE PLAT THEREOF RECORDED 3 4 FEBRUARY 7, 1958 AS DOCUMENT NUMBER 17129065; THENCE NORTH 80 DEGREES 03 MINUTES 14 SECONDS EAST, ALONG THE 5 NORTH LINE THEREOF, A DISTANCE OF 66.01 FEET; THENCE 6 SOUTH 00 DEGREES 04 MINUTES 04 SECONDS WEST A DISTANCE OF 7 50.77 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF 8 SHOE 9 FACTORY AS DEDICATED BY SAID BERNER ESTATES; THENCE SOUTH 80 DEGREES 03 MINUTES 14 SECONDS WEST, ALONG SAID 10 11 SOUTHERLY LINE AND THE SOUTH LINE OF THE AFOREMENTIONED RIGHT-OF-WAY PARCEL PER DOCUMENT 14176170, A DISTANCE OF 12 218.33 FEET TO THE WEST LINE OF SAID PARCEL PER DOCUMENT 13 NUMBER 14176170; THENCE NORTH 00 DEGREES 04 MINUTES 04 14 15 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 101.55 16 FEET TO THE POINT OF BEGINNING, CONTAINING 0.4254 ACRES , MORE OR LESS, AND LYING IN COOK COUNTY, ILLINOIS. 17 (Source: P.A. 92-143, eff. 7-24-01; revised 9-13-01.) 18

Section 36. The Regional Transportation Authority Act is amended by changing Section 4.03 as follows:

21 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)
22 Sec. 4.03. Taxes.

In order to carry out any of the powers or purposes 23 (a) 24 of the Authority, the Board may by ordinance adopted with the concurrence of 9 of the then Directors, impose throughout the 25 metropolitan region any or all of the taxes provided in this 26 Section. Except as otherwise provided in this Act, taxes 27 28 imposed under this Section and civil penalties imposed incident thereto shall be collected and enforced by the State 29 30 Department of Revenue. The Department shall have the power to 31 administer and enforce the taxes and to determine all rights 32 for refunds for erroneous payments of the taxes.

1 (b) The Board may impose a public transportation tax 2 upon all persons engaged in the metropolitan region in the business of selling at retail motor fuel for operation of 3 4 motor vehicles upon public highways. The tax shall be at a 5 rate not to exceed 5% of the gross receipts from the sales of motor fuel in the course of the business. As used in this 6 7 Act, the term "motor fuel" shall have the same meaning as in 8 the Motor Fuel Tax <u>Law</u> Act. The Board may provide for 9 details of the tax. The provisions of any tax shall conform, as closely as may be practicable, to the provisions of the 10 11 Municipal Retailers Occupation Tax Act, including without 12 limitation, conformity to penalties with respect to the tax 13 imposed and as to the powers of the State Department of Revenue to promulgate and enforce rules and regulations 14 15 relating to the administration and enforcement of the 16 provisions of the tax imposed, except that reference in the Act to any municipality shall refer to the Authority and 17 the tax shall be imposed only with regard to receipts from sales 18 of motor fuel in the metropolitan region, at rates as limited 19 by this Section. 20

(c) In connection with the tax imposed under paragraph (b) of this Section the Board may impose a tax upon the privilege of using in the metropolitan region motor fuel for the operation of a motor vehicle upon public highways, the tax to be at a rate not in excess of the rate of tax imposed under paragraph (b) of this Section. The Board may provide for details of the tax.

(d) The Board may impose a motor vehicle parking tax upon the privilege of parking motor vehicles at off-street parking facilities in the metropolitan region at which a fee is charged, and may provide for reasonable classifications in and exemptions to the tax, for administration and enforcement thereof and for civil penalties and refunds thereunder and may provide criminal penalties thereunder, the maximum

1 penalties not to exceed the maximum criminal penalties 2 provided in the Retailers' Occupation Tax Act. The Authority may collect and enforce the tax itself or by contract with 3 4 any unit of local government. The State Department of 5 Revenue shall have no responsibility for the collection and enforcement unless the Department agrees with the Authority 6 7 to undertake the collection and enforcement. As used in this 8 paragraph, the term "parking facility" means a parking area or structure having parking spaces for more than 2 vehicles 9 at which motor vehicles are permitted to park in return for 10 11 an hourly, daily, or other periodic fee, whether publicly or 12 privately owned, but does not include parking spaces on a 13 public street, the use of which is regulated by parking 14 meters.

15 (e) The Board may impose a Regional Transportation 16 Authority Retailers' Occupation Tax upon all persons engaged in the business of selling tangible personal property at 17 retail in the metropolitan region. In Cook County the tax 18 rate shall be 1% of the gross receipts from sales of food for 19 human consumption that is to be consumed off the premises 20 21 where it is sold (other than alcoholic beverages, soft drinks 22 and food that has been prepared for immediate consumption) 23 and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, 24 25 syringes and needles used by diabetics, and 3/4% of the gross receipts from other taxable sales made in the course of that 26 business. In DuPage, Kane, Lake, McHenry, and Will Counties, 27 the tax rate shall be 1/4% of the gross receipts from all 28 29 taxable sales made in the course of that business. The tax 30 imposed under this Section and all civil penalties that may be assessed as an incident thereof shall be collected and 31 enforced by the State Department of Revenue. The Department 32 shall have full power to administer and enforce this Section; 33 34 to collect all taxes and penalties so collected in the manner

1 hereinafter provided; and to determine all rights to credit 2 memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, 3 and 4 compliance with this Section, the Department and persons who are subject to this Section shall have the same rights, 5 6 remedies, privileges, immunities, powers and duties, and be 7 subject to the same conditions, restrictions, limitations, 8 penalties, exclusions, exemptions and definitions of terms, 9 and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 10 11 (in respect to all provisions therein other than the State rate of tax), 2c, 3 (except as to the disposition of taxes 12 and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 13 5q, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 14 the Retailers' Occupation Tax Act and Section 3-7 of the 15 of 16 Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein. 17

Persons subject to any tax imposed under the authority granted in this Section may reimburse themselves for their seller's tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination in a single amount with State taxes that sellers are required to collect under the Use Tax Act, under any bracket schedules the Department may prescribe.

25 Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a 26 credit memorandum, the Department shall notify the State 27 Comptroller, who shall cause the warrant to be drawn for the 28 29 amount specified, and to the person named, in the notification from the Department. The refund shall be paid 30 by the State Treasurer out of the Regional Transportation 31 Authority tax fund established under paragraph (n) of this 32 33 Section.

34

If a tax is imposed under this subsection (e), a tax

shall also be imposed under subsections (f) and (g) of this
 Section.

For the purpose of determining whether a tax authorized 3 4 under this Section is applicable, a retail sale by a producer of coal or other mineral mined in Illinois, is a sale at 5 retail at the place where the coal or other mineral mined in 6 7 Illinois is extracted from the earth. This paragraph does not 8 apply to coal or other mineral when it is delivered or 9 shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the Federal 10 11 Constitution as a sale in interstate or foreign commerce.

12 Nothing in this Section shall be construed to authorize 13 the Regional Transportation Authority to impose a tax upon 14 the privilege of engaging in any business that under the 15 Constitution of the United States may not be made the subject 16 of taxation by this State.

(f) If a tax has been imposed under paragraph (e), a 17 Regional Transportation Authority Service Occupation Tax 18 19 shall also be imposed upon all persons engaged, in the metropolitan region in the business of making sales of 20 21 service, who as an incident to making the sales of service, 22 transfer tangible personal property within the metropolitan 23 region, either in the form of tangible personal property or in the form of real estate as an incident to a sale of 24 25 service. In Cook County, the tax rate shall be: (1) 1% of the serviceman's cost price of food prepared for immediate 26 consumption and transferred incident to a sale of service 27 subject to the service occupation tax by an entity licensed 28 29 under the Hospital Licensing Act or the Nursing Home Care Act 30 that is located in the metropolitan region; (2) 1% of the selling price of food for human consumption that is to be 31 consumed off the premises where it is sold (other than 32 33 alcoholic beverages, soft drinks and food that has been 34 prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics; and (3) 3/4% of the selling price from other taxable sales of tangible personal property transferred. In DuPage, Kane, Lake, McHenry and Will Counties the rate shall be 1/4% of the selling price of all tangible personal property transferred.

8 The tax imposed under this paragraph and all civil 9 penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. 10 11 The Department shall have full power to administer and enforce this paragraph; to collect all taxes and penalties 12 due hereunder; to dispose of taxes and penalties collected in 13 the manner hereinafter provided; and to determine all rights 14 15 to credit memoranda arising on account of the erroneous 16 payment of tax or penalty hereunder. In the administration 17 of and compliance with this paragraph, the Department and persons who are subject to this paragraph shall have the same 18 rights, remedies, privileges, immunities, powers and duties, 19 20 be subject to the same conditions, restrictions, and 21 limitations, penalties, exclusions, exemptions and 22 definitions of terms, and employ the same modes of procedure, 23 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate 24 25 of tax), 4 (except that the reference to the State shall be to the Authority), 5, 7, 8 (except that the jurisdiction to 26 which the tax shall be a debt to the extent indicated in that 27 Section 8 shall be the Authority), 9 (except as to the 28 disposition of taxes and penalties collected, and except that 29 30 the returned merchandise credit for this tax may not be taken against any State tax), 10, 11, 12 (except the reference 31 32 therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the 33 Authority), the first paragraph of Section 15, 16, 17, 18, 19 34

and 20 of the Service Occupation Tax Act and Section 3-7 of
 the Uniform Penalty and Interest Act, as fully as if those
 provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this paragraph may reimburse themselves for their serviceman's tax liability hereunder by separately stating the tax as an additional charge, that charge may be stated in combination in a single amount with State tax that servicemen are authorized to collect under the Service Use Tax Act, under any bracket schedules the Department may prescribe.

11 Whenever the Department determines that a refund should 12 be made under this paragraph to a claimant instead of issuing a credit memorandum, the Department shall notify the State 13 Comptroller, who shall cause the warrant to be drawn for the 14 15 amount specified, and to the person named in the notification 16 from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax 17 fund established under paragraph (n) of this Section. 18

19 Nothing in this paragraph shall be construed to authorize 20 the Authority to impose a tax upon the privilege of engaging 21 in any business that under the Constitution of the United 22 States may not be made the subject of taxation by the State.

23 If a tax has been imposed under paragraph (e), a tax (g) shall also be imposed upon the privilege of using in the 24 25 metropolitan region, any item of tangible personal property that is purchased outside the metropolitan region at retail 26 from a retailer, and that is titled or registered with an 27 agency of this State's government. In Cook County the tax 28 29 rate shall be 3/4% of the selling price of the tangible 30 personal property, as "selling price" is defined in the Use Tax Act. In DuPage, Kane, Lake, McHenry and Will counties 31 32 the tax rate shall be 1/4% of the selling price of the 33 tangible personal property, as "selling price" is defined in 34 the Use Tax Act. The tax shall be collected from persons

1 whose Illinois address for titling or registration purposes 2 is given as being in the metropolitan region. The tax shall be collected by the Department of Revenue for the Regional 3 4 Transportation Authority. The tax must be paid to the State, 5 an exemption determination must be obtained from the or б Department of Revenue, before the title or certificate of 7 registration for the property may be issued. The tax or proof exemption may be transmitted to the Department by way of 8 of 9 the State agency with which, or the State officer with whom, the tangible personal property must be titled or registered 10 11 if the Department and the State agency or State officer determine that this procedure will expedite the processing of 12 applications for title or registration. 13

The Department shall have full power to administer and 14 15 enforce this paragraph; to collect all taxes, penalties and 16 interest due hereunder; to dispose of taxes, penalties and interest collected in the manner hereinafter provided; and to 17 determine all rights to credit memoranda or refunds arising 18 19 on account of the erroneous payment of tax, penalty or interest hereunder. In the administration of and compliance 20 21 with this paragraph, the Department and persons who are 22 subject to this paragraph shall have the same rights, 23 remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, 24 25 penalties, exclusions, exemptions and definitions of terms and employ the same modes of procedure, as are prescribed in 26 Sections 2 (except the definition of "retailer maintaining a 27 place of business in this State"), 3 through 3-80 (except 28 29 provisions pertaining to the State rate of tax, and except 30 provisions concerning collection or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15, 19 (except the portions 31 32 pertaining to claims by retailers and except the last paragraph concerning refunds), 20, 21 and 22 of the Use Tax 33 Act, and are not inconsistent with this paragraph, as fully 34

-353-

1 as if those provisions were set forth herein.

2 Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing 3 4 a credit memorandum, the Department shall notify the State 5 Comptroller, who shall cause the order to be drawn for the 6 amount specified, and to the person named in the notification 7 from the Department. The refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax 8 9 fund established under paragraph (n) of this Section.

The Authority may impose a replacement vehicle tax 10 (h) 11 of \$50 on any passenger car as defined in Section 1-157 of the Illinois Vehicle Code purchased within the metropolitan 12 region by or on behalf of an insurance company to replace a 13 passenger car of an insured person in settlement of a total 14 15 loss claim. The tax imposed may not become effective before 16 the first day of the month following the passage of the ordinance imposing the tax and receipt of a certified copy of 17 the ordinance by the Department of Revenue. The Department 18 19 of Revenue shall collect the tax for the Authority in accordance with Sections 3-2002 and 3-2003 of the Illinois 20 21 Vehicle Code.

The Department shall immediately pay over to the State 22 23 Treasurer, ex officio, as trustee, all taxes collected hereunder. On or before the 25th day of each calendar month, 24 25 the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to the Authority. 26 The amount to be paid to the Authority shall be the amount 27 collected hereunder during the second preceding calendar 28 29 month by the Department, less any amount determined by the 30 Department to be necessary for the payment of refunds. Within 10 days after receipt by the Comptroller of the 31 32 disbursement certification to the Authority provided for in this Section to be given to the Comptroller by the 33 Department, the Comptroller shall cause the orders to be 34

drawn for that amount in accordance with the directions
 contained in the certification.

3 (i) The Board may not impose any other taxes except as4 it may from time to time be authorized by law to impose.

5 (j) A certificate of registration issued by the State б Department of Revenue to a retailer under the Retailers' 7 Occupation Tax Act or under the Service Occupation Tax Act 8 shall permit the registrant to engage in a business that is 9 taxed under the tax imposed under paragraphs (b), (e), (f) or (g) of this Section and no additional registration shall be 10 11 required under the tax. A certificate issued under the Use Tax Act or the Service Use Tax Act shall be applicable with 12 13 regard to any tax imposed under paragraph (c) of this Section. 14

The provisions of any tax imposed under paragraph 15 (k) 16 (c) of this Section shall conform as closely as may be practicable to the provisions of the Use Tax Act, including 17 without limitation conformity as to penalties with respect to 18 19 the tax imposed and as to the powers of the State Department of Revenue to promulgate and enforce rules and regulations 20 relating to the administration and enforcement of 21 the 22 provisions of the tax imposed. The taxes shall be imposed 23 only on use within the metropolitan region and at rates as provided in the paragraph. 24

25 (1) The Board in imposing any tax as provided in paragraphs (b) and (c) of this Section, shall, after seeking 26 the advice of the State Department of Revenue, provide means 27 for retailers, users or purchasers of motor fuel for purposes 28 29 other than those with regard to which the taxes may be 30 imposed as provided in those paragraphs to receive refunds of taxes improperly paid, which provisions may be at variance 31 32 with the refund provisions as applicable under the Municipal Retailers Occupation Tax Act. 33 The State Department of Revenue may provide for certificates of registration for 34

pagers of motor fuel for purp

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1 users or purchasers of motor fuel for purposes other than 2 those with regard to which taxes may be imposed as provided 3 in paragraphs (b) and (c) of this Section to facilitate the 4 reporting and nontaxability of the exempt sales or uses.

5 (m) Any ordinance imposing or discontinuing any tax 6 under this Section shall be adopted and a certified copy 7 thereof filed with the Department on or before June 1, 8 whereupon the Department of Revenue shall proceed to 9 administer and enforce this Section on behalf of the Regional Transportation Authority as of September 1 next following 10 11 such adoption and filing. Beginning January 1, 1992, an ordinance or resolution imposing or discontinuing the tax 12 hereunder shall be adopted and a certified copy thereof filed 13 with the Department on or before the first day of July, 14 15 whereupon the Department shall proceed to administer and 16 enforce this Section as of the first day of October next following such adoption and filing. 17 Beginning January 1, 1993, an ordinance or resolution imposing or discontinuing 18 19 the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day 20 21 of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of 22 23 January next following such adoption and filing.

(n) The State Department of Revenue shall, 24 upon 25 collecting any taxes as provided in this Section, pay the taxes over to the State Treasurer as trustee for 26 the Authority. The taxes shall be held in a trust fund outside 27 the State Treasury. On or before the 25th day of each 28 calendar month, the State Department of Revenue shall prepare 29 30 and certify to the Comptroller of the State of Illinois the amount to be paid to the Authority, which shall be the then 31 32 balance in the fund, less any amount determined by the Department to be necessary for the payment of refunds. The 33 34 State Department of Revenue shall also certify to the

-355-

1 Authority the amount of taxes collected in each County other 2 than Cook County in the metropolitan region less the amount necessary for the payment of refunds to taxpayers in the 3 4 County. With regard to the County of Cook, the certification 5 shall specify the amount of taxes collected within the City б of Chicago less the amount necessary for the payment of 7 refunds to taxpayers in the City of Chicago and the amount collected in that portion of Cook County outside of Chicago 8 9 the amount necessary for the payment of refunds to less taxpayers in that portion of Cook County outside of Chicago. 10 11 Within 10 days after receipt by the Comptroller of the certification of the amount to be paid to the Authority, the 12 Comptroller shall cause an order to be drawn for the payment 13 for the amount in accordance with the direction in the 14 15 certification.

-356-

16 In addition to the disbursement required by the preceding paragraph, an allocation shall be made in July 1991 and each 17 year thereafter to the Regional Transportation Authority. 18 19 The allocation shall be made in an amount equal to the average monthly distribution during the preceding calendar 20 21 year (excluding the 2 months of lowest receipts) and the allocation shall include the amount of average monthly 22 23 distribution from the Regional Transportation Authority Occupation and Use Tax Replacement Fund. The distribution 24 25 made in July 1992 and each year thereafter under this 26 paragraph and the preceding paragraph shall be reduced by the amount allocated and disbursed under this paragraph in the 27 preceding calendar year. The Department of Revenue shall 28 29 prepare and certify to the Comptroller for disbursement the 30 allocations made in accordance with this paragraph.

31 (o) Failure to adopt a budget ordinance or otherwise to
32 comply with Section 4.01 of this Act or to adopt a Five-year
33 Program or otherwise to comply with paragraph (b) of Section
34 2.01 of this Act shall not affect the validity of any tax

1 imposed by the Authority otherwise in conformity with law.

-357-

(p) At no time shall a public transportation tax or motor vehicle parking tax authorized under paragraphs (b), (c) and (d) of this Section be in effect at the same time as any retailers' occupation, use or service occupation tax authorized under paragraphs (e), (f) and (g) of this Section is in effect.

8 Any taxes imposed under the authority provided in 9 paragraphs (b), (c) and (d) shall remain in effect only until the time as any tax authorized by paragraphs (e), (f) or (g) 10 11 of this Section are imposed and becomes effective. Once any tax authorized by paragraphs (e), (f) or (g) is imposed the 12 Board may not reimpose taxes as authorized in paragraphs (b), 13 (c) and (d) of the Section unless any tax authorized by 14 15 paragraphs (e), (f) or (g) of this Section becomes 16 ineffective by means other than an ordinance of the Board.

17 (q) Any existing rights, remedies and obligations 18 (including enforcement by the Regional Transportation 19 Authority) arising under any tax imposed under paragraphs 20 (b), (c) or (d) of this Section shall not be affected by the 21 imposition of a tax under paragraphs (e), (f) or (g) of this 22 Section.

23 (Source: P.A. 91-51, eff. 6-30-99; 92-221, eff. 8-2-01; 24 revised 12-07-01.)

25 Section 37. The School Code is amended by changing 26 Sections 1D-1, 2-3.35, 14-9.01, 18-8.05, 22-27, and 34A-403.1 27 and renumbering Section 14-1.09.02 as follows:

28 (105 ILCS 5/1D-1)

29 Sec. 1D-1. Block grant funding.

30 (a) For fiscal year 1996 and each fiscal year
31 thereafter, the State Board of Education shall award to a
32 school district having a population exceeding 500,000

1 inhabitants a general education block grant and an 2 educational services block grant, determined as provided in this Section, in lieu of distributing to the district 3 4 State funding for the programs described in separate 5 subsections (b) and (c). The provisions of this Section, 6 however, do not apply to any federal funds that the district 7 is entitled to receive. In accordance with Section 2-3.32, 8 all block grants are subject to an audit. Therefore, block 9 grant receipts and block grant expenditures shall be recorded to the appropriate fund code for the designated block grant. 10

11 (b) The general education block grant shall include the following programs: REI Initiative, Summer Bridges, Preschool 12 At Risk, K-6 Comprehensive Arts, School Improvement Support, 13 Urban Education, Scientific Literacy, 14 Substance Abuse 15 Prevention, Second Language Planning, Staff Development, 16 Outcomes and Assessment, K-6 Reading Improvement, Truants' Optional Education, Hispanic Programs, Agriculture Education, 17 Gifted Education, Parental Education, Prevention Initiative, 18 and Criminal Background Investigations. 19 Report Cards, Notwithstanding any other provision of law, all amounts paid 20 21 under the general education block grant from State appropriations to a school district in a city having a 22 23 exceeding 500,000 inhabitants shall population be appropriated and expended by the board of that district for 24 25 any of the programs included in the block grant or any of the 26 board's lawful purposes.

The educational services block grant shall include 27 (C) the following programs: Bilingual, Regular and Vocational 28 29 Transportation, State Lunch and Free Breakfast Program, 30 Special Education (Personnel, Extraordinary, Transportation, 31 Orphanage, Private Tuition), Summer School, Educational Service Centers, 32 and Administrator's Academy. This subsection (c) does not relieve the district of 33 its 34 obligation to provide the services required under a program 1 that is included within the educational services block grant. 2 It is the intention of the General Assembly in enacting the provisions of this subsection (c) to relieve the district of 3 4 administrative burdens that impede efficiency and the 5 accompany single-program funding. The General Assembly б encourages the board to pursue mandate waivers pursuant to 7 Section 2-3.25g.

8 (d) For fiscal year 1996 and each fiscal year 9 thereafter, the amount of the district's block grants shall be determined as follows: (i) with respect to each program 10 11 that is included within each block grant, the district shall 12 receive an amount equal to the same percentage of the current fiscal year appropriation made for that program as 13 the percentage of the appropriation received by the district from 14 15 the 1995 fiscal year appropriation made for that program, and 16 (ii) the total amount that is due the district under the block grant shall be the aggregate of the amounts that the 17 district is entitled to receive for the fiscal year with 18 19 respect to each program that is included within the block grant that the State Board of Education shall award the 20 21 district under this Section for that fiscal year. In the 22 case of the Summer Bridges program, the amount of the 23 district's block grant shall be equal to 44% of the amount of the current fiscal year appropriation made for that program. 24

(e) The district is not required to file any application or other claim in order to receive the block grants to which it is entitled under this Section. The State Board of Education shall make payments to the district of amounts due under the district's block grants on a schedule determined by the State Board of Education.

31 (f) A school district to which this Section applies 32 shall report to the State Board of Education on its use of 33 the block grants in such form and detail as the State Board 34 of Education may specify.

1 This paragraph provides for the treatment of block (q) 2 grants under Article 1C for purposes of calculating the amount of block grants for a district under this Section. 3 4 Those block grants under Article <u>1C</u> IE are, for this purpose, 5 treated as included in the amount of appropriation for the б various programs set forth in paragraph (b) above. The appropriation in each current fiscal year for each block 7 grant under Article 1C shall be treated for these purposes as 8 9 appropriations for the individual program included in that block grant. The proportion of each block grant so allocated 10 11 to each such program included in it shall be the proportion which the appropriation for that program was of 12 all appropriations for such purposes now in that block grant, in 13 fiscal 1995. 14

15 (Source: P.A. 90-566, eff. 1-2-98; 90-653, eff. 7-29-98; 16 91-711, eff. 7-1-00; revised 12-04-01.)

17 (105 ILCS 5/2-3.35) (from Ch. 122, par. 2-3.35)

18 Sec. 2-3.35. Department of School District Organization. 19 To establish a Department of School District Organization to 20 assist local school districts in studying school district 21 organization problems so as to improve educational 22 opportunities for the students and:

23 (1) To provide consultant service to local school 24 districts to help them determine and understand the 25 necessary quality educational program needed for the 26 youth of today, and the necessary services and resources 27 to develop and support it.

(2) To provide consultant service to school
 districts that need to reorganize through consolidation,
 joint agreements, etc., in order to provide for a quality
 educational program.

32 <u>(3)</u> To provide consultant service to school 33 districts needing help to solve internal organizational problems that must be solved to provide a quality
 educational program.

3 <u>(4)</u> To provide information annually to the School 4 Problems Commission regarding progress made in improving 5 school district organization as well as school district 6 reorganization. Such factual information should provide 7 a basis for legislation to solve organizational problems 8 for school districts when they cannot or will not be 9 solved at the local school district level.

10 (5) May make area surveys of strengths and 11 weaknesses of local school districts and recommend, where 12 necessary, a course of action to meet adequate standards. 13 (Source: Laws 1967, p. 2639; revised 12-06-01.)

14 (105 ILCS 5/14-1.09.2)

Sec. <u>14-1.09.2</u>. <u>14-1-09-02</u>. School Social Work Services. In the public schools, social work services may be provided by qualified specialists who hold Type 73 School Service Personnel Certificates endorsed for school social work issued by the State Teacher Certification Board.

20 School social work services may include, but are not 21 limited to:

(1) Identifying students in need of special
education services by conducting a social-developmental
study in a case study evaluation;

25 (2) Developing and implementing comprehensive
26 interventions with students, parents, and teachers that
27 will enhance student adjustment to, and performance in,
28 the school setting;

(3) Consulting and collaborating with teachers and
 other school personnel regarding behavior management and
 intervention plans and inclusion in support of special
 education students in regular classroom settings;

33 (4) Counseling with students, parents, and teachers

in accordance with the rules and regulations governing provision of related services, provided that parent permission must be obtained in writing before a student participates in a group counseling session;

5 (5) Acting as a liaison between the public schools
6 and community resources;

7 (6) Developing and implementing school-based 8 prevention programs including mediation and violence 9 prevention;

10 (7) Providing crisis intervention within the school 11 setting;

12 (8) Supervising school social work interns enrolled
13 in school social work programs that meet the standards
14 established by the State Board of Education;

15 (9) Providing parent education and counseling as 16 appropriate in relation to the child's educational 17 assessment; and

18 (10) Assisting in completing a functional 19 behavioral assessment, as well as assisting in the 20 development of nonaversive behavioral intervention 21 strategies.

22 Nothing in this Section prohibits other certified 23 professionals from providing any of the services listed in 24 this Section for which they are appropriately trained.

25 (Source: P.A. 92-362, eff. 8-15-01; revised 10-9-01.)

26

(105 ILCS 5/14-9.01) (from Ch. 122, par. 14-9.01)

27 14-9.01. Qualifications of teachers, Sec. other 28 professional personnel and necessary workers. No person 29 shall be employed to teach any class or program authorized by this Article who does not hold a valid teacher's certificate 30 31 as provided by law and unless he has had such special training as the State Board of Education may require. 32 No 33 special certificate or endorsement to a special certificate

1 issued under Section 21-4 21-4 on or after July 1, 1994, 2 shall be valid for teaching students with visual disabilities unless the person to whom the certificate or endorsement is 3 4 issued has attained satisfactory performance on an 5 examination that is designed to assess competency in Braille б reading and writing skills according to standards that the 7 State Board of Education may adopt. Evidence of successfully completing the examination of Braille reading and writing 8 9 skills must be submitted to the State Board of Education prior to an applicant's examination of the subject matter 10 11 knowledge test required under Section 21-1a. Beginning July 1, 1995, in addition to other requirements, a candidate for a 12 teaching certification in the area of the deaf and hard of 13 hearing granted by the Illinois State Board of Education for 14 15 teaching deaf and hard of hearing students in grades 16 pre-school through grade 12 must demonstrate a minimum proficiency in sign language as determined by the Illinois 17 State Board of Education. All other professional personnel 18 19 employed in any class, service, or program authorized by this Article shall hold such certificates and shall have had such 20 21 special training as the State Board of Education may require; 22 provided that in a school district organized under Article 23 34, the school district may employ speech and language are licensed under 24 pathologists who the Illinois 25 Speech-Language Pathology and Audiology Practice Act but who do not hold a certificate issued under the School Code if the 26 district certifies that a chronic shortage of certified 27 personnel exists. Nothing contained in this Act prohibits 28 29 the school board from employing necessary workers to assist 30 the teacher with the special educational facilities, except that all such necessary workers must have had such training 31 32 as the State Board of Education may require.

33 No later than January 1, 1993, the State Board of 34 Education shall develop, in consultation with the Advisory 1 Council on the Education of Children with Disabilities and 2 the Advisory Council on Bilingual Education, rules governing 3 the qualifications for certification of teachers and school 4 service personnel providing services to limited English 5 proficient students receiving special education and related 6 services.

7 The employment of any teacher in a special education 8 program provided for in Sections 14-1.01 to 14-14.01, 9 inclusive, shall be subject to the provisions of Sections 24-11 to 24-16, inclusive. Any teacher employed in a special 10 11 education program, prior to the effective date of this amendatory Act of 1987, in which 2 or more districts 12 participate shall enter upon contractual continued service in 13 each of the participating districts subject to the provisions 14 of Sections 24-11 to 24-16, inclusive. 15

16 (Source: P.A. 88-45; 88-49; 88-670, eff. 12-2-94; 89-397, 17 eff. 8-20-95; 89-636, eff. 8-9-96; 89-698, eff. 1-14-97; 18 revised 1-7-02.)

19 (105 ILCS 5/18-8.05)

20 Sec. 18-8.05. Basis for apportionment of general State 21 financial aid and supplemental general State aid to the 22 common schools for the 1998-1999 and subsequent school years.

23 (A) General Provisions.

(1) The provisions of this Section apply to 24 the 25 1998-1999 and subsequent school years. The system of general State financial aid provided for in this Section is designed 26 27 to assure that, through a combination of State financial aid and required local resources, the financial support provided 28 each pupil in Average Daily Attendance equals or exceeds a 29 prescribed per pupil Foundation Level. This formula approach 30 31 imputes a level of per pupil Available Local Resources and 32 provides for the basis to calculate a per pupil level of general State financial aid that, when added to Available 33

Local Resources, equals or exceeds the Foundation Level. The amount of per pupil general State financial aid for school districts, in general, varies in inverse relation to Available Local Resources. Per pupil amounts are based upon each school district's Average Daily Attendance as that term is defined in this Section.

7 (2) In addition to general State financial aid, school 8 districts with specified levels or concentrations of pupils 9 low income households are eligible from to receive supplemental general State financial aid grants as provided 10 11 pursuant to subsection (H). The supplemental State aid grants provided for school districts under subsection (H) shall be 12 appropriated for distribution to school districts as part of 13 the same line item in which the general State financial aid 14 of school districts is appropriated under this Section. 15

16 (3) To receive financial assistance under this Section,
17 school districts are required to file claims with the State
18 Board of Education, subject to the following requirements:

19 (a) Any school district which fails for any given school year to maintain school as required by law, or to 20 21 maintain a recognized school is not eligible to file for 22 such school year any claim upon the Common School Fund. 23 In case of nonrecognition of one or more attendance centers in a school district otherwise 24 operating 25 recognized schools, the claim of the district shall be reduced in the proportion which the Average Daily 26 Attendance in the attendance center or centers bear to 27 the Average Daily Attendance in the school district. 28 Α "recognized school" means any public school which meets 29 30 the standards as established for recognition by the State Board of Education. A school district or attendance 31 center not having recognition status at the end of a 32 33 school term is entitled to receive State aid payments due upon a legal claim which was filed while it 34 was

-366-

1 recognized.

(b) School district claims filed under this Section
are subject to Sections 18-9, 18-10, and 18-12, except as
otherwise provided in this Section.

5 (c) If a school district operates a full year 6 school under Section 10-19.1, the general State aid to 7 the school district shall be determined by the State 8 Board of Education in accordance with this Section as 9 near as may be applicable.

10

(d) (Blank).

11 (4) Except as provided in subsections (H) and (L), the 12 board of any district receiving any of the grants provided 13 for in this Section may apply those funds to any fund so 14 received for which that board is authorized to make 15 expenditures by law.

16 School districts are not required to exert a minimum 17 Operating Tax Rate in order to qualify for assistance under 18 this Section.

19 (5) As used in this Section the following terms, when20 capitalized, shall have the meaning ascribed herein:

21 (a) "Average Daily Attendance": A count of pupil
22 attendance in school, averaged as provided for in
23 subsection (C) and utilized in deriving per pupil
24 financial support levels.

(b) "Available Local Resources": A computation of
local financial support, calculated on the basis of
Average Daily Attendance and derived as provided pursuant
to subsection (D).

29 (c) "Corporate Personal Property Replacement 30 Taxes": Funds paid to local school districts pursuant to 31 "An Act in relation to the abolition of ad valorem 32 personal property tax and the replacement of revenues 33 lost thereby, and amending and repealing certain Acts and 34 parts of Acts in connection therewith", certified August 1

14, 1979, as amended (Public Act 81-1st S.S.-1).

2 (d) "Foundation Level": A prescribed level of per
3 pupil financial support as provided for in subsection
4 (B).

5 (e) "Operating Tax Rate": All school district 6 property taxes extended for all purposes, except Bond and 7 Interest, Summer School, Rent, Capital Improvement, and 8 Vocational Education Building purposes.

9 (B) Foundation Level.

(1) The Foundation Level is a figure established by the 10 State representing the minimum level of per pupil financial 11 12 support that should be available to provide for the basic education of each pupil in Average Daily Attendance. As set 13 14 forth in this Section, each school district is assumed to exert a sufficient local taxing effort such that, in 15 combination with the aggregate of general State financial aid 16 provided the district, an aggregate of State and local 17 18 resources are available to meet the basic education needs of 19 pupils in the district.

(2) For the 1998-1999 school year, the Foundation Level
of support is \$4,225. For the 1999-2000 school year, the
Foundation Level of support is \$4,325. For the 2000-2001
school year, the Foundation Level of support is \$4,425.

24 (3) For the 2001-2002 school year and each school year
25 thereafter, the Foundation Level of support is \$4,560 or such
26 greater amount as may be established by law by the General
27 Assembly.

28 (C) Average Daily Attendance.

(1) For purposes of calculating general State aid pursuant to subsection (E), an Average Daily Attendance figure shall be utilized. The Average Daily Attendance figure for formula calculation purposes shall be the monthly average of the actual number of pupils in attendance of each 1 school district, as further averaged for the best 3 months of 2 pupil attendance for each school district. In compiling the 3 figures for the number of pupils in attendance, school 4 districts and the State Board of Education shall, for 5 purposes of general State aid funding, conform attendance 6 figures to the requirements of subsection (F).

7 (2) The Average Daily Attendance figures utilized in 8 subsection (E) shall be the requisite attendance data for the 9 school year immediately preceding the school year for which general State aid is being calculated or the average of the 10 11 attendance data for the 3 preceding school years, whichever is greater. The Average Daily Attendance figures utilized in 12 subsection (H) shall be the requisite attendance data for the 13 school year immediately preceding the school year for which 14 15 general State aid is being calculated.

16 (D) Available Local Resources.

(1) For purposes of calculating general State 17 aid 18 pursuant to subsection (E), a representation of Available 19 Local Resources per pupil, as that term is defined and determined in this subsection, shall be utilized. Available 20 21 Local Resources per pupil shall include a calculated dollar amount representing local school district revenues from local 22 23 property taxes and from Corporate Personal Property Replacement Taxes, expressed on the basis of pupils in 24 25 Average Daily Attendance.

In determining a school district's revenue from 26 (2) local property taxes, the State Board of Education shall 27 28 utilize the equalized assessed valuation of all taxable property of each school district as of September 30 of the 29 The equalized assessed valuation utilized 30 previous year. shall be obtained and determined as provided in subsection 31 32 (G).

33 (3) For school districts maintaining grades kindergarten34 through 12, local property tax revenues per pupil shall be

1 calculated as the product of the applicable equalized 2 assessed valuation for the district multiplied by 3.00%, and divided by the district's Average Daily Attendance figure. 3 4 For school districts maintaining grades kindergarten through 8, local property tax revenues per pupil shall be calculated 5 as the product of the applicable equalized assessed valuation 6 7 for the district multiplied by 2.30%, and divided by the 8 district's Average Daily Attendance figure. For school districts maintaining grades 9 through 12, local property tax 9 revenues per pupil shall be the applicable equalized assessed 10 11 valuation of the district multiplied by 1.05%, and divided by the district's Average Daily Attendance figure. 12

The Corporate Personal Property Replacement Taxes 13 (4) paid to each school district during the calendar year 2 years 14 15 before the calendar year in which a school year begins, 16 divided by the Average Daily Attendance figure for that district, shall be added to the local property tax revenues 17 per pupil as derived by the application of the immediately 18 preceding paragraph (3). The sum of these per pupil figures 19 for each school district shall constitute Available Local 20 21 Resources as that term is utilized in subsection (E) in the calculation of general State aid. 22

23 (E) Computation of General State Aid.

(1) For each school year, the amount of general State
aid allotted to a school district shall be computed by the
State Board of Education as provided in this subsection.

(2) For any school district for which Available Local
Resources per pupil is less than the product of 0.93 times
the Foundation Level, general State aid for that district
shall be calculated as an amount equal to the Foundation
Level minus Available Local Resources, multiplied by the
Average Daily Attendance of the school district.

33 (3) For any school district for which Available Local34 Resources per pupil is equal to or greater than the product

1 of 0.93 times the Foundation Level and less than the product 2 of 1.75 times the Foundation Level, the general State aid per pupil shall be a decimal proportion of the Foundation Level 3 4 derived using a linear algorithm. Under this linear 5 algorithm, the calculated general State aid per pupil shall 6 decline in direct linear fashion from 0.07 times the 7 Foundation Level for a school district with Available Local Resources equal to the product of 0.93 times the Foundation 8 9 Level, to 0.05 times the Foundation Level for a school district with Available Local Resources equal to the product 10 11 of 1.75 times the Foundation Level. The allocation of general State aid for school districts subject to this 12 paragraph 3 shall be the calculated general State aid per 13 pupil figure multiplied by the Average Daily Attendance of 14 the school district. 15

16 (4) For any school district for which Available Local 17 Resources per pupil equals or exceeds the product of 1.75 18 times the Foundation Level, the general State aid for the 19 school district shall be calculated as the product of \$218 20 multiplied by the Average Daily Attendance of the school 21 district.

(5) The amount of general State aid allocated to a 22 23 school district for the 1999-2000 school year meeting the requirements set forth in paragraph (4) of subsection (G) 24 25 shall be increased by an amount equal to the general State aid that would have been received by the district for the 26 1998-1999 school year by utilizing the Extension Limitation 27 Equalized Assessed Valuation as calculated in paragraph (4) 28 29 of subsection (G) less the general State aid allotted for the 30 1998-1999 school year. This amount shall be deemed a one time increase, and shall not affect any future general State 31 32 aid allocations.

33 (F) Compilation of Average Daily Attendance.

34 (1) Each school district shall, by July 1 of each year,

1 submit to the State Board of Education, on forms prescribed 2 by the State Board of Education, attendance figures for the school year that began in the preceding calendar year. 3 The 4 attendance information so transmitted shall identify the average daily attendance figures for each month of the school 5 year, except that any days of attendance in August shall be 6 7 added to the month of September and any days of attendance in June shall be added to the month of May. 8

9 Except as otherwise provided in this Section, days of attendance by pupils shall be counted only for sessions of 10 11 not less than 5 clock hours of school work per day under direct supervision of: (i) teachers, or (ii) non-teaching 12 13 personnel or volunteer personnel when engaging in non-teaching duties and supervising in those 14 instances specified in subsection (a) of Section 10-22.34 and paragraph 15 16 10 of Section 34-18, with pupils of legal school age and in kindergarten and grades 1 through 12. 17

Days of attendance by tuition pupils shall be accredited only to the districts that pay the tuition to a recognized school.

(2) Days of attendance by pupils of less than 5 clock
hours of school shall be subject to the following provisions
in the compilation of Average Daily Attendance.

(a) Pupils regularly enrolled in a public school 24 25 for only a part of the school day may be counted on the basis of 1/6 day for every class hour of instruction of 26 minutes or more attended pursuant to such enrollment, 27 40 unless a pupil is enrolled in a block-schedule format of 28 minutes or more of instruction, in which case the 29 80 pupil may be counted on the basis of the proportion of 30 minutes of school work completed each day to the minimum 31 number of minutes that school work is required to be held 32 that day. 33

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(b) Days of attendance may be less than 5 clock

hours on the opening and closing of the school term, and
 upon the first day of pupil attendance, if preceded by a
 day or days utilized as an institute or teachers'
 workshop.

5 (c) A session of 4 or more clock hours may be 6 counted as a day of attendance upon certification by the 7 regional superintendent, and approved by the State 8 Superintendent of Education to the extent that the 9 district has been forced to use daily multiple sessions.

(d) A session of 3 or more clock hours may be 10 11 counted as a day of attendance (1) when the remainder of the school day or at least 2 hours in the evening of that 12 day is utilized for an in-service training program for 13 teachers, up to a maximum of 5 days per school year of 14 which a maximum of 4 days of such 5 days may be used for 15 16 parent-teacher conferences, provided a district conducts an in-service training program for teachers which has 17 been approved by the State Superintendent of Education; 18 or, in lieu of 4 such days, 2 full days may be used, in 19 which event each such day may be counted as a day of 20 21 attendance; and (2) when days in addition to those provided in item (1) are scheduled by a school pursuant 22 to its school improvement plan adopted under Article 34 23 or its revised or amended school improvement plan adopted 24 under Article 2, provided that (i) such sessions of 3 or 25 more clock hours are scheduled to occur at regular 26 intervals, (ii) the remainder of the school days in which 27 such sessions occur are utilized for in-service training 28 29 programs or other staff development activities for teachers, and (iii) a sufficient number of minutes of 30 school work under the direct supervision of teachers are 31 added to the school days between such regularly scheduled 32 sessions to accumulate not less than the number of 33 minutes by which such sessions of 3 or more clock hours 34

1 fall short of 5 clock hours. Any full days used for the 2 purposes of this paragraph shall not be considered for computing average daily attendance. Days scheduled for 3 4 in-service training programs, staff development 5 activities, parent-teacher conferences or may be scheduled separately for different grade levels and 6 7 different attendance centers of the district.

8 (e) A session of not less than one clock hour of 9 teaching hospitalized or homebound pupils on-site or by 10 telephone to the classroom may be counted as 1/2 day of 11 attendance, however these pupils must receive 4 or more 12 clock hours of instruction to be counted for a full day 13 of attendance.

(f) A session of at least 4 clock hours may be counted as a day of attendance for first grade pupils, and pupils in full day kindergartens, and a session of 2 or more hours may be counted as 1/2 day of attendance by pupils in kindergartens which provide only 1/2 day of attendance.

20 (g) For children with disabilities who are below 21 the age of 6 years and who cannot attend 2 or more clock 22 hours because of their disability or immaturity, a 23 session of not less than one clock hour may be counted as 24 1/2 day of attendance; however for such children whose 25 educational needs so require a session of 4 or more clock 26 hours may be counted as a full day of attendance.

A recognized kindergarten which provides for 27 (h) only 1/2 day of attendance by each pupil shall not have 28 29 more than 1/2 day of attendance counted in any one day. 30 However, kindergartens may count 2 1/2 days of attendance in any 5 consecutive school days. When a pupil attends 31 such a kindergarten for 2 half days on any one school 32 day, the pupil shall have the following day as a day 33 34 absent from school, unless the school district obtains

1 permission in writing from the State Superintendent of 2 Education. Attendance at kindergartens which provide for a full day of attendance by each pupil shall be counted 3 4 same as attendance by first grade pupils. Only the the first year of attendance in one kindergarten shall be 5 counted, except in case of children who entered the 6 7 kindergarten in their fifth year whose educational 8 development requires a second year of kindergarten as 9 determined under the rules and regulations of the State Board of Education. 10

11 (G) Equalized Assessed Valuation Data.

12 For purposes of the calculation of Available Local (1) Resources required pursuant to subsection (D), the State 13 14 Board of Education shall secure from the Department of 15 Revenue the value as equalized or assessed by the Department of Revenue of all taxable property of every school district, 16 together with (i) the applicable tax rate used in extending 17 18 taxes for the funds of the district as of September 30 of the 19 previous year and (ii) the limiting rate for all school 20 districts subject to property tax extension limitations as 21 imposed under the Property Tax Extension Limitation Law.

This equalized assessed valuation, as adjusted further by the requirements of this subsection, shall be utilized in the calculation of Available Local Resources.

(2) The equalized assessed valuation in paragraph (1)shall be adjusted, as applicable, in the following manner:

(a) For the purposes of calculating State aid under 27 28 this Section, with respect to any part of a school 29 district within a redevelopment project area in respect to which a municipality has adopted tax 30 increment allocation financing pursuant to the Tax Increment 31 Allocation Redevelopment Act, Sections 11-74.4-1 through 32 33 11-74.4-11 of the Illinois Municipal Code or the Industrial Jobs Recovery Law, Sections 11-74.6-1 through 34

1 11-74.6-50 of the Illinois Municipal Code, no part of the 2 current equalized assessed valuation of real property located in any such project area which is attributable to 3 4 an increase above the total initial equalized assessed valuation of such property shall be used as part of the 5 equalized assessed valuation of the district, until such 6 7 time as all redevelopment project costs have been paid, as provided in Section 11-74.4-8 of the Tax Increment 8 9 Allocation Redevelopment Act or in Section 11-74.6-35 of the Industrial Jobs Recovery Law. For the purpose of the 10 11 equalized assessed valuation of the district, the total initial equalized assessed valuation or the current 12 equalized assessed valuation, whichever is lower, shall 13 be used until such time as all redevelopment project 14 15 costs have been paid.

16 (b) The real property equalized assessed valuation for a school district shall be adjusted by subtracting 17 from the real property value as equalized or assessed by 18 the Department of Revenue for the district an amount 19 computed by dividing the amount of any abatement of taxes 20 21 under Section 18-170 of the Property Tax Code by 3.00% 22 for a district maintaining grades kindergarten through 23 12, 2.30% for a district maintaining grades by kindergarten through 8, or by 1.05% for a district 24 maintaining grades 9 through 12 and adjusted by an amount 25 computed by dividing the amount of any abatement of taxes 26 under subsection (a) of Section 18-165 of the Property 27 Tax Code by the same percentage rates for district type 28 29 as specified in this subparagraph (b).

30 (3) For the 1999-2000 school year and each school year
31 thereafter, if a school district meets all of the criteria of
32 this subsection (G)(3), the school district's Available Local
33 Resources shall be calculated under subsection (D) using the
34 district's Extension Limitation Equalized Assessed Valuation

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-376-

1 as calculated under this subsection (G)(3). 2 For purposes of this subsection (G)(3) the following terms shall have the following meanings: 3 4 "Budget Year": The school year for which general State aid is calculated and awarded under subsection (E). 5 "Base Tax Year": The property tax levy year used to 6 7 calculate the Budget Year allocation of general State 8 aid. 9 "Preceding Tax Year": The property tax levy year immediately preceding the Base Tax Year. 10 11 "Base Tax Year's Tax Extension": The product of the equalized assessed valuation utilized by the County Clerk 12 in the Base Tax Year multiplied by the limiting rate as 13 calculated by the County Clerk and defined in the 14

16 "Preceding Tax Year's Tax Extension": The product of 17 the equalized assessed valuation utilized by the County 18 Clerk in the Preceding Tax Year multiplied by the 19 Operating Tax Rate as defined in subsection (A).

Property Tax Extension Limitation Law.

20 "Extension Limitation Ratio": A numerical ratio,
21 certified by the County Clerk, in which the numerator is
22 the Base Tax Year's Tax Extension and the denominator is
23 the Preceding Tax Year's Tax Extension.

24 "Operating Tax Rate": The operating tax rate as25 defined in subsection (A).

If a school district is subject to property tax extension 26 limitations as imposed under the Property Tax Extension 27 Limitation Law, the State Board of Education shall calculate 28 the Extension Limitation Equalized Assessed Valuation of that 29 30 district. For the 1999-2000 school year, the Extension Limitation Equalized Assessed Valuation of a school district 31 32 as calculated by the State Board of Education shall be equal 33 to the product of the district's 1996 Equalized Assessed Valuation and the district's Extension Limitation Ratio. For 34

1 the 2000-2001 school year and each school year thereafter, 2 the Extension Limitation Equalized Assessed Valuation of a school district as calculated by the State Board of Education 3 4 shall be equal to the product of the Equalized Assessed 5 Valuation last used in the calculation of general State aid 6 and the district's Extension Limitation Ratio. Ιf the 7 Extension Limitation Equalized Assessed Valuation of a school 8 district as calculated under this subsection (G)(3) is less 9 than the district's equalized assessed valuation as calculated pursuant to subsections (G)(1) and (G)(2), then 10 11 for purposes of calculating the district's general State aid 12 for the Budget Year pursuant to subsection (E), that Extension Limitation Equalized Assessed Valuation shall be 13 utilized to calculate the district's Available Local 14 Resources under subsection (D). 15

16 (4) For the purposes of calculating general State aid for the 1999-2000 school year only, if a school district 17 the experienced a triennial reassessment on 18 equalized 19 assessed valuation used in calculating its general State financial aid apportionment for the 1998-1999 school year, 20 21 the State Board of Education shall calculate the Extension Limitation Equalized Assessed Valuation that would have been 22 23 used to calculate the district's 1998-1999 general State aid. This amount shall equal the product of the equalized assessed 24 25 valuation used to calculate general State aid for the 1997-1998 school year and the district's Extension Limitation 26 If the Extension Limitation Equalized Assessed 27 Ratio. Valuation of the school district as calculated under this 28 paragraph (4) is less than the district's equalized assessed 29 30 valuation utilized in calculating the district's 1998-1999 State aid 31 general allocation, then for purposes of 32 calculating the district's general State aid pursuant to paragraph (5) of subsection (E), that Extension Limitation 33 Equalized Assessed Valuation shall be utilized to calculate 34

-378-

1 the district's Available Local Resources.

2 (5) For school districts having a majority of their equalized assessed valuation in any county except Cook, 3 4 DuPage, Kane, Lake, McHenry, or Will, if the amount of 5 general State aid allocated to the school district for the б 1999-2000 school year under the provisions of subsection (E), 7 (H), and (J) of this Section is less than the amount of general State aid allocated to the district for the 1998-1999 8 9 school year under these subsections, then the general State aid of the district for the 1999-2000 school year only shall 10 11 be increased by the difference between these amounts. The total payments made under this paragraph (5) shall not exceed 12 \$14,000,000. Claims shall be prorated if they exceed 13 \$14,000,000. 14

15 (H) Supplemental General State Aid.

(1) In addition to the general State aid a school 16 district is allotted pursuant to subsection (E), qualifying 17 18 school districts shall receive a grant, paid in conjunction 19 a district's payments of general State aid, for with supplemental general State aid based upon the concentration 20 21 level of children from low-income households within the school district. Supplemental State aid grants provided for 22 23 school districts under this subsection shall be appropriated 24 for distribution to school districts as part of the same line item in which the general State financial aid of school 25 districts is appropriated under this Section. For purposes of 26 this subsection, the term "Low-Income Concentration Level" 27 28 shall be the low-income eligible pupil count from the most 29 recently available federal census divided by the Average Daily Attendance of the school district. If, however, (i) the 30 percentage decrease from the 2 most recent federal censuses 31 in the low-income eligible pupil count of a high school 32 33 district with fewer than 400 students exceeds by 75% or more 34 the percentage change in the total low-income eligible pupil

1 count of contiguous elementary school districts, whose 2 boundaries are coterminous with the high school district, or (ii) a high school district within 2 counties and serving 5 3 4 elementary school districts, whose boundaries are coterminous 5 with the high school district, has a percentage decrease from б the 2 most recent federal censuses in the low-income eligible 7 pupil count and there is a percentage increase in the total 8 low-income eligible pupil count of a majority of the 9 elementary school districts in excess of 50% from the 2 most recent federal censuses, then the high school district's 10 11 low-income eligible pupil count from the earlier federal census shall be the number used as the low-income eligible 12 pupil count for the high school district, for purposes of 13 this subsection (H). The changes made to this paragraph (1) 14 15 by Public Act 92-28 this-amendatory-Act-of-the-92nd-General 16 Assembly shall apply to supplemental general State aid grants paid in fiscal year 1999 and in each fiscal year thereafter 17 and to any State aid payments made in fiscal year 1994 18 19 through fiscal year 1998 pursuant to subsection 1(n) of Section 18-8 of this Code (which was repealed on July 1, 20 21 1998), and any high school district that is affected by 22 Public Act 92-28 this--amendatory--Act-of-the-92nd-General 23 Assembly is entitled to a recomputation of its supplemental general State aid grant or State aid paid in any of those 24 25 fiscal years. This recomputation shall not be affected by any other funding. 26

(2) Supplemental general State aid pursuant to this
subsection (H) shall be provided as follows for the
1998-1999, 1999-2000, and 2000-2001 school years only:

30 (a) For any school district with a Low Income
31 Concentration Level of at least 20% and less than 35%,
32 the grant for any school year shall be \$800 multiplied by
33 the low income eligible pupil count.

34 (b) For any school district with a Low Income

-380-

Concentration Level of at least 35% and less than 50%,
 the grant for the 1998-1999 school year shall be \$1,100
 multiplied by the low income eligible pupil count.

4 (c) For any school district with a Low Income
5 Concentration Level of at least 50% and less than 60%,
6 the grant for the 1998-99 school year shall be \$1,500
7 multiplied by the low income eligible pupil count.

8 (d) For any school district with a Low Income 9 Concentration Level of 60% or more, the grant for the 10 1998-99 school year shall be \$1,900 multiplied by the low 11 income eligible pupil count.

12 (e) For the 1999-2000 school year, the per pupil 13 amount specified in subparagraphs (b), (c), and (d) 14 immediately above shall be increased to \$1,243, \$1,600, 15 and \$2,000, respectively.

16 (f) For the 2000-2001 school year, the per pupil 17 amounts specified in subparagraphs (b), (c), and (d) 18 immediately above shall be \$1,273, \$1,640, and \$2,050, 19 respectively.

20 (2.5) Supplemental general State aid pursuant to this
21 subsection (H) shall be provided as follows for the 2001-2002
22 school year and each school year thereafter:

(a) For any school district with a Low Income
Concentration Level of less than 10%, the grant for each
school year shall be \$355 multiplied by the low income
eligible pupil count.

(b) For any school district with a Low Income
Concentration Level of at least 10% and less than 20%,
the grant for each school year shall be \$675 multiplied
by the low income eligible pupil count.

31 (c) For any school district with a Low Income
32 Concentration Level of at least 20% and less than 35%,
33 the grant for each school year shall be \$1,190 multiplied
34 by the low income eligible pupil count.

(d) For any school district with a Low Income
 Concentration Level of at least 35% and less than 50%,
 the grant for each school year shall be \$1,333 multiplied
 by the low income eligible pupil count.

5 (e) For any school district with a Low Income 6 Concentration Level of at least 50% and less than 60%, 7 the grant for each school year shall be \$1,680 multiplied 8 by the low income eligible pupil count.

9 (f) For any school district with a Low Income 10 Concentration Level of 60% or more, the grant for each 11 school year shall be \$2,080 multiplied by the low income 12 eligible pupil count.

(3) School districts with an Average Daily Attendance of 13 more than 1,000 and less than 50,000 that qualify for 14 15 supplemental general State aid pursuant to this subsection 16 shall submit a plan to the State Board of Education prior to October 30 of each year for the use of the funds resulting 17 from this grant of supplemental general State aid for the 18 19 improvement of instruction in which priority is given to meeting the education needs of disadvantaged children. Such 20 plan shall be submitted in accordance with rules 21 and regulations promulgated by the State Board of Education. 22

(4) School districts with an Average Daily Attendance of 50,000 or more that qualify for supplemental general State aid pursuant to this subsection shall be required to distribute from funds available pursuant to this Section, no less than \$261,000,000 in accordance with the following requirements:

(a) The required amounts shall be distributed to
the attendance centers within the district in proportion
to the number of pupils enrolled at each attendance
center who are eligible to receive free or reduced-price
lunches or breakfasts under the federal Child Nutrition
Act of 1966 and under the National School Lunch Act

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during the immediately preceding school year.

2 (b) The distribution of these portions of supplemental and general State aid among attendance 3 4 centers according to these requirements shall not be compensated for or contravened by adjustments of the 5 total of other funds appropriated to any attendance 6 7 centers, and the Board of Education shall utilize funding from one or several sources in order to fully implement 8 9 this provision annually prior to the opening of school.

(c) Each attendance center shall be provided by the 10 11 school district a distribution of noncategorical funds and other categorical funds to which an attendance center 12 is entitled under law in order that the general State aid 13 and supplemental 14 general State aid provided by 15 application of this subsection supplements rather than 16 supplants the noncategorical funds and other categorical funds provided by the school district to the attendance 17 centers. 18

19 (d) Any funds made available under this subsection 20 that by reason of the provisions of this subsection are 21 not required to be allocated and provided to attendance 22 centers may be used and appropriated by the board of the 23 district for any lawful school purpose.

(e) Funds received by an attendance center pursuant 24 to this subsection shall be used by the attendance center 25 at the discretion of the principal and local school 26 council for programs to improve educational opportunities 27 at qualifying schools through the following programs and 28 29 services: early childhood education, reduced class size or improved adult to student classroom ratio, enrichment 30 programs, remedial assistance, attendance improvement, 31 and other educationally beneficial expenditures which 32 supplement the regular and basic programs as determined 33 by the State Board of Education. Funds provided shall not 34

be expended for any political or lobbying purposes as
 defined by board rule.

(f) Each district subject to the provisions of this 3 4 subdivision (H)(4) shall submit an acceptable plan to meet the educational needs of disadvantaged children, in 5 compliance with the requirements of this paragraph, 6 to 7 the State Board of Education prior to July 15 of each year. This plan shall be consistent with the decisions of 8 9 local school councils concerning the school expenditure plans developed in accordance with part 4 of Section 10 11 34-2.3. The State Board shall approve or reject the plan within 60 days after its submission. If the plan is 12 13 rejected, the district shall give written notice of intent to modify the plan within 15 days of 14 the 15 notification of rejection and then submit a modified plan 16 within 30 days after the date of the written notice of intent to modify. Districts may amend approved plans 17 pursuant to rules promulgated by the State Board of 18 Education. 19

20 Upon notification by the State Board of Education 21 that the district has not submitted a plan prior to July 22 15 or a modified plan within the time period specified 23 herein, the State aid funds affected by that plan or 24 modified plan shall be withheld by the State Board of 25 Education until a plan or modified plan is submitted.

If the district fails to distribute State aid to 26 attendance centers in accordance with an approved plan, 27 the plan for the following year shall allocate funds, in 28 29 addition to the funds otherwise required by this subsection, to those attendance centers which were 30 underfunded during the previous year in amounts equal to 31 such underfunding. 32

For purposes of determining compliance with thissubsection in relation to the requirements of attendance

1 center funding, each district subject to the provisions 2 of this subsection shall submit as a separate document by December 1 of each year a report of expenditure data for 3 4 the prior year in addition to any modification of its current plan. If it is determined that there has been a 5 failure to comply with the expenditure provisions of this 6 7 subsection regarding contravention or supplanting, the State Superintendent of Education shall, within 60 days 8 9 of receipt of the report, notify the district and any affected local school council. The district shall within 10 11 45 days of receipt of that notification inform the State Superintendent of Education of the remedial or corrective 12 action to be taken, whether by amendment of the current 13 plan, if feasible, or by adjustment in the plan for the 14 15 following year. Failure to provide the expenditure 16 report or the notification of remedial or corrective action in a timely manner shall result in a withholding 17 of the affected funds. 18

19 The State Board of Education shall promulgate rules 20 and regulations to implement the provisions of this 21 subsection. No funds shall be released under this 22 subdivision (H)(4) to any district that has not submitted 23 a plan that has been approved by the State Board of 24 Education.

25 (I) General State Aid for Newly Configured School Districts. (1) For a new school district formed by combining 26 property included totally within 2 or more previously 27 28 existing school districts, for its first year of existence the general State aid and supplemental general State aid 29 calculated under this Section shall be computed for the new 30 district and for the previously existing districts for which 31 32 property is totally included within the new district. If the 33 computation on the basis of the previously existing districts 34 is greater, a supplementary payment equal to the difference shall be made for the first 4 years of existence of the new
 district.

(2) For a school district which annexes all of the 3 4 territory of one or more entire other school districts, for 5 first year during which the change of boundaries the 6 attributable to such annexation becomes effective for all 7 purposes as determined under Section 7-9 or 7A-8, the general State aid and supplemental general State aid calculated under 8 9 this Section shall be computed for the annexing district as constituted after the annexation and for the annexing and 10 11 each annexed district as constituted prior to the annexation; and if the computation on the basis of the annexing and 12 annexed districts as constituted prior to the annexation is 13 greater, a supplementary payment equal to the difference 14 shall be made for the first 4 years of existence of 15 the 16 annexing school district as constituted upon such annexation.

(3) For 2 or more school districts which annex all of 17 the territory of one or more entire other school districts, 18 and for 2 or more community unit districts which result upon 19 the division (pursuant to petition under Section 11A-2) of 20 21 one or more other unit school districts into 2 or more parts 22 and which together include all of the parts into which such 23 other unit school district or districts are so divided, for the first year during which the change of 24 boundaries 25 attributable to such annexation or division becomes effective for all purposes as determined under Section 7-9 or 11A-10, 26 as the case may be, the general State aid and supplemental 27 general State aid calculated under this Section shall be 28 29 computed for each annexing or resulting district as 30 constituted after the annexation or division and for each annexing and annexed district, or for each resulting and 31 32 divided district, as constituted prior to the annexation or 33 division; and if the aggregate of the general State aid and 34 supplemental general State aid as so computed for the

1 annexing or resulting districts as constituted after the 2 annexation or division is less than the aggregate of the general State aid and supplemental general State aid as so 3 4 computed for the annexing and annexed districts, or for the resulting and divided districts, as constituted prior to the 5 annexation or division, then a supplementary payment equal to 6 7 the difference shall be made and allocated between or among 8 the annexing or resulting districts, as constituted upon such 9 annexation or division, for the first 4 years of their existence. The total difference payment shall be allocated 10 11 between or among the annexing or resulting districts in the 12 same ratio as the pupil enrollment from that portion of the annexed or divided district or districts which is annexed to 13 or included in each such annexing or resulting district bears 14 15 to the total pupil enrollment from the entire annexed or 16 divided district or districts, as such pupil enrollment is determined for the school year last ending prior to the date 17 when the change of boundaries attributable to the annexation 18 or division becomes effective for all purposes. 19 The amount of the total difference payment and the amount thereof to be 20 21 allocated to the annexing or resulting districts shall be 22 computed by the State Board of Education on the basis of 23 pupil enrollment and other data which shall be certified to the State Board of Education, on forms which it shall provide 24 25 for that purpose, by the regional superintendent of schools for each educational service region in which the annexing and 26 annexed districts, or resulting and divided districts are 27 located. 28

29 (3.5) Claims for financial assistance under this 30 subsection (I) shall not be recomputed except as expressly 31 provided under this Section.

32 (4) Any supplementary payment made under this subsection
33 (I) shall be treated as separate from all other payments made
34 pursuant to this Section.

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(J) Supplementary Grants in Aid.

2 (1) Notwithstanding any other provisions of this Section, the amount of the aggregate general State aid in 3 4 combination with supplemental general State aid under this 5 Section for which each school district is eligible shall be б no less than the amount of the aggregate general State aid 7 entitlement that was received by the district under Section 8 18-8 (exclusive of amounts received under subsections 5(p) 9 and 5(p-5) of that Section) for the 1997-98 school year, pursuant to the provisions of that Section as it was then in 10 11 effect. If a school district qualifies to receive a supplementary payment made under this subsection (J), the 12 amount of the aggregate general State aid in combination with 13 supplemental general State aid under this Section which that 14 district is eligible to receive for each school year shall be 15 16 no less than the amount of the aggregate general State aid entitlement that was received by the district under Section 17 18-8 (exclusive of amounts received under subsections 5(p) 18 19 and 5(p-5) of that Section) for the 1997-1998 school year, pursuant to the provisions of that Section as it was then in 20 effect. 21

22 If, as provided in paragraph (1) of this subsection (2) 23 (J), a school district is to receive aggregate general State aid in combination with supplemental general State aid under 24 25 this Section for the 1998-99 school year and any subsequent school year that in any such school year is less than the 26 27 amount of the aggregate general State aid entitlement that the district received for the 1997-98 school year, the school 28 29 district shall also receive, from a separate appropriation 30 made for purposes of this subsection (J), a supplementary payment that is equal to the amount of the difference in the 31 32 aggregate State aid figures as described in paragraph (1).

33 (3) (Blank).

34 (K) Grants to Laboratory and Alternative Schools.

In calculating the amount to be paid to the governing board of a public university that operates a laboratory school under this Section or to any alternative school that is operated by a regional superintendent of schools, the State Board of Education shall require by rule such reporting requirements as it deems necessary.

7 As used in this Section, "laboratory school" means a 8 public school which is created and operated by a public 9 university and approved by the State Board of Education. The governing board of a public university which receives funds 10 11 from the State Board under this subsection (K) may not increase the number of students enrolled in its laboratory 12 school from a single district, if that district is already 13 sending 50 or more students, except under a mutual agreement 14 between the school board of a student's district of residence 15 16 and the university which operates the laboratory school. А laboratory school may not have more than 1,000 students, 17 18 excluding students with disabilities in a special education 19 program.

As used in this Section, "alternative school" means a 20 21 public school which is created and operated by a Regional Superintendent of Schools and approved by the State Board of 22 23 Education. Such alternative schools may offer courses of instruction for which credit is given in regular school 24 25 programs, courses to prepare students for the high school 26 equivalency testing program or vocational and occupational A regional superintendent of schools may contract 27 training. with a school district or a public community college district 28 29 to operate an alternative school. An alternative school 30 serving more than one educational service region may be established by the regional superintendents of schools of the 31 32 affected educational service regions. An alternative school serving more than one educational service region may be 33 34 operated under such terms as the regional superintendents of 1 schools of those educational service regions may agree.

2 Each laboratory and alternative school shall file, on forms provided by the State Superintendent of Education, an 3 4 annual State aid claim which states the Average Daily Attendance of the school's students by month. The best 3 5 months' Average Daily Attendance shall be computed for each 6 7 school. The general State aid entitlement shall be computed 8 by multiplying the applicable Average Daily Attendance by the 9 Foundation Level as determined under this Section.

10 (L) Payments, Additional Grants in Aid and Other 11 Requirements.

12 (1) For a school district operating under the financial supervision of an Authority created under Article 34A, the 13 14 general State aid otherwise payable to that district under this Section, but not the supplemental general State aid, 15 shall be reduced by an amount equal to the budget for the 16 operations of the Authority as certified by the Authority to 17 18 the State Board of Education, and an amount equal to such 19 reduction shall be paid to the Authority created for such district for its operating expenses in the manner provided in 20 21 Section 18-11. The remainder of general State school aid for any such district shall be paid in accordance with Article 22 23 34A when that Article provides for a disposition other than that provided by this Article. 24

25 (2) (Blank).

26 (3) Summer school. Summer school payments shall be made27 as provided in Section 18-4.3.

28 (M) Education Funding Advisory Board.

The Education Funding Advisory Board, hereinafter in this subsection (M) referred to as the "Board", is hereby created. The Board shall consist of 5 members who are appointed by the Governor, by and with the advice and consent of the Senate. The members appointed shall include representatives of

1 education, business, and the general public. One of the 2 members so appointed shall be designated by the Governor at the time the appointment is made as the chairperson of 3 the 4 The initial members of the Board may be appointed any Board. 5 time after the effective date of this amendatory Act of 1997. б The regular term of each member of the Board shall be for 4 7 years from the third Monday of January of the year in which 8 the term of the member's appointment is to commence, except 9 that of the 5 initial members appointed to serve on the Board, the member who is appointed as the chairperson shall 10 11 serve for a term that commences on the date of his or her appointment and expires on the third Monday of January, 2002, 12 and the remaining 4 members, by lots drawn at the first 13 meeting of the Board that is held after all 5 members are 14 appointed, shall determine 2 of their number 15 to serve for 16 terms that commence on the date of their respective appointments and expire on the third Monday of January, 2001, 17 and 2 of their number to serve for terms that commence on the 18 19 date of their respective appointments and expire on the third Monday of January, 2000. All members appointed to serve on 20 21 the Board shall serve until their respective successors are appointed and confirmed. Vacancies shall be filled in the 22 23 same manner as original appointments. If a vacancy in 24 membership occurs at a time when the Senate is not in 25 session, the Governor shall make a temporary appointment until the next meeting of the Senate, when he or she shall 26 appoint, by and with the advice and consent of the Senate, a 27 person to fill that membership for the unexpired term. 28 Τf 29 the Senate is not in session when the initial appointments 30 are made, those appointments shall be made as in the case of 31 vacancies.

32 The Education Funding Advisory Board shall be deemed 33 established, and the initial members appointed by the 34 Governor to serve as members of the Board shall take office, 1 on the date that the Governor makes his or her appointment of 2 the fifth initial member of the Board, whether those initial 3 members are then serving pursuant to appointment and 4 confirmation or pursuant to temporary appointments that are 5 made by the Governor as in the case of vacancies.

6 The State Board of Education shall provide such staff 7 assistance to the Education Funding Advisory Board as is 8 reasonably required for the proper performance by the Board 9 of its responsibilities.

For school years after the 2000-2001 school year, 10 the 11 Education Funding Advisory Board, in consultation with the State Board of Education, shall make recommendations as 12 provided in this subsection (M) to the General Assembly for 13 the foundation level under subdivision (B)(3) of this Section 14 and for the supplemental general State aid grant level under 15 16 subsection (H) of this Section for districts with high concentrations of children from poverty. The recommended 17 foundation level shall be determined based on a methodology 18 19 which incorporates the basic education expenditures of low-spending schools exhibiting high academic performance. 20 21 The Education Funding Advisory Board shall make such 22 recommendations to the General Assembly on January 1 of odd numbered years, beginning January 1, 2001. 23

24 (N) (Blank).

25 (O) References.

(1) References in other laws to the various subdivisions of Section 18-8 as that Section existed before its repeal and replacement by this Section 18-8.05 shall be deemed to refer to the corresponding provisions of this Section 18-8.05, to the extent that those references remain applicable.

31 (2) References in other laws to State Chapter 1 funds
32 shall be deemed to refer to the supplemental general State
33 aid provided under subsection (H) of this Section.

1 (Source: P.A. 91-24, eff. 7-1-99; 91-93, eff. 7-9-99; 91-96, 2 eff. 7-9-99; 91-111, eff. 7-14-99; 91-357, eff. 7-29-99; 3 91-533, eff. 8-13-99; 92-7, eff. 6-29-01; 92-16, eff. 4 6-28-01; 92-28, eff. 7-1-01; 92-29, eff. 7-1-01; 92-269, eff. 5 8-7-01; revised 8-7-01.)

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(105 ILCS 5/22-27)

Sec. 22-27. World War II and Korean Conflict veterans;
diplomas.

9 (a) Upon the request, the school board of any district 10 that maintains grades 10 through 12 may award a diploma to 11 any honorably discharged veteran who:

12 (1) served in the armed forces of the United States13 during World War II or the Korean Conflict;

14 (2) resided within an area currently within the15 district;

16 (3) left high school before graduating in order to
17 serve in the armed forces of the United States; and

(4) has not received a high school diploma.

19 (b) The State Board of Education and the Department of 20 Veterans' Affairs may issue rules consistent with the 21 provisions of this Section that are necessary to implement 22 this Section.

23 (Source: P.A. 92-446, eff. 1-1-02; revised 12-04-01.)

24

18

(105 ILCS 5/34A-403.1)

34A-403.1. Fiscal 25 Sec. year 1994 contracts. Notwithstanding any provision of this Article 26 to the contrary, the failure of a Board to have a Financial Plan 27 28 approved by the School Finance Authority within 90 days after the effective date of this amendatory Act of 1993 shall not 29 30 impair the Board's power to enter into any contract or other obligation or the Authority's powers and responsibilities 31 under Sections 34A-404, <u>34A-405</u> 34-405, and 34A-405.2 or in 32

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-393-

1 any other way affect the operations of the Board.

2 (Source: P.A. 88-511; revised 12-07-01.)

3 Section 38. The Public Community College Act is amended
4 by renumbering and changing Section 3.25.2 as follows:

5 (110 ILCS 805/3-25.2) (from Ch. 122, par. 103-25.2)

6 Sec. <u>3-25.2. Armed forces recruiting and training.</u>
7 3.25.2.

To provide, on an equal basis, access to the campus 8 (a) 9 to the official recruiting representatives of the armed forces of Illinois and the United States for the purpose of 10 students of the educational 11 informing and career opportunities available in the military if the board has 12 13 provided such access to persons or groups whose purpose is to 14 acquaint students with educational or occupational opportunities available to them. The board is not required 15 16 to give greater notice regarding the right of access to 17 recruiting representatives than is given to other persons and 18 groups.

(b) To not bar or exclude from its curriculum, campus, or school facilities any armed forces training program or organization operated under the authority of the United States government because the program or organization complies with rules, regulations, or policies of the United States government or any agency, branch, or department thereof.

26 (Source: P.A. 87-788; revised 12-04-01.)

Section 39. The Nurses in Advancement Law is amended bychanging Section 1-20 as follows:

29 (110 ILCS 970/1-20) (from Ch. 144, par. 2781-20)
 30 Sec. 1-20. Scholarship requirements. It shall be lawful

1 for any organization to condition any loan or grant upon the 2 recipient's executing an agreement to commit not more than 5 3 years of his or her professional career to the goals 4 specifically outlined within the agreement including a 5 requirement that recipient practice nursing or medicine in 6 specifically designated practice and geographic areas.

7 agreement executed by an organization and any Any 8 recipient of loan or grant assistance shall contain a 9 provision for liquidated damages to be paid for any breach breech of any provision of the agreement, or any commitment 10 11 contained therein, together with attorney's fees and costs for the enforcement thereof. Any such covenant shall be 12 valid and enforceable in the courts of this State as 13 liquidated damages and shall not be considered a penalty, 14 15 provided that the provision for liquidated damages does not 16 exceed \$2,500 for each year remaining for the performance of 17 the agreement.

18 This Section shall not be construed as pertaining to or 19 limiting any liquidated damages resulting from scholarships 20 awarded under the Family Practice Residency Act. 21 (Source: P.A. 87-633; revised 12-04-01.)

22 Section 40. The Illinois Banking Act is amended by 23 changing Sections 14 and 48 as follows:

24 (205 ILCS 5/14) (from Ch. 17, par. 321)

25 Sec. 14. Stock. Unless otherwise provided for in this 26 Act provisions of general application to stock of a state 27 bank shall be as follows:

(1) All banks shall have their capital divided into
shares of a par value of not less than \$1 each and not more
than \$100 each, however, the par value of shares of a bank
effecting a reverse stock split pursuant to item (8) of
subsection (a) of Section 17 may temporarily exceed this

1 limit provided it conforms to the limits immediately after 2 the reverse stock split is completed. No issue of capital stock or preferred stock shall be valid until not less than 3 4 the par value of all such stock so issued shall be paid in 5 and notice thereof by the president, a vice-president or 6 cashier of the bank has been transmitted to the Commissioner. 7 In the case of an increase in capital stock by the 8 declaration of a stock dividend, the capitalization of retained earnings effected by such stock dividend shall 9 constitute the payment for such shares required by the 10 11 preceding sentence, provided that the surplus of said bank after such stock dividend shall be at least equal to fifty 12 per cent of the capital as increased. The charter shall not 13 limit or deny the voting power of the shares of any class of 14 stock except as provided in Section 15(3) of this Act. 15

16 (2) Pursuant to action taken in accordance with the requirements of Section 17, a bank may issue preferred stock 17 one or more classes as shall be approved by the 18 of 19 Commissioner as hereinafter provided, and make such amendment to its charter as may be necessary for this purpose; but 20 in 21 the case of any newly organized bank which has not yet issued capital stock the requirements of Section 17 shall not apply. 22

(3) Without limiting the authority herein contained a
bank, when so provided in its charter and when approved by
the Commissioner, may issue shares of preferred stock:

26 (a) Subject to the right of the bank to redeem any
27 of such shares at not exceeding the price fixed by the
28 charter for the redemption thereof;

(b) Subject to the provisions of subsection (8) of
this Section 14 entitling the holders thereof to
cumulative or noncumulative dividends;

32 (c) Having preference over any other class or
 33 classes of shares as to the payment of dividends;

34 (d) Having preference as to the assets of the bank

1 2 over any other class or classes of shares upon the voluntary or involuntary liquidation of the bank;

3 (e) Convertible into shares of any other class of
4 stock, provided that preferred shares shall not be
5 converted into shares of a different par value unless
6 that part of the capital of the bank represented by such
7 preferred shares is at the time of the conversion equal
8 to the aggregate par value of the shares into which the
9 preferred shares are to be converted.

(4) If any part of the capital of a bank consists of 10 11 preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such 12 13 impairment shall be based upon the par value of its stock even though the amount which the holders of such preferred 14 stock shall be entitled to receive in the event of retirement 15 16 or liquidation shall be in excess of the par value of such preferred stock. 17

18 (5) Pursuant to action taken in accordance with the 19 requirements of Section 17 of this Act, a state bank may 20 provide for a specified number of authorized but unissued 21 shares of capital stock for one or more of the following 22 purposes:

23 (a) Reserved for issuance under stock option plan
24 or plans to directors, officers or employees;

(b) Reserved for issuance upon conversion of
convertible preferred stock issued pursuant to and in
compliance with the provisions of subsections (2) and (3)
of this Section 14.

29 (c) Reserved for issuance upon conversion of 30 convertible debentures or other convertible evidences of 31 indebtedness issued by a state bank, provided always that 32 the terms of such conversion have been approved by the 33 Commissioner;

34

(d) Reserved for issuance by the declaration of a

1 stock dividend. If and when any shares of capital stock 2 are proposed to be authorized and reserved for any of the purposes set forth in subparagraphs (a), (b) or (c) 3 4 above, the notice of the meeting, whether special or annual, of stockholders at which such proposition is to 5 be considered shall be accompanied by a statement setting 6 7 forth or summarizing the terms upon which the shares of 8 capital stock so reserved are to be issued, and the 9 extent to which any preemptive rights of stockholders are inapplicable to the issuance of the shares so reserved or 10 11 to the convertible preferred stock or convertible convertible 12 debentures or other evidences of indebtedness, and the approving vote of the holders of at 13 least two-thirds of the outstanding shares of stock 14 15 entitled to vote at such meeting of the terms of such 16 issuance shall be requisite for the adoption of any amendment providing for the reservation of authorized but 17 unissued shares for any of said purposes. Nothing in this 18 19 subsection (5) contained shall be deemed to authorize the issuance of any capital stock for a consideration less 20 21 than the par value thereof.

22 (6) Upon written application to the Commissioner 60 days 23 prior to the proposed purchase and receipt of the written approval of the Commissioner, a state bank may purchase and 24 25 hold as treasury stock such amounts of the total number of issued and outstanding shares of its capital and preferred 26 Commissioner determines is 27 stock outstanding the as consistent with safety and soundness of the bank. 28 The Commissioner may specify the manner of accounting for the 29 30 treasury stock and the form of notice prior to ultimate disposition of the shares. Except as authorized in this 31 32 subsection, it shall not be lawful for a state bank to purchase or hold any additional such shares or securities 33 described in subsection (2) of Section 37 unless necessary to 34

-398-

1 prevent loss upon a debt previously contracted in good faith, 2 in which event such shares or securities so purchased or acquired shall, within 6 months from the time of purchase or 3 4 acquisition, be sold or disposed of at public or private Any state bank which intends to purchase and hold 5 sale. б treasury stock as authorized in this subsection (6) shall 7 file a written application with the Commissioner 60 days 8 prior to any such proposed purchase. The application shall 9 state the number of shares to be purchased, the consideration for the shares, the name and address of the person from whom 10 11 the shares are to be purchased, if known, and the total 12 percentage of its issued and outstanding shares to be held by the bank after the purchase. The total consideration paid by 13 a state bank for treasury stock shall reduce capital and 14 15 surplus of the bank for purposes of Sections of this Act 16 relating to lending and investment limits which require computation of capital and surplus. After considering and 17 approving an application to purchase and hold treasury stock 18 19 under this subsection, the Commissioner may waive or reduce the 60 day application period. 20 the balance of The 21 Commissioner may specify the form of the application for approval to acquire treasury stock and promulgate rules and 22 23 regulations for the administration of this subsection (6). A state bank may, acquire or resell its own owns shares as 24 25 treasury stock pursuant to this subsection (6) without a change in its charter pursuant to Section 17. Such stock may 26 be held for any purpose permitted in subsection (5) of this 27 Section 14 or may be resold upon such reasonable terms as the 28 29 board of directors may determine provided notice is given to 30 the Commissioner prior to the resale of such stock.

31 (7) During the time that a state bank shall continue its 32 banking business, it shall not withdraw or permit to be 33 withdrawn, either in the form of dividends or otherwise, any 34 portion of its capital, but nothing in this subsection shall 1 prevent a reduction or change of the capital stock or the 2 preferred stock under the provisions of Sections 17 through 3 30 of this Act, a purchase of treasury stock under the 4 provisions of subsection (6) of this Section 14 or a 5 redemption of preferred stock pursuant to charter provisions 6 therefor.

7 (8) (a) Subject to the provisions of this Act, the board 8 of directors of a state bank from time to time may 9 declare a dividend of so much of the net profits of such bank as it shall judge expedient, but each bank before 10 11 the declaration of a dividend shall carry at least one-tenth of its net profits since the date of the 12 declaration of the last preceding dividend, or since the 13 issuance of its charter in the case of its first 14 15 dividend, to its surplus until the same shall be equal to 16 its capital.

(b) No dividends shall be paid by a state bank 17 while it continues its banking business to an amount 18 greater than its net profits then on hand, deducting 19 first therefrom its losses and bad debts. All debts due 20 21 to a state bank on which interest is past due and unpaid 22 for a period of 6 months or more, unless the same are 23 well secured and in the process of collection, shall be considered bad debts. 24

(9) A State bank may, but shall not be obliged to, issue 25 a certificate for a fractional share, and, by action of its 26 board of directors, may in lieu thereof, pay cash equal to 27 the value of the fractional share. A certificate for a 28 fractional share shall entitle the holder to exercise 29 30 fractional voting rights, to receive dividends, and to participate in any of the assets of the bank in the event of 31 liquidation. 32

33 (Source: P.A. 92-483, eff. 8-23-01; revised 12-07-01.)

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(205 ILCS 5/48) (from Ch. 17, par. 359)

2 Sec. 48. Commissioner's powers; duties. The Commissioner shall have the powers and authority, and is charged with the 3 4 duties and responsibilities designated in this Act, and a State bank shall not be subject to any other visitorial power 5 other than as authorized by this Act, except those vested in 6 7 the courts, or upon prior consultation with the Commissioner, 8 a foreign bank regulator with an appropriate supervisory 9 interest in the parent or affiliate of a state bank. In the performance of the Commissioner's duties: 10

11 (1) The Commissioner shall call for statements from all 12 State banks as provided in Section 47 at least one time 13 during each calendar quarter.

(2) (a) The Commissioner, as often as the Commissioner 14 15 shall deem necessary or proper, and no less frequently than 16 18 months following the preceding examination, shall appoint a suitable person or persons to make an examination of the 17 affairs of every State bank, except that for every eligible 18 19 State bank, as defined by regulation, the Commissioner in 20 lieu of the examination may accept on an alternating basis 21 the examination made by the eligible State bank's appropriate 22 federal banking agency pursuant to Section 111 of the Federal 23 Insurance Corporation Improvement Act of 1991, Deposit provided the appropriate federal banking agency has made such 24 25 an examination. A person so appointed shall not be a 26 stockholder or officer or employee of any bank which that person may be directed to examine, and shall have powers to 27 make a thorough examination into all the affairs of the bank 28 29 and in so doing to examine any of the officers or agents or 30 employees thereof on oath and shall make a full and detailed report of the condition of the bank to the Commissioner. 31 In 32 the examination the examiners shall include an making examination of the affairs of all the affiliates of the bank, 33 as defined in subsection (b) of Section 35.2 of this Act, or 34

1 subsidiaries of the bank as shall be necessary to disclose 2 fully the conditions of the subsidiaries or affiliates, the relations between the bank and the subsidiaries or affiliates 3 4 and the effect of those relations upon the affairs of the bank, and in connection therewith shall have power to examine 5 any of the officers, directors, agents, or employees of the 6 7 subsidiaries or affiliates on oath. After May 31, 1997, the 8 Commissioner may enter into cooperative agreements with state 9 regulatory authorities of other states to provide for examination of State bank branches in those states, and the 10 11 Commissioner may accept reports of examinations of State bank branches from those state regulatory authorities. 12 These cooperative agreements may set forth the manner in which the 13 other state regulatory authorities may be compensated for 14 examinations prepared for and submitted to the Commissioner. 15

16 (b) After May 31, 1997, the Commissioner is authorized to examine, as often as the Commissioner shall deem necessary 17 or proper, branches of out-of-state banks. The Commissioner 18 19 may establish and may assess fees to be paid to the Commissioner for examinations under this subsection (b). 20 The 21 fees shall be borne by the out-of-state bank, unless the fees 22 are borne by the state regulatory authority that chartered 23 the out-of-state bank, as determined by a cooperative agreement between the Commissioner and the state regulatory 24 25 authority that chartered the out-of-state bank.

26 (2.5) Whenever any State bank, any subsidiary or 27 affiliate of a State bank, or after May 31, 1997, any branch 28 of an out-of-state bank causes to be performed, by contract 29 or otherwise, any bank services for itself, whether on or off 30 its premises:

31 (a) that performance shall be subject to
32 examination by the Commissioner to the same extent as if
33 services were being performed by the bank or, after May
34 31, 1997, branch of the out-of-state bank itself on its

-402-

1 own premises; and

(b) the bank or, after May 31, 1997, branch of the 2 out-of-state bank shall notify the Commissioner of the 3 4 existence of a service relationship. The notification shall be submitted with the first statement of condition 5 (as required by Section 47 of this Act) due after the 6 7 making of the service contract or the performance of the 8 service, whichever occurs first. The Commissioner shall be notified of each subsequent contract in the same 9 10 manner.

11 For purposes of this subsection (2.5), the term "bank services" means services such as sorting and posting of 12 checks and deposits, computation and posting of interest and 13 other credits and charges, preparation and mailing of checks, 14 statements, notices, and similar items, or any 15 other 16 clerical, bookkeeping, accounting, statistical, or similar functions performed for a State bank, including but not 17 limited to electronic data processing related to those bank 18 19 services.

20 (3) The expense of administering this Act, including the 21 expense of the examinations of State banks as provided in 22 this Act, shall to the extent of the amounts resulting from 23 the fees provided for in paragraphs (a), (a-2), and (b) of 24 this subsection (3) be assessed against and borne by the 25 State banks:

(a) Each bank shall pay to the Commissioner a Call 26 27 Report Fee which shall be paid in quarterly installments equal to one-fourth of the sum of the annual fixed fee of 28 29 \$800, plus a variable fee based on the assets shown on 30 the quarterly statement of condition delivered to the Commissioner in accordance with Section 47 for the 31 preceding quarter according to the following schedule: 32 33 16¢ per \$1,000 of the first \$5,000,000 of total assets, 15¢ per \$1,000 of the next \$20,000,000 of total assets, 34

1 13¢ per \$1,000 of the next \$75,000,000 of total assets, 2 9¢ per \$1,000 of the next \$400,000,000 of total assets, 7¢ per \$1,000 of the next \$500,000,000 of total assets, 3 4 and 5¢ per \$1,000 of all assets in excess of \$1,000,000,000, of the State bank. The Call Report Fee 5 shall be calculated by the Commissioner and billed to the 6 7 banks for remittance at the time of the quarterly statements of condition provided for in Section 47. 8 The 9 Commissioner may require payment of the fees provided in this Section by an electronic transfer of funds or an 10 11 automatic debit of an account of each of the State banks. In case more than one examination of any bank is deemed 12 by the Commissioner to be necessary in any examination 13 frequency cycle specified in subsection 2(a) of this 14 15 Section, and is performed at his direction, the 16 Commissioner may assess a reasonable additional fee to recover the cost of the additional examination; provided, 17 however, that an examination conducted at the request of 18 the State Treasurer pursuant to the Uniform Disposition 19 20 of Unclaimed Property Act shall not be deemed to be an 21 additional examination under this Section. In lieu of the 22 method and amounts set forth in this paragraph (a) for 23 the calculation of the Call Report Fee, the Commissioner may specify by rule that the Call Report Fees provided by 24 this Section may be assessed semiannually or some other 25 period and may provide in the rule the formula to be used 26 for calculating and assessing the periodic Call Report 27 Fees to be paid by State banks. 28

29 (a-1) If in the opinion of the Commissioner an emergency exists or appears likely, the Commissioner may 30 assign an examiner or examiners to monitor the affairs of 31 bank with whatever frequency he deems 32 State а appropriate, including but not limited to a daily basis. 33 34 The reasonable and necessary expenses of the Commissioner during the period of the monitoring shall be borne by the subject bank. The Commissioner shall furnish the State bank a statement of time and expenses if requested to do so within 30 days of the conclusion of the monitoring period.

(a-2) On and after January 1, 1990, the reasonable 6 7 necessary expenses of the Commissioner during and 8 examination of the performance of electronic data 9 processing services under subsection (2.5) shall be borne by the banks for which the services are provided. 10 An 11 amount, based upon a fee structure prescribed by the Commissioner, shall be paid by the banks or, after May 12 31, 1997, branches of out-of-state banks receiving the 13 electronic data processing services along with the Call 14 15 Report Fee assessed under paragraph (a) of this 16 subsection (3).

May 31, 1997, the reasonable and 17 (a-3) After necessary expenses of the Commissioner during examination 18 of the performance of electronic data processing services 19 under subsection (2.5) at or on behalf of branches of 20 21 out-of-state banks shall be borne by the out-of-state 22 banks, unless those expenses are borne by the state regulatory authorities that chartered the out-of-state 23 banks, as determined by cooperative agreements between 24 the Commissioner and the state regulatory authorities 25 that chartered the out-of-state banks. 26

(b) "Fiscal year" for purposes of this Section 48 27 is defined as a period beginning July 1 of any year and 28 29 ending June 30 of the next year. The Commissioner shall receive for each fiscal year, commencing with the fiscal 30 year ending June 30, 1987, a contingent fee equal to the 31 lesser of the aggregate of the fees paid by all State 32 banks under paragraph (a) of subsection (3) for that 33 year, or the amount, if any, whereby the aggregate of the 34

1 administration expenses, as defined in paragraph (c), for 2 that fiscal year exceeds the sum of the aggregate of the fees payable by all State banks for that year under 3 4 (a) of subsection (3), plus any amounts paragraph transferred into the Bank and Trust Company Fund from the 5 State Pensions Fund for that year, plus all other amounts 6 7 collected by the Commissioner for that year under any other provision of this Act, plus the aggregate of all 8 9 fees collected for that year by the Commissioner under the Corporate Fiduciary Act, excluding the receivership 10 11 fees provided for in Section 5-10 of the Corporate Fiduciary Act, and the Foreign Banking Office Act. The 12 aggregate amount of the contingent fee thus arrived at 13 any fiscal year shall be apportioned amongst, 14 for 15 assessed upon, and paid by the State banks and foreign 16 banking corporations, respectively, in the same proportion that the fee of each under paragraph (a) of 17 subsection (3), respectively, for that year bears to the 18 aggregate for that year of the fees collected under 19 paragraph (a) of subsection (3). The aggregate amount of 20 21 the contingent fee, and the portion thereof to be 22 assessed upon each State bank and foreign banking 23 corporation, respectively, shall be determined by the Commissioner and shall be paid by each, respectively, 24 within 120 days of the close of the period for which the 25 contingent fee is computed and is payable, and the 26 Commissioner shall give 20 days advance notice of 27 the amount of the contingent fee payable by the State bank 28 29 and of the date fixed by the Commissioner for payment of 30 the fee.

31 (c) The "administration expenses" for any fiscal 32 year shall mean the ordinary and contingent expenses for 33 that year incident to making the examinations provided 34 for by, and for otherwise administering, this Act, the

1 Corporate Fiduciary Act, excluding the expenses paid from 2 the Corporate Fiduciary Receivership account in the Bank and Trust Company Fund, the Foreign Banking Office Act, 3 4 the Electronic Fund Transfer Act, and the Illinois Bank Examiners' Education Foundation Act, 5 including all salaries and other compensation paid for personal 6 7 services rendered for the State by officers or employees 8 of the State, including the Commissioner and the Deputy 9 Commissioners, all expenditures for telephone and 10 telegraph charges, postage and postal charges, office 11 stationery, supplies and services, and office furniture and equipment, including typewriters and copying and 12 duplicating machines and filing equipment, surety bond 13 premiums, and travel expenses of those officers and 14 15 employees, employees, expenditures or charges for the 16 acquisition, enlargement or improvement of, or for the 17 use of, any office space, building, or structure, or expenditures for the maintenance thereof or for 18 furnishing heat, light, or power with respect thereto, 19 all to the extent that those expenditures are directly 20 21 incidental to such examinations or administration. The 22 Commissioner shall not be required by paragraphs (c) or (d-1) of this subsection (3) to maintain in any fiscal 23 year's budget appropriated reserves for accrued vacation 24 and accrued sick leave that is required to be paid to 25 employees of the Commissioner upon termination of their 26 27 service with the Commissioner in an amount that is more than is reasonably anticipated to be necessary for any 28 29 anticipated turnover in employees, whether due to normal attrition layoffs, terminations, 30 or due to or 31 resignations.

32 (d) The aggregate of all fees collected by the
33 Commissioner under this Act, the Corporate Fiduciary Act,
34 or the Foreign Banking Office Act on and after July 1,

1 1979, shall be paid promptly after receipt of the same, 2 accompanied by a detailed statement thereof, into the State treasury and shall be set apart in a special fund 3 4 to be known as the "Bank and Trust Company Fund", except as provided in paragraph (c) of subsection (11) of this 5 Section. All earnings received from investments of funds 6 7 in the Bank and Trust Company Fund shall be deposited in the Bank and Trust Company Fund and may be used for the 8 9 same purposes as fees deposited in that Fund. The amount from time to time deposited into the Bank and Trust 10 11 Company Fund shall be used to offset the ordinary administrative expenses of the Commissioner of Banks and 12 Real Estate as defined in this Section. Nothing in this 13 amendatory Act of 1979 shall prevent continuing the 14 15 practice of paying expenses involving salaries, 16 retirement, social security, and State-paid insurance premiums of State officers by appropriations from the 17 General Revenue Fund. However, the General Revenue Fund 18 shall be reimbursed for those payments made on and after 19 July 1, 1979, by an annual transfer of funds from the 20 21 Bank and Trust Company Fund.

(d-1) Adequate funds shall be available in the Bank 22 23 and Trust Company Fund to permit the timely payment of administration expenses. In each fiscal year the total 24 25 administration expenses shall be deducted from the total fees collected by the Commissioner and the remainder 26 transferred into the Cash Flow Reserve Account, unless 27 the balance of the Cash Flow Reserve Account prior to the 28 29 transfer equals or exceeds one-fourth of the total initial appropriations from the Bank and Trust Company 30 Fund for the subsequent year, in which case the remainder 31 shall be credited to State banks and foreign banking 32 corporations and applied against their fees for the 33 subsequent year. The amount credited to each State bank 34

1 and foreign banking corporation shall be in the same 2 proportion as the Call Report Fees paid by each for the year bear to the total Call Report Fees collected for the 3 4 year. If, after a transfer to the Cash Flow Reserve Account is made or if no remainder is available for 5 transfer, the balance of the Cash Flow Reserve Account is 6 7 less than one-fourth of the total initial appropriations 8 for the subsequent year and the amount transferred is 9 less than 5% of the total Call Report Fees for the year, additional amounts needed to make the transfer equal to 10 11 5% of the total Call Report Fees for the year shall be apportioned amongst, assessed upon, and paid by the State 12 banks and foreign banking corporations in the same 13 the Call Report Fees of each, 14 proportion that respectively, for the year bear to the total Call 15 Report 16 Fees collected for the year. The additional amounts assessed shall be transferred into the Cash Flow Reserve 17 Account. For purposes of this paragraph (d-1), the 18 calculation of the fees collected by the Commissioner 19 shall exclude the receivership fees provided for in 20 21 Section 5-10 of the Corporate Fiduciary Act.

(e) The Commissioner may upon request certify to
any public record in his keeping and shall have authority
to levy a reasonable charge for issuing certifications of
any public record in his keeping.

(f) In addition to fees authorized elsewhere in
this Act, the Commissioner may, in connection with a
review, approval, or provision of a service, levy a
reasonable charge to recover the cost of the review,
approval, or service.

31 (4) Nothing contained in this Act shall be construed to 32 limit the obligation relative to examinations and reports of 33 any State bank, deposits in which are to any extent insured 34 by the United States or any agency thereof, nor to limit in

any way the powers of the Commissioner with reference to
 examinations and reports of that bank.

(5) The nature and condition of the assets in or 3 4 investment of any bonus, pension, or profit sharing plan for officers or employees of every State bank or, after May 31, 5 6 1997, branch of an out-of-state bank shall be deemed to be 7 included in the affairs of that State bank or branch of an out-of-state bank subject to examination by the Commissioner 8 under the provisions of subsection (2) of this Section, and 9 if the Commissioner shall find from an examination that the 10 11 condition of or operation of the investments or assets of the plan is unlawful, fraudulent, or unsafe, or that any trustee 12 has abused his trust, the Commissioner shall, if 13 the situation so found by the Commissioner shall not be corrected 14 to his satisfaction within 60 days after the Commissioner has 15 16 given notice to the board of directors of the State bank or out-of-state bank of his findings, report the facts to the 17 Attorney General who shall thereupon institute proceedings 18 against the State bank or out-of-state bank, the board of 19 directors thereof, or the trustees under such plan as the 20 21 nature of the case may require.

22

(6) The Commissioner shall have the power:

(a) To promulgate reasonable rules for the purpose
of administering the provisions of this Act.

(a-5) To impose conditions on any approval issued
by the Commissioner if he determines that the conditions
are necessary or appropriate. These conditions shall be
imposed in writing and shall continue in effect for the
period prescribed by the Commissioner.

30 (b) To issue orders against any person, if the 31 Commissioner has reasonable cause to believe that an 32 unsafe or unsound banking practice has occurred, is 33 occurring, or is about to occur, if any person has 34 violated, is violating, or is about to violate any law, 2

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rule, or written agreement with the Commissioner, or for the purpose of administering the provisions of this Act, and any rule promulgated in accordance with this Act.

4 (b-1) To enter into agreements with a bank
5 establishing a program to correct the condition of the
6 bank or its practices.

7 (c) To appoint hearing officers to execute any of 8 the powers granted to the Commissioner under this Section 9 for the purpose of administering this Act and any rule 10 promulgated in accordance with this Act and otherwise to 11 authorize, in writing, an officer or employee of the 12 Office of Banks and Real Estate to exercise his powers 13 under this Act.

witnesses, 14 (d) To subpoena to compel their 15 attendance, to administer an oath, to examine any person 16 under oath, and to require the production of any relevant books, papers, accounts, and documents in the course of 17 and pursuant to any investigation being conducted, or any 18 action being taken, by the Commissioner in respect of any 19 20 matter relating to the duties imposed upon, or the powers 21 vested in, the Commissioner under the provisions of this 22 Act or any rule promulgated in accordance with this Act.

23

(e) To conduct hearings.

Whenever, in the opinion of the Commissioner, any 24 (7)25 director, officer, employee, or agent of a State bank or any subsidiary or bank holding company of the bank or, after May 26 31, 1997, of any branch of an out-of-state bank or any 27 subsidiary or bank holding company of the bank shall have 28 29 violated any law, rule, or order relating to that bank or any 30 subsidiary or bank holding company of the bank, shall have obstructed or impeded any examination or investigation by the 31 Commissioner, shall have engaged in an unsafe or unsound 32 practice in conducting the business of that bank or any 33 34 subsidiary or bank holding company of the bank, or shall have

1 violated any law or engaged or participated in any unsafe or 2 unsound practice in connection with any financial institution or other business entity such that the character and fitness 3 4 of the director, officer, employee, or agent does not assure reasonable promise of safe and sound operation of the State 5 б bank, the Commissioner may issue an order of removal. If, in 7 the opinion of the Commissioner, any former director, 8 officer, employee, or agent of a State bank or any subsidiary 9 or bank holding company of the bank, prior to the termination of his or her service with that bank or any subsidiary or 10 11 bank holding company of the bank, violated any law, rule, or 12 order relating to that State bank or any subsidiary or bank 13 holding company of the bank, obstructed or impeded any examination or investigation by the Commissioner, engaged in 14 15 an unsafe or unsound practice in conducting the business of 16 that bank or any subsidiary or bank holding company of the bank, or violated any law or engaged or participated in any 17 unsafe or unsound practice in connection with any financial 18 19 institution or other business entity such that the character 20 and fitness of the director, officer, employee, or agent 21 would not have assured reasonable promise of safe and sound 22 operation of the State bank, the Commissioner may issue an 23 order prohibiting that person from further service with a bank or any subsidiary or bank holding company of the bank as 24 25 a director, officer, employee, or agent. An order issued pursuant to this subsection shall be served upon 26 the director, officer, employee, or agent. A copy of the order 27 shall be sent to each director of the bank affected by 28 29 registered mail. The person affected by the action may 30 request a hearing before the State Banking Board within 10 days after receipt of the order. The hearing shall be held 31 by the Board within 30 days after the request has been 32 received by the Board. The Board shall make a determination 33 34 approving, modifying, or disapproving the order of the

-411-

1 Commissioner as its final administrative decision. If а 2 hearing is held by the Board, the Board shall make its determination within 60 days from the conclusion of 3 the 4 hearing. Any person affected by a decision of the Board under 5 this subsection (7) of Section 48 of this Act may have the 6 decision reviewed only under and in accordance with the Administrative Review Law and the rules adopted pursuant 7 8 thereto. A copy of the order shall also be served upon the 9 bank of which he is a director, officer, employee, or agent, whereupon he shall cease to be a director, officer, employee, 10 11 or agent of that bank. The Commissioner may institute a civil action against the director, officer, or agent of the 12 State bank or, after May 31, 1997, of the branch of the 13 out-of-state bank against whom any order provided for by this 14 subsection (7) of this Section 48 has been issued, and 15 16 against the State bank or, after May 31, 1997, out-of-state bank, to enforce compliance with or to enjoin any violation 17 of the terms of the order. Any person who has been the 18 19 subject of an order of removal or an order of prohibition issued by the Commissioner under this subsection or Section 20 21 5-6 of the Corporate Fiduciary Act may not thereafter serve 22 as director, officer, employee, or agent of any State bank or 23 of any branch of any out-of-state bank, or of any corporate fiduciary, as defined in Section 1-5.05 of the Corporate 24 25 Fiduciary Act, or of any other entity that is subject to licensure or regulation by the Commissioner or the Office of 26 Banks and Real Estate unless the Commissioner has granted 27 prior approval in writing. 28

For purposes of this paragraph (7), "bank holding company" has the meaning prescribed in Section 2 of the Illinois Bank Holding Company Act of 1957.

32 (8) The Commissioner may impose civil penalties of up to
33 \$10,000 against any person for each violation of any
34 provision of this Act, any rule promulgated in accordance

with this Act, any order of the Commissioner, or any other
 action which in the Commissioner's discretion is an unsafe or
 unsound banking practice.

4 (9) The Commissioner may impose civil penalties of up to
5 \$100 against any person for the first failure to comply with
6 reporting requirements set forth in the report of examination
7 of the bank and up to \$200 for the second and subsequent
8 failures to comply with those reporting requirements.

9 (10) All final administrative decisions of the 10 Commissioner hereunder shall be subject to judicial review 11 pursuant to the provisions of the Administrative Review Law. 12 For matters involving administrative review, venue shall be 13 in either Sangamon County or Cook County.

14 (11) The endowment fund for the Illinois Bank Examiners'
15 Education Foundation shall be administered as follows:

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(a) (Blank).

17 (b) The Foundation is empowered to receive 18 voluntary contributions, gifts, grants, bequests, and 19 donations on behalf of the Illinois Bank Examiners' 20 Education Foundation from national banks and other 21 persons for the purpose of funding the endowment of the 22 Illinois Bank Examiners' Education Foundation.

23 (c) The aggregate of all special educational fees collected by the Commissioner and property received by 24 25 the Commissioner on behalf of the Illinois Bank Examiners' Education Foundation under this subsection 26 (11) on or after June 30, 1986, shall be either (i) 27 promptly paid after receipt of the same, accompanied by a 28 29 detailed statement thereof, into the State Treasury and 30 shall be set apart in a special fund to be known as "The Illinois Bank Examiners' Education Fund" to be invested 31 by either the Treasurer of the State of Illinois in the 32 Public Treasurers' Investment Pool or in any other 33 34 investment he is authorized to make or by the Illinois State Board of Investment as the board of trustees of the Illinois Bank Examiners' Education Foundation may direct or (ii) deposited into an account maintained in a commercial bank or corporate fiduciary in the name of the Illinois Bank Examiners' Education Foundation pursuant to the order and direction of the Board of Trustees of the Illinois Bank Examiners' Education Foundation.

8 (12) (Blank).

9 (Source: P.A. 91-16, eff. 7-1-99; 92-20, eff. 7-1-01; 92-483, 10 eff. 8-23-01; revised 9-10-01.)

Section 41. The Illinois Savings and Loan Act of 1985 is amended by changing Section 3-10 as follows:

13 (205 ILCS 105/3-10) (from Ch. 17, par. 3303-10)

Sec. 3-10. Prohibited Activities. No officer, director,
employee or agent of an association shall knowingly:

16 (a) Receive any property of the association 17 otherwise than in the payment for a just demand and, with 18 intent to defraud, omit to make or cause or direct to be 19 made a full and true entry thereof in its books and 20 accounts;

(b) Concur in omitting to make any material entry of the receipt or possession of association property in the books and accounts of the association;

(c) Subject to the provisions of Section <u>7-4</u> 7-1-3,
make any loan to, or purchase any loan or investment
from, the Commissioner or any supervisor, examiner,
employee, expert or other special assistant employed or
appointed by the Commissioner, or knowingly concur in the
making or purchasing of such loan or investment; and

30 (d) Directly or indirectly grant, give or transfer,
31 or cause the same to be granted, given or transferred, or
32 concur in the granting, giving or transferring to the

Commissioner or any supervisor, examiner, employee,
 expert or other special assistant employed or appointed
 by the Commissioner any sum of money or any property as a
 gift, reward, inducement, loan or otherwise.

5 (Source: P.A. 84-543; revised 12-07-01.)

6 Section 42. The Banking Emergencies Act is amended by7 changing Section 1 as follows:

8 (205 ILCS 610/1) (from Ch. 17, par. 1001)

9 Sec. 1. Definitions. A. As used in this Act, unless the
10 context otherwise requires:

11 (1) "Commissioner" means the officer of this State 12 designated by law to exercise supervision over banks and 13 trust companies, and any other person lawfully exercising 14 such powers.

15 (2) "Bank" includes commercial banks, trust companies 16 and any branch thereof lawfully carrying on the business of 17 banking and, to the extent that the provisions hereof are not 18 inconsistent with and do not infringe upon paramount Federal 19 law, also includes national banks.

20 (3) "Officers" means the person or persons designated by 21 the board of directors, to act for the bank in carrying out 22 the provisions of this Act or, in the absence of any such 23 designation or of the officer or officers so designated, the 24 president or any other officer currently in charge of the 25 bank or of the office or offices in question.

26 (4) "Office" means any place at which a bank transacts27 its business or conducts operations related to its business.

(5) "Emergency" means any condition or occurrence which may interfere physically with the conduct of normal business operations at one or more or all of the offices of a bank, or which poses an imminent or existing threat to the safety or security of persons or property, or both at one or more or

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all of the offices of a bank. Without limiting

the

2 generality of the foregoing, an emergency may arise as a result of any one or more of the following: natural 3 4 disasters; civil strife; power failures; computer failures; 5 interruption of communication facilities; robbery or б attempted robbery. (Source: P.A. 92-483, eff. 8-23-01; revised 10-10-01.) 7 8 Section 43. The Corporate Fiduciary Act is amended by changing the heading of Article IVA as follows: 9 (205 ILCS 620/Article IVA heading) 10 ARTICLE IVA. MULTISTATE TRUST ACTIVITIES 11 Section 44. The Transmitters of Money Act is amended by 12 13 changing Section 92 as follows: (205 ILCS 657/92) 14 15 Sec. 92. Receivership. (a) If the Director determines that a licensee is 16 17 insolvent or is violating this Act, he or she may appoint a receiver. Under the direction of the Director, the receiver 18 19 shall, for the purpose of receivership, take possession of and title to the books, records, and assets of the licensee. 20 21 The Director may require the receiver to provide security in an amount the Director deems proper. Upon appointment of the 22 receiver, the Director shall have published, once each week 23 for 4 consecutive weeks in a newspaper having a general 24 25 circulation in the community, a notice informing all persons 26 who have claims against the licensee to present them to the receiver. Within 10 days after the receiver takes possession, 27 the licensee may apply to the Circuit Court of Sangamon 28 County to enjoin further proceedings. The receiver may 29 30 operate the business until the Director determines that possession should be restored to the licensee or that the
 business should be liquidated.

(b) If the Director determines that a business 3 in 4 receivership should be liquidated, he or she shall direct the Attorney General to file a complaint in the Circuit Court of 5 б the county in which the business is located, in the name of 7 the People of the State of Illinois, for the orderly liquidation and dissolution of the business and for an 8 9 injunction restraining the licensee and its officers and directors from continuing the operation of the business. 10 11 Within 30 days after the day the Director determines that the business should be liquidated, the receiver shall file with 12 the Director and with the clerk of the court that has charge 13 of the liquidation a correct list of all creditors, as 14 shown 15 by the licensee's books and records, who have not presented 16 their claims. The list shall state the amount of the claim after allowing all just credits, deductions, and set-offs as 17 shown by the licensee's books. These claims shall be deemed 18 19 proven unless some interested party files an objection within the time fixed by the Director or court that has charge of 20 the liquidation. 21

22 The General Assembly finds and declares that (C) 23 transmitters of money debt--management--services provide important and vital services to Illinois citizens. 24 It is 25 therefore declared to be the policy of this State that customers who receive these services must be protected from 26 interruptions of services. To carry out this policy and to 27 insure that customers of a licensee are protected if it 28 is 29 determined that a business in receivership should be 30 liquidated, the Director shall make a distribution of moneys collected by the receiver in the following order of priority: 31

32 (1) Allowed claims for the actual necessary
33 expenses of the receivership of the business being
34 liquidated, including:

-418-

(A) reasonable receiver's fees and receiver's
 attorney's fees approved by the Director;

3 (B) all expenses of any preliminary or other
4 examinations into the condition of the receivership;

5 (C) all expenses incurred by the Director that 6 are incident to possession and control of any 7 property or records of the licensee's business; and

8 (D) reasonable expenses incurred by the 9 Director as the result of business agreements or contractual arrangements necessary to insure that 10 11 the services of the licensee are delivered to the 12 community without interruption. These business agreements or contractual arrangements may include, 13 but are not limited to, agreements made by the 14 Director, or by the receiver with the approval of 15 16 the Director, with banks, bonding companies, and other types of financial institutions. 17

18 (2) Allowed unsecured claims for wages or salaries,
19 excluding vacation, severance, and sick leave pay earned
20 by employees within 90 days before the appointment of a
21 receiver.

(3) Allowed unsecured claims of any tax, andinterest and penalty on the tax.

24 (4) Allowed unsecured claims, other than a kind
25 specified in items (1), (2), and (3) of this subsection,
26 filed with the Director within the time the Director
27 fixes for filing claims.

(5) Allowed unsecured claims, other than a kind
specified in items (1), (2), and (3) of this subsection,
filed with the Director after the time fixed for filing
claims by the Director.

32 (6) Allowed creditor claims asserted by an owner,
33 member, or stockholder of the business in liquidation.
34 (7) After one year from the final dissolution of

-419-

1 the licensee's business, all assets not used to satisfy 2 allowed claims shall be distributed pro rata to the owner, owners, members, or stockholders of the business. 3 4 The Director shall pay all claims of equal priority according to the schedule established in this subsection and 5 б shall not pay claims of lower priority until all higher priority claims are satisfied. If insufficient assets are 7 available to meet all claims of equal priority, those assets 8 9 shall be distributed pro rata among those claims. A11 unclaimed assets of a licensee and the licensee's business 10 11 shall be deposited with the Director to be paid out when 12 proper claims are presented to the Director.

(d) Upon the order of the circuit court of the county in 13 which the business being liquidated is located, the receiver 14 may sell or compound any bad or doubtful debt, and on like 15 16 order may sell the personal property of the business on such terms as the court approves. The receiver shall succeed to 17 whatever rights or remedies the unsecured creditors of the 18 19 business may have against the owner or owners, operators, 20 stockholders, directors, members, managers, or officers, 21 arising out of their claims against the licensee's business, 22 but nothing contained in this Section shall prevent those 23 creditors from filing their claims in the liquidation The receiver may enforce those rights or 24 proceeding. 25 remedies in any court of competent jurisdiction.

(e) At the close of a receivership, the receiver shall 26 turn over to the Director all books of account and ledgers of 27 the business for preservation. The Director shall hold all 28 29 records of receiverships received at any time for a period of 30 2 years after the close of the receivership. The records may be destroyed at the termination of the 2-year period. All 31 32 expenses of the receivership including, but not limited to, reasonable receiver's and attorney's fees approved by the 33 34 Director, all expenses of any preliminary or other examinations into the condition of the licensee's business or the receivership, and all expenses incident to the possession and control of any property or records of the business incurred by the Director shall be paid out of the assets of the licensee's business. These expenses shall be paid before all other claims.

(f) Upon the filing of a complaint by the Attorney 7 8 General for the orderly liquidation and dissolution of a licensee's business, as provided in this Act, all pending 9 suits and actions upon unsecured claims against the business 10 11 shall abate. Nothing contained in this Act, however, prevents these claimants from filing their claims in the 12 liquidation proceeding. If a suit or an action is instituted 13 or maintained by the receiver on any bond or policy of 14 15 insurance issued pursuant to the requirements of this Act, 16 the bonding or insurance company sued shall not have the right to interpose or maintain any counterclaim based upon 17 subrogation, upon any express or implied agreement of, or 18 19 right to, indemnity or exoneration, or upon any other express 20 or implied agreement with, or right against, the licensee's 21 business. Nothing contained in this Act prevents the bonding 22 insurance company from filing this type of claim in the or 23 liquidation proceeding.

A licensee may not terminate its affairs and close 24 (q) 25 up its business unless it has first deposited with the Director an amount of money equal to all of its debts, 26 27 liabilities, and lawful demands against it including the costs and expenses of a proceeding under this Section, 28 surrendered to the Director its license, and filed with the 29 30 Director a statement of termination signed by the licensee containing a pronouncement of intent to close up its business 31 32 and liquidate its liabilities and containing a sworn list itemizing in full all of its debts, liabilities, and lawful 33 34 demands against it. Corporate licensees must attach to, and

1 make a part of the statement of termination, a copy of а 2 resolution providing for the termination and closing up of the licensee's affairs, certified by the secretary of the 3 4 licensee and duly adopted at a shareholders' meeting by the 5 holders of at least two-thirds of the outstanding shares 6 entitled to vote at the meeting. Upon the filing with the 7 Director of a statement of termination, the Director shall cause notice of that action to be published once each week 8 9 for 3 consecutive weeks in a public newspaper of general circulation published in the city or village where the 10 11 business is located, and if no newspaper is published in that place, then in a public newspaper of general circulation 12 nearest to that city or village. The publication shall give 13 notice that the debts, liabilities, and lawful demands 14 against the business will be redeemed by the Director upon 15 16 demand in writing made by the owner thereof, at any time within 3 years after the date of first publication. 17 After the expiration of the 3-year period, the Director shall 18 19 return to the person or persons designated in the statement of termination to receive repayment, and in the proportion 20 21 specified in that statement, any balance of money remaining in his or her possession after first deducting all unpaid 22 23 costs and expenses incurred in connection with a proceeding under this Section. The Director shall receive for his or her 24 25 services, exclusive of costs and expenses, 2% of any amount up to \$5,000 and 1% of any amount in excess of 26 \$5,000 deposited with him or her under this Section by any business. 27 Nothing contained in this Section shall affect or impair the 28 29 liability of any bonding or insurance company on any bond or 30 insurance policy issued under this Act relating to the 31 business.

32 (Source: P.A. 92-400, eff. 1-1-02; revised 12-04-01.)

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Section 45. The Abused and Neglected Long Term Care

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-422-

Facility Residents Reporting Act is amended by changing
 Section 6.2 as follows:

3 (210 ILCS 30/6.2) (from Ch. 111 1/2, par. 4166.2)

(Section scheduled to be repealed on January 1, 2004)

5 Sec. 6.2. Inspector General.

(a) The Governor shall appoint, and the Senate shall 6 7 confirm, an Inspector General who shall function within the 8 Department of Human Services and report to the Secretary of Human Services and the Governor. The Inspector General shall 9 10 investigate reports of suspected abuse or neglect (as those terms are defined in Section 3 of this Act) of patients or 11 residents in any mental health or developmental disabilities 12 facility operated by the Department of Human Services and 13 shall have authority to investigate and take immediate action 14 15 on reports of abuse or neglect of recipients, whether patients or residents, in any mental health or developmental 16 17 disabilities facility or program that is licensed or certified by the Department of Human Services (as successor 18 to the Department of Mental Health 19 and Developmental 20 Disabilities) or that is funded by the Department of Human Services (as successor to the Department of Mental Health and 21 22 Developmental Disabilities) and is not licensed or certified by any agency of the State. At the specific, written request 23 24 of an agency of the State other than the Department of Human Services (as successor to the Department of Mental Health and 25 Developmental Disabilities), the Inspector General 26 mav in investigating reports of abuse and neglect of 27 cooperate 28 persons with mental illness or persons with developmental 29 disabilities. The Inspector General shall have no supervision over or involvement in routine, programmatic, 30 31 licensure, or certification operations of the Department of Human Services or any of its funded agencies. 32

33

The Inspector General shall promulgate rules establishing

1 minimum requirements for reporting allegations of abuse and 2 and initiating, conducting, and neglect completing investigations. The promulgated rules shall clearly set 3 4 forth that in instances where 2 or more State agencies could investigate an allegation of abuse or neglect, the Inspector 5 6 General shall not conduct an investigation that is redundant 7 to an investigation conducted by another State agency. The rules shall establish criteria for determining, based upon 8 9 the nature of the allegation, the appropriate method of investigation, which may include, but need not be limited to, 10 11 site visits, telephone contacts, or requests for written responses from agencies. The rules shall also clarify how the 12 Office of the Inspector General shall interact with the 13 licensing unit of the Department of Human Services in 14 investigations of allegations of abuse or neglect. Any 15 16 allegations or investigations of reports made pursuant to this Act shall remain confidential until a final report is 17 completed. The resident or patient who allegedly was abused 18 or neglected and his or her legal guardian shall be informed 19 by the facility or agency of the report of alleged abuse or 20 21 neglect. Final reports regarding unsubstantiated or unfounded 22 allegations shall remain confidential, except that final 23 reports may be disclosed pursuant to Section 6 of this Act.

24 The Inspector General shall be appointed for a term of 4 25 years.

the Office of When the Inspector General has 26 substantiated a case of 27 abuse or neglect, the Inspector General shall include in the final report any mitigating or 28 aggravating circumstances that were identified during the 29 30 investigation. Upon determination that a report of neglect is substantiated, the Inspector General shall then determine 31 32 whether such neglect rises to the level of egregious neglect. (b) The Inspector General shall within 24 hours after 33 receiving a report of suspected abuse or neglect determine 34

-423-

1 whether the evidence indicates that any possible criminal act 2 has been committed. If he determines that a possible criminal act has been committed, or that special expertise is required 3 4 the investigation, he shall immediately notify the in 5 Department of State Police. The Department of State Police shall investigate any report indicating a possible murder, 6 7 rape, or other felony. All investigations conducted by the Inspector General shall be conducted in a manner designed to 8 9 ensure the preservation of evidence for possible use in a criminal prosecution. 10

-424-

11 (b-5) The Inspector General shall make a determination 12 to accept or reject a preliminary report of the investigation 13 of alleged abuse or neglect based on established investigative procedures. Notice of the Inspector General's 14 15 determination must be given to the person who claims to be 16 the victim of the abuse or neglect, to the person or persons alleged to have been responsible for abuse or neglect, and to 17 the facility or agency. The facility or agency or the person 18 or persons alleged to have been responsible for the abuse or 19 20 neglect and the person who claims to be the victim of the 21 abuse or neglect may request clarification or reconsideration 22 based on additional information. For cases where the 23 allegation of abuse or neglect is substantiated, the Inspector General shall require the facility or agency to 24 25 submit a written response. The written response from a facility or agency shall address in a concise and reasoned 26 27 manner the actions that the agency or facility will take or has taken to protect the resident or patient from abuse or 28 29 neglect, prevent reoccurrences, and eliminate problems 30 identified and shall include implementation and completion dates for all such action. 31

32 (c) The Inspector General shall, within 10 calendar days 33 after the transmittal date of a completed investigation where 34 abuse or neglect is substantiated or administrative action is

1 recommended, provide a complete report on the case to the 2 Secretary of Human Services and to the agency in which the abuse or neglect is alleged to have happened. The complete 3 4 report shall include a written response from the agency or 5 facility operated by the State to the Inspector General that б addresses in a concise and reasoned manner the actions that 7 the agency or facility will take or has taken to protect the 8 resident or patient from abuse or neglect, prevent 9 reoccurrences, and eliminate problems identified and shall include implementation and completion dates for all such 10 11 action. The Secretary of Human Services shall accept or reject the response and establish how the Department will 12 determine whether the facility or program followed the 13 The Secretary may require Department 14 approved response. to visit the facility or agency for training, 15 personnel 16 technical assistance, programmatic, licensure, or certification purposes. Administrative action, including 17 sanctions, may be applied should the Secretary reject 18 the 19 response or should the facility or agency fail to follow the approved response. The facility or agency shall inform the 20 21 resident or patient and the legal guardian whether the reported allegation was substantiated, unsubstantiated, 22 or 23 unfounded. There shall be an appeals process for any person or agency that is subject to any action based on 24 а 25 recommendation or recommendations.

26 (d) The Inspector General may recommend to the Departments of Public Health and Human Services sanctions 27 to against mental health and developmental 28 be imposed 29 disabilities facilities under the jurisdiction of the 30 Department of Human Services for the protection of residents, including appointment of on-site monitors or receivers, 31 32 transfer or relocation of residents, and closure of units. The Inspector General may seek the assistance of the Attorney 33 General or any of the several State's attorneys in 34 imposing -426-

1 such sanctions.

(e) The Inspector General shall establish and conduct 2 3 periodic training programs for Department employees 4 concerning the prevention and reporting of neglect and abuse. 5 (f) The Inspector General shall at all times be granted б access to any mental health or developmental disabilities facility operated by the Department, shall establish and 7 conduct unannounced site visits to those facilities at least 8 9 once annually, and shall be granted access, for the purpose of investigating a report of abuse or neglect, to any 10 11 facility or program funded by the Department that is subject under the provisions of this Section to investigation by the 12 Inspector General for a report of abuse or neglect. 13

14 (g) Nothing in this Section shall limit investigations 15 by the Department of Human Services that may otherwise be 16 required by law or that may be necessary in that Department's 17 capacity as the central administrative authority responsible 18 for the operation of State mental health and developmental 19 disability facilities.

(g-5) After notice and an opportunity for a hearing that 20 21 is separate and distinct from the Office of the Inspector 22 General's appeals process as implemented under subsection (c) 23 of this Section, the Inspector General shall report to the Department of Public Health's nurse aide registry under 24 25 Section 3-206.01 of the Nursing Home Care Act the identity of individuals against whom there has been a substantiated 26 finding of physical or sexual abuse or egregious neglect of a 27 service recipient. 28

Nothing in this subsection shall diminish or impair the rights of a person who is a member of a collective bargaining unit pursuant to the Illinois Public Labor Relations Act or pursuant to any federal labor statute. An individual who is a member of a collective bargaining unit as described above shall not be reported to the Department of Public Health's

1 nurse aide registry until the exhaustion of that individual's 2 grievance and arbitration rights, or until 3 months after the initiation of the grievance process, whichever occurs first, 3 4 provided that the Department of Human Services' hearing under subsection (c), that is separate and distinct from the Office 5 of the Inspector General's appeals process, has concluded. 6 7 Notwithstanding anything hereinafter or previously provided, 8 if an action taken by an employer against an individual as a 9 result of the circumstances that led to a finding of physical or sexual abuse or egregious neglect is later overturned 10 11 under a grievance or arbitration procedure provided for in Section 8 of the Illinois Public Labor Relations Act or under 12 13 a collective bargaining agreement, the report must be removed 14 from the registry.

-427-

15 The Department of Human Services shall promulgate or 16 amend rules as necessary or appropriate to establish 17 procedures for reporting to the registry, including the definition of egregious neglect, procedures for notice to the 18 19 individual and victim, appeal and hearing procedures, and petition for removal of the report from the registry. The 20 21 portion of the rules pertaining to hearings shall provide 22 that, at the hearing, both parties may present written and 23 oral evidence. The Department shall be required to establish by a preponderance of the evidence that the Office of 24 the 25 Inspector General's finding of physical or sexual abuse or egregious neglect warrants reporting to the Department of 26 Public Health's nurse aide registry under Section 3-206.01 of 27 the Nursing Home Care Act. 28

29 Notice to the individual shall include a clear and 30 concise statement of the grounds on which the report to the 31 registry is based and notice of the opportunity for a hearing 32 to contest the report. The Department of Human Services shall 33 provide the notice by certified mail to the last known 34 address of the individual. The notice shall give the

1 individual an opportunity to contest the report in a hearing 2 before the Department of Human Services or to submit a written response to the findings instead of requesting a 3 4 hearing. If the individual does not request a hearing or if 5 after notice and a hearing the Department of Human Services 6 finds that the report is valid, the finding shall be included 7 as part of the registry, as well as a brief statement from the reported individual if he or she chooses to make a 8 9 statement. The Department of Public Health shall make available to the public information reported to the registry. 10 11 In a case of inquiries concerning an individual listed in the registry, any information disclosed concerning a finding of 12 abuse or neglect shall also include disclosure of the 13 individual's brief statement in the registry relating to the 14 15 reported finding or include a clear and accurate summary of 16 the statement.

At any time after the report of the registry, 17 an individual may petition the Department of Human Services for 18 19 removal from the registry of the finding against him or her. Upon receipt of such a petition, the Department of Human 20 21 Services shall conduct an investigation and hearing on the 22 petition. Upon completion of the investigation and hearing, 23 the Department of Human Services shall report the removal of the finding to the registry unless the Department of Human 24 25 Services determines that removal is not in the public 26 interest.

(h) This Section is repealed on January 1, 2004.
(Source: P.A. 91-169, eff. 7-16-99; 92-358, eff. 8-15-01;
92-473, eff. 1-1-02; revised 10-10-01.)

30 Section 46. The Nursing Home Care Act is amended by 31 changing Section 3-206.01 as follows:

32 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par.

-428-

-429-

1 4153-206.01)

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Sec. 3-206.01. Nurse aide registry.

(a) The Department shall establish and maintain 3 а 4 registry of all individuals who have satisfactorily completed 5 the training required by Section 3-206. The registry shall 6 include the name of the nursing assistant, habilitation aide, or child care aide, his or her current address, Social 7 Security number, and the date and location of the training 8 9 course completed by the individual, and the date of the individual's last criminal records check. Any individual 10 11 placed on the registry is required to inform the Department of any change of address within 30 days. A facility shall 12 not employ an individual as a nursing assistant, habilitation 13 aide, or child care aide unless the facility has inquired of 14 15 the Department as to information in the registry concerning 16 the individual and shall not employ anyone not on the registry unless the individual is enrolled in a training 17 program under paragraph (5) of subsection (a) of Section 18 19 3-206 of this Act.

the Department finds that a nursing assistant, 20 Ιf 21 habilitation aide, or child care aide has abused a resident, 22 neglected a resident, or misappropriated resident property in 23 a facility, the Department shall notify the individual of this finding by certified mail sent to the address contained 24 in the registry. 25 The notice shall give the individual an opportunity to contest the finding in a hearing before the 26 Department or to submit a written response to the findings in 27 lieu of requesting a hearing. If, after a hearing or if the 28 29 individual does not request a hearing, the Department finds 30 that the individual abused a resident, neglected a resident, or misappropriated resident property in a facility, the 31 32 finding shall be included as part of the registry as well as a brief statement from the individual, if he or she chooses 33 34 make such a statement. The Department shall make to

1 information in the registry available to the public. In the 2 case of inquiries to the registry concerning an individual 3 listed in the registry, any information disclosed concerning 4 such a finding shall also include disclosure of any statement 5 in the registry relating to the finding or a clear and 6 accurate summary of the statement.

7 (b) The Department shall add to the nurse aide registry 8 records of findings as reported by the Inspector General or 9 remove from the nurse aide registry records of findings as 10 reported by the Department of Human Services, under Section 11 6.2 of the <u>Abused</u> Abuse and Neglected Long Term Care Facility 12 Residents Reporting Act.

13 (Source: P.A. 91-598, eff. 1-1-00; 92-473, eff. 1-1-02; 14 revised 12-04-01.)

Section 47. The Emergency Medical Services (EMS) Systems Act is amended by changing Sections 3.110, 3.220, and 3.250 as follows:

18 (210 ILCS 50/3.110)

Sec. 3.110. EMS system and trauma center confidentiality and immunity.

21 All information contained in or relating to any (a) medical audit performed of a trauma center's trauma services 22 23 pursuant to this Act or by an EMS Medical Director or his designee of medical care rendered by System personnel, shall 24 be afforded the same status as is provided information 25 concerning medical studies in Article VIII, Part 21 of the 26 Code of Civil Procedure. Disclosure of such information to 27 the Department pursuant to this Act shall not be considered a 28 violation of Article VIII, Part 21 of the Code of Civil 29 30 Procedure.

31 (b) Hospitals, trauma centers and individuals that32 perform or participate in medical audits pursuant to this Act

-431-

shall be immune from civil liability to the same extent as
 provided in Section 10.2 of the Hospital Licensing Act.

(c) All information relating to the State Emergency 3 4 Medical Services Disciplinary Review Board or a local review board, except final decisions, shall be afforded the same 5 status as is provided information concerning medical studies 6 7 in Article VIII, Part 21 of the Code of Civil Procedure. Disclosure of such information to the Department pursuant to 8 this Act shall not be ee considered a violation of Article 9 VIII, Part 21 of the Code of Civil Procedure. 10

11 (Source: P.A. 89-177, eff. 7-19-95; 90-144, eff. 7-23-97; 12 revised 12-07-01.)

13 (210 ILCS 50/3.220)

14

Sec. 3.220. EMS Assistance Fund.

15 (a) There is hereby created an "EMS Assistance Fund" 16 within the State treasury, for the purpose of receiving fines 17 and fees collected by the Illinois Department of Health 18 pursuant to this Act and-the-supplemental-registration-fees 19 eellected-pursuant-to-Section-3-821.1-of-the-Illinois-Vehicle 20 Gode.

21 (b) EMT licensure examination fees collected shall be 22 distributed by the Department to the Resource Hospital of the 23 EMS System in which the EMT candidate was educated, to be 24 used for educational and related expenses incurred by the 25 System's hospitals, as identified in the EMS System Program 26 Plan.

27 All other moneys within this (C) fund shall be by the Department to the EMS Regions 28 distributed for 29 disbursement in accordance with protocols established in the 30 EMS Region Plans, for the purposes of organization, 31 development and improvement of Emergency Medical Services Systems, including but not limited to training of personnel 32 and acquisition, modification and maintenance of necessary 33

-432-

1 supplies, equipment and vehicles.

2 (d) All fees and fines collected pursuant to this to
3 this Act shall be deposited into the EMS Assistance Fund.
4 (Source: P.A. 89-177, eff. 7-19-95; revised 12-07-01.)

5 (210 ILCS 50/3.250)

б Sec. 3.250. Application of Administrative Procedure Act. 7 The provisions of the Illinois Administrative Procedure Act 8 hereby expressly adopted and shall apply to all are administrative rules and procedures of the Department of 9 10 Public Health under this Act, except that in case of conflict between the Illinois Administrative Procedure Act and this 11 Act the provisions of this Act shall control, and except that 12 Section <u>5-35 of</u> 5-of the Illinois Administrative Procedure 13 14 Act relating to procedures for rule-making does not apply to 15 the adoption of any rule required by federal law in connection with which the Department is precluded by law from 16 17 exercising any discretion.

18 (Source: P.A. 89-177, eff. 7-19-95; revised 12-07-01.)

Section 48. The Illinois Insurance Code is amended by setting forth and renumbering multiple versions of Section 155.37, changing Sections 370c and 424, and renumbering Section 507.2 as follows:

23

(215 ILCS 5/155.37)

155.37. Drug formulary; notice. 24 Sec. Insurance companies that transact the kinds of insurance authorized 25 under Class 1(b) or Class 2(a) of Section 4 of this Code and 26 27 provide coverage for prescription drugs through the use of a drug formulary must notify insureds of any change in the 28 29 formulary. A company may comply with this Section by posting changes in the formulary on its website. 30

31 (Source: P.A. 92-440, eff. 8-17-01.)

-433-

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(215 ILCS 5/155.38)

Sec. <u>155.38.</u> 155.37. Use of credit reports in connection
with certain policies.

4 This Section applies to policies of insurance (a) 5 defined in subsections (a), (b), and (c) of Section 143.13, except that this Section does not apply to those personal 6 7 lines policies defined in subsection (c) of Section 143.13 that could be classified under clause (g) or (i) of Class 2 8 9 of Section 4 or to policies of insurance subject to Article IX 1/2. 10

11 (b) An insurance company authorized to do business in this State may not refuse to issue or renew a policy of 12 insurance solely on the basis of a credit report. An offer 13 by an insurance company to write a policy through an insurer 14 is an affiliate, as defined in Section 131.1 of this 15 that 16 Code, with continuous coverage does not constitute a refusal to issue a policy or a nonrenewal within the meaning of this 17 of Section. "Credit report" means a collection 18 data 19 regarding a consumer's credit history, credit capacity, or credit worthiness that has been assembled or evaluated by a 20 21 consumer reporting agency as defined in 15 USC 1681a(f).

(c) If a credit report is used in conjunction with other criteria to underwrite an application or renewal of a policy of insurance, it may not include or be based upon the race, income, gender, religion, or national origin of the applicant or insured.

(d) If a credit report is used in conjunction with other 27 criteria to refuse to issue or renew a policy of insurance, 28 29 the insurer shall provide the applicant or policyholder with 30 a notice of the underwriting action taken. For purposes of this Section, compliance with the notification requirements 31 32 of the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., shall be considered to be in compliance with this 33 34 Section.

-434-

1 (Source: P.A. 92-480, eff. 10-1-01; revised 10-17-01.)

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(215 ILCS 5/370c) (from Ch. 73, par. 982c)

Sec. 370c. Mental and emotional disorders.

(a) (1) On and after the effective date of this Section, 4 5 every insurer which delivers, issues for delivery or renews or modifies group A&H policies providing coverage 6 for hospital or medical treatment or services for illness on an 7 expense-incurred basis shall offer to the applicant or group 8 9 policyholder subject to the insurers standards of 10 insurability, coverage for reasonable and necessary treatment and services for mental, emotional or nervous disorders or 11 conditions, other than serious mental illnesses as defined in 12 item (2) of subsection (b), up to the limits provided in the 13 14 policy for other disorders or conditions, except (i) the 15 insured may be required to pay up to 50% of expenses incurred as a result of the treatment or services, and (ii) the annual 16 17 benefit limit may be limited to the lesser of \$10,000 or 25% of the lifetime policy limit. 18

(2) Each insured that is covered for mental, emotional 19 20 or nervous disorders or conditions shall be free to select 21 the physician licensed to practice medicine in all its 22 branches, licensed clinical psychologist, licensed clinical social worker, or licensed clinical professional counselor of 23 24 his choice to treat such disorders, and the insurer shall pay the covered charges of such physician licensed to practice 25 medicine in all its branches, licensed clinical psychologist, 26 licensed clinical social worker, or licensed 27 clinical 28 professional counselor up to the limits of coverage, provided 29 (i) the disorder or condition treated is covered by the policy, and (ii) the physician, licensed psychologist, 30 31 licensed clinical social worker, or licensed clinical professional counselor is authorized to provide said services 32 under the statutes of this State and in accordance with 33

1 accepted principles of his profession.

2 Insofar as this Section applies solely to licensed (3)clinical social workers and licensed clinical professional 3 4 counselors, those persons who may provide services to 5 individuals shall do so after the licensed clinical social 6 worker or licensed clinical professional counselor has 7 informed the patient of the desirability of the patient conferring with the patient's primary care physician and the 8 9 licensed clinical social worker or licensed clinical professional counselor has provided written notification to 10 11 the patient's primary care physician, if any, that services are being provided to the patient. That notification may, 12 however, be waived by the patient on a written form. 13 Those forms shall be retained by the licensed clinical social 14 worker or licensed clinical professional counselor for a 15 16 period of not less than 5 years.

(b) (1) An insurer that provides coverage for hospital 17 or medical expenses under a group policy of accident and 18 19 health insurance or health care plan amended, delivered, issued, or renewed after the effective date of 20 this 21 amendatory Act of the 92nd General Assembly shall provide coverage under the policy for treatment of serious mental 22 23 illness under the same terms and conditions as coverage for hospital or medical expenses related to other illnesses and 24 25 The coverage required under this Section must diseases. provide for same durational limits, amount 26 limits, deductibles, and co-insurance requirements for serious mental 27 illness as are provided for other illnesses and diseases. 28 29 This subsection does not apply to coverage provided to 30 employees by employers who have 50 or fewer employees.

31 (2) "Serious mental illness" means the following 32 psychiatric illnesses as defined in the most current edition 33 of the Diagnostic and Statistical Manual (DSM) published by 34 the American Psychiatric Association: -436-

1 (A) schizophrenia; 2 (B) paranoid and other psychotic disorders; 3 (C) bipolar disorders (hypomanic, manic, 4 depressive, and mixed); (D) major depressive disorders (single episode or 5 recurrent); 6 7 (E) schizoaffective disorders (bipolar or 8 depressive); 9 (F) pervasive developmental disorders; obsessive-compulsive disorders; 10 (G) 11 (H) depression in childhood and adolescence; and 12 (I) panic disorder. Upon request of the reimbursing insurer, a provider 13 (3) 14 15

of treatment of serious mental illness shall furnish medical records or other necessary data that substantiate that 16 initial or continued treatment is at all times medically necessary. An insurer shall provide a mechanism for the 17 timely review by a provider holding the same license and 18 19 practicing in the same specialty as the patient's provider, who is unaffiliated with the insurer, jointly selected by the 20 21 patient (or the patient's next of kin or legal representative if the patient is unable to act for himself or herself), the 22 23 patient's provider, and the insurer in the event of a dispute between the insurer and patient's provider regarding the 24 25 medical necessity of a treatment proposed by a patient's provider. If the reviewing provider determines the treatment 26 27 to be medically necessary, the insurer shall provide reimbursement for the treatment. Future contractual or 28 29 employment actions by the insurer regarding the patient's 30 provider may not be based on the provider's participation in this procedure. Nothing prevents the insured from agreeing in 31 32 writing to continue treatment at his or her expense. When making a determination of the medical necessity for a 33 34 treatment modality for serous mental illness, an insurer must 1

2 the manner used to make that determination with respect to other diseases or illnesses covered under the policy, 3 4 including an appeals process. 5 (4) A group health benefit plan: б (A) shall provide coverage based upon medical 7 necessity for the following treatment of mental illness 8 in each calendar year; 9 (i) 45 days of inpatient treatment; and

make the determination in a manner that is consistent with

10 (ii) 35 visits for outpatient treatment 11 including group and individual outpatient treatment; 12 (B) may not include a lifetime limit on the number 13 of days of inpatient treatment or the number of 14 outpatient visits covered under the plan; and

15 (C) shall include the same amount limits,
16 deductibles, copayments, and coinsurance factors for
17 serious mental illness as for physical illness.

18 (5) An issuer of a group health benefit plan may not 19 count toward the number of outpatient visits required to be 20 covered under this Section an outpatient visit for the 21 purpose of medication management and shall cover the 22 outpatient visits under the same terms and conditions as it 23 covers outpatient visits for the treatment of physical 24 illness.

(6) An issuer of a group health benefit plan may provide
or offer coverage required under this Section through a
managed care plan.

28 (7) This Section shall not be interpreted to require a 29 group health benefit plan to provide coverage for treatment 30 of:

31 (A) an addiction to a controlled substance or
32 cannabis that is used in violation of law; or

(B) mental illness resulting from the use of a
 controlled substance or cannabis in violation of law.

-438-

(8) This subsection (b) is inoperative after December
 31, 2005.
 (Source: P.A. 92-182, eff. 7-27-01; 92-185, eff. 1-1-02;
 revised 9-18-01.)

5 (215 ILCS 5/424) (from Ch. 73, par. 1031)

Sec. 424. Unfair methods of competition and unfair or б 7 deceptive acts or practices defined. The following are 8 hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance: 9 10 (1) The commission by any person of any one or more of the acts defined or prohibited by Sections 134, 147, 148, 11 149, 151, 155.22, 155.22a, 236, 237, 364, and 469 of this 12 Code. 13

14 (2) Entering into any agreement to commit, or by any 15 concerted action committing, any act of boycott, coercion or 16 intimidation resulting in or tending to result in 17 unreasonable restraint of, or monopoly in, the business of 18 insurance.

(3) Making or permitting, in the case of insurance of 19 the types enumerated in Classes 1, 2, and 3 of Section 4, any 20 unfair discrimination between individuals or risks of the 21 22 same class or of essentially the same hazard and expense element because of the race, color, religion, or national 23 24 origin of such insurance risks or applicants. The application of this Article to the types of insurance 25 enumerated in Class 1 of Section 4 shall in no way limit, 26 reduce, or impair the protections and remedies already 27 provided for by Sections 236 and 364 of this Code or any 28 other provision of this Code. 29

30 (4) Engaging in any of the acts or practices defined in
31 or prohibited by Sections 154.5 through 154.8 of the this
32 Insurance Code.

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(5) Making or charging any rate for insurance against

-439-

losses arising from the use or ownership of a motor vehicle which requires a higher premium of any person by reason of his physical handicap, race, color, religion, or national origin.

5 (Source: P.A. 92-399, eff. 8-16-01; revised 12-07-01.)

6 (215 ILCS 5/500-77)

Sec. <u>500-77.</u> 507-2- Policyholder information and
exclusive ownership of expirations.

(a) As used in this Section, "expirations" means 9 all 10 information relative to an insurance policy including, but not limited to, the name and address of the insured, the 11 location and description of the property insured, the value 12 of the insurance policy, the inception date, the renewal 13 14 date, and the expiration date of the insurance policy, the 15 premiums, the limits and a description of the terms and coverage of the insurance policy, and any other personal and 16 17 privileged information, as defined by Section 1003 of this 18 Code, compiled by a registered firm or furnished by the 19 insured to the insurer or any agent, contractor, or 20 representative of the insurer.

For purposes of this Section only, a registered firm also includes a sole proprietorship that transacts the business of insurance as an insurance agency.

(b) All "expirations" as defined in subsection (a) of this Section shall be mutually and exclusively owned by the insured and the registered firm. The limitations on the use of expirations as provided in subsections (c) and (d) of this Section shall be for mutual benefit of the insured and the registered firm.

30 (c) Except as otherwise provided in this Section, for 31 purposes of soliciting, selling, or negotiating the renewal 32 or sale of insurance coverage, insurance products, or 33 insurance services or for any other marketing purpose, a

1 registered firm shall own and have the exclusive use of 2 expirations, records, and other written or electronically information directly related to an insurance 3 stored 4 application submitted by, or an insurance policy written 5 through, the registered firm. No insurance company, managing 6 general agent, surplus lines insurance broker, wholesale 7 broker, group self-insurance fund, third-party administrator, or any other entity, other than a financial institution as 8 9 defined in Section 1402 of this Code, shall use such expirations, records, or other written or electronically 10 11 stored information to solicit, sell, or negotiate the renewal or sale of insurance coverage, insurance products, 12 or insurance services to the insured or for any other marketing 13 purposes, either directly or by providing such information to 14 15 others, without, separate from the general agency contract, 16 the written consent of the registered firm. However, such expirations, records, or other written or electronically 17 stored information may be used for any purpose necessary for 18 19 placing such business through the insurance producer including reviewing an application and issuing or renewing a 20 21 policy and for loss control services.

22 (d) With respect to a registered firm, this Section23 shall not apply:

(1) when the insured requests either orally or in
writing that another registered firm obtain quotes for
insurance from another insurance company or when the
insured requests in writing individually or through
another registered firm, that the insurance company renew
the policy;

30 (2) to policies in the Illinois Fair Plan, the
31 Illinois Automobile Insurance Plan, or the Illinois
32 Assigned Risk Plan for coverage under the Workers'
33 Compensation Act and the Workers' Occupational Diseases
34 Act;

1 (3) when the insurance producer is employed by or 2 has agreed to act exclusively or primarily for one company or group of affiliated insurance companies or to 3 4 a producer who submits to the company or group of affiliated companies that are organized to transact 5 business in this State as a reciprocal company, as 6 7 defined in Article IV of this Code, every request or 8 application for insurance for the classes and lines 9 underwritten by the company or group of affiliated companies; 10

11 (4) to policies providing life and accident and 12 health insurance;

13 (5) when the registered firm is in default for 14 nonpayment of premiums under the contract with the 15 insurer or is guilty of conversion of the insured's or 16 insurer's premiums or its license is revoked by or 17 surrendered to the Department;

18 (6) to any insurance company's obligations under
19 Sections 143.17 and 143.17a of this Code; or

20 (7) to any insurer that, separate from a producer 21 or registered firm, creates, develops, compiles, and 22 assembles its own, identifiable expirations as defined in 23 subsection (a).

For purposes of this Section, an insurance producer shall be deemed to have agreed to act primarily for one company or a group of affiliated insurance companies if the producer (i) receives 75% or more of his or her insurance related commissions from one company or a group of affiliated companies or (ii) places 75% or more of his or her policies with one company or a group of affiliated companies.

Nothing in this Section prohibits an insurance company, with respect to any items herein, from conveying to the insured or the registered firm any additional benefits or ownership rights including, but not limited to, the ownership 1 of expirations on any policy issued or the imposition of 2 further restrictions on the insurance company's use of the 3 insured's personal information.

4 (e) Nothing in this Section prevents a financial 5 institution, as defined in Section 1402 of this Code, from obtaining from the insured, the insurer, or the registered 6 7 firm the expiration dates of an insurance policy placed on collateral or otherwise used as security in connection with a 8 loan made or serviced by the financial institution when the 9 financial institution requires the expiration dates for 10 11 evidence of insurance.

12 (f) For purposes of this Section, "financial 13 institution" does not include an insurance company, 14 registered firm, managing general agent, surplus lines 15 broker, wholesale broker, group self-funded insurance fund, 16 or third-party administrator.

17 (g) The Director may adopt rules in accordance with 18 Section 401 of this Code for the enforcement of this Section. 19 (h) This Section applies to the expirations relative to 20 all policies of insurance bound, applied for, sold, renewed, 21 or otherwise taking effect on or after the effective date of 22 this amendatory Act of the 92nd General Assembly.

23 (Source: P.A. 92-5, eff. 6-1-01; revised 10-17-01.)

24 Section 49. The Health Maintenance Organization Act is 25 amended by changing Sections 2-6, 3-1, and 4-6.5 as follows:

26 (215 ILCS 125/2-6) (from Ch. 111 1/2, par. 1406.2)

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Sec. 2-6. Statutory deposits.

(a) An organization subject to the provisions of this
Act shall make and maintain with the Director through
December 30, 1993, for the protection of enrollees of the
organization, a deposit of securities which are authorized
investments under paragraphs (1) and (2) of subsection (h) of

1 Section 3-1 having a fair market value equal to at least 2 \$100,000. Effective December 31, 1993 and through December 30, 1994, the deposit shall have a fair market value at least 3 4 equal to \$200,000. Effective December 31, 1994 and 5 thereafter, the deposit shall have a fair market value at б least equal to \$300,000. An organization issued a certificate of authority on or after the effective date of 7 this Amendatory Act of 1993, shall make and maintain with the 8 9 Director; for the protection of enrollees of the organization, a deposit of securities which are authorized 10 11 investments under paragraphs (1) and (2) of subsection (h) of Section 3-1 having a fair market value equal to at least 12 \$300,000. The amount on deposit shall remain as an admitted 13 asset of the organization in the determination of its net 14 15 worth. The Director may release the required deposit of 16 securities upon receipt of an order of a court having proper jurisdiction or upon: (i) certification by the organization 17 that it has no outstanding enrollee creditors, enrollees, 18 19 certificate holders, or enrollee obligations in effect and no plans to engage in the business of insurance as a health 20 21 maintenance organization; (ii) receipt of a lawful resolution of the organization's governing body effecting the surrender 22 23 its certificate of authority, articles of incorporation, of other organizational 24 documents to their issuing or 25 governmental officer for voluntary or administrative dissolution; and (iii) receipt of the name and forwarding 26 address for each of the final officers and directors of the 27 organization, together with a plan of dissolution approved by 28 29 the Director.

30 (b) An organization that offers a point-of-service 31 product, as permitted by Article 4.5, must maintain an 32 additional deposit in an amount that is not less than the 33 greater of 125% of the organization's annual projected 34 point-of-service claims or \$300,000. -444-

1 (Source: P.A. 92-75, eff. 7-12-01; 92-135, eff. 1-1-02; 2 revised 9-12-01.)

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(215 ILCS 125/3-1) (from Ch. 111 1/2, par. 1407.3)

Sec. 3-1. Investment Regulations.

(a) Any health maintenance organization may invest its 5 б funds as provided in this Section and not otherwise. A health maintenance organization that is organized as an 7 8 insurance company may also acquire the investment assets authorized for an insurance company pursuant to the laws 9 10 applicable to an insurance company in the organization's state of domicile. Notwithstanding the provisions of this 11 Section, the Director may, after notice and hearing, order an 12 organization to limit or withdraw from certain investments, 13 or discontinue certain investment practices, to the extent 14 15 the Director finds that such investments or investment practices are hazardous to the financial condition of the 16 17 organization.

18 (b) No investment or loan shall be made or engaged in by any health maintenance organization unless the same have been 19 20 authorized or ratified by the board of directors or by a 21 committee thereof charged with the duty of supervising 22 investments and loans. Nothing contained in this subsection shall prevent the board of directors of any such organization 23 24 from depositing any of its securities with a committee appointed for the purpose of protecting the interest of 25 security holders or with the authorities of any state where 26 it is necessary to do so in order to secure permission to 27 28 transact its appropriate business therein, and nothing 29 contained in this subsection shall prevent the board of directors of such organization from depositing any securities 30 31 as collateral for the securing of any bond required for the business of the organization. 32

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(c) No health maintenance organization shall pay any

1 commission or brokerage for the purchase or sale of property 2 whether real or personal, in excess of that usual and 3 customary at the time and in the locality where such 4 purchases or sales are made, and information regarding 5 payments of commissions and brokerage shall be maintained.

6 (d) A health maintenance organization may not directly 7 or indirectly, unless it has notified the Director in writing 8 of its intention to enter into the transaction at least 30 9 days prior thereto, or any shorter period as the Director may 10 permit, and the Director has not disapproved it within that 11 period:

12 (1) make a loan to or other investment in an 13 officer or director of the organization or a person in 14 which the officer or director has any direct or indirect 15 financial interest;

16 (2) make a guarantee for the benefit of or in favor
17 of an officer or director of the organization or a person
18 in which the officer or director has any direct or
19 indirect financial interest; or

(3) enter into an agreement for the purchase or
sale of property from or to an officer or director of the
organization or a person in which the officer or director
has any direct or indirect financial interest.

For the purposes of this Section, an officer or director 24 25 shall not be deemed to have a financial interest by reason of an interest that is held directly or indirectly through the 26 ownership of equity interests representing less than 27 2% of all outstanding equity interests issued by a person that is a 28 29 party to the transaction, or solely by reason of that 30 individual's position as a director or officer of a person 31 that is a party to the transaction.

This subsection does not apply to a transaction between an organization and any of its subsidiaries or affiliates that is entered into in compliance with Section 131.20a of the Illinois Insurance Code, other than a transaction between
 an insurer and its officer or director.

(e) In applying the percentage limitations imposed by 3 4 this Section there shall be used as a base the total of all assets which would be admitted by this Section without regard 5 to percentage limitations. All legal measurements used as a 6 7 in the determination of all investment qualifications base 8 shall consist of the amounts determined at the most recent year end adjusted for subsequent acquisition and disposition 9 of investments. 10

(f) Valuation of investments. Investments shall be valued in accordance with the published valuation standards of the National Association of Insurance Commissioners. Securities investments as to which the National Association of Insurance Commissioners has not published valuation standards in its Valuations of Securities manual or its successor publication shall be valued as follows:

(1) All obligations having a fixed term and rate 18 shall, if not in default as to principal or interest, be 19 valued as follows: if purchased at par, at the par value; 20 21 if purchased above or below par, on the basis of the 22 purchase price adjusted so as to bring the value to par 23 at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was 24 25 made;

26 (2) Common, preferred or guaranteed stocks shall be
27 valued at market value.

(3) Other security investments shall be valued in
accordance with regulations promulgated by the Director
pursuant to paragraph (6) of this subsection.

31 (4) Other investments, including real property,
32 shall be valued in accordance with regulations
33 promulgated by the Director pursuant to paragraph (6) of
34 this subsection, but in no event shall such other

1 investments be valued at more than the purchase price. 2 The purchase price for real property includes capitalized permanent improvements, less depreciation spread evenly 3 4 over the life of the property or, at the option of the depreciation computed on any basis 5 less company, permitted under the Internal Revenue Code and regulations 6 7 thereunder. Such investments that have been affected by permanent declines in value shall be valued at not more 8 9 than market value.

(5) Any investment, including real property, not 10 11 purchased by the Health Maintenance Organization but acquired in satisfaction of a debt or otherwise shall be 12 valued in accordance with the applicable procedures for 13 that type of investment contained in this subsection. 14 15 For purposes of applying the valuation procedures, the 16 purchase price shall be deemed to be the market value at the time the investment is acquired or, in the case of 17 any investment acquired in satisfaction of debt, the 18 19 amount of the debt, including interest, taxes and expenses, whichever amount is less. 20

(6) The Director shall promulgate rules and
regulations for determining and calculating values to be
used in financial statements submitted to the Department
for investments.

25 (g) Definitions. As used in this Section, unless the26 context otherwise requires.

27 (1) "Business Corporation" means corporations
28 organized for other than not for profit purposes.

29 (2) "Business Entity" includes sole
30 proprietorships, corporations, associations, partnerships
31 and business trusts.

32 (3) "Bank or Trust Company" means any bank or trust
33 company organized under the laws of the United States or
34 any State thereof if said bank or trust company is

regularly examined pursuant to such laws and said bank or
 trust company has the insurance protection afforded by an
 agency of the United States government.

-448-

4 (4) "Capital" means capital stock paid-up, if any, 5 and its use in a provision does not imply that a 6 non-profit Health Maintenance Organization without stated 7 capital stock is excluded from the provision. The 8 capital of such an organization will be zero.

9 (5) "Direct" when used in connection with 10 "obligation" means that the designated obligor shall be 11 primarily liable on the instrument representing the 12 obligation.

13 (6) "Facility" means and includes real estate and
14 any and all forms of tangible personal property and
15 services used constituting an operating unit.

16 (7) "Guaranteed or insured" means that the 17 guarantor or insurer will perform or insure the 18 obligation of the obligor or will purchase the obligation 19 to the extent of the guaranty or insurance.

20 (8) "Mortgage" shall include a trust deed or other
21 lien on real property securing an obligation for the
22 payment of money.

(9) "Servicer" means a business entity that has a
contractual obligation to service a pool of mortgage
loans. The service provided shall include, but is not
limited to, collection of principal and interest, keeping
the accounts current, maintaining or confirming in force
hazard insurance and tax status and providing supportive
accounting services.

30 (10) "Single credit risk" means the direct,
31 guaranteed or insured obligations of any one business
32 entity including affiliates thereof.

33 (11) "Surplus" means the amount properly shown as34 total net worth on a company's balance sheet, plus all

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voluntary reserves, but not including capital paid-up.

2 "Tangible net worth" means the par value of (12) all issued and outstanding capital stock of a corporation 3 4 (or in the case of shares having no par value, the stated value) and the amounts of all surplus accounts less the 5 sum of (a) such intangible assets as deferred charges, 6 7 organization and development expense, discount and 8 expense incurred in securing capital, good will, 9 trade-names and patents, (b) leasehold trade-marks, 10 improvements, and (c) any reserves carried by the 11 corporation and not otherwise deducted from assets.

12 (13) "Unconditional" when used in connection with 13 "obligation" means that nothing remains to be done or to 14 occur to make the designated obligor liable on the 15 instrument, and that the legal holder shall have the 16 status at least equal to that of general creditor of the 17 obligor.

Authorized investments. Any Health Maintenance 18 (h) Organization, except those organized as an insurance company, 19 may acquire the assets set forth in paragraphs 1 through 17, 20 21 inclusive. А Health Maintenance Organization that is 22 organized as an insurance company may acquire the investment 23 assets authorized for an insurance company pursuant to the laws applicable to an insurance company in the organization's 24 25 state of domicile. Any restriction, exclusion or provision appearing in any paragraph shall apply only with respect to 26 the authorization of the particular paragraph in which it 27 appears and shall not constitute a general prohibition and 28 29 shall not be applicable to any other paragraph. The 30 qualifications or disqualifications of an investment under one paragraph shall not prevent its qualification in whole or 31 in part under another paragraph, and an investment authorized 32 by more than one paragraph may be held under whichever 33 34 authorizing paragraph the organization elects. An investment

1 which qualified under any paragraph at the time it was 2 acquired or entered into by an organization shall continue to 3 be qualified under that paragraph. An investment in whole or 4 in part may be transferred from time to time, at the election 5 of the organization, to the authority of any paragraph under 6 which it qualifies, whether originally qualifying thereunder 7 or not.

8 (1) Direct obligations of the United States for the 9 payment of money, or obligations for the payment of money 10 to the extent guaranteed or insured as to the payment of 11 principal and interest by the United States.

12 (2) Direct obligations for the payment of money, 13 issued by an agency or instrumentality of the United 14 States, or obligations for the payment of money to the 15 extent guaranteed or insured as to the payment of 16 principal and interest by an agency or instrumentality of 17 the United States.

18 (3) Direct, general obligations of any state of the 19 United States for the payment of money, or obligations 20 for the payment of money to the extent guaranteed or 21 insured as to the payment of principal and interest by 22 any state of the United States, on the following 23 conditions:

24 (i) Such state has the power to levy taxes for
25 the prompt payment of the principal and interest of
26 such obligations; and

27 (ii) Such state shall not be in default in the
28 payment of principal or interest on any of its
29 direct, guaranteed or insured obligations at the
30 date of such investment.

31 (4) Direct, general obligations of any political
32 subdivision of any state of the United States for the
33 payment of money, or obligations for the payment of money
34 to the extent guaranteed as to the payment of principal

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-451-

and interest by any political subdivision of any state of the United States, on the following conditions: (i) The obligations are payable or guaranteed

from ad valorem taxes; (ii) Such political subdivision is not in

5 (ii) Such political subdivision is not in 6 default in the payment of principal or interest on 7 any of its direct or guaranteed obligations;

8 (iii) No investment shall be made under this 9 paragraph in obligations which are secured only by 10 special assessments for local improvements; and

11 (iv) An organization shall not invest under 12 this paragraph more than 2% of its admitted assets 13 in obligations issued or guaranteed by any one such 14 political subdivision.

15 (5) Anticipation obligations of any political 16 subdivision of any state of the United States, including 17 but not limited to bond anticipation notes, tax 18 anticipation notes and construction anticipation notes, 19 for the payment of money within 12 months from the 20 issuance of the obligation, on the following conditions:

(i) Such anticipation notes must be a direct
obligation of the issuer under conditions set forth
in paragraph 4;

24 (ii) Such political subdivision is not in
25 default in the payment of the principal or interest
26 on any of its direct general obligations or any
27 obligation guaranteed by such political subdivision;
28 (iii) The anticipated funds must be
29 specifically pledged to secure the obligation;

29 specifically pledged to secure the obligation;
30 (iv) An organization shall not invest under
31 this paragraph more than 2% of its admitted assets

in the anticipation obligations issued by any one such political subdivision.

34 (6) Obligations of any state of the United States,

1 a political subdivision thereof, or a public 2 instrumentality of any one or more of the foregoing, for 3 the payment of money, on the following conditions:

4 (i) The obligations are payable from revenues
5 or earnings of a public utility of such state,
6 political subdivision, or public instrumentality
7 which are specifically pledged therefor;

(ii) The law under which the obligations are 8 9 issued requires such rates for service shall be charged and collected at all times that they will 10 11 produce sufficient revenue or earnings together with any other revenues or moneys pledged to pay all 12 operating and maintenance charges of the public 13 utility and all principal and interest on such 14 15 obligations;

16 (iii) No prior or parity obligations payable 17 from the revenues or earnings of that public utility 18 are in default at the date of such investment;

19(iv) An organization shall not invest more20than 20% of its admitted assets under this21paragraph; and

(v) An organization shall not invest under
this Section more than 2% of its admitted assets in
the revenue obligations issued in connection with
any one facility.

26 (7) Obligations of any state of the United States,
27 a political subdivision thereof, or a public
28 instrumentality of any of the foregoing, for the payment
29 of money, on the following conditions:

30 (i) The obligations are payable from revenues 31 or earnings, excluding revenues or earnings from 32 public utilities, specifically pledged therefor by 33 such state, political subdivision or public 34 instrumentality; 1 (ii) No prior or parity obligation of the same 2 issuer payable from revenues or earnings from the 3 same source has been in default as to principal or 4 interest during the 5 years next preceding the date 5 of such investment, but such issuer need not have 6 been in existence for that period, and obligations 7 acquired under this paragraph may be newly issued;

8 (iii) An organization shall not invest in 9 excess of 20% of its admitted assets under this 10 paragraph; and

11 (iv) An organization shall not invest under 12 this paragraph more than 2% of its admitted assets 13 in the revenue obligations issued in connection with 14 any one facility; and

15 (v) An organization shall not invest under 16 this paragraph more than 2% of its admitted assets 17 in revenue obligations payable from revenue or 18 earning sources which are the contractual 19 responsibility of any one single credit risk.

20 (8) Direct, unconditional obligations of a solvent
21 business corporation for the payment of money, including
22 obligations to pay rent for equipment used in its
23 business or obligations for the payment of money to the
24 extent guaranteed or insured as to the payment of
25 principal and interest by any solvent business
26 corporation, on the following conditions:

(i) The corporation shall be incorporated
under the laws of the United States or any state of
the United States;

30 (ii) The corporation shall have tangible net
31 worth of not less than \$1,000,000;

32 (iii) No such obligation, guarantee or
33 insurance of the corporation has been in default as
34 to principal or interest during the 5 years

1 preceding the date of investment, but the 2 corporation need not have had obligations guarantees 3 or insurance outstanding during that period and need 4 not have been in existence for that period, and 5 obligations acquired under this paragraph may be 6 newly issued;

7 (iv) An organization shall not invest more
8 than 2% of its admitted assets in obligations
9 issued, guaranteed or insured by any one such
10 corporation;

11 (v) An organization may invest under this paragraph up to an additional 2% of its admitted 12 13 assets in obligations which (i) are issued, guaranteed or insured by any one or more such 14 15 corporations, each having a tangible net worth of 16 not less than \$25,000,000 and (ii) mature within 12 months from the date of acquisition; 17

18 (vi) An organization may invest not more than 19 1/2 of 1% of its admitted assets in such obligations 20 of corporations which do not meet the condition of 21 subparagraph (ii) of this paragraph; and

22 (vii) An organization shall not invest more
23 than 75% of its admitted assets under this
24 paragraph.

(9) Direct, unconditional obligations for the payment of money issued or obligations for the payment of money to the extent guaranteed as to principal and interest by a solvent not for profit corporation, on the following conditions:

30 (i) The corporation shall be incorporated
31 under the laws of the United States or of any state
32 of the United States;

33 (ii) The corporation shall have been in
34 existence for at least 5 years and shall have assets

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-455-

of at least \$2,000,000;

2 (iii) Revenues or other income from such 3 assets and the services or commodities dispensed by 4 the corporation shall be pledged for the payment of 5 the obligations or guarantees;

6 (iv) No such obligation or guarantee of the 7 corporation has been in default as to principal or 8 interest during the 5 years next preceding the date 9 of such investment, but the corporation need not 10 have had obligations or guarantees outstanding 11 during that period and obligations which are 12 acquired under this paragraph may be newly issued;

13 (v) An organization shall not invest more than
14 15% of its admitted assets under this paragraph; and

15 (vi) An organization shall not invest under 16 this paragraph more than 2% of its admitted assets 17 in the obligations issued or guaranteed by any one 18 such corporation.

19 (10) Direct, unconditional nondemand obligations 20 for the payment of money issued by a solvent bank, mutual 21 savings bank or trust company on the following 22 conditions:

(i) The bank, mutual savings bank or trust
company shall be incorporated under the laws of the
United States, or of any state of the United States;
(ii) The bank, mutual savings bank or trust
company shall have tangible net worth of not less
than \$1,000,000;

29 (iii) Such obligations must be of the type
30 which are insured by an agency of the United States
31 or have a maturity of no more than 1 day;

32 (iv) An organization shall not invest under
33 this paragraph more than the amount which is fully
34 insured by an agency of the United States plus 2% of

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-456-

its admitted assets in nondemand obligations issued by any one such financial institution; and (v) An organization may invest under this

4 paragraph up to an additional 8% of its admitted 5 assets in nondemand obligations which (1) are issued 6 by any such banks, mutual savings banks or trust 7 companies, each having a tangible net worth of not 8 less than \$25,000,000 and (2) mature within 12 9 months from the date of acquisition.

10 (11) Preferred or guaranteed stocks issued or
11 guaranteed by a solvent business corporation incorporated
12 under the laws of the United States or any state of the
13 United States, on the following conditions:

14 (i) The corporation shall have tangible net15 worth of not less than \$1,000,000;

16 (ii) If such stocks have been outstanding 17 prior to purchase, an organization shall not invest 18 under this paragraph in such stock if prescribed 19 current or cumulative dividends are in arrears;

(iii) An organization shall not invest more 20 than 33 1/3% of its admitted assets under this 21 paragraph and an organization shall not invest more 22 23 than 15% of its admitted assets under this paragraph in stocks which, at the time of purchase, are not 24 25 Sinking Fund Stocks. An issue of preferred or guaranteed stock shall be a Sinking Fund Stock when 26 (1) such issue is subject to a 100% mandatory 27 sinking fund or similar arrangement which will 28 provide for the redemption of the entire issue over 29 30 a period not longer than 40 years from the date of purchase; (2) annual mandatory sinking fund 31 installments on each issue commence not more than 10 32 years from the date of issue; and (3) each annual 33 sinking fund installment provides for the purchase 34

1or redemption of at least 2 1/2% of the original2number of shares of such issue; and

3 (iv) An organization shall not invest under
4 this paragraph more than 2% of its admitted assets
5 in the preferred or guaranteed stocks of any one
6 such corporation.

7 (12) Common stock issued by any solvent business
8 corporation incorporated under the laws of the United
9 States, or of any state of the United States, on the
10 following conditions:

11 (i) The issuing corporation must have tangible 12 net worth of \$1,000,000 or more;

13 (ii) An organization may not invest more than 14 an amount equal to its net worth under this 15 paragraph; and

16 (iii) An organization may not invest under 17 this paragraph an amount equal to more than 10% of 18 its net worth in the common stock of any one 19 corporation.

20 (13) Shares of common stock or units of beneficial 21 interest issued by any solvent business corporation or 22 trust incorporated or organized under the laws of the 23 United States, or of any state of the United States, on 24 the following conditions:

25 (i) If the issuing corporation or trust is advised by an investment advisor which is the 26 organization or an affiliate of the organization, 27 the issuing corporation or trust shall have net 28 29 assets of \$100,000 or more, or if the issuing 30 corporation or trust has an unaffiliated investment advisor, the issuing corporation or trust shall have 31 net assets of \$10,000,000 or more; 32

33 (ii) The issuing corporation or trust is34 registered as an investment company with the

-458-

1Securities and Exchange Commission under the2Investment Company Act of 1940, as amended;

3 (iii) An organization shall not invest under
4 this paragraph more than the greater of \$100,000 or
5 10% of its admitted assets in any one bond fund,
6 municipal bond fund or money market fund;

7 (iv) An organization shall not invest under
8 this paragraph more than 10% of its net worth in any
9 one common stock fund, balanced fund or income fund;

10 (v) An organization shall not invest more than 11 50% of its admitted assets in bond funds, municipal 12 bond funds and money market funds under this 13 paragraph; and

14 (vi) An organization's investments in common 15 stock funds, balanced funds or income funds when 16 combined with its investments in common stocks made 17 under paragraph (12) shall not exceed the aggregate 18 limitation provided by subparagraph (ii) of 19 paragraph (12).

20 (14) Shares of, or accounts or deposits with 21 savings and loan associations or building and loan 22 associations, on the following conditions:

23 (i) The shares, accounts, or deposits, or investments in any form legally issuable shall be of 24 25 a withdrawable type and issued by an association which has the insurance protection afforded by the 26 Federal Savings and Loan Insurance Corporation; but 27 nonwithdrawable accounts which are not eligible for 28 29 insurance by the Federal Savings and Loan Insurance 30 Corporation shall not be eligible for investment 31 under this paragraph;

32 (ii) The association shall have tangible net
33 worth of not less than \$1,000,000;

34 (iii) The investment shall be in the name of

-459-

and owned by the organization, unless the account is
 under a trusteeship with the organization named as
 the beneficiary;

4 (iv) An organization shall not invest more 5 than 50% of its admitted assets under this 6 paragraph; and

7 (v) Under this paragraph, an organization 8 shall not invest in any one such association an 9 amount in excess of 2% of its admitted assets or an 10 amount which is fully insured by the Federal Savings 11 and Loan Insurance Corporation, whichever is 12 greater.

13 (15) Direct, unconditional obligations for the 14 payment of money secured by the pledge of any investment 15 which is authorized by any of the preceding paragraphs, 16 on the following conditions:

17 (i) The investment pledged shall by its terms
18 be legally assignable and shall be validly assigned
19 to the organization;

(ii) The investment pledged shall have a fair market value which is at least 25% greater than the amount invested under this paragraph, except that a loan may be made up to 100% of the full fair market value of collateral that would qualify as an investment under paragraph (1) provided it qualifies under condition (i) of this paragraph; and

(iii) An organization's investment under this
paragraph when added to its investment of the
category of the collateral pledged shall not cause
the sum to exceed the limits provided by the
paragraph authorizing that category of investments.
(16) Real estate (including leasehold estates and

leasehold improvements) for the convenient accommodation
of the organization's business operations, including home

office, branch office, medical facilities and field
 office operations, on the following conditions:

(i) Any parcel of real estate acquired under
this paragraph may include excess space for rent to
others, if it is reasonably anticipated that such
excess will be required by the organization for
expansion or if the excess is reasonably required in
order to have one or more buildings that will
function as an economic unit;

10 (ii) Such real estate may be subject to a 11 mortgage; and

(iii) The greater of the admitted value of the 12 13 asset as determined by subsection (f) or the organization's equity plus all encumbrances on such 14 real estate owned by a company under this paragraph 15 16 shall not exceed 20% of its admitted assets, except with the permission of the Director if he finds that 17 percentage of its admitted assets is 18 such insufficient to provide convenient accommodation for 19 20 the company's business; provided, however, an 21 organization that directly provides medical services may invest an additional 20% of its admitted assets 22 23 in such real estate, not requiring the permission of 24 the Director.

25 (17) Any investments of any kind, in the complete discretion of the organization, without regard to any 26 condition of, restriction in, 27 or exclusion from paragraphs (1) to (16), inclusive, and regardless of 28 29 whether the same or a similar type of investment has been 30 included in or omitted from any such paragraph, on the following condition: (a) An organization shall not invest 31 under this paragraph more than the lesser of (i) 10% of 32 its admitted assets, or (ii) 50% of the amount by which 33 34 its net worth exceeds the minimum requirements of a new

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-461-
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health maintenance organization to qualify for a
 certificate of authority.
 (Source: P.A. 92-140, eff. 7-24-01; revised 9-12-01.)

4 (215 ILCS 125/4-6.5)

5 Sec. 4-6.5. Required health benefits; Illinois Insurance 6 Code requirements. A health maintenance organization is 7 subject to the provisions of Sections 155.37, 356t, 356u, and 8 356z.1 of the Illinois Insurance Code.

9 (Source: P.A. 92-130, eff. 7-20-01; 92-440, eff. 8-17-01; 10 revised 9-12-01.)

Section 50. The Voluntary Health Services Plans Act is amended by changing Section 10 as follows:

13 (215 ILCS 165/10) (from Ch. 32, par. 604)

Sec. 10. Application of Insurance Code provisions. 14 15 Health services plan corporations and all persons interested 16 therein or dealing therewith shall be subject to the provisions of Articles IIA and XII 1/2 and Sections 3.1, 133, 17 140, 143, 143c, 149, 155.37, 354, 355.2, 356r, 356t, 356u, 18 356v, 356w, 356x, 356y, 356z.1, 367.2, 368a, 401, 401.1, 402, 19 403, 403A, 408, 408.2, and 412, and paragraphs (7) and (15) 20 of Section 367 of the Illinois Insurance Code. 21 (Source: P.A. 91-406, eff. 1-1-00; 91-549, eff. 8-14-99; 22 91-605, eff. 12-14-99; 91-788, eff. 6-9-00; 92-130, eff. 23

24 7-20-01; 92-440, eff. 8-17-01; revised 9-12-01.)

25 Section 51. The Telephone Company Act is amended by 26 changing Section 4 as follows:

27 (220 ILCS 65/4) (from Ch. 134, par. 20)

28 Sec. 4. Right of condemnation. Every <u>telecommunications</u> 29 telecommunciations carrier as defined in the

1 Telecommunications Municipal Infrastructure Maintenance Fee 2 Act may, when it shall be necessary for the construction, 3 maintenance, alteration or extension of its 4 telecommunications system, or any part thereof, enter upon, 5 take or damage private property in the manner provided for in, and the compensation therefor shall be ascertained and 6 7 made in conformity to the provisions of the Telegraph Act and 8 every telecommunications carrier is authorized to construct, 9 maintain, alter and extend its poles, wires, and other appliances as a proper use of highways, along, upon, under 10 11 and across any highway, street, alley, public right-of-way 12 dedicated or commonly used for utility purposes, or water in this State, but so as not to incommode the public in the use 13 thereof: Provided, that nothing in this act shall interfere 14 15 with the control now vested in cities, incorporated towns and 16 villages in relation to the regulation of the poles, wires, cables and other appliances, and provided, that before any 17 such lines shall be constructed along any such highway, 18 street, alley, public right-of-way dedicated or commonly used 19 20 for utility purposes, or water it shall be the duty of the 21 telecommunications carrier proposing to construct any such 22 line, to give (in the case of cities, villages, and 23 incorporated towns) to the corporate authorities of the municipality or their designees (hereinafter, municipal 24 25 corporate authorities) or (in other cases) to the highway commissioners having jurisdiction and control over the road 26 27 or part thereof along and over which such line is proposed to be constructed, notice in writing in the form of plans, 28 29 specifications, and documentation of the purpose and 30 intention of the company to construct such line over and along the highway, street, alley, public right-of-way 31 32 dedicated or commonly used for utility purposes, or water, which notice shall be served at least 10 days before the line 33 34 shall be placed or constructed over and along the highway,

1 street, alley, public right-of-way dedicated or commonly used 2 for utility purposes, or water (30 days in the case of any notice providing for excavation relating to new construction 3 4 in a public highway, street, alley, public right-of-way 5 dedicated or commonly used for utility purposes, or water); б and upon the giving of the notice it shall be the duty of the 7 municipal corporate authorities or the highway commissioners to specify the portion of such highway, street, alley, public 8 9 right-of-way dedicated or commonly used for utility purposes, or water upon which the line may be placed, used, and 10 11 constructed, and it shall thereupon be the duty of the telecommunications retailer to 12 provide the municipal authorities or highway commissioners with any and all plans, 13 specifications, and documentation available and to construct 14 15 its line in accordance with such specifications; but in the 16 event that the municipal corporate authorities or the highway commissioners fail to provide such specification within 10 17 days after the service of such notice, (25 days in the case 18 19 of excavation relating to new construction) then the 20 telecommunications retailer, without such specification 21 having been made, may proceed to place and erect its line 22 along the highway, street, alley, public right-of-way 23 dedicated or commonly used for utility purposes, or water by placing its posts, poles and abutments so as not to interfere 24 25 with other proper uses of the highway, street, alley, public right-of-way dedicated or commonly used for utility purposes, 26 The telecommunications carrier proposing 27 or water. to construct any such line shall comply with the provisions of 28 Section 9-113 of the Illinois Highway Code. Provided, that 29 30 the telecommunications carrier shall not have the right to condemn any portion of the right-of-way of any railroad 31 32 company except as much thereof as is necessary to cross the 33 same.

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The Illinois Commerce Commission may adopt reasonable

1 rules governing the negotiation procedures that are used by a 2 telecommunications carrier during precondemnation 3 negotiations for the purchase of land rights-of-way and 4 easements, including procedures for providing information to 5 the public and affected landowners concerning the project and 6 the right-of-way easements sought in connection therewith.

7 rules may be made applicable to interstate, Such 8 competitive intrastate and noncompetitive intrastate 9 facilities, without regard to whether such facilities or the telecommunications carrier proposing to construct and operate 10 11 them would otherwise be subject to the Illinois Commerce Commission's jurisdiction under the Public Utilities Act, as 12 now or hereafter amended. However, as to facilities used to 13 exclusively interstate services or competitive 14 provide 15 intrastate services or both, nothing in this Section confers 16 any power upon the Commission (i) to require the disclosure of proprietary, competitively sensitive, or cost information 17 or information not known to the telecommunications carrier, 18 19 (ii) to determine whether, or conduct hearings regarding whether, any proposed fiber optic or other facilities should 20 21 or should not be constructed and operated, or (iii) to 22 determine or specify, or conduct hearings concerning, the 23 price or other terms or conditions of the purchase of the right-of-way easements sought. With respect to facilities 24 25 used to provide any intrastate services classified in the condemnor's tariff as noncompetitive under Section 13-502 of 26 the Public Utilities Act, the rulemaking powers conferred 27 upon the Commission under this Section are in addition to any 28 29 rulemaking powers arising under the Public Utilities Act.

No telecommunications carrier shall exercise the power to condemn private property until it has first substantially complied with such rules with respect to the property sought be condemned. If such rules call for providing notice or information before or during negotiations, a failure to

-465-

1 provide such notice or information shall not constitute a waiver of the rights granted in this Section, but the 2 telecommunications carrier shall be liable for all reasonable 3 4 attorney's fees of that landowner resulting from such 5 failure. (Source: P.A. 90-154, eff. 1-1-98; revised 12-04-01.) б 7 Section 52. The Illinois Dental Practice Act is amended 8 by changing Section 4 as follows: (225 ILCS 25/4) (from Ch. 111, par. 2304) 9 (Section scheduled to be repealed on January 1, 2006) 10 Sec. 4. Definitions. As used in this Act: 11 "Department" means the Illinois Department of 12 (a) 13 Professional Regulation. 14 (b) "Director" means the Director of Professional Regulation. 15 16 (c) "Board" means the Board of Dentistry established by 17 Section 6 of this Act. (d) "Dentist" means a person who has received a general 18 19 license pursuant to paragraph (a) of Section 11 of this Act and who may perform any intraoral and extraoral procedure 20 21 required in the practice of dentistry and to whom is reserved the responsibilities specified in Section 17. 22 23 (e) "Dental hygienist" means a person who holds a license under this Act to perform dental services as 24 authorized by Section 18. 25 (f) "Dental assistant" means an appropriately trained 26 person who, under the supervision of a dentist, provides 27 28 dental services as authorized by Section 17. (g) "Dental laboratory" means a person, 29 firm or 30 corporation which:

31 (i) engages in making, providing, repairing or32 altering dental prosthetic appliances and other

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-466-

1 artificial materials and devices which are returned to a 2 dentist for insertion into the human oral cavity or which 3 come in contact with its adjacent structures and tissues;

and

5 (ii) utilizes or employs a dental technician to 6 provide such services; and

7 (iii) performs such functions only for a dentist or8 dentists.

9 "Supervision" means supervision of a dental (h) 10 hygienist or a dental assistant requiring that a dentist 11 authorize the procedure, remain in the dental facility while 12 the procedure is performed, and approve the work performed by the dental hygienist or dental assistant before dismissal of 13 the patient, but does not mean that the dentist must be 14 15 present at all times in the treatment room.

16 (i) "General supervision" means supervision of a dental hygienist requiring that a dentist authorize the procedures 17 which are being carried out, but not requiring that a dentist 18 19 be present when the authorized procedures are being 20 performed. The authorized procedures may also be performed 21 at a place other than the dentist's usual place of practice. 22 The issuance of a prescription to a dental laboratory by a 23 dentist does not constitute general supervision.

(j) "Public member" means a person who is not a health
professional. For purposes of board membership, any person
with a significant financial interest in a health service or
profession is not a public member.

(k) "Dentistry" means the healing art which is concerned
with the examination, diagnosis, treatment planning and care
of conditions within the human oral cavity and its adjacent
tissues and structures, as further specified in Section 17.

32 (1) "Branches of dentistry" means the various
33 specialties of dentistry which, for purposes of this Act,
34 shall be limited to the following: endodontics, oral and

maxillofacial surgery, orthodontics and dentofacial
 orthopedics, pediatric dentistry, periodontics,
 prosthodontics, and oral and maxillofacial radiology.

4 (m) "Specialist" means a dentist who has received a
5 specialty license pursuant to Section 11(b).

6 (n) "Dental technician" means a person who owns, 7 operates or is employed by a dental laboratory and engages in 8 making, providing, repairing or altering dental prosthetic 9 appliances and other artificial materials and devices which 10 are returned to a dentist for insertion into the human oral 11 cavity or which come in contact with its adjacent structures 12 and tissues.

(o) "Impaired dentist" or "impaired dental hygienist" 13 means a dentist or dental hygienist who is unable to practice 14 15 with reasonable skill and safety because of a physical or 16 mental disability as evidenced by a written determination or written consent based on clinical evidence, including 17 deterioration through the aging process, loss of motor 18 skills, abuse of drugs or alcohol, or a psychiatric disorder, 19 of sufficient degree to diminish the person's ability to 20 21 deliver competent patient care.

(p) "Nurse" means a registered professional nurse, a certified registered nurse <u>anesthetist</u> anesthesist licensed as an advanced practice nurse, or a licensed practical nurse licensed under the Nursing and Advanced Practice Nursing Act. (Source: P.A. 91-138, eff. 1-1-00; 91-689, eff. 1-1-01; 92-280, eff. 1-1-02; revised 9-19-01.)

Section 53. The Nursing and Advanced Practice Nursing
Act is amended by changing Section 20-165 as follows:

30 (225 ILCS 65/20-165)

31 (Section scheduled to be repealed on January 1, 2008)
32 Sec. 20-165. Home rule preemption. It is declared to be

1 the public policy of this State, pursuant to paragraph 2 paragraphs (h) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in 3 4 this Act to be exercised by the State is an exclusive State Such power or function shall not be 5 power or function. б exercised concurrently, either directly or indirectly, by any 7 unit of local government, including home rule units, except as otherwise provided in this Act. 8 9 (Source: P.A. 90-742, eff. 8-13-98; revised 12-07-01.) 10 Section 54. The Illinois Occupational Therapy Practice Act is amended by changing Sections 2 and 3.2 as follows: 11 (225 ILCS 75/2) (from Ch. 111, par. 3702) 12

13 (Section scheduled to be repealed on December 31, 2003)14 Sec. 2. Definitions. In this Act:

15 (1) "Department" means the Department of Professional 16 Regulation.

17 (2) "Director" means the Director of Professional18 Regulation.

19 (3) "Board" means the Illinois Occupational Therapy20 Board appointed by the Director.

(4) "Registered occupational therapist" means a person
licensed to practice occupational therapy as defined in this
Act, and whose license is in good standing.

(5) "Certified occupational therapy assistant" means a 24 person licensed to assist in the practice of occupational 25 therapy under the supervision of a registered occupational 26 27 therapist, and to implement the occupational therapy 28 treatment program as established by the registered occupational therapist. Such program may include training in 29 30 activities of daily living, the use of therapeutic activity including task oriented activity to enhance functional 31 32 performance, and guidance in the selection and use of

-469-

1 adaptive equipment.

2 (6) "Occupational therapy" means the therapeutic use of 3 purposeful and meaningful occupations or goal-directed 4 activities to evaluate and provide interventions for individuals and populations who have a disease or disorder, 5 an impairment, an activity limitation, or a participation 6 7 restriction that interferes with their ability to function 8 independently in their daily life roles and to promote health 9 and wellness. Occupational therapy intervention may include any of the following: 10

11 (a) remediation or restoration of performance 12 abilities that are limited due to impairment in 13 biological, physiological, psychological, or neurological 14 processes;

(b) adaptation of task, process, or the environment or the teaching of compensatory techniques in order to enhance performance;

18 (c) disability prevention methods and techniques 19 that facilitate the development or safe application of 20 performance skills; and

21 (d) health promotion strategies and practices that22 enhance performance abilities.

23 The registered occupational therapist or certified occupational therapy assistant may assume a variety of roles 24 25 in his or her career including, but not limited to, practitioner, supervisor of professional students and 26 volunteers, researcher, scholar, consultant, administrator, 27 faculty, clinical instructor, and educator of consumers, 28 29 peers, and family.

30 (7) "Occupational therapy services" means services that 31 may be provided to individuals and populations including, 32 without limitation, the following:

33 (a) evaluating, developing, improving, sustaining,
 34 or restoring skills in activities of daily living, work,

or productive activities, including instrumental living
 and play and leisure activities;

3 (b) evaluating, developing, improving, or restoring 4 sensory motor, cognitive, or psychosocial components of 5 performance;

6 (c) designing, fabricating, applying, or training
7 in the use of assistive technology or temporary, orthoses
8 and training in the use of orthoses and prostheses;

9 (d) adapting environments and processes, including 10 the application of ergonomic principles, to enhance 11 performance and safety in daily life roles;

(e) for occupational therapists possessing advanced training, skill, and competency as demonstrated through examinations that shall be determined by the Department, applying physical agent modalities as an adjunct to or in preparation for engagement in occupations;

17 (f) evaluating and providing intervention in 18 collaboration with the client, family, caregiver, or 19 others;

20 (g) educating the client, family, caregiver, or 21 others in carrying out appropriate nonskilled 22 interventions; and

23 (h) consulting with groups, programs,
24 organizations, or communities to provide population-based
25 services.

26 (8) "An aide in occupational therapy" means an 27 individual who provides supportive services to occupational 28 therapy practitioners but who is not certified by a 29 nationally recognized occupational therapy certifying or 30 licensing body. or-optometrist-optometrist₇

31 (Source: P.A. 92-297, eff. 1-1-02; 92-366, eff. 1-1-02; 32 revised 10-12-01.)

33 (225 ILCS 75/3.2)

(Section scheduled to be repealed on December 31, 2003)
 Sec. 3.2. Practice of optometry.

(a) No rule shall be adopted under this Act that allows 3 4 an occupational therapist to perform an act, task, or 5 function primarily performed in the lawful practice of б optometry under the Illinois Optometric Practice Act of 1987. 7 (b) An occupational therapist may not perform an act, task, or function primarily performed in the lawful practice 8 of optometry under the Illinois Optometric Practice Act of 9 1987. 10

11 (Source: P.A. 92-297, eff. 1-1-02; 92-366, eff. 1-1-02; 12 revised 10-12-01.)

Section 55. The Pharmacy Practice Act of 1987 is amended by changing Section 10 as follows:

15 (225 ILCS 85/10) (from Ch. 111, par. 4130)

16 (Section scheduled to be repealed on January 1, 2008)

17 Sec. 10. State Board of Pharmacy. There is created in the Department the State Board of Pharmacy. It shall consist of 18 19 9 members, 7 of whom shall be licensed pharmacists. Each of 20 those 7 members must be a licensed pharmacist in good standing in this State, a graduate of an accredited college 21 of pharmacy or hold a Bachelor of Science degree in Pharmacy 22 23 and have at least 5 years' practical experience in the practice of pharmacy subsequent to the date of his licensure 24 as a licensed pharmacist in the State of Illinois. There 25 shall be 2 public members, who shall be voting members, 26 who 27 shall not be licensed pharmacists in this State or any other 28 state.

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Each member shall be appointed by the Governor.

The terms of all members serving as of March 31, 1999 shall expire on that date. The Governor shall appoint 3 persons to serve one-year terms, 3 persons to serve 3-year terms, and 3 persons to serve 5-year terms to begin April 1,
 1999. Otherwise, members shall be appointed to 5 year terms.
 No member shall be eligible to serve more than 12 consecutive
 years.

In making the appointment of members on the Board, 5 the б Governor shall give due consideration to recommendations by 7 the members of the profession of pharmacy and by 8 pharmaceutical organizations therein. The Governor shall 9 notify the pharmaceutical organizations promptly of any vacancy of members on the Board and in appointing members 10 11 shall give consideration to individuals engaged in all types 12 and settings of pharmacy practice.

13 The Governor may remove any member of the Board for 14 misconduct, incapacity or neglect of duty and he shall be the 15 sole judge of the sufficiency of the cause for removal.

16 Every person appointed a member of the Board shall take and subscribe the constitutional oath of office and file it 17 with the Secretary of State. Each member of the Board shall 18 be reimbursed for such actual and legitimate expenses as he 19 may incur in going to and from the place of meeting and 20 21 remaining thereat during sessions of the Board. In addition, 22 each member of the Board shall receive a per diem payment in 23 an amount determined from time to time by the Director for attendance at meetings of the Board and conducting other 24 25 official business of the Board.

The Board shall hold quarterly meetings and an annual 26 meeting in January of each year and such other meetings at 27 such times and places and upon such notice as the Board may 28 29 determine and as its business may require. Five members of 30 the Board shall constitute a quorum for the transaction of business. The Director shall appoint a pharmacy coordinator, 31 who shall be someone other than a member of the Board. 32 The pharmacy coordinator shall be a registered pharmacist in good 33 34 standing in this State, shall be a graduate of an accredited

1 college of pharmacy, or hold at a minimum a Bachelor of 2 Science degree in Pharmacy and shall have at least 5 years' 3 experience in the practice of pharmacy immediately prior to 4 his appointment. The pharmacy coordinator shall be the 5 executive administrator and the chief enforcement officer of 6 the Pharmacy Practice Act of 1987.

7 The Board shall exercise the rights, powers and duties 8 which have been vested in the Board under this Act, and any 9 other duties conferred upon the Board by law.

The Director shall, in conformity with the Personnel 10 Code, employ not less than 7 pharmacy investigators and 2 11 pharmacy supervisors. Each pharmacy investigator and each 12 supervisor shall be a registered pharmacist in good standing 13 in this State, and shall be a graduate of an accredited 14 college of pharmacy and have at least 5 years of experience 15 16 in the practice of pharmacy. The Department shall also employ at least one attorney who is a pharmacist to prosecute 17 violations of this Act and its rules. The Department may, in 18 19 conformity with the Personnel Code, employ such clerical and 20 other employees as are necessary to carry out the duties of 21 the Board.

22 The duly authorized pharmacy investigators of the 23 Department shall have the right to enter and inspect during business hours any pharmacy or any other place in the State 24 25 of Illinois holding itself out to be a pharmacy where medicines or drugs or drug products or proprietary medicines 26 are sold, offered for sale, exposed for sale, or kept for 27 The pharmacy investigators shall be 28 sale. the only 29 Department investigators authorized to inspect, investigate, 30 and monitor probation compliance of pharmacists and 31 pharmacies.

32 (Source: P.A. 90-253, eff. 7-29-97; 91-827, eff. 6-13-00; 33 revised 12-07-01.) -474-

Section 56. The Illinois Physical Therapy Act is amended
 by changing Section 1 as follows:

(Section scheduled to be repealed on January 1, 2006)

3 (225 ILCS 90/1) (from Ch. 111, par. 4251)

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Sec. 1. Definitions. As used in this Act:

(1) "Physical therapy" means the evaluation or treatment 6 7 of a person by the use of the effective properties of 8 physical measures and heat, cold, light, water, radiant energy, electricity, sound, and air; and the use 9 of 10 therapeutic massage, therapeutic exercise, mobilization, and 11 the rehabilitative procedures with or without assistive 12 devices for the purposes of preventing, correcting, or alleviating a physical or mental disability, or promoting 13 14 physical fitness and well-being. Physical therapy includes, 15 but is not limited to: (a) performance of specialized tests and measurements, (b) administration of specialized treatment 16 17 procedures, (c) interpretation of referrals from physicians, 18 dentists and podiatrists, (d) establishment, and modification of physical therapy treatment programs, (e) administration of 19 20 topical medication used in generally accepted physical therapy procedures when such medication is prescribed by the 21 22 patient's physician, licensed to practice medicine in all its branches, the patient's physician licensed to practice 23 24 podiatric medicine, or the patient's dentist, and (f) supervision or teaching of physical therapy. 25 Physical 26 therapy does not include radiology, electrosurgery, chiropractic technique or determination of a differential 27 28 diagnosis; provided, however, the limitation on determining a 29 differential diagnosis shall not in any manner limit a physical therapist licensed under this Act from performing an 30 31 evaluation pursuant to such license. Nothing in this Section shall limit a physical therapist from employing appropriate 32 33 physical therapy techniques that he or she is educated and

licensed to perform. A physical therapist shall refer to a licensed physician, dentist, or podiatrist any patient whose medical condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of the physical therapist.

6 (2) "Physical therapist" means a person who practices 7 physical therapy and who has met all requirements as provided 8 in this Act.

9 (3) "Department" means the Department of Professional 10 Regulation.

11 (4) "Director" means the Director of Professional 12 Regulation.

13 (5) "Committee" means the Physical Therapy Examining14 Committee approved by the Director.

15 (6) "Referral" for the purpose of this Act means the 16 following of guidance or direction to the physical therapist 17 given by the physician, dentist, or podiatrist who shall 18 maintain supervision of the patient.

19 (7) "Documented current and relevant diagnosis" for the 20 purpose of this Act means a diagnosis, substantiated by 21 signature or oral verification of a physician, dentist, or 22 podiatrist, that a patient's condition is such that it may be 23 treated by physical therapy as defined in this Act, which 24 diagnosis shall remain in effect until changed by the 25 physician, dentist or podiatrist.

26 (

(8) "State" includes:

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(a) the states of the United States of America;

(b) <u>the</u> District of Columbia; <u>and</u> θr

28 29

(c) the Commonwealth of Puerto Rico.

30 (9) "Physical therapist assistant" means a person 31 licensed to assist a physical therapist and who has met all 32 requirements as provided in this Act and who works under the 33 supervision of a licensed physical therapist to assist in 34 implementing the physical therapy treatment program as

established by the licensed physical therapist. The patient care activities provided by the physical therapist assistant shall not include the interpretation of referrals, evaluation procedures, <u>or</u> the planning of, or major <u>modification</u> modifications of, patient programs.

6 (10) "Physical therapy aide" means a person who has 7 received on the job training, specific to the facility in 8 which he is employed, but who has not completed an approved 9 physical therapist assistant program.

10 (Source: P.A. 85-1440; 86-1396; revised 12-04-01.)

Section 57. The Perfusionist Practice Act is amended by changing Section 215 as follows:

13 (225 ILCS 125/215)

14 (Section scheduled to be repealed on January 1, 2010) 15 Sec. 215. Criminal penalties. A person who is found to 16 have knowingly violated Section <u>105</u> ±0-5 or subsection (a) of 17 Section 220 of this Act is guilty of a Class A misdemeanor 18 for a first offense and is guilty of a Class 4 felony for a 19 second or subsequent offense.

20 (Source: P.A. 91-580, eff. 1-1-00; revised 12-07-01.)

21 Section 58. The Illinois Roofing Industry Licensing Act 22 is amended by changing Section 9.10 as follows:

23 (225 ILCS 335/9.10) (from Ch. 111, par. 7509.10)

24 (Section scheduled to be repealed on January 1, 2006)

25 Sec. 9.10. Returned checks; fines. Any person who 26 delivers a check or other payment to the Department that is 27 returned to the Department unpaid by the financial 28 institution upon which it is drawn shall pay to the 29 Department, in addition to the amount already owed to the 30 Department, a fine of \$50. The fines imposed by this Section

are in addition to any other discipline provided under this 1 2 Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment 3 4 of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the 5 notification. If, after the expiration of 30 days from the 6 7 date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically 8 9 terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a 10 11 license, he or she shall apply to the Department for restoration or issuance of the license and pay all the 12 application fees as set by rule. 13 The Department may establish a fee for the processing of an application for 14 15 restoration of a license to pay all expenses of processing 16 this application. The Director may waive the fines due under this Section in individual cases where the Director finds 17 that the fines would be unreasonable or unnecessarily 18 19 burdensome.

-477-

20 (Source: P.A. 91-950, eff. 2-9-01; 92-146, eff. 1-1-02; 21 revised 9-13-01.)

- 22 Section 59. The Highway Advertising Control Act of 1971 23 is amended by changing Section 3 as follows:
- 24

(225 ILCS 440/3) (from Ch. 121, par. 503)

25 Sec. 3. As used in this Act, unless the context 26 otherwise requires, the terms defined in Sections 3.01 27 through <u>3.16</u> 3-14 have the meanings ascribed to them in those 28 Sections.

29 (Source: P.A. 77-1815; revised 12-07-01.)

30 Section 60. The Home Inspector License Act is amended by 31 changing Section 15-20 as follows: -478-

1

(225 ILCS 441/15-20)

2 (Section scheduled to be repealed on January 1, 2012)

3 Sec. 15-20. Administrative Review Law; certification
4 fees; Illinois Administrative Procedure Act.

5 final administrative decisions of (a) All the 6 Commissioner under this Act are subject to judicial review 7 pursuant to the provisions of the Administrative Review Law 8 and the rules adopted pursuant thereto. The term 9 "administrative decision" has the meaning ascribed to it in Section 3-101 of the Administrative Review Law. 10

11 (b) OBRE shall not be required to certify any record, 12 file any answer, or otherwise appear unless the party filing 13 the administrative review complaint pays the certification 14 fee to OBRE as provided by rule. Failure on the part of the 15 plaintiff to make such a deposit shall be grounds for 16 dismissal of the action.

17 (c) The <u>Illinois</u> Administrative Procedure Act is hereby
18 expressly adopted and incorporated herein. In the event of a
19 conflict between this Act and the <u>Illinois</u> Administrative
20 Procedure Act, this Act shall control.

21 (Source: P.A. 92-239, eff. 8-3-01; revised 9-19-01.)

22 Section 61. The Illinois Public Accounting Act is 23 amended by changing Section 17 as follows:

24 (225 ILCS 450/17) (from Ch. 111, par. 5518)

25 (Section scheduled to be repealed on January 1, 2014)

26 (Text of Section before amendment by P.A. 92-457)

27 Sec. 17. Fees; returned checks; fines. Each person, 28 partnership, limited liability company, and corporation, to 29 which a license is issued, shall pay a fee to be established 30 by the Department which allows the Department to pay all 31 costs and expenses incident to the administration of this 32 Act. Interim licenses shall be at full rates. 1 The Department, by rule, shall establish fees to be paid 2 for certification of records, and copies of this Act and the 3 rules issued for administration of this Act.

4 Any person who delivers a check or other payment to the 5 Department that is returned to the Department unpaid by the б financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the 7 Department, a fine of \$50. The fines imposed by this Section 8 9 are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed 10 11 license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by 12 certified check or money order within 30 calendar days of the 13 If, after the expiration of 30 days from the 14 notification. 15 date of the notification, the person has failed to submit the 16 necessary remittance, the Department shall automatically terminate the license or certificate or deny the application, 17 without hearing. If, after termination or denial, the person 18 19 seeks a license or certificate, he or she shall apply to the Department for restoration or issuance of the license or 20 21 certificate and pay all fees and fines due to the Department. The Department may establish a fee for the processing of 22 23 application for restoration of a license or certificate to pay all expenses of processing this application. 24 The 25 Director may waive the fines due under this Section in individual cases where the Director finds that the fines 26 would be unreasonable or unnecessarily burdensome. 27

28 (Source: P.A. 92-146, eff. 1-1-02.)

(Text of Section after amendment by P.A. 92-457)
Sec. 17. Fees; returned checks; fines. Each person,
partnership, limited liability company, and corporation, to
which a license is issued, shall pay a fee to be established
by the Board which allows the Board to pay all costs and
expenses incident to the administration of this Act. Interim

-480-

1 licenses shall be at full rates.

2 The Board, by rule, shall establish fees to be paid for 3 certification of records, and copies of this Act and the 4 rules issued for administration of this Act.

5 Any person who delivers a check or other payment to the 6 Board that is returned to the Board unpaid by the financial 7 institution upon which it is drawn shall pay to the Board, in addition to the amount already owed to the Board, a fine in 8 an amount to be established by Board rule. in-an--amount--to 9 be--established--by--Board--rule The fines imposed by this 10 Section are in addition to any other discipline provided 11 under this Act for unlicensed practice or practice on a 12 nonrenewed license. The Board shall notify the person that 13 payment of fees and fines shall be paid to the Board by 14 certified check or money order within 30 calendar days of the 15 16 notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the 17 necessary remittance, the Board shall automatically terminate 18 19 the license or certificate or deny the application, without hearing. If, after termination or denial, the person seeks a 20 21 license or certificate, he or she shall apply to the Board for restoration or issuance of the license or certificate and 22 pay all fees and fines due to the Board. The Board may 23 establish a fee for the processing of an application for 24 25 restoration of a license or certificate to pay all expenses of processing this application. The Board may waive the 26 fines due under this Section in individual cases where the 27 Board finds that the fines would be unreasonable 28 or 29 unnecessarily burdensome.

30 (Source: P.A. 92-146, eff. 1-1-02; 92-457, eff. 7-1-04; 31 revised 10-17-01.)

32 Section 62. The Illinois Petroleum Education and 33 Marketing Act is amended by changing Section 10 as follows:

-481-

to

(225 ILCS 728/10) 1 2 (Section scheduled to be repealed on January 1, 2008) Sec. 10. Illinois Petroleum Resources Board. 3 4 (a) There is hereby created until July 1, 2002, the 5 Illinois Petroleum Resources Board which shall be subject to б the provisions of the Regulatory Agency Sunset Act. The 7 purpose of the Board is to coordinate a program designed to 8 demonstrate to the general public the importance of the 9 Illinois oil exploration and production industry, encourage the wise and efficient use of energy, to promote 10 11 environmentally sound production methods and technologies, to develop existing supplies of State oil resources, and to 12 support research and educational activities concerning the 13 oil exploration and production industry. 14

(b) The Board shall be composed of 12 members to be 15 shall 16 appointed by the Governor. The Governor make appointments from a list of names submitted by qualified 17 producer associations, of which 10 shall be oil and gas 18 19 producers.

20

21

(c) A member of the Board shall:

(1) be at least 25 years of age;

(2) be a resident of the State of Illinois; and 22 23 have at least 5 years of active experience in (3) 24 the oil industry.

25 Members shall serve for a term of 3 years, except (d) that of the initial appointments, 4 members shall serve for 26 one year, 4 members for 2 years, and 4 members for 3 years. 27

(e) Vacancies shall be filled for the unexpired term of 28 29 office in the same manner as the original appointment.

30 (f) The Board shall, at its first meeting, elect one of its members as chairperson, who shall preside over meetings 31 32 of the Board and perform other duties that may be required by the Board. The first meeting of the Board shall be called by 33 34 the Governor.

-482-

1	(g)	No member of the Board shall receive a salary or
2	reimburs	ement for duties performed as a member of the Board,
3	except t	hat members are eligible to receive reimbursement for
4	travel e	xpenses incurred in the performance of Board duties.
5	(Source:	P.A. 90-614, eff. 7-10-98; revised 1-9-02.)
6	Sect	ion 63. The Liquor Control Act of 1934 is amended by
7	changing	Sections 5-1 and 6-16 as follows:
8	(235	ILCS 5/5-1) (from Ch. 43, par. 115)
9	Sec.	5-1. Licenses issued by the Illinois Liquor Control
10	Commissi	on shall be of the following classes:
11	(a)	Manufacturer's license - Class 1. Distiller, Class
12	2. Recti	fier, Class 3. Brewer, Class 4. First Class Wine
13	Manufact	urer, Class 5. Second Class Wine Manufacturer, Class
14	6. First	Class Winemaker, Class 7. Second Class Winemaker,
15	Class 8.	Limited Wine Manufacturer,
16	(b)	Distributor's license,
17	(C)	Importing Distributor's license,
18	(d)	Retailer's license,
19	(e)	Special Event Retailer's license (not-for-profit),
20	(f)	Railroad license,
21	(g)	Boat license,
22	(h)	Non-Beverage User's license,
23	(i)	Wine-maker's premises license,
24	(j)	Airplane license,
25	(k)	Foreign importer's license,
26	(1)	Broker's license,
27	(m)	Non-resident dealer's license,
28	(n)	Brew Pub license,
29	(0)	Auction liquor license,
30	(q)	Caterer retailer license,
31	(q)	Special use permit license.

32 No person, firm, partnership, corporation, or other legal

business entity that is engaged in the manufacturing of wine may concurrently obtain and hold a wine-maker's license and a wine manufacturer's license.

4 (a) A manufacturer's license shall allow the 5 manufacture, importation in bulk, storage, distribution and 6 sale of alcoholic liquor to persons without the State, as may 7 be permitted by law and to licensees in this State as 8 follows:

9 Class 1. A Distiller may make sales and deliveries of 10 alcoholic liquor to distillers, rectifiers, importing 11 distributors, distributors and non-beverage users and to no 12 other licensees.

13 Class 2. A Rectifier, who is not a distiller, as defined 14 herein, may make sales and deliveries of alcoholic liquor to 15 rectifiers, importing distributors, distributors, retailers 16 and non-beverage users and to no other licensees.

17 Class 3. A Brewer may make sales and deliveries of beer 18 to importing distributors, distributors, and to 19 non-licensees, and to retailers provided the brewer obtains 20 an importing distributor's license or distributor's license 21 in accordance with the provisions of this Act.

22 Class 4. A first class wine-manufacturer may make sales 23 and deliveries <u>of</u> up to 50,000 gallons of wine to 24 manufacturers, importing distributors and distributors, and 25 to no other licensees.

Class 5. A second class Wine manufacturer may make sales and deliveries of more than 50,000 gallons of wine to manufacturers, importing distributors and distributors and to no other licensees.

30 Class 6. A first-class wine-maker's license shall allow 31 the manufacture of up to 50,000 gallons of wine per year, and 32 the storage and sale of such wine to distributors in the 33 State and to persons without the State, as may be permitted 34 by law. A first-class wine-maker's license shall allow the

1 sale of no more than 5,000 gallons of the licensee's wine to 2 The State Commission shall issue only one retailers. first-class wine-maker's license to any person, 3 firm, 4 partnership, corporation, or other legal business entity that is engaged in the making of less than 50,000 gallons of wine 5 annually that applies for a first-class wine-maker's license. 6 7 No subsidiary or affiliate thereof, nor any officer, 8 associate, member, partner, representative, employee, agent, or shareholder may be issued an additional wine-maker's 9 license by the State Commission. 10

11 Class 7. A second-class wine-maker's license shall allow the manufacture of between 50,000 and 100,000 gallons of wine 12 per year, and the storage and sale of such wine 13 to distributors in this State and to persons without the State, 14 15 as may be permitted by law. A second-class wine-maker's 16 license shall allow the sale of no more than 10,000 gallons of the licensee's wine directly to retailers. The State 17 Commission shall issue only one second-class wine-maker's 18 license to any person, firm, partnership, corporation, or 19 20 other legal business entity that is engaged in the making of 21 less than 100,000 gallons of wine annually that applies for a 22 second-class wine-maker's license. No subsidiary or 23 affiliate thereof, or any officer, associate, member, partner, representative, employee, agent, or shareholder may 24 25 be issued an additional wine-maker's license by the State Commission. 26

27 Class 8. A limited wine-manufacturer may make sales and 28 deliveries not to exceed 40,000 gallons of wine per year to 29 distributors, and to non-licensees in accordance with the 30 provisions of this Act.

31 (a-1) A manufacturer which is licensed in this State to 32 make sales or deliveries of alcoholic liquor and which 33 enlists agents, representatives, or individuals acting on its 34 behalf who contact licensed retailers on a regular and continual basis in this State must register those agents,
 representatives, or persons acting on its behalf with the
 State Commission.

4 Registration of agents, representatives, or persons 5 acting on behalf of a manufacturer is fulfilled by submitting б a form to the Commission. The form shall be developed by the Commission and shall include the name and address of the 7 applicant, the name and address of the manufacturer he or she 8 9 represents, the territory or areas assigned to sell to or discuss pricing terms of alcoholic liquor, and any other 10 11 questions deemed appropriate and necessary. All statements in the forms required to be made by law or by rule shall be 12 deemed material, and any person who knowingly misstates any 13 material fact under oath in an application is guilty of 14 а 15 Class В misdemeanor. Fraud, misrepresentation, false statements, misleading statements, evasions, or suppression 16 of material facts in the securing of a registration are 17 grounds for suspension or revocation of the registration. 18

(b) A distributor's license shall allow the wholesale purchase and storage of alcoholic liquors and sale of alcoholic liquors to licensees in this State and to persons without the State, as may be permitted by law.

23 An importing distributor's license may be issued to (C)and held by those only who are duly licensed distributors, 24 25 upon the filing of an application by a duly licensed distributor, with the Commission and the Commission shall, 26 without the payment of any fee, immediately issue such 27 importing distributor's license to the applicant, which shall 28 29 allow the importation of alcoholic liquor by the licensee 30 into this State from any point in the United States outside this State, and the purchase of alcoholic liquor in barrels, 31 32 casks or other bulk containers and the bottling of such alcoholic liquors before resale thereof, but all bottles or 33 containers so filled shall be sealed, labeled, stamped and 34

1 otherwise made to comply with all provisions, rules and 2 regulations governing manufacturers in the preparation and 3 bottling of alcoholic liquors. The importing distributor's 4 license shall permit such licensee to purchase alcoholic 5 liquor from Illinois licensed non-resident dealers and 6 foreign importers only.

7 (d) A retailer's license shall allow the licensee to 8 sell and offer for sale at retail, only in the premises 9 specified in such license, alcoholic liquor for use or 10 consumption, but not for resale in any form: Provided that 11 any retail license issued to a manufacturer shall only permit 12 such manufacturer to sell beer at retail on the premises 13 actually occupied by such manufacturer.

14 After January 1, 1995 there shall be 2 classes of 15 licenses issued under a retailers license.

16 (1) A "retailers on premise consumption license" 17 shall allow the licensee to sell and offer for sale at 18 retail, only on the premises specified in the license, 19 alcoholic liquor for use or consumption on the premises 20 or on and off the premises, but not for resale in any 21 form.

(2) An "off premise sale license" shall allow the
licensee to sell, or offer for sale at retail, alcoholic
liquor intended only for off premise consumption and not
for resale in any form.

Notwithstanding any other provision of this subsection (d), a retail licensee may sell alcoholic liquors to a special event retailer licensee for resale to the extent permitted under subsection (e).

30 (e) A special event retailer's license (not-for-profit) 31 shall permit the licensee to purchase alcoholic liquors from 32 an Illinois licensed distributor (unless the licensee 33 purchases less than \$500 of alcoholic liquors for the special 34 event, in which case the licensee may purchase the alcoholic

liquors from a licensed retailer) and shall allow the 1 2 licensee to sell and offer for sale, at retail, alcoholic liquors for use or consumption, but not for resale in any 3 4 form and only at the location and on the specific dates 5 designated for the special event in the license. An б applicant for a special event retailer license must (i) 7 furnish with the application: (A) a resale number issued under Section 2c of the Retailers' Occupation Tax Act 8 or 9 evidence that the applicant is registered under Section 2a of the Retailers' Occupation Tax Act, (B) a current, valid 10 11 exemption identification number issued under Section 1g of the Retailers' Occupation Tax Act, and a certification to the 12 Commission that the purchase of alcoholic liquors will be a 13 tax-exempt purchase, or (C) a statement that the applicant is 14 not registered under Section 2a of the Retailers' Occupation 15 16 Tax Act, does not hold a resale number under Section 2c of the Retailers' Occupation Tax Act, and does not hold an 17 18 exemption number under Section 1q of the Retailers' 19 Occupation Tax Act, in which event the Commission shall set forth on the special event retailer's license a statement to 20 21 that effect; (ii) submit with the application proof satisfactory to the State Commission that the applicant will 22 23 provide dram shop liability insurance in the maximum limits; and (iii) show proof satisfactory to the State Commission 24 25 that the applicant has obtained local authority approval.

(f) A railroad license shall permit the licensee to 26 import alcoholic liquors into this State from any point in 27 the United States outside this State and to store such 28 alcoholic liquors in this State; to make wholesale purchases 29 30 of alcoholic liquors directly from manufacturers, foreign importers, distributors and importing distributors from 31 32 within or outside this State; and to store such alcoholic liquors in this State; provided that the above powers may be 33 34 exercised only in connection with the importation, purchase

1 or storage of alcoholic liquors to be sold or dispensed on a 2 club, buffet, lounge or dining car operated on an electric, gas or steam railway in this State; and provided further, 3 4 that railroad licensees exercising the above powers shall be subject to all provisions of Article VIII of this Act as 5 б applied to importing distributors. A railroad license shall 7 also permit the licensee to sell or dispense alcoholic 8 liquors on any club, buffet, lounge or dining car operated on 9 an electric, gas or steam railway regularly operated by a common carrier in this State, but shall not permit the sale 10 11 for resale of any alcoholic liquors to any licensee within this State. A license shall be obtained for each car in 12 which such sales are made. 13

14 (g) A boat license shall allow the sale of alcoholic 15 liquor in individual drinks, on any passenger boat regularly 16 operated as a common carrier on navigable waters in this 17 State, which boat maintains a public dining room or 18 restaurant thereon.

19 (h) A non-beverage user's license shall allow the licensee to purchase alcoholic liquor from a licensed 20 21 manufacturer or importing distributor, without the imposition of any tax upon the business of such licensed manufacturer or 22 23 importing distributor as to such alcoholic liquor to be used by such licensee solely for the non-beverage purposes set 24 25 forth in subsection (a) of Section 8-1 of this Act, and such licenses shall be divided and classified and shall permit the 26 purchase, possession and use of limited and stated quantities 27 of alcoholic liquor as follows: 28

29	Class 1,	not	to exceed	••••••		500	gallons
30	Class 2,	not	to exceed	••••••		1,000	gallons
31	Class 3,	not	to exceed			5,000	gallons
32	Class 4,	not	to exceed			10,000	gallons
33	Class 5,	not	to exceed			50,000	gallons
34	(i)	А	wine-maker's	s premises	license	shall a	allow a

1 licensee that concurrently holds a first-class wine-maker's 2 license to sell and offer for sale at retail in the premises specified in such license not more than 50,000 gallons of the 3 4 first-class wine-maker's wine that is made at the first-class 5 wine-maker's licensed premises per year for use or б consumption, but not for resale in any form. A wine-maker's 7 premises license shall allow a licensee who concurrently holds a second-class wine-maker's license to sell and offer 8 9 for sale at retail in the premises specified in such license up to 100,000 gallons of the second-class wine-maker's wine 10 11 that is made at the second-class wine-maker's licensed premises per year for use or consumption but not for resale 12 Upon approval from the State Commission, a 13 in any form. wine-maker's premises license shall allow the licensee to 14 15 sell and offer for sale at (i) the wine-maker's licensed 16 premises and (ii) at up to 2 additional locations for use and consumption and not for resale. Each location shall require 17 18 additional licensing per location as specified in Section 5-3 19 of this Act.

An airplane license shall permit the licensee to 20 (i) 21 import alcoholic liquors into this State from any point in 22 the United States outside this State and to store such 23 alcoholic liquors in this State; to make wholesale purchases of alcoholic liquors directly from manufacturers, foreign 24 25 importers, distributors and importing distributors from within or outside this State; and to store such alcoholic 26 liquors in this State; provided that the above powers may be 27 exercised only in connection with the importation, purchase 28 or storage of alcoholic liquors to be sold or dispensed on an 29 30 airplane; and provided further, that airplane licensees exercising the above powers shall be subject 31 to all 32 provisions of Article VIII of this Act as applied to 33 importing distributors. An airplane licensee shall also permit the sale or dispensing of alcoholic liquors on 34 any passenger airplane regularly operated by a common carrier in this State, but shall not permit the sale for resale of any alcoholic liquors to any licensee within this State. A single airplane license shall be required of an airline company if liquor service is provided on board aircraft in this State. The annual fee for such license shall be as determined in Section 5-3.

A foreign importer's license shall permit such 8 (k) 9 licensee to purchase alcoholic liquor from Illinois licensed non-resident dealers only, and to import alcoholic liquor 10 11 other than in bulk from any point outside the United States and to sell such alcoholic liquor to Illinois licensed 12 importing distributors and to no one else in Illinois; 13 provided that the foreign importer registers with the State 14 15 Commission every brand of alcoholic liquor that it proposes 16 to sell to Illinois licensees during the license period and provided further that the foreign importer complies with all 17 of the provisions of Section 6-9 of this Act with respect 18 to 19 registration of such Illinois licensees as may be granted the right to sell such brands at wholesale. 20

21 (1) (i) A broker's license shall be required of all persons who solicit orders for, offer to sell or offer 22 to 23 alcoholic liquor to retailers in the State of supply Illinois, or who offer to retailers to ship or cause to 24 be 25 shipped or to make contact with distillers, rectifiers, brewers or manufacturers or any other party within or without 26 the State of Illinois in order that alcoholic liquors 27 be shipped to a distributor, importing distributor or foreign 28 importer, whether such solicitation or offer is consummated 29 30 within or without the State of Illinois.

31 No holder of a retailer's license issued by the Illinois 32 Liquor Control Commission shall purchase or receive any 33 alcoholic liquor, the order for which was solicited or 34 offered for sale to such retailer by a broker unless the 1

broker is the holder of a valid broker's license.

2 The broker shall, upon the acceptance by a retailer of the broker's solicitation of an order or offer to sell or 3 4 supply or deliver or have delivered alcoholic liquors, 5 promptly forward to the Illinois Liquor Control Commission a 6 notification of said transaction in such form as the 7 Commission may by regulations prescribe.

8 (ii) A broker's license shall be required of a person 9 within this State, other than a retail licensee, who, for а fee or commission, promotes, solicits, or accepts orders for 10 11 alcoholic liquor, for use or consumption and not for resale, to be shipped from this State and delivered to residents 12 outside of this State by an express company, common carrier, 13 or contract carrier. This Section does not apply to any 14 15 person who promotes, solicits, or accepts orders for wine as 16 specifically authorized in Section 6-29 of this Act.

A broker's license under this subsection (1) shall not 17 entitle the holder to buy or sell any alcoholic liquors for 18 19 his own account or to take or deliver title to such alcoholic liquors. 20

This subsection (1) shall not apply to distributors, 21 22 employees of distributors, or employees of a manufacturer who 23 has registered the trademark, brand or name of the alcoholic liquor pursuant to Section 6-9 of this Act, and who regularly 24 25 sells such alcoholic liquor in the State of Illinois only to 26 its registrants thereunder.

27 Any agent, representative, or person subject to registration pursuant to subsection (a-1) of this Section 28 29 shall not be eligible to receive a broker's license.

30 (m) A non-resident dealer's license shall permit such licensee to ship into and warehouse alcoholic liquor into 31 32 this State from any point outside of this State, and to sell such alcoholic liquor to Illinois licensed foreign importers 33 34 and importing distributors and to no one else in this State;

1 provided that said non-resident dealer shall register with 2 the Illinois Liquor Control Commission each and every brand of alcoholic liquor which it proposes to sell to Illinois 3 4 licensees during the license period; and further provided that it shall comply with all of the provisions of Section 5 6 6-9 hereof with respect to registration of such Illinois 7 licensees as may be granted the right to sell such brands at 8 wholesale.

9 A brew pub license shall allow the licensee to (n) manufacture beer only on the premises specified in the 10 11 license, to make sales of the beer manufactured on the premises to importing distributors, distributors, and to 12 non-licensees for use and consumption, to store the beer upon 13 the premises, and to sell and offer for sale at retail from 14 15 the licensed premises, provided that a brew pub licensee 16 shall not sell for off-premises consumption more than 50,000 17 gallons per year.

18 (o) A caterer retailer license shall allow the holder to 19 serve alcoholic liquors as an incidental part of a food 20 service that serves prepared meals which excludes the serving 21 of snacks as the primary meal, either on or off-site whether 22 licensed or unlicensed.

23 An auction liquor license shall allow the licensee (p) to sell and offer for sale at auction wine and spirits for 24 25 use or consumption, or for resale by an Illinois liquor licensee in accordance with provisions of this Act. 26 An auction liquor license will be issued to a person and it will 27 permit the auction liquor licensee to hold the auction 28 29 anywhere in the State. An auction liquor license must be 30 obtained for each auction at least 14 days in advance of the auction date. 31

32 (q) A special use permit license shall allow an Illinois
33 licensed retailer to transfer a portion of its alcoholic
34 liquor inventory from its retail licensed premises to the

-493-

1 premises specified in the license hereby created, and to sell 2 or offer for sale at retail, only in the premises specified in the license hereby created, the transferred alcoholic 3 4 liquor for use or consumption, but not for resale in any 5 A special use permit license may be granted for the form. б following time periods: one day or less; 2 or more days to a 7 maximum of 15 days per location in any 12 month period. An applicant for the special use permit license must also submit 8 9 with the application proof satisfactory to the State that the applicant will provide dram shop 10 Commission 11 liability insurance to the maximum limits and have local 12 authority approval.

13 (Source: P.A. 91-357, eff. 7-29-99; 92-105, eff. 1-1-02; 14 92-378, eff. 8-16-01; revised 10-10-01.)

15

(235 ILCS 5/6-16) (from Ch. 43, par. 131)

16 Sec. 6-16. Prohibited sales and possession.

17 (i) No licensee nor any officer, associate, member, (a) 18 representative, agent, or employee of such licensee shall sell, give, or deliver alcoholic liquor to any person under 19 20 the age of 21 years or to any intoxicated person, except as provided in Section 6-16.1. (ii) No express company, common 21 22 carrier, or contract carrier nor any representative, agent, or employee on behalf of an express company, common carrier, 23 24 or contract carrier that carries or transports alcoholic liquor for delivery within this State shall knowingly give or 25 knowingly deliver to a residential address any shipping 26 27 container clearly labeled as containing alcoholic liquor and labeled as requiring signature of an adult of at least 28 21 29 years of age to any person in this State under the age of 21 years. An express company, common carrier, or contract 30 31 carrier that carries or transports such alcoholic liquor for delivery within this State shall obtain a signature at the 32 33 time of delivery acknowledging receipt of the alcoholic

1 liquor by an adult who is at least 21 years of age. At no 2 time while delivering alcoholic beverages within this State may any representative, agent, or employee of an express 3 4 company, common carrier, or contract carrier that carries or 5 transports alcoholic liquor for delivery within this State б deliver the alcoholic liquor to a residential address without 7 acknowledgment of the consignee and without first the 8 obtaining a signature at the time of the delivery by an adult 9 who is at least 21 years of age. A signature of a person on 10 file with the express company, common carrier, or contract 11 carrier does not constitute acknowledgement of the consignee. 12 Any express company, common carrier, or contract carrier that transports alcoholic liquor for delivery within this State 13 that violates this item (ii) of this subsection (a) by 14 15 delivering alcoholic liquor without the acknowledgement of 16 the consignee and without first obtaining a signature at the time of the delivery by an adult who is at least 21 years of 17 age is guilty of a business offense for which the express 18 19 company, common carrier, or contract carrier that transports alcoholic liquor within this State shall be fined not more 20 21 than \$1,001 for a first offense, not more than \$5,000 for a 22 second offense, and not more than \$10,000 for a third or 23 subsequent offense. An express company, common carrier, or contract carrier shall be held vicariously liable for the 24 25 actions of its representatives, agents, or employees. For purposes of this Act, in addition to other methods authorized 26 27 by law, an express company, common carrier, or contract carrier shall be considered served with process when a 28 29 representative, agent, or employee alleged to have violated 30 this Act is personally served. Each shipment of alcoholic liquor delivered in violation of this item (ii) of this 31 32 subsection (a) constitutes a separate offense. (iii) No person, after purchasing or otherwise obtaining alcoholic 33 liquor, shall sell, give, or deliver such alcoholic liquor to 34

1 another person under the age of 21 years, except in the 2 performance of a religious ceremony or service. Except as otherwise provided in item (ii), any express company, common 3 4 carrier, or contract carrier that transports alcoholic liquor 5 within this State that violates the provisions of item (i), б (ii), or (iii) of this paragraph of this subsection (a) is guilty of a Class A misdemeanor and the sentence shall 7 include, but shall not be limited to, a fine of not less than 8 9 \$500.

If licensee or officer, associate, 10 а member, 11 representative, agent, or employee of the licensee, or a 12 representative, agent, or employee of an express company, contract carrier that carries or 13 common carrier, or transports alcoholic liquor for delivery within this State, 14 15 is prosecuted under this paragraph of this subsection (a) for 16 selling, giving, or delivering alcoholic liquor to a person under the age of 21 years, the person under 21 years of age 17 who attempted to buy or receive the alcoholic liquor may be 18 19 prosecuted pursuant to Section 6-20 of this Act, unless the person under 21 years of age was acting under the authority 20 21 of a law enforcement agency, the Illinois Liquor Control 22 Commission, or a local liquor control commissioner pursuant to a plan or action to investigate, patrol, or conduct any 23 similar enforcement action. 24

25 For the purpose of preventing the violation of this 26 Section, any licensee, or his agent or employee, or a 27 representative, agent, or employee of an express company, common carrier, or contract carrier that 28 carries or 29 transports alcoholic liquor for delivery within this State, 30 shall refuse to sell, deliver, or serve alcoholic beverages to any person who is unable to produce adequate written 31 32 evidence of identity and of the fact that he or she is over the age of 21 years, if requested by the licensee, agent, 33 34 employee, or representative.

-496-

1 Adequate written evidence of age and identity of the 2 person is a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, 3 4 including, but not limited to, a motor vehicle operator's 5 license, a registration certificate issued under the Federal 6 Selective Service Act, or an identification card issued to a Proof 7 of Armed member the Forces. that the 8 defendant-licensee, or his employee or agent, or the 9 representative, agent, or employee of the express company, common carrier, or contract carrier 10 that carries or 11 transports alcoholic liquor for delivery within this State demanded, was shown and reasonably relied upon such written 12 evidence in any transaction forbidden by this Section is an 13 affirmative defense in any criminal prosecution therefor or 14 to any proceedings for the suspension or revocation of any 15 16 license based thereon. It shall not, however, be an affirmative defense if the agent or employee accepted the 17 written evidence knowing it to be false or fraudulent. If 18 а 19 false or fraudulent Illinois driver's license or Illinois 20 identification card is presented by a person less than 21 21 years of age to a licensee or the licensee's agent or 22 employee for the purpose of ordering, purchasing, attempting 23 to purchase, or otherwise obtaining or attempting to obtain the serving of any alcoholic beverage, the law enforcement 24 25 officer or agency investigating the incident shall, upon the conviction of the person who presented the fraudulent license 26 or identification, make a report of the matter to the 27 Secretary of State on a form provided by the Secretary of 28 29 State.

However, no agent or employee of the licensee or employee of an express company, common carrier, or contract carrier that carries or transports alcoholic liquor for delivery within this State shall be disciplined or discharged for selling or furnishing liquor to a person under 21 years of

1 age if the agent or employee demanded and was shown, before 2 furnishing liquor to a person under 21 years of age, adequate written evidence of age and identity of the person issued by 3 4 a federal, state, county or municipal government, or subdivision or agency thereof, including but not limited to a 5 6 motor vehicle operator's license, a registration certificate 7 issued under the Federal Selective Service Act, or an 8 identification card issued to a member of the Armed Forces. This paragraph, however, shall not apply if the agent or 9 employee accepted the written evidence knowing it to be false 10 11 or fraudulent.

Any person who sells, gives, or furnishes to any person 12 13 under the age of 21 years any false or fraudulent written, printed, or photostatic evidence of the age and identity of 14 15 such person or who sells, gives or furnishes to any person 16 under the age of 21 years evidence of age and identification of any other person is guilty of a Class A misdemeanor and 17 the person's sentence shall include, but shall not be limited 18 19 to, a fine of not less than \$500.

Any person under the age of 21 years who presents or 20 21 offers to any licensee, his agent or employee, any written, 22 printed or photostatic evidence of age and identity that is 23 false, fraudulent, or not actually his or her own for the 24 purpose of ordering, purchasing, attempting to purchase or 25 otherwise procuring or attempting to procure, the serving of any alcoholic beverage, who falsely states in writing that he 26 27 or she is at least 21 years of age when receiving alcoholic liquor from a representative, agent, or employee of an 28 29 express company, common carrier, or contract carrier, or who 30 has in his or her possession any false or fraudulent written, 31 printed, or photostatic evidence of age and identity, is guilty of a Class A misdemeanor and the person's sentence 32 33 shall include, but shall not be limited to, the following: a fine of not less than \$500 and at least 25 hours of community 34

service. If possible, any community service shall be
 performed for an alcohol abuse prevention program.

3 Any person under the age of 21 years who has any 4 alcoholic beverage in his or her possession on any street or 5 highway or in any public place or in any place open to the б public is guilty of a Class A misdemeanor. This Section does 7 not apply to possession by a person under the age of 21 years 8 making a delivery of an alcoholic beverage in pursuance of 9 the order of his or her parent or in pursuance of his or her employment. 10

11 (a-1) It is unlawful for any parent or guardian to permit his or her residence to be used by an invitee of the 12 parent's child or the guardian's ward, if the invitee is 13 under the age of 21, in a manner that constitutes a violation 14 15 of this Section. A parent or guardian is deemed to have 16 permitted his or her residence to be used in violation of this Section if he or she knowingly authorizes, enables, or 17 permits such use to occur by failing to control access to 18 19 either the residence or the alcoholic liquor maintained in the residence. Any person who violates this subsection (a-1) 20 21 is guilty of a Class A misdemeanor and the person's sentence 22 shall include, but shall not be limited to, a fine of not 23 less than \$500. Nothing in this subsection (a-1) shall be construed to prohibit the giving of alcoholic liquor to a 24 25 person under the age of 21 years in the performance of a religious ceremony or service. 26

(b) Except as otherwise provided in this Section whoever
violates this Section shall, in addition to other penalties
provided for in this Act, be guilty of a Class A misdemeanor.

30 (c) Any person shall be guilty of a Class A misdemeanor 31 where he or she knowingly permits a gathering at a residence 32 which he or she occupies of two or more persons where any one 33 or more of the persons is under 21 years of age and the 34 following factors also apply: -499-

1 (1) the person occupying the residence knows that 2 any such person under the age of 21 is in possession of 3 or is consuming any alcoholic beverage; and

4 (2) the possession or consumption of the alcohol by
5 the person under 21 is not otherwise permitted by this
6 Act; and

7 (3) the person occupying the residence knows that
8 the person under the age of 21 leaves the residence in an
9 intoxicated condition.

For the purposes of this subsection (c) where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee.

(d) Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of 21 years shall be guilty of a Class A misdemeanor.

(e) Except as otherwise provided in this Act, any person 19 20 who has alcoholic liquor in his or her possession on public 21 school district property on school days or at events on 22 public school district property when children are present is 23 guilty of a petty offense, unless the alcoholic liquor (i) is in the original container with the seal unbroken and is in 24 25 the possession of a person who is not otherwise legally prohibited from possessing the alcoholic liquor or (ii) is in 26 the possession of a person in or for the performance of a 27 religious service or ceremony authorized by the school board. 28 (Source: P.A. 92-380, eff. 1-1-02; 92-503, eff. 1-1-02; 29 92-507, eff. 1-1-02; revised 1-7-02.) 30

31 Section 64. The Illinois Public Aid Code is amended by
32 changing Sections 4-1.7, 5-5, 5-5.4, 5-10, 5-12, 8A-7.1, 9-1,
33 10-3, 10-10.5, 11-22b, 12-4.25, and 12-10.2 and setting forth

1 and renumbering multiple versions of Section 12-10.5 as
2 follows:

3

(305 ILCS 5/4-1.7) (from Ch. 23, par. 4-1.7)

4 Sec. 4-1.7. Enforcement of Parental Child Support 5 Obligation.) If the parent or parents of the child are б failing to meet or are delinquent in their legal obligation to support the child, the parent or other person having 7 8 custody of the child or the Illinois Department of Public Aid may request the law enforcement officer authorized 9 or directed by law to so act to file action for the enforcement 10 of such remedies as the law provides for the fulfillment of 11 the child support obligation. 12

If a parent has a judicial remedy against the other 13 parent to compel child support, or if, as the result of 14 an 15 action initiated by or in behalf of one parent against the other, a child support order has been entered in respect to 16 17 which there is noncompliance or delinquency, or where the 18 order so entered may be changed upon petition to the court to provide additional support, the parent or other person having 19 20 custody of the child or the Illinois Department of Public Aid may request the appropriate law enforcement officer to seek 21 22 enforcement of the remedy, or of the support order, or a change therein to provide additional support. 23 Ιf the law 24 enforcement officer is not authorized by law to so act in these instances, the parent, or if so authorized by law the 25 other person having custody of the child, or the Illinois 26 Department of Public Aid may initiate an action to enforce 27 28 these remedies.

A parent or other person having custody of the child must comply with the requirements of Title IV of the federal Social Security Act, and the regulations duly promulgated thereunder, and any rules promulgated by the Illinois Department regarding enforcement of the child support 1 obligation. The Illinois Department of Public Aid and the 2 Department of Human Services may provide by rule for the 3 grant or continuation of aid to the person for a temporary 4 period if he or she accepts counseling or other services 5 designed to increase his or her motivation to seek 6 enforcement of the child support obligation.

7 In addition to any other definition of failure or refusal 8 to comply with the requirements of Title IV of the federal Social Security Act, or Illinois Department rule, in the case 9 of failure to attend court hearings, the parent or other 10 11 person can show cooperation by attending a court hearing or, if a court hearing cannot be scheduled within 14 days 12 13 following the court hearing that was missed, by signing a that the parent or other person is now willing to 14 statement 15 cooperate in the child support enforcement process and will 16 appear at any later scheduled court date. The parent or other person can show cooperation by signing such a statement 17 only once. If failure to attend the court hearing or other 18 19 failure to cooperate results in the case being dismissed, such a statement may be signed after 2 months. 20

No denial or termination of medical assistance pursuant 21 22 to this Section shall commence during pregnancy of the parent 23 or other person having custody of the child or for 30 days after the termination of such pregnancy. The termination of 24 25 medical assistance may commence thereafter if the Illinois Department of Public Aid determines that the failure or 26 to comply with this Section persists. Postponement 27 refusal of denial or termination of medical assistance 28 during 29 pregnancy under this paragraph shall be effective only to the 30 extent it does not conflict with federal law or regulation.

Any evidence a parent or other person having custody of the child gives in order to comply with the requirements of this Section shall not render him or her liable to prosecution under Sections 11-7 or 11-8 of the "Criminal Code -502-

1 of 1961", approved July 28, 1961, as amended.

2 When so requested, the Illinois Department of Public Aid 3 and the Department of Human Services shall provide such 4 services and assistance as the law enforcement officer may 5 require in connection with the filing of any action 6 hereunder.

7 The Illinois Department of Public Aid and the Department 8 of Human Services, and as an expense of administration, may 9 also provide applicants for and recipients of aid with such 10 services and assistance, including assumption of the 11 reasonable costs of prosecuting any action or proceeding, as 12 may be necessary to enable them to enforce the child support 13 liability required hereunder.

14 Nothing in this Section shall be construed as a 15 requirement that an applicant or recipient file an action for 16 dissolution of marriage against his or her spouse.

17 (Source: P.A. 89-507, eff. 7-1-97; 90-17, eff. 7-1-97; 18 revised 12-13-01.)

19 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

20 Sec. 5-5. Medical services. The Illinois Department, by 21 rule, shall determine the quantity and quality of and the 22 rate of reimbursement for the medical assistance for which payment will be authorized, and the medical services to be 23 24 provided, which may include all or part of the following: (1) inpatient hospital services; 25 (2) outpatient hospital 26 services; (3) other laboratory and X-ray services; (4) skilled nursing home services; (5) physicians' services 27 28 whether furnished in the office, the patient's home, a 29 hospital, a skilled nursing home, or elsewhere; (6) medical care, or any other type of remedial care furnished by 30 31 licensed practitioners; (7) home health care services; (8) private duty nursing service; (9) clinic services; (10) 32 33 dental services; (11) physical therapy and related services;

1 (12) prescribed drugs, dentures, and prosthetic devices; and 2 eyeglasses prescribed by a physician skilled in the diseases of the eye, or by an optometrist, whichever the person may 3 4 select; (13) other diagnostic, screening, preventive, and 5 rehabilitative services; (14) transportation and such other expenses as may be necessary; (15) medical treatment of 6 7 sexual assault survivors, as defined in Section 1a of the 8 Sexual Assault Survivors Emergency Treatment Act, for 9 injuries sustained as a result of the sexual assault, 10 including examinations and laboratory tests to discover 11 evidence which may be used in criminal proceedings arising from the sexual assault; (16) the diagnosis and treatment of 12 sickle cell anemia; and (17) any other medical care, and any 13 other type of remedial care recognized under the laws of this 14 15 State, but not including abortions, or induced miscarriages 16 or premature births, unless, in the opinion of a physician, such procedures are necessary for the preservation of the 17 life of the woman seeking such treatment, or except an 18 induced premature birth intended to produce a live viable 19 20 child and such procedure is necessary for the health of the 21 mother or her unborn child. The Illinois Department, by rule, 22 shall prohibit any physician from providing medical 23 assistance to anyone eligible therefor under this Code where such physician has been found guilty of performing an 24 25 abortion procedure in a wilful and wanton manner upon a woman who was not pregnant at the time such abortion procedure was 26 performed. The term "any other type of remedial care" shall 27 include nursing care and nursing home service for persons who 28 29 rely on treatment by spiritual means alone through prayer for 30 healing.

31 Notwithstanding any other provision of this Section, a 32 comprehensive tobacco use cessation program that includes 33 purchasing prescription drugs or prescription medical devices 34 approved by the Food and Drug administration shall be covered under the medical assistance program under this Article for
 persons who are otherwise eligible for assistance under this
 Article.

4 Notwithstanding any other provision of this Code, the 5 Illinois Department may not require, as a condition of 6 payment for any laboratory test authorized under this 7 Article, that a physician's handwritten signature appear on 8 the laboratory test order form. The Illinois Department may, 9 however, impose other appropriate requirements regarding 10 laboratory test order documentation.

11 The Illinois Department of Public Aid shall provide the 12 following services to persons eligible for assistance under 13 this Article who are participating in education, training or 14 employment programs operated by the Department of Human 15 Services as successor to the Department of Public Aid:

16 (1) dental services, which shall include but not be 17 limited to prosthodontics; and

18 (2) eyeglasses prescribed by a physician skilled in
19 the diseases of the eye, or by an optometrist, whichever
20 the person may select.

The Illinois Department, by rule, may distinguish and classify the medical services to be provided only in accordance with the classes of persons designated in Section 5-2.

25 The Illinois Department shall authorize the provision of, and shall authorize payment for, screening by low-dose 26 mammography for the presence of occult breast cancer for 27 women 35 years of age or older who are eligible for medical 28 29 assistance under this Article, as follows: a baseline 30 mammogram for women 35 to 39 years of age and an annual mammogram for women 40 years of age or older. All screenings 31 32 shall include a physical breast exam, instruction on self-examination and information regarding the frequency of 33 self-examination and its value as a preventative tool. As 34

used in this Section, "low-dose mammography" means the x-ray examination of the breast using equipment dedicated specifically for mammography, including the x-ray tube, filter, compression device, image receptor, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with 2 views for each breast.

Any medical or health care provider shall immediately 7 8 recommend, to any pregnant woman who is being provided 9 prenatal services and is suspected of drug abuse or is addicted as defined in the Alcoholism and Other Drug Abuse 10 11 and Dependency Act, referral to a local substance abuse treatment provider licensed by the Department of Human 12 Services or to a licensed hospital which provides substance 13 abuse treatment services. The Department of Public Aid shall 14 15 assure coverage for the cost of treatment of the drug abuse 16 or addiction for pregnant recipients in accordance with the Illinois Medicaid Program in conjunction with the Department 17 of Human Services. 18

19 All medical providers providing medical assistance to pregnant women under this Code shall receive information from 20 21 the Department on the availability of services under the Drug 22 Free Families with a Future or any comparable program 23 providing case management services for addicted women, including information on appropriate referrals for other 24 25 social services that may be needed by addicted women in addition to treatment for addiction. 26

27 The Illinois Department, in cooperation with the Departments of Human Services (as successor to the Department 28 29 of Alcoholism and Substance Abuse) and Public Health, through 30 a public awareness campaign, may provide information concerning treatment for alcoholism and drug abuse and 31 32 addiction, prenatal health care, and other pertinent programs directed at reducing the number of drug-affected infants born 33 to recipients of medical assistance. 34

Neither the Illinois Department of Public Aid nor the
 Department of Human Services shall sanction the recipient
 solely on the basis of her substance abuse.

4 The Illinois Department shall establish such regulations 5 governing the dispensing of health services under this б Article as it shall deem appropriate. In formulating these regulations the Illinois Department shall consult with and 7 give substantial weight to the recommendations offered by the 8 9 Citizens Assembly/Council on Public Aid. The Department should seek the advice of formal professional advisory 10 11 committees appointed by the Director of the Illinois Department for the purpose of providing regular advice on 12 policy and administrative matters, information dissemination 13 and educational activities for medical and health care 14 15 providers, and consistency in procedures to the Illinois 16 Department.

The Illinois Department may develop and contract with 17 18 Partnerships of medical providers to arrange medical services 19 for persons eligible under Section 5-2 of this Code. Implementation of this Section may be by demonstration 20 21 projects in certain geographic areas. The Partnership shall 22 be represented by a sponsor organization. The Department, by 23 rule, shall develop qualifications for sponsors of Nothing in this Section shall be construed to 24 Partnerships. 25 be require that the sponsor organization a medical 26 organization.

The sponsor must negotiate formal written contracts with 27 medical providers for physician services, inpatient and 28 29 outpatient hospital care, home health services, treatment for alcoholism and substance abuse, and other services determined 30 necessary by the Illinois Department by rule for delivery by 31 32 Partnerships. Physician services must include prenatal and obstetrical care. The Illinois Department shall reimburse 33 medical services delivered by Partnership providers to 34

clients in target areas according to provisions of this
 Article and the Illinois Health Finance Reform Act, except
 that:

4 (1) Physicians participating in a Partnership and 5 providing certain services, which shall be determined by 6 the Illinois Department, to persons in areas covered by 7 the Partnership may receive an additional surcharge for 8 such services.

9 (2) The Department may elect to consider and 10 negotiate financial incentives to encourage the 11 development of Partnerships and the efficient delivery of 12 medical care.

13 (3) Persons receiving medical services through
14 Partnerships may receive medical and case management
15 services above the level usually offered through the
16 medical assistance program.

Medical providers shall be required to meet certain 17 qualifications to participate in Partnerships to ensure the 18 quality medical services. 19 delivery of high These qualifications shall be determined by rule of the Illinois 20 21 Department and may be higher than qualifications for participation in the medical assistance program. Partnership 22 23 sponsors may prescribe reasonable additional qualifications for participation by medical providers, only with the prior 24 25 written approval of the Illinois Department.

Nothing in this Section shall limit the free choice of 26 practitioners, hospitals, and other providers of medical 27 services by clients. In order to ensure patient freedom of 28 29 choice, the Illinois Department shall immediately promulgate 30 all rules and take all other necessary actions so that provided services may be accessed from therapeutically 31 32 certified optometrists to the full extent of the Illinois Optometric Practice Act of 1987 without discriminating 33 34 between service providers.

-508-

1 The Department shall apply for a waiver from the United 2 States Health Care Financing Administration to allow for the 3 implementation of Partnerships under this Section.

4 The Illinois Department shall require health care 5 providers to maintain records that document the medical care б and services provided to recipients of Medical Assistance 7 under this Article. The Illinois Department shall require health care providers to make available, when authorized by 8 9 the patient, in writing, the medical records in a timely fashion to other health care providers who are treating or 10 11 serving persons eligible for Medical Assistance under this Article. All dispensers of medical services shall 12 be required to maintain and retain business and professional 13 records sufficient to fully and accurately document 14 the 15 nature, scope, details and receipt of the health care 16 provided to persons eligible for medical assistance under this Code, in accordance with regulations promulgated by 17 the Illinois Department. The rules and regulations shall require 18 19 that proof of the receipt of prescription drugs, dentures, prosthetic devices and eyeglasses by eligible persons under 20 21 this Section accompany each claim for reimbursement submitted by the dispenser of such medical services. No such claims for 22 23 reimbursement shall be approved for payment by the Illinois Department without such proof of receipt, unless the Illinois 24 25 Department shall have put into effect and shall be operating a system of post-payment audit and review which shall, on a 26 sampling basis, be deemed adequate by the Illinois Department 27 to assure that such drugs, dentures, prosthetic devices and 28 29 eyeglasses for which payment is being made are actually being 30 received by eligible recipients. Within 90 days after the effective date of this amendatory Act of 1984, the Illinois 31 32 Department shall establish a current list of acquisition costs for all prosthetic devices and any other 33 items 34 recognized as medical equipment and supplies reimbursable

under this Article and shall update such list on a quarterly
 basis, except that the acquisition costs of all prescription
 drugs shall be updated no less frequently than every 30 days
 as required by Section 5-5.12.

5 The rules and regulations of the Illinois Department 6 shall require that a written statement including the required 7 opinion of a physician shall accompany any claim for 8 reimbursement for abortions, or induced miscarriages or 9 premature births. This statement shall indicate what 10 procedures were used in providing such medical services.

11 The Illinois Department shall require that all dispensers of medical services, other than an individual practitioner or 12 13 group of practitioners, desiring to participate in the Medical Assistance program established under this Article to 14 disclose all financial, beneficial, ownership, equity, surety 15 16 or other interests in any and all firms, corporations, partnerships, associations, business enterprises, 17 joint ventures, agencies, institutions or other legal entities 18 19 providing any form of health care services in this State under this Article. 20

21 The Illinois Department may require that all dispensers 22 of medical services desiring to participate in the medical 23 assistance program established under this Article disclose, under such terms and conditions as the Illinois Department 24 25 may by rule establish, all inquiries from clients and attorneys regarding medical bills paid by the Illinois 26 could 27 Department, which inquiries indicate potential existence of claims or liens for the Illinois Department. 28

29 The Illinois Department shall establish policies, 30 procedures, standards and criteria by rule for the acquisition, repair and replacement 31 of orthotic and 32 prosthetic devices and durable medical equipment. Such rules 33 shall provide, but not be limited to, the following services: 34 (1) immediate repair or replacement of such devices by

1 recipients without medical authorization; and (2) rental, 2 lease, purchase or lease-purchase of durable medical in a cost-effective manner, taking 3 equipment into 4 consideration the recipient's medical prognosis, the extent 5 of the recipient's needs, and the requirements and costs for б maintaining such equipment. Such rules shall enable a 7 recipient to temporarily acquire and use alternative or 8 substitute devices or equipment pending repairs or 9 replacements of any device or equipment previously authorized for such recipient by the Department. Rules under clause (2) 10 11 above shall not provide for purchase or lease-purchase of durable medical equipment or supplies used for the purpose of 12 oxygen delivery and respiratory care. 13

The Department shall execute, relative to the nursing 14 home prescreening project, written inter-agency agreements 15 16 with the Department of Human Services and the Department on Aging, to effect the following: (i) intake procedures and 17 common eligibility criteria for those persons who 18 are 19 non-institutional services; and (ii) receiving the establishment and development of non-institutional services 20 21 in areas of the State where they are not currently available 22 or are undeveloped.

23 The Illinois Department shall develop and operate, in cooperation with other State Departments and agencies and in 24 25 compliance with applicable federal laws and regulations, appropriate and effective systems of health care evaluation 26 and programs for monitoring of utilization of health care 27 services and facilities, as it affects persons eligible for 28 medical assistance under this Code. The Illinois Department 29 30 shall report regularly the results of the operation of such systems and programs to the Citizens Assembly/Council on 31 32 Public Aid to enable the Committee to ensure, from time to time, that these programs are effective and meaningful. 33

34 The Illinois Department shall report annually to the

-511-

General Assembly, no later than the second Friday in April of
 1979 and each year thereafter, in regard to:

3 (a) actual statistics and trends in utilization of
4 medical services by public aid recipients;

5 (b) actual statistics and trends in the provision
6 of the various medical services by medical vendors;

7 (c) current rate structures and proposed changes in
8 those rate structures for the various medical vendors;
9 and

10 (d) efforts at utilization review and control by11 the Illinois Department.

12 The period covered by each report shall be the 3 years ending on the June 30 prior to the report. The report shall 13 suggested legislation for consideration by the 14 include 15 General Assembly. The filing of one copy of the report with 16 the Speaker, one copy with the Minority Leader and one copy with the Clerk of the House of Representatives, one copy with 17 the President, one copy with the Minority Leader and one copy 18 with the Secretary of the Senate, one copy with 19 the Legislative Research Unit, such additional copies with the 20 21 State Government Report Distribution Center for the General 22 Assembly as is required under paragraph (t) of Section 7 of 23 the State Library Act and one copy with the Citizens Assembly/Council on Public Aid or its successor shall be 24 25 deemed sufficient to comply with this Section.

26 (Source: P.A. 91-344, eff. 1-1-00; 91-462, eff. 8-6-99; 27 91-666, eff. 12-22-99; 92-16, eff. 6-28-01; revised 28 12-13-01.)

(305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)
Sec. 5-5.4. Standards of Payment - Department of Public
Aid. The Department of Public Aid shall develop standards of
payment of skilled nursing and intermediate care services in
facilities providing such services under this Article which:

1 (1)Provide Provides for the determination of a 2 facility's payment for skilled nursing and intermediate care services on a prospective basis. The amount of the payment 3 4 rate for all nursing facilities certified under the medical 5 assistance program shall be prospectively established annually on the basis of historical, financial, 6 and statistical data reflecting actual costs from prior years, 7 8 which shall be applied to the current rate year and updated for inflation, except that the capital cost element for newly 9 constructed facilities shall be based upon projected budgets. 10 11 The annually established payment rate shall take effect on July 1 in 1984 and subsequent years. Rate increases shall be 12 provided annually thereafter on July 1 in 1984 and on each 13 subsequent July 1 in the following years, except that no rate 14 increase and no update for inflation shall be provided on or 15 16 after July 1, 1994 and before July 1, 2002, unless specifically provided for in this Section. 17

For facilities licensed by the Department of Public 18 19 Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care 20 21 for Under Age 22 facilities, the rates taking effect on July 1, 1998 shall include an increase of 3%. 22 For facilities 23 licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate 24 25 Care facilities, the rates taking effect on July 1, 1998 shall include an increase of 3% plus \$1.10 per resident-day, 26 27 as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% plus \$3.00 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% and, for services provided on or after October 1, 1999, shall be increased by \$4.00 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public 6 7 Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care 8 9 for Under Age 22 facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, 10 11 as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act 12 13 as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 2000 shall 14 15 include an increase of 2.5% per resident-day, as defined by 16 the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on March 1, 2001 shall include a statewide increase of 7.85%, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on April 1, 2002 shall include a statewide increase of 2.0%, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on July 1, 2001, and each subsequent year thereafter, shall be computed using the most recent cost reports on file with the Department of Public Aid no later than April 1, 2000 1 updated for inflation to January 1, 2001. For rates 2 effective July 1, 2001 only, rates shall be the greater of 3 the rate computed for July 1, 2001 or the rate effective on 4 June 30, 2001.

5 Rates established effective each July 1 shall govern б payment for services rendered throughout that fiscal year, 7 except that rates established on July 1, 1996 shall be increased by 6.8% for services provided on or after January 8 1997. Such rates will be based upon the rates calculated 9 1, for the year beginning July 1, 1990, and for subsequent years 10 11 thereafter until June 30, 2001 shall be based on the facility cost reports for the facility fiscal year ending at any point 12 in time during the previous calendar year, updated to the 13 midpoint of the rate year. The cost report shall be on file 14 with the Department no later than April 1 of the current rate 15 16 year. Should the cost report not be on file by April 1, the Department shall base the rate on the latest cost report 17 filed by each skilled care facility and intermediate care 18 19 facility, updated to the midpoint of the current rate year. In determining rates for services rendered on and after July 20 21 1, 1985, fixed time shall not be computed at less than zero. 22 The Department shall not make any alterations of regulations 23 which would reduce any component of the Medicaid rate to a level below what that component would have been utilizing in 24 25 the rate effective on July 1, 1984.

26 (2) Shall take into account the actual costs incurred by
27 facilities in providing services for recipients of skilled
28 nursing and intermediate care services under the medical
29 assistance program.

30 (3) Shall take into account the medical and31 psycho-social characteristics and needs of the patients.

32 (4) Shall take into account the actual costs incurred by
33 facilities in meeting licensing and certification standards
34 imposed and prescribed by the State of Illinois, any of its

political subdivisions or municipalities and by the U.S.
 Department of Health and Human Services pursuant to Title XIX
 of the Social Security Act.

4 The Department of Public Aid shall develop precise 5 standards for payments to reimburse nursing facilities for any utilization of appropriate rehabilitative personnel for 6 7 the provision of rehabilitative services which is authorized 8 by federal regulations, including reimbursement for services 9 provided by qualified therapists or qualified assistants, and which is in accordance with accepted professional practices. 10 11 Reimbursement also may be made for utilization of other supportive personnel under appropriate supervision. 12

13 (Source: P.A. 91-24, eff. 7-1-99; 91-712, eff. 7-1-00; 92-10,
14 eff. 6-11-01; 92-31, eff. 6-28-01; revised 12-13-01.)

15 (305 ILCS 5/5-10) (from Ch. 23, par. 5-10)

16 Sec. 5-10. Entitlement to Social Services. Persons 17 receiving medical assistance shall be entitled to receive, 18 under Article IX and the "Illinois Act on <u>the</u> Aging", 19 approved--August--29,--1973,-as-amended, such rehabilitative, 20 training or other social services as are appropriate to their 21 condition.

22 (Source: P.A. 83-333; revised 12-07-01.)

23 (305 ILCS 5/5-12) (from Ch. 23, par. 5-12)

Sec. 5-12. Funeral and burial. Upon the death of a 24 recipient who qualified under class 2, 3 or 4 of Section 5-2, 25 if his estate is insufficient to pay his funeral and burial 26 27 expenses and if no other resources, including assistance from 28 legally responsible relatives, are available for such purposes, there shall be paid, in accordance with the 29 30 standards, rules and regulations of the Illinois Department of Human Services, such reasonable amounts as may 31 be 32 necessary to meet the costs of the funeral, burial space, and

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cemetery charges, or to reimburse any person not financially
 responsible for the deceased who has have voluntarily made
 expenditures for such costs.

4 (Source: P.A. 89-507, eff. 7-1-97; 90-372, eff. 7-1-98; 5 revised 12-04-01.)

(305 ILCS 5/8A-7.1) (from Ch. 23, par. 8A-7.1)

Sec. 8A-7.1. The Director, upon making a determination 7 8 based upon information in the possession of the Illinois Department, that continuation in practice of a licensed 9 10 health care professional would constitute an immediate danger to the public, shall submit a written communication to the 11 of Professional 12 Director Regulation indicating such determination and additionally providing a complete summary 13 14 of the information upon which such determination is based, 15 and recommending that the Director of Professional Regulation immediately suspend such person's license. All relevant 16 17 evidence, or copies thereof, in the Illinois Department's possession may also be submitted in conjunction with the 18 written communication. A copy of such written communication, 19 20 which is exempt from the copying and inspection provisions of 21 the Freedom of Information Act, shall at the time of 22 submittal to the Director of Professional Regulation be simultaneously mailed to the last known business address of 23 24 such licensed health care professional by certified or registered postage, United States Mail, return receipt 25 26 requested. Any evidence, or copies thereof, which is submitted in conjunction with the written communication is 27 28 also exempt from the copying and inspection provisions of the 29 Freedom of Information Act.

30 The Director, upon making a determination based upon 31 information in the possession of the Illinois Department, 32 that a licensed health care professional is willfully 33 committing fraud upon the Illinois Department's medical 1 assistance program, shall submit a written communication to 2 the Director of Professional Regulation indicating such 3 determination and additionally providing a complete summary 4 of the information upon which such determination is based. 5 All relevant evidence, or copies thereof, in the Illinois 6 Department's possession may also be submitted in conjunction 7 with the written communication.

Upon receipt of such written communication, the Director 8 9 of Professional Regulation shall promptly investigate the allegations contained in such written communication. A copy 10 11 of such written communication, which is exempt from the copying and inspection provisions of the 12 Freedom of Information Act, shall at the time of submission to the 13 Director of Professional Regulation, be simultaneously mailed 14 15 to the last known address of such licensed health care 16 professional by certified or registered postage, United States Mail, return receipt requested. Any evidence, or 17 copies thereof, which is submitted in conjunction with the 18 19 written communication is also exempt from the copying and inspection provisions of the Freedom of Information Act. 20

For the purposes of this Section, "licensed health care professional" means any person licensed under the Illinois Dental Practice Act, the Nursing and Advanced Practice Nursing Act, the Medical Practice Act of 1987, the Pharmacy Practice Act of 1987, the Podiatric Medical Practice Act of 1987, <u>or</u> and the Illinois Optometric Practice Act of 1987. (Source: P.A. 90-742, eff. 8-13-98; revised 12-13-01.)

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(305 ILCS 5/9-1) (from Ch. 23, par. 9-1)

29 Sec. 9-1. Declaration of Purpose. It is the purpose of 30 this Article to aid applicants for and recipients of public 31 aid under Articles III, IV, V, and VI, to increase their 32 capacities for self-support, self-care, and responsible 33 citizenship, and to assist them in maintaining and

strengthening family life. If authorized pursuant to Section 9-8, this Article may be extended to former and potential recipients and to persons whose income does not exceed the standard established to determine eligibility for aid as a medically indigent person under Article V. The Department, with the written consent of the Governor, may also:

(a) extend this Article to individuals 7 and their 8 families with income closely related to national indices of who have special needs resulting 9 poverty from institutionalization of a family member or conditions that 10 11 may lead to institutionalization or who live in impoverished areas or in facilities developed to serve persons of low 12 13 income;

(b) establish, where indicated, schedules of payment forservice provided based on ability to pay;

(c) provide for the coordinated delivery of the services described in this Article and related services offered by other public or private agencies or institutions, and cooperate with the Illinois Department on Aging to enable it to properly execute and fulfill its duties pursuant to the provisions of Section 4.01 of the "Illinois Act on the Aging", as now or hereafter amended;

(d) provide in-home care services, such as chore and housekeeping services or homemaker services, to recipients of public aid under Articles IV and VI, the scope and eligibility criteria for such services to be determined by rule;

(e) contract with other State agencies for the purchase
of social service under Title XX of the Social Security Act,
such services to be provided pursuant to such other agencies'
enabling legislation; and

(f) cooperate with the Illinois Department of Public Aid
 to provide services to public aid recipients for the
 treatment and prevention of alcoholism and substance abuse.

-519-

1 (Source: P.A. 92-16, eff. 6-28-01; 92-111, eff. 1-1-02; 2 revised 10-15-01.)

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(305 ILCS 5/10-3) (from Ch. 23, par. 10-3)

Sec. 10-3. Standard and Regulations for Determining 4 5 Ability to Support.) The Illinois Department shall establish a standard by which shall be measured the ability of 6 responsible relatives to provide support, and shall implement 7 8 the standard by rules governing its application. The standard and the rules shall take into account the buying and 9 10 consumption patterns of self-supporting persons of modest 11 income, present or future contingencies having direct bearing on maintenance of the relative's self-support status and 12 fulfillment of his obligations to his immediate family, and 13 14 unusual or exceptional circumstances including anv 15 estrangement or other personal or social factors, that have a bearing on family relationships and the relative's ability to 16 17 meet his support obligations. The standard shall be recomputed periodically to reflect changes in the cost of 18 living and other pertinent factors. 19

20 In addition to the standard, the Illinois Department may 21 establish guidelines to be used exclusively to measure the 22 ability of responsible relatives to provide support on behalf of applicants for or recipients of financial aid under 23 24 Article IV of this Act and other persons who are given access to the child and spouse support services of this Article as 25 provided in Section 10-1. 26 In such case, the Illinois Department shall base the guidelines upon the applicable 27 provisions of Sections 504, 505 and 505.2 of the Illinois 28 29 Marriage and Dissolution of Marriage Act, as amended, and shall implement such guidelines by rules governing their 30 application. 31

32 The term "<u>administrative</u> administration enforcement 33 unit", when used in this Article, means local governmental

1 units or the Child and Spouse Support Unit established under 2 Section 10-3.1 when exercising the powers designated in this Article. The administrative enforcement unit shall apply the 3 4 standard or guidelines, rules and procedures provided for by 5 this Section and Sections 10-4 through 10-8 in determining б the ability of responsible relatives to provide support for 7 applicants for or recipients of financial aid under this 8 Code, except that the administrative enforcement unit may 9 apply such standard or guidelines, rules and procedures at its discretion with respect to those applicants for or 10 11 recipients of financial aid under Article IV and other persons who are given access to the child and spouse support 12 services of this Article as provided by Section 10-1. 13

14 (Source: P.A. 86-649; revised 12-13-01.)

15 (305 ILCS 5/10-10.5)

16 Sec. 10-10.5. Information to State Case Registry.

17 (a) In this Section:

18 "Order for support", "obligor", "obligee", and "business 19 day" are defined as set forth in the Income Withholding for 20 Support Act.

21 "State Case Registry" means the State Case Registry
22 established under Section 10-27 of this Code.

(b) Each order for support entered or modified by 23 the 24 circuit court under Section 10-10 shall require that the obligor and obligee (i) file with the clerk of the circuit 25 court the information required by this Section (and any other 26 information required under Title IV, Part D of the Social 27 Security Act or by the federal Department of Health and Human 28 29 Services) at the time of entry or modification of the order for support and (ii) file updated information with the clerk 30 within 5 business days of any change. Failure of the obligor 31 or obligee to file or update the required information shall 32 be punishable as in cases of contempt. The failure shall not 33

prevent the court from entering or modifying the order for
 support, however.

3 (c) The obligor shall file the following information:
4 the obligor's name, date of birth, social security number,
5 and mailing address.

б If either the obligor or the obligee receives child support enforcement services from the Illinois Department 7 under Article X of this Code, the obligor shall also file the 8 9 following information: the obligor's telephone number, driver's license number, and residential address 10 (if 11 different from the obligor's mailing address), and the name, address, and telephone number of the obligor's employer or 12 13 employers.

14

(d) The obligee shall file the following information:

15 (1) The names of the obligee and the child or16 children covered by the order for support.

17 (2) The dates of birth of the obligee and the child18 or children covered by the order for support.

19 (3) The social security numbers of the obligee and20 the child or children covered by the order for support.

21

(4) The obligee's mailing address.

22 (e) In cases in which the obligee receives child support 23 enforcement services from the Illinois Department under Article X of this Code, the order for support shall (i) 24 25 require that the obligee file the information required under subsection (d) with the Illinois Department for inclusion in 26 the State Case Registry, rather than file the information 27 with the clerk, and (ii) require that the obligee include the 28 following additional information: 29

30 (1) The obligee's telephone and driver's license31 numbers.

32 (2) The obligee's residential address, if different33 from the obligee's mailing address.

34

(3) The name, address, and telephone number of the

1 obligee's employer or employers.

2 The order for support shall also require that the obligee 3 update the information filed with the Illinois Department 4 within 5 business days of any change.

5 (f) The clerk shall provide the information filed under 6 this Section, together with the court docket number and 7 county in which the order for support was entered, to the 8 State Case Registry within 5 business days after receipt of 9 the information.

10 (g) In a case in which a party is receiving child 11 support enforcement services under Article X of this Code, 12 the clerk shall provide the following additional information 13 to the State Case Registry within 5 business days after entry 14 or modification of an order for support or request from the 15 Illinois Department:

16 (1) The amount of monthly or other periodic support
17 owed under the order for support and other amounts,
18 including arrearage, interest, or late payment penalties
19 and fees, due or overdue under the order.

20 (2) Any such amounts that have been received by the 21 clerk, and the distribution of those amounts by the 22 clerk.

23 Information filed by the obligor and obligee under (h) this Section that is not specifically required to be included 24 25 in the body of an order for support under other laws is not a public record and shall be treated as confidential and 26 subject to disclosure only in accordance with the provisions 27 of this Section, Section 10-27 of this Code, and Title IV, 28 Part D of the Social Security Act. be 29 (Source: P.A. 91-212, eff. 7-20-99; 92-16, eff. 6-28-01; 30

31 92-463, eff. 8-22-01; revised 10-12-01.)

32 (305 ILCS 5/11-22b) (from Ch. 23, par. 11-22b)
33 Sec. 11-22b. Recoveries.

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(a) As used in this Section:

(1) "Carrier" means any insurer, including any private 2 company, corporation, mutual association, trust fund, 3 4 reciprocal or interinsurance exchange authorized under the 5 this State to insure persons against liability or laws of б injuries caused to another and any insurer providing benefits 7 under a policy of bodily injury liability insurance covering 8 liability arising out of the ownership, maintenance or use of 9 a motor vehicle which provides uninsured motorist endorsement or coverage. 10

11 (2) "Beneficiary" means any person or their dependents 12 who has received benefits or will be provided benefits under 13 this Code because of an injury for which another person may 14 be liable. It includes such beneficiary's guardian, 15 conservator or other personal representative, his estate or 16 survivors.

(b) (1) When benefits are provided or will be provided 17 to a beneficiary under this Code because of an injury for 18 19 which another person is liable, or for which a carrier is liable in accordance with the provisions of any policy of 20 21 insurance issued pursuant to the Illinois Insurance Code, the 22 Illinois Department shall have a right to recover from such 23 person or carrier the reasonable value of benefits so The Attorney General may, to enforce such right, 24 provided. 25 institute and prosecute legal proceedings against the third person or carrier who may be liable for the injury in an 26 appropriate court, either in the name of the 27 Illinois Department or in the name of the injured person, his 28 29 guardian, personal representative, estate, or survivors.

30

(2) The Department may:

31 (A) compromise or settle and release any such claim
32 for benefits provided under this Code, or

33 (B) waive any such claims for benefits provided34 under this Code, in whole or in part, for the convenience

1 of the Department or if the Department determines that 2 collection would result in undue hardship upon the person 3 who suffered the injury or, in a wrongful death action, 4 upon the heirs of the deceased.

5 No action taken on behalf of the Department pursuant (3) б to this Section or any judgment rendered in such action shall 7 a bar to any action upon the claim or cause of action of be 8 the beneficiary, his guardian, conservator, personal representative, estate, dependents or survivors against the 9 third person who may be liable for the injury, or shall 10 11 operate to deny to the beneficiary the recovery for that portion of any damages not covered hereunder. 12

13 (c) (1) When an action is brought by the Department 14 pursuant to subsection (b), it shall be commenced within the 15 period prescribed by Article XIII of the Code of Civil 16 Procedure.

However, the Department may not commence the action prior to 5 months before the end of the applicable period prescribed by Article XIII of the Code of Civil Procedure. Thirty days prior to commencing an action, the Department shall notify the beneficiary of the Department's intent to commence such an action.

(2) The death of the beneficiary does not abate anyright of action established by subsection (b).

25 (3) When an action or claim is brought by persons 26 entitled to bring such actions or assert such claims against 27 a third person who may be liable for causing the death of a 28 beneficiary, any settlement, judgment or award obtained is 29 subject to the Department's claim for reimbursement of the 30 benefits provided to the beneficiary under this Code.

31 (4) When the action or claim is brought by the 32 beneficiary alone and the beneficiary incurs a personal 33 liability to pay attorney's fees and costs of litigation, the 34 Department's claim for reimbursement of the benefits provided to the beneficiary shall be the full amount of benefits paid on behalf of the beneficiary under this Code less a pro rata share which represents the Department's reasonable share of attorney's fees paid by the beneficiary and that portion of the cost of litigation expenses determined by multiplying by the ratio of the full amount of the expenditures of the full amount of the judgment, award or settlement.

8 (d) (1) If either the beneficiary or the Department 9 brings an action or claim against such third party or carrier, the beneficiary or the Department shall within 30 10 11 days of filing the action give to the other written notice by personal service or registered mail of the action or claim 12 and of the name of the court in which the action or claim is 13 brought. Proof of such notice shall be filed in such action 14 If an action or claim is brought by either the 15 or claim. 16 Department or the beneficiary, the other may, at any time before trial on the facts, become a party to such action or 17 claim or shall consolidate his action or claim with the other 18 19 if brought independently.

(2) If an action or claim is brought by the Department pursuant to subsection (b)(1), written notice to the beneficiary, guardian, personal representative, estate or survivor given pursuant to this Section shall advise him of his right to intervene in the proceeding, his right to obtain a private attorney of his choice and the Department's right to recover the reasonable value of the benefits provided.

(e) In the event of judgment or award in a suit or claimagainst such third person or carrier:

(1) If the action or claim is prosecuted by the beneficiary alone, the court shall first order paid from any judgment or award the reasonable litigation expenses incurred in preparation and prosecution of such action or claim, together with reasonable attorney's fees, when an attorney has been retained. After payment of such expenses and

1 attorney's fees the court shall, on the application of the 2 Department, allow as a first lien against the amount of such 3 judgment or award the amount of the Department's expenditures 4 for the benefit of the beneficiary under this Code, as 5 provided in subsection (c)(4).

If the action or claim is prosecuted both by the 6 (2) 7 beneficiary and the Department, the court shall first order 8 paid from any judgment or award the reasonable litigation 9 expenses incurred in preparation and prosecution of such action or claim, together with reasonable attorney's fees for 10 11 plaintiffs attorneys based solely on the services rendered for the benefit of the beneficiary. After payment of such 12 expenses and attorney's fees, the court shall apply out of 13 the balance of such judgment or award an amount sufficient to 14 reimburse the Department the full amount of benefits paid on 15 16 behalf of the beneficiary under this Code.

(f) The court shall, upon further application at any 17 time before the judgment or award is satisfied, allow as 18 а 19 further lien the amount of any expenditures of the Department in payment of additional benefits arising out of the same 20 21 cause of action or claim provided on behalf of the 22 beneficiary under this Code, when such benefits were provided 23 or became payable subsequent to the original order.

(g) No judgment, award, or settlement in any action or claim by a beneficiary to recover damages for injuries, when the Department has an interest, shall be satisfied without first giving the Department notice and a reasonable opportunity to perfect and satisfy <u>its</u> his lien.

(h) When the Department has perfected a lien upon a judgment or award in favor of a beneficiary against any third party for an injury for which the beneficiary has received benefits under this Code, the Department shall be entitled to a writ of execution as lien claimant to enforce payment of said lien against such third party with interest and other 1 accruing costs as in the case of other executions. In the 2 event the amount of such judgment or award so recovered has 3 been paid to the beneficiary, the Department shall be 4 entitled to a writ of execution against such beneficiary to 5 the extent of the Department's lien, with interest and other 6 accruing costs as in the case of other executions.

(i) Except as otherwise provided in this Section, 7 8 notwithstanding any other provision of law, the entire amount 9 of any settlement of the injured beneficiary's action or claim, with or without suit, is subject to the Department's 10 11 claim for reimbursement of the benefits provided and any lien filed pursuant thereto to the same extent and subject to the 12 same limitations as in Section 11-22 of this Code. 13 (Source: P.A. 84-1402; revised 12-04-01.) 14

15 (305 ILCS 5/12-4.25) (from Ch. 23, par. 12-4.25)

16 Sec. 12-4.25. Medical assistance program; vendor 17 participation.

(A) The Illinois Department may deny, suspend or
terminate the eligibility of any person, firm, corporation,
association, agency, institution or other legal entity to
participate as a vendor of goods or services to recipients
under the medical assistance program under Article V, if
after reasonable notice and opportunity for a hearing the
Illinois Department finds:

(a) Such vendor is not complying with the 25 Department's policy or rules and regulations, or with the 26 terms and conditions prescribed 27 Illinois by the Department in its vendor agreement, which document shall 28 29 be developed by the Department as a result of negotiations with each vendor category, including 30 physicians, hospitals, long term care facilities, 31 pharmacists, optometrists, podiatrists and dentists 32 setting forth the terms and conditions applicable to the 33

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participation of each vendor group in the program; or

2 (b) Such vendor has failed to keep or make available for inspection, audit or copying, 3 after 4 receiving a written request from the Illinois Department, such records regarding payments claimed for providing 5 services. This section does not require vendors to make 6 7 available patient records of patients for whom services are not reimbursed under this Code; or 8

9 (c) Such vendor has failed to furnish any 10 information requested by the Department regarding 11 payments for providing goods or services; or

12 (d) Such vendor has knowingly made, or caused to be
13 made, any false statement or representation of a material
14 fact in connection with the administration of the medical
15 assistance program; or

16 (e) Such vendor has furnished goods or services to 17 a recipient which are (1) in excess of his or her needs, 18 (2) harmful to the recipient, or (3) of grossly inferior 19 quality, all of such determinations to be based upon 20 competent medical judgment and evaluations; or

21 (f) The vendor; a person with management 22 responsibility for a vendor; an officer or person owning, 23 either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate 24 25 vendor; an owner of a sole proprietorship which is a vendor; or a partner in a partnership which is a vendor, 26 27 either:

previously 28 (1) was terminated from 29 participation in the Illinois medical assistance 30 program, or was terminated from participation in a medical assistance program in another state that is 31 of the same kind as the program of 32 medical 33 assistance provided under Article V of this Code; or 34 (2) was person with a management 1 responsibility for a vendor previously terminated 2 participation in the Illinois from medical assistance program, or terminated from participation 3 4 in a medical assistance program in another state that is of the same kind as the program of medical 5 assistance provided under Article V of this Code, 6 7 during the time of conduct which was the basis for 8 that vendor's termination; or

9 (3) was an officer, or person owning, either directly or indirectly, 5% or more of the shares of 10 11 stock or other evidences of ownership in a corporate 12 vendor previously terminated from participation in the Illinois medical assistance program, 13 or terminated from participation 14 in a medical 15 assistance program in another state that is of the 16 same kind as the program of medical assistance provided under Article V of this Code, during the 17 time of conduct which was the basis for that 18 vendor's termination; or 19

(4) was an owner of a sole proprietorship or 20 21 partner of a partnership previously terminated from 22 participation in the Illinois medical assistance program, or terminated from participation in a 23 medical assistance program in another state that is 24 25 of the same kind as the program of medical assistance provided under Article V of this Code, 26 during the time of conduct which was the basis for 27 that vendor's termination; or 28

(g) The vendor; a person with management responsibility for a vendor; an officer or person owning, either directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in a corporate vendor; an owner of a sole proprietorship which is a vendor; or a partner in a partnership which is a vendor, -530-

1 either:

2 (1) has engaged in practices prohibited by 3 applicable federal or State law or regulation 4 relating to the medical assistance program; or

5 (2) was a person with management 6 responsibility for a vendor at the time that such 7 vendor engaged in practices prohibited by applicable 8 federal or State law or regulation relating to the 9 medical assistance program; or

10 (3) was an officer, or person owning, either 11 directly or indirectly, 5% or more of the shares of 12 stock or other evidences of ownership in a vendor at 13 the time such vendor engaged in practices prohibited 14 by applicable federal or State law or regulation 15 relating to the medical assistance program; or

16 (4) was an owner of a sole proprietorship or 17 partner of a partnership which was a vendor at the 18 time such vendor engaged in practices prohibited by 19 applicable federal or State law or regulation 20 relating to the medical assistance program; or:

21 (h) The direct or indirect ownership of the vendor 22 (including the ownership of a vendor that is a sole 23 proprietorship, a partner's interest in a vendor that is a partnership, or ownership of 5% or more of the shares 24 25 of stock or other evidences of ownership in a corporate vendor) has been transferred by an individual who is 26 terminated or barred from participating as a vendor to 27 the individual's spouse, child, brother, sister, parent, 28 grandparent, grandchild, uncle, aunt, niece, nephew, 29 30 cousin, or relative by marriage.

31 (A-5) The Illinois Department may deny, suspend, or 32 terminate the eligibility of any person, firm, corporation, 33 association, agency, institution, or other legal entity to 34 participate as a vendor of goods or services to recipients

1 under the medical assistance program under Article V if, 2 after reasonable notice and opportunity for a hearing, the Illinois Department finds that the vendor; a person with 3 4 management responsibility for a vendor; an officer or person 5 owning, either directly or indirectly, 5% or more of the б shares of stock or other evidences of ownership in a 7 corporate vendor; an owner of a sole proprietorship that is a or a partner in a partnership that is a vendor has 8 vendor; 9 been convicted of a felony offense based on fraud or willful misrepresentation related to any of the following: 10

11 (1) The medical assistance program under Article V 12 of this Code.

13 (2) A medical assistance program in another state
14 that is of the same kind as the program of medical
15 assistance provided under Article V of this Code.

16 (3) The Medicare program under Title XVIII of the17 Social Security Act.

(4) The provision of health care services.

19 (B) The Illinois Department shall deny, suspend or 20 terminate the eligibility of any person, firm, corporation, 21 association, agency, institution or other legal entity to 22 participate as a vendor of goods or services to recipients 23 under the medical assistance program under Article V:

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(1) if such vendor is not properly licensed;

(2) within 30 days of the date when such vendor's
professional license, certification or other
authorization has been refused renewal or has been
revoked, suspended or otherwise terminated; or

29 (3) if such vendor has been convicted of a
30 violation of this Code, as provided in Article VIIIA.

31 (C) Upon termination of a vendor of goods or services 32 from participation in the medical assistance program 33 authorized by this Article, a person with management 34 responsibility for such vendor during the time of any conduct

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which served as the basis for that vendor's termination is
 barred from participation in the medical assistance program.

-532-

Upon termination of a corporate vendor, the officers and 3 4 persons owning, directly or indirectly, 5% or more of the shares of stock or other evidences of ownership in the vendor 5 during the time of any conduct which served as the basis for 6 7 that vendor's termination are barred from participation in 8 the medical assistance program. A person who owns, directly or indirectly, 5% or more of the shares of stock or other 9 evidences of ownership in a terminated corporate vendor may 10 11 not transfer his or her ownership interest in that vendor to 12 his spouse, child, brother, sister, parent, or her grandparent, grandchild, uncle, aunt, niece, nephew, cousin, 13 or relative by marriage. 14

15 Upon termination of a sole proprietorship or partnership, 16 the owner or partners during the time of any conduct which served as the basis for that vendor's termination are barred 17 from participation in the medical assistance program. The 18 owner of a terminated vendor that is a sole proprietorship, 19 and a partner in a terminated vendor that is a partnership, 20 21 may not transfer his or her ownership or partnership interest 22 in that vendor to his or her spouse, child, brother, sister, 23 parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by marriage. 24

25 Rules adopted by the Illinois Department to implement 26 these provisions shall specifically include a definition of 27 the term "management responsibility" as used in this Section. 28 Such definition shall include, but not be limited to, typical 29 job titles, and duties and descriptions which will be 30 considered as within the definition of individuals with 31 management responsibility for a provider.

32 (D) If a vendor has been suspended from the medical
 33 assistance program under Article V of the Code, the Director
 34 may require that such vendor correct any deficiencies which

1 served as the basis for the suspension. The Director shall 2 specify in the suspension order a specific period of time, which shall not exceed one year from the date of the order, 3 4 during which a suspended vendor shall not be eligible to 5 participate. At the conclusion of the period of suspension 6 the Director shall reinstate such vendor, unless he finds 7 that such vendor has not corrected deficiencies upon which 8 the suspension was based.

9 If a vendor has been terminated from the medical assistance program under Article V, such vendor shall 10 be 11 barred from participation for at least one year. At the end 12 of one year a vendor who has been terminated may apply for reinstatement to the program. Upon proper application to be 13 reinstated such vendor may be deemed eligible by the Director 14 15 providing that such vendor meets the requirements for 16 eligibility under this Code. If such vendor is deemed not eligible for reinstatement, he shall be barred from again 17 applying for reinstatement for one year from the date his 18 19 application for reinstatement is denied.

A vendor whose termination from participation in the 20 21 Illinois medical assistance program under Article V was based 22 solely on an action by a governmental entity other than the 23 Illinois Department may, reinstatement upon by that governmental entity or upon reversal of the termination, 24 25 apply for rescission of the termination from participation in the Illinois medical assistance program. Upon 26 proper application for rescission, the vendor may be deemed eligible 27 by the Director if the vendor meets the requirements for 28 29 eligibility under this Code.

If a vendor has been terminated and reinstated to the medical assistance program under Article V and the vendor is terminated a second or subsequent time from the medical assistance program, the vendor shall be barred from participation for at least 2 years. At the end of 2 years, a vendor who has been terminated may apply for reinstatement to the program. Upon application to be reinstated, the vendor may be deemed eligible if the vendor meets the requirements for eligibility under this Code. If the vendor is deemed not eligible for reinstatement, the vendor shall be barred from again applying for reinstatement for 2 years from the date the vendor's application for reinstatement is denied.

8 (E) The Illinois Department may recover money improperly 9 or erroneously paid, or overpayments, either by setoff, 10 crediting against future billings or by requiring direct 11 repayment to the Illinois Department.

(F) The Illinois Department may withhold payments to any 12 13 vendor during the pendency of any proceeding under this Section except that if a final administrative decision has 14 not been issued within 120 days of the initiation of such 15 16 proceedings, unless delay has been caused by the vendor, payments can no longer be withheld, provided, however, that 17 18 the 120 day limit may be extended if said extension is 19 mutually agreed to by the Illinois Department and the vendor. The Illinois Department shall state by rule with as much 20 21 specificity as practicable the conditions under which payments will not be withheld during the pendency of 22 anv 23 proceeding under this Section. Payments may be denied for bills submitted with service dates occurring during 24 the 25 pendency of a proceeding where the final administrative decision is to terminate eligibility to participate in the 26 27 medical assistance program. The Illinois Department shall state by rule with as much specificity as practicable the 28 conditions under which payments will not be denied for such 29 30 bills.

31 (F-5) The Illinois Department may temporarily withhold 32 payments to a vendor if any of the following individuals have 33 been indicted or otherwise charged under a law of the United 34 States or this or any other state with a felony offense that is based on alleged fraud or willful misrepresentation on the part of the individual related to (i) the medical assistance program under Article V of this Code, (ii) a medical assistance program provided in another state which is of the kind provided under Article V of this Code, (iii) the Medicare program under Title XVIII of the Social Security Act, or (iv) the provision of health care services:

8 (1) If the vendor is a corporation: an officer of 9 the corporation or an individual who owns, either 10 directly or indirectly, 5% or more of the shares of stock 11 or other evidence of ownership of the corporation.

12 (2) If the vendor is a sole proprietorship: the13 owner of the sole proprietorship.

14 (3) If the vendor is a partnership: a partner in15 the partnership.

16 (4) If the vendor is any other business entity
17 authorized by law to transact business in this State: an
18 officer of the entity or an individual who owns, either
19 directly or indirectly, 5% or more of the evidences of
20 ownership of the entity.

21 If the Illinois Department withholds payments to a vendor 22 under this subsection, the Department shall not release those 23 payments to the vendor while any criminal proceeding related to the indictment or charge is pending unless the Department 24 25 determines that there is good cause to release the payments before completion of the proceeding. If the indictment or 26 charge results in the individual's conviction, the 27 Illinois Department shall retain all withheld payments, which shall be 28 29 considered forfeited to the Department. If the indictment or 30 charge does not result in the individual's conviction, the Illinois Department shall release to the vendor all withheld 31 32 payments.

33 (G) The provisions of the Administrative Review Law, as34 now or hereafter amended, and the rules adopted pursuant

thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Illinois Department under this Section. The term administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

6 (H) Nothing contained in this Code shall in any way 7 limit or otherwise impair the authority or power of any State 8 agency responsible for licensing of vendors.

9 (I) Based on a finding of noncompliance on the part of a 10 nursing home with any requirement for certification under 11 Title XVIII or XIX of the Social Security Act (42 U.S.C. Sec. 12 1395 et seq. or 42 U.S.C. Sec. 1396 et seq.), the Illinois 13 Department may impose one or more of the following remedies 14 after notice to the facility:

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(1) Termination of the provider agreement.

16 (2) Temporary management.

17 (3) Denial of payment for new admissions.

18 (4) Civil money penalties.

19 (5) Closure of the facility in emergency situations20 or transfer of residents, or both.

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(6) State monitoring.

(7) Denial of all payments when the Health CareFinance Administration has imposed this sanction.

The Illinois Department shall by rule establish criteria 24 25 governing continued payments to a nursing facility subsequent to termination of the facility's provider agreement if, 26 in the sole discretion of the Illinois Department, circumstances 27 affecting the health, safety, and welfare of the facility's 28 29 residents require those continued payments. The Illinois 30 Department may condition those continued payments on the appointment of temporary management, sale of the facility to 31 32 new owners or operators, or other arrangements that the Illinois Department determines best serve the needs of the 33 facility's residents. 34

1 Except in the case of a facility that has a right to a 2 hearing on the finding of noncompliance before an agency of the federal government, a facility may request a hearing 3 4 before a State agency on any finding of noncompliance within 60 days after the notice of the intent to impose a remedy. 5 Except in the case of civil money penalties, a request for a 6 7 hearing shall not delay imposition of the penalty. The choice of remedies is not appealable at a hearing. The level 8 9 of noncompliance may be challenged only in the case of а civil money penalty. The Illinois Department shall provide by 10 11 rule for the State agency that will conduct the evidentiary 12 hearings.

13 The Illinois Department may collect interest on unpaid 14 civil money penalties.

15 The Illinois Department may adopt all rules necessary to 16 implement this subsection (I).

17 (Source: P.A. 92-327, eff. 1-1-02; revised 9-18-01.)

18 (305 ILCS 5/12-10.2) (from Ch. 23, par. 12-10.2)

19 Sec. 12-10.2. The Child Support Enforcement Trust Fund.

20 (a) The Child Support Enforcement Trust Fund, to be held 21 by the State Treasurer as ex-officio custodian outside the 22 State Treasury, pursuant to the Child Support Enforcement 23 Program established by Title IV-D of the Social Security Act, 24 shall consist of:

(1) all support payments assigned to the Illinois
Department under Article X of this Code and rules
promulgated by the Illinois Department that are disbursed
to the Illinois Department by the State Disbursement Unit
established under Section 10-26,

30 (2) all support payments received by the Illinois
31 Department as a result of the Child Support Enforcement
32 Program established by Title IV-D of the Social Security
33 Act that are not required or directed to be paid to the

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State Disbursement Unit established under Section 10-26,

(3) all federal grants received by the Illinois
Department funded by Title IV-D of the Social Security
Act, except those federal funds received under the Title
IV-D program as reimbursement for expenditures from the
General Revenue Fund,

7 (4) incentive payments received by the Illinois 8 Department from other states or political subdivisions of 9 other states for the enforcement and collection by the 10 Department of an assigned child support obligation in 11 behalf of such other states or their political 12 subdivisions pursuant to the provisions of Title IV-D of 13 the Social Security Act,

(5) incentive payments retained by the Illinois 14 Department from the amounts which otherwise would be paid 15 16 to the federal government to reimburse the federal government's share of the support collection for the 17 Department's enforcement and collection of an assigned 18 19 support obligation on behalf of the State of Illinois pursuant to the provisions of Title IV-D of the Social 20 21 Security Act,

22 (6) all fees charged by the Department for child 23 support enforcement services, as authorized under Title IV-D of the Social Security Act and Section 10-1 of this 24 25 Code, and any other fees, costs, fines, recoveries, or penalties provided for by State or federal law and 26 received by the Department under the Child Support 27 Enforcement Program established by Title IV-D of 28 the 29 Social Security Act, and

30 (7) all amounts appropriated by the General
31 Assembly for deposit into the Fund, and

32 (8) any gifts, grants, donations, or awards from
33 individuals, private businesses, nonprofit associations,
34 and governmental entities.

-539-

1 (b) Disbursements from this Fund shall be only for the 2 following purposes:

(1) for the reimbursement of funds received by the 3 4 Illinois Department through error or mistake,

5 (2) for payments to non-recipients, current recipients, and former recipients of financial aid of 6 7 support payments received on their behalf under Article X of this Code that are not required to be disbursed by the 8 9 State Disbursement Unit established under Section 10.26,

(3) for any other payments required by law to be 10 11 paid by the Illinois Department to non-recipients, 12 current recipients, and former recipients,

(4) for payment of any administrative expenses 13 incurred through fiscal year 2002, but not thereafter, 14 15 including payment to the Health Insurance Reserve Fund 16 for group insurance costs at the rate certified by the Department of Central Management Services, except those 17 required to be paid from the General Revenue Fund, 18 19 including personal and contractual services, incurred in performing the Title IV-D activities authorized by 20 Article X of this Code, 21

(5) for the reimbursement of the Public Assistance 22 23 Emergency Revolving Fund for expenditures made from that Fund for payments to former recipients of public aid for 24 25 child support made to the Illinois Department when the former public aid recipient is legally entitled to all or 26 27 part of the child support payments, pursuant to the provisions of Title IV-D of the Social Security Act, 28

(6) for the payment of incentive amounts owed to 29 30 other states or political subdivisions of other states that enforce and collect an assigned support obligation 31 on behalf of the State of Illinois pursuant to the 32 provisions of Title IV-D of the Social Security Act, 33 34

(7) for the payment of incentive amounts owed to

political subdivisions of the State of Illinois that enforce and collect an assigned support obligation on behalf of the State pursuant to the provisions of Title IV-D of the Social Security Act, and

5 (8) for payments of any amounts which are 6 reimbursable to the Federal government which are required 7 to be paid by State warrant by either the State or 8 Federal government.

9 Disbursements from this Fund shall be by warrants drawn 10 by the State Comptroller on receipt of vouchers duly executed 11 and certified by the Illinois Department or any other State 12 agency that receives an appropriation from the Fund.

13 (c) The Illinois Department's child support 14 administrative expenses, as defined in Section 12-10.2a, that 15 are incurred after fiscal year 2002 shall be paid only as 16 provided in that Section.

17 (Source: P.A. 91-212, eff. 7-20-99; 91-400, eff. 7-30-99; 18 91-712, eff. 7-1-00; 92-44, eff. 7-1-01; revised 7-24-01.)

19 (305 ILCS 5/12-10.5)

20 Sec. 12-10.5. Medical Special Purposes Trust Fund.

21 The Medical Special Purposes Trust Fund ("the Fund") (a) 22 is created. Any grant, gift, donation, or legacy of money or securities that the Department of Public Aid is authorized to 23 receive under Section 12-4.18 or Section 12-4.19, and that is 24 dedicated for functions connected with the administration of 25 any medical program administered by the Department, shall be 26 27 deposited into the Fund. All federal moneys received by the Department as reimbursement for disbursements authorized to 28 29 be made from the Fund shall also be deposited into the Fund.

30 (b) No moneys received from a service provider or a 31 governmental or private entity that is enrolled with the 32 Department as a provider of medical services shall be 33 deposited into the Fund.

1 (c) Disbursements may be made from the Fund for the 2 purposes connected with the grants, gifts, donations, or legacies deposited into the Fund, including, but not limited 3 4 medical quality assessment projects, eligibility to, 5 population studies, medical information systems evaluations, 6 and other administrative functions that assist the Department in fulfilling its health care mission under the Illinois 7 Public Aid Code and the Children's Health Insurance Program 8 9 Act.

10 (Source: P.A. 92-37, eff. 7-1-01.)

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(305 ILCS 5/12-10.6)

Sec. <u>12-10.6.</u> <u>12-10.5</u>. Medicaid Buy-In Program Revolving
Fund.

14 (a) The Medicaid Buy-In Program Revolving Fund is
15 created as a special fund in the State treasury. The Fund
16 shall consist of cost-sharing payments made by individuals
17 pursuant to the Medicaid Buy-In Program established under
18 paragraph 11 of Section 5-2 of this Code. All earnings on
19 moneys in the Fund shall be credited to the Fund.

20 (b) Moneys in the Fund shall be appropriated to the 21 Department to pay the costs of administering the Medicaid 22 Buy-In Program, including payments for medical assistance 23 benefits provided to Program participants. The Department 24 shall adopt rules specifying the particular purposes for 25 which the moneys in the Fund may be spent.

26 (Source: P.A. 92-163, eff. 7-25-01; revised 9-18-01.)

27 Section 65. The Senior Citizens and Disabled Persons 28 Property Tax Relief and Pharmaceutical Assistance Act is 29 amended by changing Sections 4 and 6 as follows:

30 (320 ILCS 25/4) (from Ch. 67 1/2, par. 404)
31 Sec. 4. Amount of Grant.

1 (a) In general. Any individual 65 years or older or any 2 individual who will become 65 years old during the calendar year in which a claim is filed, and any surviving spouse of 3 4 such a claimant, who at the time of death received or was entitled to receive a grant pursuant to this Section, which 5 6 surviving spouse will become 65 years of age within the 24 7 months immediately following the death of such claimant and which surviving spouse but for his or her age is otherwise 8 9 qualified to receive a grant pursuant to this Section, and any disabled person whose annual household income is less 10 11 than \$14,000 for grant years before the 1998 grant year, less than \$16,000 for the 1998 and 1999 grant years, and less than 12 \$21,218 for a household containing one person, (ii) 13 (i) \$28,480 for a household containing 2 persons, or (iii) 14 \$35,740 for a household containing 3 or more persons for the 15 16 2000 grant year and thereafter and whose household is liable for payment of property taxes accrued or has paid rent 17 constituting property taxes accrued and is domiciled in this 18 19 State at the time he or she files his or her claim is entitled to claim a grant under this Act. With respect to 20 21 claims filed by individuals who will become 65 years old 22 during the calendar year in which a claim is filed, the 23 amount of any grant to which that household is entitled shall be an amount equal to 1/12 of the amount to which the 24 25 claimant would otherwise be entitled as provided in this Section, multiplied by the number of months in which the 26 claimant was 65 in the calendar year in which the claim is 27 filed. 28

29 (b) Limitation. Except as otherwise provided in 30 subsections (a) and (f) of this Section, the maximum amount of grant which a claimant is entitled to claim is the amount 31 32 by which the property taxes accrued which were paid or payable last preceding tax year or rent 33 during the 34 constituting property taxes accrued upon the claimant's residence for the last preceding taxable year exceeds 3 1/2% of the claimant's household income for that year but in no event is the grant to exceed (i) \$700 less 4.5% of household income for that year for those with a household income of \$14,000 or less or (ii) \$70 if household income for that year is more than \$14,000.

7 (c) Public aid recipients. If household income in one 8 or more months during a year includes cash assistance in excess of \$55 per month from the Department of Public Aid or 9 the Department of Human Services (acting as successor to the 10 11 Department of Public Aid under the Department of Human Services Act) which was determined under regulations of that 12 Department on a measure of need that included an allowance 13 for actual rent or property taxes paid by the recipient of 14 that assistance, the amount of grant to which that household 15 16 is entitled, except as otherwise provided in subsection (a), shall be the product of (1) the maximum amount computed as 17 specified in subsection (b) of this Section and (2) the ratio 18 19 of the number of months in which household income did not include such cash assistance over \$55 to the number twelve. 20 21 If household income did not include such cash assistance over 22 \$55 for any months during the year, the amount of the grant 23 to which the household is entitled shall be the maximum amount computed as specified in subsection (b) of this 24 25 For purposes of this Section. paragraph (C), "cash 26 assistance" does not include any amount received under the federal Supplemental Security Income (SSI) program. 27

(d) Joint ownership. If title to the residence is held jointly by the claimant with a person who is not a member of his <u>or her</u> household, the amount of property taxes accrued used in computing the amount of grant to which he <u>or she</u> is entitled shall be the same percentage of property taxes accrued as is the percentage of ownership held by the claimant in the residence.

1 (e) More than one residence. If a claimant has occupied 2 more than one residence in the taxable year, he or she may claim only one residence for any part of a month. In the 3 4 case of property taxes accrued, he or she shall prorate pro 5 rate 1/12 of the total property taxes accrued on his or her б residence to each month that he or she owned and occupied in the case of rent constituting 7 that residence; and, 8 property taxes accrued, shall prorate pro-rate each month's 9 rent payments to the residence actually occupied during that month. 10

11 (f) There is hereby established а program of pharmaceutical assistance to the aged and disabled which 12 shall be administered by the Department in accordance with 13 this Act, to consist of payments to authorized pharmacies, on 14 behalf of beneficiaries of the program, for the reasonable 15 16 costs of covered prescription drugs. Each beneficiary who for an identification card shall pay no additional 17 \$5 pavs prescription costs. Each beneficiary who pays \$25 for 18 an 19 identification card shall pay \$3 per prescription. In addition, after a beneficiary receives \$2,000 in benefits 20 21 during a State fiscal year, that beneficiary shall also be 22 charged 20% of the cost of each prescription for which 23 payments are made by the program during the remainder of the fiscal year. To become a beneficiary under this program a 24 25 person must be: (1) be (i) 65 years of age or older, or (ii) the surviving spouse of such a claimant, who at the time of 26 death received or was entitled to receive benefits pursuant 27 to this subsection, which surviving spouse will become 65 28 29 years of age within the 24 months immediately following the 30 death of such claimant and which surviving spouse but for his or her age is otherwise qualified to receive benefits 31 32 pursuant to this subsection, or (iii) disabled, and (2) be is domiciled in this State at the time he or she files his or 33 34 her claim, and (3) have has a maximum household income of

1 less than \$14,000 for grant years before the 1998 grant year, 2 less than \$16,000 for the 1998 and 1999 grant years, and less than (i) \$21,218 for a household containing one person, (ii) 3 4 \$28,480 for a household containing 2 persons, or (iii) 5 \$35,740 for a household containing 3 more persons for the б 2000 grant year and thereafter. In addition, each eligible person must (1) obtain an identification card from the 7 Department, (2) at the time the card is obtained, sign a 8 9 statement assigning to the State of Illinois benefits which may be otherwise claimed under any private insurance plans, 10 11 and (3) present the identification card to the dispensing 12 pharmacist.

Whenever a generic equivalent for a covered prescription 13 drug is available, the Department shall reimburse only for 14 the reasonable costs of the generic equivalent, less the 15 co-pay established in this Section, unless (i) the covered 16 prescription drug contains one or more ingredients defined as 17 a narrow therapeutic index drug at 21 CFR 320.33, (ii) the 18 19 prescriber indicates on the face of the prescription "brand medically necessary", and (iii) the prescriber specifies that 20 21 a substitution is not permitted. When issuing an oral prescription for covered prescription medication described in 22 23 item (i) of this paragraph, the prescriber shall stipulate "brand medically necessary" and that a substitution is not 24 25 permitted. If the covered prescription drug and its authorizing prescription do not meet the criteria listed 26 27 the beneficiary may purchase the non-generic above, equivalent of the covered prescription drug by paying the 28 29 difference between the generic cost and the non-generic cost 30 plus the beneficiary co-pay.

31 Any person otherwise eligible for pharmaceutical 32 assistance under this Act whose covered drugs are covered by 33 any public program for assistance in purchasing any covered 34 prescription drugs shall be ineligible for assistance under this Act to the extent such costs are covered by such other
 plan.

3 The fee to be charged by the Department for the 4 identification card shall be equal to \$5 per coverage year 5 for persons below the official poverty line as defined by the 6 United States Department of Health and Human Services and \$25 7 per coverage year for all other persons.

In the event that 2 or more persons are eligible for any 8 9 benefit under this Act, and are members of the same household, (1) each such person shall be entitled to 10 11 participate in the pharmaceutical assistance program, provided that he or she meets all other requirements imposed 12 by this subsection and (2) each participating household 13 member contributes the fee required for that person by the 14 15 preceding paragraph for the purpose of obtaining an 16 identification card.

17 (Source: P.A. 91-357, eff. 7-29-99; 91-699, eff. 1-1-01;
18 92-131, eff. 7-23-01; 92-519, eff. 1-1-02; revised 1-7-02.)

19 (320 ILCS 25/6) (from Ch. 67 1/2, par. 406)

20 Sec. 6. Administration.

In general. Upon receipt of a timely filed claim, 21 (a) the Department shall determine whether the claimant is a 22 person entitled to a grant under this Act and the amount of 23 24 grant to which he is entitled under this Act. The Department may require the claimant to furnish reasonable proof of the 25 statements of domicile, household income, rent paid, property 26 taxes accrued and other matters on which entitlement is 27 based, and may withhold payment of a grant until such 28 29 additional proof is furnished.

30 (b) Rental determination. If the Department finds that 31 the gross rent used in the computation by a claimant of rent 32 constituting property taxes accrued exceeds the fair rental 33 value for the right to occupy that residence, the Department may determine the fair rental value for that residence and
 recompute rent constituting property taxes accrued
 accordingly.

4 (c) Fraudulent claims. The Department shall deny claims 5 which have been fraudulently prepared or when it finds that 6 the claimant has acquired title to his residence or has paid 7 rent for his residence primarily for the purpose of receiving 8 a grant under this Act.

9 (d) Pharmaceutical Assistance. The Department shall allow all pharmacies licensed under the Pharmacy Practice Act 10 11 of 1987 to participate as authorized pharmacies unless they have been removed from that status for cause pursuant to the 12 terms of this Section. The Director of the Department may 13 into a written contract with any State agency, 14 enter 15 instrumentality or political subdivision, or fiscal а 16 intermediary for the purpose of making payments to authorized pharmacies for covered prescription drugs and coordinating 17 the program of pharmaceutical assistance established by this 18 19 Act with other programs that provide payment for covered 20 prescription drugs. Such agreement shall establish 21 procedures for properly contracting for pharmacy services, 22 validating reimbursement claims, validating compliance of 23 dispensing pharmacists with the contracts for participation required under this Section, validating the reasonable costs 24 25 of covered prescription drugs, and otherwise providing for the effective administration of this Act. 26

The Department shall promulgate rules and regulations to implement and administer the program of pharmaceutical assistance required by this Act, which shall include the following:

31 (1) Execution of contracts with pharmacies to
32 dispense covered prescription drugs. Such contracts shall
33 stipulate terms and conditions for authorized pharmacies
34 participation and the rights of the State to terminate

such participation for breach of such contract or for violation of this Act or related rules and regulations of the Department;

-548-

4 (2) Establishment of maximum limits on the size of
5 prescriptions, new or refilled, which shall be in amounts
6 sufficient for 34 days, except as otherwise specified by
7 rule for medical or utilization control reasons;

8 (3) Establishment of liens upon any and all causes 9 of action which accrue to a beneficiary as a result of 10 injuries for which covered prescription drugs are 11 directly or indirectly required and for which the 12 Director made payment or became liable for under this 13 Act;

14 (4) Charge or collection of payments from third 15 parties or private plans of assistance, or from other 16 programs of public assistance for any claim that is 17 properly chargeable under the assignment of benefits 18 executed by beneficiaries as a requirement of eligibility 19 for the pharmaceutical assistance identification card 20 under this Act;

(5) Inspection of appropriate records and audit of participating authorized pharmacies to ensure contract compliance, and to determine any fraudulent transactions or practices under this Act;

(6) Annual determination of the reasonable costs of
covered prescription drugs for which payments are made
under this Act, as provided in Section 3.16;

28 (7) Payment to pharmacies under this Act in
29 accordance with the State Prompt Payment Act.

30 The Department shall annually report to the Governor and 31 the General Assembly by March 1st of each year on the 32 administration of pharmaceutical assistance under this Act. 33 By the effective date of this Act the Department shall 34 determine the reasonable costs of covered prescription drugs

-549-

1 in accordance with Section 3.16 of this Act.

2 (Source: P.A. 91-357, eff. 7-29-99; revised 12-07-01.)

3 Section 66. The Abused and Neglected Child Reporting Act4 is amended by changing Section 7.9 as follows:

5 (325 ILCS 5/7.9) (from Ch. 23, par. 2057.9)

б Sec. 7.9. The Department shall prepare, print, and 7 distribute initial, preliminary, and final reporting forms to each Child Protective Service Unit. Initial written reports 8 9 from the reporting source shall contain the following information to the extent known at the time the report is 10 made: (1) the names and addresses of the child and his 11 parents or other persons responsible for his welfare; (1.5) 12 the name and address of the school that the child attends (or 13 14 the school that the child last attended, if the report is written during the summer when school is not in session), and 15 the name of the school district in which the school is 16 17 located, if applicable; (2) the child's age, sex, and race; (3) the nature and extent of the child's abuse or neglect, 18 19 including any evidence of prior injuries, abuse, or neglect 20 of the child or his siblings; (4) the names of the persons 21 apparently responsible for the abuse or neglect; (5) family composition, including names, ages, sexes, and races of other 22 23 children in the home; (6) the name of the person making the report, his occupation, and where he can be reached; (7) the 24 actions taken by the reporting source, including the taking 25 of photographs and x-rays, placing the child in temporary 26 27 protective custody, or notifying the medical examiner or coroner; and (8) and any other information the person making 28 the report believes might be helpful in the furtherance of 29 the purposes of this Act. 30

31 (Source: P.A. 92-295, eff. 1-1-02; revised 9-19-01.)

-550-

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Section 67. The Early Intervention Services System Act is amended by changing Sections 11 and 13 as follows:

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4

(325 ILCS 20/11) (from Ch. 23, par. 4161)

Sec. 11. Individualized Family Service Plans.

5 (a) Each eligible infant or toddler and that infant's or6 toddler's family shall receive:

7 (1) timely, comprehensive, multidisciplinary 8 assessment of the unique needs of each eligible infant 9 and toddler, and assessment of the concerns and 10 priorities of the families to appropriately assist them 11 in meeting their needs and identify services to meet 12 those needs; and

(2) a written Individualized Family Service Plan 13 14 developed by a multidisciplinary team which includes the 15 parent or guardian. The individualized family service plan shall be based on the multidisciplinary team's 16 17 assessment of the resources, priorities, and concerns of the family and its identification of the supports and 18 services necessary to enhance the family's capacity to 19 20 meet the developmental needs of the infant or toddler, 21 and shall include the identification of services appropriate to meet those needs, including the frequency, 22 intensity, and method of delivering services. During and 23 as part of the initial development of the individualized 24 family services plan, and any periodic reviews of the 25 the multidisciplinary team shall consult the lead 26 plan, agency's therapy guidelines and its designated experts, 27 28 if any, to help determine appropriate services and the frequency and intensity of those services. All services 29 in the individualized family services plan must be 30 justified by the multidisciplinary assessment of the 31 unique strengths and needs of the infant or toddler and 32 must be appropriate to meet those needs. At the periodic 33

1 2 reviews, the team shall determine whether modification or revision of the outcomes or services is necessary.

(b) The Individualized Family Service Plan shall be 3 4 evaluated once a year and the family shall be provided a review of the Plan at 6 month intervals or more often where 5 appropriate based on infant or toddler and family needs. The 6 7 lead agency shall create a quality review process regarding 8 Individualized Family Service Plan development and changes 9 thereto, to monitor and help assure that resources are being used to provide appropriate early intervention services. 10

11 (c) The evaluation and initial assessment and initial 12 Plan meeting must be held within 45 days after the initial 13 contact with the early intervention services system. With 14 parental consent, early intervention services may commence 15 before the completion of the comprehensive assessment and 16 development of the Plan.

(d) Parents must be informed that, at their discretion, 17 early intervention services shall be provided to each 18 19 eligible infant and toddler in the natural environment, which may include the home or other community settings. Parents 20 21 shall make the final decision to accept or decline early 22 intervention services. A decision to decline such services 23 shall not be a basis for administrative determination of parental fitness, or other findings or sanctions against the 24 parents. Parameters of the Plan shall be set forth in rules. 25

26 (e) The regional intake offices shall explain to each27 family, orally and in writing, all of the following:

(1) That the early intervention program will pay
for all early intervention services set forth in the
individualized family service plan that are not covered
or paid under the family's public or private insurance
plan or policy and not eligible for payment through any
other third party payor.

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(2) That services will not be delayed due to any

rules or restrictions under the family's insurance plan
 or policy.

3 (3) That the family may request, with appropriate 4 documentation supporting the request, a determination of 5 an exemption from private insurance use under Section 6 13.25.

7 (4) That responsibility for co-payments or
8 co-insurance under a family's private insurance plan or
9 policy will be transferred to the lead agency's central
10 billing office.

11 (5) That families will be responsible for payments of family fees, which will be based on a sliding scale 12 according to income, and that these fees are payable to 13 the central billing office, and that if the family 14 15 encounters a catastrophic circumstance, as defined under 16 subsection (f) of Section 13 of this Act, making it unable to pay the fees, the lead agency may, upon proof 17 of inability to pay, waive the fees. 18

19 (f) The individualized family service plan must state 20 whether the family has private insurance coverage and, if the 21 family has such coverage, must have attached to it a copy of 22 the family's insurance identification card or otherwise 23 include all of the following information:

24 (1) The name, address, and telephone number of the25 insurance carrier.

26 (2) The contract number and policy number of the27 insurance plan.

(3) The name, address, and social security numberof the primary insured.

30 (4) The beginning date of the insurance benefit31 year.

32 (g) A copy of the individualized family service plan 33 must be provided to each enrolled provider who is providing 34 early intervention services to the child who is the subject

-553-

1 of that plan.
2 (Source: P.A. 91-538, eff. 8-13-99; 92-10, eff. 6-11-01;
3 92-307, eff. 8-9-01; revised 10-15-01.)

4 (325 ILCS 20/13) (from Ch. 23, par. 4163)

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Sec. 13. Funding and Fiscal Responsibility.

6 (a) The lead agency and every other participating State 7 agency may receive and expend funds appropriated by the 8 General Assembly to implement the early intervention services 9 system as required by this Act.

10 (b) The lead agency and each participating State agency 11 shall identify and report on an annual basis to the Council 12 the State agency funds utilized for the provision of early 13 intervention services to eligible infants and toddlers.

Funds provided under Section 633 of the Individuals 14 (C) 15 with Disabilities Education Act (20 United States Code 1433) and State funds designated or appropriated for early 16 17 intervention services or programs may not be used to satisfy a financial commitment for services which would have been 18 paid for from another public or private source but for the 19 20 enactment of this Act, except whenever considered necessary 21 to prevent delay in receiving appropriate early intervention 22 services by the eligible infant or toddler or family in a "Public or private source" includes public 23 timely manner. 24 and private insurance coverage.

Funds provided under Section 633 of the Individuals with 25 Disabilities Education Act and State funds designated or 26 appropriated for early intervention services or programs may 27 28 be used by the lead agency to pay the provider of services (A) pending reimbursement from the appropriate State agency 29 or (B) if (i) the claim for payment is denied in whole or in 30 part by a public or private source, or would be denied under 31 the written terms of the public program or plan or private 32 plan, or (ii) use of private insurance for the service has 33

been exempted under Section 13.25. Payment under item (B)(i) may be made based on a pre-determination telephone inquiry supported by written documentation of the denial supplied thereafter by the insurance carrier.

5 (d) Nothing in this Act shall be construed to permit the 6 State to reduce medical or other assistance available or to 7 alter eligibility under Title V and Title XIX of the Social 8 Security Act relating to the Maternal Child Health Program 9 and Medicaid for eligible infants and toddlers in this State.

(e) The lead agency shall create a central billing 10 11 office to receive and dispense all relevant State and federal resources, as well as local government or independent 12 resources available, for early intervention services. This 13 office shall assure that maximum federal resources are 14 15 utilized and that providers receive funds with minimal 16 duplications or interagency reporting and with consolidated 17 audit procedures.

The lead agency shall, by rule, create a system of 18 (f) payments by families, including a schedule of fees. No fees, 19 however, may be charged for: implementing child find, 20 21 evaluation and assessment, service coordination, 22 administrative and coordination activities related to the 23 development, review, and evaluation of Individualized Family Service Plans, or the implementation of procedural safeguards 24 25 and other administrative components of the statewide early intervention system. 26

The system of payments, called family fees, shall be structured on a sliding scale based on family income. The family's coverage or lack of coverage under a public or private insurance plan or policy shall not be a factor in determining the amount of the family fees.

32 Each family's fee obligation shall be established 33 annually, and shall be paid by families to the central 34 billing office in installments. At the written request of the

-554-

1 family, the fee obligation shall be adjusted prospectively at 2 any point during the year upon proof of a change in family income or family size. The inability of the parents of an 3 4 eligible child to pay family fees due to catastrophic circumstances or extraordinary expenses shall not result in 5 б the denial of services to the child or the child's family. A 7 family must document its extraordinary expenses or other 8 catastrophic circumstances by showing one of the following: 9 (i) out-of-pocket medical expenses in excess of 15% of gross income; (ii) a fire, flood, or other disaster causing a 10 11 direct out-of-pocket loss in excess of 15% of gross income; other catastrophic circumstances causing 12 (iii) or out-of-pocket losses in excess of 15% of gross income. 13 The family must present proof of loss to its service coordinator, 14 who shall document it, and the lead agency shall determine 15 16 whether the fees shall be reduced, forgiven, or suspended within 10 business days after the family's request. 17

To ensure that early intervention funds are used as 18 (q) the payor of last resort for early intervention services, the 19 lead agency shall determine at 20 the point of early 21 intervention intake, and again at any periodic review of 22 eligibility thereafter or upon а change in family 23 circumstances, whether the family is eligible for or enrolled in any program for which payment is made directly or through 24 25 public or private insurance for any or all of the early intervention services made available under this Act. The lead 26 agency shall establish procedures to ensure that payments are 27 made either directly from these public and private sources 28 29 instead of from State or federal early intervention funds, or 30 as reimbursement for payments previously made from State or federal early intervention funds. 31

32 (Source: P.A. 91-538, eff. 8-13-99; 92-10, eff. 6-11-01; 33 92-307, eff. 8-9-01; revised 10-15-01.)

-556-

Section 68. The Mental Health and Developmental
 Disabilities Code is amended by changing Sections 2-108 and
 3-601 as follows:

(405 ILCS 5/2-108) (from Ch. 91 1/2, par. 2-108) 4 5 Sec. 2-108. Use of restraint. Restraint may be used only as a therapeutic measure to prevent a recipient from 6 causing physical harm to himself or physical abuse to others. 7 8 Restraint may only be applied by a person who has been in the application of the particular type 9 trained of 10 restraint to be utilized. In no event shall restraint be utilized to punish or discipline a recipient, nor is 11 restraint to be used as a convenience for the staff. 12

(a) Except as provided in this Section, restraint shall 13 14 be employed only upon the written order of a physician, 15 clinical psychologist, clinical social worker, or registered nurse with supervisory responsibilities. No restraint shall 16 17 be ordered unless the physician, clinical psychologist, clinical social worker, or registered nurse with supervisory 18 responsibilities, after personally observing and examining 19 20 the recipient, is clinically satisfied that the use of 21 restraint is justified to prevent the recipient from causing 22 physical harm to himself or others. In no event may restraint continue for longer than 2 hours unless within that time 23 24 period a nurse with supervisory responsibilities or a physician confirms, in writing, following a personal 25 examination of the recipient, that the restraint does not 26 pose an undue risk to the recipient's health in light of the 27 recipient's physical or medical condition. The order shall 28 29 state the events leading up to the need for restraint and the purposes for which restraint is employed. The order shall 30 31 also state the length of time restraint is to be employed and the clinical justification for that length of time. No order 32 for restraint shall be valid for more than 16 hours. 33 Ιf

further restraint is required, a new order must be issued
 pursuant to the requirements provided in this Section.

(b) In the event there is an emergency requiring the 3 4 immediate use of restraint, it may be ordered temporarily by a qualified person only where 5 a physician, clinical psychologist, clinical social worker, or registered nurse 6 7 with supervisory responsibilities is not immediately 8 available. In that event, an order by a nurse, clinical 9 psychologist, clinical social worker, or physician shall be obtained pursuant to the requirements of this Section as 10 11 quickly as possible, and the recipient shall be examined by a physician or supervisory nurse within 2 hours after the 12 initial employment of the emergency restraint. Whoever orders 13 in emergency situations shall document its 14 restraint 15 necessity and place that documentation in the recipient's 16 record.

17 (c) The person who orders restraint shall inform the 18 facility director or his designee in writing of the use of 19 restraint within 24 hours.

(d) The facility director shall review all restraint
orders daily and shall inquire into the reasons for the
orders for restraint by any person who routinely orders them.

(e) Restraint may be employed during all or part of one 24 24 hour period, the period commencing with the initial 25 application of the restraint. However, once restraint has 26 been employed during one 24 hour period, it shall not be used 27 again on the same recipient during the next 48 hours without 28 the prior written authorization of the facility director.

(f) Restraint shall be employed in a humane and therapeutic manner and the person being restrained shall be observed by a qualified person as often as is clinically appropriate but in no event less than once every 15 minutes. The qualified person shall maintain a record of the observations. Specifically, unless there is an immediate 1 danger that the recipient will physically harm himself or 2 others, restraint shall be loosely applied to permit freedom 3 of movement. Further, the recipient shall be permitted to 4 have regular meals and toilet privileges free from the 5 restraint, except when freedom of action may result in 6 physical harm to the recipient or others.

7 (g) Every facility that employs restraint shall provide training in the safe and humane application of each type of 8 restraint employed. The facility shall not authorize the use 9 of any type of restraint by an employee who has not received 10 11 training in the safe and humane application of that type of restraint. Each facility in which restraint is used shall 12 maintain records detailing which employees have been trained 13 and are authorized to apply restraint, the date of the 14 15 training and the type of restraint that the employee was 16 trained to use.

17 (h) Whenever restraint is imposed upon any recipient 18 whose primary mode of communication is sign language, the 19 recipient shall be permitted to have his hands free from 20 restraint for brief periods each <u>hour</u> hours, except when 21 freedom may result in physical harm to the recipient or 22 others.

23 A recipient who is restrained may only be secluded (i) 24 the same time pursuant to an explicit written at 25 authorization as provided in Section 2-109 of this Code. Whenever a recipient is restrained, a member of the facility 26 staff shall remain with the recipient at all times unless the 27 recipient has been secluded. A recipient who is restrained 28 29 and secluded shall be observed by a qualified person as often 30 as is clinically appropriate but in no event less than every 15 minutes. 31

32 (j) Whenever restraint is used, the recipient shall be 33 advised of his right, pursuant to Sections 2-200 and 2-201 of 34 this Code, to have any person of his choosing, including the

Guardianship and Advocacy Commission or the agency designated 1 2 pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act notified of the restraint. A recipient 3 4 who is under guardianship may request that any person of his 5 choosing be notified of the restraint whether or not the 6 guardian approves of the notice. Whenever the Guardianship 7 and Advocacy Commission is notified that a recipient has been restrained, it shall contact that recipient to determine the 8 9 circumstances of the restraint and whether further action is 10 warranted.

11 (Source: P.A. 87-124; 87-530; 87-895; 88-380; revised
12 12-07-01.)

13 (405 ILCS 5/3-601) (from Ch. 91 1/2, par. 3-601)

14 Sec. 3-601. Involuntary admission; petition.

15 (a) When a person is asserted to be subject to involuntary admission and in such a condition that immediate 16 17 hospitalization is necessary for the protection of such person or others from physical harm, any person 18 years of 18 age or older may present a petition to the facility director 19 20 of a mental health facility in the county where the 21 respondent resides or is present. The petition may be 22 prepared by the facility director of the facility.

23

(b) The petition shall include all of the following:

1. A detailed statement of the reason for the assertion that the respondent is subject to involuntary admission, including the signs and symptoms of a mental illness and a description of any acts, threats, or other behavior or pattern <u>of</u> or behavior supporting the assertion and the time and place of their occurrence.

30 2. The name and address of the spouse, parent,
31 guardian, substitute decision maker, if any, and close
32 relative, or if none, the name and address of any known
33 friend of the respondent whom the petitioner has reason

1 to believe may know or have any of the other names and 2 addresses. If the petitioner is unable to supply any 3 such names and addresses, the petitioner shall state that 4 diligent inquiry was made to learn this information and 5 specify the steps taken.

3. The petitioner's relationship to the respondent 6 7 and a statement as to whether the petitioner has legal or 8 financial interest in the matter or is involved in 9 litigation with the respondent. If the petitioner has a legal or financial interest in the matter or is involved 10 11 in litigation with the respondent, a statement of why the petitioner believes it would not be practicable or 12 possible for someone else to be the petitioner. 13

14 4. The names, addresses and phone numbers of the15 witnesses by which the facts asserted may be proved.

16 (c) Knowingly making a material false statement in the 17 petition is a Class A misdemeanor.

18 (Source: P.A. 91-726, eff. 6-2-00; revised 12-04-01.)

Section 69. The Medical Patient Rights Act is amended by changing Section 4 as follows:

21 (410 ILCS 50/4) (from Ch. 111 1/2, par. 5404)

Violations. Any physician or health care 22 4. Sec. 23 provider that violates a patient's rights as set forth in 24 subparagraph (b) (a) of Section 3 is guilty of a petty offense and shall be fined \$500. Any insurance company 25 or health service corporation that violates a patient's rights 26 as set forth in subparagraph (c) (b) of Section 3 is guilty 27 28 of a petty offense and shall be fined \$1,000. Any physician, provider, health services corporation or 29 health care 30 insurance company that violates a patient's rights as set forth in subsection (d) (e) of Section 3 is guilty of a petty 31 offense and shall be fined \$1,000. 32

-561-

1 (Source: P.A. 86-902; revised 1-25-02.)

Section 70. The Illinois Clean Indoor Air Act is amendedby changing Section 3 as follows:

4 (410 ILCS 80/3) (from Ch. 111 1/2, par. 8203)

5 Sec. 3. For the purposes of this Act, the following 6 terms have the meanings ascribed to them in this Section 7 unless different meanings are plainly indicated by the 8 context:

9

(a) "Department" means the Department of Public Health.

10 (b) "Proprietor" means any individual or his designated 11 agent who by virtue of his office, position, authority, or 12 duties has legal or administrative responsibility for the use 13 or operation of property.

(c) "Public Place" means any enclosed indoor area used 14 by the public or serving as a place of work including, but 15 limited to, hospitals, restaurants, retail stores, 16 not 17 offices, commercial establishments, elevators, indoor theaters, libraries, art museums, concert halls, public 18 19 conveyances, educational facilities, nursing homes, 20 auditoriums, arenas, and meeting rooms, but excluding bowling 21 establishments and excluding places whose primary business is the sale of alcoholic beverages for consumption on the 22 premises and excluding rooms rented for the purpose of living 23 quarters or sleeping or housekeeping accommodations from a 24 hotel, as defined in the Hotel Operators' Occupation Tax Act, 25 and private, enclosed offices occupied exclusively by 26 27 smokers, even though such offices may be visited by 28 nonsmokers.

(d) "Smoking" means the act of inhaling the smoke from
or possessing a lighted cigarette, cigar, pipe, or any other
form of tobacco or similar substance used for smoking.

32 (e) "State agency" has the meaning <u>formerly</u> ascribed to

-562-

1 it in subsection (a) of Section 3 of the Illinois Purchasing 2 Act (now repealed). (f) "Unit of local government" has the meaning ascribed 3 4 it in Section 1 of Article VII of the Illinois to 5 Constitution of 1970. (Source: P.A. 86-1018; revised 1-25-02.) б 7 Section 71. The Environmental Protection Act is amended 8 by changing Sections 15, 19.1, and 57.7 as follows: (415 ILCS 5/15) (from Ch. 111 1/2, par. 1015) 9 Sec. 15. Plans and specifications; demonstration of 10 11 capability. (a) Owners of public water supplies, their authorized 12 13 representative, or legal custodians, shall submit plans and 14 specifications to the Agency and obtain written approval before construction of any proposed public water supply 15 16 installations, changes, or additions is started. Plans and 17 specifications shall be complete and of sufficient detail to show all proposed construction, changes, or additions that 18 19 may affect sanitary quality, mineral quality, or adequacy of 20 the public water supply; and, where necessary, said plans and

21 specifications shall be accompanied by supplemental data as 22 may be required by the Agency to permit a complete review 23 thereof.

(b) All new public water supplies established after 24 October 1, 1999 shall demonstrate technical, financial, and 25 managerial capacity as a condition for issuance of 26 а 27 construction or operation permit by the Agency or its 28 designee. The demonstration shall be consistent with the technical, financial, and managerial provisions of 29 the 30 federal Safe Drinking Water Act (P.L. <u>93-523</u> 93-532), as now or hereafter amended. The Agency is authorized to adopt 31 rules in accordance with the Illinois Administrative 32

13

-563-

1 Procedure Act to implement the purposes of this subsection. 2 Such rules must take into account the need for the facility, facility size, sophistication of treatment of the water 3 4 supply, and financial requirements needed for operation of 5 the facility. (Source: P.A. 90-773, eff. 8-14-98; revised 12-07-01.) б 7 (415 ILCS 5/19.1) (from Ch. 111 1/2, par. 1019.1) 8 Sec. 19.1. Legislative findings. The General Assembly finds: 9 10 (a) that local government units require assistance in financing the construction of wastewater treatment works in 11 order to comply with the State's program of environmental 12

(b) that the federal Water Quality Act of 1987 provides an important source of grant awards to the State for providing assistance to local government units through the Water Pollution Control Loan Program;

protection and federally mandated requirements;

18 (c) that local government units and privately owned 19 community water supplies require assistance in financing the 20 construction of their public water supplies to comply with 21 State and federal drinking water laws and regulations;

(d) that the federal Safe Drinking Water Act ("SDWA"),
P.L. <u>93-523</u> 93-532, as now or hereafter amended, provides an
important source of capitalization grant awards to the State
to provide assistance to local government units and privately
owned community water supplies through the Public Water
Supply Loan Program;

(e) that violations of State and federal drinking water
standards threaten the public interest, safety, and welfare,
which demands that the Illinois Environmental Protection
Agency expeditiously adopt emergency rules to administer the
Public Water Supply Loan Program; and

33 (f) that the General Assembly agrees with the

1 conclusions and recommendations of the "Report to the 2 Illinois General Assembly on the Issue of Expanding Public Water Supply Loan Eligibility to Privately Owned Community 3 4 Water Supplies", dated August 1998, including the stated 5 access to the Public Water Supply Loan Program by the 6 privately owned public water supplies so that the long term 7 integrity and viability of the corpus of the Fund will be 8 assured.

9 (Source: P.A. 90-121, eff. 7-17-97; 91-52, eff. 6-30-99; 10 91-501, eff. 8-13-99; revised 12-07-01.)

11 (415 ILCS 5/57.7)

Sec. 57.7. Leaking underground storage tanks; physical soil classification, groundwater investigation, site classification, and corrective action.

15 (a) Physical soil classification and groundwater 16 investigation.

(1) Prior to conducting any physical soil classification and groundwater investigation activities required by statute or regulation, the owner or operator shall prepare and submit to the Agency for the Agency's approval or modification:

(A) a physical soil classification and
groundwater investigation plan designed to
determine site classification, in accordance
with subsection (b) of this Section, as High
Priority, Low Priority, or No Further Action.

(B) a request for payment of costs
associated with eligible early action costs as
provided in Section 57.6(b). However, for
purposes of payment for early action costs,
fill materials shall not be removed in an
amount in excess of 4 feet from the outside
dimensions of the tank.

1 (2) If the owner or operator intends to seek 2 payment from the Fund, prior to conducting any physical soil classification and 3 groundwater investigation 4 activities required by statute or regulation, the owner or operator shall submit to the Agency for the Agency's 5 approval or modification a physical soil classification 6 7 and groundwater investigation budget which includes, but is not limited to, an accounting of all costs associated 8 9 with the implementation and completion of the physical soil classification and groundwater investigation plan. 10

11 (3) Within 30 days of completion of the physical 12 soil classification or groundwater investigation report 13 the owner or operator shall submit to the Agency:

14 (A) all physical soil classification and15 groundwater investigation results; and

(B) a certification by a Licensed Professional
Engineer of the site's classification as High
Priority, Low Priority, or No Further Action in
accordance with subsection (b) of this Section as
High Priority, Low Priority, or No Further Action.
(b) Site Classification.

22 (1) After evaluation of the physical soil 23 classification and groundwater investigation results, when required, and general site information, the site 24 25 shall be classified as "No Further Action", "Low Priority", or "High Priority" based on the requirements 26 of this Section. Site classification shall be determined 27 by a Licensed Professional Engineer in accordance with 28 29 the requirements of this Title and the Licensed 30 Professional Engineer shall submit a certification to the Agency of the site classification. The Agency has the 31 authority to audit site classifications and reject or 32 modify any site classification inconsistent with the 33 requirements of this Title. 34

-566-

(2) Sites shall be classified as No Further Action
 if the criteria in subparagraph (A) are satisfied:

3 (A)(i) The site is located in an area
4 designated D, E, F and G on the Illinois Geological
5 Survey Circular (1984) titled "Potential for
6 Contamination of Shallow Aquifers in Illinois," by
7 Berg, Richard C., et al.;

(ii) A site evaluation under the direction of 8 9 a Licensed Professional Engineer verifies the soil classification conditions 10 physical are 11 consistent with those indicated on the Illinois Geological Survey Circular (1984) titled "Potential 12 for Contamination of Shallow Aquifers in Illinois," 13 by Berg, Richard C., et al.; and 14

15 (iii) The conditions identified in subsections
16 (b) (3)(B), (C), (D), and (E) do not exist.

(B) Groundwater investigation monitoring may
be required to confirm that a site meets the
criteria of a No Further Action site. The Board
shall adopt rules setting forth the criteria under
which the Agency may exercise its discretionary
authority to require investigations and the minimum
field requirements for conducting investigations.

24 (3) Sites shall be classified as High Priority if25 any of the following are met:

(A) The site is located in an area designated 26 A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4, 27 or C5 on the Illinois Geological Survey Circular 28 (1984) titled "Potential for Contamination 29 of 30 Shallow Aquifers in Illinois," by Berg, Richard C., et al.; a site evaluation under the direction of a 31 Licensed Professional Engineer verifies the physical 32 soil classifications conditions are consistent with 33 those indicated on the Illinois Geological Survey 34

1 Circular (1984) entitled "Potential for 2 Contamination of Shallow Aquifers in Illinois, " by Berg, Richard C., et al.; and the results of the 3 4 physical soil classification and groundwater investigation indicate that an applicable indicator 5 contaminant groundwater quality standard 6 or 7 groundwater objective has been exceeded at the 8 property boundary line or 200 feet from the 9 excavation, whichever is less as a consequence of the underground storage tank release. 10

11 (B) The underground storage tank is within the 12 minimum or maximum setback zone of a potable water 13 supply well or regulated recharge area of a potable 14 water supply well.

15 (C) There is evidence that, through natural or 16 manmade pathways, migration of petroleum or vapors 17 threaten human health or human safety or may cause 18 explosions in basements, crawl spaces, utility 19 conduits, storm or sanitary sewers, vaults or other 20 confined spaces.

(D) Class III special resource groundwater
 exists within 200 feet of the excavation.

(E) A surface water body is adversely affected
by the presence of a visible sheen or free product
layer as the result of an underground storage tank
release.

27 (4) Sites shall be classified as Low Priority if28 all of the following are met:

29 (A) The site does not meet any of the criteria
30 for classification as a High Priority Site.

31 (B) (i) The site is located in area designated
32 A1, A2, A3, A4, A5, AX, B1, B2, BX, C1, C2, C3, C4,
33 C5 on the Illinois Geological Survey Circular (1984)
34 entitled "Potential for Contamination of Shallow

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Aquifers in Illinois," by Berg, Richard C., et al.;
 and
 (ii) a site evaluation under the direction of

a Licensed Professional Engineer verifies the physical soil classification conditions are consistent with those indicated on the Illinois Geological Survey Circular (1984) titled "Potential for Contamination of Shallow Aquifers in Illinois," by Berg, Richard C., et al.; and

(iii) the results of the physical 10 soil 11 classification and groundwater investigation do not 12 indicate an applicable indicator contaminant groundwater quality standard or 13 groundwater objective has been exceeded at the property boundary 14 line or 200 feet from the underground storage tank, 15 16 whichever is less.

(5) In the event the results of the physical soil 17 classification and any required groundwater investigation 18 reveal that the actual site geologic characteristics are 19 different than those indicated by the Illinois Geological 20 21 Survey Circular (1984) titled "Potential for Contamination of Shallow Aquifers in Illinois" by Berg, 22 23 Richard C., et al., classification of the site shall be using 24 determined the actual site geologic 25 characteristics.

26 (6) For purposes of physical soil classification,
27 the Board is authorized to prescribe by regulation
28 alternatives to use of the Illinois Geological Survey
29 Circular (1984) titled "Potential for Contamination of
30 Shallow Aquifers in Illinois" by Berg, Richard C., et al.
31 (c) Corrective Action.

32

(1) High Priority Site.

33 (A) Prior to performance of any corrective34 action, beyond that required by Section 57.6 and

1 subsection (a) of Section 57.7 of this Act, the 2 owner or operator shall prepare and submit to the 3 Agency for the Agency's approval or modification a 4 corrective action plan designed to mitigate any 5 threat to human health, human safety or the 6 environment resulting from the underground storage 7 tank release.

8 (B) If the owner or operator intends to seek 9 payment from the Fund, prior to performance of any corrective action beyond that required by Section 10 11 57.6 and subsection (a) of Section 57.7, the owner or operator shall submit to the Agency for the 12 Agency's approval or modification a corrective 13 action plan budget which includes, but is not 14 limited to, an accounting of all costs associated 15 16 with the implementation and completion of the corrective action plan. 17

18 (C) The corrective action plan shall do all of19 the following:

(i) Provide that applicable indicator 20 21 contaminant groundwater quality standards or 22 groundwater objectives will not be exceeded in 23 groundwater at the property boundary line or 200 feet from the excavation, whichever is 24 25 less, or other level if approved by the Agency, for any contaminant identified 26 in the groundwater investigation after 27 complete performance of the corrective action plan. 28

(ii) Provide that Class III special
resource groundwater quality standards for
Class III special resource groundwater within
200 feet of the excavation will not be exceeded
as a result of the underground storage tank
release for any indicator contaminant

1identified in the groundwater investigation2after complete performance of the corrective3action plan.

4 (iii) Remediate threats due to the presence or migration, through natural or 5 manmade pathways, of petroleum 6 in 7 concentrations sufficient to harm human health 8 or human safety or to cause explosions in basements, crawl spaces, utility conduits, 9 storm or sanitary sewers, vaults or other 10 11 confined spaces.

12 (iv) Remediate threats to a potable water13 supply.

14 (v) Remediate threats to a surface water15 body.

16 (D) Within 30 days of completion of the corrective action, the owner or operator shall 17 submit to the Agency such a completion report that 18 19 includes a description of the corrective action plan and a description of the corrective action work 20 21 performed and all analytical or sampling results derived from performance of the corrective action 22 23 plan.

(E) The Agency shall issue to the owner or
operator a no further remediation letter in
accordance with Section 57.10 if all of the
following are met:

(i) The corrective action completion
report demonstrates that: (a) applicable
indicator contaminant groundwater quality
standards or groundwater objectives are not
exceeded at the property boundary line or 200
feet from the excavation, whichever is less, as
a result of the underground storage tank

1 release for any indicator contaminant 2 identified in the groundwater investigation; (b) Class III special use resource groundwater 3 4 quality standards, for Class III special use 5 resource groundwater within 200 feet of the underground storage tank, are not exceeded as a 6 7 result of the underground storage tank release for any contaminant identified 8 in the 9 groundwater investigation; (c) the underground storage tank release does not threaten human 10 11 health or human safety due to the presence or migration, through natural or manmade pathways, 12 petroleum or hazardous substances in 13 of concentrations sufficient to harm human health 14 15 or human safety or to cause explosions in 16 basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other 17 confined spaces; (d) the underground storage 18 19 tank release does not threaten any surface water body; and (e) the underground storage 20 21 tank release does not threaten any potable 22 water supply.

23 (ii) The owner or operator submits to the Agency a certification from a Licensed 24 25 Professional Engineer that the work described in the approved corrective action plan has been 26 completed and that the information presented in 27 the corrective action completion report is 28 accurate and complete. 29 30

(2) Low Priority Site.

34

(A) Corrective action at a low priority site 31 must include groundwater monitoring consistent with 32 part (B) of this paragraph (2). 33

(B) Prior to implementation of groundwater

-572-

1 monitoring, the owner or operator shall prepare and 2 submit to the Agency a groundwater monitoring plan 3 and, if the owner or operator intends to seek 4 payment under this Title, an associated budget which 5 includes, at a minimum, all of the following:

6 (i) Placement of groundwater monitoring 7 wells at the property line, or at 200 feet from 8 the excavation which ever is closer, designed 9 to provide the greatest likelihood of detecting 10 migration of groundwater contamination.

(ii) Quarterly groundwater sampling for a period of one year, semi-annual sampling for the second year and annual groundwater sampling for one subsequent year for all indicator contaminants identified during the groundwater investigation.

17 (iii) The annual submittal to the Agency18 of a summary of groundwater sampling results.

19 (C) If at any time groundwater sampling indicate a confirmed exceedence 20 results of 21 applicable indicator contaminant groundwater quality 22 standards or groundwater objectives as a result of the underground storage tank release, the site may 23 be reclassified as a High Priority Site by the 24 25 Agency at any time before the Agency's final approval of a Low Priority groundwater monitoring 26 completion report. Agency review and approval shall 27 be in accordance with paragraph (4) of subsection 28 (c) of this Section. If the owner or operator elects 29 30 to appeal an Agency action to disapprove, modify, or 31 reject by operation of law a Low Priority groundwater monitoring completion report, the Agency 32 shall indicate to the Board in conjunction with such 33 appeal whether it intends to reclassify the site as 34

High Priority. If a site is reclassified as a High Priority Site, the owner or operator shall submit a corrective action plan and budget to the Agency within 120 days of the confirmed exceedence and shall initiate compliance with all corrective action requirements for a High Priority Site.

7 (D) If, throughout the implementation of the 8 groundwater monitoring plan, the groundwater 9 sampling results do not confirm an exceedence of applicable indicator contaminant groundwater quality 10 11 standards or groundwater objectives as a result of the underground storage tank release, the owner or 12 operator shall submit to the Agency a certification 13 of a Licensed Professional Engineer so stating. 14

15 (E) Unless the Agency takes action under 16 subsection (b)(2)(C) to reclassify a site as high priority, upon receipt of a certification by a 17 Licensed Professional Engineer submitted pursuant to 18 paragraph (2) of subsection (c) of this Section, the 19 20 Agency shall issue to the owner or operator a no further remediation letter in accordance with 21 Section 57.10. 22

23

(3) No Further Action Site.

(A) No Further Action sites require no
remediation beyond that required in Section 57.6 and
subsection (a) of this Section if the owner or
operator has submitted to the Agency a certification
by a Licensed Professional Engineer that the site
meets all of the criteria for classification as No
Further Action in subsection (b) of this Section.

31 (B) Unless the Agency takes action to reject
32 or modify a site classification under subsection (b)
33 of this Section or the site classification is
34 rejected by operation of law under item (4)(B) of

subsection (c) of this Section, upon receipt of a certification by a Licensed Professional Engineer submitted pursuant to part (A) of paragraph (3) of subsection (c) of this Section, the Agency shall issue to the owner or operator a no further remediation letter in accordance with Section 57.10. (4) Agency review and approval.

(A) Agency approval of any plan and associated 8 9 budget, as described in this item (4), shall be considered final approval for purposes of seeking 10 11 and obtaining payment from the Underground Storage Fund if the costs associated with the 12 Tank completion of any such plan are less than or equal 13 to the amounts approved in such budget. 14

15 (B) In the event the Agency fails to approve, 16 disapprove, or modify any plan or report submitted pursuant to this Title in writing within 120 days of 17 the receipt by the Agency, the plan or report shall 18 be considered to be rejected by operation of law for 19 purposes of this Title and rejected for purposes of 20 21 payment from the Leaking Underground Storage Tank 22 Fund.

(i) For purposes of those 23 plans as in subparagraph (E) of this 24 identified 25 subsection (c)(4), the Agency's review may be an audit procedure. Such review or audit shall 26 be consistent with the procedure for such 27 review or audit as promulgated by the Board 28 29 under item (7) of subsection (b) of Section 30 57.14. The Agency has the authority to establish an auditing program to verify 31 compliance of such plans with the provisions of 32 this Title. 33

34 (ii) For purposes of those plans

1 submitted pursuant to Part (E) (iii) of this 2 paragraph (4) for which payment from the Fund is not being sought, the Agency need not take 3 4 action on such plan until 120 days after it receives the corrective action completion 5 report required under Section 57(c)(1)(D). In 6 7 the event the Agency approved the plan, it shall proceed under the provisions of Section 8 9 57(c)(4).

(C) In approving any plan submitted pursuant 10 11 to Part (E) of this paragraph (4), the Agency shall determine, by a procedure promulgated by the Board 12 under item (7) of subsection (b) of Section 57.14, 13 that the costs associated with the 14 plan are 15 reasonable, will be incurred in the performance of 16 corrective action, and will not be used for corrective action activities in excess of those 17 required to meet the minimum requirements of this 18 title. 19

(D) For any plan or report received after the 20 21 effective date of this amendatory Act of 1993, any 22 action by the Agency to disapprove or modify a plan submitted pursuant to this Title shall be provided 23 to the owner or operator in writing within 120 days 24 25 of the receipt by the Agency or, in the case of a corrective action plan for which payment is not 26 being sought, within 120 days of receipt of the 27 corrective action completion report, and shall be 28 29 accompanied by:

30 (i) an explanation of the Sections of
31 this Act which may be violated if the plans
32 were approved;

33 (ii) an explanation of the provisions of34 the regulations, promulgated under this Act,

-576-

which may be violated if the plan were
 approved;

3 (iii) an explanation of the specific type
4 of information, if any, which the Agency deems
5 the applicant did not provide the Agency; and

6 (iv) a statement of specific reasons why 7 the Act and the regulations might not be met if 8 the plan were approved.

9 Any action by the Agency to disapprove or modify a plan or report or the rejection of any plan 10 11 or report by operation of law shall be subject to appeal to the Board in accordance with the 12 procedures of Section 40. If the owner or operator 13 elects to incorporate modifications required by the 14 Agency rather than appeal, an amended plan shall be 15 16 submitted to the Agency within 35 days of receipt of the Agency's written notification. 17

18 (E) For purposes of this Title, the term19 "plan" shall include:

20 (i) Any physical soil classification and
21 groundwater investigation plan submitted
22 pursuant to item (1)(A) of subsection (a) of
23 this Section, or budget under item (2) of
24 subsection (a) of this Section;

25 (ii) Any groundwater monitoring plan or
26 budget submitted pursuant to subsection
27 (c)(2)(B) of this Section;

28 (iii) Any corrective action plan
29 submitted pursuant to subsection (c)(1)(A) of
30 this Section; or

31 (iv) Any corrective action plan budget
32 submitted pursuant to subsection (c)(1)(B) of
33 this Section.

34 (d) For purposes of this Title, the term "indicator

1 contaminant" shall mean, unless and until the Board 2 promulgates regulations to the contrary, the following: (i) if an underground storage tank contains gasoline, the 3 4 indicator parameter shall be BTEX and Benzene; (ii) if the 5 tank contained petroleum products consisting of middle б distillate or heavy ends, then the indicator parameter shall 7 be determined by a scan of PNA's taken from the location where contamination is most likely to be present; and (iii) 8 9 if the tank contained used oil, then the indicator contaminant shall be those chemical constituents which 10 11 indicate the type of petroleum stored in an underground storage tank. All references in this Title to groundwater 12 objectives shall mean Class I groundwater standards or 13 objectives as applicable. 14

(e) (1) Notwithstanding the provisions of this Section, 15 16 an owner or operator may proceed to conduct physical soil 17 classification, groundwater investigation, site classification or other corrective action prior to the 18 19 submittal or approval of an otherwise required plan. If 20 the owner or operator elects to so proceed, an applicable 21 plan shall be filed with the Agency at any time. Such plan shall detail the steps taken to determine the type 22 23 of corrective action which was necessary at the site along with the corrective action taken or to be taken, in 24 25 addition to costs associated with activities to date and anticipated costs. 26

27 (2) Upon receipt of a plan submitted after activities have commenced at a site, the Agency shall 28 29 proceed to review in the same manner as required under 30 this Title. In the event the Agency disapproves all or part of the costs, the owner or operator may appeal such 31 decision to the Board. The owner or operator shall not 32 33 be eligible to be reimbursed for such disapproved costs 34 unless and until the Board determines that such costs

-578-

1 were eligible for payment.
2 (Source: P.A. 88-496; 88-668, eff. 9-16-94; 89-428, eff.
3 1-1-96; 89-457, eff. 5-22-96; revised 1-25-02.)

Section 72. The Radon Industry Licensing Act is amended
by changing Section 65 as follows:

6 (420 ILCS 44/65)

7 Sec. 65. Illinois Administrative Procedure Act. The provisions of the Illinois Administrative Procedure Act are 8 9 hereby expressly adopted and shall apply to all administrative rules and procedures of the Department under 10 this Act, except that Section 5-35 of 5-6f the Illinois 11 Administrative Procedure Act, relating to procedures 12 for 13 rulemaking, does not apply to the adoption of any rule 14 required by federal law in connection with which the Department is precluded from exercising any discretion. 15 (Source: P.A. 90-262, eff. 7-30-97; revised 12-07-01.) 16

Section 73. The Firearm Owners Identification Card Actis amended by changing Section 14 as follows:

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(430 ILCS 65/14) (from Ch. 38, par. 83-14) Sec. 14. Sentence.

(a) A violation of paragraph (1) of subsection (a) of
Section 2, when the person's Firearm Owner's Identification
Card is expired but the person is not otherwise disqualified
from renewing the card, is a Class A misdemeanor.

(b) Except as provided in subsection (a) with respect to an expired card, a violation of paragraph (1) of subsection (a) of Section 2 is a Class A misdemeanor when the person does not possess a currently valid Firearm Owner's Identification Card, but is otherwise eligible under this Act. A second or subsequent violation is a Class 4 felony. (c) A violation of paragraph (1) of subsection (a) of
 Section 2 is a Class 3 felony when:

3 (1) the person's Firearm Owner's Identification
4 Card is revoked or subject to revocation under Section 8;
5 or

6 (2) the person's Firearm Owner's Identification 7 Card is expired and not otherwise eligible for renewal 8 under this Act; or

9 (3) the person does not possess a currently valid 10 Firearm Owner's Identification Card, and the person is 11 not otherwise eligible under this Act.

12 (d) A violation of subsection (a) of Section 3 is a
13 Class 4 felony. A third or subsequent conviction is a Class 1
14 felony.

15 (d-5) Any person who knowingly enters false information 16 on an application for a Firearm Owner's Identification Card, who knowingly gives a false answer to any question on the 17 application, or who knowingly submits false evidence in 18 19 connection with an application is guilty of a Class 2 felony. (e) Except as provided by Section 6.1 of this Act, any 20 21 other violation of this Act is a Class A misdemeanor. (Source: P.A. 91-694, eff. 4-13-00; 92-414, eff. 1-1-02; 22 23 92-442, eff. 8-17-01; revised 10-11-01.)

24 Section 74. The Humane Care for Animals Act is amended 25 by changing Sections 4.01, 4.02, and 16 as follows:

26 (510 ILCS 70/4.01) (from Ch. 8, par. 704.01)

27

Sec. 4.01. Prohibitions.

(a) No person may own, capture, breed, train, or lease
any animal which he or she knows is intended for use in any
show, exhibition, program, or other activity featuring or
otherwise involving a fight between such animal and any other
animal or human, or the intentional killing of any animal for

-580-

1 the purpose of sport, wagering, or entertainment.

2 (b) No person shall promote, conduct, carry on, 3 advertise, collect money for or in any other manner assist 4 or aid in the presentation for purposes of sport, wagering, 5 or entertainment, any show, exhibition, program, or other 6 activity involving a fight between 2 or more animals or any 7 animal and human, or the intentional killing of any animal.

8 (c) No person shall sell or offer for sale, ship, 9 transport, or otherwise move, or deliver or receive any 10 animal which he or she knows has been captured, bred, or 11 trained, or will be used, to fight another animal or human or 12 be intentionally killed, for the purpose of sport, wagering, 13 or entertainment.

(d) No person shall manufacture for sale, shipment, transportation or delivery any device or equipment which that person knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any human and animal, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

21 (e) No person shall own, possess, sell or offer for 22 sale, ship, transport, or otherwise move any equipment or 23 device which such person knows or should know is intended for use in connection with any show, exhibition, program, or 24 25 activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional 26 killing of any animal for purposes of sport, wagering or 27 entertainment. 28

(f) No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal or knowingly 1 manufacture, distribute, or deliver fittings to be used in a 2 fight between 2 or more dogs or a dog and a human.

(g) No person shall attend or otherwise patronize any 3 4 show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any 5 animal and human, or the intentional killing of any animal 6 7 for the purposes of sport, wagering or entertainment.

8 (h) No person shall tie or attach or fasten any live 9 animal to any machine or device propelled by any power for the purpose of causing such animal to be pursued by a dog or 10 11 dogs. This subsection (h) shall apply only when such dog is 12 intended to be used in a dog fight.

Any animals or equipment involved in a violation of 13 (i) this Section shall be immediately seized and impounded under 14 15 Section 12 by the Department when located at any show, 16 exhibition, program, or other activity featuring or otherwise involving an animal fight for the purposes of 17 sport, wagering, or entertainment. 18

(j) Any vehicle or conveyance other than a common 19 carrier that is used in violation of this Section shall be 20 21 seized, held, and offered for sale at public auction by the 22 sheriff's department of the proper jurisdiction, and the 23 proceeds from the sale shall be remitted to the general fund of the county where the violation took place. 24

25 (k) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from 26 fighting where there is a reasonable possibility that the 27 animal was engaged in or utilized for a fighting event for 28 29 the purposes of sport, wagering, or entertainment shall file 30 a report with the Department and cooperate by furnishing the owners' names, dates, and descriptions of the animal or 31 32 animals involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from 33 any liability, civil, criminal, or otherwise, that may result 34

-582-

1 from his or her actions. For the purposes of any 2 proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed. 3 4 No person shall conspire or solicit a minor to (1)5 violate this Section. (Source: P.A. 92-425, eff. 1-1-02; 92-454, eff. 1-1-02; б 7 revised 10-11-01.)

8

(510 ILCS 70/4.02) (from Ch. 8, par. 704.02)

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Sec. 4.02. Arrests; reports.

10 (a) Any law enforcement officer making an arrest for an offense involving one or more animals under Section 4.01 of 11 this Act shall lawfully take possession of all animals and 12 all paraphernalia, implements, or other property or things 13 employed, or about to be employed, in the violation 14 used or 15 of any of the provisions of Section 4.01 of this Act. When a law enforcement officer has taken possession of such animals, 16 17 paraphernalia, implements or other property or things, he or 18 she shall file with the court before whom the complaint is made against any person so arrested an affidavit stating 19 20 therein the name of the person charged in the complaint, a 21 description of the property so taken and the time and place 22 of the taking thereof together with the name of the person from whom the same was taken and name of the person who 23 24 claims to own such property, if different from the person from whom the dogs were seized and if known, and that the 25 affiant has reason to believe and does believe, stating the 26 ground of the belief, that the dogs and property so taken 27 28 were used or employed, or were about to be used or employed, 29 in a violation of Section 4.01 of this Act. He or she shall thereupon deliver an inventory of the property so taken to 30 31 the court of competent jurisdiction. A law enforcement 32 officer may humanely euthanize dogs that are severely 33 injured.

1 An owner whose dogs are removed for a violation of 2 Section 4.01 of this Act must be given written notice of the circumstances of the removal and of any legal remedies 3 4 available to him or her. The notice must be posted at the place of seizure or delivered to a person residing at 5 the place of seizure or, if the address of the owner is different 6 7 from the address of the person from whom the dogs were seized, delivered by registered mail to his or her last known 8 9 address.

10 The animal control or animal shelter having custody of 11 the dogs may file a petition with the court requesting that 12 the person from whom the dogs were seized or the owner of the 13 dogs be ordered to post security pursuant to Section 3.05 of 14 this Act.

Upon the conviction of the person so charged, all dogs 15 16 shall be adopted or humanely euthanized and property so seized shall be adjudged by the court to be forfeited. Any 17 outstanding costs incurred by the impounding facility in 18 boarding and treating the dogs pending the disposition of the 19 case and disposing of the dogs upon a conviction must be 20 21 borne by the person convicted. In no event may the dogs be 22 adopted by the defendant or anyone residing in his or her 23 household. If the court finds that the State either failed to prove the criminal allegations or that the dogs were used in 24 25 fighting, the court must direct the delivery of the dogs and the other property not previously forfeited to the owner of 26 27 the dogs and property.

Any person authorized by this Section to care for a dog, to treat a dog, or to attempt to restore a dog to good health and who is acting in good faith is immune from any civil or criminal liability that may result from his or her actions.

An animal control warden, animal control administrator, animal shelter employee, or approved humane investigator may humanely euthanize severely injured, diseased, or suffering

-584-

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dog in exigent circumstances.

2 (b) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from 3 4 fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event shall 5 6 file a report with the Department and cooperate by furnishing the owners' names, date of receipt of the animal or animals 7 and treatment administered, and descriptions of the animal or 8 animals involved. Any veterinarian who in good faith makes a 9 report, as required by this subsection (b), is immune from 10 11 any liability, civil, criminal, or otherwise, resulting from his or her actions. For the purposes of any proceedings, 12 civil or criminal, the good faith of any such veterinarian 13 shall be presumed. 14

15 (Source: P.A. 92-425, eff. 1-1-02; 92-454, eff. 1-1-02; 16 revised 10-11-01.)

17 (510 ILCS 70/16) (from Ch. 8, par. 716)

18 Sec. 16. Violations; punishment; injunctions.

19 (a) Any person convicted of violating subsection (1) of 20 Section 4.01 or Sections 5, 5.01, or 6 of this Act or any 21 rule, regulation, or order of the Department pursuant 22 thereto, is guilty of a Class A misdemeanor. A second or 23 subsequent violation of Section 5, 5.01, or 6 is a Class 4 24 felony.

(b)(1) This subsection (b) does not apply where theonly animals involved in the violation are dogs.

27 (2) Any person convicted of violating subsection
28 (a), (b), (c) or (h) of Section 4.01 of this Act or any
29 rule, regulation, or order of the Department pursuant
30 thereto, is guilty of a Class A misdemeanor.

31 (3) A second or subsequent offense involving the
32 violation of subsection (a), (b) or (c) of Section 4.01
33 of this Act or any rule, regulation, or order of the

-585-

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Department pursuant thereto is a Class 4 felony.

(4) Any person convicted of violating subsection
(d), (e) or (f) of Section 4.01 of this Act or any rule,
regulation, or order of the Department pursuant thereto,
is guilty of a Class A misdemeanor. A second or
subsequent violation is a Class 4 felony.

7 (5) Any person convicted of violating subsection
8 (g) of Section 4.01 of this Act or any rule, regulation,
9 or order of the Department pursuant thereto is guilty of
10 a Class C misdemeanor.

11 (c)(1) This subsection (c) applies exclusively 12 where the only animals involved in the violation are 13 dogs.

(2) Any person convicted of violating subsection 14 15 (a), (b) or (c) of Section 4.01 of this Act or any rule, 16 regulation or order of the Department pursuant thereto is guilty of a Class 4 felony and may be fined an amount not 17 to exceed \$50,000. A person who knowingly owns a dog for 18 fighting purposes or for producing a fight between 2 or 19 more dogs or a dog and human or who knowingly offers for 20 sale or sells a dog bred for fighting is guilty of a 21 Class 3 felony if any of the following factors is 22 present: 23

24 (i) the dogfight is performed in the presence25 of a person under 18 years of age;

26 (ii) the dogfight is performed for the purpose
27 of or in the presence of illegal wagering activity;
28 or

29 (iii) the dogfight is performed in furtherance
30 of streetgang related activity as defined in Section
31 10 of the Illinois Streetgang Terrorism Omnibus
32 Prevention Act.

33 (3) Any person convicted of violating subsection34 (d) or (e) of Section 4.01 of this Act or any rule,

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-586-

regulation or order of the Department pursuant thereto is
 guilty of Class A misdemeanor.

3 (3.5) Any person convicted of violating subsection
4 (f) of Section 4.01 is guilty of a Class 4 felony.

5 (4) Any person convicted of violating subsection 6 (g) of Section 4.01 of this Act or any rule, regulation 7 or order of the Department pursuant thereto is guilty of 8 a Class C misdemeanor.

9 (5) A second or subsequent violation of subsection (a), (b) or (c) of Section 4.01 of this Act or any rule, 10 11 regulation or order of the Department pursuant thereto is a Class 3 felony. A second or subsequent violation of 12 subsection (d) or (e) of Section 4.01 of this Act or any 13 rule, regulation or order of the Department adopted 14 15 pursuant thereto is a Class 3 felony, if in each 16 violation the person knew or should have known that the device or equipment under subsection (d) or (e) of that 17 Section was to be used to carry out a violation where the 18 only animals involved were dogs. Where such person did 19 not know or should not reasonably have been expected to 20 21 know that the only animals involved in the violation were dogs, a second or subsequent violation of subsection (d) 22 23 or (e) of Section 4.01 of this Act or any rule, regulation or order of the Department adopted pursuant 24 thereto is a Class A misdemeanor. A second or subsequent 25 violation of subsection (g) is a Class B misdemeanor. 26

27 (6) Any person convicted of violating Section 3.01
28 of this Act is guilty of a Class A misdemeanor. A second
29 or subsequent conviction for a violation of Section 3.01
30 is a Class 4 felony.

31 (7) Any person convicted of violating Section 4.03
32 is guilty of a Class A misdemeanor. A second or
33 subsequent violation is a Class 4 felony.

(8) Any person convicted of violating Section 4.04

is guilty of a Class A misdemeanor where the animal is
 not killed or totally disabled, but if the animal is
 killed or totally disabled such person shall be guilty of
 a Class 4 felony.

(8.5) A person convicted of violating subsection 5 (a) of Section 7.15 is guilty of a Class A misdemeanor. 6 7 A person convicted of violating subsection (b) or (c) of Section 7.15 is (i) guilty of a Class A misdemeanor if 8 9 the dog is not killed or totally disabled and (ii) if the dog is killed or totally disabled, guilty of a Class 4 10 11 felony and may be ordered by the court to make restitution to the disabled person having custody or 12 ownership of the dog for veterinary bills and replacement 13 costs of the dog. A second or subsequent violation is a 14 15 Class 4 felony.

(9) Any person convicted of any other act of abuse
or neglect or of violating any other provision of this
Act, or any rule, regulation, or order of the Department
pursuant thereto, is guilty of a Class B misdemeanor. A
second or subsequent violation is a Class 4 felony with
every day that a violation continues constituting a
separate offense.

23 (d) Any person convicted of violating Section 7.1 is 24 guilty of a Class C misdemeanor. A second or subsequent 25 conviction for a violation of Section 7.1 is a Class B 26 misdemeanor.

(e) Any person convicted of violating Section 3.02 is
guilty of a Class 4 felony. A second or subsequent violation
is a Class 3 felony.

30 (f) The Department may enjoin a person from a continuing31 violation of this Act.

32 (g) Any person convicted of violating Section 3.03 is 33 guilty of a Class 3 felony. As a condition of the sentence 34 imposed under this Section, the court shall order the

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offender to undergo a psychological or psychiatric evaluation
 and to undergo treatment that the court determines to be
 appropriate after due consideration of the evaluation.

-588-

4 In addition to any other penalty provided by law, (h) 5 upon a conviction for violating Sections 3, 3.01, 3.02, or б 3.03 the court may order the convicted person to undergo a 7 psychological or psychiatric evaluation and to undergo any 8 treatment at the convicted person's expense that the court 9 determines to be appropriate after due consideration of the evaluation. If the convicted person is a juvenile or a 10 11 companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation 12 and to undergo treatment that the court determines to be 13 appropriate after due consideration of the evaluation. 14

15 In addition to any other penalty provided by law, upon conviction for violating Sections 3, 3.01, 3.02, or 3.03 16 the court may order the convicted person to forfeit to an 17 animal control or animal shelter the animal or animals that 18 19 are the basis of the conviction. Upon an order of forfeiture, the convicted person is 20 deemed to have 21 permanently relinquished all rights to the animal or animals 22 that are the basis of the conviction. The forfeited animal 23 or animals shall be adopted or humanely euthanized. In no event may the convicted person or anyone residing in his or 24 25 her household be permitted to adopt the forfeited animal or animals. The court, additionally, may order 26 that the convicted person and persons dwelling in the same household 27 as the convicted person who conspired, aided, or abetted in 28 the unlawful act that was the basis of the conviction, or who 29 30 knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any other animals for a 31 period of time that the court deems reasonable. 32

33 (Source: P.A. 91-291, eff. 1-1-00; 91-351, eff. 7-29-99;
34 91-357, eff. 7-29-99; 92-16, eff. 6-28-01; 92-425, eff.

-589-

1 1-1-02; 92-454, eff. 1-1-02; revised 10-11-01.)

Section 75. The Fish and Aquatic Life Code is amended by
changing Section 20-35 as follows:

4 (515 ILCS 5/20-35) (from Ch. 56, par. 20-35)

5 (Text of Section before amendment by P.A. 92-513)

6 Sec. 20-35. Offenses. Except as prescribed in Section 7 5-25 and unless otherwise provided in this Code, any person 8 who is found guilty of violating any of the provisions of 9 this Code, including administrative rules, is guilty of a 10 petty offense.

Any person who violates any of the provisions of Section 11 5-20, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-50, 12 10-60, 10-70, 10-75, 10-95, 10-115, 10-135, 15-5, 13 15-10, 15-15, 15-20, 15-30, 15-32, 15-40, 15-45, 15-55, 15-60, 14 15-65, 15-75, 15-80, 15-85, 15-90, 15-95, 15-100, 15-105, 15 15-110, 15-115, 15-120, 15-130, 15-140, 20-70, 20-75, 20-80, 16 17 20-85, 25-10, 25-15, or 25-20 of this Code, including administrative rules relating to those Sections, is guilty of 18 19 a Class B misdemeanor.

Any person who violates any of the provisions of Section 1-200, 1-205, 10-55, 10-80, 15-35, or 20-120 of this Code, including administrative rules relating to those Sections, is guilty of a Class A misdemeanor.

Any person who violates any of the provisions of this Code, including administrative rules, during the 5 years following the revocation of his or her license, permit, or privileges under Section 20-105 is guilty of a Class A misdemeanor.

Any person who violates Section 5-25 of this Code, including administrative rules, is guilty of a Class 3 felony.

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Offenses committed by minors under the direct control or

1 with the consent of a parent or guardian may subject the 2 parent or guardian to the penalties prescribed in this Section or as otherwise provided in this Code. 3

-590-

4 In addition to any fines imposed under this Section, or 5 as otherwise provided in this Code, any person found guilty of unlawfully taking or possessing any aquatic life protected 6 by this Code shall be assessed a civil penalty for that 7 aquatic life in accordance with the values prescribed in 8 9 Section 5-25 of this Code. This civil penalty shall be imposed at the time of the conviction by the Circuit Court 10 11 for the county where the offense was committed. All penalties provided for in this Section shall be remitted to 12 the Department in accordance with the provisions of Section 13 1-180 of this Code. 14

(Source: P.A. 92-385, eff. 8-16-01.) 15

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(Text of Section after amendment by P.A. 92-513) Sec. 20-35. Offenses. 17

18 (a) Except as prescribed in Section 5-25 and unless 19 otherwise provided in this Code, any person who is found guilty of violating any of the provisions of this Code, 20 21 including administrative rules, is guilty of a petty offense. Any person who violates any of the provisions of Section 22 5-20, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 23 10-50, 10-70, 10-75, 10-95, 10-115, 10-135, 15-5, 15-10, 24 10-60. 15-15, 15-20, 15-30, 15-32, 15-40, 15-45, 15-55, 25 15-60, 15-65, 15-75, 15-80, 15-85, 15-90, 15-95, 15-100, 15-105, 26 15-110, 15-115, 15-120, 15-130, 15-140, 20-70, 20-75, 27 20-80, 28 20-85, 25-10, 25-15, or 25-20 of this Code, including administrative rules relating to those Sections, is guilty of 29 30 a Class B misdemeanor.

Any person who violates any of the provisions of Section 31 1-200, 1-205, 10-55, 10-80, 15-35, or 20-120 of this Code, 32 33 including administrative rules relating to those Sections, is guilty of a Class A misdemeanor. 34

1 Any person who violates any of the provisions of this 2 Code, including administrative rules, during the 5 years 3 following the revocation of his or her license, permit, or 4 privileges under Section 20-105 is guilty of a Class A 5 misdemeanor.

6 Any person who violates Section 5-25 of this Code, 7 including administrative rules, is guilty of a Class 3 8 felony.

9 (b)(1) It is unlawful for any person to take or attempt to take aquatic life from any aquatic life farm except with 10 11 the consent of the owner of the aquatic life farm. Any person possessing fishing tackle on the premises of an 12 aquatic life farm is presumed to be fishing. The presumption 13 may be rebutted by clear and convincing evidence. 14 A11 fishing tackle, apparatus, and vehicles used in the violation 15 16 of this subsection (b) shall be confiscated by the arresting officer. Except as otherwise provided in this subsection, 17 the seizure and confiscation procedures set forth in Section 18 19 1-215 of this Code shall apply. If the confiscated property is determined by the circuit court to have been used in the 20 21 violation of this subsection (b), the confiscated property shall be sold at public auction by the county sheriff of the 22 23 county where the violation occurred. The proceeds of the sale shall be deposited in the county general fund; provided 24 25 that the auction may be stayed by an appropriate court order. (2) A violation of paragraph (1) of this subsection (b) 26

is a Class A misdemeanor for a first offense and a Class 4felony for a second or subsequent offense.

(c)(1) It is unlawful for any person to trespass or fish on an aquatic life farm located on a strip mine lake or other body of water used for aquatic life farming operations, or within a 200 foot buffer zone surrounding cages or netpens that are clearly delineated by buoys of a posted aquatic life farm, by swimming, scuba diving, or snorkeling in, around, or under the aquatic life farm or by operating a watercraft
 over, around, or in the aquatic life farm without the consent
 of the owner of the aquatic life farm.

4 (2) A violation of paragraph (1) of this subsection (c) 5 is a Class B misdemeanor for a first offense and a Class A misdemeanor for a second or subsequent offense. All fishing 6 7 tackle, apparatus, and watercraft used in a second or subsequent violation of this subsection (c) shall be 8 9 confiscated by the arresting officer. Except as otherwise provided in this subsection, the seizure and confiscation 10 11 procedures set forth in Section 1-215 of this Code shall apply. If the confiscated property is determined by the 12 circuit court to have been used in a violation of this 13 subsection (c), the confiscated property shall be sold at 14 public auction by the county sheriff of the county where the 15 16 violation occurred. The proceeds of the sale shall be deposited in the county general fund; provided that the 17 auction may be stayed by an appropriate court order. 18

19 (d) Offenses committed by minors under the direct 20 control or with the consent of a parent or guardian may 21 subject the parent or guardian to the penalties prescribed in 22 this Section or as otherwise provided in this Code.

23 In addition to any fines imposed under this Section, (e) as otherwise provided in this Code, any person found 24 or 25 guilty of unlawfully taking or possessing any aquatic life protected by this Code shall be assessed a civil penalty for 26 that aquatic life in accordance with the values prescribed in 27 This civil penalty shall be Section 5-25 of this Code. 28 29 imposed at the time of the conviction by the Circuit Court 30 for the county where the offense was committed. Except as otherwise provided for in subsections (b) and (c) of this 31 32 Section, all penalties provided for in this Section shall be remitted to the Department in accordance with the provisions 33 of Section 1-180 of this Code. 34

-593-

1 (Source: P.A. 92-385, eff. 8-16-01; 92-513, eff. 6-1-02; 2 revised 1-7-02.)

3 Section 76. The Wildlife Code is amended by changing
4 Sections 2.26 and 2.33 as follows:

5 (520 ILCS 5/2.26) (from Ch. 61, par. 2.26)

6 Sec. 2.26. Deer hunting permits. In this Section, "bona 7 fide equity shareholder" means an individual who (1) purchased, for market price, publicly sold stock shares in a 8 9 corporation, purchased shares of a privately-held corporation 10 for a value equal to the percentage of the appraised value of the corporate assets represented by the ownership in the 11 corporation, or is a member of a closely-held family-owned 12 corporation and has purchased or been gifted with shares of 13 14 stock in the corporation accurately reflecting his or her percentage of ownership and (2) intends to retain the 15 16 ownership of the shares of stock for at least 5 years.

In this Section, "bona fide equity member" means an 17 individual who (1) (i) became a member upon the formation of 18 19 the limited liability company or (ii) has purchased a distributional interest in a limited liability company for a 20 21 value equal to the percentage of the appraised value of the LLC assets represented by the distributional interest in the 22 23 LLC and subsequently becomes a member of the company pursuant to Article 30 of the Limited Liability Company Act and who 24 (2) intends to retain the membership for at least 5 years. 25

Any person attempting to take deer shall first obtain a 26 "Deer Hunting Permit" in accordance 27 with prescribed 28 regulations set forth in an Administrative Rule. Deer Hunting Permits shall be issued by the Department. The fee 29 30 for a Deer Hunting Permit to take deer with either bow and arrow or gun shall not exceed \$15.00 for residents of the 31 State. The Department may by administrative rule provide for 32

1 non-resident deer hunting permits for which the fee will not 2 \$200 except as provided below for non-resident exceed landowners and non-resident archery hunters. The Department 3 4 may by administrative rule provide for a non-resident archery deer permit consisting of not more than 2 harvest tags at a 5 6 total cost not to exceed \$225. Permits shall be issued 7 without charge to:

8 9

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(a) Illinois landowners residing in Illinois who own at least 40 acres of Illinois land and wish to hunt their land only,

11 (b) resident tenants of at least 40 acres of 12 commercial agricultural land where they will hunt, and

(c) Bona fide equity shareholders of a corporation 13 or bona fide equity members of a limited liability 14 company which owns at least 40 acres of land in a county 15 16 in Illinois who wish to hunt on the corporation's or company's land only. One permit shall be issued without 17 charge to one bona fide equity shareholder or one bona 18 19 fide equity member for each 40 acres of land owned by the corporation or company in a county; however, the number 20 21 of permits issued without charge to bona fide equity 22 shareholders of any corporation or bona fide equity 23 members of a limited liability company in any county shall not exceed 15. 24

25 Bona fide landowners or tenants who do not wish to hunt only on the land they own, rent or lease or bona fide equity 26 shareholders or bona fide equity members who do not wish to 27 hunt only on the land owned by the corporation or limited 28 liability company shall be charged the same fee as the 29 30 applicant who is not a landowner, tenant, bona fide equity shareholder, or bona fide equity member. Nonresidents of 31 32 Illinois who own at least 40 acres of land and wish to hunt land only shall be charged a fee set by 33 on their 34 administrative rule. The method for obtaining these permits -595-

1 shall be prescribed by administrative rule.

The deer hunting permit issued without fee shall be valid on all farm lands which the person to whom it is issued owns, leases or rents, except that in the case of a permit issued to a bona fide equity shareholder or bona fide equity member, the permit shall be valid on all lands owned by the corporation or limited liability company in the county.

8 The standards and specifications for use of guns and bow 9 and arrow for deer hunting shall be established by 10 administrative rule.

11 No person may have in his possession any firearm not 12 authorized by administrative rule for a specific hunting 13 season when taking deer.

Persons having a firearm deer hunting permit shall be permitted to take deer only during the period from 1/2 hour before sunrise to sunset, and only during those days for which an open season is established for the taking of deer by use of shotgun or muzzle loading rifle.

Persons having an archery deer hunting permit shall be permitted to take deer only during the period from 1/2 hour before sunrise to 1/2 hour after sunset, and only during those days for which an open season is established for the taking of deer by use of bow and arrow.

It shall be unlawful for any person to take deer by use of dogs, horses, automobiles, aircraft or other vehicles, or by the use of salt or bait of any kind. An area is considered as baited during the presence of and for 10 consecutive days following the removal of bait.

It shall be unlawful to possess or transport any wild deer which has been injured or killed in any manner upon a public highway or public right-of-way of this State unless exempted by administrative rule.

33 Persons hunting deer must have gun unloaded and no bow34 and arrow device shall be carried with the arrow in the

-596-

1 nocked position during hours when deer hunting is unlawful.

It shall be unlawful for any person, having taken the legal limit of deer by gun, to further participate with gun in any deer hunting party.

5 It shall be unlawful for any person, having taken the 6 legal limit of deer by bow and arrow, to further participate 7 with bow and arrow in any deer hunting party.

8 The Department may prohibit upland game hunting during 9 the gun deer season by administrative rule.

10 It shall be legal for handicapped persons, as defined in 11 Section 2.33, to utilize a crossbow device, as defined in 12 Department rules, to take deer.

Any person who violates any of the provisions of this Section, including administrative rules, shall be guilty of a Class B misdemeanor.

16 (Source: P.A. 92-177, eff. 7-27-01; 92-261, eff. 8-7-01; 17 revised 9-19-01.)

18 (520 ILCS 5/2.33) (from Ch. 61, par. 2.33)

19 Sec. 2.33. Prohibitions.

(a) It is unlawful to carry or possess any gun in any
State refuge unless otherwise permitted by administrative
rule.

23 (b) It is unlawful to use or possess any snare or 24 snare-like device, deadfall, net, or pit trap to take any 25 species, except that snares not powered by springs or other 26 mechanical devices may be used to trap fur-bearing mammals, 27 in water sets only, if at least one-half of the snare noose 28 is located underwater at all times.

(c) It is unlawful for any person at any time to take a wild mammal protected by this Act from its den by means of any mechanical device, spade, or digging device or to use smoke or other gases to dislodge or remove such mammal except as provided in Section 2.37. 1 (d) It is unlawful to use a ferret or any other small 2 mammal which is used in the same or similar manner for which 3 ferrets are used for the purpose of frightening or driving 4 any mammals from their dens or hiding places.

5 (e)

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(f) It is unlawful to use spears, gigs, hooks or any

(Blank).

7 like device to take any species protected by this Act.

8 (g) It is unlawful to use poisons, chemicals or 9 explosives for the purpose of taking any species protected by 10 this Act.

(h) It is unlawful to hunt adjacent to or near any peat, grass, brush or other inflammable substance when it is burning.

It is unlawful to take, pursue or intentionally 14 (i) 15 harass or disturb in any manner any wild birds or mammals by 16 use or aid of any vehicle or conveyance, except as permitted by the Code of Federal Regulations for the taking of 17 waterfowl. It is also unlawful to use the lights of any 18 19 vehicle or conveyance or any light from or any light connected to the such vehicle or conveyance in any area where 20 21 wildlife may be found except in accordance with Section 2.37 22 of this Acti; however, nothing in this Section shall prohibit 23 the normal use of headlamps for the purpose of driving upon a roadway. and-except-that Striped skunk, opossum, red fox, 24 25 gray fox, raccoon and coyote may be taken during the open season by use of a small light which is worn on the body or 26 27 hand-held by a person on foot and not in any vehicle.

(j) It is unlawful to use any shotgun larger than 10 gauge while taking or attempting to take any of the species protected by this Act.

31 (k) It is unlawful to use or possess in the field any 32 shotgun shell loaded with a shot size larger than lead BB or 33 steel T (.20 diameter) when taking or attempting to take any 34 species of wild game mammals (excluding white-tailed deer), 1 wild game birds, migratory waterfowl or migratory game birds 2 protected by this Act, except white-tailed deer as provided 3 for in Section 2.26 and other species as provided for by 4 subsection (1) or administrative rule.

5 (1) It is unlawful to take any species of wild game,
6 except white-tailed deer, with a shotgun loaded with slugs
7 unless otherwise provided for by administrative rule.

8 (m) It is unlawful to use any shotgun capable of holding 9 more than 3 shells in the magazine or chamber combined, except on game breeding and hunting preserve areas licensed 10 11 under Section 3.27 and except as permitted by the Code of Federal Regulations for the taking of waterfowl. 12 If the shotgun is capable of holding more than 3 shells, it 13 shall, while being used on an area other than a game breeding and 14 15 shooting preserve area licensed pursuant to Section 3.27, be 16 fitted with a one piece plug that is irremovable without dismantling the shotgun or otherwise altered to render it 17 incapable of holding more than 3 shells in the magazine and 18 19 chamber, combined.

(n) It is unlawful for any person, except persons who 20 21 possess a permit to hunt from a vehicle as provided in this 22 Section and persons otherwise permitted by law, to have or 23 carry any gun in or on any vehicle, conveyance or aircraft, unless such gun is unloaded and enclosed in a case, except 24 25 that at field trials authorized by Section 2.34 of this Act, unloaded guns or guns loaded with blank cartridges only, may 26 27 be carried on horseback while not contained in a case, or to have or carry any bow or arrow device in or on any vehicle 28 29 unless such bow or arrow device is unstrung or enclosed in a 30 case, or otherwise made inoperable.

31 (o) It is unlawful to use any crossbow for the purpose 32 of taking any wild birds or mammals, except as provided for 33 in Section 2.33.

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(p) It is unlawful to take game birds, migratory game

1 birds or migratory waterfowl with a rifle, pistol, revolver 2 or airgun.

3 (q) It is unlawful to fire a rifle, pistol, revolver or
4 airgun on, over or into any waters of this State, including
5 frozen waters.

6 (r) It is unlawful to discharge any gun or bow and arrow 7 device along, upon, across, or from any public right-of-way 8 or highway in this State.

9 (s) It is unlawful to use a silencer or other device to 10 muffle or mute the sound of the explosion or report resulting 11 from the firing of any gun.

(t) It is unlawful for any person to trap or hunt, or 12 allow a dog to hunt, within or upon the land of another, or 13 upon waters flowing over or standing on the land of another, 14 without first obtaining permission from the owner or tenant. 15 16 It shall be prima facie evidence that a person does not have permission of the owner or tenant if the person is unable to 17 18 demonstrate to the law enforcement officer in the field that 19 permission had been obtained. This provision may only be rebutted by testimony of the owner or tenant that permission 20 21 had been given. Before enforcing this Section the law enforcement officer must have received notice from the owner 22 23 or tenant of a violation of this Section. Statements made to the law enforcement officer regarding this notice shall not 24 25 be rendered inadmissible by the hearsay rule when offered for the purpose of showing the required notice. 26

It is unlawful for any person to discharge any 27 (u) firearm for the purpose of taking any of the species 28 protected by this Act, or hunt with gun or dog, or allow a 29 30 dog to hunt, within 300 yards of an inhabited dwelling without first obtaining permission from the owner or tenant, 31 32 except that while trapping, hunting with bow and arrow, hunting with dog and shotgun using shot shells only, or 33 34 hunting with shotgun using shot shells only, or on licensed game breeding and hunting preserve areas, as defined in Section 3.27, on property operated under a Migratory Waterfowl Hunting Area Permit, on federally owned and managed lands and on Department owned, managed, leased or controlled lands, a 100 yard restriction shall apply.

6 (v) It is unlawful for any person to remove fur-bearing 7 mammals from, or to move or disturb in any manner, the traps 8 owned by another person without written authorization of the 9 owner to do so.

10 (w) It is unlawful for any owner of a dog to knowingly 11 or wantonly allow his or her dog to pursue, harass or kill 12 deer.

13 (x) It is unlawful for any person to wantonly or 14 carelessly injure or destroy, in any manner whatsoever, any 15 real or personal property on the land of another while 16 engaged in hunting or trapping thereon.

17 (y) It is unlawful to hunt wild game protected by this 18 Act between <u>one</u> half hour after sunset and <u>one</u> half hour 19 before sunrise, except that hunting hours between <u>one</u> half 20 hour after sunset and <u>one</u> half hour before sunrise may be 21 established by administrative rule for fur-bearing mammals.

22 (z) It is unlawful to take any game bird (excluding wild 23 turkeys and crippled pheasants not capable of normal flight and otherwise irretrievable) protected by this Act when not 24 25 flying. Nothing in this Section shall prohibit a person from carrying an uncased, unloaded shotgun in a boat, while in 26 pursuit of a crippled migratory waterfowl that is incapable 27 of normal flight, for the purpose of attempting to reduce the 28 migratory waterfowl to possession, provided that the attempt 29 30 is made immediately upon downing the migratory waterfowl and is done within 400 yards of the blind from which the 31 32 migratory waterfowl was downed. This exception shall apply only to migratory game birds that are not capable of normal 33 34 flight. Migratory waterfowl that are crippled may be taken

only with a shotgun as regulated by subsection (j) of this
 Section using shotgun shells as regulated in subsection (k)
 of this Section.

4 (aa) It is unlawful to use or possess any device that
5 may be used for tree climbing or cutting, while hunting
6 fur-bearing mammals.

7 (bb) It is unlawful for any person, except licensed game
8 breeders, pursuant to Section 2.29 to import, carry into, or
9 possess alive in this State, any species of wildlife taken
10 outside of this State, without obtaining permission to do so
11 from the Director.

12 (cc) It is unlawful for any person to have in <u>his or her</u> 13 their possession any freshly killed species protected by this 14 Act during the season closed for taking.

15 (dd) It is unlawful to take any species protected by 16 this Act and retain it alive.

17 (ee) It is unlawful to possess any rifle while in the 18 field during gun deer season except as provided in Section 19 2.26 and administrative rules.

20 (ff) It is unlawful for any person to take any species 21 protected by this Act, except migratory waterfowl, during the 22 gun deer hunting season in those counties open to gun deer 23 hunting, unless he <u>or she</u> wears, when in the field, a cap and 24 upper outer garment of a solid blaze orange color, with such 25 articles of clothing displaying a minimum of 400 square 26 inches of blaze orange material.

(gg) It is unlawful during the upland game season for any person to take upland game with a firearm unless he or she wears, while in the field, a cap of solid blaze orange color. For purposes of this Act, upland game is defined as Bobwhite Quail, Hungarian Partridge, Ring-necked Pheasant, Eastern Cottontail and Swamp Rabbit.

33 (hh) It shall be unlawful to kill or cripple any species34 protected by this Act for which there is a daily bag limit

without making a reasonable effort to retrieve such species
 and include such in the daily bag limit.

3 (ii) This Section shall apply only to those species 4 protected by this Act taken within the State. Any species or 5 any parts thereof, legally taken in and transported from 6 other states or countries, may be possessed within the State, 7 except as provided in this Section and Sections 2.35, 2.36 8 and 3.21.

9 (jj) Nothing contained in this Section shall prohibit the use of bow and arrow, or prevent the Director from 10 11 issuing permits to use a crossbow to handicapped persons as 12 provided by administrative rule. used herein, As 13 "handicapped persons" means those persons who have а permanent physical impairment due to injury or disease, 14 15 congenital or acquired, which renders them so severely 16 disabled as to be unable to use a conventional bow and arrow Permits will be issued only after the receipt of a 17 device. physician's statement confirming the applicant is handicapped 18 19 as defined above.

20 <u>(kk)</u> Nothing contained in this Section shall prohibit 21 the Director from issuing permits to paraplegics or to other 22 disabled persons who meet the requirements set forth in 23 administrative rule to shoot or hunt from a vehicle as 24 provided by that rule, provided that such is otherwise in 25 accord with this Act.

(11) Nothing contained in this Act shall prohibit the 26 taking of aquatic life protected by the Fish and Aquatic Life 27 Code or birds and mammals protected by this Act, except deer 28 29 and fur-bearing mammals, from a boat not camouflaged or 30 disguised to alter its identity or to further provide a place of concealment and not propelled by sail or mechanical power. 31 However, only shotguns not larger than 10 gauge nor smaller 32 than .410 bore loaded with not more than 3 shells of a shot 33 size no larger than lead BB or steel T (.20 diameter) may be 34

-603-

used to take species protected by this Act.
(mm) Nothing contained in this Act shall prohibit the use of a shotgun, not larger than 10 gauge nor smaller than a 20 gauge, with a rifled barrel.
(Source: P.A. 91-654, eff. 12-15-99; 92-325, eff. 8-9-01;

6 revised 10-15-01.)

7 Section 77. The Illinois Vehicle Code is amended by 8 changing Sections 2-123, 3-112, 3-112.1, 3-302, 3-402, 9 3-405.1, 3-412, 3-616, 3-806.3, 6-205, 6-206, 6-208, 6-500, 10 7-501, 11-207, 11-501, 11-1201, 11-1201.1, 12-215, 18b-105, 11 and 18c-2108 and setting forth and renumbering multiple 12 versions of Section 3-648 as follows:

13

14

(625 ILCS 5/2-123) (from Ch. 95 1/2, par. 2-123)

Sec. 2-123. Sale and Distribution of Information.

(a) Except as otherwise provided in this Section, the 15 16 Secretary may make the driver's license, vehicle and title 17 registration lists, in part or in whole, and any statistical information derived from these lists available to local 18 governments, elected state officials, state educational 19 20 institutions, and all other governmental units of the State 21 and Federal Government requesting them for governmental purposes. The Secretary shall require any such applicant for 22 23 services to pay for the costs of furnishing such services and the use of the equipment involved, and in addition is 24 empowered to establish prices and charges for the services so 25 furnished and for the use of the electronic equipment 26 27 utilized.

(b) The Secretary is further empowered to and he may, in his discretion, furnish to any applicant, other than listed in subsection (a) of this Section, vehicle or driver data on a computer tape, disk, other electronic format or computer processable medium, or printout at a fixed fee of \$250 in

1 advance and require in addition a further sufficient deposit 2 based upon the Secretary of State's estimate of the total cost of the information requested and a charge of \$25 per 3 4 1,000 units or part thereof identified or the actual cost, whichever is greater. The Secretary is authorized to refund 5 б any difference between the additional deposit and the actual 7 cost of the request. This service shall not be in lieu of an abstract of a driver's record nor of a title or registration 8 9 search. This service may be limited to entities purchasing a minimum number of records as required by administrative rule. 10 11 The information sold pursuant to this subsection shall be the entire vehicle or driver data list, or part thereof. 12 The information sold pursuant to this subsection shall not 13 contain personally identifying information unless 14 the information is to be used for one of the purposes identified 15 16 in subsection (f-5) of this Section. Commercial purchasers of driver and vehicle record databases shall enter into a 17 written agreement with the Secretary of State that includes 18 19 disclosure of the commercial use of the information to be 20 purchased.

-604-

(c) Secretary of State may issue registration lists. 21 The Secretary of State shall compile and publish, at least 22 23 annually, a list of all registered vehicles. Each list of registered vehicles shall be arranged serially according to 24 25 the registration numbers assigned to registered vehicles and contain in addition the names and addresses of 26 shall registered owners and a brief description of each vehicle 27 including the serial or other identifying number thereof. 28 29 Such compilation may be in such form as in the discretion of 30 the Secretary of State may seem best for the purposes intended. 31

32 (d) The Secretary of State shall furnish no more than 2
33 current available lists of such registrations to the sheriffs
34 of all counties and to the chiefs of police of all cities and

villages and towns of 2,000 population and over in this State at no cost. Additional copies may be purchased by the sheriffs or chiefs of police at the fee of \$500 each or at the cost of producing the list as determined by the Secretary of State. Such lists are to be used for governmental purposes only.

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(e) (Blank).

8

(e-1) (Blank).

9 The Secretary of State shall make a title or (f) registration search of the records of his office and a 10 11 written report on the same for any person, upon written application of such person, accompanied by a fee of \$5 for 12 each registration or title search. The written application 13 shall set forth the intended of 14 use the requested information. No fee shall be charged for a title or 15 16 registration search, or for the certification thereof requested by a government agency. The report of the title or 17 18 registration search shall not contain personally identifying 19 information unless the request for a search was made for one of the purposes identified in subsection (f-5) of this 20 21 Section.

The Secretary of State shall certify a title or registration record upon written request. The fee for certification shall be \$5 in addition to the fee required for a title or registration search. Certification shall be made under the signature of the Secretary of State and shall be authenticated by Seal of the Secretary of State.

The Secretary of State may notify the vehicle owner or registrant of the request for purchase of his title or registration information as the Secretary deems appropriate.

No information shall be released to the requestor until expiration of a 10 day period. This 10 day period shall not apply to requests for information made by law enforcement officials, government agencies, financial institutions,

1 attorneys, insurers, employers, automobile associated 2 businesses, persons licensed as a private detective or firms licensed as a private detective agency under the Private 3 4 Detective, Private Alarm, and Private Security Act of 1983, 5 who are employed by or are acting on behalf of law 6 enforcement officials, government agencies, financial attorneys, insurers, employers, automobile 7 institutions, 8 associated businesses, and other business entities for 9 purposes consistent with the Illinois Vehicle Code, the vehicle owner or registrant or other entities as 10 the 11 Secretary may exempt by rule and regulation.

12 Any misrepresentation made by a requestor of title or 13 vehicle information shall be punishable as a petty offense, 14 except in the case of persons licensed as a private detective 15 or firms licensed as a private detective agency which shall 16 be subject to disciplinary sanctions under Section 22 or 25 17 of the Private Detective, Private Alarm, and Private Security 18 Act of 1983.

19 (f-5) The Secretary of State shall not disclose or 20 otherwise make available to any person or entity any 21 personally identifying information obtained by the Secretary 22 of State in connection with a driver's license, vehicle, or 23 title registration record unless the information is disclosed 24 for one of the following purposes:

(1) For use by any government agency, including any
court or law enforcement agency, in carrying out its
functions, or any private person or entity acting on
behalf of a federal, State, or local agency in carrying
out its functions.

30 (2) For use in connection with matters of motor
31 vehicle or driver safety and theft; motor vehicle
32 emissions; motor vehicle product alterations, recalls, or
33 advisories; performance monitoring of motor vehicles,
34 motor vehicle parts, and dealers; and removal of

non-owner records from the original owner records of
 motor vehicle manufacturers.

3 (3) For use in the normal course of business by a
4 legitimate business or its agents, employees, or
5 contractors, but only:

6 (A) to verify the accuracy of personal 7 information submitted by an individual to the 8 business or its agents, employees, or contractors; 9 and

10 (B) if such information as so submitted is not 11 correct or is no longer correct, to obtain the 12 correct information, but only for the purposes of 13 preventing fraud by, pursuing legal remedies 14 against, or recovering on a debt or security 15 interest against, the individual.

16 (4) For use in research activities and for use in
17 producing statistical reports, if the personally
18 identifying information is not published, redisclosed, or
19 used to contact individuals.

(5) For use in connection with any civil, criminal,
administrative, or arbitral proceeding in any federal,
State, or local court or agency or before any
self-regulatory body, including the service of process,
investigation in anticipation of litigation, and the
execution or enforcement of judgments and orders, or
pursuant to an order of a federal, State, or local court.

(6) For use by any insurer or insurance support
organization or by a self-insured entity or its agents,
employees, or contractors in connection with claims
investigation activities, antifraud activities, rating,
or underwriting.

32 (7) For use in providing notice to the owners of33 towed or impounded vehicles.

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(8) For use by any private investigative agency or

security service licensed in Illinois for any purpose
 permitted under this subsection.

3 (9) For use by an employer or its agent or insurer
4 to obtain or verify information relating to a holder of a
5 commercial driver's license that is required under
6 chapter 313 of title 49 of the United States Code.

7 (10) For use in connection with the operation of
8 private toll transportation facilities.

9 (11) For use by any requester, if the requester 10 demonstrates it has obtained the written consent of the 11 individual to whom the information pertains.

12 (12) For use by members of the news media, as 13 defined in Section 1-148.5, for the purpose of 14 newsgathering when the request relates to the operation 15 of a motor vehicle or public safety.

16 (13) For any other use specifically authorized by
17 law, if that use is related to the operation of a motor
18 vehicle or public safety.

(g) 1. The Secretary of State may, upon receipt of a 19 written request and a fee of \$6, furnish to the person or 20 21 agency so requesting a driver's record. Such document include a record of: current driver's license 22 mav 23 issuance information, except that the information on judicial driving permits shall be available only as 24 25 otherwise provided by this Code; convictions; orders entered revoking, suspending or cancelling a driver's 26 license or privilege; and notations of accident 27 All other information, unless otherwise involvement. 28 permitted by this Code, shall remain confidential. 29 30 Information released pursuant to a request for a driver's 31 record shall not contain personally identifying information, unless the request for the driver's record 32 was made for one of the purposes set forth in subsection 33 (f-5) of this Section. 34

2. The Secretary of State may certify an abstract
 of a driver's record upon written request therefor.
 Such certification shall be made under the signature of
 the Secretary of State and shall be authenticated by the
 Seal of his office.

6 3. All requests for driving record information 7 shall be made in a manner prescribed by the Secretary and 8 shall set forth the intended use of the requested 9 information.

10The Secretary of State may notify the affected11driver of the request for purchase of his driver's record12as the Secretary deems appropriate.

No information shall be released to the requester 13 until expiration of a 10 day period. This 10 day period 14 shall not apply to requests for information made by law 15 16 enforcement officials, government agencies, financial institutions, attorneys, insurers, employers, automobile 17 associated businesses, persons licensed as a private 18 detective or firms licensed as a private detective agency 19 under the Private Detective, Private Alarm, and Private 20 21 Security Act of 1983, who are employed by or are acting 22 behalf of law enforcement officials, government on 23 agencies, financial institutions, attorneys, insurers, employers, automobile associated businesses, and other 24 25 business entities for purposes consistent with the Illinois Vehicle Code, the affected driver or other 26 27 entities as the Secretary may exempt by rule and regulation. 28

Any misrepresentation made by a requestor of driver information shall be punishable as a petty offense, except in the case of persons licensed as a private detective or firms licensed as a private detective agency which shall be subject to disciplinary sanctions under Section 22 or 25 of the Private Detective, Private Alarm, 1

and Private Security Act of 1983.

2 4. The Secretary of State may furnish without fee, upon the written request of a law enforcement agency, any 3 4 information from a driver's record on file with the Secretary of State when such information is required in 5 the enforcement of this Code or any other law relating to 6 the operation of motor vehicles, including records of 7 dispositions; documented information involving the use of 8 9 vehicle; whether such individual has, or а motor previously had, a driver's license; and the address and 10 11 personal description as reflected on said driver's 12 record.

5. Except as otherwise provided in this Section, 13 Secretary of State may furnish, without fee, 14 the information from an individual driver's record on file, 15 16 if a written request therefor is submitted by any public transit system or authority, public defender, 17 law enforcement agency, a state or federal agency, or an 18 Illinois local intergovernmental association, if the 19 request is for the purpose of a background check of 20 21 applicants for employment with the requesting agency, or 22 for the purpose of an official investigation conducted by 23 the agency, or to determine a current address for the driver so public funds can be recovered or paid to the 24 25 driver, or for any other purpose set forth in subsection (f-5) of this Section. 26

The Secretary may also furnish the courts a copy of 27 an abstract of a driver's record, without fee, subsequent 28 to an arrest for a violation of Section 11-501 or a 29 30 similar provision of a local ordinance. Such abstract include records of dispositions; documented 31 mav information involving the use of a motor vehicle as 32 contained in the current file; whether such individual 33 34 has, or previously had, a driver's license; and the address and personal description as reflected on said
 driver's record.

6. Any certified abstract issued by the Secretary 3 4 State or transmitted electronically by the Secretary of of State pursuant to this Section, to a court or on 5 request of a law enforcement agency, for the record of a 6 7 named person as to the status of the person's driver's 8 license shall be prima facie evidence of the facts 9 therein stated and if the name appearing in such abstract is the same as that of a person named in an information 10 11 or warrant, such abstract shall be prima facie evidence 12 that the person named in such information or warrant is 13 the same person as the person named in such abstract and shall be admissible for any prosecution under this Code 14 15 and be admitted as proof of any prior conviction or proof 16 of records, notices, or orders recorded on individual driving records maintained by the Secretary of State. 17

7. Subject to any restrictions contained in the 18 19 Juvenile Court Act of 1987, and upon receipt of a proper request and a fee of \$6, the Secretary of State shall 20 21 provide a driver's record to the affected driver, or the 22 affected driver's attorney, upon verification. Such 23 record shall contain all the information referred to in paragraph 1 of this subsection (g) plus: any recorded 24 25 accident involvement as a driver; information recorded pursuant to subsection (e) of Section 6-117 and paragraph 26 (4) of subsection (a) of Section 6-204 of this Code. All 27 other information, unless otherwise permitted by this 28 Code, shall remain confidential. 29

30 (h) The Secretary shall not disclose social security 31 numbers except pursuant to a written request by, or with the 32 prior written consent of, the individual except: (1) to 33 officers and employees of the Secretary who have a need to 34 know the social security numbers in performance of their

1 official duties, (2) to law enforcement officials for a 2 lawful, civil or criminal law enforcement investigation, and if the head of the law enforcement agency has made a written 3 4 request to the Secretary specifying the law enforcement 5 investigation for which the social security numbers are being б sought, (3) to the United States Department of 7 Transportation, or any other State, pursuant to the 8 administration and enforcement of the Commercial Motor 9 Vehicle Safety Act of 1986, (4) pursuant to the order of а court of competent jurisdiction, or (5) to the Department of 10 11 Public Aid for utilization in the child support enforcement duties assigned to that Department under provisions of the 12 Public Aid Code after the individual has received advanced 13 meaningful notification of what redisclosure is sought by the 14 15 Secretary in accordance with the federal Privacy Act.

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(i) (Blank).

Medical statements or medical reports received in 17 (j) the Secretary of State's Office shall be confidential. 18 No 19 confidential information may be open to public inspection or the contents disclosed to anyone, except officers 20 and 21 employees of the Secretary who have a need to know the 22 information contained in the medical reports and the Driver 23 License Medical Advisory Board, unless so directed by an order of a court of competent jurisdiction. 24

(k) All fees collected under this Section shall be paid into the Road Fund of the State Treasury, except that \$3 of the \$6 fee for a driver's record shall be paid into the Secretary of State Special Services Fund.

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(l) (Blank).

30 (m) Notations of accident involvement that may be 31 disclosed under this Section shall not include notations 32 relating to damage to a vehicle or other property being 33 transported by a tow truck. This information shall remain 34 confidential, provided that nothing in this subsection (m) shall limit disclosure of any notification of accident
 involvement to any law enforcement agency or official.

(n) Requests made by the news media for driver's 3 4 license, vehicle, or title registration information may be furnished without charge or at a reduced 5 charge, as determined by the Secretary, when the specific purpose for 6 7 requesting the documents is deemed to be in the public Waiver or reduction of the fee is in the public 8 interest. 9 interest if the principal purpose of the request is to access and disseminate information regarding the health, safety, and 10 11 welfare or the legal rights of the general public and is not for the principal purpose of gaining a personal or commercial 12 benefit. The information provided pursuant to this subsection 13 shall not contain personally identifying information unless 14 the information is to be used for one of the purposes 15 16 identified in subsection (f-5) of this Section.

17 (o) (m) The redisclosure of personally identifying 18 information obtained pursuant to this Section is prohibited, 19 except to the extent necessary to effectuate the purpose for 20 which the original disclosure of the information was 21 permitted.

(p) (n) The Secretary of State is empowered to adopt
 rules to effectuate this Section.

24 (Source: P.A. 91-37, eff. 7-1-99; 91-357, eff. 7-29-99;
25 91-716, eff. 10-1-00; 92-32, eff. 7-1-01; revised 9-10-01.)

26 (625 ILCS 5/3-112) (from Ch. 95 1/2, par. 3-112)

27 Sec. 3-112. Transfer.

(a) If an owner transfers his interest in a vehicle,
other than by the creation of a security interest, at the
time of the delivery of the vehicle he shall execute to the
transferee an assignment and warranty of title in the space
provided on the certificate of title, or as the Secretary of
State prescribes, and cause the certificate and assignment to

be mailed or delivered to the transferee or to the Secretary
 of State.

If the vehicle is subject to a tax under the Mobile Home 3 4 Local Services Tax Act in a county with a population of less than 3,000,000, the owner shall also provide 5 to the б transferee a certification by the treasurer of the county in 7 which the vehicle is situated that all taxes imposed upon the vehicle for the years the owner was the actual titleholder of 8 the vehicle have been paid. The transferee shall be liable 9 only for the taxes he or she incurred while he or she was the 10 11 actual titleholder of the mobile home. The county treasurer shall refund any amount of taxes paid by the transferee that 12 were imposed in years when the transferee was not the actual 13 titleholder. The provisions of this amendatory Act of 14 1997 (P.A. 90-542) apply retroactively to January 1, 1996. In no 15 16 event may the county treasurer refund amounts paid by the transferee during any year except the 10 years immediately 17 preceding the year in which the refund is made. If the owner 18 19 is a licensed dealer who has purchased the vehicle and is holding it for resale, in lieu of acquiring a certification 20 21 from the county treasurer he shall forward the certification 22 received from the previous owner to the next buyer of the 23 vehicle. The owner shall cause the certification to be mailed or delivered to the Secretary of State with the 24 25 certificate of title and assignment.

(b) Except as provided in Section 3-113, the transferee shall, promptly and within 20 days after delivery to him of the vehicle and the assigned title, execute the application for a new certificate of title in the space provided therefor on the certificate or as the Secretary of State prescribes, and cause the certificate and application to be mailed or delivered to the Secretary of State.

33 (c) Upon request of the owner or transferee, a34 lienholder in possession of the certificate of title shall,

1 unless the transfer was a breach of his security agreement, 2 either deliver the certificate to the transferee for delivery to the Secretary of State or, upon receipt from 3 the 4 transferee of the owner's assignment, the transferee's application for a new certificate and the required fee, mail 5 or deliver them to the Secretary of State. The delivery of 6 7 the certificate does not affect the rights of the lienholder 8 under his security agreement.

9 (d) If a security interest is reserved or created at the 10 time of the transfer, the certificate of title shall be 11 retained by or delivered to the person who becomes the 12 lienholder, and the parties shall comply with the provisions 13 of Section 3-203.

(e) Except as provided in Section 3-113 and as between 14 15 the parties, a transfer by an owner is not effective until 16 the provisions of this Section and Section 3-115 have been complied with; however, an owner who has delivered possession 17 of the vehicle to the transferee and has complied with the 18 19 provisions of this Section and Section 3-115 requiring action by him as not liable as owner for any damages thereafter 20 21 resulting from operation of the vehicle.

(f) The Secretary of State shall not process any application for a transfer of an interest in a vehicle if any fees or taxes due under this Act from the transferor or the transferee have not been paid upon reasonable notice and demand.

(g) If the Secretary of State receives an application for transfer of a vehicle subject to a tax under the <u>Mobile</u> Mobil Home Local Services Tax Act in a county with a population of less than 3,000,000, such application must be accompanied by the required certification by the county treasurer or tax assessor authorizing the issuance of the title.

34 (Source: P.A. 90-212, eff. 1-1-98; 90-542, eff. 12-1-97;

-616-

1 90-655, eff. 7-30-98; revised 2-6-01.) (625 ILCS 5/3-112.1) (from Ch. 95 1/2, par. 3-112.1) 2 3 Sec. 3-112.1. Odometer. (a) All titles issued by the Secretary of State 4 5 beginning January, 1990, shall provide for an odometer 6 certification substantially as follows: "I certify to the best of my knowledge that the odometer 7 8 reading is and reflects the actual mileage of the vehicle unless one of the following statements is checked. 9 10 () 1. The mileage stated is in excess of its 11 mechanical limits. 12 2. The odometer reading is not the actual mileage. 13 () Warning - Odometer Discrepancy." 14 15 (b) When executing any transfer of title which contains the odometer certification as described in paragraph (a) 16 above, each transferor of a motor vehicle must supply on the 17 18 title form the following information: (1) The odometer reading at the time of transfer 19 20 and an indication if the mileage is in excess of its mechanical limits or if it is not the actual mileage; 21 22 (2) The date of transfer; (3) The transferor's printed name and signature; 23 24 and (4) The transferee's printed name and address. 25 26 (C) The transferee must sign on the title form indicating that he or she is aware of the odometer 27 certification made by the transferor. 28 29 (d) The transferor will not be required to disclose the current odometer reading and the transferee will not have to 30 31 acknowledge such disclosure under the following 32 circumstances: 33 (1) A vehicle having a Gross Vehicle Weight Rating -617-

1 of more than 16,000 pounds;

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(2) A vehicle that is not self-propelled;

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(3) A vehicle that is 10 years old or older;

- (4) A vehicle sold directly by the manufacturer to
- any agency of the United States; and
- 6

5

(5) A vehicle manufactured without an odometer.

7 (e) When the transferor signs the title transfer such transferor acknowledges that he or she is aware that Federal 8 regulations and State law require him or her to state the 9 odometer mileage upon transfer of ownership. An inaccurate 10 or untruthful statement with intent to defraud subjects the 11 transferor to liability for damages to the transferee 12 pursuant to the federal Motor Vehicle Information and Cost 13 Act of 1972, P.L. 92-513 as amended by P.L. 94-364. No 14 transferor shall be liable for damages as provided under this 15 16 Section who transfers title to a motor vehicle which has an odometer reading that has been altered or tampered with by a 17 previous owner, unless that transferor knew or had reason to 18 19 know of such alteration or tampering and sold such vehicle with an intent to defraud. A cause of action is hereby 20 21 created by which any person who, with intent to defraud, violates any requirement imposed under this Section shall be 22 23 liable in an amount equal to the sum of:

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(1) three times the amount of actual damages sustained or \$1,500, whichever is the greater; and

(2) in the case of any successful action to enforce
the foregoing liability, the costs of the action together
with reasonable attorney fees as determined by the court.
Any recovery based on a cause of action under this
Section shall be offset by any recovery made pursuant to the
federal Motor Vehicle Information and Cost <u>Savings</u> Act of
1972.

33 (f) The provisions of this Section shall not apply to34 any motorcycle, motor driven cycle, moped or antique vehicle.

SB1854 Engrossed

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(g) The Secretary of State may adopt rules

and

2 regulations providing for a transition period for all non-conforming titles. 3 4 (Source: P.A. 91-357, eff. 7-29-99; revised 12-04-01.) 5 (625 ILCS 5/3-302) (from Ch. 95 1/2, par. 3-302) б Sec. 3-302. Application for title; contents. Every application for a certificate of title for a rebuilt vehicle 7 8 shall be made upon a form prescribed by the Secretary of State, and shall include the following: 9 10 1. The name, residence and mailing address of the owner; 11 2. A description of the vehicle including, so far 12 as the following data exists: its make, year-model, 13 identifying number, type of body, whether new or used, 14 15 and as to vehicles of the second division, whether for-hire, not-for-hire, or both for-hire 16 and 17 not-for-hire; 3. The date of purchase by applicant, the name and 18 address of the person from whom the vehicle was acquired 19 20 and the names and addresses of any lienholders in the order of their priority; and 21 22 4. The current odometer reading at the time of transfer and that the stated odometer reading is one of 23 24 the following: actual mileage, not the actual mileage or mileage is in excess of its mechanical limits; and 25 5. Any further information the Secretary of State 26 reasonably requires to identify the vehicle and to enable 27 him to determine whether the owner is entitled to a 28 29 certificate of title and the existence or nonexistence of security interests in the vehicle. 30

31 (Source: P.A. 86-444; 87-206; revised 1-25-02.)

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(625 ILCS 5/3-402) (from Ch. 95 1/2, par. 3-402)

Sec. 3-402. Vehicles subject to registration;
 exceptions.

A. Exemptions and Policy. Every motor vehicle, trailer, semitrailer and pole trailer when driven or moved upon a highway shall be subject to the registration and certificate of title provisions of this Chapter except:

7 (1) Any such vehicle driven or moved upon a highway
8 in conformance with the provisions of this Chapter
9 relating to manufacturers, transporters, dealers,
10 lienholders or nonresidents or under a temporary
11 registration permit issued by the Secretary of State;

12 (2) Any implement of husbandry whether of a type 13 otherwise subject to registration hereunder or not which 14 is only incidentally operated or moved upon a highway, 15 which shall include a not-for-hire movement for the 16 purpose of delivering farm commodities to a place of 17 first processing or sale, or to a place of storage;

18 (3) Any special mobile equipment as herein defined;
19 (4) Any vehicle which is propelled exclusively by
20 electric power obtained from overhead trolley wires
21 though not operated upon rails;

(5) Any vehicle which is equipped and used
exclusively as a pumper, ladder truck, rescue vehicle,
searchlight truck, or other fire apparatus, but not a
vehicle of a type which would otherwise be subject to
registration as a vehicle of the first division;

(6) Any vehicle which is owned and operated by the 27 federal government and externally displays evidence of 28 federal ownership. It is the policy of the State of 29 30 Illinois to promote and encourage the fullest use of its highways and to enhance the flow of commerce thus 31 contributing to the economic, agricultural, industrial 32 and social growth and development of this State, by 33 authorizing the Secretary of State to negotiate and enter 34

1 into reciprocal or proportional agreements or 2 arrangements with other States, or to issue declarations setting forth reciprocal exemptions, benefits and 3 4 privileges with respect to vehicles operated interstate which are properly registered in this and other States, 5 assuring nevertheless proper registration of vehicles in 6 7 Illinois as may be required by this Code;

8 (7) Any converter dolly or tow dolly which merely 9 serves as substitute wheels for another legally licensed 10 vehicle. A title may be issued on a voluntary basis to a 11 tow dolly upon receipt of the manufacturer's certificate 12 of origin or the bill of sale;

13 (8) Any house trailer found to be an abandoned
14 mobile home under the Abandoned Mobile Home Act;

15 (9) Any vehicle that is not properly registered or 16 does not have registration plates issued to the owner or operator affixed thereto, or that does have registration 17 plates issued to the owner or operator affixed thereto 18 but the plates are not appropriate for the weight of the 19 vehicle, provided that this exemption shall apply only 20 21 while the vehicle is being transported or operated by a towing service and has a third tow plate affixed to it. 22

B. Reciprocity. Any motor vehicle, trailer, semitrailer or pole trailer need not be registered under this Code provided the same is operated interstate and in accordance with the following provisions and any rules and regulations promulgated pursuant thereto:

owner, except as otherwise nonresident 28 (1) A provided in this Section, owning any foreign registered 29 30 vehicle of a type otherwise subject to registration hereunder, may operate or permit the operation of such 31 vehicle within this State in interstate commerce without 32 registering such vehicle in, or paying any fees to, this 33 State subject to the condition that such vehicle at all 34

1 times when operated in this State is operated pursuant to 2 a reciprocity agreement, arrangement or declaration by this State, and further subject to the condition that 3 4 such vehicle at all times when operated in this State is duly registered in, and displays upon it, a valid 5 registration card and registration plate or plates issued 6 7 for such vehicle in the place of residence of such owner 8 and is issued and maintains in such vehicle a valid 9 Illinois reciprocity permit as required by the Secretary of State, and provided like privileges are afforded to 10 11 residents of this State by the State of residence of such 12 owner.

Every nonresident including any foreign corporation 13 carrying on business within this State and owning and 14 15 regularly operating in such business any motor vehicle, 16 trailer or semitrailer within this State in intrastate commerce, shall be required to register each such vehicle 17 and pay the same fees therefor as is required with 18 reference to like vehicles owned by residents of this 19 20 State.

(2) Any motor vehicle, trailer, semitrailer and
 pole trailer operated interstate need not be registered
 in this State, provided:

24 (a) <u>that the vehicle</u> same is properly
25 registered in another State pursuant to law or to a
26 reciprocity agreement, arrangement or declaration;
27 or

(b) that such vehicle is part of a fleet of
vehicles owned or operated by the same person who
registers such fleet of vehicles pro rata among the
various States in which such fleet operates; or

32 (c) that such vehicle is part of a fleet of
33 vehicles, a portion of which are registered with the
34 Secretary of State of Illinois in accordance with an

SB1854 Engrossed

1 agreement or arrangement concurred in by the 2 Secretary of State of Illinois based on one or more of the following factors: ratio of miles in Illinois 3 4 as against total miles in all jurisdictions; situs or base of a vehicle, or where it is principally 5 garaged, or from whence it is principally dispatched 6 7 or where the movements of such vehicle usually originate; situs of the residence of the owner or 8 9 operator thereof, or of his principal office or offices, or of his places of business; the routes 10 11 traversed and whether regular or irregular routes are traversed, and the jurisdictions traversed and 12 served; and such other factors as may be deemed 13 material by the Secretary and the motor vehicle 14 15 administrators of the other jurisdictions involved 16 in such apportionment.*i*-and

17 (d)--that Such vehicles shall maintain therein any 18 reciprocity permit which may be required by the Secretary 19 of State pursuant to rules and regulations which the 20 Secretary of State may promulgate in the administration 21 of this Code, in the public interest.

22 (3) (a) In order to effectuate the purposes of this Code, the Secretary of State of Illinois 23 is 24 empowered to negotiate and execute written 25 reciprocal agreements or arrangements with the duly authorized representatives of other jurisdictions, 26 27 including States, districts, territories and possessions of the United States, and foreign 28 29 states, provinces, or countries, granting to owners or operators of vehicles duly registered or licensed 30 in such other jurisdictions and for which evidence 31 of compliance is supplied, benefits, privileges and 32 exemption from the payment, wholly or partially, of 33 34 any taxes, fees or other charges imposed with -623-

respect to the ownership or operation of such
 vehicles by the laws of this State except the tax
 imposed by the Motor Fuel Tax Law, approved March
 25, 1929, as amended, and the tax imposed by the Use
 Tax Act, approved July 14, 1955, as amended.

6 The Secretary of State may negotiate agreements 7 or arrangements as are in the best interests of this 8 State and the residents of this State pursuant to 9 the policies expressed in this Section taking into 10 consideration the reciprocal exemptions, benefits 11 and privileges available and accruing to residents 12 of this State and vehicles registered in this State.

(b) Such reciprocal agreements or arrangements
shall provide that vehicles duly registered or
licensed in this State when operated upon the
highways of such other jurisdictions, shall receive
exemptions, benefits and privileges of a similar
kind or to a similar degree as extended to vehicles
from such jurisdictions in this State.

20 (c) Such agreements or arrangements may also 21 authorize the apportionment of registration or 22 licensing of fleets of vehicles operated interstate, based on any or all of the following factors: ratio 23 of miles in Illinois as against total miles in all 24 25 jurisdictions; situs or base of a vehicle, or where it is principally garaged or from whence it is 26 principally dispatched or where the movements of 27 such vehicle usually originate; situs 28 of the 29 residence of the owner or operator thereof, or of 30 his principal office or offices, or of his places of business; the routes traversed and whether regular 31 irregular routes are traversed, and the 32 or jurisdictions traversed and served; and such other 33 34 factors as may be deemed material by the Secretary 2

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and the motor vehicle administrators of the other jurisdictions involved in such apportionment, and such vehicles shall likewise be entitled to reciprocal exemptions, benefits and privileges.

-624-

5 (d) Such agreements or arrangements shall also provide that vehicles being operated in intrastate 6 commerce in Illinois shall comply 7 with the 8 registration and licensing laws of this State, 9 that vehicles which are part of an except 10 apportioned fleet may conduct an intrastate 11 operation incidental to their interstate operations. 12 Any motor vehicle properly registered and qualified under any reciprocal agreement or arrangement under 13 this Code and not having a situs or base within 14 15 Illinois may complete the inbound movement of a 16 trailer or semitrailer to an Illinois destination that was brought into Illinois by a motor vehicle 17 also properly registered and qualified under this 18 Code and not having a situs or base within Illinois, 19 or may complete an outbound movement of a trailer or 20 21 semitrailer to an out-of-state destination that was 22 originated in Illinois by a motor vehicle also properly registered and qualified under this Code 23 and not having a situs or base in Illinois, only if 24 25 the operator thereof did not break bulk of the cargo laden in such inbound or outbound trailer or 26 semitrailer. Adding or unloading intrastate cargo on 27 such inbound or outbound trailer or semitrailer 28 shall be deemed as breaking bulk. 29

30 (e) Such agreements or arrangements may also 31 provide for the determination of the proper State in 32 which leased vehicles shall be registered based on 33 the factors set out in subsection (c) above and for 34 apportionment of registration of fleets of leased vehicles by the lessee or by the lessor who leases
 such vehicles to persons who are not fleet
 operators.

4 (f) Such agreements or arrangements may also
5 include reciprocal exemptions, benefits or
6 privileges accruing under The Illinois Driver
7 Licensing Law or The Driver License Compact.

(4) The Secretary of State is further authorized to 8 9 examine the laws and requirements of other jurisdictions, in the absence of a written agreement or 10 and, 11 arrangement, to issue a written declaration of the extent and nature of the exemptions, benefits and privileges 12 accorded to vehicles of this State by such other 13 jurisdictions, and the extent and nature of reciprocal 14 exemptions, benefits and privileges thereby accorded by 15 16 this State to the vehicles of such other jurisdictions. A declaration by the Secretary of State may include any, 17 benefits part or all reciprocal exemptions, 18 and privileges or provisions as may be included within an 19 20 agreement or arrangement.

(5) All agreements, arrangements, declarations and amendments thereto, shall be in writing and become effective when signed by the Secretary of State, and copies of all such documents shall be available to the public upon request.

(6) The Secretary of State is further authorized to 26 27 require the display by foreign registered trucks, truck-tractors and buses, entitled to reciprocal 28 29 benefits, exemptions or privileges hereunder, a 30 reciprocity permit for external display before any such reciprocal benefits, exemptions or privileges 31 are The Secretary of State shall provide suitable 32 granted. application forms for such permit and shall promulgate 33 34 and publish reasonable rules and regulations for the administration and enforcement of the provisions of this Code including a provision for revocation of such permit as to any vehicle operated wilfully in violation of the terms of any reciprocal agreement, arrangement or declaration or in violation of the Illinois Motor Carrier of Property Law, as amended.

(7) (a) Upon the suspension, revocation or denial 7 8 of one or more of all reciprocal benefits, 9 privileges and exemptions existing pursuant to the terms and provisions of this Code or by virtue of a 10 11 reciprocal agreement or arrangement or declaration thereunder; or, upon the suspension, revocation or 12 denial of a reciprocity permit; or, upon any action 13 inaction of the Secretary in the administration 14 or 15 and enforcement of the provisions of this Code, any 16 person, resident or nonresident, so aggrieved, may serve upon the Secretary, a petition in writing and 17 under oath, setting forth the grievance of the 18 petitioner, the grounds and basis for the relief 19 sought, and all necessary facts and particulars, and 20 21 request an administrative hearing thereon. Within 22 20 days, the Secretary shall set a hearing date as early as practical. The Secretary may, 23 in his discretion, supply forms for such a petition. The 24 Secretary may require the payment of a fee of not 25 more than \$50 for the filing of any petition, 26 motion, or request for hearing conducted pursuant to 27 this Section. These fees must be deposited into the 28 29 Secretary of State DUI Administration Fund, a special fund that is hereby created in the State 30 31 treasury, and, subject to appropriation and as directed by the Secretary of State, shall be used to 32 fund the operation of the hearings department of the 33 Office of the Secretary of State and for no other 34

1purpose. The Secretary shall establish by rule the2amount and the procedures, terms, and conditions3relating to these fees.

4 (b) The Secretary may likewise, in his discretion and upon his own petition, order a 5 hearing, when in his best judgment, any person is 6 7 not entitled to the reciprocal benefits, privileges 8 and exemptions existing pursuant to the terms and 9 provisions of this Code or under a reciprocal agreement or arrangement or declaration thereunder 10 11 or that a vehicle owned or operated by such person is improperly registered or licensed, or that an 12 13 Illinois resident has improperly registered or licensed a vehicle in another jurisdiction for the 14 15 purposes of violating or avoiding the registration 16 laws of this State.

(c) The Secretary shall notify a petitioner or 17 any other person involved of such a hearing, by 18 giving at least 10 days notice, in writing, by U.S. 19 Mail, Registered or Certified, or by personal 20 service, at the last known address of such 21 22 petitioner or person, specifying the time and place of such hearing. Such hearing shall be held before 23 the Secretary, or any person as he may designate, 24 25 and unless the parties mutually agree to some other county in Illinois, the hearing shall be held in the 26 27 County of Sangamon or the County of Cook. Appropriate records of the hearing shall be kept, 28 29 and the Secretary shall issue or cause to be issued, 30 his decision on the case, within 30 days after the close of such hearing or within 30 days after 31 receipt of the transcript thereof, and a copy shall 32 likewise be served or mailed to the petitioner or 33 34 person involved.

1 (d) The actions or inactions or 2 determinations, or findings and decisions upon an administrative hearing, of the Secretary, shall be 3 4 subject to judicial review in the Circuit Court of the County of Sangamon or the County of Cook, and 5 the provisions of the Administrative Review Law, and 6 7 all amendments and modifications thereof and rules 8 adopted pursuant thereto, apply to and govern all 9 such reviewable matters.

10 Any reciprocal agreements or arrangements 11 entered into by the Secretary of State or any declarations issued by the Secretary of State 12 pursuant to any law in effect prior to the effective 13 date of this Code are not hereby abrogated, and such 14 15 shall continue in force and effect until amended 16 pursuant to the provisions of this Code or expire pursuant to the terms or provisions thereof. 17 (Source: P.A. 92-418, eff. 8-17-01; revised 12-04-01.) 18

19 (625 ILCS 5/3-405.1) (from Ch. 95 1/2, par. 3-405.1)

20 Sec. 3-405.1. Application for vanity and personalized 21 license plates.

(a) Vanity license plates mean any license plates, 22 assigned to a passenger motor vehicle of the first division, 23 24 to a motor vehicle of the second division registered at not more than 8,000 pounds or to a recreational vehicle, which 25 display a registration number containing 4 to 7 letters 26 as requested by the owner of the vehicle and license plates 27 28 issued to retired members of Congress under Section 3-610.1 or to retired members of the General Assembly as provided in 29 Section 3-606.1. A license plate consisting of 3 letters and 30 no numbers or of 1, 2 or 3 numbers, upon its becoming 31 available, is a vanity license plate. Personalized license 32 plates mean any license plates, assigned to a passenger motor 33

vehicle of the first division, to a motor vehicle of the second division, or to a recreational vehicle, which display a registration number containing a combination of letters and numbers as prescribed by rule, as requested by the owner of the vehicle.

For any registration period commencing after 1979, 6 (b) 7 any person who is the registered owner of a passenger motor vehicle of the first division, of a motor vehicle of 8 the 9 second division registered at not more than 8,000 pounds or of a recreational vehicle registered with the Secretary of 10 11 State or who makes application for an original registration of such a motor vehicle or renewal registration of such a 12 13 motor vehicle may, upon payment of a fee prescribed in Section 3-806.1, apply to the Secretary of State 14 for 15 personalized license plates.

16 (c) Except as otherwise provided in this Chapter 3 for plates-issued-under-Sections-3-627,-3-631,-and-3-632, vanity 17 and personalized license plates as issued under this Section 18 19 shall be the same color and design as other passenger vehicle 20 license plates and shall not in any manner conflict with any 21 other existing passenger, commercial, trailer, motorcycle, or 22 special license plate series. However, special registration 23 plates issued under Sections 3-611 and 3-616 for vehicles operated by or for persons with disabilities may also be 24 25 vanity or personalized license plates.

(d) Vanity and personalized license plates shall be
issued only to the registered owner of the vehicle on which
they are to be displayed, except as provided in Sections
3-611 and 3-616 for special registration plates for vehicles
operated by or for persons with disabilities.

31 (e) An applicant for the issuance of vanity or 32 personalized license plates or subsequent renewal thereof 33 shall file an application in such form and manner and by such 34 date as the Secretary of State may, in his discretion, SB1854 Engrossed

1 require.

2 No vanity nor personalized license plates shall be 3 approved, manufactured, or distributed that contain any 4 characters, symbols other than the international 5 accessibility symbol for vehicles operated by or for persons 6 with disabilities, foreign words, or letters of punctuation.

7 (f) Vanity and personalized license plates as issued 8 pursuant to this Act may be subject to the Staggered 9 Registration System as prescribed by the Secretary of State. 10 (Source: P.A. 88-685, eff. 1-24-95; 89-282, eff. 8-10-95; 11 89-611, eff. 1-1-97; revised 1-28-02.)

12 (625 ILCS 5/3-412) (from Ch. 95 1/2, par. 3-412)

Sec. 3-412. Registration plates and registrationstickers to be furnished by the Secretary of State.

15 (a) The Secretary of State upon registering a vehicle subject to annual registration for the first time 16 shall 17 issue or shall cause to be issued to the owner one 18 registration plate for a motorcycle, trailer, semitrailer, motorized pedalcycle or truck-tractor, 2 registration plates 19 for other motor vehicles and, where applicable, current 20 registration stickers for motor vehicles of the first 21 22 division. The provisions of this Section may be made applicable to such vehicles of the second division, as the 23 24 Secretary of State may, from time to time, in his discretion designate. On subsequent annual registrations during the term 25 of the registration plate as provided in Section 3-414.1, the 26 27 Secretary shall issue or cause to be issued registration stickers as evidence of current registration. However, the 28 29 issuance of annual registration stickers to vehicles registered under the provisions of Section 3-402.1 of this 30 31 Code may not be required if the Secretary deems the issuance 32 unnecessary.

33

(b) Every registration plate shall have displayed upon

SB1854 Engrossed

1 it the registration number assigned to the vehicle for which 2 it is issued, the name of this State, which may be abbreviated, the year number for which it was issued, which 3 4 may be abbreviated, the phrase "Land of Lincoln", (except as otherwise provided in this Chapter 3) Sections-3-6267--3-6297 5 б 3-633,-3-634,-3-637,-3-638,-and-3-642, and such other letters 7 or numbers as the Secretary may prescribe. However, for 8 apportionment plates issued to vehicles registered under 9 Section 3-402.1, the phrase "Land of Lincoln" may be omitted to allow for the word "apportioned" to be displayed. 10 The 11 Secretary may in his discretion prescribe that letters be used as prefixes only on registration plates issued to 12 vehicles of the first division which are registered under 13 this Code and only as suffixes on registration plates issued 14 15 to other vehicles. Every registration sticker issued as 16 evidence of current registration shall designate the year number for which it is issued and such other letters or 17 numbers as the Secretary may prescribe and shall be of a 18 19 contrasting color with the registration plates and registration stickers of the previous year. 20

(c) Each registration plate and the required letters and numerals thereon, except the year number for which issued, shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight, and shall be coated with reflectorizing material. The dimensions of the plate issued to vehicles of the first division shall be 6 by 12 inches.

(d) The Secretary of State shall issue for every
passenger motor vehicle rented without a driver the same type
of registration plates as the type of plates issued for a
private passenger vehicle.

32 (e) The Secretary of State shall issue for every
33 passenger car used as a taxicab or livery, distinctive
34 registration plates.

1 (f) The Secretary of State shall issue for every 2 motorcycle distinctive registration plates distinguishing 3 between motorcycles having 150 or more cubic centimeters 4 piston displacement, or having less than 150 cubic centimeter 5 piston displacement.

6 (g) Registration plates issued to vehicles for-hire may 7 display a designation as determined by the Secretary that 8 such vehicles are for-hire.

9 (h) The Secretary of State shall issue for each electric 10 vehicle distinctive registration plates which shall 11 distinguish between electric vehicles having a maximum 12 operating speed of 45 miles per hour or more and those having 13 a maximum operating speed of less than 45 miles per hour.

(i) The Secretary of State shall issue for every public
and private ambulance registration plates identifying the
vehicle as an ambulance. The Secretary shall forward to the
Department of Public Aid registration information for the
purpose of verification of claims filed with the Department
by ambulance owners for payment for services to public
assistance recipients.

(j) The Secretary of State shall issue for every public 21 22 and private medical carrier or rescue vehicle livery 23 registration plates displaying numbers within ranges of numbers reserved respectively for medical carriers and rescue 24 25 vehicles. The Secretary shall forward to the Department of Public Aid registration information for the purpose of 26 verification of claims filed with the Department by owners of 27 medical carriers or rescue vehicles for payment for services 28 29 to public assistance recipients.

30 (Source: P.A. 89-424, eff. 6-1-96; 89-564, eff. 7-1-97; 31 89-612, eff. 8-9-96; 89-621, eff. 1-1-97; 89-639, eff. 32 1-1-97; 90-14, eff. 7-1-97; 90-533, eff. 11-14-97; 90-655, 33 eff. 7-30-98; revised 1-28-02.) 1 2

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(625 ILCS 5/3-616) (from Ch. 95 1/2, par. 3-616)Sec. 3-616. Person with disabilities license plates.(a) Upon receiving an application for a certificate of

4 registration for a motor vehicle of the first division or for a motor vehicle of the second division weighing no more than 5 6 8,000 pounds, accompanied with payment of the registration 7 fees required under this Code from a person with disabilities or a person who is deaf or hard of hearing, the Secretary of 8 9 State, if so requested, shall issue to such person registration plates as provided for in Section 10 3-611, 11 provided that the person with disabilities or person who is deaf or hard of hearing must not be disqualified from 12 obtaining a driver's license under subsection 8 of Section 13 6-103 of this Code, and further provided that any person 14 15 making such a request must submit a statement certified by a 16 licensed physician to the effect that such person is a person with disabilities as defined by Section 1-159.1 of this Code, 17 or alternatively provide adequate documentation that such 18 person has a Class 1A, Class 2A or Type Four disability under 19 the provisions of Section 4A of the Illinois Identification 20 21 Card Act. For purposes of this Section, an Illinois Disabled Person Identification Card issued pursuant to the Illinois 22 23 Identification Card Act indicating that the person thereon named has a disability shall be adequate documentation of 24 25 such a disability.

(b) The Secretary shall issue plates under this Section 26 to a parent or legal guardian of a person with disabilities 27 if the person with disabilities has a Class 1A or Class 2A 28 disability as defined in Section 4A of 29 the Illinois 30 Identification Card Act or is a person with disabilities as defined by Section 1-159.1 of this Code, and does not possess 31 32 a vehicle registered in his or her name, provided that the person with disabilities relies frequently on the parent or 33 34 legal guardian for transportation. Only one vehicle 2 per 1 family may be registered under this subsection, unless the 2 applicant can justify in writing the need for one additional set of plates. Any person requesting special plates under 3 4 this subsection shall submit such documentation or such physician's statement as is required in subsection (a) and a 5 б statement describing the circumstances qualifying for 7 issuance of special plates under this subsection.

8 (C) The Secretary may issue a person with disabilities 9 parking decal or device to a person with disabilities as defined by Section 1-159.1 without regard to qualification of 10 11 such person with disabilities for a driver's license or registration of a vehicle by such person with disabilities or 12 such person's immediate family, provided such person with 13 disabilities making such a request has been issued a Disabled 14 15 Person Identification Card indicating that the person named 16 thereon has a Class 1A or Class 2A disability, or alternatively, submits a statement certified by a licensed 17 physician to the effect that such person is a person with 18 19 disabilities as defined by Section 1-159.1.

20 (d) The Secretary shall prescribe by rules and 21 regulations procedures to certify or re-certify as necessary 22 the eligibility of persons whose disabilities are other than 23 permanent for special plates or person with disabilities parking decals or devices issued under subsections (a), (b) 24 25 and (c). Except as provided under subsection (f) of this Section, no such special plates, decals or devices shall be 26 27 issued by the Secretary of State to or on behalf of anv person with disabilities unless such person is certified as 28 29 meeting the definition of a person with disabilities pursuant 30 to Section 1-159.1 or meeting the requirement of a Type Four disability as provided under Section 4A of the Illinois 31 32 Identification Card Act for the period of time that the 33 physician determines the applicant will have the disability, but not to exceed 6 months from the date of certification or 34

SB1854 Engrossed

-635-

1 recertification.

2 (e) Any person requesting special plates under this
3 Section may also apply to have the special plates
4 personalized, as provided under Section 3-405.1.

5 (f) The Secretary of State, upon application, shall 6 issue person with disabilities registration plates or a person with disabilities parking decal to corporations, 7 school districts, State or municipal agencies, 8 limited 9 liability companies, nursing homes, convalescent homes, or special education cooperatives which will transport persons 10 with disabilities. The Secretary shall prescribe by rule a 11 to certify or re-certify the eligibility of 12 means organizations to receive person with disabilities plates or 13 to designate which of the 2 person with 14 decals and disabilities emblems shall be placed on qualifying vehicles. 15

16 (g) The Secretary of State, or his designee, may enter into agreements with other jurisdictions, including foreign 17 jurisdictions, on behalf of this State relating to the 18 19 extension of parking privileges by such jurisdictions to permanently disabled residents of this State who display a 20 21 special license plate or parking device that contains the International symbol of access on his or her motor vehicle, 22 23 and to recognize such plates or devices issued by such other jurisdictions. This State shall grant the same parking 24 25 privileges which are granted to disabled residents of this State to any non-resident whose motor vehicle is licensed in 26 another state, district, territory or foreign country if such 27 vehicle displays the international symbol of access or a 28 29 distinguishing insignia on license plates or parking device issued in accordance with the laws of the non-resident's 30 state, district, territory or foreign country. 31 (Source: P.A. 91-769, eff. 6-9-00; 92-16, eff. 6-28-01; 32

33 92-411, eff. 1-1-02; revised 10-12-01.)

-636-

1

(625 ILCS 5/3-648)

2 Sec. 3-648. Education license plates.

(a) The Secretary, upon receipt of an application made 3 4 in the form prescribed by the Secretary, may issue special 5 registration plates designated as Education license plates. б The special plates issued under this Section shall be affixed 7 only to passenger vehicles of the first division and motor 8 vehicles of the second division weighing not more than 8,000 9 Plates issued under this Section shall expire pounds. according to the multi-year procedure established by Section 10 3-414.1 of this Code. 11

(b) The design and color of the plates shall be 12 determined by a contest that every elementary school pupil in 13 the State of Illinois is eligible to enter. The designs 14 submitted for the contest shall be judged on September 30, 15 16 2002, and the winning design shall be selected by a committee composed of the Secretary, the Director of State Police, 17 2 18 members of the Senate, one member chosen by the President of the Senate and one member chosen by the Senate Minority 19 Leader, and 2 members of the House of Representatives, one 20 21 member chosen by the Speaker of the House and one member 22 chosen by the House Minority Leader. The Secretary may allow 23 the plates to be issued as vanity or personalized plates under Section 3-405.1 of the Code. 24 The Secretary shall 25 prescribe stickers or decals as provided under Section 3-412 of this Code. 26

An applicant for the special plate shall be charged 27 (C) \$40 fee for original issuance, in addition to 28 а the appropriate registration fee. Of this \$40 additional original 29 30 issuance fee, \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used by the Secretary 31 32 to help defray the administrative processing costs, and \$25 shall be deposited into the Illinois Future Teacher Corps 33 34 Scholarship Fund. For each registration renewal period, a

1 \$40 fee, in addition to the appropriate registration fee, 2 shall be charged. Of this \$40 additional renewal fee, \$2 shall be deposited into the Secretary of State Special 3 4 License Plate Fund and \$38 shall be deposited into the 5 Illinois Future Teacher Corps Scholarship Fund. Each fiscal year, once deposits from the additional original issuance and 6 7 renewal fees into the Secretary of State Special License Plate Fund have reached \$500,000, all the amounts received 8 9 for the additional fees for the balance of the fiscal year shall be deposited into the Illinois Future Teacher Corps 10 11 Scholarship Fund.

(d) The Illinois Future Teacher Corps Scholarship Fund 12 created as a special fund in the State treasury. 13 is Ninety-five percent of the moneys in the Illinois Future 14 Teacher Corps Scholarship Fund shall be appropriated to the 15 16 Illinois Student Assistance Commission for scholarships under Section 65.65 of the Higher Education Student Assistance Act, 17 and 5% of the moneys in the Illinois Future Teacher Corps 18 19 Scholarship Fund shall be appropriated to the State Board of Education for grants to the Golden Apple Foundation for 20 21 Excellence in Teaching, a recognized charitable organization that meets the requirements of Title 26, Section 501(c)(3) of 22 23 the United States Code.

24 (Source: P.A. 92-445, eff. 8-17-01.)

25 (625 ILCS 5/3-650)

26

Sec. <u>3-650.</u> 3-648. Army Combat Veteran license plates.

(a) In addition to any other special license plate, the 27 28 Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary of 29 State, may issue Army Combat Veteran license plates to 30 31 residents of Illinois who meet eligibility requirements prescribed by the Secretary of State. The special Army 32 Combat Veteran plate issued under this Section shall be 33

1 affixed only to passenger vehicles of the first division and 2 motor vehicles of the second division weighing not more than 3 8,000 pounds. Plates issued under this Section shall expire 4 according to the staggered multi-year procedure established 5 by Section 3-414.1 of this Code.

-638-

The plates shall display the Army Combat Infantry 6 (b) 7 In all other respects, the design, color, and format Badge. of the plates shall be within the discretion of the Secretary 8 9 of State. The Secretary may, in his or her discretion, allow the plates to be issued as vanity plates or personalized in 10 11 accordance with Section 3-405.1 of this Code. The plates are not required to designate "Land Of Lincoln", as prescribed in 12 subsection (b) of Section 3-412 of this Code. The Secretary 13 shall prescribe the eligibility requirements and, in his or 14 15 her discretion, shall approve and prescribe stickers or 16 decals as provided under Section 3-412.

(c) An applicant shall be charged a \$15 fee for original 17 issuance in addition to the applicable registration 18 fee. 19 This additional fee shall be deposited into the Secretary of State Special License Plate Fund. For each registration 20 21 renewal period, a \$2 fee, in addition to the appropriate registration fee, shall be charged and shall be deposited 22 into the Secretary of State Special License Plate Fund. 23 (Source: P.A. 92-79, eff. 1-1-02; revised 10-17-01.) 24

25 (625 ILCS 5/3-651)

26

Sec. <u>3-651.</u> 3-648. U.S. Marine Corps license plates.

In addition to any other special license plate, the 27 (a) 28 Secretary, upon receipt of all applicable fees and applications made in the form prescribed by the Secretary of 29 State, may issue special registration plates designated as 30 U.S. Marine Corps license plates to residents of Illinois who 31 meet eligibility requirements prescribed by the Secretary of 32 33 The special plate issued under this Section shall be State.

1 affixed only to passenger vehicles of the first division, 2 motor vehicles of the second division weighing not more than 3 8,000 pounds, and recreational vehicles as defined by Section 4 1-169 of this Code. Plates issued under this Section shall 5 expire according to the staggered multi-year procedure 6 established by Section 3-414.1 of this Code.

7 (b) The design, color, and format of the plates shall be 8 wholly within the discretion of the Secretary of State, except that the U.S. Marine Corps emblem shall appear on the 9 plates. The Secretary may, in his or her discretion, allow 10 11 the plates to be issued as vanity or personalized plates in accordance with Section 3-405.1 of this Code. The plates are 12 not required to designate "Land Of Lincoln", as prescribed in 13 subsection (b) of Section 3-412 of this Code. The Secretary 14 15 shall prescribe the eligibility requirements and, in his or 16 her discretion, shall approve and prescribe stickers or decals as provided under Section 3-412. 17

(c) An applicant shall be charged a \$20 fee for original 18 19 issuance in addition to the applicable registration fee. Of this additional fee, \$15 20 shall be deposited into the 21 Secretary of State Special License Plate Fund and \$5 shall be 22 deposited into the Marine Corps Scholarship Fund. For each registration renewal period, a \$20 fee, in addition to the 23 appropriate registration fee, shall be charged. 24 Of this 25 additional fee, \$2 shall be deposited into the Secretary of State Special License Plate Fund and \$18 shall be deposited 26 into the Marine Corps Scholarship Fund. 27

(d) The Marine Corps Scholarship Fund is created as a special fund in the State treasury. All moneys in the Marine Corps Scholarship Fund shall, subject to appropriation by the General Assembly and approval by the Secretary, be used by the Marine Corps Scholarship Foundation, Inc., a recognized charitable organization that meets the requirements of Title 26, Section 501(c)(3) of the United States Code, to provide grants for scholarships for higher education. The scholarship recipients must be the children of current or former members of the United States Marine Corps who meet the academic, financial, and other requirements established by the Marine Corps Scholarship Foundation. In addition, the recipients must be Illinois residents and must attend a college or university located within the State of Illinois.

8 The State Treasurer shall require the Marine Corps 9 Scholarship Foundation to establish a separate account for receipt of the proceeds of the Marine Corps Scholarship Fund. 10 11 That account shall be subject to audit either annually or at another interval, as determined by the State Treasurer. 12 Proceeds from the Marine Corps Scholarship Fund shall be 13 transferred on a quarterly basis by the State Treasurer's 14 15 office to this separate account.

16 (Source: P.A. 92-467, eff. 1-1-02; revised 10-17-01.)

17 (625 ILCS 5/3-652)

Sec. <u>3-652.</u> 3-648. Chicago and Northeast Illinois
District Council of Carpenters license plates.

20 (a) The Secretary, upon receipt of all applicable fees
21 and applications made in the form prescribed by the
22 Secretary, may issue special registration plates designated
23 as Chicago and Northeast Illinois District Council of
24 Carpenters license plates.

The special plates issued under this Section shall be affixed only to passenger vehicles of the first division or motor vehicles of the second division weighing not more than 8,000 pounds.

29 Plates issued under this Section shall expire according 30 to the multi-year procedure established by Section 3-414.1 of 31 this Code.

32 (b) The design and color of the special plates shall be33 wholly within the discretion of the Secretary. Appropriate

documentation, as determined by the Secretary, shall accompany each application. The Secretary may allow the plates to be issued as vanity plates or personalized plates under Section 3-405.1 of this Code. The Secretary shall prescribe stickers or decals as provided under Section 3-412 of this Code.

7 (c) An applicant for the special plate shall be charged 8 а \$25 fee for original issuance in addition to the appropriate registration fee. Of this fee, \$10 shall be 9 deposited into the Chicago and Northeast Illinois District 10 11 Council of Carpenters Fund and \$15 shall be deposited into the Secretary of State Special License Plate Fund, to be used 12 by the Secretary to help defray the administrative processing 13 14 costs.

For each registration renewal period, a \$25 fee, in addition to the appropriate registration fee, shall be charged. Of this fee, \$23 shall be deposited into the Chicago and Northeast Illinois District Council of Carpenters Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

21 (d) The Chicago and Northeast Illinois District Council 22 of Carpenters Fund is created as a special fund in the State 23 treasury. All moneys in the Chicago and Northeast Illinois District Council of Carpenters Fund shall be paid, subject to 24 25 appropriation by the General Assembly and approval by the Secretary, as grants for charitable purposes sponsored by the 26 27 Chicago and Northeast Illinois District Council of 28 Carpenters.

29 (Source: P.A. 92-477, eff. 1-1-02; revised 10-17-01.)

30 (625 ILCS 5/3-653)

31 (This Section may contain text from a Public Act with a32 delayed effective date)

33 Sec. <u>3-653.</u> 3-648. Pet Friendly license plates.

SB1854 Engrossed

1 (a) The Secretary, upon receipt of an application made 2 in the form prescribed by the Secretary, may issue special registration plates designated as Pet Friendly license 3 4 plates. The special plates issued under this Section shall 5 be affixed only to passenger vehicles of the first division, motor vehicles of the second division weighing not more than 6 7 8,000 pounds, and recreational vehicles as defined in Section 1-169 of this Code. Plates issued under this Section shall 8 9 expire according to the multi-year procedure established by Section 3-414.1 of this Code. 10

11 (b) The design and color of the plates is wholly within 12 the discretion of the Secretary, except that the phrase "I am 13 pet friendly" shall be on the plates. The Secretary may allow 14 the plates to be issued as vanity plates or personalized 15 plates under Section 3-405.1 of the Code. The Secretary 16 shall prescribe stickers or decals as provided under Section 17 3-412 of this Code.

An applicant for the special plate shall be charged 18 (C) \$40 fee for original issuance in addition 19 а to the appropriate registration fee. Of this additional fee, \$25 20 21 shall be deposited into the Pet Overpopulation Control Fund 22 and \$15 shall be deposited into the Secretary of State 23 Special License Plate Fund, to be used by the Secretary to help defray the administrative processing costs. 24

For each registration renewal period, a \$27 fee, in addition to the appropriate registration fee, shall be charged. Of this additional fee, \$25 shall be deposited into the Pet Overpopulation Control Fund and \$2 shall be deposited into the Secretary of State Special License Plate Fund.

30 (d) The Pet Overpopulation Control Fund is created as a
31 special fund in the State treasury. All moneys in the Pet
32 Overpopulation Control Fund shall be paid, subject to
33 appropriation by the General Assembly and approval by the
34 Secretary, as grants to humane societies exempt from federal

1 income taxation under Section 501(c)(3) of the Internal 2 Revenue Code to be used solely for the humane sterilization of dogs and cats in the State of Illinois. In approving 3 4 grants under this subsection (d), the Secretary shall 5 consider recommendations for grants made by a volunteer board appointed by the Secretary that shall consist of 5 Illinois 6 7 residents who are officers or directors of humane societies operating in different regions in Illinois. 8

9 (Source: P.A. 92-520, eff. 6-1-02; revised 1-16-02.)

10 (625 ILCS 5/3-806.3) (from Ch. 95 1/2, par. 3-806.3)

11

Sec. 3-806.3. Senior Citizens.

Commencing with the 1986 registration year and extending 12 through the 2000 registration year, the registration fee paid 13 14 by any vehicle owner who has claimed and received a grant 15 under the "Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act^{*} or who 16 is the 17 spouse of such a person shall be reduced by 50% for passenger 18 cars displaying standard multi-year registration plates issued under Section 3-414.1, motor vehicles displaying 19 20 special registration plates issued under Section 3-616, motor vehicles registered at 8,000 pounds or less under Section 21 22 3-815(a) and recreational vehicles registered at 8,000 pounds or less under Section 3-815(b). Widows and widowers of 23 24 claimants shall also be entitled to the reduced registration rate for the registration year in which the claimant was 25 26 eligible.

Commencing with the 2001 registration 27 year, the 28 registration fee paid by any vehicle owner who has claimed 29 and received a grant under the "Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance 30 31 Act^{_} or who is the spouse of such a person shall be \$24 instead of the fee otherwise provided in this Code for 32 33 passenger cars displaying standard multi-year registration 1 plates issued under Section 3-414.1, motor vehicles 2 displaying special registration plates issued under Section 3-616, motor vehicles registered at 8,000 pounds or less 3 4 under Section 3-815(a) and recreational vehicles registered at 8,000 pounds or less under Section 3-815(b). Widows and 5 6 widowers of claimants shall also be entitled to this reduced registration fee for the registration year in which the 7 8 claimant was eligible.

9 No more than one reduced registration fee under this Section shall be allowed during any 12 month period based on 10 11 the primary eligibility of any individual, whether such reduced registration fee is allowed to the individual or to 12 the spouse, widow or widower of such individual. This 13 Section does not apply to the fee paid in addition to the 14 15 registration fee for motor vehicles displaying <u>vanity</u> 16 personalized license plates under Section 3-806.1. (Source: P.A. 91-37, eff. 7-1-99; revised 12-06-01.) 17

18 (625 ILCS 5/6-205) (from Ch. 95 1/2, par. 6-205)

Sec. 6-205. Mandatory revocation of license or permit;
 Hardship cases.

(a) Except as provided in this Section, the Secretary of State shall immediately revoke the license or permit of any driver upon receiving a report of the driver's conviction of any of the following offenses:

Reckless homicide resulting from the operation
 of a motor vehicle;

27 2. Violation of Section 11-501 of this Code or a 28 similar provision of a local ordinance relating to the 29 offense of operating or being in physical control of a 30 vehicle while under the influence of alcohol, other drug 31 or drugs, intoxicating compound or compounds, or any 32 combination thereof;

33

3. Any felony under the laws of any State or the

1 federal government in the commission of which a motor 2 vehicle was used; 4. Violation of Section 11-401 of 3 this Code 4 relating to the offense of leaving the scene of a traffic accident involving death or personal injury; 5 5. Perjury or the making of a false affidavit or 6 7 statement under oath to the Secretary of State under this Code or under any other law relating to the ownership or 8 9 operation of motor vehicles; 6. Conviction upon 3 charges of violation of 10 11 Section 11-503 of this Code relating to the offense of reckless driving committed within a period of 12 months; 12 7. Conviction of the offense of automobile theft as 13 defined in Section 4-102 of this Code; 14 8. Violation of Section 11-504 of this Code 15 16 relating to the offense of drag racing; 9. Violation of Chapters 8 and 9 of this Code; 17 10. Violation of Section 12-5 of the Criminal Code 18 of 1961 arising from the use of a motor vehicle; 19 11. Violation of Section 11-204.1 of this Code 20 21 relating to aggravated fleeing or attempting to elude a 22 police officer; 23 12. Violation of paragraph (1) of subsection (b) of Section 6-507, or a similar law of any other state, 24 relating to the unlawful operation of a commercial motor 25 vehicle; 26 13. Violation of paragraph (a) of Section 11-502 of 27 this Code or a similar provision of a local ordinance if 28 29 the driver has been previously convicted of a violation 30 of that Section or a similar provision of a local ordinance and the driver was less than 21 years of age at 31 the time of the offense. 32 (b) The Secretary of State shall also immediately revoke 33 34 the license or permit of any driver in the following -646-

1 situations:

Of any minor upon receiving the notice provided
 for in Section 5-901 of the Juvenile Court Act of 1987
 that the minor has been adjudicated under that Act as
 having committed an offense relating to motor vehicles
 prescribed in Section 4-103 of this Code;

7 2. Of any person when any other law of this State
8 requires either the revocation or suspension of a license
9 or permit.

(c) Whenever a person is convicted of any of 10 the 11 offenses enumerated in this Section, the court may recommend and the Secretary of State in his discretion, without regard 12 to whether the recommendation is made by the court may, upon 13 application, issue to the person a restricted driving permit 14 granting the privilege of driving a motor vehicle between the 15 16 petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related 17 duties, or to allow transportation for the petitioner or a 18 19 household member of the petitioner's family for the receipt of necessary medical care or, if the professional evaluation 20 21 indicates, provide transportation for the petitioner for alcohol remedial or rehabilitative activity, or for the 22 23 petitioner to attend classes, as a student, in an accredited institution; if the petitioner is able to 24 educational 25 demonstrate that no alternative means of transportation is reasonably available and the petitioner will not endanger the 26 public safety or welfare; provided that the Secretary's 27 discretion shall be limited to cases where undue hardship 28 would result from a failure to issue the restricted driving 29 30 permit.

If a person's license or permit has been revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, arising out of 1 separate occurrences, that person, if issued a restricted 2 driving permit, may not operate a vehicle unless it has been 3 equipped with an ignition interlock device as defined in 4 Section 1-129.1.

5 If a person's license or permit has been revoked or б suspended 2 or more times within a 10 year period due to a 7 single conviction of violating Section 11-501 of this Code or 8 a similar provision of a local ordinance or a similar 9 out-of-state offense, and a statutory summary suspension under Section 11-501.1, or 2 or more statutory summary 10 11 suspensions, or combination of 2 offenses, or of an offense and a statutory summary suspension, arising out of separate 12 occurrences, that person, if issued a restricted driving 13 permit, may not operate a vehicle unless it has been equipped 14 15 with an ignition interlock device as defined in Section 16 1-129.1. The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. 17 and 18 The Secretary shall establish by rule the amount the 19 procedures, terms, and conditions relating to these fees. If the restricted driving permit was issued for employment 20 21 purposes, then this provision does not apply to the operation of an occupational vehicle owned or leased by that person's 22 23 employer. In each case the Secretary of State may issue a restricted driving permit for a period he deems appropriate, 24 25 except that the permit shall expire within one year from the 26 date of issuance. The Secretary may not, however, issue a 27 restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction 28 for a violation of Section 11-501 of this Code or a similar 29 30 provision of a local ordinance relating to the offense of operating or being in physical control of a motor vehicle 31 32 while under the influence of alcohol, other drug or drugs, 33 intoxicating compound or compounds, or any similar out-of-state offense, or any combination thereof, until the 34

SB1854 Engrossed

1 expiration of at least one year from the date of the 2 revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and 3 4 suspension by the Secretary of State in like manner and for 5 like cause as a driver's license issued under this Code may б be cancelled, revoked, or suspended; except that a conviction 7 upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient 8 9 cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a 10 11 condition to the issuance of a restricted driving permit, 12 require the applicant to participate in a designated driver remedial or rehabilitative program. The Secretary of State is 13 authorized to cancel a restricted driving permit if the 14 15 permit holder does not successfully complete the program. 16 However, if an individual's driving privileges have been revoked in accordance with paragraph 13 of subsection (a) of 17 this Section, no restricted driving permit shall be issued 18 until the individual has served 6 months of the revocation 19 20 period.

21 (d) Whenever a person under the age of 21 is convicted under Section 11-501 of this Code or a similar provision of a 22 23 local ordinance, the Secretary of State shall revoke the driving privileges of that person. One year after the date 24 25 of revocation, and upon application, the Secretary of State may, if satisfied that the person applying will not endanger 26 27 the public safety or welfare, issue a restricted driving permit granting the privilege of driving a motor vehicle only 28 29 between the hours of 5 a.m. and 9 p.m. or as otherwise 30 provided by this Section for a period of one year. After this one year period, and upon reapplication for a license as 31 32 provided in Section 6-106, upon payment of the appropriate reinstatement fee provided under paragraph (b) of Section 33 6-118, the Secretary of State, in his discretion, may issue 34

the applicant a license, or extend the restricted driving permit as many times as the Secretary of State deems appropriate, by additional periods of not more than 12 months each, until the applicant attains 21 years of age.

5 If a person's license or permit has been revoked or б suspended due to 2 or more convictions of violating Section 7 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, arising out of 8 9 separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been 10 11 equipped with an ignition interlock device as defined in Section 1-129.1. 12

If a person's license or permit has been revoked or 13 suspended 2 or more times within a 10 year period due to a 14 single conviction of violating Section 11-501 of this Code or 15 16 a similar provision of a local ordinance or a similar out-of-state offense, and a statutory summary suspension 17 under Section 11-501.1, or 2 or 18 more statutory summary 19 suspensions, or combination of 2 offenses, or of an offense and a statutory summary suspension, arising out of separate 20 21 occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped 22 23 with an ignition interlock device as defined in Section 1-129.1. The person must pay to the Secretary of State DUI 24 25 Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the 26 procedures, terms, and conditions relating to these fees. 27 Ιf the restricted driving permit was issued for employment 28 29 purposes, then this provision does not apply to the operation 30 of an occupational vehicle owned or leased by that person's employer. A restricted driving permit issued under this 31 32 Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for 33 like cause as a driver's license issued under this Code may 34

1 be cancelled, revoked, or suspended; except that a conviction 2 one or more offenses against laws or ordinances upon regulating the movement of traffic shall be deemed sufficient 3 4 cause for the revocation, suspension, or cancellation of а restricted driving permit. The revocation periods contained 5 in this subparagraph shall apply to similar out-of-state 6 7 convictions.

8 (e) This Section is subject to the provisions of the 9 Driver License Compact.

10 (f) Any revocation imposed upon any person under 11 subsections 2 and 3 of paragraph (b) that is in effect on 12 December 31, 1988 shall be converted to a suspension for a 13 like period of time.

14 (g) The Secretary of State shall not issue a restricted 15 driving permit to a person under the age of 16 years whose 16 driving privileges have been revoked under any provisions of 17 this Code.

(h) The Secretary of State shall require the use of 18 19 ignition interlock devices on all vehicles owned by an individual who has been convicted of a second or subsequent 20 offense under Section 11-501 of this Code or a similar 21 provision of a local ordinance. The Secretary shall 22 23 establish by rule and regulation the procedures for certification and use of the interlock system. 24

25 The Secretary of State may not issue a restricted (i) driving permit for a period of one year after a second or 26 subsequent revocation of driving privileges under clause 27 (a)(2) of this Section; however, one year after the date of a 28 29 second or subsequent revocation of driving privileges under 30 clause (a)(2) of this Section, the Secretary of State may, upon application, issue a restricted driving permit under the 31 terms and conditions of subsection (c). 32

33 (Source: P.A. 91-357, eff. 7-29-99; 92-248, eff. 8-3-01; 34 92-418, eff. 8-17-01; revised 8-24-01.) 1

(625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

Sec. 6-206. Discretionary authority to suspend or revoke
license or permit; Right to a hearing.

4 (a) The Secretary of State is authorized to suspend or 5 revoke the driving privileges of any person without 6 preliminary hearing upon a showing of the person's records or 7 other sufficient evidence that the person:

8 1. Has committed an offense for which mandatory
9 revocation of a driver's license or permit is required
10 upon conviction;

11 2. Has been convicted of not less than 3 offenses 12 against traffic regulations governing the movement of 13 vehicles committed within any 12 month period. No 14 revocation or suspension shall be entered more than 6 15 months after the date of last conviction;

16 3. Has been repeatedly involved as a driver in motor vehicle collisions or has been repeatedly convicted 17 of offenses against laws and ordinances regulating the 18 movement of traffic, to a degree that indicates lack of 19 ability to exercise ordinary and reasonable care in the 20 21 safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the 22 highway; 23

4. Has by the unlawful operation of a motor vehicle 24 25 caused or contributed to an accident resulting in death or injury requiring immediate professional treatment in a 26 medical facility or doctor's office to any person, except 27 that any suspension or revocation imposed 28 by the 29 Secretary of State under the provisions of this 30 subsection shall start no later than 6 months after being convicted of violating a law or ordinance regulating the 31 movement of traffic, which violation is related to the 32 accident, or shall start not more than one year after the 33 date of the accident, whichever date occurs later; 34

-652-

1 2 5. Has permitted an unlawful or fraudulent use of a driver's license, identification card, or permit;

6. Has been lawfully convicted of an offense or
offenses in another state, including the authorization
contained in Section 6-203.1, which if committed within
this State would be grounds for suspension or revocation;

7 7. Has refused or failed to submit to an
8 examination provided for by Section 6-207 or has failed
9 to pass the examination;

10 8. Is ineligible for a driver's license or permit
11 under the provisions of Section 6-103;

9. Has made a false statement or knowingly
concealed a material fact or has used false information
or identification in any application for a license,
identification card, or permit;

16 10. Has possessed, displayed, or attempted to 17 fraudulently use any license, identification card, or 18 permit not issued to the person;

19 11. Has operated a motor vehicle upon a highway of 20 this State when the person's driving privilege or 21 privilege to obtain a driver's license or permit was 22 revoked or suspended unless the operation was authorized 23 by a judicial driving permit, probationary license to 24 drive, or a restricted driving permit issued under this 25 Code;

12. Has submitted to any portion of the application process for another person or has obtained the services of another person to submit to any portion of the application process for the purpose of obtaining a license, identification card, or permit for some other person;

32 13. Has operated a motor vehicle upon a highway of
33 this State when the person's driver's license or permit
34 was invalid under the provisions of Sections 6-107.1 and

1	6-110;
2	14. Has committed a violation of Section 6-301,
3	6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or
4	14B of the Illinois Identification Card Act;
5	15. Has been convicted of violating Section 21-2 of
6	the Criminal Code of 1961 relating to criminal trespass
7	to vehicles in which case, the suspension shall be for
8	one year;
9	16. Has been convicted of violating Section 11-204
10	of this Code relating to fleeing from a police officer;
11	17. Has refused to submit to a test, or tests, as
12	required under Section 11-501.1 of this Code and the
13	person has not sought a hearing as provided for in
14	Section 11-501.1;
15	18. Has, since issuance of a driver's license or
16	permit, been adjudged to be afflicted with or suffering
17	from any mental disability or disease;
18	19. Has committed a violation of paragraph (a) or
19	(b) of Section 6-101 relating to driving without a
20	driver's license;
21	20. Has been convicted of violating Section 6-104
22	relating to classification of driver's license;
23	21. Has been convicted of violating Section 11-402
24	of this Code relating to leaving the scene of an accident
25	resulting in damage to a vehicle in excess of \$1,000, in
26	which case the suspension shall be for one year;
27	22. Has used a motor vehicle in violating paragraph
28	(3), (4), (7), or (9) of subsection (a) of Section 24-1
29	of the Criminal Code of 1961 relating to unlawful use of
30	weapons, in which case the suspension shall be for one
31	year;
32	23. Has, as a driver, been convicted of committing
33	a violation of paragraph (a) of Section 11-502 of this
34	Code for a second or subsequent time within one year of a

-654-

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similar violation;

2 24. Has been convicted by a court-martial or 3 punished by non-judicial punishment by military 4 authorities of the United States at a military 5 installation in Illinois of or for a traffic related 6 offense that is the same as or similar to an offense 7 specified under Section 6-205 or 6-206 of this Code;

8 25. Has permitted any form of identification to be 9 used by another in the application process in order to 10 obtain or attempt to obtain a license, identification 11 card, or permit;

12 26. Has altered or attempted to alter a license or
13 has possessed an altered license, identification card, or
14 permit;

15 27. Has violated Section 6-16 of the Liquor Control
16 Act of 1934;

28. Has been convicted of the illegal possession, 17 while operating or in actual physical control, as a 18 driver, of a motor vehicle, of any controlled substance 19 prohibited under the Illinois Controlled Substances Act 20 21 or any cannabis prohibited under the provisions of the 22 Cannabis Control Act, in which case the person's driving 23 privileges shall be suspended for one year, and any driver who is convicted of a second or subsequent 24 25 offense, within 5 years of a previous conviction, for the illegal possession, while operating or in actual physical 26 control, as a driver, of a motor vehicle, of any 27 controlled substance prohibited under the provisions of 28 29 the Illinois Controlled Substances Act or any cannabis prohibited under the Cannabis Control Act shall be 30 suspended for 5 years. Any defendant found guilty of this 31 offense while operating a motor vehicle, shall have an 32 entry made in the court record by the presiding judge 33 that this offense did occur while the defendant was 34

-655-

operating a motor vehicle and order the clerk of the
 court to report the violation to the Secretary of State;

29. Has been convicted of the following offenses 3 4 that were committed while the person was operating or in actual physical control, as a driver, of a motor vehicle: 5 criminal sexual assault, predatory criminal 6 sexual 7 assault of a child, aggravated criminal sexual assault, 8 criminal sexual abuse, aggravated criminal sexual abuse, 9 juvenile pimping, soliciting for a juvenile prostitute and the manufacture, sale or delivery of controlled 10 11 substances or instruments used for illegal drug use or abuse in which case the driver's driving privileges shall 12 13 be suspended for one year;

14 30. Has been convicted a second or subsequent time 15 for any combination of the offenses named in paragraph 29 16 of this subsection, in which case the person's driving 17 privileges shall be suspended for 5 years;

31. Has refused to submit to a test as required by 18 Section 11-501.6 or has submitted to a test resulting in 19 an alcohol concentration of 0.08 or more or any amount of 20 21 a drug, substance, or compound resulting from the 22 unlawful use or consumption of cannabis as listed in the 23 Cannabis Control Act, a controlled substance as listed in Illinois Controlled Substances Act, or 24 the an intoxicating compound as listed in 25 the Use of Intoxicating Compounds Act, in which case the penalty 26 shall be as prescribed in Section 6-208.1; 27

32. Has been convicted of Section 24-1.2 of the Criminal Code of 1961 relating to the aggravated discharge of a firearm if the offender was located in a motor vehicle at the time the firearm was discharged, in which case the suspension shall be for 3 years;

33 33. Has as a driver, who was less than 21 years of34 age on the date of the offense, been convicted a first

-656-

time of a violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance; 3 34. Has committed a violation of Section 11-1301.5 of this Code;

5 35. Has committed a violation of Section 11-1301.6 6 of this Code; or

7 36. Is under the age of 21 years at the time of 8 arrest and has been convicted of not less than 2 9 offenses against traffic regulations governing the 10 movement of vehicles committed within any 24 month 11 period. No revocation or suspension shall be entered 12 more than 6 months after the date of last conviction; or

1337. Has committed a violation of subsection (c) of14Section 11-907 of this Code.

For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26, and 27 of this subsection, license means any driver's license, any traffic ticket issued when the person's driver's license is deposited in lieu of bail, a suspension notice issued by the Secretary of State, a duplicate or corrected driver's license, a probationary driver's license or a temporary driver's license.

22 (b) If any conviction forming the basis of a suspension 23 or revocation authorized under this Section is appealed, the Secretary of State may rescind or withhold the entry of 24 the 25 order of suspension or revocation, as the case may be, provided that a certified copy of a stay order of a court is 26 filed with the Secretary of State. If the conviction is 27 affirmed on appeal, the date of the conviction shall relate 28 29 back to the time the original judgment of conviction was 30 entered and the 6 month limitation prescribed shall not 31 apply.

32 (c) 1. Upon suspending or revoking the driver's license
33 or permit of any person as authorized in this Section,
34 the Secretary of State shall immediately notify the

-657-

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person in writing of the revocation or suspension. The notice to be deposited in the United States mail, postage prepaid, to the last known address of the person.

4 2. If the Secretary of State suspends the driver's license of a person under subsection 2 of paragraph (a) 5 of this Section, a person's privilege to operate a 6 7 vehicle as an occupation shall not be suspended, provided 8 an affidavit is properly completed, the appropriate fee 9 received, and a permit issued prior to the effective date of the suspension, unless 5 offenses were committed, at 10 11 least 2 of which occurred while operating a commercial vehicle in connection with the driver's regular 12 occupation. All other driving privileges 13 shall be suspended by the Secretary of State. Any driver prior to 14 15 operating a vehicle for occupational purposes only must 16 submit the affidavit on forms to be provided by the Secretary of State setting forth the facts of 17 the person's occupation. The affidavit shall also state the 18 number of offenses committed while operating a vehicle in 19 connection with the driver's regular occupation. The 20 21 affidavit shall be accompanied by the driver's license. 22 Upon receipt of a properly completed affidavit, the 23 Secretary of State shall issue the driver a permit to operate a vehicle in connection with the driver's regular 24 25 occupation only. Unless the permit is issued by the Secretary of State prior to the date of suspension, the 26 privilege to drive any motor vehicle shall be suspended 27 as set forth in the notice that was mailed under this 28 29 Section. If an affidavit is received subsequent to the 30 effective date of this suspension, a permit may be issued for the remainder of the suspension period. 31

32 The provisions of this subparagraph shall not apply 33 to any driver required to obtain a commercial driver's 34 license under Section 6-507 during the period of a disqualification of commercial driving privileges under
 Section 6-514.

Any person who falsely states any fact in the affidavit required herein shall be guilty of perjury under Section 6-302 and upon conviction thereof shall have all driving privileges revoked without further rights.

At the conclusion of a hearing under Section 8 3. 9 2-118 of this Code, the Secretary of State shall either rescind or continue an order of revocation or shall 10 11 substitute an order of suspension; or, good cause appearing therefor, rescind, continue, change, or extend 12 the order of suspension. If the Secretary of State does 13 rescind the order, the 14 not Secretary may upon 15 application, to relieve undue hardship, issue a 16 restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's 17 residence and petitioner's place of employment or within 18 the scope of his employment related duties, or to allow 19 transportation for the petitioner, or a household member 20 21 of the petitioner's family, to receive necessary medical 22 care and if the professional evaluation indicates, 23 transportation for alcohol remedial provide or rehabilitative activity, or for the petitioner to attend 24 25 classes, as a student, in an accredited educational institution; if the petitioner is able to demonstrate 26 that no alternative means of transportation is reasonably 27 available and the petitioner will not endanger the public 28 safety or welfare. 29

If a person's license or permit has been revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, arising out of separate occurrences, that person, if -659-

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issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

4 If a person's license or permit has been revoked or suspended 2 or more times within a 10 year period due to 5 a single conviction of violating Section 11-501 of this 6 7 Code or a similar provision of a local ordinance or a 8 similar out-of-state offense, and a statutory summary 9 suspension under Section 11-501.1, or 2 or more statutory summary suspensions, or combination of 2 offenses, or of 10 11 an offense and a statutory summary suspension, arising out of separate occurrences, that person, if issued a 12 restricted driving permit, may not operate a vehicle 13 unless it has been equipped with an ignition interlock 14 device as defined in Section 1-129.1. The person must pay 15 16 to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. The Secretary shall 17 establish by rule the amount and the procedures, terms, 18 and conditions relating to these fees. If the restricted 19 driving permit was issued for employment purposes, then 20 21 this provision does not apply to the operation of an 22 occupational vehicle owned or leased by that person's In each case the Secretary may issue a 23 employer. 24 restricted driving permit for a period deemed 25 appropriate, except that all permits shall expire within one year from the date of issuance. The Secretary may 26 not, however, issue a restricted driving permit to any 27 person whose current revocation is the result of a second 28 29 or subsequent conviction for a violation of Section 30 11-501 of this Code or a similar provision of a local ordinance relating to the offense of operating or being 31 in physical control of a motor vehicle while under the 32 influence of alcohol, other drug or drugs, intoxicating 33 compound or compounds, or any similar out-of-state 34

1 offense, or any combination of those offenses, until the 2 expiration of at least one year from the date of the revocation. A restricted driving permit issued under this 3 4 Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and 5 for like cause as a driver's license issued under this 6 Code may be cancelled, revoked, or suspended; except that 7 a conviction upon one or more offenses against laws or 8 9 ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, 10 11 or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of 12 a restricted driving permit, require the applicant to 13 participate in a designated driver remedial 14 or 15 rehabilitative program. The Secretary of State is 16 authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program. 17 (c-5) The Secretary of State may, as a condition of the 18 19 reissuance of a driver's license or permit to an applicant whose driver's license or permit has been suspended before he 20 21 or she reached the age of 18 years pursuant to any of the 22 provisions of this Section, require the applicant to 23 participate in a driver remedial education course and be retested under Section 6-109 of this Code. 24

25 (d) This Section is subject to the provisions of the26 Drivers License Compact.

(e) The Secretary of State shall not issue a restricted
driving permit to a person under the age of 16 years whose
driving privileges have been suspended or revoked under any
provisions of this Code.

31 (Source: P.A. 92-283, eff. 1-1-02; 92-418, eff. 8-17-01; 32 92-458, eff. 8-22-01; revised 8-27-01.)

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(625 ILCS 5/6-208) (from Ch. 95 1/2, par. 6-208)

Sec. 6-208. Period of Suspension - Application After
 Revocation.

3 (a) Except as otherwise provided by this Code or any 4 other law of this State, the Secretary of State shall not 5 suspend a driver's license, permit or privilege to drive a 6 motor vehicle on the highways for a period of more than one 7 year.

8 (b) Any person whose license, permit or privilege to 9 drive a motor vehicle on the highways has been revoked shall not be entitled to have such license, permit or privilege 10 11 renewed or restored. However, such person may, except as provided under subsection (d) of Section 6-205, make 12 application for a license pursuant to Section 6-106 (i) if 13 the revocation was for a cause which has been removed or (ii) 14 as provided in the following subparagraphs: 15

16 1. Except as provided in subparagraphs 2, 3, and 4, the person may make application for a license after the 17 expiration of one year from the effective date of the 18 revocation or, in the case of a violation of paragraph 19 (b) of Section 11-401 of this Code or a similar provision 20 21 of a local ordinance, after the expiration of 3 years from the effective date of the revocation or, in the case 22 23 of a violation of Section 9-3 of the Criminal Code of 1961 relating to the offense of reckless homicide, after 24 25 the expiration of 2 years from the effective date of the revocation or after the expiration of 24 months from the 26 date of release from a period of imprisonment as provided 27 in Section 6-103 of this Code, whichever is later. 28

29 2. If such person is convicted of committing a
30 second violation within a 20 year period of:

31 (A) Section 11-501 of this Code, or a similar
32 provision of a local ordinance; or

33 (B) Paragraph (b) of Section 11-401 of this
34 Code, or a similar provision of a local ordinance;

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-662-

1 or (C) Section 9-3 of the Criminal Code of 1961, 2 as amended, relating to the offense of reckless 3 4 homicide; or (D) any combination of the above offenses 5 committed at different instances;

7 then such person may not make application for a license until after the expiration of 5 years from the effective 8 9 date of the most recent revocation. The 20 year period shall be computed by using the dates the offenses were 10 11 committed and shall also include similar out-of-state 12 offenses.

13 3. However, except as provided in subparagraph 4, if such person is convicted of committing a third, or 14 15 subsequent, violation or any combination of the above 16 offenses, including similar out-of-state offenses, 17 contained in subparagraph 2, then such person may not make application for a license until after the expiration 18 of 10 years from the effective date of the most recent 19 revocation. 20

21 4. The person may not make application for a license if the person is convicted of committing a fourth 22 or subsequent violation of Section 11-501 of this Code or 23 a similar provision of a local ordinance, Section 11-401 24 of this Code, Section 9-3 of the Criminal Code of 1961, 25 or a combination of these offenses or similar provisions 26 of local ordinances or similar out-of-state offenses. 27

Notwithstanding any other provision of this Code, all 28 29 persons referred to in this paragraph (b) may not have their privileges restored until the Secretary receives payment of 30 31 the required reinstatement fee pursuant to subsection (b) of 32 Section 6-118.

33 In no event shall the Secretary issue such license unless 34 and until such person has had a hearing pursuant to this Code SB1854 Engrossed

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and the appropriate administrative rules and the Secretary is satisfied, after a review or investigation of such person, that to grant the privilege of driving a motor vehicle on the highways will not endanger the public safety or welfare.

-663-

5 (c) If a person prohibited under paragraph (2) or 6 paragraph (3) of subsection (c-4) of Section 11-501 from 7 driving any vehicle not equipped with an ignition interlock device nevertheless is convicted of driving a vehicle that is 8 9 not equipped with the device, that person is prohibited from driving any vehicle not equipped with an ignition interlock 10 11 device for an additional period of time equal to the initial 12 time period that the person was required to use an ignition interlock device. 13

14 (Source: P.A. 91-357, eff. 7-29-99; 92-343, eff. 1-1-02; 15 92-418, eff. 8-17-01; 92-458, eff. 8-22-01; revised 16 10-12-01.)

17 (625 ILCS 5/6-500) (from Ch. 95 1/2, par. 6-500)

Sec. 6-500. Definitions of words and phrases.
Notwithstanding the definitions set forth elsewhere in this
Code, for purposes of the Uniform Commercial Driver's License
Act (UCDLA), the words and phrases listed below shall have
the meanings ascribed to them as follows:

<u>(1)</u> Alcohol. "Alcohol" means any substance containing
 any form of alcohol, including but not limited to÷ ethanol_;
 methanol_; propanol_ and isopropanol.

26 (2) Alcohol concentration. "Alcohol concentration" 27 means:

28 (A) (a) the number of grams of alcohol per 210
29 liters of breath; or

30 <u>(B)</u> (b) the number of grams of alcohol per 100
31 milliliters of blood; or

32 (C) (e) the number of grams of alcohol per 67
 33 milliliters of urine.

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SB1854 Engrossed

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-664-

1 Alcohol tests administered within 2 hours of the driver 2 being "stopped or detained" shall be considered that driver's "alcohol concentration" for the purposes of enforcing this 3 4 UCDLA. 5 <u>(3) (Blank).</u> (4) (Blank). 6 <u>(5) (Blank).</u> 7 8 (6) Commercial Motor Vehicle. 9 (A) "Commercial motor vehicle" means a motor vehicle, except those referred to in <u>subdivision (B)</u> 10 11 paragraph---(d), designed to transport passengers or 12 property if: (i) (a) the vehicle has a GVWR of 26,001 13 pounds or more or such a lesser GVWR as subsequently 14 determined by federal regulations or the Secretary 15 16 of State; or any combination of vehicles with a GCWR of 26,001 pounds or more, provided the GVWR of any 17 vehicle or vehicles being towed is 10,001 pounds or 18 19 more; or (ii) (b) the vehicle is designed to transport 20 21 16 or more persons; or (iii) (e) the vehicle 22 is transporting 23 hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, subpart F. 24 25 (B) (d) Pursuant to the interpretation of the Commercial Motor Vehicle Safety Act of 1986 by the 26 Highway Administration, the definition of 27 Federal "commercial motor vehicle" does not include: 28 (i) recreational vehicles, when 29 operated 30 primarily for personal use; (ii) United States Department of Defense 31 vehicles being operated by non-civilian personnel. 32 33 This includes any operator on active military duty;

members of the Reserves; National Guard; personnel

1 on part-time training; and National Guard military 2 technicians (civilians who are required to wear 3 military uniforms and are subject to the Code of 4 Military Justice); or

5 (iii) firefighting and other emergency equipment with audible and visual signals, owned or 6 7 operated by or for a governmental entity, which is 8 necessary to the preservation of life or property or 9 the execution of emergency governmental functions which are normally not subject to general traffic 10 11 rules and regulations.

(7) Controlled Substance. "Controlled substance" shall 12 have the same meaning as defined in Section 102 of the 13 Illinois Controlled Substances Act, and shall also include 14 cannabis as defined in Section 3 of the Cannabis Control Act. 15 16 (8) Conviction. "Conviction" means an unvacated adjudication of guilt or a determination that a person has 17 violated or failed to comply with the law in a court of 18 19 original jurisdiction or an authorized administrative tribunal; an unvacated forfeiture of bail or collateral 20 21 deposited to secure the person's appearance in court; the payment of a fine or court cost regardless of whether the 22 23 imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered; or a violation 24 25 of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. 26

27 <u>(9) (Blank).</u>

28 <u>(10) (Blank).</u>

29 <u>(11) (Blank).</u>

30 <u>(12) (Blank).</u>

31 (13) Driver. "Driver" means any person who drives, 32 operates, or is in physical control of a commercial motor 33 vehicle, or who is required to hold a CDL.

34 <u>(14)</u> Employee. "Employee" means a person who is

employed as a commercial motor vehicle driver. A person who self-employed as a commercial motor vehicle driver must comply with the requirements of this UCDLA pertaining to employees. An owner-operator on a long-term lease shall be considered an employee.

6 (15) Employer. "Employer" means a person (including the 7 United States, a State or a local authority) who owns or 8 leases a commercial motor vehicle or assigns employees to 9 operate such a vehicle. A person who is self-employed as a 10 commercial motor vehicle driver must comply with the 11 requirements of this UCDLA.

12 <u>(16) (Blank).</u>

13 <u>(17)</u> Foreign jurisdiction. "Foreign jurisdiction" means 14 a sovereign jurisdiction that does not fall within the 15 definition of "State".

16 <u>(18) (Blank).</u>

17 <u>(19) (Blank).</u>

<u>(20)</u> Hazardous Material. Upon a finding by the United 18 19 States Secretary of Transportation, in his or her discretion, under 49 App. U.S.C. 5103(a), that the transportation of a 20 21 particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property, he or 22 23 she shall designate the quantity and form of material or group or class of the materials as a hazardous material. The 24 25 materials so designated may include but are not limited to explosives, radioactive materials, etiologic 26 agents, flammable liquids or solids, combustible liquids or solids, 27 poisons, oxidizing or corrosive materials, and compressed 28 29 gases.

30 (21) Long-term lease bong-term-lease. "Long-term lease"
31 "bong-term-lease" means a lease of a commercial motor vehicle
32 by the owner-lessor to a lessee, for a period of more than 29
33 days.

34 (22) Motor Vehicle. "Motor vehicle" means every vehicle

SB1854 Engrossed

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-667-

1 which is self-propelled, and every vehicle which is propelled 2 by electric power obtained from over head trolley wires but not operated upon rails, except vehicles moved solely by 3 human power and motorized wheel chairs. 4 (23) Non-resident CDL. 5 "Non-resident CDL" means a 6 commercial driver's license issued by a state to an 7 individual who is domiciled in a foreign jurisdiction. 8 <u>(24)</u> (Blank). (25) (Blank). 9 (25.5) Railroad-Highway Grade Crossing Violation. 10 11 "Railroad-highway grade crossing violation" means a violation, while operating a commercial motor vehicle, of any 12 of the following: 13 (A) (1) An offense listed in subsection (j) of 14 Section 6-514 of this Code. 15 (B) (2) Section 11-1201 of this Code. 16 (C) (3) Section 11-1201.1 of this Code. 17 (D) (4) Section 11-1202 of this Code. 18 19 (E) (5) Section 11-1203 of this Code. (F) (6) 92 Illinois Administrative Code 392.10. 20 (G) (7) 92 Illinois Administrative Code 392.11. 21 22 (H) (8) Any local ordinance that is similar to any 23 of items (A) (1) through (G) (7). (26) Serious Traffic Violation. 24 "Serious traffic 25 violation" means: (A) (A) a conviction when operating a commercial 26 motor vehicle of: 27 (i) a violation relating to 28 excessive 29 speeding, involving a single speeding charge of 15 30 miles per hour or more above the legal speed limit; 31 or (ii) a violation relating to reckless driving; 32 33 or

(iii) a violation of any State law or local

-668-

1 ordinance relating to motor vehicle traffic control 2 (other than parking violations) arising in connection with a fatal traffic accident; or 3 4 (iv) a violation of Section 6-501, relating to having multiple driver's licenses; or 5 (v) a violation of paragraph $(a)_7$ of Section 6 7 6-507, relating to the requirement to have a valid 8 CDL; or 9 (vi) a violation relating to improper or erratic traffic lane changes; or 10 11 (vii) a violation relating to following another vehicle too closely; or 12 (B) (b) any other similar violation of a law or 13 local ordinance of any state relating to motor vehicle 14 15 traffic control, other than a parking violation, which 16 the Secretary of State determines by administrative rule 17 to be serious. (27) State. "State" means a state of the United States, 18 the District of Columbia and any province or territory of 19 Canada. 20 (28) (Blank). 21 22 (29) (Blank). <u>(30) (Blank).</u> 23 24 <u>(31)</u> (Blank). (Source: P.A. 92-249, eff. 1-1-02; revised 9-19-01.) 25 (625 ILCS 5/7-501) (from Ch. 95 1/2, par. 7-501) 26 Sec. 7-501. Assigned Risk Plans. If, on or before 27 28

January 1, 1946, every insurance carrier authorized to write automobile bodily injury liability insurance in this State shall not subscribe to an assigned risk plan approved by the Director of Insurance, providing that no carrier may withdraw therefrom after approval of the Director, the Director of Insurance shall, when he finds that an application for SB1854 Engrossed

bodily injury or property damage insurance by a risk, which 1 2 may become subject to this Act or is a local public entity subject to the Local Governmental and Governmental Employees 3 4 Tort Immunity Act, and in good faith is entitled to such 5 insurance, has been rejected by 3 insurance carriers, б designate an insurance carrier which shall be obligated to issue forthwith its usual form of policy providing such 7 insurance for such risk. The Director shall make equitable 8 9 distribution of such assignments among insurance carriers proportionate, so far as practicable, by premiums to the 10 11 respective net direct automobile bodily injury premium writings of the carriers authorized to do business in this 12 State. The Director of Insurance shall establish rules and 13 regulations for the administration of the provisions of this 14 15 Section.

16 If any carrier refuses or neglects to comply with the provisions of this Section or with any lawful order or ruling 17 made by the Director of Insurance pursuant to this Section, 18 19 the Director may, after notice and hearing, suspend the license of such carrier to transact any insurance business in 20 21 this State until such carrier shall have complied with such order. The provisions of the Administrative Review Law, and 22 23 all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply to and govern all 24 25 proceedings for the judicial review of final administrative decisions of the Director of Insurance hereunder. 26

27 (Source: P.A. 90-89, eff. 1-1-98; revised 12-07-01.)

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(625 ILCS 5/11-207) (from Ch. 95 1/2, par. 11-207)

29 Sec. 11-207. Provisions of <u>this Chapter</u> Act uniform 30 throughout State. The provisions of this Chapter shall be 31 applicable and uniform throughout this State and in all 32 political subdivisions and municipalities therein, and no 33 local authority shall enact or enforce any ordinance rule or SB1854 Engrossed

1 regulation in conflict with the provisions of this Chapter 2 unless expressly authorized herein. Local authorities may, however, adopt additional traffic regulations which are not 3 4 in conflict with the provisions of this Chapter, but such 5 regulations shall not be effective until signs giving б reasonable notice thereof are posted. (Source: P.A. 85-532; revised 12-04-01.) 7 8 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501) Sec. 11-501. Driving while under the influence of 9 10 alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof. 11 (a) A person shall not drive or be in actual physical 12 control of any vehicle within this State while: 13 14 (1) the alcohol concentration in the person's blood 15 or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2; 16 (2) under the influence of alcohol; 17 18 (3) under the influence of any intoxicating compound or combination of intoxicating compounds to a 19 degree that renders the person incapable of driving 20 21 safely; 22 (4) under the influence of any other drug or combination of drugs to a degree that renders the person 23 24 incapable of safely driving; (5) under the combined influence of alcohol, other 25 26 drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely 27 28 driving; or 29 (6) there is any amount of a drug, substance, or 30 compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of 31 cannabis listed in the Cannabis Control Act, a controlled 32 substance listed in the Illinois Controlled Substances 33

1 2 Act, or an intoxicating compound listed in the Use of Intoxicating Compounds Act.

3 (b) The fact that any person charged with violating this 4 Section is or has been legally entitled to use alcohol, other 5 drug or drugs, or intoxicating compound or compounds, or any 6 combination thereof, shall not constitute a defense against 7 any charge of violating this Section.

8 (C) Except as provided under paragraphs (c-3), (c-4), 9 and (d) of this Section, every person convicted of violating this Section or a similar provision of a local ordinance, 10 11 shall be guilty of a Class A misdemeanor and, in addition to any other criminal or administrative action, for any second 12 conviction of violating this Section or a similar provision 13 of a law of another state or local ordinance committed within 14 15 5 years of a previous violation of this Section or a similar 16 provision of a local ordinance shall be mandatorily sentenced to a minimum of 5 days of imprisonment or assigned to a 17 minimum of 30 days of community service as may be determined 18 by the court. Every person convicted of violating this 19 Section or a similar provision of a local ordinance shall be 20 21 subject to an additional mandatory minimum fine of \$500 and 22 an additional mandatory 5 days of community service in a 23 benefiting children if the person committed a program violation of paragraph (a) or a similar provision of a local 24 25 ordinance while transporting a person under age 16. Every person convicted a second time for violating this Section or 26 a similar provision of a local ordinance within 5 years of a 27 previous violation of this Section or a similar provision of 28 29 a law of another state or local ordinance shall be subject to 30 additional mandatory minimum fine of \$500 and an an additional 10 days of mandatory community service in a 31 program benefiting children if the current offense was 32 33 committed while transporting a person under age 16. The 34 imprisonment or assignment under this subsection shall not be subject to suspension nor shall the person be eligible for
 probation in order to reduce the sentence or assignment.

3 (c-1) (1) A person who violates this Section during a
4 period in which his or her driving privileges are revoked
5 or suspended, where the revocation or suspension was for
6 a violation of this Section, Section 11-501.1, paragraph
7 (b) of Section 11-401, or Section 9-3 of the Criminal
8 Code of 1961 is guilty of a Class 4 felony.

9 (2) A person who violates this Section a third time 10 during a period in which his or her driving privileges 11 are revoked or suspended where the revocation or 12 suspension was for a violation of this Section, Section 13 11-501.1, paragraph (b) of Section 11-401, or Section 9-3 14 of the Criminal Code of 1961 is guilty of a Class 3 15 felony.

16 (3) A person who violates this Section a fourth or
17 subsequent time during a period in which his or her
18 driving privileges are revoked or suspended where the
19 revocation or suspension was for a violation of this
20 Section, Section 11-501.1, paragraph (b) of Section
21 11-401, or Section 9-3 of the Criminal Code of 1961 is
22 guilty of a Class 2 felony.

23 (c-2) (Blank).

(c-3) Every person convicted of violating this Section 24 25 or a similar provision of a local ordinance who had a child under age 16 in the vehicle at the time of the 26 offense shall have his or her punishment under this Act 27 enhanced by 2 days of imprisonment for a first offense, 28 10 days of imprisonment for a second offense, 30 days of 29 30 imprisonment for a third offense, and 90 days of imprisonment for a fourth or subsequent offense, in 31 addition to the fine and community service required under 32 subsection (c) and the possible imprisonment required 33 under subsection (d). The imprisonment or assignment 34

-673-

under this subsection shall not be subject to suspension
 nor shall the person be eligible for probation in order
 to reduce the sentence or assignment.

4 (c-4) When a person is convicted of violating Section 5 11-501 of this Code or a similar provision of a local 6 ordinance, the following penalties apply when his or her 7 blood, breath, or urine was .16 or more based on the 8 definition of blood, breath, or urine units in Section 9 11-501.2 or when that person is convicted of violating this 10 Section while transporting a child under the age of 16:

(1) A person who is convicted of violating subsection (a) of Section 11-501 of this Code a first time, in addition to any other penalty that may be imposed under subsection (c), is subject to a mandatory minimum of 100 hours of community service and a minimum fine of \$500.

17 (2) A person who is convicted of violating 18 subsection (a) of Section 11-501 of this Code a second 19 time within 10 years, in addition to any other penalty 20 that may be imposed under subsection (c), is subject to a 21 mandatory minimum of 2 days of imprisonment and a minimum 22 fine of \$1,250.

(3) A person who is convicted of violating
subsection (a) of Section 11-501 of this Code a third
time within 20 years is guilty of a Class 4 felony and,
in addition to any other penalty that may be imposed
under subsection (c), is subject to a mandatory minimum
of 90 days of imprisonment and a minimum fine of \$2,500.

(4) A person who is convicted of violating this
subsection (c-4) a fourth or subsequent time is guilty of
a Class 2 felony and, in addition to any other penalty
that may be imposed under subsection (c), is not eligible
for a sentence of probation or conditional discharge and
is subject to a minimum fine of \$2,500.

1 (d) (1) Every person convicted of committing a violation 2 of this Section shall be guilty of aggravated driving 3 under the influence of alcohol, other drug or drugs, or 4 intoxicating compound or compounds, or any combination 5 thereof if:

6 (A) the person committed a violation of this 7 Section, or a similar provision of a law of another 8 state or a local ordinance when the cause of action 9 is the same as or substantially similar to this 10 Section, for the third or subsequent time;

(B) the person committed a violation of paragraph (a) while driving a school bus with children on board;

14 (C) the person in committing a violation of 15 paragraph (a) was involved in a motor vehicle 16 accident that resulted in great bodily harm or 17 permanent disability or disfigurement to another, 18 when the violation was a proximate cause of the 19 injuries;

(D) the person committed a violation of 20 paragraph (a) for a second time and has been 21 previously convicted of violating Section 9-3 of the 22 23 Criminal Code of 1961 relating to reckless homicide in which the person was determined to have been 24 25 under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element 26 27 of the offense or the person has previously been convicted under subparagraph (C) of this paragraph 28 (1); or 29

30 (E) the person, in committing a violation of
31 paragraph (a) while driving at any speed in a school
32 speed zone at a time when a speed limit of 20 miles
33 per hour was in effect under subsection (a) of
34 Section 11-605 of this Code, was involved in a motor

vehicle accident that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of paragraph (a) was a proximate cause of the bodily harm.

(2) Aggravated driving under the influence of 6 7 alcohol, other drug or drugs, or intoxicating compound or 8 compounds, or any combination thereof is a Class 4 9 felony. For $7-7-\Theta r - (E)$ a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, 10 11 if sentenced to a term of imprisonment, shall be 12 sentenced to not less than one year nor more than 12 years. For any prosecution under this subsection (d), a 13 certified copy of the driving abstract of the defendant 14 15 shall be admitted as proof of any prior conviction.

16 (e) After a finding of guilt and prior to any final sentencing, or an order for supervision, for an offense based 17 upon an arrest for a violation of this Section or a similar 18 provision of a local ordinance, individuals shall be required 19 to undergo a professional evaluation to determine if an 20 21 alcohol, drug, or intoxicating compound abuse problem exists 22 and the extent of the problem, and undergo the imposition of 23 appropriate. Programs conducting these treatment as evaluations shall be licensed by the Department of Human 24 25 Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the 26 professional evaluation. 27

(f) Every person found guilty of violating this Section, whose operation of a motor vehicle while in violation of this Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided under Section 5-5-3 of the Unified Code of Corrections.

34 (g) The Secretary of State shall revoke the driving

privileges of any person convicted under this Section or a
 similar provision of a local ordinance.

(h) Every person sentenced under paragraph (2) or (3) of 3 4 subsection (c-1) of this Section or subsection (d) of this Section and who receives a term of probation or conditional 5 б discharge shall be required to serve a minimum term of either 7 60 days community service or 10 days of imprisonment as a 8 condition of the probation or conditional discharge. This 9 mandatory minimum term of imprisonment or assignment of community service shall not be suspended and shall not be 10 11 subject to reduction by the court.

(i) The Secretary of State shall require the use of 12 ignition interlock devices on all vehicles owned by an 13 individual who has been convicted of a second or subsequent 14 15 offense of this Section or a similar provision of а local 16 ordinance. The Secretary shall establish by rule and regulation the procedures for certification and use of 17 the interlock system. 18

19 (j) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating 20 21 this Section, including any person placed on court supervision for violating this Section, shall be fined \$100, 22 23 payable to the circuit clerk, who shall distribute the money to the law enforcement agency that made the arrest. If the 24 25 person has been previously convicted of violating this Section or a similar provision of a local ordinance, the fine 26 shall be \$200. In the event that more than one agency is 27 responsible for the arrest, the \$100 or \$200 shall be shared 28 29 equally. Any moneys received by a law enforcement agency 30 under this subsection (j) shall be used to purchase law enforcement equipment that will assist in the prevention of 31 32 alcohol related criminal violence throughout the State. This shall include, but is not limited to, in-car video cameras, 33 34 radar and laser speed detection devices, and alcohol breath

1 testers. Any moneys received by the Department of State 2 Police under this subsection (j) shall be deposited into the State Police DUI Fund and shall be used to purchase law 3 4 enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State. 5 (Source: P.A. 91-126, eff. 7-16-99; 91-357, eff. 7-29-99; 6 91-692, eff. 4-13-00; 91-822, eff. 6-13-00; 92-248, eff. 7 8-3-01; 92-418, eff. 8-17-01; 92-420, eff. 8-17-01; 92-429, 8 eff. 1-1-02; 92-431, eff. 1-1-02; revised 10-12-01.) 9

10 (625 ILCS 5/11-1201) (from Ch. 95 1/2, par. 11-1201)

Sec. 11-1201. Obedience to signal indicating approach of 11 12 train.

Whenever any person driving a vehicle approaches 13 (a) а 14 railroad grade crossing such person must exercise due care 15 and caution as the existence of a railroad track across a highway is a warning of danger, and under any of the 16 17 circumstances stated in this Section, the driver shall stop within 50 feet but not less than 15 feet from the nearest 18 rail of the railroad and shall not proceed until he can do so 19 20 safely. The foregoing requirements shall apply when:

21

33

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a 22 railroad train; 23

24 2. A crossing gate is lowered or a human flagman gives or continues to give a signal of the approach or 25 passage of a railroad train; 26

3. A railroad train approaching a highway crossing 27 28 emits a warning signal and such railroad train, by reason of its speed or nearness to such crossing, is an 29 immediate hazard; 30

4. An approaching railroad train is plainly visible 31 and is in hazardous proximity to such crossing:-32

5. A railroad train is approaching so closely that

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an immediate hazard is created.

2 (b) No person shall drive any vehicle through, around or 3 under any crossing gate or barrier at a railroad crossing 4 while such gate or barrier is closed or is being opened or 5 closed.

(c) The Department, and local authorities with the 6 7 approval of the Department, are hereby authorized to 8 designate particularly dangerous highway grade crossings of 9 railroads and to erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within 10 11 50 feet but not less than 15 feet from the nearest rail of such railroad and shall proceed only upon exercising due 12 13 care.

railroad grade crossing provided with 14 (d) At any 15 railroad crossbuck signs, without automatic, electric, or 16 mechanical signal devices, crossing gates, or a human flagman giving a signal of the approach or passage of a train, the 17 driver of a vehicle shall in obedience to the railroad 18 19 crossbuck sign, yield the right-of-way and slow down to a speed reasonable for the existing conditions and shall stop, 20 21 if required for safety, at a clearly marked stopped line, or if no stop line, within 50 feet but not less than 15 feet 22 23 from the nearest rail of the railroad and shall not proceed until he or she can do so safely. If a driver is involved in 24 25 a collision at a railroad crossing or interferes with the movement of a train after driving past the railroad crossbuck 26 sign, the collision or interference is prima facie evidence 27 of the driver's failure to yield right-of-way. 28

29 (d-5) No person may drive any vehicle through a railroad 30 crossing if there is insufficient space to drive completely 31 through the crossing without stopping.

32 (e) It is unlawful to violate any part of this Section.
33 A first conviction of a person for a violation of any part of
34 this Section shall result in a mandatory fine of \$250; all

1 subsequent convictions of that person for any violation of 2 any part of this Section shall each result in a mandatory 3 fine of \$500.

4 (f) Corporate authorities of municipal corporations
5 regulating operators of vehicles that fail to obey signals
6 indicating the presence, approach, passage, or departure of a
7 train shall impose fines as established in subsection (e) of
8 this Section.

9 (Source: P.A. 92-245, eff. 8-3-01; 92-249, eff. 1-1-02; 10 revised 9-19-01)

11 (625 ILCS 5/11-1201.1)

Sec. 11-1201.1. Automated Railroad Crossing Enforcement
 System.

(a) For the purposes of this Section, an automated 14 15 railroad grade crossing enforcement system is a system operated by a law enforcement agency that records a driver's 16 17 response to automatic, electrical or mechanical siqnal 18 devices and crossing gates. The system shall be designed to obtain a clear photograph or other recorded image of the 19 20 vehicle, vehicle operator and the vehicle registration plate of a vehicle in violation of Section 11-1201. The photograph 21 22 or other recorded image shall also display the time, date and location of the violation. 23

(b) Commencing on January 1, 1996, the Illinois Commerce 24 Commission and the Commuter Rail Board of the Regional 25 Transportation Authority shall, in cooperation with local law 26 enforcement agencies, establish a 5 year pilot program within 27 a county with a population of between 750,000 and 1,000,000 28 29 using an automated railroad grade crossing enforcement The Commission shall determine the 3 railroad grade 30 system. 31 crossings within that county that pose the greatest threat to human life based upon the number of accidents and fatalities 32 33 at the crossings during the past 5 years and with approval of the local law enforcement agency equip the crossings with an
 automated railroad grade crossing enforcement system.

(b-1) Commencing on July 20, 2001 (the effective date of 3 4 Public Act 92-98) this-amendatory-Act--of--the--92nd--General Assembly, the Illinois Commerce Commission and the Commuter 5 б Rail Board may, in cooperation with the local law enforcement 7 agency, establish in a county with a population of between 750,000 and 1,000,000 a 2 year pilot program using an 8 9 automated railroad grade crossing enforcement system. This pilot program may be established at a railroad grade crossing 10 11 designated by local authorities. No State moneys may be expended on the automated railroad grade crossing enforcement 12 system established under this pilot program. 13

(c) For each violation of Section 11-1201 recorded by an 14 15 automatic railroad grade crossing system, the local law 16 enforcement agency having jurisdiction shall issue a written Uniform Traffic Citation of the violation to the registered 17 owner of the vehicle as the alleged violator. The Uniform 18 19 Traffic Citation shall be delivered to the registered owner of the vehicle, by mail, within 30 days of the violation. 20 The Uniform Traffic Citation shall include the name and 21 22 address of vehicle owner, the vehicle registration number, 23 the offense charged, the time, date, and location of the violation, the first available court date and that the basis 24 25 of the citation is the photograph or other recorded image from the automated railroad grade crossing enforcement 26 27 system.

The Uniform Traffic Citation issued 28 (d) to the 29 registered owner of the vehicle shall be accompanied by a 30 written notice, the contents of which is set forth in subsection (d-1) of this Section, explaining how the 31 registered owner of the vehicle can elect to proceed by 32 either paying the fine or challenging the issuance of the 33 Uniform Traffic Citation. 34

1 (d-1) The written notice explaining the alleged 2 violator's rights and obligations must include the following 3 text:

4 "You have been served with the accompanying Uniform
5 Traffic Citation and cited with having violated Section
6 11-1201 of the Illinois Vehicle Code. You can elect to
7 proceed by:

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1. Paying the fine; or

9 2. Challenging the issuance of the Uniform Traffic10 Citation in court; or

11 3. If you were not the operator of the vehicle at the time of the alleged offense, notifying in writing the 12 law enforcement agency that issued the Uniform 13 local Traffic Citation of the number of the Uniform Traffic 14 Citation received and the name and address of the person 15 16 operating the vehicle at the time of the alleged offense. If you fail to so notify in writing the local 17 law enforcement agency of the name and address of the 18 19 operator of the vehicle at the time of the alleged offense, you may be presumed to have been the operator of 20 21 the vehicle at the time of the alleged offense."

(d-2) If the registered owner of the vehicle was not the 22 23 operator of the vehicle at the time of the alleged offense, registered owner notifies the local law 24 and if the 25 enforcement agency having jurisdiction of the name and address of the operator of the vehicle at the time of the 26 alleged offense, the local law enforcement agency having 27 jurisdiction shall then issue a written Uniform Traffic 28 29 Citation to the person alleged by the registered owner to 30 have been the operator of the vehicle at the time of the alleged offense. If the registered owner fails to notify in 31 32 writing the local law enforcement agency having jurisdiction of the name and address of the operator of the vehicle at the 33 34 time of the alleged offense, the registered owner may be -682-

presumed to have been the operator of the vehicle at the time
 of the alleged offense.

3 (e) Evidence.

4 (i) A certificate alleging that a violation of 5 <u>Section</u> 11-1201 occurred, sworn to or affirmed by a duly 6 authorized agency, based on inspection of recorded images 7 produced by an automated railroad crossing enforcement 8 system are evidence of the facts contained in the 9 certificate and are admissible in any proceeding alleging 10 a violation under this Section.

11 (ii) Photographs or recorded images made by an 12 automatic railroad grade crossing enforcement system are confidential and shall be made available only to the 13 alleged violator and governmental and law enforcement 14 15 agencies for purposes of adjudicating a violation of 16 Section 11-1201 of the Illinois Vehicle Code. However, any photograph or other recorded image evidencing a 17 violation of Section 11-1201 shall be admissible 18 in any 19 proceeding resulting from the issuance of the Uniform Traffic Citation when there is reasonable and sufficient 20 21 proof of the accuracy of the camera or electronic 22 instrument recording the image. There is a rebuttable 23 presumption that the photograph or recorded image is accurate if the camera or electronic recording instrument 24 25 was in good working order at the beginning and the end of the day of the alleged offense. 26

(f) Rail crossings equipped with an automatic railroad grade crossing enforcement system shall be posted with a sign visible to approaching traffic stating that the railroad grade crossing is being monitored, that citations will be issued, and the amount of the fine for violation.

32 (g) Except as provided in subsection (b-1), the cost of 33 the installation and maintenance of each automatic railroad 34 grade crossing enforcement system shall be paid from the Grade Crossing Protection Fund if the rail line is not owned by Commuter Rail Board of the Regional Transportation Authority. Except as provided in subsection (b-1), if the rail line is owned by the Commuter Rail Board of the Regional Transportation Authority, the costs of the installation and maintenance shall be paid from the Regional Transportation Authority's portion of the Public Transportation Fund.

8 (h) The Illinois Commerce Commission shall issue a 9 report to the General Assembly at the conclusion of the 5 10 year pilot program established under subsection (b) on the 11 effectiveness of the automatic railroad grade crossing 12 enforcement system.

(i) If any part or parts of this Section are held by a court of competent jurisdiction to be unconstitutional, the unconstitutionality shall not affect the validity of the remaining parts of this Section. The General Assembly hereby declares that it would have passed the remaining parts of this Section if it had known that the other part or parts of this Section would be declared unconstitutional.

20 (j) Penalty.

(i) A violation of this Section is a petty offense
for which a fine of \$250 shall be imposed for a first
violation, and a fine of \$500 shall be imposed for a
second or subsequent violation.

(ii) For a second or subsequent violation, the
Secretary of State may suspend the registration of the
motor vehicle for a period of at least 6 months.

28 (Source: P.A. 92-98, eff. 7-20-01; 92-245, eff. 8-3-01; 29 revised 10-18-01.)

30 (625 ILCS 5/12-215) (from Ch. 95 1/2, par. 12-215)
31 Sec. 12-215. Oscillating, rotating or flashing lights on
32 motor vehicles. Except as otherwise provided in this Code:
33 (a) The use of red or white oscillating, rotating or

-684-

1 flashing lights, whether lighted or unlighted, is prohibited 2 except on:

3 1. Law enforcement vehicles of State, Federal or
4 local authorities;

2. A vehicle operated by a police officer or county
coroner and designated or authorized by local
authorities, in writing, as a law enforcement vehicle;
however, such designation or authorization must be
carried in the vehicle;

Vehicles of local fire departments and State or
 federal firefighting vehicles;

12 4. Vehicles which are designed and used exclusively 13 as ambulances or rescue vehicles; furthermore, such 14 lights shall not be lighted except when responding to an 15 emergency call for and while actually conveying the sick 16 or injured;

5. Tow trucks licensed in a state that requires such lights; furthermore, such lights shall not be lighted on any such tow truck while the tow truck is operating in the State of Illinois; and

21 6. Vehicles of the Illinois Emergency Management
22 Agency, and vehicles of the Department of Nuclear Safety.
23 (b) The use of amber oscillating, rotating or flashing
24 lights, whether lighted or unlighted, is prohibited except
25 on:

1. Second division vehicles designed and used for 26 27 towing or hoisting vehicles; furthermore, such lights shall not be lighted except as required in this paragraph 28 29 1; such lights shall be lighted when such vehicles are 30 actually being used at the scene of an accident or disablement; if the towing vehicle is equipped with a 31 flat bed that supports all wheels of the vehicle being 32 transported, the lights shall not be lighted while the 33 34 vehicle is engaged in towing on a highway; if the towing -685-

vehicle is not equipped with a flat bed that supports all wheels of a vehicle being transported, the lights shall be lighted while the towing vehicle is engaged in towing on a highway during all times when the use of headlights is required under Section 12-201 of this Code;

6 2. Motor vehicles or equipment of the State of 7 Illinois, local authorities and contractors; furthermore, 8 such lights shall not be lighted except while such 9 vehicles are engaged in maintenance or construction 10 operations within the limits of construction projects;

3. Vehicles or equipment used by engineering or survey crews; furthermore, such lights shall not be lighted except while such vehicles are actually engaged in work on a highway;

4. Vehicles of public utilities, municipalities, or
other construction, maintenance or automotive service
vehicles except that such lights shall be lighted only as
a means for indicating the presence of a vehicular
traffic hazard requiring unusual care in approaching,
overtaking or passing while such vehicles are engaged in
maintenance, service or construction on a highway;

5. Oversized vehicle or load; however, such lights shall only be lighted when moving under permit issued by the Department under Section 15-301 of this Code;

25 6. The front and rear of motorized equipment owned
26 and operated by the State of Illinois or any political
27 subdivision thereof, which is designed and used for
28 removal of snow and ice from highways;

7. Fleet safety vehicles registered in another
state, furthermore, such lights shall not be lighted
except as provided for in Section 12-212 of this Code;

32 8. Such other vehicles as may be authorized by33 local authorities;

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9. Law enforcement vehicles of State or local

authorities when used in combination with red
 oscillating, rotating or flashing lights;

3 10. Vehicles used for collecting or delivering mail
4 for the United States Postal Service provided that such
5 lights shall not be lighted except when such vehicles are
6 actually being used for such purposes;

7 11. Any vehicle displaying a slow-moving vehicle
8 emblem as provided in Section 12-205.1;

9 12. All trucks equipped with self-compactors or 10 roll-off hoists and roll-on containers for garbage or 11 refuse hauling. Such lights shall not be lighted except 12 when such vehicles are actually being used for such 13 purposes;

14 13. Vehicles used by a security company, alarm 15 responder, or control agency, if the security company, 16 alarm responder, or control agency is bound by a contract 17 with a federal, State, or local government entity to use 18 the lights; and

19 14. Security vehicles of the Department of Human 20 Services; however, the lights shall not be lighted except 21 when being used for security related purposes under the 22 direction of the superintendent of the facility where the 23 vehicle is located.

24 (c) The use of blue oscillating, rotating or flashing 25 lights, whether lighted or unlighted, is prohibited except 26 on:

1. Rescue squad vehicles not owned by a fire 27 department and vehicles owned or fully operated by a: 28 29 voluntary firefighter; 30 paid firefighter; part-paid firefighter; 31 32 call firefighter; member of the board of trustees of a fire 33 protection district; 34

-687-

paid or unpaid member of a rescue squad; or
 paid or unpaid member of a voluntary ambulance

3 unit.

4 However, such lights are not to be lighted except5 when responding to a bona fide emergency.

6 2. Police department vehicles in cities having a 7 population of 500,000 or more inhabitants.

8 3. Law enforcement vehicles of State or local 9 authorities when used in combination with red 10 oscillating, rotating or flashing lights.

4. Vehicles of local fire departments and State or
 federal firefighting vehicles when used in combination
 with red oscillating, rotating or flashing lights.

Vehicles which are designed and used exclusively
as ambulances or rescue vehicles when used in combination
with red oscillating, rotating or flashing lights;
furthermore, such lights shall not be lighted except when
responding to an emergency call.

19 6. Vehicles that are equipped and used exclusively 20 as organ transport vehicles when used in combination with 21 red oscillating, rotating, or flashing lights; 22 furthermore, these lights shall only be lighted when the 23 transportation is declared an emergency by a member of 24 the transplant team or a representative of the organ 25 procurement organization.

26 7. Vehicles of the Illinois Emergency Management
27 Agency and vehicles of the Department of Nuclear Safety,
28 when used in combination with red oscillating, rotating,
29 or flashing lights.

30 (c-1) In addition to the blue oscillating, rotating, or 31 flashing lights permitted under subsection (c), and 32 notwithstanding subsection (a), a vehicle operated by a 33 voluntary firefighter may be equipped with flashing white 34 headlights and blue grill lights, which may be used only in 1 responding to an emergency call.

2 The use of a combination of amber and white (d) oscillating, rotating or flashing lights, whether lighted or 3 4 unlighted, is prohibited, except motor vehicles or equipment of the State of Illinois, local authorities and contractors 5 may be so equipped; furthermore, such lights shall not be 6 7 lighted except while such vehicles are engaged in highway 8 maintenance or construction operations within the limits of 9 highway construction projects.

10 (e) All oscillating, rotating or flashing lights 11 referred to in this Section shall be of sufficient intensity, 12 when illuminated, to be visible at 500 feet in normal 13 sunlight.

14 (f) Nothing in this Section shall prohibit a 15 manufacturer of oscillating, rotating or flashing lights or 16 his representative from temporarily mounting such lights on a 17 vehicle for demonstration purposes only.

(g) Any person violating the provisions of subsections
(a), (b), (c) or (d) of this Section who without lawful
authority stops or detains or attempts to stop or detain
another person shall be guilty of a Class 4 felony.

(h) Except as provided in subsection (g) above, any
person violating the provisions of subsections (a) or (c) of
this Section shall be guilty of a Class A misdemeanor.
(Source: P.A. 91-357, eff. 7-29-99; 92-138, eff. 7-24-01;

26 92-407, eff. 8-17-01; revised 9-12-01)

27 (625 ILCS 5/18b-105) (from Ch. 95 1/2, par. 18b-105)

28 Sec. 18b-105. Rules and Regulations.

(a) The Department is authorized to make and adopt
reasonable rules and regulations and orders consistent with
law necessary to carry out the provisions of this Chapter.

32 (b) The following parts of Title 49 of the Code of33 Federal Regulations, as now in effect, are hereby adopted by

SB1854 Engrossed

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-689-

reference as though they were set out in full: 2 Part 383 - Commercial Driver's License Standards, Requirements, and Penalties; 3 4 Part 385 - Safety Fitness Procedures; 5 Part 390 - Federal Motor Carrier Safety Regulations: 6 General; 7 Part 391 - Qualifications of Drivers; 8 Part 392 - Driving of Motor Vehicles; 9 Part 393 - Parts and Accessories Necessary for Safe Operation; 10 11 Part 395 - Hours of Service of Drivers, except as provided in Section 18b-106.1; and 12 Part 396 - Inspection, Repair and Maintenance. 13 (c) The following parts and Sections of the Federal 14 Motor Carrier Safety Regulations shall not apply to those 15 16 intrastate carriers, drivers or vehicles subject to subsection (b). 17 (1) Section 393.93 of Part 393 for those vehicles 18 19 manufactured before June 30, 1972. (2) Section 393.86 of Part 393 for those vehicles 20 21 which are registered as farm trucks under subsection (c) of Section 3-815 of this The-Illinois-Vehiele Code. 22 23 (3) (Blank). 24 (4) (Blank). 25 (5) Paragraph (b)(1) of Section 391.11 of Part 391. (6) All of Part 395 for all agricultural movements 26 as defined in Chapter 1, between the period of February 1 27 through November 30 each year, and all farm to market 28 29 agricultural transportation as defined in Chapter 1 and 30 for grain hauling operations within a radius of 200 air miles of the normal work reporting location. 31 (7) Paragraphs (b)(3) (insulin dependent diabetic) 32 33 and (b)(10) (minimum visual acuity) of Section 391.41 of

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part 391, but only for any driver who immediately prior

1 to July 29, 1986 was eligible and licensed to operate a 2 motor vehicle subject to this Section and was engaged in operating such vehicles, and who was disqualified on July 3 4 29, 1986 by the adoption of Part 391 by reason of the application of paragraphs (b)(3) and (b)(10) of Section 5 391.41 with respect to a physical condition existing at 6 7 that time unless such driver has a record of accidents 8 which would indicate a lack of ability to operate a motor 9 vehicle in a safe manner.

10 (d) Intrastate carriers subject to the recording 11 provisions of Section 395.8 of Part 395 of the Federal Motor 12 Carrier Safety Regulations shall be exempt as established 13 under paragraph (1) of Section 395.8; provided, however, for 14 the purpose of this Code, drivers shall operate within a 150 15 air-mile radius of the normal work reporting location to 16 qualify for exempt status.

(e) Regulations adopted by the Department subsequent to 17 those adopted under subsection (b) hereof shall be identical 18 19 in substance to the Federal Motor Carrier Safety Regulations of the United States Department of Transportation and adopted 20 21 in accordance with the procedures for rulemaking in Section 5-35 of the Illinois Administrative Procedure Act. 22 (Source: P.A. 91-179, eff. 1-1-00; 92-108; eff. 1-1-02; 23 92-249; eff. 1-1-02; revised 1-28-02.) 24

25 (625 ILCS 5/18c-2108) (from Ch. 95 1/2, par. 18c-2108)

26 Sec. 18c-2108. Orders in other than household goods 27 carriers authority and enforcement proceedings.

(1) Emergency Orders. The Commission may, on request, and upon a finding that urgent and immediate public need requires emergency temporary action, issue orders granting emergency temporary relief in other than household goods carrier authority or enforcement cases. The Commission shall promptly post notice of any such request at a prominent

1 location at the Commission offices in Springfield and 2 Chicago, and where action affecting a specific named person is requested shall promptly notify the person by telephone or 3 4 Such orders may be issued without hearing and telegram. 5 shall remain in effect pending notice and hearing in б accordance with subsection (1) of Section 18c-2101 of this Chapter, but shall not remain in effect for a period 7 exceeding 45 days from issuance, and shall not be renewed or 8 9 Any person in opposition to such relief shall be extended. entitled, on request, to an oral hearing on or the request 10 11 for emergency temporary relief. The filing or granting of such request for oral hearing shall not, unless 12 the Commission so provides, stay the issuance or effect of any 13 emergency temporary order under this subsection. 14

15 (2) Interim Orders. The Commission may, on request, 16 issue interim orders making temporary disposition of issues in a proceeding, other than a household goods carrier 17 authority or enforcement proceeding, after notice and hearing 18 19 on written submissions. Such orders shall remain in effect pending final disposition in accordance with Section 18c-2102 20 21 of this Chapter unless otherwise provided in the interim order or the interim order is modified or rescinded by the 22 23 Commission. Any person in opposition to such relief shall be entitled, on request, to an oral hearing on the request for 24 25 temporary relief. The filing or granting of such a request for oral hearing shall not, unless the Commission so 26 provides, stay the issuance or effect of any interim order 27 under this subsection. A request for oral hearing on a 28 29 request for temporary relief shall, unless otherwise 30 specified by the party making the request for oral hearing, be construed as a request for oral hearing on the application 31 32 for permanent relief as well.

33 (3) Final orders. Any party to a proceeding before the34 Commission shall be entitled, on timely written request, to

1 an oral hearing prior to issuance of a final order in the 2 proceeding. Where the Commission has issued an interim order 3 and no timely request for oral hearing has been filed or is 4 pending, the Commission may issue a final order without oral 5 hearing, except in household goods carrier authority 6 proceedings.

7 (4) Section not applicable to household goods carrier
8 authority proceedings. Nothing in this Section shall have
9 application to any household goods carrier authority
10 proceeding.

11 (Source: P.A. 89-444, eff. 1-25-96; revised 12-07-01.)

Section 78. The Boat Registration and Safety Act is amended by changing Section 5-7 as follows:

14 (625 ILCS 45/5-7) (from Ch. 95 1/2, par. 315-7)

Sec. 5-7. Restricted areas. No person shall operate a 15 16 watercraft within a water area that has been clearly marked 17 by buoys or some other distinguishing device as a bathing, fishing, swimming or otherwise restricted area by the 18 19 Department or a political subdivision of the State or by an 20 owner or lessee of property in accordance with his or her 21 rights to the use of the property, except in the manner prescribed by the buoys or other distinguishing devices. 22 23 This Section shall not apply in the case of an emergency, or 24 to patrol or rescue craft.

No person shall operate a watercraft within 150 feet of a public launching ramp owned, operated or maintained by the Department or a political subdivision of the State at greater than a "No Wake" speed as defined in Section <u>5-12</u> 5-7.5 of this Act. Posting of the areas by the Department or a political subdivision of the State is not required.

31 The Department and other political subdivisions of the 32 State may, within their discretion and after issuing an

1 administrative rule in accordance with the Illinois 2 Administrative Procedure Act, designate certain areas by proper signs to be bathing, fishing, swimming or otherwise 3 4 restricted areas, or eliminate, alter or otherwise modify existing areas. The Department or a political subdivision of 5 the State shall further have the authority in order to fully 6 7 carry out the provisions of this Act to place signs, beacons 8 and buoys in designated areas controlling the flow of 9 traffic.

10 It shall be unlawful for any person to deface, move, 11 obliterate, tear down, or destroy, in whole or in part, or 12 attempt to deface, move, obliterate, tear down or destroy any 13 buoys or signs posted pursuant to the provisions of this Act, 14 except as authorized by the Department.

15 (Source: P.A. 87-803; revised 12-04-01.)

Section 79. The Clerks of Courts Act is amended by changing Section 27.6 as follows:

18 (705 ILCS 105/27.6)

27.6. (a) All fees, fines, costs, additional 19 Sec. penalties, bail balances assessed or forfeited, and any other 20 21 amount paid by a person to the circuit clerk equalling an amount of \$55 or more, except the additional fee required by 22 23 subsections (b) and (c), restitution under Section 5-5-6 of the Unified Code of Corrections, reimbursement for the costs 24 of an emergency response as provided under Section 5-5-3 of 25 the Unified Code of Corrections, any fees collected for 26 27 attending a traffic safety program under paragraph (c) of 28 Supreme Court Rule 529, any fee collected on behalf of a State's Attorney under Section 4-2002 of the Counties Code or 29 30 a sheriff under Section 4-5001 of the Counties Code, or any cost imposed under Section 124A-5 of the Code of Criminal 31 Procedure of 1963, for convictions, orders of supervision, or 32

1 any other disposition for a violation of Chapters 3, 4, 6, 2 11, and 12 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the 3 4 Child Passenger Protection Act, or a similar provision of a local ordinance, and except as provided in subsection 5 (d) 6 shall be disbursed within 60 days after receipt by the 7 circuit clerk as follows: 44.5% shall be disbursed to the entity authorized by law to receive the fine imposed in the 8 9 case; 16.825% shall be disbursed to the State Treasurer; and 38.675% shall be disbursed to the county's general corporate 10 fund. Of the 16.825% disbursed to the State Treasurer, 2/17 11 shall be deposited by the State Treasurer into the Violent 12 Crime Victims Assistance Fund, 5.052/17 shall be deposited 13 into the Traffic and Criminal Conviction Surcharge Fund, 3/17 14 shall be deposited into the Drivers Education Fund, and 15 16 6.948/17 shall be deposited into the Trauma Center Fund. Of the 6.948/17 deposited into the Trauma Center Fund from the 17 16.825% disbursed to the State Treasurer, 50% shall be 18 19 disbursed to the Department of Public Health and 50% shall be disbursed to the Department of Public Aid. For fiscal year 20 1993, amounts deposited into the Violent Crime Victims 21 22 Assistance Fund, the Traffic and Criminal Conviction 23 Surcharge Fund, or the Drivers Education Fund shall not exceed 110% of the amounts deposited into those funds 24 in 25 fiscal year 1991. Any amount that exceeds the 110% limit shall be distributed as follows: 50% shall be disbursed to 26 county's general corporate fund and 50% shall be 27 the disbursed to the entity authorized by law to receive the fine 28 29 imposed in the case. Not later than March 1 of each year the 30 circuit clerk shall submit a report of the amount of funds remitted to the State Treasurer under this Section during the 31 32 preceding year based upon independent verification of fines All counties shall be subject to this Section, 33 and fees. except that counties with a population under 2,000,000 may, 34

1 by ordinance, elect not to be subject to this Section. For 2 offenses subject to this Section, judges shall impose one total sum of money payable for violations. The circuit clerk 3 4 may add on no additional amounts except for amounts that are 5 required by Sections 27.3a and 27.3c of this Act, unless 6 those amounts are specifically waived by the judge. With 7 respect to money collected by the circuit clerk as a result 8 of forfeiture of bail, ex parte judgment or guilty plea 9 pursuant to Supreme Court Rule 529, the circuit clerk shall first deduct and pay amounts required by Sections 27.3a and 10 11 27.3c of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of 12 Section 6 of Article VII of the Illinois Constitution. 13

In addition to any other fines and court costs 14 (b) assessed by the courts, any person convicted or receiving an 15 16 order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of \$100 to the 17 clerk of the circuit court. This amount, less 2 1/2% that 18 19 shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 20 21 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of \$100 shall not be considered a 22 23 part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later 24 25 than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer 26 under this subsection during the preceding calendar year. 27

(b-1) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of \$5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 1 60 days after receipt for deposit into the Spinal Cord Injury 2 Paralysis Cure Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of 3 4 any reduction in the fine for time served either before or 5 Not later than March 1 of each year the after sentencing. 6 Circuit Clerk shall submit a report of the amount of funds 7 remitted to the State Treasurer under this subsection during 8 the preceding calendar year.

9 In addition to any other fines and court costs (C) assessed by the courts, any person convicted for a violation 10 11 of Sections 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of 1961 or a person sentenced for a violation of the Cannabis 12 Control Act or the Controlled Substance Act shall pay an 13 additional fee of \$100 to the clerk of the circuit court. 14 This amount, less 2 1/2% that shall be used to defray 15 16 administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt 17 for deposit into the Trauma Center Fund. This additional fee 18 19 of \$100 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either 20 21 before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of 22 23 funds remitted to the State Treasurer under this subsection during the preceding calendar year. 24

25 (c-1) In addition to any other fines and court costs assessed by the courts, any person sentenced for a violation 26 the Cannabis Control Act or the Illinois Controlled 27 of Substances Act shall pay an additional fee of \$5 to the clerk 28 of the circuit court. This amount, less 2 1/2% that shall be 29 30 used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 31 32 days after receipt for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of \$5 33 shall not be considered a part of the fine for purposes of 34

any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

6 (d) The following amounts must be remitted to the State7 Treasurer for deposit into the Illinois Animal Abuse Fund:

8 (1) 50% of amounts collected for Class 4 felonies 9 under subsection (a), paragraph (4) of subsection (b), 10 and paragraphs (6), (7), (8.5), and (9) of subsection (c) 11 of Section 16 of the Humane Care for Animals Act and 12 Class 3 felonies under paragraph (5) of subsection (c) of 13 Section 16 of that Act.

14 (2) 20% of amounts collected for Class A
15 misdemeanors under subsection (a), paragraph (4) of
16 subsection (b), and paragraphs (6) and (7) of subsection
17 (c) of Section 16 of the Humane Care for Animals Act and
18 Class B misdemeanors under paragraph (9) of subsection
19 (c) of Section 16 of that Act.

20 (3) 20% of amounts collected for Class B
21 misdemeanors under subsection (d) of Section 16 of the
22 Humane Care for Animals Act.

23 (4) 50% of amounts collected for Class C
24 misdemeanors under subsection (d) of Section 16 of the
25 Humane Care for Animals Act.

26 (Source: P.A. 92-431, eff. 1-1-02; 92-454, eff. 1-1-02; 27 revised 10-11-01.)

28 Section 80. The Juvenile Court Act of 1987 is amended by 29 changing Sections 5-615 and 5-715 as follows:

30 (705 ILCS 405/5-615)

31 Sec. 5-615. Continuance under supervision.

32 (1) The court may enter an order of continuance under

1 supervision for an offense other than first degree murder, a 2 Class X felony or a forcible felony (a) upon an admission or stipulation by the appropriate respondent or minor respondent 3 4 of the facts supporting the petition and before proceeding to adjudication, or after hearing the evidence at the trial, and 5 б (b) in the absence of objection made in open court by the 7 minor, his or her parent, guardian, or legal custodian, the minor's attorney or the State's Attorney. 8

9 (2) If the minor, his or her parent, guardian, or legal 10 custodian, the minor's attorney or State's Attorney objects 11 in open court to any continuance and insists upon proceeding 12 to findings and adjudication, the court shall so proceed.

13 (3) Nothing in this Section limits the power of the 14 court to order a continuance of the hearing for the 15 production of additional evidence or for any other proper 16 reason.

17 (4) When a hearing where a minor is alleged to be a 18 delinquent is continued pursuant to this Section, the period 19 of continuance under supervision may not exceed 24 months. 20 The court may terminate a continuance under supervision at 21 any time if warranted by the conduct of the minor and the 22 ends of justice.

(5) When a hearing where a minor is alleged to be delinquent is continued pursuant to this Section, the court may, as conditions of the continuance under supervision, require the minor to do any of the following:

27 (a) not violate any criminal statute of any28 jurisdiction;

(b) make a report to and appear in person before
any person or agency as directed by the court;

31 (c) work or pursue a course of study or vocational 32 training;

33 (d) undergo medical or psychotherapeutic treatment
 34 rendered by a therapist licensed under the provisions of

the Medical Practice Act of 1987, the Clinical 1 Psychologist Licensing Act, or the Clinical Social Work 2 and Social Work Practice Act, or an entity licensed by 3 4 the Department of Human Services as a successor to the Department of Alcoholism and Substance Abuse, for the 5 provision of drug addiction and alcoholism treatment; 6 7 (e) attend or reside in a facility established for the instruction or residence of persons on probation; 8 9 (f) support his or her dependents, if any; 10 (g) pay costs; 11 (h) refrain from possessing a firearm or other dangerous weapon, or an automobile; 12 (i) permit the probation officer to visit him or 13 her at his or her home or elsewhere; 14 15 (j) reside with his or her parents or in a foster 16 home; (k) attend school; 17 (k-5) with the consent of the superintendent of the 18 facility, attend an educational program at a facility 19 other than the school in which the offense was committed 20 if he or she committed a crime of violence as defined in 21 22 Section 2 of the Crime Victims Compensation Act in a school, on the real property comprising a school, or 23 within 1,000 feet of the real property comprising a 24 25 school; (1) attend a non-residential program for youth; 26 27 (m) contribute to his or her own support at home or in a foster home; 28 29 (n) perform some reasonable public or community 30 service; (o) make restitution to the victim, in the same 31 manner and under the same conditions as provided in 32 subsection (4) of Section 5-710, except that the 33 "sentencing hearing" referred to in that Section shall be 34

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the adjudicatory hearing for purposes of this Section;

2 (p) comply with curfew requirements as designated
3 by the court;

4 (q) refrain from entering into a designated 5 geographic area except upon terms as the court finds 6 appropriate. The terms may include consideration of the 7 purpose of the entry, the time of day, other persons 8 accompanying the minor, and advance approval by a 9 probation officer;

10 (r) refrain from having any contact, directly or 11 indirectly, with certain specified persons or particular 12 types of persons, including but not limited to members of 13 street gangs and drug users or dealers;

14 (r-5) undergo a medical or other procedure to have 15 a tattoo symbolizing allegiance to a street gang removed 16 from his or her body;

(s) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act or the Illinois Controlled Substances Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug; or

(t) comply with any other conditions as may beordered by the court.

(6) A minor whose case is continued under supervision under subsection (5) shall be given a certificate setting forth the conditions imposed by the court. Those conditions may be reduced, enlarged, or modified by the court on motion of the probation officer or on its own motion, or that of the State's Attorney, or, at the request of the minor after notice and hearing.

32 (7) If a petition is filed charging a violation of a
33 condition of the continuance under supervision, the court
34 shall conduct a hearing. If the court finds that a condition

1 of supervision has not been fulfilled, the court may proceed 2 to findings and adjudication and disposition. The filing of a petition for violation of a condition of the continuance 3 4 under supervision shall toll the period of continuance under supervision until the final determination of the charge, and 5 б the term of the continuance under supervision shall not run 7 until the hearing and disposition of the petition for 8 violation; provided where the petition alleges conduct that does not constitute a criminal offense, the hearing must be 9 held within 30 days of the filing of the petition unless a 10 11 delay shall continue the tolling of the period of continuance under supervision for the period of the delay. 12

(8) When a hearing in which a minor is alleged to be 13 a delinquent for reasons that include a violation of Section 14 21-1.3 of the Criminal Code of 1961 is continued under this 15 16 Section, the court shall, as a condition of the continuance under supervision, require the minor to perform community 17 service for not less than 30 and not more than 120 hours, if 18 19 community service is available in the jurisdiction. The community service shall include, but need not be limited to, 20 21 the cleanup and repair of the damage that was caused by the 22 alleged violation or similar damage to property located in 23 the municipality or county in which the alleged violation occurred. The condition may be in addition to any other 24 25 condition.

(8.5) When a hearing in which a minor is alleged to be a 26 27 delinquent for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or 28 paragraph (d) of subsection (1) of Section 21-1 of the 29 30 Criminal Code of 1961 is continued under this Section, the court shall, as a condition of the continuance under 31 supervision, require the minor to undergo medical 32 or 33 psychiatric treatment rendered by a psychiatrist or 34 psychological treatment rendered by a clinical psychologist.

SB1854 Engrossed

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The condition may be in addition to any other condition.

-702-

2 (9) When a hearing in which a minor is alleged to be a delinquent is continued under this Section, the court, before 3 4 continuing the case, shall make a finding whether the offense 5 alleged to have been committed either: (i) was related to or 6 in furtherance of the activities of an organized gang or was 7 motivated by the minor's membership in or allegiance to an organized gang, or (ii) is a violation of paragraph (13) of 8 9 subsection (a) of Section 12-2 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code 10 11 of 1961, or a violation of any statute that involved the unlawful use of a firearm. If the court determines the 12 question in the affirmative the court shall, as a condition 13 of the continuance under supervision and as part of or 14 in 15 addition to any other condition of the supervision, require 16 the minor to perform community service for not less than 30 hours, provided that community service is available in the 17 jurisdiction and is funded and approved by the county board 18 19 of the county where the offense was committed. The community service shall include, but need not be limited to, the 20 21 cleanup and repair of any damage caused by an alleged violation of Section 21-1.3 of the Criminal Code of 1961 and 22 23 similar damage to property located in the municipality or in which the alleged violation occurred. 24 county When 25 possible and reasonable, the community service shall be performed in the minor's neighborhood. For the purposes of 26 this Section, "organized gang" has the meaning ascribed to it 27 in Section 10 of the Illinois Streetgang Terrorism Omnibus 28 29 Prevention Act.

30 (10) The court shall impose upon a minor placed on 31 supervision, as a condition of the supervision, a fee of \$25 32 for each month of supervision ordered by the court, unless 33 after determining the inability of the minor placed on 34 supervision to pay the fee, the court assesses a lesser 1 amount. The court may not impose the fee on a minor who is 2 made a ward of the State under this Act while the minor is in 3 placement. The fee shall be imposed only upon a minor who is 4 actively supervised by the probation and court services 5 department. A court may order the parent, guardian, or legal 6 custodian of the minor to pay some or all of the fee on the 7 minor's behalf.

8 (Source: P.A. 91-98; eff. 1-1-00; 91-332, eff. 7-29-99; 9 92-16, eff. 6-28-01; 92-282, eff. 8-7-01; 92-454, eff. 10 1-1-02; revised 10-11-01.)

- 11 (705 ILCS 405/5-715)
- 12 Sec. 5-715. Probation.

The period of probation or conditional discharge 13 (1) shall not exceed 5 years or until the minor has attained the 14 15 age of 21 years, whichever is less, except as provided in this Section for a minor who is found to be guilty for an 16 17 offense which is first degree murder, a Class X felony or a 18 forcible felony. The juvenile court may terminate probation or conditional discharge and discharge the minor at any time 19 20 if warranted by the conduct of the minor and the ends of 21 justice; provided, however, that the period of probation for 22 a minor who is found to be guilty for an offense which is first degree murder, a Class X felony, or a forcible felony 23 24 shall be at least 5 years.

25 (2) The court may as a condition of probation or of 26 conditional discharge require that the minor:

27 (a) not violate any criminal statute of any28 jurisdiction;

(b) make a report to and appear in person before
any person or agency as directed by the court;

31 (c) work or pursue a course of study or vocational 32 training;

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(d) undergo medical or psychiatric treatment,

SB1854 Engrossed

-704-

1 rendered by a psychiatrist or psychological treatment 2 rendered by a clinical psychologist or social work services rendered by a clinical social worker, or 3 4 treatment for drug addiction or alcoholism; (e) attend or reside in a facility established for 5 the instruction or residence of persons on probation; 6 7 (f) support his or her dependents, if any; 8 (g) refrain from possessing a firearm or other 9 dangerous weapon, or an automobile; (h) permit the probation officer to visit him or 10 11 her at his or her home or elsewhere; 12 (i) reside with his or her parents or in a foster 13 home; (j) attend school; 14 (j-5) with the consent of the superintendent of the 15 16 facility, attend an educational program at a facility other than the school in which the offense was committed 17 if he or she committed a crime of violence as defined in 18 19 Section 2 of the Crime Victims Compensation Act in a 20 school, on the real property comprising a school, or within 1,000 feet of the real property comprising a 21 22 school; 23 (k) attend a non-residential program for youth; (1) make restitution under the terms of subsection 24 25 (4) of Section 5-710; (m) contribute to his or her own support at home or 26 in a foster home; 27 (n) perform some reasonable public or community 28 29 service; 30 (o) participate with community corrections programs including unified delinquency intervention services 31 administered by the Department of Human Services subject 32 to Section 5 of the Children and Family Services Act; 33 34 (p) pay costs;

1 (q) serve a term of home confinement. In addition 2 to any other applicable condition of probation or 3 conditional discharge, the conditions of home confinement 4 shall be that the minor:

5 (i) remain within the interior premises of the 6 place designated for his or her confinement during 7 the hours designated by the court;

8 (ii) admit any person or agent designated by 9 the court into the minor's place of confinement at 10 any time for purposes of verifying the minor's 11 compliance with the conditions of his or her 12 confinement; and

13 (iii) use an approved electronic monitoring
14 device if ordered by the court subject to Article 8A
15 of Chapter V of the Unified Code of Corrections;

16 (r) refrain from entering into a designated geographic area except upon terms as the court finds 17 The terms may include consideration of the 18 appropriate. purpose of the entry, the time of day, other persons 19 accompanying the minor, and advance approval by a 20 21 probation officer, if the minor has been placed on 22 probation, or advance approval by the court, if the minor 23 has been placed on conditional discharge;

(s) refrain from having any contact, directly or
indirectly, with certain specified persons or particular
types of persons, including but not limited to members of
street gangs and drug users or dealers;

28 (s-5) undergo a medical or other procedure to have 29 a tattoo symbolizing allegiance to a street gang removed 30 from his or her body;

31 (t) refrain from having in his or her body the 32 presence of any illicit drug prohibited by the Cannabis 33 Control Act or the Illinois Controlled Substances Act, 34 unless prescribed by a physician, and shall submit samples of his or her blood or urine or both for tests to
 determine the presence of any illicit drug; or

3 (u) comply with other conditions as may be ordered4 by the court.

The court may as a condition of probation or of 5 (3) б conditional discharge require that a minor found guilty on 7 any alcohol, cannabis, or controlled substance violation, 8 refrain from acquiring a driver's license during the period 9 of probation or conditional discharge. If the minor is in possession of a permit or license, the court may require that 10 11 the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, 12 except as may be necessary in the course of the minor's 13 lawful employment. 14

(3.5) The court shall, as a condition of probation or of 15 16 conditional discharge, require that a minor found to be guilty and placed on probation for reasons that include a 17 violation of Section 3.02 or Section 3.03 of the Humane Care 18 19 for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 undergo medical or 20 21 psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. 22 23 The condition may be in addition to any other condition.

(4) A minor on probation or conditional discharge shall
be given a certificate setting forth the conditions upon
which he or she is being released.

27 (5) The court shall impose upon a minor placed on probation or conditional discharge, as a condition of the 28 29 probation or conditional discharge, a fee of \$25 for each 30 month of probation or conditional discharge supervision ordered by the court, unless after determining the inability 31 32 of the minor placed on probation or conditional discharge to pay the fee, the court assesses a lesser amount. 33 The court 34 may not impose the fee on a minor who is made a ward of the 1 State under this Act while the minor is in placement. The 2 fee shall be imposed only upon a minor who is actively 3 supervised by the probation and court services department. 4 The court may order the parent, guardian, or legal custodian 5 of the minor to pay some or all of the fee on the minor's 6 behalf.

7 (6) The General Assembly finds that in order to protect 8 the public, the juvenile justice system must compel 9 compliance with the conditions of probation by responding to violations with swift, certain, and fair punishments and 10 intermediate sanctions. The Chief Judge of each circuit 11 shall adopt a system of structured, intermediate sanctions 12 for violations of the terms and conditions of a sentence of 13 supervision, probation or conditional discharge, under this 14 15 Act.

16 The court shall provide as a condition of a disposition of probation, conditional discharge, or supervision, that the 17 probation agency may invoke any sanction from the list of 18 19 intermediate sanctions adopted by the chief judge of the circuit court for violations of the terms and conditions of 20 the sentence of probation, conditional discharge, or 21 supervision, subject to the provisions of Section 5-720 of 22 23 this Act.

24 (Source: P.A. 91-98, eff. 1-1-00; 92-282, eff. 8-7-01; 25 92-454, eff. 1-1-02; revised 10-11-01.)

26 Section 81. The Criminal Code of 1961 is amended by 27 changing Section 12-21.6 and the heading to Article 16G as 28 follows:

29 (720 ILCS 5/12-21.6)

30 (Text of Section before amendment by P.A. 92-515)

31 Sec. 12-21.6. Endangering the life or health of a child.

32 (a) It is unlawful for any person to willfully cause or

permit the life or health of a child under the age of 18 to be endangered or to willfully cause or permit a child to be placed in circumstances that endanger the child's life or health, except that it is not unlawful for a person to relinquish a child in accordance with the Abandoned Newborn Infant Protection Act.

7 (b) A violation of this Section is a Class А 8 misdemeanor. A second or subsequent violation of this 9 Section is a Class 3 felony. A violation of this Section that is a proximate cause of the death of the child is a 10 11 Class 3 felony for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 2 12 years and not more than 10 years. 13

14 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

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(Text of Section after amendment by P.A. 92-515)

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Sec. 12-21.6. Endangering the life or health of a child.

It is unlawful for any person to willfully cause or 17 (a) 18 permit the life or health of a child under the age of 18 to 19 be endangered or to willfully cause or permit a child to be placed in circumstances that endanger the child's life or 20 21 health, except that it is not unlawful for a person to relinquish a child in accordance with the Abandoned Newborn 22 23 Infant Protection Act.

(b) There is a rebuttable presumption that a person
committed the offense if he or she left a child 6 years of
age or younger unattended in a motor vehicle for more than 10
minutes.

(c) "Unattended" means either: (i) not accompanied by a
person 14 years of age or older; or (ii) if accompanied by a
person 14 years of age or older, out of sight of that person.

31 (d) A violation of this Section is a Class A
32 misdemeanor. A second or subsequent violation of this
33 Section is a Class 3 felony. A violation of this Section
34 that is a proximate cause of the death of the child is a

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SB1854 Engrossed
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1 Class 3 felony for which a person, if sentenced to a term of 2 imprisonment, shall be sentenced to a term of not less than 2 years and not more than 10 years. 3 4 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 5 92-515, eff. 6-1-02; revised 1-7-02.) б (720 ILCS 5/Art. 16G heading) 7 ARTICLE 16G. 8 FINANCIAL IDENTITY THEFT AND ASSET FORFEITURE LAW Section 82. The Code of Criminal Procedure of 1963 is 9 amended by changing Section 110-10 as follows: 10 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10) 11 Sec. 110-10. Conditions of bail bond. 12 13 (a) If a person is released prior to conviction, either upon payment of bail security or on his or her 14 own 15 recognizance, the conditions of the bail bond shall be that 16 he or she will: (1) Appear to answer the charge in the court having 17 18 jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the 19 20 court; Submit himself or herself to the orders and 21 (2) 22 process of the court; (3) Not depart this State without leave of the 23 24 court; Not violate any criminal statute 25 (4) of any 26 jurisdiction; 27 (5) At a time and place designated by the court, surrender all firearms in his or her possession to a law 28 29 enforcement officer designated by the court to take custody of and impound the firearms and physically 30 surrender his or her Firearm Owner's Identification Card 31

1 to the clerk of the circuit court when the offense the 2 person has been charged with is a forcible felony, stalking, aggravated stalking, domestic battery, any 3 4 violation of either the Illinois Controlled Substances Act or the Cannabis Control Act that is classified as a 5 Class 2 or greater felony, or any felony violation of 6 7 Article 24 of the Criminal Code of 1961; the court may, however, forgo the imposition of this condition when the 8 9 circumstances of the case clearly do not warrant it or 10 when its imposition would be impractical; all legally 11 possessed firearms shall be returned to the person upon 12 that person completing a sentence for a conviction on a misdemeanor domestic battery, upon the charges being 13 dismissed, or if the person is found not guilty, unless 14 15 the finding of not guilty is by reason of insanity; and

16 (6) At a time and place designated by the court, submit to a psychological evaluation when the person has 17 been charged with a violation of item (4) of subsection 18 (a) of Section 24-1 of the Criminal Code of 1961 and that 19 violation occurred in a school or in any conveyance 20 21 owned, leased, or contracted by a school to transport 22 students to or from school or a school-related activity, or on any public way within 1,000 feet of real property 23 comprising any school. 24

Psychological evaluations ordered pursuant to this 25 Section shall be completed promptly and made available to the 26 State, the defendant, and the court. As a further condition 27 of bail under these circumstances, the court shall order the 28 29 defendant to refrain from entering upon the property of the school, including any conveyance owned, leased, or contracted 30 by a school to transport students to or from school or a 31 school-related activity, or on any public way within 1,000 32 feet of real property comprising any school. Upon receipt of 33 34 the psychological evaluation, either the State or the

1 defendant may request a change in the conditions of bail, 2 pursuant to Section 110-6 of this Code. The court may change the conditions of bail to include a requirement that the 3 4 defendant follow the recommendations of the psychological evaluation, including undergoing psychiatric treatment. 5 The б conclusions of the psychological evaluation and any 7 statements elicited from the defendant during its administration are not admissible as evidence of guilt during 8 9 the course of any trial on the charged offense, unless the defendant places his or her mental competency in issue. 10

11 (b) The court may impose other conditions, such as the 12 following, if the court finds that such conditions are 13 reasonably necessary to assure the defendant's appearance in 14 court, protect the public from the defendant, or prevent the 15 defendant's unlawful interference with the orderly 16 administration of justice:

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(1) Report to or appear in person before such person or agency as the court may direct;

19 (2) Refrain from possessing a firearm or other20 dangerous weapon;

(3) Refrain from approaching or communicating with
 particular persons or classes of persons;

23 (4) Refrain from going to certain described
24 geographical areas or premises;

25 (5) Refrain from engaging in certain activities or
 26 indulging in intoxicating liquors or in certain drugs;

27 (6) Undergo treatment for drug addiction or 28 alcoholism;

29

(7) Undergo medical or psychiatric treatment;

30 (8) Work or pursue a course of study or vocational31 training;

32 (9) Attend or reside in a facility designated by33 the court;

34

(10) Support his or her dependents;

1 (11) If a minor resides with his or her parents or 2 in a foster home, attend school, attend a non-residential 3 program for youths, and contribute to his or her own 4 support at home or in a foster home;

5

(12) Observe any curfew ordered by the court;

6 (13) Remain in the custody of such designated 7 person or organization agreeing to supervise his release. 8 Such third party custodian shall be responsible for 9 notifying the court if the defendant fails to observe the 10 conditions of release which the custodian has agreed to 11 monitor, and shall be subject to contempt of court for 12 failure so to notify the court;

13 (14) Be placed under direct supervision of the 14 Pretrial Services Agency, Probation Department or Court 15 Services Department in a pretrial bond home supervision 16 capacity with or without the use of an approved 17 electronic monitoring device subject to Article 8A of 18 Chapter V of the Unified Code of Corrections;

19 (14.1) The court shall impose upon a defendant who is charged with any alcohol, cannabis or controlled 20 21 substance violation and is placed under direct supervision of the Pretrial Services Agency, Probation 22 23 Department or Court Services Department in a pretrial bond home supervision capacity with the use of an 24 25 approved monitoring device, as a condition of such bail bond, a fee that represents costs incidental to the 26 27 electronic monitoring for each day of such bail court, unless after supervision ordered by the 28 determining the inability of the defendant to pay the 29 30 fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of 31 the circuit court. The clerk of the circuit court shall 32 pay all monies collected from this fee to the county 33 34 treasurer for deposit in the substance abuse services 1

fund under Section 5-1086.1 of the Counties Code;

-713-

2 (14.2) The court shall impose upon all defendants, including those defendants subject to paragraph (14.1) 3 4 above, placed under direct supervision of the Pretrial 5 Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity 6 with the use of an approved monitoring device, as a 7 condition of such bail bond, a fee which shall represent 8 9 costs incidental to such electronic monitoring for each day of such bail supervision ordered by the court, unless 10 11 after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the 12 case may be. The fee shall be collected by the clerk of 13 the circuit court. The clerk of the circuit court shall 14 pay all monies collected from this fee to the county 15 16 treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall 17 deposit the fee collected in the county working cash fund 18 under Section 6-27001 or Section 6-29002 of the Counties 19 Code, as the case may be; 20

21 (14.3) The Chief Judge of the Judicial Circuit may 22 establish reasonable fees to be paid by a person receiving pretrial services while under supervision of a 23 pretrial services agency, probation department, or court 24 services department. Reasonable fees may be charged for 25 pretrial services including, but not limited to, pretrial 26 27 supervision, diversion programs, electronic monitoring, victim impact services, drug and alcohol testing, and 28 29 victim mediation services. The person receiving pretrial services may be ordered to pay all costs incidental to 30 pretrial services in accordance with his or her ability 31 to pay those costs; 32

33 (15) Comply with the terms and conditions of an
34 order of protection issued by the court under the

1 Illinois Domestic Violence Act of 1986 or an order of 2 protection issued by the court of another state, tribe, or United States territory; 3

4 (16) Under Section 110-6.5 comply with the conditions of the drug testing program; and 5

(17) Such other reasonable conditions as the court 6 7 may impose.

8 (C) When a person is charged with an offense under 9 Section 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961", involving a victim who is a minor 10 11 under 18 years of age living in the same household with the defendant at the time of the offense, in granting bail or 12 releasing the defendant on his own recognizance, the judge 13 shall impose conditions to restrict the defendant's access to 14 15 the victim which may include, but are not limited to 16 conditions that he will:

17

1. Vacate the Household.

2. Make payment of temporary support his 18 to dependents. 19

20

3. Refrain from contact or communication with the 21 child victim, except as ordered by the court.

22 (d) When a person is charged with a criminal offense and 23 the victim is a family or household member as defined in Article 112A, conditions shall be imposed at the time of the 24 25 defendant's release on bond that restrict the defendant's access to the victim. Unless provided otherwise by the court, 26 the restrictions shall include requirements that the 27 defendant do the following: 28

29

(1) refrain from contact or communication with the 30 victim for a minimum period of 72 hours following the defendant's release; and 31

(2) refrain from entering or remaining at the 32 victim's residence for a minimum period of 72 hours 33 following the defendant's release. 34

(e) Local law enforcement agencies shall develop
standardized bond forms for use in cases involving family or
household members as defined in Article 112A, including
specific conditions of bond as provided in subsection (d).
Failure of any law enforcement department to develop or use
those forms shall in no way limit the applicability and
enforcement of subsections (d) and (f).

8 (f) If the defendant is admitted to bail after 9 conviction the conditions of the bail bond shall be that he 10 will, in addition to the conditions set forth in subsections 11 (a) and (b) hereof:

12

(1) Duly prosecute his appeal;

13 (2) Appear at such time and place as the court may14 direct;

15 (3) Not depart this State without leave of the 16 court;

17 (4) Comply with such other reasonable conditions as
18 the court may impose; and,

19 (5) If the judgment is affirmed or the cause 20 reversed and remanded for a new trial, forthwith 21 surrender to the officer from whose custody he was 22 bailed.

(g) Upon a finding of guilty for any felony offense, the defendant shall physically surrender, at a time and place designated by the court, any and all firearms in his or her possession and his or her Firearm Owner's Identification Card as a condition of remaining on bond pending sentencing.

28 (Source: P.A. 91-11, eff. 6-4-99; 91-312, eff. 1-1-00; 29 91-696, eff. 4-13-00; 91-903, eff. 1-1-01; 92-329, eff. 30 8-9-01; 92-442, eff. 8-17-01; revised 10-11-01.)

31 Section 83. The Unified Code of Corrections is amended 32 by changing Sections 3-3-4, 5-1-22, 5-5-3, 5-6-3, 5-6-3.1, 33 and 5-8-3 as follows: 1

(730 ILCS 5/3-3-4) (from Ch. 38, par. 1003-3-4)

2 Sec. 3-3-4. Preparation for Parole Hearing.

3 (a) The Prisoner Review Board shall consider the parole 4 of each eligible person committed to the Adult Division at 5 least 30 days prior to the date he shall first become 6 eligible for parole, and shall consider the parole of each 7 person committed to the Juvenile Division as a delinquent at 8 least 30 days prior to the expiration of the first year of 9 confinement.

(b) A person eligible for parole shall, in advance of 10 11 his parole hearing, prepare a parole plan in accordance with the rules of the Prisoner Review Board. The person shall be 12 13 assisted in preparing his parole plan by personnel of the Department and may, for this purpose, be released on furlough 14 15 under Article 11 or on authorized absence under Section 3-9-4. The Department shall also provide assistance in 16 obtaining information and records helpful to the individual 17 for his parole hearing. 18

19 (c) The members of the Board shall have access at all 20 reasonable times to any committed person and to his master 21 record file within the Department, and the Department shall 22 furnish such reports to the Board as the Board may require 23 concerning the conduct and character of any such person.

24 (d) In making its determination of parole, the Board 25 shall consider:

(1) material transmitted to the Department by the
clerk of the committing court under Section 5-4-1 or
Section 5-10 of the Juvenile Court Act or Section 5-750
of the Juvenile Court Act of 1987;

30

(2) the report under Section 3-8-2 or 3-10-2;

31 (3) a report by the Department and any report by 32 the chief administrative officer of the institution or 33 facility;

34

(4) a parole progress report;

1 2 (5) a medical and psychological report, if requested by the Board;

3 (6) material in writing, or on film, video tape or 4 other electronic means in the form of a recording 5 submitted by the person whose parole is being considered; 6 and

7 (7) material in writing, or on film, video tape or
8 other electronic means in the form of a recording or
9 testimony submitted by the State's Attorney and the
10 victim pursuant to the Bill--of Rights of Crime for
11 Victims and Witnesses of-Violent-Crime Act.

(e) The prosecuting State's Attorney's office shall receive reasonable written notice not less than 15 days prior to the parole hearing and may submit relevant information in writing, or on film, video tape or other electronic means or in the form of a recording to the Board for its consideration. The State's Attorney may waive the written notice.

(f) The victim of the violent crime for which the prisoner has been sentenced shall receive notice of a parole hearing as provided in paragraph (4) of subsection (d) (16) of Section 4.5 of 4--of the Bill-of Rights of Crime for Victims and Witnesses of-Violent-Crime Act.

(g) Any recording considered under the provisions of 24 25 subsection (d)(6), (d)(7) or (e) of this Section shall be in the form designated by the Board. Such recording shall be 26 both visual and aural. Every voice on the recording and 27 person present shall be identified and the recording shall 28 29 contain either a visual or aural statement of the person 30 submitting such recording, the date of the recording and the of the person whose parole eligibility is being 31 name 32 considered. Such recordings, if retained by the Board shall be deemed to be submitted at any subsequent parole hearing if 33 34 the victim or State's Attorney submits in writing a

1	declaration clearly identifying such recording as
2	representing the present position of the victim or State's
3	Attorney regarding the issues to be considered at the parole
4	hearing.
5	(Source: P.A. 90-590, eff. 1-1-99; revised 12-07-01.)
б	(730 ILCS 5/5-1-22) (from Ch. 38, par. 1005-1-22)
7	Sec. 5-1-22. Victim. "Victim" shall have the meaning
8	ascribed to the term "crime victim" it in subsection (a) of
9	Section 3 of the Billof Rights of Crime for Victims and
10	Witnesses of-Violent-Crime Act.
11	(Source: P.A. 83-1499; revised 12-07-01.)
12	(730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
13	Sec. 5-5-3. Disposition.
14	(a) Every person convicted of an offense shall be
15	sentenced as provided in this Section.
16	(b) The following options shall be appropriate
17	dispositions, alone or in combination, for all felonies and
18	misdemeanors other than those identified in subsection (c) of
19	this Section:
20	(1) A period of probation.
21	(2) A term of periodic imprisonment.
22	(3) A term of conditional discharge.
23	(4) A term of imprisonment.
24	(5) An order directing the offender to clean up and
25	repair the damage, if the offender was convicted under
26	paragraph (h) of Section 21-1 of the Criminal Code of
27	1961.
28	(6) A fine.
29	(7) An order directing the offender to make
30	restitution to the victim under Section 5-5-6 of this
31	Code.
32	(8) A sentence of participation in a county impact

1 incarceration program under Section 5-8-1.2 of this Code. 2 Whenever an individual is sentenced for an offense based upon an arrest for a violation of Section 11-501 of the 3 4 Illinois Vehicle Code, or a similar provision of a local 5 and the professional evaluation recommends ordinance, 6 remedial or rehabilitative treatment or education, neither 7 the treatment nor the education shall be the sole disposition 8 and either or both may be imposed only in conjunction with 9 another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained 10 11 in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be 12 licensed by the Department of Human Services. However, if 13 the individual is not a resident of Illinois, the court may 14 15 accept an alcohol or other drug evaluation or remedial 16 education program in the state of such individual's 17 residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment 18 19 licensure standards.

In addition to any other fine or penalty required by law, 20 21 any individual convicted of a violation of Section 11-501 of 22 the Illinois Vehicle Code or a similar provision of local 23 ordinance, whose operation of a motor vehicle while in violation of Section 11-501 or such ordinance proximately 24 25 caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public 26 agency for the costs of that emergency response. 27 Such restitution shall not exceed \$500 per public agency for each 28 29 such emergency response. For the purpose of this paragraph, 30 emergency response shall mean any incident requiring a response by: a police officer as defined under Section 1-162 31 of the Illinois Vehicle Code; a fireman carried on the rolls 32 of a regularly constituted fire department; and an ambulance 33 as defined under Section 4.05 of the Emergency Medical 34

SB1854 Engrossed

-720-

1 Services (EMS) Systems Act.

2 Neither a fine nor restitution shall be the sole 3 disposition for a felony and either or both may be imposed 4 only in conjunction with another disposition.

5 (c) (1) When a defendant is found guilty of first degree 6 murder the State may either seek a sentence of 7 imprisonment under Section 5-8-1 of this Code, or where 8 appropriate seek a sentence of death under Section 9-1 of 9 the Criminal Code of 1961.

(2) A period of probation, a term of periodic 10 11 imprisonment or conditional discharge shall not be imposed for the following offenses. The court shall 12 sentence the offender to not less than the minimum term 13 imprisonment set forth in this Code for the following 14 of offenses, and may order a fine or restitution or both in 15 16 conjunction with such term of imprisonment:

17 (A) First degree murder where the death18 penalty is not imposed.

(B) Attempted first degree murder.

20

19

(C) A Class X felony.

(D) A violation of Section 401.1 or 407 of the
Illinois Controlled Substances Act, or a violation
of subdivision (c)(2) of Section 401 of that Act
which relates to more than 5 grams of a substance
containing cocaine or an analog thereof.

26 (E) A violation of Section 5.1 or 9 of the 27 Cannabis Control Act.

(F) A Class 2 or greater felony if the
offender had been convicted of a Class 2 or greater
felony within 10 years of the date on which the
offender committed the offense for which he or she
is being sentenced, except as otherwise provided in
Section 40-10 of the Alcoholism and Other Drug Abuse
and Dependency Act.

1(G) Residential burglary, except as otherwise2provided in Section 40-10 of the Alcoholism and3Other Drug Abuse and Dependency Act.

4 (H) Criminal sexual assault, except as
5 otherwise provided in subsection (e) of this
6 Section.

(I) Aggravated battery of a senior citizen.

8 (J) A forcible felony if the offense was
9 related to the activities of an organized gang.

Before July 1, 1994, for the purposes of this paragraph, "organized gang" means an association of 5 or more persons, with an established hierarchy, that encourages members of the association to perpetrate crimes or provides support to the members of the association who do commit crimes.

16Beginning July 1, 1994, for the purposes of17this paragraph, "organized gang" has the meaning18ascribed to it in Section 10 of the Illinois19Streetgang Terrorism Omnibus Prevention Act.

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7

(K) Vehicular hijacking.

(L) A second or subsequent conviction for the
offense of hate crime when the underlying offense
upon which the hate crime is based is felony
aggravated assault or felony mob action.

25 (M) A second or subsequent conviction for the
26 offense of institutional vandalism if the damage to
27 the property exceeds \$300.

(N) A Class 3 felony violation of paragraph
(1) of subsection (a) of Section 2 of the Firearm
Owners Identification Card Act.

31 (0) A violation of Section 12-6.1 of the32 Criminal Code of 1961.

 33
 (P) A violation of paragraph (1), (2), (3),

 34
 (4), (5), or (7) of subsection (a) of Section

1

2

3

11-20.1 of the Criminal Code of 1961.

(Q) A violation of Section 20-1.2 of the Criminal Code of 1961.

4 (R) A violation of Section 24-3A of the 5 Criminal Code of 1961.

6 (S) A violation of Section 11-501(c-1)(3) of 7 the Illinois Vehicle Code.

(3) A minimum term of imprisonment of not less than 8 9 5 days or 30 days of community service as may be determined by the court shall be imposed for a second 10 11 violation committed within 5 years of a previous violation of Section 11-501 of the Illinois Vehicle Code 12 or a similar provision of a local ordinance. In the case 13 of a third or subsequent violation committed within 5 14 years of a previous violation of Section 11-501 of the 15 16 Illinois Vehicle Code or a similar provision of a local ordinance, a minimum term of either 10 days 17 of imprisonment or 60 days of community service shall be 18 imposed. 19

20 (4) A minimum term of imprisonment of not less than
21 10 consecutive days or 30 days of community service shall
22 be imposed for a violation of paragraph (c) of Section
23 6-303 of the Illinois Vehicle Code.

(4.1) A minimum term of 30 consecutive days of 24 25 imprisonment, 40 days of 24 hour periodic imprisonment or 720 hours of community service, as may be determined by 26 the court, shall be imposed for a violation of Section 27 11-501 of the Illinois Vehicle Code during a period in 28 29 which the defendant's driving privileges are revoked or 30 suspended, where the revocation or suspension was for a violation of Section 11-501 or Section 11-501.1 of that 31 Code. 32

33 (4.2) Except as provided in paragraph (4.3) of this
34 subsection (c), a minimum of 100 hours of community

-723-

service shall be imposed for a second violation of
 Section 6-303 of the Illinois Vehicle Code.

3 (4.3) A minimum term of imprisonment of 30 days or 4 300 hours of community service, as determined by the 5 court, shall be imposed for a second violation of 6 subsection (c) of Section 6-303 of the Illinois Vehicle 7 Code.

8 (4.4) Except as provided in paragraph (4.5) and 9 paragraph (4.6) of this subsection (c), a minimum term of 10 imprisonment of 30 days or 300 hours of community 11 service, as determined by the court, shall be imposed for 12 a third or subsequent violation of Section 6-303 of the 13 Illinois Vehicle Code.

14 (4.5) A minimum term of imprisonment of 30 days
15 shall be imposed for a third violation of subsection (c)
16 of Section 6-303 of the Illinois Vehicle Code.

17 (4.6) A minimum term of imprisonment of 180 days
18 shall be imposed for a fourth or subsequent violation of
19 subsection (c) of Section 6-303 of the Illinois Vehicle
20 Code.

(5) The court may sentence an offender convicted of
 a business offense or a petty offense or a corporation or
 unincorporated association convicted of any offense to:

24 25

(B) a fine;

(A) a period of conditional discharge;

26 (C) make restitution to the victim under
27 Section 5-5-6 of this Code.

(5.1) In addition to any penalties imposed under
paragraph (5) of this subsection (c), and except as
provided in paragraph (5.2) or (5.3), a person convicted
of violating subsection (c) of Section 11-907 of the
Illinois Vehicle Code shall have his or her driver's
license, permit, or privileges suspended for at least 90
days but not more than one year, if the violation

1

resulted in damage to the property of another person.

2 (5.2) In addition to any penalties imposed under paragraph (5) of this subsection (c), and except as 3 4 provided in paragraph (5.3), a person convicted of violating subsection (c) of Section 11-907 of 5 the Illinois Vehicle Code shall have his or her driver's 6 7 license, permit, or privileges suspended for at least 180 8 days but not more than 2 years, if the violation resulted 9 in injury to another person.

10 (5.3) In addition to any penalties imposed under 11 paragraph (5) of this subsection (c), a person convicted 12 of violating subsection (c) of Section 11-907 of the 13 Illinois Vehicle Code shall have his or her driver's 14 license, permit, or privileges suspended for 2 years, if 15 the violation resulted in the death of another person.

16 (6) In no case shall an offender be eligible for a
17 disposition of probation or conditional discharge for a
18 Class 1 felony committed while he was serving a term of
19 probation or conditional discharge for a felony.

20 (7) When a defendant is adjudged a habitual
21 criminal under Article 33B of the Criminal Code of 1961,
22 the court shall sentence the defendant to a term of
23 natural life imprisonment.

(8) When a defendant, over the age of 21 years, is 24 convicted of a Class 1 or Class 2 felony, after having 25 twice been convicted in any state or federal court of an 26 27 offense that contains the same elements as an offense now classified in Illinois as a Class 2 or greater Class 28 29 felony and such charges are separately brought and tried and arise out of different series of acts, such defendant 30 shall be sentenced as a Class X offender. This paragraph 31 shall not apply unless (1) the first felony was committed 32 after the effective date of this amendatory Act of 1977; 33 and (2) the second felony was committed after conviction 34

1 on the first; and (3) the third felony was committed 2 after conviction on the second. A person sentenced as a 3 Class X offender under this paragraph is not eligible to 4 apply for treatment as a condition of probation as 5 provided by Section 40-10 of the Alcoholism and Other 6 Drug Abuse and Dependency Act.

7 (9) A defendant convicted of a second or subsequent
8 offense of ritualized abuse of a child may be sentenced
9 to a term of natural life imprisonment.

(10) When a person is convicted of violating 10 11 Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, the following penalties 12 apply when his or her blood, breath, or urine was .16 or 13 more based on the definition of blood, breath, or urine 14 units in Section 11-501.2 or that person is convicted of 15 16 violating Section 11-501 of the Illinois Vehicle Code while transporting a child under the age of 16: 17

18 (A) For a first violation of subsection (a) of
19 Section 11-501, in addition to any other penalty
20 that may be imposed under subsection (c) of Section
21 11-501: a mandatory minimum of 100 hours of
22 community service and a minimum fine of \$500.

(B) For a second violation of subsection (a)
of Section 11-501, in addition to any other penalty
that may be imposed under subsection (c) of Section
11-501 within 10 years: a mandatory minimum of 2
days of imprisonment and a minimum fine of \$1,250.

(C) For a third violation of subsection (a) of
Section 11-501, in addition to any other penalty
that may be imposed under subsection (c) of Section
11-501 within 20 years: a mandatory minimum of 90
days of imprisonment and a minimum fine of \$2,500.

33 (D) For a fourth or subsequent violation of
 34 subsection (a) of Section 11-501: ineligibility for

SB1854 Engrossed

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a sentence of probation or conditional discharge and a minimum fine of \$2,500.

In any case in which a sentence originally imposed 3 (d) 4 is vacated, the case shall be remanded to the trial court. 5 The trial court shall hold a hearing under Section 5-4-1 of 6 the Unified Code of Corrections which may include evidence of 7 the defendant's life, moral character and occupation during 8 the time since the original sentence was passed. The trial 9 court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been 10 11 imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on 12 appeal or on collateral attack due to the failure of the 13 trier of fact at trial to determine beyond a reasonable doubt 14 the existence of a fact (other than a prior conviction) 15 16 necessary to increase the punishment for the offense beyond statutory maximum otherwise applicable, either the 17 the defendant may be re-sentenced to a term within the range 18 19 otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant 20 21 shall be afforded a new trial.

(e) In cases where prosecution for criminal sexual assault or aggravated criminal sexual abuse under Section 12-13 or 12-16 of the Criminal Code of 1961 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:

29 (1) the court finds (A) or (B) or both are 30 appropriate:

31 (A) the defendant is willing to undergo a
32 court approved counseling program for a minimum
33 duration of 2 years; or

(B) the defendant is willing to participate in

SB1854 Engrossed

-727-

1 a court approved plan including but not limited to 2 the defendant's: (i) removal from the household; 3 4 (ii) restricted contact with the victim; (iii) continued financial support of the 5 family; 6 7 (iv) restitution for harm done to the 8 victim; and 9 (v) compliance with any other measures that the court may deem appropriate; and 10 11 (2) the court orders the defendant to pay for the victim's counseling services, to the extent that the 12 court finds, after considering the defendant's income and 13 assets, that the defendant is financially capable of 14 paying for such services, if the victim was under 18 15 16 years of age at the time the offense was committed and requires counseling as a result of the offense. 17 Probation may be revoked or modified pursuant to Section 18 5-6-4; except where the court determines at the hearing that 19 the defendant violated a condition of his or her probation 20

restricting contact with the victim or other family members or commits another offense with the victim or other family members, the court shall revoke the defendant's probation and impose a term of imprisonment.

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section 12-12 of the Criminal Code of 1961.

(f) This Article shall not deprive a court in other proceedings to order a forfeiture of property, to suspend or cancel a license, to remove a person from office, or to impose any other civil penalty.

32 (g) Whenever a defendant is convicted of an offense
33 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
34 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,

1 12-15 or 12-16 of the Criminal Code of 1961, the defendant 2 shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a 3 4 test for infection with human immunodeficiency virus (HIV) or identified causative agent 5 other of acquired any immunodeficiency syndrome (AIDS). Any such medical test 6 7 shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily 8 9 fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test 10 11 shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a 12 sealed envelope to the judge of the court in which the 13 conviction was entered for the judge's inspection in camera. 14 Acting in accordance with the best interests of the victim 15 16 and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may 17 be revealed. The court shall notify the defendant of the test 18 results. The court shall also notify the victim if requested 19 by the victim, and if the victim is under the age of 15 and 20 21 if requested by the victim's parents or legal guardian, the 22 court shall notify the victim's parents or legal guardian of 23 the test results. The court shall provide information on the availability of HIV testing and counseling at Department of 24 25 Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's 26 27 Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain 28 the results of any HIV test administered under this Section, 29 30 and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge 31 of criminal transmission of HIV under Section 12-16.2 of the 32 Criminal Code of 1961 against the defendant. The court shall 33 34 order that the cost of any such test shall be paid by the

county and may be taxed as costs against the convicted
 defendant.

an inmate is tested for an airborne 3 (q-5) When 4 communicable disease, as determined by the Illinois 5 Department of Public Health including but not limited to б tuberculosis, the results of the test shall be personally 7 delivered by the warden or his or her designee in a sealed 8 envelope to the judge of the court in which the inmate must 9 appear for the judge's inspection in camera if requested by the judge. Acting in accordance with the best interests of 10 11 those in the courtroom, the judge shall have the discretion to determine what if any precautions need to be taken to 12 prevent transmission of the disease in the courtroom. 13

Whenever a defendant is convicted of an offense 14 (h) 15 under Section 1 or 2 of the Hypodermic Syringes and Needles 16 Act, the defendant shall undergo medical testing to determine defendant 17 whether the has been exposed to human immunodeficiency virus (HIV) other identified 18 or any 19 causative agent of acquired immunodeficiency syndrome (AIDS). Except as otherwise provided by law, the results of such test 20 21 shall be kept strictly confidential by all medical personnel 22 involved in the testing and must be personally delivered in a 23 sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. 24 25 Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if 26 anyone, the results of the testing may be revealed. The court 27 shall notify the defendant of a positive test showing an 28 29 infection with the human immunodeficiency virus (HIV). The 30 court shall provide information on the availability of HIV testing and counseling at Department of Public 31 Health 32 facilities to all parties to whom the results of the testing 33 are revealed and shall direct the State's Attorney to provide 34 the information to the victim when possible. A State's 1 Attorney may petition the court to obtain the results of any 2 HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it 3 4 is relevant in order to prosecute a charge of criminal 5 transmission of HIV under Section 12-16.2 of the Criminal 6 Code of 1961 against the defendant. The court shall order 7 that the cost of any such test shall be paid by the county 8 and may be taxed as costs against the convicted defendant.

9 (i) All fines and penalties imposed under this Section 10 for any violation of Chapters 3, 4, 6, and 11 of the Illinois 11 Vehicle Code, or a similar provision of a local ordinance, 12 and any violation of the Child Passenger Protection Act, or a 13 similar provision of a local ordinance, shall be collected 14 and disbursed by the circuit clerk as provided under Section 15 27.5 of the Clerks of Courts Act.

In cases when prosecution for any violation of 16 (j) Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 17 11-19.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 18 19 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the 20 21 Illinois Controlled Substances Act, or any violation of the 22 Cannabis Control Act results in conviction, a disposition of 23 court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act or Section 410 of the 24 25 Illinois Controlled Substance Act of a defendant, the court shall determine whether the defendant is employed by a 26 facility or center as defined under the Child Care Act of 27 1969, a public or private elementary or secondary school, or 28 29 otherwise works with children under 18 years of age on a 30 daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the 31 32 judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the 33 employer of the defendant is a school, the Clerk of the Court 34

shall direct the mailing of a copy of the judgment of
 conviction or order of supervision or probation to the
 appropriate regional superintendent of schools. The regional
 superintendent of schools shall notify the State Board of
 Education of any notification under this subsection.

б (j-5) A defendant at least 17 years of age who is 7 convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to 8 9 term of imprisonment in the Illinois Department а of Corrections shall as a condition of his or her sentence be 10 11 required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to 12 work toward a high school diploma or to work toward passing 13 the high school level Test of General Educational Development 14 15 (GED) or to work toward completing a vocational training 16 program offered by the Department of Corrections. If a defendant fails to complete the educational training required 17 by his or her sentence during the term of incarceration, 18 the 19 Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own 20 21 expense, to pursue a course of study toward a high school 22 diploma or passage of the GED test. The Prisoner Review 23 Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection 24 25 (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release 26 term; however, the inability of the defendant after making a 27 good faith effort to obtain financial aid or pay for 28 the 29 educational training shall not be deemed a wilful failure to 30 The Prisoner Review Board shall recommit comply. the defendant whose mandatory supervised release term has been 31 32 revoked under this subsection (j-5) as provided in Section This subsection (j-5) does not apply to a defendant 33 3-3-9. 34 who has a high school diploma or has successfully passed the

1 GED test. This subsection (j-5) does not apply to a defendant 2 who is determined by the court to be developmentally disabled 3 or otherwise mentally incapable of completing the educational 4 or vocational program.

5 (k) A court may not impose a sentence or disposition for 6 a felony or misdemeanor that requires the defendant to be 7 implanted or injected with or to use any form of birth 8 control.

9 (l) (A) Except as provided in paragraph (C) of subsection (1), whenever a defendant, who is an alien as 10 11 defined by the Immigration and Nationality Act, is 12 convicted of any felony or misdemeanor offense, the court after sentencing the defendant may, upon motion of the 13 State's Attorney, hold sentence in abeyance and remand 14 15 the defendant to the custody of the Attorney General of 16 the United States or his or her designated agent to be deported when: 17

18 (1) a final order of deportation has been
19 issued against the defendant pursuant to proceedings
20 under the Immigration and Nationality Act, and

(2) the deportation of the defendant would not
deprecate the seriousness of the defendant's conduct
and would not be inconsistent with the ends of
justice.

Otherwise, the defendant shall be sentenced as
provided in this Chapter V.

If the defendant has already been sentenced for 27 (B) felony or misdemeanor offense, or has been placed on 28 а probation under Section 10 of the Cannabis Control Act or 29 30 Section 410 of the Illinois Controlled Substances Act, 31 the court may, upon motion of the State's Attorney to suspend the sentence imposed, commit the defendant to the 32 custody of the Attorney General of the United States or 33 34 his or her designated agent when:

(1) a final order of deportation has been
 issued against the defendant pursuant to proceedings
 under the Immigration and Nationality Act, and

4 (2) the deportation of the defendant would not 5 deprecate the seriousness of the defendant's conduct 6 and would not be inconsistent with the ends of 7 justice.

8 (C) This subsection (1) does not apply to offenders 9 who are subject to the provisions of paragraph (2) of 10 subsection (a) of Section 3-6-3.

11 (D) Upon motion of the State's Attorney, if а defendant sentenced under this Section returns to the 12 jurisdiction of the United States, the defendant shall be 13 recommitted to the custody of the county from which he or 14 she was sentenced. Thereafter, the defendant shall be 15 16 brought before the sentencing court, which may impose any sentence that was available under Section 5-5-3 at the 17 time of initial sentencing. In addition, the defendant 18 shall not be eligible for additional good conduct credit 19 for meritorious service as provided under Section 3-6-6. 20

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, in which the property damage exceeds \$300 and the property damaged is a school building, shall be ordered to perform community service that may include cleanup, removal, or painting over the defacement.

27 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00; 28 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff. 29 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283, 30 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01; 31 92-422, eff. 8-17-01; revised 8-28-01.)

32 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)
 33 Sec. 5-6-3. Conditions of Probation and of Conditional

-734-

1 Discharge. (a) The conditions of probation and of conditional 2 discharge shall be that the person: 3 4 (1) not violate any criminal statute of anv 5 jurisdiction; (2) report to or appear in person before such 6 7 person or agency as directed by the court; 8 (3) refrain from possessing a firearm or other 9 dangerous weapon; (4) not leave the State without the consent of the 10 11 court or, in circumstances in which the reason for the absence is of such an emergency nature that prior consent 12

13 by the court is not possible, without the prior 14 notification and approval of the person's probation 15 officer;

16 (5) permit the probation officer to visit him at 17 his home or elsewhere to the extent necessary to 18 discharge his duties;

19 (6) perform no less than 30 hours of community service and not more than 120 hours of community service, 20 21 if community service is available in the jurisdiction and is funded and approved by the county board where the 22 offense was committed, where the offense was related to 23 or in furtherance of the criminal activities of an 24 25 organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The 26 community service shall include, but not be limited to, 27 the cleanup and repair of any damage caused by a 28 violation of Section 21-1.3 of the Criminal Code of 1961 29 30 similar damage to property located within the and municipality or county in which the violation occurred. 31 When possible and reasonable, the community service 32 33 should be performed in the offender's neighborhood. For 34 purposes of this Section, "organized gang" has the 1

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meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and 3 4 has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or 5 more inhabitants and has not been previously convicted of 6 a misdemeanor or felony, may be required 7 by the 8 sentencing court to attend educational courses designed 9 to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward 10 11 passing the high school level Test of General Educational 12 Development (GED) or to work toward completing a vocational training program approved by the court. 13 The person on probation or conditional discharge must attend 14 a public institution of education 15 to obtain the 16 educational or vocational training required by this The court shall revoke the probation or 17 clause (7). conditional discharge of a person who wilfully fails to 18 comply with this clause (7). The person on probation or 19 conditional discharge shall be required to pay for the 20 21 cost of the educational courses or GED test, if a fee is 22 charged for those courses or test. The court shall 23 resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. 24 25 This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. 26 27 This clause (7) does not apply to a person who is determined by the court to be developmentally disabled or 28 29 otherwise mentally incapable of completing the 30 educational or vocational program;

31 (8) if convicted of possession of a substance
32 prohibited by the Cannabis Control Act or Illinois
33 Controlled Substances Act after a previous conviction or
34 disposition of supervision for possession of a substance

prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court; and

8 (9) if convicted of a felony, physically surrender 9 at a time and place designated by the court, his or her 10 Firearm Owner's Identification Card and any and all 11 firearms in his or her possession.

12 (b) The Court may in addition to other reasonable 13 conditions relating to the nature of the offense or the 14 rehabilitation of the defendant as determined for each 15 defendant in the proper discretion of the Court require that 16 the person:

17 (1) serve a term of periodic imprisonment under
18 Article 7 for a period not to exceed that specified in
19 paragraph (d) of Section 5-7-1;

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(2) pay a fine and costs;

(3) work or pursue a course of study or vocational
 training;

(4) undergo medical, psychological or psychiatric
treatment; or treatment for drug addiction or alcoholism;
(5) attend or reside in a facility established for
the instruction or residence of defendants on probation;
(6) support his dependents;
(7) and in addition, if a minor:
(i) reside with his parents or in a foster

29 (i) reside with his parents or in a foster
30 home;
31 (ii) attend school;

32 (iii) attend a non-residential program for 33 youth;

(iv) contribute to his own support at home or

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1 in a foster home; 2 (v) with the consent of the superintendent of the facility, attend an educational program at a 3 4 facility other than the school in which the offense was committed if he or she is convicted of a crime 5 of violence as defined in Section 2 of the Crime 6 7 Victims Compensation Act committed in a school, on 8 the real property comprising a school, or within 9 1,000 feet of the real property comprising a school; (8) make restitution as provided in Section 5-5-6 10 11 of this Code; (9) perform some reasonable public or community 12 13 service; (10) serve a term of home confinement. In addition 14 15 to any other applicable condition of probation or 16 conditional discharge, the conditions of home confinement shall be that the offender: 17 (i) remain within the interior premises of the 18 place designated for his confinement during the 19 hours designated by the court; 20 21 (ii) admit any person or agent designated by 22 the court into the offender's place of confinement at any time for purposes of verifying the offender's 23 compliance with the conditions of his confinement; 24 25 and (iii) if further deemed necessary by the court 26 27 or the Probation or Court Services Department, be placed on an approved electronic monitoring device, 28 29 subject to Article 8A of Chapter V; 30 (iv) for persons convicted of any alcohol, cannabis or controlled substance violation who are 31 placed on an approved monitoring device as a 32 condition of probation or conditional discharge, the 33

court shall impose a reasonable fee for each day of

SB1854 Engrossed

1 the use of the device, as established by the county 2 board in subsection (g) of this Section, unless after determining the inability of the offender to 3 4 pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in 5 addition to the fees imposed under subsections (g) 6 7 and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the 8 9 circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the 10 11 substance abuse services fund under Section 5-1086.1 of the Counties Code; and 12

(v) for persons convicted of offenses other 13 than those referenced in clause (iv) above and who 14 15 are placed on an approved monitoring device as a 16 condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of 17 the use of the device, as established by the county 18 board in subsection (g) of this Section, unless 19 after determining the inability of the defendant to 20 21 pay the fee, the court assesses a lesser fee or no 22 fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections 23 (g) and (i) of this Section. The fee shall be 24 25 collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies 26 collected from this fee to the county treasurer who 27 shall use the monies collected to defray the costs 28 29 of corrections. The county treasurer shall deposit 30 the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the 31 Counties Code, as the case may be. 32

33 (11) comply with the terms and conditions of an34 order of protection issued by the court pursuant to the

1 Illinois Domestic Violence Act of 1986, as now or 2 hereafter amended, or an order of protection issued by 3 the court of another state, tribe, or United States 4 territory. A copy of the order of protection shall be 5 transmitted to the probation officer or agency having 6 responsibility for the case;

7 (12) reimburse any "local anti-crime program" as 8 defined in Section 7 of the Anti-Crime Advisory Council 9 Act for any reasonable expenses incurred by the program 10 on the offender's case, not to exceed the maximum amount 11 of the fine authorized for the offense for which the 12 defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act;

(14) refrain from entering into a designated 18 geographic area except upon such terms as the court finds 19 appropriate. Such terms may include consideration of the 20 21 purpose of the entry, the time of day, other persons 22 accompanying the defendant, and advance approval by a 23 probation officer, if the defendant has been placed on probation or advance approval by the court, if the 24 25 defendant was placed on conditional discharge;

(15) refrain from having any contact, directly or
indirectly, with certain specified persons or particular
types of persons, including but not limited to members of
street gangs and drug users or dealers;

30 (16) refrain from having in his or her body the
31 presence of any illicit drug prohibited by the Cannabis
32 Control Act or the Illinois Controlled Substances Act,
33 unless prescribed by a physician, and submit samples of
34 his or her blood or urine or both for tests to determine

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the presence of any illicit drug.

2 (c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of 3 4 age found guilty of any alcohol, cannabis or controlled 5 substance violation, refrain from acquiring a driver's 6 license during the period of probation or conditional 7 If such person is in possession of a permit or discharge. 8 license, the court may require that the minor refrain from 9 driving or operating any motor vehicle during the period of probation or conditional discharge, except as 10 may be 11 necessary in the course of the minor's lawful employment.

12 (d) An offender sentenced to probation or to conditional 13 discharge shall be given a certificate setting forth the 14 conditions thereof.

(e) Except where the offender has committed a fourth or 15 16 subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code, the court shall not require as a 17 condition of the sentence of probation or conditional 18 19 discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall 20 not include periods of confinement given pursuant to a 21 22 sentence of county impact incarceration under Section 23 5-8-1.2. This 6 month limit does not apply to a person sentenced to probation as a result of a conviction of a 24 25 fourth or subsequent violation of subsection (c-4) of Section 11-501 of the Illinois Vehicle Code or a similar provision of 26 a local ordinance. 27

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

31 (f) The court may combine a sentence of periodic 32 imprisonment under Article 7 or a sentence to a county impact 33 incarceration program under Article 8 with a sentence of 34 probation or conditional discharge. SB1854 Engrossed

1 (g) An offender sentenced to probation or to conditional 2 discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to 3 4 be placed on an approved electronic monitoring device, shall 5 be ordered to pay all costs incidental to such mandatory drug б or alcohol testing, or both, and all costs incidental to such 7 approved electronic monitoring in accordance with the 8 defendant's ability to pay those costs. The county board 9 with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish 10 11 reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol 12 testing, or both, and all costs incidental to approved 13 electronic monitoring, involved in a successful probation 14 15 program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees 16 shall be collected by the clerk of the circuit court. 17 The clerk of the circuit court shall pay all moneys collected 18 19 from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol 20 21 testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash 22 fund under Section 6-27001 or Section 6-29002 of the Counties 23 24 Code, as the case may be.

-741-

25 Jurisdiction over an offender may be transferred (h) from the sentencing court to the court of another circuit 26 with the concurrence of both courts, or to another state 27 Interstate Probation Reciprocal Agreement 28 under an as provided in Section 3-3-11. Further transfers or retransfers 29 30 of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have 31 32 the same powers as the sentencing court.

33 (i) The court shall impose upon an offender sentenced to34 probation after January 1, 1989 or to conditional discharge

SB1854 Engrossed

1 after January 1, 1992, as a condition of such probation or 2 conditional discharge, a fee of \$25 for each month of probation or conditional discharge supervision ordered by the 3 4 court, unless after determining the inability of the person sentenced to probation or conditional discharge to pay the 5 fee, the court assesses a lesser fee. The court may not 6 impose the fee on a minor who is made a ward of the State 7 under the Juvenile Court Act of 1987 while the minor is in 8 9 placement. The fee shall be imposed only upon an offender who is actively supervised by the probation and court services 10 11 department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all 12 monies collected from this fee to the county treasurer for 13 deposit in the probation and court services fund under 14 15 Section 15.1 of the Probation and Probation Officers Act.

-742-

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

23 (Source: P.A. 91-325, eff. 7-29-99; 91-696, eff. 4-13-00; 24 91-903, eff. 1-1-01; 92-282, eff. 8-7-01; 92-340, eff. 25 8-10-01; 92-418, eff. 8-17-01; 92-442, eff. 8-17-01; revised 26 10-11-01.)

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(730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

28

Sec. 5-6-3.1. Incidents and Conditions of Supervision.

(a) When a defendant is placed on supervision, the court
shall enter an order for supervision specifying the period of
such supervision, and shall defer further proceedings in the
case until the conclusion of the period.

33 (b) The period of supervision shall be reasonable under

1 all of the circumstances of the case, but may not be longer 2 than 2 years, unless the defendant has failed to pay the assessment required by Section 10.3 of the Cannabis Control 3 4 Act or Section 411.2 of the Illinois Controlled Substances Act, in which case the court may extend supervision beyond 2 5 Additionally, the court shall order the defendant to 6 vears. 7 perform no less than 30 hours of community service and not 8 more than 120 hours of community service, if community 9 service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, 10 11 when the offense (1) was related to or in furtherance of the 12 criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized 13 gang; or (2) is a violation of any Section of Article 24 14 of the Criminal Code of 1961 where a disposition of supervision 15 16 is not prohibited by Section 5-6-1 of this Code. The community service shall include, but not be limited to, the 17 cleanup and repair of any damage caused by violation of 18 19 Section 21-1.3 of the Criminal Code of 1961 and similar damages to property located within the municipality or county 20 21 in which the violation occurred. Where possible and 22 reasonable, the community service should be performed in the 23 offender's neighborhood.

For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the court require that the person:

32 (1) make a report to and appear in person before or
33 participate with the court or such courts, person, or
34 social service agency as directed by the court in the

-744-

1 order of supervision; (2) pay a fine and costs; 2 (3) work or pursue a course of study or vocational 3 4 training; (4) undergo medical, psychological or psychiatric 5 treatment; or treatment for drug addiction or alcoholism; 6 7 (5) attend or reside in a facility established for the instruction or residence of defendants on probation; 8 9 (6) support his dependents; (7) refrain from possessing a firearm or other 10 11 dangerous weapon; (8) and in addition, if a minor: 12 13 (i) reside with his parents or in a foster home; 14 15 (ii) attend school; 16 (iii) attend a non-residential program for 17 youth; (iv) contribute to his own support at home or 18 19 in a foster home; or (v) with the consent of the superintendent of 20 21 the facility, attend an educational program at a facility other than the school in which the offense 22 23 was committed if he or she is placed on supervision for a crime of violence as defined in Section 2 of 24 25 the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or 26 within 1,000 feet of the real property comprising a 27 school; 28 (9) make restitution or reparation in an amount not 29 30 to exceed actual loss or damage to property and pecuniary loss or make restitution under Section 5-5-6 to a 31 domestic violence shelter. The court shall determine the 32

33 amount and conditions of payment;

34 (10) perform some reasonable public or community

1 service;

2 (11) comply with the terms and conditions of an order of protection issued by the court pursuant to the 3 Illinois Domestic Violence Act of 1986 or an order of 4 protection issued by the court of another state, tribe, 5 or United States territory. If the court has ordered the 6 7 defendant to make a report and appear in person under paragraph (1) of this subsection, a copy of the order of 8 9 protection shall be transmitted to the person or agency so designated by the court; 10

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer;

(15) refrain from having any contact, directly or
indirectly, with certain specified persons or particular
types of person, including but not limited to members of
street gangs and drug users or dealers;

32 (16) refrain from having in his or her body the
33 presence of any illicit drug prohibited by the Cannabis
34 Control Act or the Illinois Controlled Substances Act,

unless prescribed by a physician, and submit samples of
 his or her blood or urine or both for tests to determine
 the presence of any illicit drug;

4 (17) refrain from operating any motor vehicle not equipped with an ignition interlock device as defined in 5 Section 1-129.1 of the Illinois Vehicle Code. Under this 6 7 condition the court may allow a defendant who is not 8 self-employed to operate a vehicle owned by the 9 defendant's employer that is not equipped with an ignition interlock device in the course and scope of the 10 11 defendant's employment.

12 (d) The court shall defer entering any judgment on the13 charges until the conclusion of the supervision.

14 (e) At the conclusion of the period of supervision, if 15 the court determines that the defendant has successfully 16 complied with all of the conditions of supervision, the court 17 shall discharge the defendant and enter a judgment dismissing 18 the charges.

(f) Discharge and dismissal upon a successful conclusion 19 a disposition of supervision shall be deemed without 20 of 21 adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disabilities imposed by 22 23 law upon conviction of a crime. Two years after the discharge and dismissal under this Section, unless 24 the 25 disposition of supervision was for a violation of Sections 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois 26 Vehicle Code or a similar provision of a local ordinance, 27 or for a violation of Sections 12-3.2 or 16A-3 of the Criminal 28 29 Code of 1961, in which case it shall be 5 years after 30 discharge and dismissal, a person may have his record of 31 arrest sealed or expunged as may be provided by law. 32 However, any defendant placed on supervision before January 1980, may move for sealing or expungement of his arrest 33 1, 34 record, as provided by law, at any time after discharge and

dismissal under this Section. A person placed on supervision for a sexual offense committed against a minor as defined in subsection (g) of Section 5 of the Criminal Identification Act or for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance shall not have his or her record of arrest sealed or expunged.

(g) A defendant placed on supervision and who during the 8 9 period of supervision undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved 10 11 electronic monitoring device, shall be ordered to pay the 12 costs incidental to such mandatory drug or alcohol testing, 13 or both, and costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay 14 15 those costs. The county board with the concurrence of the 16 Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of 17 maintenance, testing, and incidental expenses related to the 18 19 mandatory drug or alcohol testing, or both, and all costs of 20 incidental to approved electronic monitoring, all 21 defendants placed on supervision. The concurrence of the 22 Chief Judge shall be in the form of an administrative order. 23 The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys 24 25 collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, 26 alcohol testing, and electronic monitoring. The 27 county treasurer shall deposit the fees collected in the county 28 working cash fund under Section 6-27001 or Section 6-29002 of 29 30 the Counties Code, as the case may be.

31 (h) A disposition of supervision is a final order for32 the purposes of appeal.

33 (i) The court shall impose upon a defendant placed on34 supervision after January 1, 1992, as a condition of

1 supervision, a fee of \$25 for each month of supervision 2 ordered by the court, unless after determining the inability of the person placed on supervision to pay the fee, the court 3 4 assesses a lesser fee. The court may not impose the fee on a 5 minor who is made a ward of the State under the Juvenile 6 Court Act of 1987 while the minor is in placement. The fee 7 shall be imposed only upon a defendant who is actively supervised by the probation and court services department. 8 9 The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected 10 11 from this fee to the county treasurer for deposit in the probation and court services fund pursuant to Section 15.1 of 12 the Probation and Probation Officers Act. 13

All fines and costs imposed under this Section for 14 (j) any violation of Chapters 3, 4, 6, and 11 of the 15 Illinois 16 Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a 17 similar provision of a local ordinance, shall be collected 18 19 and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act. 20

21 (k) A defendant at least 17 years of age who is placed 22 on supervision for a misdemeanor in a county of 3,000,000 or 23 more inhabitants and who has not been previously convicted of a misdemeanor or felony may as a condition of his or her 24 25 supervision be required by the court to attend educational courses designed to prepare the defendant for a high school 26 diploma and to work toward a high school diploma or to work 27 toward passing the high school level Test of 28 General 29 Educational Development (GED) or to work toward completing a 30 vocational training program approved by the court. The placed on supervision must attend a public 31 defendant 32 institution of education to obtain the educational or vocational training required by this subsection (k). 33 The defendant placed on supervision shall be required to pay 34 for

1 the cost of the educational courses or GED test, if a fee is 2 charged for those courses or test. The court shall revoke the supervision of a person who wilfully fails to comply with 3 4 subsection (k). The court shall resentence the this 5 defendant upon revocation of supervision as provided in б Section 5-6-4. This subsection (k) does not apply to a 7 defendant who has a high school diploma or has successfully passed the GED test. This subsection (k) does not apply to a 8 9 defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of 10 11 completing the educational or vocational program.

(1) The court shall require a defendant placed on 12 supervision for possession of a substance prohibited by the 13 Cannabis Control Act or Illinois Controlled Substances Act 14 after a previous conviction or disposition of supervision for 15 16 possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or a sentence of 17 probation under Section 10 of the Cannabis Control Act or 18 19 Section 410 of the Illinois Controlled Substances Act and 20 after a finding by the court that the person is addicted, to 21 undergo treatment at a substance abuse program approved by 22 the court.

23 The Secretary of State shall require anyone placed (m) on court supervision for a violation of Section 3-707 of the 24 25 Illinois Vehicle Code or a similar provision of a local ordinance to give proof of 26 his or her financial responsibility as defined in Section 7-315 of the Illinois 27 Code. The proof shall be maintained by the 28 Vehicle 29 individual in a manner satisfactory to the Secretary of State 30 for a minimum period of one year after the date the proof is first filed. The proof shall be limited to a single action 31 32 per arrest and may not be affected by any post-sentence The Secretary of State shall suspend the 33 disposition. driver's license of any person determined by the Secretary to 34

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SB1854 Engrossed
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     be in violation of this subsection.
      (Source: P.A. 91-127, eff. 1-1-00; 91-696, eff. 4-13-00;
 2
     91-903, eff. 1-1-01; 92-282, eff. 8-7-01; 92-458, eff.
 3
 4
     8-22-01; revised 10-11-01.)
         (730 ILCS 5/5-8-3) (from Ch. 38, par. 1005-8-3)
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         Sec. 5-8-3. Sentence of Imprisonment for Misdemeanor. +
 7
         (a) A sentence of imprisonment for a misdemeanor shall
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         for a determinate term according to the following
     be
     limitations:
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              (1) for a Class A misdemeanor, for any term less
         than one year;
11
12
              (2) for a Class B misdemeanor, for not more than 6
13
         months;
14
              (3) for a Class C misdemeanor, for not more than 30
15
         days.
         (b) The good behavioral allowance shall be determined
16
17
     under Section 3 of the County Jail Misdemeanant Good Behavior
18
     Allowance Act.
     (Source: P.A. 81-1050; revised 12-07-01.)
19
20
         Section 84. The Code of Civil Procedure is amended by
     changing Sections 3-101 and 8-402 as follows:
21
         (735 ILCS 5/3-101) (from Ch. 110, par. 3-101)
22
         Sec. 3-101. Definitions. For the purpose of this Act:
23
         "Administrative agency" means a person, body of persons,
24
     group, officer, board, bureau, commission or department
25
26
      (other than a court or judge) of the State, or of any
27
     political subdivision of the State or municipal in-the--State
     corporation in the State, having power under law to make
28
     administrative decisions.
29
         "Administrative decision" or "decision" means
30
                                                              any
     decision, order or determination of any administrative agency
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1 rendered in a particular case, which affects the legal 2 rights, duties or privileges of parties and which terminates the proceedings before the administrative agency. 3 In all 4 cases in which a statute or a rule of the administrative 5 agency requires or permits an application for a rehearing or б other method of administrative review to be filed within a 7 specified time (as distinguished from a statute which permits 8 the application for rehearing or administrative review to be 9 filed at any time before judgment by the administrative agency against the applicant or within a specified time after 10 11 the entry of such judgment), and an application for such rehearing or review is made, no administrative decision of 12 such agency shall be final as to the party applying therefor 13 until such rehearing or review is had or denied. However, if 14 15 the particular statute permits an application for rehearing 16 or other method of administrative review to be filed with the administrative agency for an indefinite period of time after 17 the administrative decision has been rendered (such as 18 19 permitting such application to be filed at any time before judgment by the administrative agency against the applicant 20 21 or within a specified time after the entry of such judgment), then the authorization for the filing of such application for 22 23 rehearing or review shall not postpone the time when the administrative decision as to which such application shall be 24 25 filed would otherwise become final, but the filing of the application for rehearing or review with the administrative 26 agency in this type of case shall constitute the commencement 27 of a new proceeding before such agency, and the decision 28 29 rendered in order to dispose of such rehearing or other 30 review proceeding shall constitute a new and independent administrative decision. If such new 31 and independent 32 decision consists merely of the denial of the application for rehearing or other method of administrative review, the 33 record upon judicial review of such decision shall be limited 34

1 to the application for rehearing or other review and the 2 order or decision denying such application and shall not include the record of proceedings had before the rendering of 3 4 the administrative decision as to which the application for 5 rehearing or other administrative review shall have been 6 filed unless the suit for judicial review is commenced within 7 the time in which it would be authorized by this Act to have been commenced if no application for rehearing or other 8 9 method of administrative review had been filed. On the other hand, if the rehearing or other administrative review is 10 11 granted by the administrative agency, then the record on judicial review of the resulting administrative decision 12 rendered pursuant to the rehearing or other administrative 13 review may consist not only of the record of proceedings had 14 15 before the administrative agency in such rehearing or other 16 administrative review proceeding, but also of the record of proceedings had before such administrative agency prior to 17 its rendering of the administrative decision as to which the 18 19 rehearing or other administrative review shall have been granted. The term "administrative decision" or "decision" 20 21 does not mean or include rules, regulations, standards, or 22 statements of policy of general application issued by an 23 administrative agency to implement, interpret, or make specific the legislation enforced or administered by it 24 25 unless such a rule, regulation, standard or statement of policy is involved in a proceeding before the agency and its 26 applicability or validity is in issue in such proceeding, nor 27 does it mean or include regulations concerning the internal 28 29 management of the agency not affecting private rights or 30 interests.

31 (Source: P.A. 88-1; revised 4-19-01.)

32 (735 ILCS 5/8-402) (from Ch. 110, par. 8-402)
 33 Sec. 8-402. Production of books and writings. The

SB1854 Engrossed

circuit courts shall have power, in any action pending before them, upon motion, and good and sufficient cause shown, and reasonable notice thereof given, to require the parties, or either of them, to produce books or writings in their possession <u>or</u> of power which contain evidence pertinent to the issue.

7 (Source: P.A. 82-280; revised 4-17-01.)

8 Section 85. The Crime Victims Compensation Act is 9 amended by changing Section 10.1 as follows:

10 (740 ILCS 45/10.1) (from Ch. 70, par. 80.1)

11 Sec. 10.1. Amount of compensation. The amount of 12 compensation to which an applicant and other persons <u>are</u> is 13 entitled shall be based on the following factors:

14 (a) A victim may be compensated for his or her pecuniary
15 loss.*i*

A dependent may be compensated for loss of support. 16 (b) 17 Any person, even though not dependent upon the (C) victim for his or her support, may be compensated for 18 19 reasonable funeral, medical and hospital expenses of the victim to the extent to which he or she has paid or become 20 obligated to pay such expenses and only after compensation 21 for reasonable funeral, medical and hospital expenses of the 22 23 victim have been awarded may compensation be made for reasonable expenses of the victim incurred for psychological 24 25 treatment of a mental or emotional condition caused or aggravated by the crime. + 26

(d) An award shall be reduced or denied according to the extent to which the victim's acts or conduct provoked or contributed to his or her injury or death, or the extent to which any prior criminal conviction or conduct of the victim may have directly or indirectly contributed to the injury or death of the victim.;

1 (e) An award shall be reduced by the amount of benefits, 2 payments or awards payable under those sources which are required to be listed under item (7) of Section 7.1(a) and 3 4 any other sources except annuities, pension plans, Federal Social Security payments payable to dependents of the victim 5 6 and the net proceeds of the first \$25,000 of life insurance 7 that would inure to the benefit of the applicant, which the 8 applicant or any other person dependent for the support of a 9 deceased victim, as the case may be, has received or to which he or she is entitled as a result of injury to or death of 10 11 the victim.

(f) A final award shall not exceed \$10,000 for a crime 12 committed prior to September 22, 1979, \$15,000 for a crime 13 committed on or after September 22, 1979 and prior to January 14 1, 1986, \$25,000 for a crime committed on or after January 1, 15 1986 and prior to August 7, the--effective--date--of--this 16 amendatory--Act--of 1998, or \$27,000 for a crime committed on 17 or after August 7, the-effective-date-of-this-amendatory--Act 18 ⊖£ 1998. If the total pecuniary loss is greater than the 19 maximum amount allowed, the award shall be divided in 20 21 proportion to the amount of actual loss among those entitled 22 to compensation. +

23 (g) Compensation under this Act is a secondary source of compensation and the applicant must show that he or she has 24 25 exhausted the benefits reasonably available under the Criminal Victims' Escrow Account Act or any governmental or 26 medical or health insurance programs, including, but not 27 limited to Workers' Compensation, the Federal Medicare 28 program, the State Public Aid program, Social Security 29 30 Administration burial benefits, Veterans Administration burial benefits, and life, health, accident or liability 31 insurance. 32

33 (Source: P.A. 92-427, eff. 1-1-02; revised 12-04-01.)

-755-

1 Section 86. The Whistleblower Reward and Protection Act 2 is amended by changing Section 6 as follows: 3 (740 ILCS 175/6) (from Ch. 127, par. 4106) Sec. 6. Civil investigative demands. 4 (a) In general. 5 (1) Issuance and service. Whenever the Attorney 6 7 General has reason to believe that any person may be in 8 possession, custody, or control of any documentary material or information relevant to an investigation, the 9 10 Attorney General may, before commencing a civil proceeding under this Act, issue in writing and cause to 11 be served upon such person, a civil investigative demand 12 requiring such person: 13 to produce such documentary material for 14 (A) 15 inspection and copying, answer, in writing, 16 (B) to written 17 interrogatories with respect to such documentary material or information, 18 (C) to give oral testimony concerning such 19 20 documentary material or information, or 21 (D) to furnish any combination of such 22 material, answers, or testimony. The Attorney General shall delegate the authority to issue 23 24 civil investigative demands under this subsection (a) to the Department of State Police. Whenever a civil investigative 25 demand is an express demand for any product of discovery, the 26 Attorney General, an Assistant Attorney General or the 27 delegate of the Department of State Police shall cause to be 28 29 served, in any manner authorized by this Section, a copy of such demand upon the person from whom the discovery was 30 31 obtained and shall notify the person to whom such demand is issued of the date on which such copy was served. 32 (2) Contents and deadlines. 33

1 (A) Each civil investigative demand issued 2 under paragraph (1) shall state the nature of the conduct constituting and alleged violation which is 3 4 under investigation, and the applicable provision of law alleged to be violated. 5 (B) If such demand is for the production of 6 documentary material, the demand shall: 7 (i) describe each class of documentary 8 9 material to be produced with such definiteness and certainty as to permit such material to be 10 11 fairly identified; (ii) prescribe a return date for each 12 such class which will provide a reasonable 13 period of time within which the material so 14 demanded may be assembled and made available 15 16 for inspection and copying; and (iii) identify the investigator to whom 17 such material shall be made available. 18 19 (C) If such demand is for answers to written interrogatories, the demand shall: 20 21 (i) set forth with specificity the written interrogatories to be answered; 22 23 (ii) prescribe dates at which time answers to written interrogatories shall be 24 submitted; and 25 (iii) identify the investigator to whom 26 such answers shall be submitted. 27 (D) If such demand is for the giving of oral 28 testimony, the demand shall: 29 30 (i) prescribe a date, time, and place at which oral testimony shall be commenced; 31 32 (ii) identify an investigator who shall conduct the examination and the custodian to 33 whom the transcript of such examination shall 34

-757-

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be submitted;

(iii) specify that such attendance and testimony are necessary to the conduct of the investigation;

5 (iv) notify the person receiving the 6 demand of the right to be accompanied by an 7 attorney and any other representative; and

8 (v) describe the general purpose for 9 which the demand is being issued and the 10 general nature of the testimony, including the 11 primary areas of inquiry, which will be taken 12 pursuant to the demand.

13 (E) Any civil investigative demand issued 14 under this Section which is an express demand for 15 any product of discovery shall not be returned or 16 returnable until 20 days after a copy of such demand 17 has been served upon the person from whom the 18 discovery was obtained.

(F) The date prescribed for the commencement 19 of oral testimony pursuant to a civil investigative 20 demand issued under this Section shall be a date 21 which is not less than 7 days after the date on 22 23 which demand is received, unless the Attorney General or an Assistant Attorney General designated 24 25 by the Attorney General or the delegate of the Department of State Police determines that 26 exceptional circumstances are present which warrant 27 the commencement of such testimony within a lesser 28 29 period of time.

30 (G) The Attorney General or the delegate of 31 the Department of State Police shall not authorize 32 the issuance under this Section of more than one 33 civil investigative demand for oral testimony by the 34 same person unless the person requests otherwise or 1 unless the Attorney General or the delegate of the 2 Department of State Police, after investigation, notifies that person in writing that an additional 3 4 demand for oral testimony is necessary. The Attorney General shall authorize the performance by 5 the delegate of the Department of State Police of 6 7 any function vested in the Attorney General under 8 this subparagraph (G).

9 (b) Protected material or information.

(1) In general. A civil investigative 10 demand 11 issued under subsection (a) may not require the production of any documentary material, the submission of 12 answers to written interrogatories, or the giving of 13 any oral testimony if such material, 14 any answers, or testimony would be protected from disclosure under: 15

16 (A) the standards applicable to subpoenas or
17 subpoenas duces tecum issued by a court of this
18 State to aid in a grand jury investigation; or

(B) the standards applicable to discovery
requests under the Code of Civil Procedure, to the
extent that the application of such standards to any
such demand is appropriate and consistent with the
provisions and purposes of this Section.

(2) Effect on other orders, rules, and laws. 24 Anv 25 such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or 26 provision of law (other than this Section) preventing or 27 restraining disclosure of such product of discovery to 28 29 any person. Disclosure of any product of discovery 30 pursuant to any such express demand does not constitute a waiver of any right or privilege which the person making 31 make such disclosure may be entitled to invoke to resist 32 discovery of trial preparation materials. 33

34 (c) Service; jurisdiction.

1 (1) By whom served. Any civil investigative demand 2 issued under subsection (a) may be served by an 3 investigator, or by any person authorized to serve 4 process on individuals within Illinois.

(2) Service in foreign countries. Any such demand 5 or any petition filed under subsection (j) may be served 6 7 upon any person who is not found within Illinois in such 8 manner as the Code of Civil Procedure prescribes for 9 service of process outside Illinois. To the extent that the courts of this State can assert jurisdiction over any 10 11 such person consistent with due process, the courts of this State shall have the same jurisdiction to take any 12 action respecting compliance with this Section by any 13 such person that such court would have if such person 14 15 were personally within the jurisdiction of such court.

(d) Service upon legal entities and natural persons. (1) Legal entities. Service of any civil investigative demand issued under subsection (a) or of any petition filed under subsection (j) may be made upon a partnership, corporation, association, or other legal entity by:

(A) delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, general agent, or registered agent of the partnership, corporation, association or entity;

26 (B) delivering an executed copy of such demand
27 or petition to the principal office or place of
28 business of the partnership, corporation,
29 association, or entity; or

30 (C) depositing an executed copy of such demand
31 or petition in the United States mails by registered
32 or certified mail, with a return receipt requested,
33 addressed to such partnership, corporation,
34 association, or entity as its principal office or

-760-

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place of business.

2 (2) Natural person. Service of any such demand or
3 petition may be made upon any natural person by:

4 (A) delivering an executed copy of such demand 5 or petition to the person; or

6 (B) depositing an executed copy of such demand 7 or petition in the United States mails by registered 8 or certified mail, with a return receipt requested, 9 addressed to the person at the person's residence or 10 principal office or place of business.

11 (e) Proof of service. A verified return by the 12 individual serving any civil investigative demand issued 13 under subsection (a) or any petition filed under subsection 14 (j) setting forth the manner of such service shall be proof 15 of such service. In the case of service by registered or 16 certified mail, such return shall be accompanied by the 17 return post office receipt of delivery of such demand.

18 (f) Documentary material. (1) Sworn certificates. The 19 production of documentary material in response to a civil 20 investigative demand served under this Section shall be made 21 under a sworn certificate, in such form as the demand 22 designates, by:

(A) in the case of a natural person, theperson to whom the demand is directed, or

(B) in the case of a person other than a
natural person, a person having knowledge of the
facts and circumstances relating to such production
and authorized to act on behalf of such person.

29 The certificate shall state that all of the documentary 30 material required by the demand and in the possession, 31 custody, or control of the person to whom the demand is 32 directed has been produced and made available to the 33 investigator identified in the demand.

34 (2) Production of materials. Any person upon whom

1 any civil investigative demand for the production of 2 documentary material has been served under this Section shall make such material available for inspection and 3 4 copying to the investigator identified in such demand at the principal place of business of such person, or at 5 such other place as the investigator and the person 6 7 thereafter may agree and prescribe in writing, or as the 8 court may direct under subsection (j)(1). Such material 9 shall be made so available on the return date specified in such demand, or on such later date as the investigator 10 11 may prescribe in writing. Such person may, upon written agreement between the person and the investigator, 12 substitute copies for originals of all or any part of 13 such material. 14

15 (g) Interrogatories. Each interrogatory in a civil 16 investigative demand served under this Section shall be 17 answered separately and fully in writing under oath and shall 18 be submitted under a sworn certificate, in such form as the 19 demand designates by:

20 (1) in the case of a natural person, the person to21 whom the demand is directed, or

(2) in the case of a person other than a natural
person, the person or persons responsible for answering
each interrogatory.

25 If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an 26 The certificate shall state that all information 27 answer. required by the demand and in the possession, custody, 28 29 control, or knowledge of the person to whom the demand is 30 directed has been submitted. To the extent that any information is not furnished, the information shall be 31 identified and reasons set forth with particularity regarding 32 the reasons why the information was not furnished. 33

34 (h) Oral examinations.

1 (1) Procedures. The examination of any person 2 pursuant to a civil investigative demand for oral testimony served under this Section shall be taken before 3 4 officer authorized to administer oaths and an affirmations by the laws of this State or of the place 5 where the examination is held. The officer before whom 6 7 the testimony is to be taken shall put the witness on 8 oath or affirmation and shall, personally or by someone 9 acting under the direction of the officer and in the officer's presence, record the testimony of the witness. 10 11 The testimony shall be taken stenographically and shall 12 be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall 13 promptly transmit a copy of the transcript of 14 the 15 testimony to the custodian. This subsection shall not 16 preclude the taking of testimony by any means authorized by, and in a manner consistent with, the Code of Civil 17 Procedure. 18

19 (2) Persons present. The investigator conducting the examination shall exclude from the place where the 20 21 examination is held all persons except the person giving 22 the testimony, the attorney for and any other 23 representative of the person giving the testimony, the attorney for the State, any person who may be agreed upon 24 25 by the attorney for the State and the person giving the testimony, the officer before whom the testimony is to be 26 27 taken, and any stenographer taking such testimony.

(3) Where testimony taken. The oral testimony of
any person taken pursuant to a civil investigative demand
served under this Section shall be taken in the county
within which such person resides, is found, or transacts
business, or in such other place as may be agreed upon by
the investigator conducting the examination and such
person.

1 (4) Transcript of testimony. When the testimony is 2 fully transcribed, the investigator or the officer before whom the testimony is taken shall afford the witness, who 3 4 may be accompanied by counsel, a reasonable opportunity 5 to examine and read the transcript, unless such examination and reading are waived by the witness. Any 6 7 changes in form or substance which the witness desires to make shall be entered and identified upon the transcript 8 9 by the officer or the investigator, with a statement of the reasons given by the witness for making such changes. 10 11 The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, 12 13 cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days after being 14 15 afforded a reasonable opportunity to examine it, the 16 officer of investigator shall sign it and state on the record the fact of the waiver, illness, absence of the 17 witness, or the refusal to sign, together with the 18 reasons, if any, given therefor. 19

(5) Certification and delivery to custodian. 20 The 21 officer before whom the testimony is taken shall certify 22 on the transcript that the witness was sworn by the officer and that the transcript is a true record of the 23 testimony given by the witness, and the officer or 24 investigator shall promptly deliver the transcript, or 25 send the transcript by registered or certified mail, to 26 27 the custodian.

(6) Furnishing or inspection of transcript by
witness. Upon payment of reasonable charges therefor, the
investigator shall furnish a copy of the transcript to
the witness only, except that the Attorney General, an
Assistant Attorney General or employee of the Department
of State Police may, for good cause, limit such witness
to inspection of the official transcript of the witness'

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-764-

1 testimony.

(7) Conduct of oral testimony.

(A) Any person compelled to appear for oral 3 4 testimony under a civil investigative demand issued under subsection (a) may 5 be accompanied, represented, and advised by counsel. Counsel may 6 7 advise such person, in confidence, with respect to any question asked of such person. Such person or 8 9 counsel may object on the record to any question, in whole or in part, and shall briefly state for the 10 11 record the reason for the objection. An objection may be made, received, and entered upon the record 12 when it is claimed that such person is entitled to 13 refuse to answer the question on the grounds of any 14 constitutional or other legal right or privilege, 15 16 including the privilege against self-incrimination. If such person refuses to answer any question, a 17 petition may be filed in circuit court 18 under subsection (j)(1) for an order compelling such 19 person to answer such question. 20

(B) If such person refuses any question on the
grounds of the privilege against self-incrimination,
the testimony of such person may be compelled in
accordance with Article 106 of the Code of Criminal
Procedure of 1963.

26 (8) Witness fees and allowances. Any person
27 appearing for oral testimony under a civil investigative
28 demand issued under subsection (a) shall be entitled to
29 the same fees and allowances which are paid to witnesses
30 in the circuit court.

31 (i) Custodians of documents, answers, and32 transcripts.

33 (1) Designation. The Attorney General shall34 designate the Department of State Police to serve as

1 custodian of documentary material, answers to 2 interrogatories, and transcripts of oral testimony 3 received under this Section and shall designate 4 additional employees of the Department of State Police as 5 the Attorney General determines from time to time to be 6 necessary to serve as deputies to the custodian.

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(2) Responsibility for materials; disclosure.

8 (A) An investigator who receives any 9 documentary material, answers to interrogatories, or transcripts of oral testimony under this Section 10 11 shall transmit them to the custodian. The custodian shall take physical possession of such material, 12 answers, or transcripts and shall be responsible for 13 the use made of them and for the return of 14 documentary material under paragraph (4). 15

16 (B) The custodian may cause the preparation of such copies of such documentary material, answers to 17 interrogatories, or transcripts of oral testimony as 18 may be required for official use by any 19 investigator, or other officer or employee of the 20 21 Attorney General or employee of the Department of State Police who is authorized for such use under 22 23 regulations which the Attorney General shall issue. Such material, answers, and transcripts may be used 24 25 by any such authorized investigator or other officer or employee in connection with the taking of oral 26 testimony under this Section. 27

28 (C) Except as otherwise provided in this 29 subsection (i), no documentary material, answers to 30 interrogatories, or transcripts of oral testimony, 31 or copies thereof, while in the possession of the 32 custodian, shall be available for examination by any 33 individual other than an investigator or other 34 officer or employee of the Attorney General or

1 employee of the Department of State Police 2 authorized under subparagraph (B). The prohibition in the preceding sentence on the availability of 3 4 material, answers, or transcripts shall not apply if consent is given by the person who produced such 5 material, answers, or transcripts, or, in the case 6 7 of any product of discovery produced pursuant to an 8 express demand for such material, consent is given 9 by the person from whom the discovery was obtained. Nothing in this subparagraph is intended to prevent 10 11 disclosure to the General Assembly, including any 12 committee or subcommittee of the General Assembly, or to any other State agency for use by such agency 13 in furtherance of its statutory responsibilities. 14 15 Disclosure of information to any such other agency 16 shall be allowed only upon application, made by the Attorney General to a circuit court, 17 showing substantial need for the use of the information by 18 such agency in furtherance of its statutory 19 20 responsibilities.

(D) While in the possession of the custodian
and under such reasonable terms and conditions as
the Attorney General shall prescribe:

(i) documentary material and answers to
interrogatories shall be available for examination by the
person who produced such material or answers, or by a
representative for that person authorized by that person
to examine such material and answers; and

(ii) transcripts of oral testimony shall be
available for examination by the person who produced such
testimony, or by a representative of that person
authorized by that person to examine such transcripts.

33 (3) Use of material, answers, or transcripts in
 34 other proceedings. Whenever any attorney of the office of

1 the Attorney General, or State's Attorney upon а 2 referral, has been designated to appear before any court, grand jury, or State agency in any case or proceeding, 3 4 the custodian of any documentary material, answers to 5 interrogatories, or transcripts of oral testimony received under this Section may deliver to such attorney 6 7 such material, answers, or transcripts for official use 8 in connection with any such case or proceeding as such 9 attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall 10 11 return to the custodian any such material, answers, or transcripts so delivered which have not passed into the 12 13 control of such court, grand jury, or agency through introduction into the record of such case or proceeding. 14

15 (4) Conditions for return of material. If any 16 documentary material has been produced by any person in 17 the course of any investigation pursuant to a civil 18 investigative demand under this Section and:

19 (A) any case or proceeding before the court or
20 grand jury arising out of such investigation, or any
21 proceeding before any State agency involving such
22 material, has been completed, or

(B) no case or proceeding in which such
material may be used has been commenced within a
reasonable time after completion of the examination
and analysis of all documentary material and other
information assembled in the course of such
investigation,

the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies furnished to the investigator under subsection (f)(2) or made for the Attorney General or employee of the Department of State Police under paragraph (2)(B)) which has not passed into the control of any court, SB1854 Engrossed

grand jury, or agency through introduction into the record of
 such case or proceeding.

(5) Appointment of successor custodians. In the event 3 4 of the death, disability, or separation from service in the 5 State Police of the custodian of Department of any 6 documentary material, answers to interrogatories, or 7 transcripts of oral testimony produced pursuant to a civil investigative demand under this Section, or in the event 8 of 9 the official relief of such custodian from responsibility for the custody and control of such material, answers, or 10 11 transcripts, the Attorney General shall promptly:

12 (A) designate another employee of the
13 Department of State Police to serve as custodian of
14 such material, answers, or transcripts, and

(B) transmit in writing to the person who
produced such material, answers, or testimony notice
of the identity and address of the successor so
designated.

19 Any person who is designated to be a successor under this paragraph (5) shall have, with regard to such material, 20 21 answers, or transcripts, the same duties and responsibilities 22 were imposed by this Section upon that person's as 23 predecessor in office, except that the successor shall not be held responsible for any default or dereliction which 24 25 occurred before that designation.

(J) Judicial proceedings. (1) Petition for 26 27 enforcement. Whenever any person fails to comply with any civil investigative demand issued under 28 29 subsection (a), or whenever satisfactory copying or 30 reproduction of any material requested in such demand cannot be done and such person refuses to 31 surrender such material, the Attorney General may 32 file, in the circuit court of any county in which 33 such person resides, is found, or transacts 34

-769-

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business, and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.

4 (2) Petition to modify or set aside demand. (A) Any person who has received a civil investigative demand 5 issued under subsection (a) may file, in the circuit 6 7 court of any county within which such person resides, is 8 found, or transacts business, and serve upon the 9 investigator identified in such demand a petition for an order of the court to modify or set aside such demand. In 10 11 the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set 12 aside such demand may be brought only in the circuit 13 court of the county in which the proceeding in which such 14 discovery was obtained is or was last pending. Any 15 16 petition under this subparagraph (A) must be filed:

17 (i) within 20 days after the date of
18 service of the civil investigative demand, or
19 at any time before the return date specified in
20 the demand, whichever date is earlier, or

(ii) within such longer period as may be
prescribed in writing by any investigator
identified in the demand.

(B) The petition shall specify each ground 24 25 upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any 26 failure of the demand to comply with the provisions 27 of this Section or upon any constitutional or other 28 29 legal right or privilege of such person. During the 30 pendency of the petition in the court, the court may stay, as it deems proper, the running of the time 31 allowed for compliance with the demand, in whole or 32 in part, except that the person filing the petition 33 shall comply with any portion of the demand not 34

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sought to be modified or set aside.

2 (3) Petition to modify or set aside demand for product of discovery. (A) In the case of any civil 3 4 investigative demand issued under subsection (a) which is an express demand for any product of discovery, the 5 person from whom such discovery was obtained may file, in 6 7 the circuit court of the county in which the proceeding 8 in which such discovery was obtained is or was last 9 pending, and serve upon any investigator identified in the demand and upon the recipient of the demand, a 10 11 petition for an order of such court to modify or set aside those portions of the demand requiring production 12 of any such product of discovery. Any petition under this 13 subparagraph (A) must be filed: 14

(i) within 20 days after the date of
service of the civil investigative demand, or
at any time before the return date specified in
the demand, whichever date is earlier, or

19 (ii) within such longer period as may be
20 prescribed in writing by any investigator
21 identified in the demand.

22 (B) The petition shall specify each ground 23 upon which the petitioner relies in seeking relief under subparagraph (A), and may be based upon any 24 25 failure of the portions of the demand from which relief is sought to comply with the provisions of 26 this Section, or upon any constitutional or other 27 legal right or privilege of the petitioner. During 28 29 the pendency of the petition, the court may stay, as 30 it deems proper, compliance with the demand and the running of the time allowed from compliance with the 31 demand. 32

33 (4) Petition to require performance by custodian of
 34 duties. At any time during which any custodian is in

1 custody or control of any documentary material or answers 2 to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any 3 4 civil investigative demand issued under subsection (a), such person, and in the case of an express demand for any 5 product of discovery, the person from whom such discovery 6 was obtained, may file, in the circuit court of the 7 8 county within which the office of such custodian is 9 situated, and serve upon such custodian, a petition for an order of such court to require the performance by the 10 11 custodian of any duty imposed upon the custodian by this 12 Section.

(5) Jurisdiction. Whenever any petition is filed in 13 any circuit court under this subsection (j), such court 14 15 shall have jurisdiction to hear and determine the matter 16 so presented, and to enter such orders as may be required to carry out the provisions of this Section. Any final 17 order so entered shall be subject to appeal in the same 18 manner as appeals of other final orders in civil matters. 19 Any disobedience of any final order entered under this 20 21 Section by any court shall be punished as a contempt of 22 the court.

(k) Disclosure exemption. Any documentary material,
answers to written interrogatories, or oral testimony
provided under any civil investigative demand issued under
subsection (a) shall be exempt from disclosure under the
Illinois Administrative Procedure Act.

28 (Source: P.A. 87-662; revised 12-07-01.)

29 Section 87. The Illinois Marriage and Dissolution of 30 Marriage Act is amended by changing Sections 505, 505.3, and 31 510 as follows:

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(750 ILCS 5/505) (from Ch. 40, par. 505)

SB1854 Engrossed

1 Sec. 505. Child support; contempt; penalties.

-772-

2 (a) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity of marriage, a 3 4 proceeding for child support following dissolution of the 5 marriage by a court which lacked personal jurisdiction over 6 the absent spouse, a proceeding for modification of a 7 previous order for child support under Section 510 of this Act, or any proceeding authorized under Section 501 or 601 of 8 9 this Act, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount 10 11 reasonable and necessary for his support, without regard to marital misconduct. The duty of support owed to a minor 12 child includes the obligation to provide for the reasonable 13 and necessary physical, mental and emotional health needs of 14 15 the child.

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(1) The Court shall determine the minimum amount of support by using the following guidelines:

Number of Children Percent of Supporting Party's 18 19 Net Income 1 20% 20 21 2 25% 22 3 32% 23 4 40% 5 45% 24

25 6 or more

(2) The above guidelines shall be applied in each
case unless the court makes a finding that application of
the guidelines would be inappropriate, after considering
the best interests of the child in light of evidence
including but not limited to one or more of the following
relevant factors:

32 (a) the financial resources and needs of the33 child;

(b) the financial resources and needs of the

50%

SB1854 Engrossed

-773-

1 custodial parent; (c) the standard of living the child would 2 have enjoyed had the marriage not been dissolved; 3 4 (d) the physical and emotional condition of the child, and his educational needs; and 5 (e) the financial resources and needs of the 6 7 non-custodial parent. the court deviates from the guidelines, the 8 Ιf 9 court's finding shall state the amount of support that would have been required under the guidelines, if 10 determinable. The court shall include the reason or 11 reasons for the variance from the guidelines. 12 (3) "Net income" is defined as the total of all 13 income from all sources, minus the following deductions: 14 (a) Federal income tax (properly calculated 15 16 withholding or estimated payments); (b) State income tax (properly calculated 17 withholding or estimated payments); 18 19 (c) Social Security (FICA payments); (d) Mandatory retirement contributions 20 21 required by law or as a condition of employment; (e) Union dues; 22 23 (f) Dependent and individual health/hospitalization insurance premiums; 24 25 (g) Prior obligations of support or maintenance actually paid pursuant to a court order; 26 (h) Expenditures for repayment of debts that 27 represent reasonable and necessary expenses for the 28 production of income, medical expenditures necessary 29 30 to preserve life or health, reasonable expenditures for the benefit of the child and the other parent, 31 exclusive of gifts. The court shall reduce net 32 33 income in determining the minimum amount of support to be ordered only for the period that such payments 34

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are due and shall enter an order containing provisions for its self-executing modification upon termination of such payment period.

4 In cases where the court order provides for (4) health/hospitalization insurance coverage pursuant to 5 Section 505.2 of this Act, the premiums for 6 that 7 insurance, or that portion of the premiums for which the 8 supporting party is responsible in the case of insurance 9 provided through an employer's health insurance plan where the employer pays a portion of the premiums, shall 10 11 be subtracted from net income in determining the minimum amount of support to be ordered. 12

(4.5) In a proceeding for child support following 13 dissolution of the marriage by a court that lacked 14 personal jurisdiction over the absent spouse, and in 15 16 which the court is requiring payment of support for the period before the date an order for current support is 17 entered, there is a rebuttable presumption that the 18 supporting party's net income for the prior period was 19 the same as his or her net income at the time the order 20 21 for current support is entered.

(5) If the net income cannot be determined because 22 23 default or any other reason, the court shall order of support in an amount considered reasonable in 24 the 25 The final order in all cases shall particular case. state the support level in dollar amounts. However, if 26 the court finds that the child support amount cannot be 27 expressed exclusively as a dollar amount because all or a 28 29 portion of the payor's net income is uncertain as to 30 source, time of payment, or amount, the court may order a percentage amount of support in addition to a specific 31 dollar amount and enter such other orders as may be 32 necessary to determine and enforce, on a timely basis, 33 34 the applicable support ordered.

1 (6) If (i) the non-custodial parent was properly 2 served with a request for discovery of financial information relating to the non-custodial parent's 3 4 ability to provide child support, (ii) the non-custodial parent failed to comply with the request, despite having 5 been ordered to do so by the court, and (iii) the 6 7 non-custodial parent is not present at the hearing to determine support despite having received proper notice, 8 9 then any relevant financial information concerning the non-custodial parent's ability to provide child support 10 11 that was obtained pursuant to subpoena and proper notice shall be admitted into evidence without the need to 12 establish any further foundation for its admission. 13

In an action to enforce an order for support based 14 (a-5) 15 on the respondent's failure to make support payments as 16 required by the order, notice of proceedings to hold the respondent in contempt for that failure may be served on the 17 respondent by personal service or by regular mail addressed 18 to the respondent's last known address. The respondent's last 19 known address may be determined from records of the clerk of 20 21 the court, from the Federal Case Registry of Child Support 22 Orders, or by any other reasonable means.

(b) Failure of either parent to comply with an order to pay support shall be punishable as in other cases of contempt. In addition to other penalties provided by law the Court may, after finding the parent guilty of contempt, order that the parent be:

(1) placed on probation with such conditions ofprobation as the Court deems advisable;

30 (2) sentenced to periodic imprisonment for a period
31 not to exceed 6 months; provided, however, that the Court
32 may permit the parent to be released for periods of time
33 during the day or night to:

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(A) work; or

1 2 (B) conduct a business or other self-employed occupation.

The Court may further order any part or all of 3 the 4 parent during a sentence of periodic earnings of а 5 imprisonment paid to the Clerk of the Circuit Court or to the parent having custody or to the guardian having custody of 6 7 the minor children of the sentenced parent for the support of said minor children until further order of the Court. 8

9 If there is a unity of interest and ownership sufficient to render no financial separation between a non-custodial 10 11 parent and another person or persons or business entity, the court may pierce the ownership veil of the person, persons, 12 or business entity to discover assets of the non-custodial 13 parent held in the name of that person, those persons, or 14 15 that business entity. The following circumstances are 16 sufficient to authorize a court to order discovery of the assets of a person, persons, or business entity and to compel 17 the application of any discovered assets toward payment on 18 19 the judgment for support:

20 (1) the non-custodial parent and the person,
21 persons, or business entity maintain records together.

(2) the non-custodial parent and the person,
persons, or business entity fail to maintain an arms
length relationship between themselves with regard to any
assets.

26 (3) the non-custodial parent transfers assets to
27 the person, persons, or business entity with the intent
28 to perpetrate a fraud on the custodial parent.

With respect to assets which are real property, no order entered under this paragraph shall affect the rights of bona fide purchasers, mortgagees, judgment creditors, or other lien holders who acquire their interests in the property prior to the time a notice of lis pendens pursuant to the Code of Civil Procedure or a copy of the order is placed of SB1854 Engrossed

record in the office of the recorder of deeds for the county
 in which the real property is located.

The court may also order in cases where the parent is 90 3 4 days or more delinquent in payment of support or has been adjudicated in arrears in an amount equal to 90 5 days б obligation or more, that the parent's Illinois driving 7 privileges be suspended until the court determines that the parent is in compliance with the order of support. The court 8 9 may also order that the parent be issued a family financial responsibility driving permit that would allow limited 10 11 driving privileges for employment and medical purposes in accordance with Section 7-702.1 of the Illinois Vehicle Code. 12 The clerk of the circuit court shall certify the order 13 suspending the driving privileges of the parent or granting 14 15 the issuance of a family financial responsibility driving 16 permit to the Secretary of State on forms prescribed by the Secretary. Upon receipt of the authenticated documents, 17 the 18 of State shall suspend the parent's driving Secretary 19 privileges until further order of the court and shall, if the court, subject to the provisions of Section 20 ordered by 21 7-702.1 of the Illinois Vehicle Code, issue a family 22 financial responsibility driving permit to the parent.

23 In addition to the penalties or punishment that may be imposed under this Section, any person 24 whose conduct 25 constitutes a violation of Section 15 of the Non-Support Punishment Act may be prosecuted under that Act, and a person 26 convicted under that Act may be sentenced in accordance with 27 The sentence may include but need not be limited 28 that Act. to a requirement that the person perform community service 29 30 under Section 50 of that Act or participate in a work alternative program under Section 50 of that Act. A person 31 32 may not be required to participate in a work alternative program under Section 50 of that Act if the person is 33 34 currently participating in a work program pursuant to Section

-778-

1 505.1 of this Act.

2 A support obligation, or any portion of a support obligation, which becomes due and remains unpaid for 30 days 3 4 or more shall accrue simple interest at the rate of 9% per 5 annum. An order for support entered or modified on or after б January 1, 2002 shall contain a statement that a support obligation required under the order, or any portion of a 7 8 support obligation required under the order, that becomes due 9 and remains unpaid for 30 days or more shall accrue simple interest at the rate of 9% per annum. Failure to include the 10 11 statement in the order for support does not affect the validity of the order or the accrual of interest as provided 12 in this Section. 13

14 (c) A one-time charge of 20% is imposable upon the 15 amount of past-due child support owed on July 1, 1988 which 16 has accrued under a support order entered by the court. The 17 charge shall be imposed in accordance with the provisions of 18 Section 10-21 of the Illinois Public Aid Code and shall be 19 enforced by the court upon petition.

Any new or existing support order entered by the 20 (d) 21 court under this Section shall be deemed to be a series of 22 judgments against the person obligated to pay support 23 thereunder, each such judgment to be in the amount of each payment or installment of support and each such judgment to 24 25 be deemed entered as of the date the corresponding payment or installment becomes due under the terms of the support order. 26 Each such judgment shall have the full force, effect and 27 attributes of any other judgment of this State, including the 28 ability to be enforced. A lien arises by operation of 29 law 30 against the real and personal property of the noncustodial parent for each installment of overdue support owed by the 31 32 noncustodial parent.

33 (e) When child support is to be paid through the clerk34 of the court in a county of 1,000,000 inhabitants or less,

SB1854 Engrossed

1 the order shall direct the obligor to pay to the clerk, in 2 addition to the child support payments, all fees imposed by 3 the county board under paragraph (3) of subsection (u) of 4 Section 27.1 of the Clerks of Courts Act. Unless paid in 5 cash or pursuant to an order for withholding, the payment of 6 the fee shall be by a separate instrument from the support 7 payment and shall be made to the order of the Clerk.

8 (f) All orders for support, when entered or modified, 9 shall include a provision requiring the obligor to notify the court and, in cases in which a party is receiving child and 10 11 spouse services under Article X of the Illinois Public Aid Code, the Illinois Department of Public Aid, within 7 days, 12 (i) of the name and address of any new employer of the 13 obligor, (ii) whether the obligor has access to health 14 insurance coverage through the employer or other group 15 16 coverage and, if so, the policy name and number and the names of persons covered under the policy, and (iii) of any new 17 residential or mailing address or telephone number of the 18 19 non-custodial parent. In any subsequent action to enforce a support order, upon a sufficient showing that a diligent 20 21 effort has been made to ascertain the location of the 22 non-custodial parent, service of process or provision of 23 notice necessary in the case may be made at the last known address of the non-custodial parent in any manner expressly 24 25 provided by the Code of Civil Procedure or this Act, which service shall be sufficient for purposes of due process. 26

An order for support shall include a date on which 27 (g) the current support obligation terminates. The termination 28 29 date shall be no earlier than the date on which the child 30 covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that 31 32 the termination date does not apply to any arrearage that may remain unpaid on that date. Nothing in this subsection shall 33 34 be construed to prevent the court from modifying the order.

SB1854 Engrossed

1 (h) An order entered under this Section shall include a 2 provision requiring the obligor to report to the obligee and to the clerk of court within 10 days each time the obligor 3 4 obtains employment, and each time the obligor's new 5 employment is terminated for any reason. The report shall be б in writing and shall, in the case of new employment, include 7 the name and address of the new employer. Failure to report new employment or the termination of current employment, 8 if 9 coupled with nonpayment of support for a period in excess of 60 days, is indirect criminal contempt. 10 For any obligor 11 arrested for failure to report new employment bond shall be set in the amount of the child support that should have been 12 paid during the period of unreported employment. An order 13 entered under this Section shall also include a provision 14 requiring the obligor and obligee parents to advise each 15 16 other of a change in residence within 5 days of the change except when the court finds that the physical, mental, or 17 emotional health of a party or that of a minor child, or 18 19 both, would be seriously endangered by disclosure of the party's address. 20

(i) The court does not lose the powers of contempt, driver's license suspension, or other child support enforcement mechanisms, including, but not limited to, criminal prosecution as set forth in this Act, upon the emancipation of the minor child or children.

26 (Source: P.A. 91-113, eff. 7-15-99; 91-397, eff. 1-1-00; 27 91-655, eff. 6-1-00; 91-767, eff. 6-9-00; 92-16, eff. 28 6-28-01; 92-203, eff. 8-1-01; 92-374, eff. 8-15-01; revised 29 10-15-01.)

30 (750 ILCS 5/505.3)

31 Sec. 505.3. Information to State Case Registry.

32 (a) In this Section:

33 "Order for support", "obligor", "obligee", and "business

day" are defined as set forth in the Income Withholding for
 Support Act.

3 "State Case Registry" means the State Case Registry
4 established under Section 10-27 of the Illinois Public Aid
5 Code.

(b) Each order for support entered or modified by the 6 7 circuit court under this Act shall require that the obligor and obligee (i) file with the clerk of the circuit court the 8 9 information required by this Section (and any other information required under Title IV, Part D of the Social 10 11 Security Act or by the federal Department of Health and Human Services) at the time of entry or modification of the order 12 for support and (ii) file updated information with the clerk 13 within 5 business days of any change. Failure of the obligor 14 obligee to file or update the required information shall 15 16 be punishable as in cases of contempt. The failure shall not prevent the court from entering or modifying the order for 17 18 support, however.

19 (c) The obligor shall file the following information: 20 the obligor's name, date of birth, social security number, 21 and mailing address.

22 If either the obligor or the obligee receives child 23 support enforcement services from the Illinois Department of Public Aid under Article X of the Illinois Public Aid Code, 24 25 the obligor shall also file the following information: the obligor's telephone number, driver's license number, and 26 residential address (if different from the obligor's mailing 27 address), and the name, address, and telephone number of the 28 29 obligor's employer or employers.

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(d) The obligee shall file the following information:

31 (1) The names of the obligee and the child or32 children covered by the order for support.

33 (2) The dates of birth of the obligee and the child34 or children covered by the order for support.

-782-

(3) The social security numbers of the obligee and
 the child or children covered by the order for support.
 (4) The obligee's mailing address.
 (e) In cases in which the obligee receives child support
 enforcement services from the Illinois Department of Public

Aid under Article X of the Illinois Public Aid Code, the order for support shall (i) require that the obligee file the information required under subsection (d) with the Illinois Department of Public Aid for inclusion in the State Case Registry, rather than file the information with the clerk, and (ii) require that the obligee include the following additional information:

13 (1) The obligee's telephone and driver's license14 numbers.

15 (2) The obligee's residential address, if different16 from the obligee's mailing address.

17 (3) The name, address, and telephone number of the18 obligee's employer or employers.

19 The order for support shall also require that the obligee 20 update the information filed with the Illinois Department of 21 Public Aid within 5 business days of any change.

(f) The clerk shall provide the information filed under this Section, together with the court docket number and county in which the order for support was entered, to the State Case Registry within 5 business days after receipt of the information.

(g) In a case in which a party is receiving child support enforcement services under Article X of the Illinois Public Aid Code, the clerk shall provide the following additional information to the State Case Registry within 5 business days after entry or modification of an order for support or request from the Illinois Department of Public Aid:

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(1) The amount of monthly or other periodic support

-783-

owed under the order for support and other amounts,
 including arrearage, interest, or late payment penalties
 and fees, due or overdue under the order.

4 (2) Any such amounts that have been received by the 5 clerk, and the distribution of those amounts by the 6 clerk.

7 (h) Information filed by the obligor and obligee under this Section that is not specifically required to be included 8 9 in the body of an order for support under other laws is not a public record and shall be treated as confidential and 10 11 subject to disclosure only in accordance with the provisions of this Section, Section 10-27 of the Illinois Public Aid 12 Code, and Title IV, Part D of the Social Security Act. be 13 (Source: P.A. 91-212, eff. 7-20-99; 92-16, eff. 6-28-01; 14 92-463, eff. 8-22-01; revised 10-12-01.) 15

16 (750 ILCS 5/510) (from Ch. 40, par. 510)

Sec. 510. Modification and termination of provisions for maintenance, support, educational expenses, and property disposition.

(a) Except as otherwise provided in paragraph (f) of 20 Section 502 and in subsection (b) (d), clause (3) of Section 21 22 505.2, the provisions of any judgment respecting maintenance or support may be modified only as to installments accruing 23 24 subsequent to due notice by the moving party of the filing of the motion for modification and, with respect to maintenance, 25 only upon a showing of a substantial change in circumstances. 26 An order for child support may be modified as follows: 27

(1) upon a showing of a substantial change incircumstances; and

30 (2) without the necessity of showing a substantial
31 change in circumstances, as follows:

32 (A) upon a showing of an inconsistency of at
33 least 20%, but no less than \$10 per month, between

1 the amount of the existing order and the amount of 2 child support that results from application of the guidelines specified in Section 505 of this Act 3 4 unless the inconsistency is due to the fact that the amount of the existing order resulted from a 5 deviation from the guideline amount and there has 6 7 not been a change in the circumstances that resulted 8 in that deviation; or

9 (B) Upon a showing of a need to provide for 10 the health care needs of the child under the order 11 through health insurance or other means. In no 12 event shall the eligibility for or receipt of 13 medical assistance be considered to meet the need to 14 provide for the child's health care needs.

The provisions of subparagraph (a)(2)(A) shall apply only in cases in which a party is receiving child and spouse support services from the Illinois Department of Public Aid under Article X of the Illinois Public Aid Code, and only when at least 36 months have elapsed since the order for child support was entered or last modified.

(b) The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this State.

(c) Unless otherwise agreed by the parties in a written agreement set forth in the judgment or otherwise approved by the court, the obligation to pay future maintenance is terminated upon the death of either party, or the remarriage of the party receiving maintenance, or if the party receiving maintenance cohabits with another person on a resident, continuing conjugal basis.

32 (d) Unless otherwise agreed in writing or expressly 33 provided in a judgment, provisions for the support of a child 34 are terminated by emancipation of the child, except as

1 otherwise provided herein, but not by the death of a parent 2 obligated to support or educate the child. An existing obligation to pay for support or educational expenses, or 3 4 both, is not terminated by the death of a parent. When a parent obligated to pay support or educational expenses, or 5 both, dies, the amount of support or educational expenses, or 6 7 both, may be enforced, modified, revoked or commuted to a 8 lump sum payment, as equity may require, and that 9 determination may be provided for at the time of the dissolution of the marriage or thereafter. 10

11 (e) The right to petition for support or educational expenses, or both, under Sections 505 and 513 is not 12 extinguished by the death of a parent. Upon a petition filed 13 before or after a parent's death, the court may award sums of 14 money out of the decedent's estate for the child's support or 15 16 educational expenses, or both, as equity may require. The time within which a claim may be filed against the estate of 17 a decedent under Sections 505 and 513 and subsection (d) 18 and this subsection shall be governed by the provisions of the 19 Probate Act of 1975, as a barrable, noncontingent claim. 20

(f) A petition to modify or terminate child support, custody, or visitation shall not delay any child support enforcement litigation or supplementary proceeding on behalf of the obligee, including, but not limited to, a petition for a rule to show cause, for non-wage garnishment, or for a restraining order.

27 (Source: P.A. 92-289, eff. 8-9-01; revised 12-07-01.)

28 Section 88. The Non-Support Punishment Act is amended by 29 changing Section 50 as follows:

30 (750 ILCS 16/50)

31 Sec. 50. Community service; work alternative program.

32 (a) In addition to any other penalties imposed against

1 an offender under this Act, the court may order the offender 2 to perform community service for not less than 30 and not more than 120 hours per month, if community service is 3 4 available in the jurisdiction and is funded and approved by 5 the county board of the county where the offense was 6 committed. In addition, whenever any person is placed on 7 supervision for committing an offense under this Act, the 8 supervision shall be conditioned on the performance of the 9 community service.

(b) In addition to any other penalties imposed against an 10 11 offender under this Act, the court may sentence the offender 12 to service in a work alternative program administered by the sheriff. The conditions of the program are that the offender 13 obtain or retain employment and participate in a 14 work 15 alternative program administered by the sheriff during 16 non-working hours. A person may not be required to participate in a work alternative program 17 under this subsection if the person is currently participating in a work 18 program pursuant to another provision of this Act, Section 19 10-11.1 of the Illinois Public Aid Code, Section 505.1 of the 20 21 Illinois Marriage and Dissolution of Marriage Act, or Section 22 15.1 of the Illinois Parentage Act of 1984.

(c) In addition to any other penalties imposed against an offender under this Act, the court may order, in cases where the offender has been in violation of this Act for 90 days or more, that the offender's Illinois driving privileges be suspended until the court determines that the offender is in compliance with this Act.

The court may determine that the offender is in compliance with this Act if the offender has agreed (i) to pay all required amounts of support and maintenance as determined by the court or (ii) to the garnishment of his or her income for the purpose of paying those amounts.

34 The court may also order that the offender be issued a

1 family financial responsibility driving permit that would 2 allow limited driving privileges for employment and medical purposes in accordance with Section 7-702.1 of the Illinois 3 Vehicle Code. The clerk of the circuit court shall certify 4 the order suspending the driving privileges of the offender 5 or granting the issuance of a family financial responsibility 6 7 driving permit to the Secretary of State on forms prescribed 8 by the Secretary. Upon receipt of the authenticated 9 documents, the Secretary of State shall suspend the offender's driving privileges until further order of the 10 11 court and shall, if ordered by the court, subject to the provisions of Section 7-702.1 of the Illinois Vehicle Code, 12 issue a family financial responsibility driving permit to the 13 offender. 14

(d) If the court determines that the offender has been 15 16 in violation of this Act for more than 60 days, the court may determine whether the offender has applied for or been issued 17 a professional license by the Department of Professional 18 19 Regulation or another licensing agency. If the court determines that the offender has applied for or been issued 20 21 such a license, the court may certify to the Department of Professional Regulation or other licensing agency that the 22 23 offender has been in violation of this Act for more than 60 days so that the Department or other agency may take 24 25 appropriate steps with respect to the license or application as provided in Section 10-65 of the Illinois Administrative 26 Procedure Act and Section 2105-15 of the Department of 27 Professional Regulation Law 60 of the Civil Administrative 28 29 Code of Illinois. The court may take the actions required under this subsection in addition to imposing any other 30 penalty authorized under this Act. 31

32 (Source: P.A. 91-613, eff. 10-1-99; revised 12-04-01.)

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Section 89. The Adoption Act is amended by changing

-788-

1 Section 1 as follows:

2 (750 ILCS 50/1) (from Ch. 40, par. 1501)

3 Sec. 1. Definitions. When used in this Act, unless the4 context otherwise requires:

A. "Child" means a person under legal age subject toadoption under this Act.

"Related child" means a child subject to adoption 7 в. 8 where either or both of the adopting parents stands in any of the following relationships to the child by blood or 9 10 marriage: parent, grand-parent, brother, sister, step-parent, step-grandparent, step-brother, step-sister, uncle, aunt, 11 great-uncle, great-aunt, or cousin of first degree. A child 12 whose parent has executed a final irrevocable consent to 13 adoption or a final irrevocable surrender for purposes of 14 15 adoption, or whose parent has had his or her parental rights terminated, is not a related child to that person, unless the 16 consent is determined to be void or is void pursuant to 17 18 subsection 0 of Section 10.

C. "Agency" for the purpose of this Act means a publicchild welfare agency or a licensed child welfare agency.

21 D. "Unfit person" means any person whom the court shall 22 find to be unfit to have a child, without regard to the likelihood that the child will be placed for adoption. 23 The 24 grounds of unfitness are any one or more of the following, except that a person shall not be considered an unfit person 25 for the sole reason that the person has relinquished a child 26 in accordance with the Abandoned Newborn Infant Protection 27 28 Act:

29

(a) Abandonment of the child.

30 (a-1) Abandonment of a newborn infant in a 31 hospital.

32 (a-2) Abandonment of a newborn infant in any33 setting where the evidence suggests that the parent

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intended to relinquish his or her parental rights.

2 (b) Failure to maintain a reasonable degree of 3 interest, concern or responsibility as to the child's 4 welfare.

5 (c) Desertion of the child for more than 3 months 6 next preceding the commencement of the Adoption 7 proceeding.

8 (d) Substantial neglect of the child if continuous9 or repeated.

10 (d-1) Substantial neglect, if continuous or 11 repeated, of any child residing in the household which 12 resulted in the death of that child.

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(e) Extreme or repeated cruelty to the child.

(f) Two or more findings of physical abuse to any 14 children under Section 4-8 of the Juvenile Court Act or 15 16 Section 2-21 of the Juvenile Court Act of 1987, the most recent of which was determined by the juvenile court 17 hearing the matter to be supported by clear 18 and convincing evidence; a criminal conviction or a finding 19 20 of not guilty by reason of insanity resulting from the 21 death of any child by physical child abuse; or a finding of physical child abuse resulting from the death of any 22 23 child under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987. 24

25 (g) Failure to protect the child from conditions26 within his environment injurious to the child's welfare.

(h) Other neglect of, or misconduct toward the 27 child; provided that in making a finding of unfitness the 28 29 court hearing the adoption proceeding shall not be bound by any previous finding, order or judgment affecting or 30 determining the rights of the parents toward the child 31 sought to be adopted in any other proceeding except such 32 proceedings terminating parental rights as shall be had 33 34 under either this Act, the Juvenile Court Act or the 1

Juvenile Court Act of 1987.

2 (i) Depravity. Conviction of any one of the following crimes shall create a presumption that a parent 3 4 is depraved which can be overcome only by clear and convincing evidence: (1) first degree murder in violation 5 of paragraph 1 or 2 of subsection (a) of Section 9-1 of 6 the Criminal Code of 1961 or conviction of second degree 7 murder in violation of subsection (a) of Section 9-2 of 8 9 the Criminal Code of 1961 of a parent of the child to be adopted; (2) first degree murder or second degree murder 10 11 of any child in violation of the Criminal Code of 1961; (3) attempt or conspiracy to commit first degree murder 12 second degree murder of any child in violation of the 13 or Criminal Code of 1961; (4) solicitation to commit murder 14 15 of any child, solicitation to commit murder of any child 16 for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961; 17 or (5) aggravated criminal sexual assault in violation of 18 Section 12-14(b)(1) of the Criminal Code of 1961. 19

There is a rebuttable presumption that a parent is 20 21 depraved if the parent has been criminally convicted of at least 3 felonies under the laws of this State or any 22 23 other state, or under federal law, or the criminal laws of any United States territory; and at least one of these 24 convictions took place within 5 years of the filing of 25 the petition or motion seeking termination of parental 26 27 rights.

28 There is a rebuttable presumption that a parent is 29 depraved if that parent has been criminally convicted of 30 either first or second degree murder of any person as 31 defined in the Criminal Code of 1961 within 10 years of 32 the filing date of the petition or motion to terminate 33 parental rights.

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(j) Open and notorious adultery or fornication.

-791-

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(j-1) (Blank).

2 (k) Habitual drunkenness or addiction to drugs,
3 other than those prescribed by a physician, for at least
4 one year immediately prior to the commencement of the
5 unfitness proceeding.

There is a rebuttable presumption that a parent is 6 7 unfit under this subsection with respect to any child to 8 which that parent gives birth where there is a confirmed 9 test result that at birth the child's blood, urine, or meconium contained any amount of a controlled substance 10 as defined in subsection (f) of Section 102 of the 11 Illinois Controlled Substances Act or metabolites of such 12 substances, the presence of which in the newborn infant 13 was not the result of medical treatment administered to 14 15 the mother or the newborn infant; and the biological 16 mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor 17 under subsection (c) of Section 2-3 of the Juvenile Court 18 Act of 1987. 19

(1) Failure to demonstrate a reasonable degree of
interest, concern or responsibility as to the welfare of
a new born child during the first 30 days after its
birth.

(m) Failure by a parent (i) to make reasonable 24 efforts to correct the conditions that were the basis for 25 the removal of the child from the parent, or (ii) to make 26 reasonable progress toward the return of the child to the 27 parent within 9 months after an adjudication of neglected 28 or abused minor under Section 2-3 of the Juvenile Court 29 Act of 1987 or dependent minor under Section 2-4 of that 30 31 Act, or (iii) to make reasonable progress toward the return of the child to the parent during any 9-month 32 period after the end of the initial 9-month period 33 34 following the adjudication of neglected or abused minor

1 under Section 2-3 of the Juvenile Court Act of 1987 or 2 dependent minor under Section 2-4 of that Act. If a service plan has been established as required under 3 4 Section 8.2 of the Abused and Neglected Child Reporting Act to correct the conditions that were the basis for the 5 removal of the child from the parent and if those 6 7 services were available, then, for purposes of this Act, 8 "failure to make reasonable progress toward the return of 9 the child to the parent" includes (I) the parent's failure to substantially fulfill his or her obligations 10 11 under the service plan and correct the conditions that brought the child into care within 9 months after the 12 adjudication under Section 2-3 or 2-4 of the Juvenile 13 Court Act of 1987 and (II) the parent's failure to 14 15 substantially fulfill his or her obligations under the 16 service plan and correct the conditions that brought the child into care during any 9-month period after the end 17 of the initial 9-month period following the adjudication 18 under Section 2-3 or 2-4 of the Juvenile Court Act of 19 1987. 20

21 (m-1) Pursuant to the Juvenile Court Act of 1987, a 22 child has been in foster care for 15 months out of any 22 month period which begins on or after the effective date 23 of this amendatory Act of 1998 unless the child's parent 24 can prove by a preponderance of the evidence that it is 25 more likely than not that it will be in the best 26 interests of the child to be returned to the parent 27 within 6 months of the date on which a petition for 28 29 termination of parental rights is filed under the Juvenile Court Act of 1987. The 15 month time limit is 30 31 tolled during any period for which there is a court finding that the appointed custodian or guardian failed 32 to make reasonable efforts to reunify the child with his 33 or her family, provided that (i) the finding of no 34

1 reasonable efforts is made within 60 days of the period 2 when reasonable efforts were not made or (ii) the parent filed a motion requesting a finding of no reasonable 3 4 efforts within 60 days of the period when reasonable efforts were not made. For purposes of this subdivision 5 (m-1), the date of entering foster care is the earlier 6 7 of: (i) the date of a judicial finding at an adjudicatory 8 hearing that the child is an abused, neglected, or 9 dependent minor; or (ii) 60 days after the date on which the child is removed from his or her parent, guardian, or 10 11 legal custodian.

(n) Evidence of intent to forgo his or her parental 12 13 rights, whether or not the child is a ward of the court, (1) as manifested by his or her failure for a period of 14 15 12 months: (i) to visit the child, (ii) to communicate 16 with the child or agency, although able to do so and not prevented from doing so by an agency or by court order, 17 or (iii) to maintain contact with or plan for the future 18 of the child, although physically able to do so, or (2) 19 as manifested by the father's failure, where he and the 20 21 mother of the child were unmarried to each other at the 22 time of the child's birth, (i) to commence legal proceedings to establish his paternity under the Illinois 23 Parentage Act of 1984 or the law of the jurisdiction of 24 the child's birth within 30 days of being informed, 25 pursuant to Section 12a of this Act, that he is the 26 father or the likely father of the child or, after being 27 so informed where the child is not yet born, within 30 28 29 days of the child's birth, or (ii) to make a good faith effort to pay a reasonable amount of the expenses related 30 to the birth of the child and to provide a reasonable 31 amount for the financial support of the child, the court 32 consider its determination all relevant 33 to in circumstances, including the financial condition of both 34

parents; provided that the ground for termination provided in this subparagraph (n)(2)(ii) shall only be available where the petition is brought by the mother or the husband of the mother.

Contact or communication by a parent with his or her 5 child that does not demonstrate affection and concern 6 7 does not constitute reasonable contact and planning under 8 subdivision (n). In the absence of evidence to the 9 contrary, the ability to visit, communicate, maintain contact, pay expenses and plan for the future shall be 10 11 presumed. The subjective intent of the parent, whether expressed or otherwise, unsupported by evidence of the 12 foregoing parental acts manifesting that intent, shall 13 not preclude a determination that the parent has intended 14 15 to forgo his or her parental rights. In making this 16 determination, the court may consider but shall not require a showing of diligent efforts by an authorized 17 agency to encourage the parent to perform the acts 18 specified in subdivision (n). 19

It shall be an affirmative defense to any allegation under paragraph (2) of this subsection that the father's failure was due to circumstances beyond his control or to impediments created by the mother or any other person having legal custody. Proof of that fact need only be by a preponderance of the evidence.

26 (o) Repeated or continuous failure by the parents,
27 although physically and financially able, to provide the
28 child with adequate food, clothing, or shelter.

29 (p) Inability to discharge parental 30 responsibilities supported by competent evidence from a 31 psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental 32 illness or mental retardation as defined in Section 1-116 33 34 of the Mental Health and Developmental Disabilities Code,

1 or developmental disability as defined in Section 1-106 2 of that Code, and there is sufficient justification to believe that the inability to discharge parental 3 4 responsibilities shall extend beyond a reasonable time period. However, this subdivision (p) shall not be 5 construed so as to permit a licensed clinical social 6 7 worker to conduct any medical diagnosis to determine 8 mental illness or mental impairment.

9 (q) The parent has been criminally convicted of 10 aggravated battery, heinous battery, or attempted murder 11 of any child.

(r) The child is in the temporary custody or 12 guardianship of the Department of Children and Family 13 Services, the parent is incarcerated as a result of 14 criminal conviction at the time the petition or motion 15 16 for termination of parental rights is filed, prior to incarceration the parent had little or no contact with 17 the child or provided little or no support for the child, 18 and the parent's incarceration will prevent the parent 19 from discharging his or her parental responsibilities for 20 21 the child for a period in excess of 2 years after the 22 filing of the petition or motion for termination of 23 parental rights.

(s) The child is in the temporary custody or 24 25 guardianship of the Department of Children and Family Services, the parent is incarcerated at the time the 26 petition or motion for termination of parental rights is 27 filed, the parent has been repeatedly incarcerated as 28 а 29 result of criminal convictions, and the parent's repeated 30 incarceration has prevented the parent from discharging his or her parental responsibilities for the child. 31

32 (t) A finding that at birth the child's blood,
33 urine, or meconium contained any amount of a controlled
34 substance as defined in subsection (f) of Section 102 of

1 the Illinois Controlled Substances Act, or a metabolite 2 of a controlled substance, with the exception of controlled substances or metabolites of such substances, 3 4 the presence of which in the newborn infant was the result of medical treatment administered to the mother or 5 the newborn infant, and that the biological mother of 6 7 this child is the biological mother of at least one other 8 child who was adjudicated a neglected minor under 9 subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the 10 11 opportunity to enroll in and participate in a clinically appropriate substance abuse counseling, treatment, and 12 13 rehabilitation program.

"Parent" means the father or mother of a legitimate 14 Ε. 15 or illegitimate child. For the purpose of this Act, a person 16 who has executed a final and irrevocable consent to adoption a final and irrevocable surrender for purposes of 17 or adoption, or whose parental rights have been terminated by a 18 19 court, is not a parent of the child who was the subject of the consent or surrender, unless the consent is void pursuant 20 to subsection 0 of Section 10. 21

F. A person is available for adoption when the personis:

(a) a child who has been surrendered for adoption
to an agency and to whose adoption the agency has
thereafter consented;

(b) a child to whose adoption a person authorized
by law, other than his parents, has consented, or to
whose adoption no consent is required pursuant to Section
8 of this Act;

31 (c) a child who is in the custody of persons who 32 intend to adopt him through placement made by his 33 parents;

34

(c-1) a child for whom a parent has signed a

specific consent pursuant to subsection 0 of Section 10;
 (d) an adult who meets the conditions set forth in
 Section 3 of this Act; or

4 (e) a child who has been relinquished as defined in
5 Section 10 of the Abandoned Newborn Infant Protection
6 Act.

A person who would otherwise be available for adoption
shall not be deemed unavailable for adoption solely by reason
of his or her death.

10 G. The singular includes the plural and the plural 11 includes the singular and the "male" includes the "female", 12 as the context of this Act may require.

H. "Adoption disruption" occurs when an adoptive placement does not prove successful and it becomes necessary for the child to be removed from placement before the adoption is finalized.

17 I. "Foreign placing agency" is an agency or individual 18 operating in a country or territory outside the United States 19 that is authorized by its country to place children for 20 adoption either directly with families in the United States 21 or through United States based international agencies.

J. "Immediate relatives" means the biological parents,
the parents of the biological parents and siblings of the
biological parents.

K. "Intercountry adoption" is a process by which a childfrom a country other than the United States is adopted.

27 L. "Intercountry Adoption Coordinator" is a staff person 28 of the Department of Children and Family Services appointed 29 by the Director to coordinate the provision of services by 30 the public and private sector to prospective parents of 31 foreign-born children.

32 M. "Interstate Compact on the Placement of Children" is 33 a law enacted by most states for the purpose of establishing 34 uniform procedures for handling the interstate placement of children in foster homes, adoptive homes, or other child care
 facilities.

N. "Non-Compact state" means a state that has not
enacted the Interstate Compact on the Placement of Children.

5 O. "Preadoption requirements" are any conditions 6 established by the laws or regulations of the Federal 7 Government or of each state that must be met prior to the 8 placement of a child in an adoptive home.

9 P. "Abused child" means a child whose parent or 10 immediate family member, or any person responsible for the 11 child's welfare, or any individual residing in the same home 12 as the child, or a paramour of the child's parent:

(a) inflicts, causes to be inflicted, or allows to
be inflicted upon the child physical injury, by other
than accidental means, that causes death, disfigurement,
impairment of physical or emotional health, or loss or
impairment of any bodily function;

(b) creates a substantial risk of physical injury to the child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(c) commits or allows to be committed any sex offense against the child, as sex offenses are defined in the Criminal Code of 1961 and extending those definitions of sex offenses to include children under 18 years of age;

28 (d) commits or allows to be committed an act or29 acts of torture upon the child; or

30

(e) inflicts excessive corporal punishment.

Q. "Neglected child" means any child whose parent or other person responsible for the child's welfare withholds or denies nourishment or medically indicated treatment including food or care denied solely on the basis of the present or 1 anticipated mental or physical impairment as determined by a 2 acting alone or in consultation with other physician physicians or otherwise does not provide the proper or 3 4 necessary support, education as required by law, or medical 5 or other remedial care recognized under State law as necessary for a child's well-being, or other care necessary 6 7 for his or her well-being, including adequate food, clothing 8 and shelter; or who is abandoned by his or her parents or 9 other person responsible for the child's welfare.

A child shall not be considered neglected or abused for 10 11 the sole reason that the child's parent or other person responsible for his or her welfare depends upon spiritual 12 means through prayer alone for the treatment or cure of 13 disease or remedial care as provided under Section 4 of 14 the 15 Abused and Neglected Child Reporting Act. A child shall not 16 be considered neglected or abused for the sole reason that the child's parent or other person responsible for the 17 child's welfare failed to vaccinate, delayed vaccination, 18 or 19 refused vaccination for the child due to a waiver on 20 religious or medical grounds as permitted by the law.

21 R. "Putative father" means a man who may be a child's father, but who (1) is not married to the child's mother on 22 23 or before the date that the child was or is to be born and (2) has not established paternity of the child in a court 24 25 proceeding before the filing of a petition for the adoption of the child. The term includes a male who is less than 18 26 years of age. "Putative father" does not mean a man who is 27 the child's father as a result of criminal sexual abuse or 28 29 assault as defined under Article 12 of the Criminal Code of 30 1961. A child shall not be considered neglected or abused for the sole reason that the child's parent or other person 31 responsible for the child's welfare failed to vaccinate, 32 delayed vaccination, or refused vaccination for the child due 33 34 to a waiver on religious or medical grounds as permitted by SB1854 Engrossed

1 the law.

2 S. "Standby adoption" means an adoption in which a 3 terminally ill parent consents to custody and termination of 4 parental rights to become effective upon the occurrence of a 5 future event, which is either the death of the terminally ill 6 parent or the request of the parent for the entry of a final 7 judgment of adoption.

8 T. "Terminally ill parent" means a person who has a 9 medical prognosis by a physician licensed to practice 10 medicine in all of its branches that the person has an 11 incurable and irreversible condition which will lead to 12 death.

13 (Source: P.A. 91-357, eff. 7-29-99; 91-373, eff. 1-1-00; 14 91-572, eff. 1-1-00; 92-16, eff. 6-28-01; 92-375, eff. 15 1-1-02; 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; revised 16 10-15-01.)

Section 90. The Illinois Domestic Violence Act of 1986is amended by changing Section 222 as follows:

19 (750 ILCS 60/222) (from Ch. 40, par. 2312-22)

20 Sec. 222. Notice of orders.

(a) Entry and issuance. Upon issuance of any order of protection, the clerk shall immediately, or on the next court day if an emergency order is issued in accordance with subsection (c) of Section 217, (i) enter the order on the record and file it in accordance with the circuit court procedures and (ii) provide a file stamped copy of the order to respondent, if present, and to petitioner.

(b) Filing with sheriff. The clerk of the issuing judge shall, or the petitioner may, on the same day that an order of protection is issued, file a certified copy of that order with the sheriff or other law enforcement officials charged with maintaining Department of State Police records or 1 charged with serving the order upon respondent. If the order 2 was issued in accordance with subsection (c) of Section 217, 3 the clerk shall on the next court day, file a certified copy 4 of the order with the Sheriff or other law enforcement 5 officials charged with maintaining Department of State Police 6 records.

(c) Service by sheriff. Unless respondent was present 7 8 in court when the order was issued, the sheriff, other law enforcement official or special process server shall promptly 9 serve that order upon respondent and file proof of such 10 11 service, in the manner provided for service of process in civil proceedings. Instead of serving the order upon the 12 respondent, however, the sheriff, other law enforcement 13 official, or special process server may serve the respondent 14 15 with a short form notification as provided in Section 222.10. 16 If process has not yet been served upon the respondent, it shall be served with the order or short form notification. A 17 single fee may be charged for service of an order obtained in 18 19 civil court, or for service of such an order together with process, unless waived or deferred under Section 210. 20

21 (c-5) If the person against whom the order of protection issued is arrested and the written order is issued in 22 is 23 accordance with subsection (c) of Section 217 and received by the custodial law enforcement agency before the respondent or 24 25 arrestee is released from custody, the custodial law 26 enforcement agent shall promptly serve the order upon the respondent or arrestee before the respondent or arrestee is 27 released from custody. In no event shall detention of the 28 29 respondent or arrestee be extended for hearing on the 30 petition for order of protection or receipt of the order issued under Section 217 of this Act. 31

32 (d) Extensions, modifications and revocations. Any
 33 order extending, modifying or revoking any order of
 34 protection shall be promptly recorded, issued and served as

SB1854 Engrossed

-802-

1 provided in this Section.

2 (e) Notice to schools. Upon the request of the petitioner, within 24 hours of the issuance of an order of 3 4 protection, the clerk of the issuing judge shall send written notice of the order of protection along with a certified copy 5 б of the order of protection to the day-care facility, 7 pre-school or pre-kindergarten, or private school or the 8 principal office of the public school district or any college 9 or university in which any child who is a protected person under the order of protection or any child of the petitioner 10 11 is enrolled. If the child transfers enrollment to another day-care facility, pre-school, pre-kindergarten, private 12 school, public school, college, or university, the petitioner 13 may, within 24 hours of the transfer, send to the clerk 14 15 written notice of the transfer, including the name and 16 address of the institution to which the child is transferring. Within 24 hours of receipt of notice from the 17 petitioner that a child is transferring to another day-care 18 facility, pre-school, pre-kindergarten, private school, 19 public school, college, or university, the clerk shall send 20 21 written notice of the order of protection, along with a 22 certified copy of the order, to the institution to which the 23 child is transferring.

Disclosure by schools. After receiving a certified 24 (f) 25 copy of an order of protection that prohibits a respondent's access to records, neither a day-care facility, pre-school, 26 pre-kindergarten, public or private school, college, or 27 university nor its employees shall allow a respondent access 28 29 to a protected child's records or release information in 30 those records to the respondent. The school shall file the copy of the order of protection in the records of a child who 31 is a protected person under the order of protection. When a 32 33 child who is a protected person under the order of protection 34 transfers to another day-care facility, pre-school,

1 pre-kindergarten, public or private school, college, or 2 university, the institution from which the child is transferring may, at the request of the petitioner, provide, 3 4 within 24 hours of the transfer, written notice of the order of protection, along with a certified copy of the order, to 5 б the institution to which the child is transferring. (Source: P.A. 92-90, eff. 7-18-01; 92-162, eff. 1-1-02; 7 revised 9-18-01.) 8

9 Section 91. The Cemetery Care Act is amended by changing10 Section 2 as follows:

11 (760 ILCS 100/2) (from Ch. 21, par. 64.2)

Sec. 2. Definitions. The following words, terms and phrases used in this Act, for the purpose of this Act, have the following meanings:

15 "Person" means any person, partnership, association, 16 corporation, or other entity.

17 "Trustee" means any person authorized to hold funds under18 this Act.

19 "Comptroller" means the Comptroller of the State of 20 Illinois.

"Care" means the maintenance of a cemetery and of the 21 lots, graves, crypts, niches, family mausoleums, memorials, 22 23 and markers therein; including: (i) the cutting and trimming of lawn, shrubs, and trees at reasonable intervals; (ii) 24 keeping in repair the drains, water lines, roads, buildings, 25 fences, and other structures, in keeping with a 26 well 27 maintained cemetery; (iii) maintenance of machinery, tools, 28 and equipment for such care; (iv) compensation of employees, payment of insurance premiums, and reasonable payments for 29 30 employees pension and other benefits plans; and (v) to the 31 extent surplus income from the care fund is available, the 32 payment of overhead expenses necessary for such purposes and for maintaining necessary records of lot ownership,
 transfers, and burials.

"Care funds" as distinguished from receipts from annual 3 4 charges or gifts for current or annual care, means any realty or personalty impressed with a trust by the terms of any 5 6 gift, grant, contribution, payment, legacy, or pursuant to 7 contract, accepted by any cemetery authority owning, 8 operating, controlling or managing a privately operated 9 cemetery, or by any trustee or licensee, agent or custodian for the same, under Section 3 of this Act, and the amounts 10 11 set aside under Section 4 of this Act, and any income accumulated therefrom, where legally so directed by the terms 12 of the transaction by which the principal was established. 13

14 "Cemetery" means any land or structure in this State 15 dedicated to and used, or intended to be used, for the 16 interment of human remains.

17 "Cemetery authority" means any person, firm, corporation, 18 trustee, partnership, association or municipality owning, 19 operating, controlling or managing a cemetery or holding 20 lands for burial grounds or burial purposes in this State.

21 "Mausoleum crypt" means a space in a mausoleum used or 22 intended to be used, above or under ground, to entomb human 23 remains.

24 "Family burying ground" means a cemetery in which no lots 25 are sold to the public and in which interments are restricted 26 to a group of persons related to each other by blood or 27 marriage.

28 "Fraternal cemetery" means a cemetery owned, operated, 29 controlled, or managed by any fraternal organization or 30 auxiliary organizations thereof, in which the sale of lots, 31 graves, crypts or niches is restricted principally to its 32 members.

33 "Grave" means a space of ground in a cemetery, used, or 34 intended to be used, for burial. "Investment Company Act of 1940" means Title 15, of the
 United States Code, Sections 80a-1 to 80a-51, inclusive, as
 amended.

4 "Investment Company" issuer (a) whose means any 5 securities are purchasable only with care funds or trust б funds, or both; and (b) which is an open and diversified 7 management company as defined in and registered under the "Investment Company Act of 1940"; and (c) which has entered 8 9 into an agreement with the Comptroller containing such provisions as the Comptroller by regulation reasonably 10 11 requires for the proper administration of this Act.

"Municipal cemetery" means a cemetery owned, operated, controlled or managed by any city, village, incorporated town, township, county, or other municipal corporation, political subdivision, or instrumentality thereof authorized by law to own, operate, or manage a cemetery.

17 "Niche" means a space in a columbarium used or intended18 to be used, for inurnment of cremated human remains.

19 "Privately operated cemetery" means any entity that 20 offers interment rights, entombment rights, or <u>inurnments</u> 21 inurnments rights, other than a fraternal, municipal, State, 22 federal or religious cemetery or a family burying ground.

23 "Religious cemetery" means a cemetery owned, operated, 24 controlled, or managed by any recognized church, religious 25 society, association or denomination, or by any cemetery 26 authority or any corporation administering, or through which 27 is administered, the temporalities of any recognized church, 28 religious society, association or denomination.

29 "State or federal cemetery" means a cemetery owned, 30 operated, controlled, or managed by any State or the federal 31 government or any political subdivision or instrumentality 32 thereof.

33 "Entombment right" means the right to place individual34 human remains or individual cremated human remains in a

specific mausoleum crypt or lawn crypt selected by the
 consumer for use as a final resting place.

3 "Interment right" means the right to place individual 4 human remains or cremated human remains in a specific 5 underground location selected by the consumer for use as a 6 final resting place.

7 "Inurnment right" means the right to place individual 8 cremated human remains in a specific niche selected by the 9 consumer for use as a final resting place.

10 "Lawn crypt" means a permanent underground crypt usually 11 constructed of reinforced concrete or similar material 12 installed in multiple units for the entombment of human 13 remains.

14 "Imputed value" means the retail price of comparable 15 rights within the same or similar area of the cemetery. 16 (Source: P.A. 90-623, eff. 7-10-98; revised 12-07-01.)

Section 92. The General Not For Profit Corporation Actof 1986 is amended by changing Section 115.10 as follows:

19 (805 ILCS 105/115.10) (from Ch. 32, par. 115.10)

20 Sec. 115.10. Fees for filing documents and issuing 21 certificates. The Secretary of State shall charge and 22 collect for:

23 (a) Filing articles of incorporation, \$50.

(b) Filing articles of amendment, \$25, unless the
amendment is a restatement of the articles of incorporation,
in which case the fee shall be \$100.

27 (c) Filing articles of merger θ r, \$25.

28 (d) Filing articles of dissolution, \$5.

(e) Filing application to reserve a corporate name, \$25.
(f) Filing a notice of transfer of a reserved corporate
name, \$25.

32 (g) Filing statement of change of address of registered

office or change of registered agent, or both, if other than
 on an annual report, \$5.

3 (h) Filing an application of a foreign corporation for4 authority to conduct affairs in this State, \$50.

5 (i) Filing an application of a foreign corporation for 6 amended authority to conduct affairs in this State, \$25.

7 (j) Filing a copy of amendment to the articles of 8 incorporation of a foreign corporation holding authority to 9 conduct affairs in this State, \$25, unless the amendment is a 10 restatement of the articles of incorporation, in which case 11 the fee shall be \$100.

12 (k) Filing a copy of articles of merger of a foreign
13 corporation holding authority to conduct affairs in this
14 State, \$25.

(1) Filing an application for withdrawal and final report or a copy of articles of dissolution of a foreign corporation, \$5.

18 (m) Filing an annual report of a domestic or foreign19 corporation, \$5.

20 (n) Filing an application for reinstatement of a21 domestic or a foreign corporation, \$25.

(o) Filing an application for use or change of an
assumed corporate name, \$150 for each year or part thereof
ending in 0 or 5, \$120 for each year or part thereof ending
in 1 or 6, \$90 for each year or part thereof ending in 2 or
7, \$60 for each year or part thereof ending in 3 or 8, \$30
for each year or part thereof ending in 4 or 9, and a renewal
fee for each assumed corporate name, \$150.

(p) Filing an application for change or cancellation ofan assumed corporate name, \$5.

31 (q) Filing an application to register the corporate name 32 of a foreign corporation, \$50; and an annual renewal fee for 33 the registered name, \$50.

34 (r) Filing an application for cancellation of a

1	registered name of a foreign corporation, \$5.
2	(s) Filing a statement of correction, \$25.
3	(t) Filing an election to accept this Act, \$25.
4	(u) Filing any other statement or report, \$5.
5	(Source: P.A. 92-33, eff. 7-1-01; revised 1-25-02.)
6	Section 93. The Uniform Commercial Code is amended b

-808-

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SB1854 Engrossed

- 6 Section 93. The Uniform Commercial Code is amended by
 7 changing Section 2A-103 as follows:
- 8 (810 ILCS 5/2A-103) (from Ch. 26, par. 2A-103)
- 9 Sec. 2A-103. Definitions and index of definitions.
- 10 (1) In this Article unless the context otherwise 11 requires:

(a) "Buyer in ordinary course of business" means a 12 person who, in good faith and without knowledge that the 13 14 sale to him or her is in violation of the ownership rights or security interest or leasehold interest of a 15 third party in the goods, buys in ordinary course from a 16 17 person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash 18 19 or by exchange of other property or on secured or credit and includes receiving goods or 20 unsecured 21 documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security 22 23 for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts anend to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as
by commercial usage is a single whole for purposes of
lease and division of which materially impairs its
character or value on the market or in use. A commercial
unit may be a single article, as a machine, or a set of
articles, as a suite of furniture or a line of machinery,
or a quantity, as a gross or carload, or any other unit

1 treated in use or in the relevant market as a single 2 whole. (d) "Conforming" goods or performance under a lease 3 4 contract means goods or performance that are in accordance with the obligations under the lease contract. 5 (e) "Consumer lease" means a lease that a lessor 6 7 regularly engaged in the business of leasing or selling 8 makes to a lessee who is an individual and who takes 9 under the lease primarily for a personal, family, or household purpose, if the total payments to be made under 10 11 the lease contract, excluding payments for options to renew or buy, do not exceed \$40,000. 12 (f) "Fault" means wrongful act, omission, breach, 13 or default. 14 15 (q) "Finance lease" means a lease with respect to 16 which: (i) the lessor does not select, manufacture, 17 or supply the goods; 18 19 (ii) the lessor acquires the goods or the right to possession and use of the goods in 20 21 connection with the lease; and (iii) one of the following occurs: 22 23 (A) the lessee receives a copy of the contract by which the lessor acquired the goods 24 25 or the right to possession and use of the goods before signing the lease contract; 26 (B) the lessee's approval of the contract 27 by which the lessor acquired the goods or the 28 29 right to possession and use of the goods is a 30 condition to effectiveness of the lease 31 contract; 32 (C) the lessee, before signing the lease 33 contract, receives an accurate and complete 34 statement designating the promises and SB1854 Engrossed

1 warranties, and any disclaimers of warranties, 2 limitations or modifications of remedies, or liquidated damages, including those of a third 3 4 party, such as the manufacturer of the goods, provided to the lessor by the person supplying 5 the goods in connection with or as part of the 6 7 contract by which the lessor acquired the goods 8 or the right to possession and use of the 9 goods; or

(D) if the lease is not a consumer lease, 10 11 the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of 12 the identity of the person supplying the goods 13 to the lessor, unless the lessee has selected 14 15 that person and directed the lessor to acquire 16 the goods or the right to possession and use of the goods from that person, (b) that the lessee 17 is entitled under this Article to the promises 18 19 and warranties, including those of any third party, provided to the lessor by the person 20 21 supplying the goods in connection with or as 22 part of the contract by which the lessor 23 acquired the goods or the right to possession and use of the goods, and (c) that the lessee 24 25 may communicate with the person supplying the goods to the lessor and receive an accurate and 26 complete statement of those promises 27 and warranties, including any disclaimers and 28 limitations of them or of remedies. 29

30 (h) "Goods" means all things that are movable at 31 the time of identification to the lease contract, or are 32 fixtures (Section 2A-309), but the term does not include 33 money, documents, instruments, accounts, chattel paper, 34 general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes
 the unborn young of animals.

3 (i) "Installment lease contract" means a lease
4 contract that authorizes or requires the delivery of
5 goods in separate lots to be separately accepted, even
6 though the lease contract contains a clause "each
7 delivery is a separate lease" or its equivalent.

8 (j) "Lease" means a transfer of the right to 9 possession and use of goods for a term in return for 10 consideration, but a sale, including a sale on approval 11 or a sale or return, or retention or creation of a 12 security interest is not a lease. Unless the context 13 clearly indicates otherwise, the term includes a 14 sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(1) "Lease contract" means the total legal
obligation that results from the lease agreement as
affected by this Article and any other applicable rules
of law. Unless the context clearly indicates otherwise,
the term includes a sublease contract.

27 (m) "Leasehold interest" means the interest of the
28 lessor or the lessee under a lease <u>contract</u> contact.

(n) "Lessee" means a person who acquires the right
to possession and use of goods under a lease. Unless the
context clearly indicates otherwise, the term includes a
sublessee.

33 (o) "Lessee in ordinary course of business" means a
 34 person who in good faith and without knowledge that the

1 lease to him or her is in violation of the ownership 2 rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a 3 4 person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" 5 may be for cash or by exchange of other property or on 6 7 secured or unsecured credit and includes receiving goods 8 or documents of title under a pre-existing lease contract 9 but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt. 10

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

15 (q) "Lessor's residual interest" means the lessor's
16 interest in the goods after expiration, termination, or
17 cancellation of the lease contract.

18 (r) "Lien" means a charge against or interest in 19 goods to secure payment of a debt or performance of an 20 obligation, but the term does not include a security 21 interest.

(s) "Lot" means a parcel or a single article that
is the subject matter of a separate lease or delivery,
whether or not it is sufficient to perform the lease
contract.

26 (t) "Merchant lessee" means a lessee that is a 27 merchant with respect to goods of the kind subject to the 28 lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount -813-

1 is determined by a commercially reasonable rate that 2 takes into account the facts and circumstances of each case at the time the transaction was entered into. 3 4 (v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other 5 voluntary transaction creating an interest in goods. 6 (w) "Sublease" means a lease of goods the right to 7 possession and use of which was acquired by the lessor as 8 9 a lessee under an existing lease. (x) "Supplier" means a person from whom a lessor 10 11 buys or leases goods to be leased under a finance lease. (y) "Supply contract" means a contract under which 12 13 a lessor buys or leases goods to be leased. (z) "Termination" occurs when either party pursuant 14 15 to a power created by agreement or law puts an end to the 16 lease contract otherwise than for default. (2) Other definitions applying to this Article and the 17 Sections in which they appear are: 18 19 "Accessions". Section 2A-310(1). "Construction mortgage". Section 2A-309(1)(d). 20 "Encumbrance". Section 2A-309(1)(e). 21 22 "Fixtures". Section 2A-309(1)(a). 23 "Fixture filing". Section 2A-309(1)(b). "Purchase money lease". Section 2A-309(1)(c). 24 25 (3) The following definitions in other Articles apply to this Article: 26 "Account". Section 9-102(a)(2). 27 "Between merchants". Section 2-104(3). 28 "Buyer". Section 2-103(1)(a). 29 30 "Chattel paper". Section 9-102(a)(11). "Consumer goods". Section 9-102(a)(23). 31 "Document". Section 9-102(a)(30). 32 "Entrusting". Section 2-403(3). 33 "General intangible". Section 9-102(a)(42). 34

-814-

"Good faith". Section 2-103(1)(b). 1 "Instrument". Section 9-102(a)(47). 2 "Merchant". Section 2-104(1). 3 4 "Mortgage". Section 9-102(a)(55). 5 "Pursuant to commitment". Section 9-102(a)(68). "Receipt". Section 2-103(1)(c). 6 "Sale". Section 2-106(1). 7 "Sale on approval". Section 2-326. 8 9 "Sale or return". Section 2-326. "Seller". Section 2-103(1)(d). 10 11 (4) In addition, Article 1 contains general definitions 12 and principles of construction and interpretation applicable throughout this Article. 13

14 (Source: P.A. 91-893, eff. 7-1-01; revised 12-07-01.)

Section 94. The Consumer Fraud and Deceptive Business Practices Act is amended by setting forth and renumbering multiple versions of Section 2KK as follows:

18 (815 ILCS 505/2KK)

Sec. 2KK. Animal cremation services. It is an unlawful 19 20 practice within the meaning of this Act for a provider of 21 companion animal cremation services (1) to fail to prepare or distribute a written explanation of services as required by 22 23 the Companion Animal Cremation Act; (2) to prepare or distribute a written explanation of services under that Act 24 that the provider knows or should know to be false or 25 misleading; or (3) to knowingly make a false certification 26 under Section 20 of that Act. 27

28 (Source: P.A. 92-287, eff. 1-1-02.)

29 (815 ILCS 505/2LL)

30 Sec. <u>2LL.</u> 2KK- Halal food; disclosure.

31 (a) As used in this Section:

1 "Dealer" means any establishment that advertises, 2 represents, or holds itself out as growing animals in a halal 3 way or selling, preparing, or maintaining food as halal, 4 including, but not limited to, manufacturers, animals' farms, 5 slaughterhouses, wholesalers, stores, restaurants, hotels, 6 catering facilities, butcher shops, summer camps, bakeries, 7 delicatessens, supermarkets, grocery stores, licensed health 8 care facilities, freezer dealers, and food plan companies. 9 These establishments may also sell, prepare or maintain food not represented as halal. 10

11

"Director" means the Director of Agriculture.

12 "Food" means an animal grown to become food for human 13 consumption, a food, a food product, a food ingredient, a 14 dietary supplement, or a beverage.

15 "Halal" means prepared under and maintained in strict 16 compliance with the laws and customs of the Islamic religion 17 including but not limited to those laws and customs of 18 zabiha/zebeeha (slaughtered according to appropriate Islamic 19 codes), and as expressed by reliable recognized Islamic 20 entities and scholars.

21 (b) Any dealer who grows animals represented to be grown 22 in a halal way or who prepares, distributes, sells, or 23 exposes for sale any food represented to be halal shall disclose the basis upon which those representations are made 24 25 by posting the information required by the Director, in accordance with rules adopted by the Director, on a sign of a 26 type and size specified by the Director, in a conspicuous 27 place upon the premises at which the food is sold or exposed 28 29 for sale, as required by the Director.

30 (c) Any person subject to the requirements of subsection 31 (b) does not commit an unlawful practice if the person shows 32 by a preponderance of the evidence that the person relied in 33 good faith upon the representations of an animals' farm, 34 slaughterhouse, manufacturer, processor, packer, or -816-

1 distributor of any food represented to be halal.

2 (d) Possession by a dealer of any animal grown to become 3 food for consumption or any food not in conformance with the 4 disclosure required by subsection (b) with respect to that 5 food is presumptive evidence that the person is in possession 6 of that food with the intent to sell.

7 (e) Any dealer who grows animals represented to be grown 8 in a halal way or who prepares, distributes, sells, or 9 exposes for sale any food represented to be halal shall 10 comply with all requirements of the Director, including, but 11 not limited to, recordkeeping, labeling and filing, in 12 accordance with rules adopted by the Director.

(f) Neither an animal represented to be grown in a halal way to become food for human consumption, nor a food commodity represented as halal, may be offered for sale by a dealer until the dealer has registered, with the Director, documenting information of the certifying Islamic entity specialized in halal food or the supervising Muslim Inspector of Halal Food.

20 (g) The Director shall adopt rules to carry out this 21 Section in accordance with the Illinois Administrative 22 Procedure Act.

(h) It is an unlawful practice under this Act to violate
this Section or the rules adopted by the Director to carry
out this Section.

26 (Source: P.A. 92-394, eff. 1-1-02; revised 10-17-01.)

27 Section 95. The Business Opportunity Sales Law of 1995 28 is amended by changing Section 5-60 as follows:

29 (815 ILCS 602/5-60)

30 Sec. 5-60. Investigations and subpoenas.

31 (a) The Secretary of State:

32 (1) may make such public or private investigations

within or outside of this State as the Secretary of State deems necessary to determine whether any person has violated or is about to violate any provision of this Law or any rule, regulation, or order under this Law, or to aid in the enforcement of this Law or in the prescribing of rules and forms under this Law;

7 (2) may require or permit any person to file a 8 statement, under oath or otherwise as the Secretary of 9 State determines, as to all the facts and circumstances 10 concerning the matter to be investigated; and

11 (3) may publish information concerning any 12 violation of this Law or any rule, regulation, or order 13 under this Law.

(b) For the purpose of any investigation or proceeding 14 15 under this Law, the Secretary of State or his or her designee 16 may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require, by 17 subpoena or other lawful means provided by this Act or the 18 rules adopted by the Secretary of State, the production of 19 20 any books, papers, correspondence, memoranda, agreements, or 21 other documents or records which the Secretary of State deems 22 relevant or material to the inquiry.

(c) In case of contumacy by, or refusal to obey a
subpoena issued to any person <u>under this Section, the</u>
<u>Secretary of State</u>, through the Office of the Attorney
General, may bring an appropriate action in any circuit court
of the State of Illinois for the purpose of enforcing the
subpoena.

(d) It shall be a violation of the provisions of this Law for any person to fail to file with the Secretary of State any report, document, or statement required to be filed under the provisions of this Section or to fail to comply with the terms of any order of the Secretary of State issued pursuant to this Law. -818-

1

(Source: P.A. 92-308, eff. 1-1-02; revised 1-26-02.)

2 Section 96. The Motor Vehicle Franchise Act is amended3 by changing Section 6 as follows:

4 (815 ILCS 710/6) (from Ch. 121 1/2, par. 756)

5 Sec. 6. Warranty agreements; claims; approval; payment;
6 written disapproval.

7 (a) Every manufacturer, distributor, wholesaler,
8 distributor branch or division, factory branch or division,
9 or wholesale branch or division shall properly fulfill any
10 warranty agreement and adequately and fairly compensate each
11 of its motor vehicle dealers for labor and parts.

(b) In no event shall such compensation fail to include 12 13 reasonable compensation for diagnostic work, as well as 14 repair service, labor, and parts. Time allowances for the diagnosis and performance of warranty work and service shall 15 16 be reasonable and adequate for the work to be performed. Τn 17 the determination of what constitutes reasonable compensation 18 under this Section, the principal factor to be given 19 consideration shall be the prevailing wage rates being paid 20 by the dealer in the relevant market area in which the motor 21 vehicle dealer is doing business, and in no event shall such compensation of a motor vehicle dealer for warranty service 22 23 be less than the rates charged by such dealer for like service to retail customers for nonwarranty service and 24 repairs. The franchiser shall reimburse the franchisee for 25 any parts provided in satisfaction of a warranty at the 26 27 prevailing retail price charged by that dealer for the same 28 parts when not provided in satisfaction of a warranty; provided that such motor vehicle franchisee's prevailing 29 30 retail price is not unreasonable when compared with that of the holders of motor vehicle franchises from the same motor 31 vehicle franchiser for identical merchandise in the 32

SB1854 Engrossed

1 geographic area in which the motor vehicle franchisee is 2 in business. All claims, either original or engaged resubmitted, made by motor vehicle dealers hereunder and 3 4 under Section 5 for such labor and parts shall be either 5 approved or disapproved within 30 days following their 6 submission. All approved claims shall be paid within 30 days 7 following their approval. The motor vehicle dealer who 8 submits a claim which is disapproved shall be notified in 9 writing of the disapproval within the same period, and each such notice shall state the specific grounds upon which the 10 11 disapproval is based. The motor vehicle dealer shall be permitted to correct and resubmit such disapproved claims 12 within 30 days of receipt of disapproval. Any claims not 13 specifically disapproved in writing within 30 days from their 14 submission shall be deemed approved and payment shall follow 15 16 within 30 days. The manufacturer or franchiser shall have the right to require reasonable documentation for claims and 17 to audit such claims within a one year period from the date 18 19 the claim was paid or credit issued by the manufacturer or franchiser, and to charge back any false or unsubstantiated 20 21 claims. The audit and charge back provisions of this Section also apply to all other incentive and reimbursement programs 22 23 for a period of 18 months after the date of the transactions that are subject to audit by the franchiser. However, the 24 25 manufacturer retains the right to charge back any fraudulent claim if the manufacturer establishes in a court of competent 26 jurisdiction in this State that the claim is fraudulent. 27

motor vehicle franchiser shall not, 28 (C) The by agreement, by restrictions upon reimbursement, or otherwise, 29 30 restrict the nature and extent of services to be rendered or parts to be provided so that such restriction prevents the 31 32 motor vehicle franchisee from satisfying the warranty by rendering services in a good and workmanlike manner and 33 34 providing parts which are required in accordance with

generally accepted standards. Any such restriction shall
 constitute a prohibited practice.

(d) For the purposes of this Section, the "prevailing 3 4 retail price charged by that dealer for the same parts" means 5 the price paid by the motor vehicle franchisee for parts, б including all shipping and other charges, multiplied by the sum of 1.0 and the franchisee's average percentage markup 7 over the price paid by the motor vehicle franchisee for parts 8 9 purchased by the motor vehicle franchisee from the motor vehicle franchiser and sold at retail. 10 The motor vehicle 11 franchisee may establish average percentage markup under this Section by submitting to the motor vehicle franchiser 100 12 sequential customer paid service repair orders or 90 days of 13 customer paid service repair orders, whichever is less, 14 15 covering repairs made no more than 180 days before the 16 submission, and declaring what the average percentage markup is. The average percentage markup so declared shall go into 17 effect 30 days following the declaration, subject to audit of 18 19 the submitted repair orders by the motor vehicle franchiser 20 and adjustment of the average percentage markup based on that 21 audit. Any audit must be conducted within 30 days following 22 the declaration. Only retail sales not involving warranty 23 repairs, parts covered by subsection (e) of this Section, or parts supplied for routine vehicle maintenance, shall be 24 25 considered in calculating average percentage markup. No motor vehicle franchiser shall require a motor vehicle 26 27 franchisee to establish average percentage markup by a methodology, or by requiring information, that is unduly 28 29 burdensome or time consuming to provide, including, but not 30 limited to, part by part or transaction by transaction calculations. A motor vehicle franchisee shall not request a 31 change in the average percentage markup more than twice in 32 33 one calendar year.

34

(e) If a motor vehicle franchiser supplies a part or

1 parts for use in a repair rendered under a warranty other 2 than by sale of that part or parts to the motor vehicle franchisee, the motor vehicle franchisee shall be entitled to 3 4 compensation equivalent to the motor vehicle franchisee's 5 average percentage markup on the part or parts, as if the part or parts had been sold to the motor vehicle franchisee 6 by the motor vehicle franchiser. The requirements of this 7 subsection (e) shall not apply to entire engine assemblies 8 9 and entire transmission assemblies. In the case of those assemblies, the motor vehicle franchiser shall reimburse the 10 11 motor vehicle franchisee in the amount of 30% of what the motor vehicle franchisee would have paid the motor vehicle 12 franchiser for the assembly if the assembly had not been 13 supplied by the franchiser other than by the sale of that 14 15 assembly to the motor vehicle franchisee.

16 (f) The obligations imposed on motor vehicle franchisers by this Section shall apply to any parent, subsidiary, 17 affiliate, or agent of the motor vehicle franchiser, any 18 19 person under common ownership or control, any employee of the motor vehicle franchiser, and any person holding 1% or more 20 21 of the shares of any class of securities or other ownership interest in the motor vehicle franchiser, if a warranty or 22 23 service or repair plan is issued by that person instead of or in addition to one issued by the motor vehicle franchiser. 24

25 (g) (1) Any motor vehicle franchiser and at least a majority of its Illinois franchisees of the same line make 26 may agree in an express written contract citing this Section 27 uniform warranty reimbursement policy used by 28 upon а 29 contracting franchisees to perform warranty repairs. The 30 policy shall only involve either reimbursement for parts used in warranty repairs or the use of a Uniform Time Standards 31 32 Manual, or both. Reimbursement for parts under the agreement shall be used instead of the franchisees' "prevailing retail 33 price charged by that dealer for the same parts" as defined 34

in this Section to calculate compensation due from the
 franchiser for parts used in warranty repairs. This Section
 does not authorize a franchiser and its Illinois franchisees
 to establish a uniform hourly labor reimbursement.

5 Each franchiser shall only have one such agreement with6 each line make. Any such agreement shall:

7 (A) Establish a uniform parts reimbursement rate. 8 The uniform parts reimbursement rate shall be greater 9 than the franchiser's nationally established parts reimbursement rate in effect at the time the first such 10 11 agreement becomes effective; however, any subsequent agreement shall result in a uniform reimbursement rate 12 that is greater or equal to the rate set forth in the 13 immediately prior agreement. 14

(B) Apply to all warranty repair orders writtenduring the period that the agreement is effective.

17 (C) Be available, during the period it is
18 effective, to any motor vehicle franchisee of the same
19 line make at any time and on the same terms.

20 (D) Be for a term not to exceed 3 years so long as 21 any party to the agreement may terminate the agreement 22 upon the annual anniversary of the agreement and with 30 23 days' prior written notice; however, the agreement shall 24 remain in effect for the term of the agreement regardless 25 of the number of dealers of the same line make that may 26 terminate the agreement.

(2) A franchiser that enters into an agreement with its
franchisees pursuant to paragraph (1) of this subsection (g)
may seek to recover its costs from only those franchisees
that are receiving their "prevailing retail price charged by
that dealer" under subsections (a) through (f) of this
Section, subject to the following requirements:

33 (A) "costs" means the difference between the
34 uniform reimbursement rate set forth in an agreement

entered into pursuant to paragraph (1) of this subsection (g) and the "prevailing retail price charged by that dealer" received by those franchisees of the same line make;

5 (B) the costs shall be recovered only by increasing 6 the invoice price on new vehicles received by those 7 franchisees; and

(C) price increases imposed for the purpose of 8 9 recovering costs imposed by this Section may vary from time to time and from model to model, but shall apply 10 11 uniformly to all franchisees of the same line make in the 12 State of Illinois that have requested reimbursement for 13 warranty repairs at their "prevailing retail price charged by that dealer", except that a franchiser may 14 make an exception for vehicles that are titled in the 15 16 name of a consumer in another state.

(3) If a franchiser contracts with its Illinois dealers 17 pursuant to paragraph (1) of this subsection (g), the 18 19 franchiser shall certify under oath to the Motor Vehicle Review Board that a majority of the franchisees of that line 20 21 make did agree to such an agreement and file a sample copy of 22 the agreement. On an annual basis, each franchiser shall 23 certify under oath to the Motor Vehicle Review Board that the reimbursement costs it recovers under paragraph (2) of this 24 25 subsection (g) do not exceed the amounts authorized by paragraph (2) of this subsection (g). The franchiser shall 26 maintain for a period of 3 years a file that contains the 27 information upon which its certification is based. 28

(4) If a franchiser and its franchisees do not enter into an agreement pursuant to paragraph (1) of this subsection (g), and for any matter that is not the subject of an agreement, this subsection (g) shall have no effect whatsoever.

34

(5) For purposes of this subsection (g), a Uniform Time

1 Standard Manual is a document created by a franchiser that 2 establishes the time allowances for the diagnosis and performance of warranty work and service. The allowances 3 4 shall be reasonable and adequate for the work and service to 5 Each franchiser shall have a reasonable and be performed. 6 fair process that allows a franchisee to request a modification or adjustment of a standard or standards 7 included in such a manual. 8

9 (Source: P.A. 91-485, eff. 1-1-00; 92-498, eff. 12-12-01; 10 revised 1-25-02.)

Section 97. The Public Safety Employee Benefits Act is amended by changing Section 15 as follows:

13 (820 ILCS 320/15)

14 Sec. 15. Required educational benefits. If а firefighter, law enforcement, or correctional or correctional 15 16 probation officer is accidentally or unlawfully and 17 intentionally killed as specified in subsection (b) of Section 10 Section-5 on or after July 1, 1980, the State 18 19 shall waive certain educational expenses which children of the deceased incur while obtaining a vocational-technical 20 21 certificate or an undergraduate education at a State supported institution. The amount waived by the State shall 22 23 be an amount equal to the cost of tuition and matriculation and registration fees for a total of 120 credit hours. 24 The child may attend a State vocational-technical school, a 25 public community college, or a State university. The child 26 may attend any or all of the institutions specified in this 27 28 Section, on either a full-time or part-time basis. The benefits provided under this Section shall continue to the 29 child until the child's 25th birthday. 30

31 (1) Upon failure of any child benefited by the32 provisions of this Section to comply with the ordinary

and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits shall be withdrawn as to the child and no further moneys may be expended for the child's benefits so long as the failure or delinquency continues.

6 (2) Only a student in good standing in his or her 7 respective institution may receive the benefits under 8 this Section.

9 (3) A child receiving benefits under this Section 10 must be enrolled according to the customary rules and 11 requirements of the institution attended.

12 (Source: P.A. 90-535, eff. 11-14-97; revised 9-22-00.)

13 Section 997. No acceleration or delay. Where this Act 14 makes changes in a statute that is represented in this Act by 15 text that is not yet or no longer in effect (for example, a 16 Section represented by multiple versions), the use of that 17 text does not accelerate or delay the taking effect of (i) 18 the changes made by this Act or (ii) provisions derived from 19 any other Public Act.

20 Section 998. No revival or extension. This Act does not 21 revive or extend any Section or Act otherwise repealed.

Section 999. Effective date. This Act takes effect uponbecoming law.

SB1854 Engrossed -826- LRB9215370EGfg

1	INDEX	
2	Statutes amended in order	of appearance
3	5 ILCS 80/4.13 from Ch. 1	27, par. 1904.13
4	5 ILCS 80/4.22	
5	5 ILCS 80/4.12 rep. from Ch. 1	27, par. 1904.12
б	5 ILCS 100/1-90	
7	5 ILCS 140/2 from Ch. 1	16, par. 202
8	5 ILCS 140/7 from Ch. 1	16, par. 207
9	5 ILCS 375/3 from Ch. 1	27, par. 523
10	20 ILCS 5/1-5	
11	20 ILCS 105/4.01 from Ch. 2	3, par. 6104.01
12	20 ILCS 505/5d	
13	20 ILCS 505/5e	
14	20 ILCS 505/7 from Ch. 2	3, par. 5007
15	20 ILCS 605/605-605 was 20 ILC	S 605/46.57
16	20 ILCS 605/605-710	
17	20 ILCS 830/2-1 from Ch. 9	6 1/2, par. 9702-1
18	20 ILCS 2605/2605-302 was 20 ILC	S 2605/55a in part
19	20 ILCS 2605/2605-555	
20	20 ILCS 2630/5 from Ch. 3	8, par. 206-5
21	20 ILCS 2805/2 from Ch. 1	26 1/2, par. 67
22	20 ILCS 3505/5 from Ch. 4	8, par. 850.05
23	30 ILCS 105/5.543	
24	30 ILCS 105/5.544	
25	30 ILCS 105/5.545	
26	30 ILCS 105/5.546	
27	30 ILCS 105/5.547	
28	30 ILCS 105/5.548	
29	30 ILCS 105/5.552	
30	30 ILCS 105/5.553	
31	30 ILCS 105/5.554	
32	30 ILCS 105/5.555	
33	30 ILCS 105/5.556	
34	30 ILCS 105/5.557	

1	30 ILCS	105/5.558		
2	30 ILCS	105/5.559		
3	30 ILCS	105/5.560		
4	30 ILCS	105/5.561		
5	30 ILCS	105/5.562		
б	30 ILCS	105/5.563		
7	30 ILCS	105/5.564		
8	30 ILCS	105/5.565		
9	30 ILCS	105/5.566		
10	30 ILCS	105/5.567		
11	30 ILCS	105/5.568		
12	30 ILCS	105/6z-51		
13	30 ILCS	105/6z-54		
14	30 ILCS	105/6z-55		
15	30 ILCS	562/1.5		
16	30 ILCS	605/1.02	from Ch.	127, par. 133b3
17	30 ILCS	740/2-2.04	from Ch.	111 2/3, par. 662.04
18	30 ILCS	805/8.24		
19	30 ILCS	805/8.25		
20	35 ILCS	5/201	from Ch.	120, par. 2-201
21	35 ILCS	5/203	from Ch.	120, par. 2-203
22	35 ILCS	5/507V		
23	35 ILCS	5/507W		
24	35 ILCS	5/509	from Ch.	120, par. 5-509
25	35 ILCS	5/510	from Ch.	120, par. 5-510
26	35 ILCS	10/5-5		
27	35 ILCS	105/3-5	from Ch.	120, par. 439.3-5
28	35 ILCS	105/9	from Ch.	120, par. 439.9
29	35 ILCS	110/3-5	from Ch.	120, par. 439.33-5
30	35 ILCS	110/9	from Ch.	120, par. 439.39
31	35 ILCS	115/3-5	from Ch.	120, par. 439.103-5
32	35 ILCS	115/9	from Ch.	120, par. 439.109
33	35 ILCS	120/2-5	from Ch.	120, par. 441-5
34	35 ILCS	120/3	from Ch.	120, par. 442

1	35 ILCS 200/15-25	
2	35 ILCS 200/18-165	
3	35 ILCS 200/31-5	
4	35 ILCS 505/15	from Ch. 120, par. 431
5	40 ILCS 5/1-113.7	
б	40 ILCS 5/11-167	from Ch. 108 1/2, par. 11-167
7	40 ILCS 5/14-110	from Ch. 108 1/2, par. 14-110
8	40 ILCS 5/14-114	from Ch. 108 1/2, par. 14-114
9	40 ILCS 5/16-106	from Ch. 108 1/2, par. 16-106
10	40 ILCS 5/17-119.1	
11	55 ILCS 5/5-1083	from Ch. 34, par. 5-1083
12	55 ILCS 5/5-1098	from Ch. 34, par. 5-1098
13	60 ILCS 1/35-55	
14	65 ILCS 5/3.1-20-10	from Ch. 24, par. 3.1-20-10
15	65 ILCS 5/3.1-55-10	from Ch. 24, par. 3.1-55-10
16	65 ILCS 5/11-21.5-5	
17	65 ILCS 5/11-73-2	from Ch. 24, par. 11-73-2
18	65 ILCS 5/11-74.4-3	from Ch. 24, par. 11-74.4-3
19	65 ILCS 5/11-74.4-7	from Ch. 24, par. 11-74.4-7
20	65 ILCS 5/11-95-7	from Ch. 24, par. 11-95-7
21	70 ILCS 2605/283	
22	70 ILCS 2605/285	
23	70 ILCS 2605/286	
24	70 ILCS 2605/287	
25	70 ILCS 3615/4.03	from Ch. 111 2/3, par. 704.03
26	105 ILCS 5/1D-1	
27	105 ILCS 5/2-3.35	from Ch. 122, par. 2-3.35
28	105 ILCS 5/14-1.09.2	
29	105 ILCS 5/14-9.01	from Ch. 122, par. 14-9.01
30	105 ILCS 5/18-8.05	
31	105 ILCS 5/22-27	
32	105 ILCS 5/34A-403.1	
33	110 ILCS 805/3-25.2	from Ch. 122, par. 103-25.2
34	110 ILCS 970/1-20	from Ch. 144, par. 2781-20

SB1854 Engrossed -829-LRB9215370EGfq 205 ILCS 5/14 from Ch. 17, par. 321 1 2 205 ILCS 5/48 from Ch. 17, par. 359 3 205 ILCS 105/3-10 from Ch. 17, par. 3303-10 4 205 ILCS 610/1 from Ch. 17, par. 1001 5 205 ILCS 620/Art. IVA heading 205 ILCS 657/92 б 7 210 ILCS 30/6.2 from Ch. 111 1/2, par. 4166.2 210 ILCS 45/3-206.01 from Ch. 111 1/2, par. 4153-206.01 8 9 210 ILCS 50/3.110 10 210 ILCS 50/3.220 210 ILCS 50/3.250 11 12 215 ILCS 5/155.37 215 ILCS 5/155.38 13 from Ch. 73, par. 982c 14 215 ILCS 5/370c 215 ILCS 5/424 from Ch. 73, par. 1031 15 215 ILCS 5/500-77 16 17 215 ILCS 125/2-6 from Ch. 111 1/2, par. 1406.2 215 ILCS 125/3-1 from Ch. 111 1/2, par. 1407.3 18 215 ILCS 125/4-6.5 19 215 ILCS 165/10 from Ch. 32, par. 604 20 220 ILCS 65/4 from Ch. 134, par. 20 21 225 ILCS 25/4 from Ch. 111, par. 2304 22 225 ILCS 65/20-165 23 24 225 ILCS 75/2 from Ch. 111, par. 3702 225 ILCS 75/3.2 25 225 ILCS 85/10 from Ch. 111, par. 4130 26 225 ILCS 90/1 27 from Ch. 111, par. 4251 225 ILCS 125/215 28 225 ILCS 335/9.10 from Ch. 111, par. 7509.10 29 225 ILCS 440/3 30 from Ch. 121, par. 503 31 225 ILCS 441/15-20 225 ILCS 450/17 from Ch. 111, par. 5518 32 225 ILCS 728/10 33 34 235 ILCS 5/5-1 from Ch. 43, par. 115

1	235 ILCS 5/6-16	from Ch. 43, par. 131
2	305 ILCS 5/4-1.7	from Ch. 23, par. 4-1.7
3	305 ILCS 5/5-5	from Ch. 23, par. 5-5
4	305 ILCS 5/5-5.4	from Ch. 23, par. 5-5.4
5	305 ILCS 5/5-10	from Ch. 23, par. 5-10
6	305 ILCS 5/5-12	from Ch. 23, par. 5-12
7	305 ILCS 5/8A-7.1	from Ch. 23, par. 8A-7.1
8	305 ILCS 5/9-1	from Ch. 23, par. 9-1
9	305 ILCS 5/10-3	from Ch. 23, par. 10-3
10	305 ILCS 5/10-10.5	
11	305 ILCS 5/11-22b	from Ch. 23, par. 11-22b
12	305 ILCS 5/12-4.25	from Ch. 23, par. 12-4.25
13	305 ILCS 5/12-10.2	from Ch. 23, par. 12-10.2
14	305 ILCS 5/12-10.5	
15	305 ILCS 5/12-10.6	
16	320 ILCS 25/4	from Ch. 67 1/2, par. 404
17	320 ILCS 25/6	from Ch. 67 1/2, par. 406
18	325 ILCS 5/7.9	from Ch. 23, par. 2057.9
19	325 ILCS 20/11	from Ch. 23, par. 4161
20	325 ILCS 20/13	from Ch. 23, par. 4163
21	405 ILCS 5/2-108	from Ch. 91 1/2, par. 2-108
22	405 ILCS 5/3-601	from Ch. 91 1/2, par. 3-601
23	410 ILCS 50/4	from Ch. 111 1/2, par. 5404
24	410 ILCS 80/3	from Ch. 111 1/2, par. 8203
25	415 ILCS 5/15	from Ch. 111 1/2, par. 1015
26	415 ILCS 5/19.1	from Ch. 111 1/2, par. 1019.1
27	415 ILCS 5/57.7	
28	420 ILCS 44/65	
29	430 ILCS 65/14	from Ch. 38, par. 83-14
30	510 ILCS 70/4.01	from Ch. 8, par. 704.01
31	510 ILCS 70/4.02	from Ch. 8, par. 704.02
32	510 ILCS 70/16	from Ch. 8, par. 716
33	515 ILCS 5/20-35	from Ch. 56, par. 20-35
34	520 ILCS 5/2.26	from Ch. 61, par. 2.26

SB1854 Engrossed -831- LRB9215370EGfg

1	520	ILCS	5/2.33	from	Ch.	61,	par	. 2.33	3
2	625	ILCS	5/2-123	from	Ch.	95	1/2,	par.	2-123
3	625	ILCS	5/3-112	from	Ch.	95	1/2,	par.	3-112
4	625	ILCS	5/3-112.1	from	Ch.	95	1/2,	par.	3-112.1
5	625	ILCS	5/3-302	from	Ch.	95	1/2,	par.	3-302
6	625	ILCS	5/3-402	from	Ch.	95	1/2,	par.	3-402
7	625	ILCS	5/3-405.1	from	Ch.	95	1/2,	par.	3-405.1
8	625	ILCS	5/3-412	from	Ch.	95	1/2,	par.	3-412
9	625	ILCS	5/3-616	from	Ch.	95	1/2,	par.	3-616
10	625	ILCS	5/3-648						
11	625	ILCS	5/3-650						
12	625	ILCS	5/3-651						
13	625	ILCS	5/3-652						
14	625	ILCS	5/3-653						
15	625	ILCS	5/3-806.3	from	Ch.	95	1/2,	par.	3-806.3
16	625	ILCS	5/6-205	from	Ch.	95	1/2,	par.	6-205
17	625	ILCS	5/6-206	from	Ch.	95	1/2,	par.	6-206
18	625	ILCS	5/6-208	from	Ch.	95	1/2,	par.	6-208
19	625	ILCS	5/6-500	from	Ch.	95	1/2,	par.	6-500
20	625	ILCS	5/7-501	from	Ch.	95	1/2,	par.	7-501
21	625	ILCS	5/11-207	from	Ch.	95	1/2,	par.	11-207
22	625	ILCS	5/11-501	from	Ch.	95	1/2,	par.	11-501
23	625	ILCS	5/11-1201	from	Ch.	95	1/2,	par.	11-1201
24	625	ILCS	5/11-1201.1						
25	625	ILCS	5/12-215	from	Ch.	95	1/2,	par.	12-215
26	625	ILCS	5/18b-105	from	Ch.	95	1/2,	par.	18b-105
27	625	ILCS	5/18c-2108	from	Ch.	95	1/2,	par.	18c-2108
28	625	ILCS	45/5-7	from	Ch.	95	1/2,	par.	315-7
29	705	ILCS	105/27.6						
30	705	ILCS	405/5-615						
31	705	ILCS	405/5-715						
32	720	ILCS	5/12-21.6						
33	720	ILCS	5/Art. 16G headi	ng					
34	725	ILCS	5/110-10	from	Ch.	38,	par	. 110-	-10

SB1854 Engrossed -832- LRB9215370EGfg

1	730	ILCS	5/3-3-4	from	Ch.	38, par. 1003-3-4
2	730	ILCS	5/5-1-22	from	Ch.	38, par. 1005-1-22
3	730	ILCS	5/5-5-3	from	Ch.	38, par. 1005-5-3
4	730	ILCS	5/5-6-3	from	Ch.	38, par. 1005-6-3
5	730	ILCS	5/5-6-3.1	from	Ch.	38, par. 1005-6-3.1
6	730	ILCS	5/5-8-3	from	Ch.	38, par. 1005-8-3
7	735	ILCS	5/3-101	from	Ch.	110, par. 3-101
8	735	ILCS	5/8-402	from	Ch.	110, par. 8-402
9	740	ILCS	45/10.1	from	Ch.	70, par. 80.1
10	740	ILCS	175/6	from	Ch.	127, par. 4106
11	750	ILCS	5/505	from	Ch.	40, par. 505
12	750	ILCS	5/505.3			
13	750	ILCS	5/510	from	Ch.	40, par. 510
14	750	ILCS	16/50			
15	750	ILCS	50/1	from	Ch.	40, par. 1501
16	750	ILCS	60/222	from	Ch.	40, par. 2312-22
17	760	ILCS	100/2	from	Ch.	21, par. 64.2
18	805	ILCS	105/115.10	from	Ch.	32, par. 115.10
19	810	ILCS	5/2A-103	from	Ch.	26, par. 2A-103
20	815	ILCS	505/2KK			
21	815	ILCS	505/2LL			
22	815	ILCS	602/5-60			
23	815	ILCS	710/6	from	Ch.	121 1/2, par. 756
24	820	ILCS	320/15			