

1 AMENDMENT TO SENATE BILL 702

2 AMENDMENT NO. _____. Amend Senate Bill 702 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. If and only if House Bill 3412 as passed by
5 the 93rd General Assembly becomes law by override of the
6 Governor's amendatory veto, the State Officials and Employees
7 Ethics Act is amended by changing Sections 1-5, 5-5, 5-10,
8 5-20, 5-45, 15-10, 15-20, 15-25, 50-5, 70-5, and 70-15 and by
9 adding Sections 5-50 and 15-40 and Articles 10, 20, 25, 30,
10 and 35 as follows:

11 (93 HB3412enr. Art. 1, Sec. 1-5)

12 Sec. 1-5. Definitions. As used in this Act:

13 "Appointee" means a person appointed to a position in or
14 with a State agency, regardless of whether the position is
15 compensated.

16 "Campaign for elective office" means any activity in
17 furtherance of an effort to influence the selection,
18 nomination, election, or appointment of any individual to any
19 federal, State, or local public office or office in a
20 political organization, or the selection, nomination, or
21 election of Presidential or Vice-Presidential electors, but
22 does not include activities (i) relating to the support or

1 opposition of any executive, legislative, or administrative
2 action (as those terms are defined in Section 2 of the
3 Lobbyist Registration Act), (ii) relating to collective
4 bargaining, or (iii) that are otherwise in furtherance of the
5 person's official State duties.

6 "Candidate" means a person who has filed nominating
7 papers or petitions for nomination or election to an elected
8 State office, or who has been appointed to fill a vacancy in
9 nomination, and who remains eligible for placement on the
10 ballot at either a general primary election or general
11 election.

12 "Collective bargaining" has the same meaning as that term
13 is defined in Section 3 of the Illinois Public Labor
14 Relations Act.

15 "Commission" means an ethics commission created by this
16 Act.

17 "Compensated time" means any time worked by or credited
18 to a State employee that counts toward any minimum work time
19 requirement imposed as a condition of employment with a State
20 agency, but does not include any designated State holidays or
21 any period when the employee is on a leave of absence.

22 "Compensatory time off" means authorized time off earned
23 by or awarded to a State employee to compensate in whole or
24 in part for time worked in excess of the minimum work time
25 required of that employee as a condition of employment with a
26 State agency.

27 "Contribution" has the same meaning as that term is
28 defined in Section 9-1.4 of the Election Code.

29 "Employee" means (i) any person employed full-time,
30 part-time, or pursuant to a contract and whose employment
31 duties are subject to the direction and control of an
32 employer with regard to the material details of how the work
33 is to be performed or (ii) any appointee.

34 "Executive branch constitutional officer" means the

1 Governor, Lieutenant Governor, Attorney General, Secretary of
2 State, Comptroller, and Treasurer.

3 "Gift" means any gratuity, discount, entertainment,
4 hospitality, loan, forbearance, or other tangible or
5 intangible item having monetary value including, but not
6 limited to, cash, food and drink, and honoraria for speaking
7 engagements related to or attributable to government
8 employment or the official position of an employee, member,
9 or officer.

10 "Governmental entity" means a unit of local government or
11 a school district but not a State agency.

12 "Leave of absence" means any period during which a State
13 employee does not receive (i) compensation for State
14 employment, (ii) service credit towards State pension
15 benefits, and (iii) health insurance benefits paid for by the
16 State.

17 "Legislative branch constitutional officer" means a
18 member of the General Assembly and the Auditor General.

19 "Legislative leader" means the President and Minority
20 Leader of the Senate and the Speaker and Minority Leader of
21 the House of Representatives.

22 "Member" means a member of the General Assembly.

23 "Officer" means a State constitutional officer of the
24 executive or legislative branch.

25 "Political" means any activity in support of or in
26 connection with any campaign for elective office or any
27 political organization, but does not include activities (i)
28 relating to the support or opposition of any executive,
29 legislative, or administrative action (as those terms are
30 defined in Section 2 of the Lobbyist Registration Act), (ii)
31 relating to collective bargaining, or (iii) that are
32 otherwise in furtherance of the person's official State
33 duties.

34 "Political organization" means a party, committee,

1 association, fund, or other organization (whether or not
2 incorporated) that is required to file a statement of
3 organization with the State Board of Elections or a county
4 clerk under Section 9-3 of the Election Code, but only with
5 regard to those activities that require filing with the State
6 Board of Elections or a county clerk.

7 "Prohibited political activity" means:

8 (1) Preparing for, organizing, or participating in
9 any political meeting, political rally, political
10 demonstration, or other political event.

11 (2) Soliciting contributions, including but not
12 limited to the purchase of, selling, distributing, or
13 receiving payment for tickets for any political
14 fundraiser, political meeting, or other political event.

15 (3) Soliciting, planning the solicitation of, or
16 preparing any document or report regarding any thing of
17 value intended as a campaign contribution.

18 (4) Planning, conducting, or participating in a
19 public opinion poll in connection with a campaign for
20 elective office or on behalf of a political organization
21 for political purposes or for or against any referendum
22 question.

23 (5) Surveying or gathering information from
24 potential or actual voters in an election to determine
25 probable vote outcome in connection with a campaign for
26 elective office or on behalf of a political organization
27 for political purposes or for or against any referendum
28 question.

29 (6) Assisting at the polls on election day on
30 behalf of any political organization or candidate for
31 elective office or for or against any referendum
32 question.

33 (7) Soliciting votes on behalf of a candidate for
34 elective office or a political organization or for or

1 against any referendum question or helping in an effort
2 to get voters to the polls.

3 (8) Initiating for circulation, preparing,
4 circulating, reviewing, or filing any petition on behalf
5 of a candidate for elective office or for or against any
6 referendum question.

7 (9) Making contributions on behalf of any candidate
8 for elective office in that capacity or in connection
9 with a campaign for elective office.

10 (10) Preparing or reviewing responses to candidate
11 questionnaires in connection with a campaign for elective
12 office or on behalf of a political organization for
13 political purposes.

14 (11) Distributing, preparing for distribution, or
15 mailing campaign literature, campaign signs, or other
16 campaign material on behalf of any candidate for elective
17 office or for or against any referendum question.

18 (12) Campaigning for any elective office or for or
19 against any referendum question.

20 (13) Managing or working on a campaign for elective
21 office or for or against any referendum question.

22 (14) Serving as a delegate, alternate, or proxy to
23 a political party convention.

24 (15) Participating in any recount or challenge to
25 the outcome of any election, except to the extent that
26 under subsection (d) of Section 6 of Article IV of the
27 Illinois Constitution each house of the General Assembly
28 shall judge the elections, returns, and qualifications of
29 its members.

30 "Prohibited source" means any person or entity who:

31 (1) is seeking official action (i) by the member or
32 officer or (ii) in the case of an employee, by the
33 employee or by the member, officer, State agency, or
34 other employee directing the employee;

1 (2) does business or seeks to do business (i) with
2 the member or officer or (ii) in the case of an employee,
3 with the employee or with the member, officer, State
4 agency, or other employee directing the employee;

5 (3) conducts activities regulated (i) by the member
6 or officer or (ii) in the case of an employee, by the
7 employee or by the member, officer, State agency, or
8 other employee directing the employee;

9 (4) has interests that may be substantially
10 affected by the performance or non-performance of the
11 official duties of the member, officer, or employee; or

12 (5) is registered or required to be registered with
13 the Secretary of State under the Lobbyist Registration
14 Act, except that an entity not otherwise a prohibited
15 source does not become a prohibited source merely because
16 a registered lobbyist is one of its members or serves on
17 its board of directors.

18 "State agency" includes all officers, boards, commissions
19 and agencies created by the Constitution, whether in the
20 executive or legislative branch; all officers, departments,
21 boards, commissions, agencies, institutions, authorities,
22 public institutions of higher learning as defined in Section
23 2 of the Higher Education Cooperation Act, and bodies politic
24 and corporate of the State; and administrative units or
25 corporate outgrowths of the State government which are
26 created by or pursuant to statute, other than units of local
27 government and their officers, school districts, and boards
28 of election commissioners; and all administrative units and
29 corporate outgrowths of the above and as may be created by
30 executive order of the Governor. "State agency" includes the
31 General Assembly, the Senate, the House of Representatives,
32 the President and Minority Leader of the Senate, the Speaker
33 and Minority Leader of the House of Representatives, the
34 Senate Operations Commission, and the legislative support

1 services agencies. "State agency" includes the Office of the
2 Auditor General. "State agency" does not include the judicial
3 branch.

4 "State employee" means any employee of a State agency.

5 "Ultimate jurisdictional authority" means the following:

6 (1) For members, legislative partisan staff, and
7 legislative secretaries, the appropriate legislative
8 leader: President of the Senate, Minority Leader of the
9 Senate, Speaker of the House of Representatives, or
10 Minority Leader of the House of Representatives.

11 (2) For State employees who are professional staff
12 or employees of the Senate and not covered under item
13 (1), the Senate Operations Commission.

14 (3) For State employees who are professional staff
15 or employees of the House of Representatives and not
16 covered under item (1), the Speaker of the House of
17 Representatives.

18 (4) For State employees who are employees of the
19 legislative support services agencies, the Joint
20 Committee on Legislative Support Services.

21 (5) For State employees of the Auditor General, the
22 Auditor General.

23 (6) For State employees of public institutions of
24 higher learning as defined in Section 2 of the Higher
25 Education Cooperation Act, the board of trustees of the
26 appropriate public institution of higher learning.

27 (7) For State employees of an executive branch
28 constitutional officer other than those described in
29 paragraph (6), the appropriate executive branch
30 constitutional officer.

31 (8) For State employees not under the jurisdiction
32 of paragraph (1), (2), (3), (4), (5), (6), or (7), the
33 Governor.

34 (Source: 93HB3412enr.)

1 (93 HB3412enr. Art. 5, Sec. 5-5)

2 Sec. 5-5. Personnel policies.

3 (a) Each of the following shall adopt and implement
4 personnel policies for all State employees under his, her, or
5 its jurisdiction and control: (i) each executive branch
6 constitutional officer, (ii) each legislative leader, (iii)
7 the Senate Operations Commission, with respect to legislative
8 employees under Section 4 of the General Assembly Operations
9 Act, (iv) the Speaker of the House of Representatives, with
10 respect to legislative employees under Section 5 of the
11 General Assembly Operations Act, (v) the Joint Committee on
12 Legislative Support Services, with respect to State employees
13 of the legislative support services agencies, (vi) members of
14 the General Assembly, with respect to legislative assistants,
15 as provided in Section 4 of the General Assembly Compensation
16 Act, (vii) the Auditor General, (viii) the Board of Higher
17 Education, with respect to State employees of public
18 institutions of higher learning except community colleges,
19 and (ix) the Illinois Community College Board, with respect
20 to State employees of community colleges. The Governor shall
21 adopt and implement those policies for all State employees of
22 the executive branch not under the jurisdiction and control
23 of any other executive branch constitutional officer.

24 (b) The policies required under subsection (a) shall be
25 filed with the appropriate ethics commission established
26 under this Act or, for the Auditor General, with the Office
27 of the Auditor General.

28 ~~(c)~~(b) The policies required under subsection (a) shall
29 include policies relating to work time requirements,
30 documentation of time worked, documentation for reimbursement
31 for travel on official State business, compensation, and the
32 earning or accrual of State benefits for all State employees
33 who may be eligible to receive those benefits. The policies
34 shall comply with and be consistent with all other applicable

1 laws. For--State--employees--of--the--legislative--branch, The
 2 policies shall require State these employees to periodically
 3 submit time sheets documenting the time spent each day on
 4 official State business to the nearest quarter hour;
 5 contractual State employees of--the--legislative--branch may
 6 satisfy the time sheets requirement by complying with the
 7 terms of their contract, which shall provide for a means of
 8 compliance with this requirement. The policies for State
 9 employees of--the--legislative--branch shall require those time
 10 sheets to be submitted on paper, electronically, or both and
 11 to be maintained in either paper or electronic format by the
 12 applicable fiscal office for a period of at least 2 years.
 13 (Source: 93HB3412enr.)

14 (93 HB3412enr. Art. 5, Sec. 5-10)

15 Sec. 5-10. Ethics training. Each officer, member, and
 16 employee must complete, at least annually, an ethics training
 17 program conducted by the appropriate State agency. Each
 18 ultimate jurisdictional authority must implement an ethics
 19 training program for its officers, members, and employees.
 20 These ethics training programs shall be overseen by the
 21 appropriate Inspector General appointed pursuant to this Act
 22 in consultation with the Office of the Attorney General.

23 Each Inspector General shall set standards and determine
 24 the hours and frequency of training necessary for each
 25 position or category of positions. A person who fills a
 26 vacancy in an elective or appointed position that requires
 27 training and a person employed in a position that requires
 28 training must complete his or her initial ethics training
 29 within 6 months after commencement of his or her office or
 30 employment.

31 Ethics---training,----Each---officer--and--employee--must
 32 complete,--at--least--annually,--an--ethics--training--program
 33 conducted--by--the--appropriate--ethics--officer--appointed--under

1 the--State--Gift--Ban--Act,---Each--ultimate---jurisdictional
 2 authority--must--implement-an-ethics-training-program-for-its
 3 officers-and-employees.-A-person-who-fills-a--vacancy--in--an
 4 elective--or--appointed-position-that-requires-training-and-a
 5 person-employed-in-a-position--that--requires--training--must
 6 complete--his--or-her-initial-ethics-training-within-6-months
 7 after-commencement-of-his-or-her-office-or-employment.

8 (Source: 93HB3412enr.)

9 (93 HB3412enr. Art. 5, Sec. 5-20)

10 Section 5-20. Public service announcements; other
 11 promotional material.

12 (a) No public service announcement or advertisement that
 13 is on behalf of any State administered program and contains
 14 the proper name, image, or voice of any executive branch
 15 constitutional officer or member of the General Assembly
 16 shall be broadcast or aired on radio or television or printed
 17 in a commercial newspaper or a commercial magazine at any
 18 time.

19 (b) The proper name or image of any executive branch
 20 constitutional officer or member of the General Assembly may
 21 not appear on any (i) lanyards for identification cards, (ii)
 22 bumper stickers, (iii) billboards, (iv) lapel pins or
 23 buttons, (v) magnets, (vi) stickers, and (vii) posters, if
 24 designed, paid for, prepared, or distributed using public
 25 dollars.

26 (a)--Except-as-otherwise-provided--in--this--Section,--no
 27 public--service--announcement--or--advertisement--that--is-on
 28 behalf-of-any-State-administered-program--and--that--contains
 29 the--image--or--voice--of-any-executive-branch-constitutional
 30 officer-or-member-of-the-General-Assembly-shall-be--broadcast
 31 or--aired-on-radio-or-television-or-printed-in-a-newspaper-at
 32 any-time-on-or-after-the-date--that--the--officer--or--member
 33 files--his--or-her-nominating-petitions-for-public-office-and

1 ~~for any time thereafter that the officer or member remains a~~
2 ~~candidate for any office.~~

3 (c)(b) This Section does not apply to communications
4 funded through expenditures required to be reported under
5 Article 9 of the Election Code.

6 (Source: 93HB3412enr.)

7 (93 HB3412enr. Art. 5, Sec. 5-45)

8 Section 5-45. Procurement; revolving door prohibition.

9 (a) No former officer, member, or State employee, or
10 spouse or immediate family member living with such person,
11 shall, within a period of one year immediately after
12 termination of State employment, knowingly accept employment
13 or receive compensation or fees for services from a person or
14 entity if the officer, member, or State employee, during the
15 year immediately preceding termination of State employment,
16 participated personally and substantially in the decision to
17 award a State contract valued at over \$25,000 to the person
18 or entity, or its parent or subsidiary.

19 (b) No former officer of the executive branch or State
20 employee of the executive branch with regulatory or licensing
21 authority, or spouse or immediate family member living with
22 such person, shall, within a period of one year immediately
23 after termination of state employment, knowingly accept
24 employment or receive compensation of fees for services from
25 a person or entity if the officer or State employee, during
26 the year immediately preceding termination of State
27 employment, made a regulatory or licensing decision that
28 directly applied to the person or entity, or its parent or
29 subsidiary.

30 (c) The requirements of this Section may be waived (i)
31 for the executive branch, in writing by the Executive Ethics
32 Commission, (ii) for the legislative branch, in writing by
33 the Legislative Ethics Commission, and (ii) for the Auditor

1 General, in writing by the Auditor General. The waiver shall
2 be granted upon a showing that the prospective employment or
3 relationship did not affect the decisions referred to in
4 sections (a) and (b).

5 (d) This Section applies only to persons who terminate
6 an affected position on or after the effective date of this
7 amendatory Act of the 93rd General Assembly.

8 ~~(a) -- No former State employee may, within a period of one~~
9 ~~year -- immediately after termination of State employment,~~
10 ~~knowingly accept employment or receive compensation or fees~~
11 ~~for services from an employer if the employee, during the~~
12 ~~year immediately preceding termination of State employment,~~
13 ~~and on behalf of the State or State agency, negotiated in~~
14 ~~whole or in part one or more contracts with that employer~~
15 ~~aggregating \$25,000 or more.~~

16 ~~(b) -- The requirements of this Section may be waived by~~
17 ~~the appropriate ultimate jurisdictional authority of the~~
18 ~~former State employee if that ultimate jurisdictional~~
19 ~~authority finds in writing that the State's negotiations and~~
20 ~~decisions regarding the procurement of the contract or~~
21 ~~contracts were not materially affected by any potential for~~
22 ~~employment of that employee by the employer.~~

23 ~~(c) -- This Section applies only to persons who terminate~~
24 ~~an affected position on or after the effective date of this~~
25 ~~Act.~~

26 (Source: 93HB3412enr.)

27 (93 HB3412enr. Sec. 5-50 new)
28 Sec. 5-50. Ex parte communications.

29 (a) This Section applies to ex parte communications made
30 to any agency listed in subsection (d).

31 (b) "Ex parte communication" means any written or oral
32 communication by any agent of the Governor or any other
33 person that imparts material information or argument

1 regarding potential action concerning regulatory,
2 quasi-adjudicatory, or licensing matters pending before or
3 under consideration by the agency. "Ex parte communication"
4 does not include the following: (i) statements by a person
5 publicly made in a public forum; (ii) statements regarding
6 matters of procedure and practice, such as format, the number
7 of copies required, the manner of filing, and the status of a
8 matter; and (iii) statements made by a State employee of the
9 agency to the agency head or other employees of that agency.

10 (c) An ex parte communication received by any agency,
11 agency head, or other agency employee shall promptly be made
12 a part of the record and shall be filed with the Executive
13 Ethics Commission, including all written communications, all
14 written responses to the communications, and a memorandum
15 stating the nature and substance of all oral communications,
16 all responses made, the identity of each person from whom the
17 written or oral ex parte communication was received, the
18 individual or entity represented by that person, any action
19 the person requested or recommended, and any other pertinent
20 information. The disclosure shall also contain the date of
21 any ex parte communication.

22 (d) This Section applies to the following agencies:

- 23 Illinois Commerce Commission
- 24 Educational Labor Relations Board
- 25 State Board of Elections
- 26 Illinois Gaming Board
- 27 Health Facilities Planning Board
- 28 Industrial Commission
- 29 Illinois Labor Relations Board
- 30 Illinois Liquor Control Commission
- 31 Pollution Control Board
- 32 Property Tax Appeal Board
- 33 Illinois Racing Board
- 34 Illinois Purchased Care Review Board

- 1 Department of State Police Merit Board
- 2 Motor Vehicle Review Board
- 3 Prisoner Review Board
- 4 Civil Service Commission
- 5 Personnel Review Board for the Treasurer
- 6 Merit Commission for the Secretary of State
- 7 Merit Commission for the Office of the Comptroller
- 8 Court of Claims
- 9 Board of Review of the Department
- 10 of Employment Security
- 11 Department of Professional Regulation and
- 12 licensing boards under the Department
- 13 Department of Public Health and licensing boards
- 14 under the Department
- 15 Office of Banks and Real Estate
- 16 and licensing boards under the Office

17 (e) Any person who fails to make information part of the
 18 record or make a filing with the Executive Ethics Commission
 19 as required by this Section or as required by Section 5-165
 20 of the Illinois Administrative Procedure Act violates this
 21 Act.

22 (93 HB3412enr. Art. 10 heading new)

23 ARTICLE 10

24 GIFT BAN

25 (93 HB3412enr. Sec. 10-10 new)

26 Sec. 10-10. Gift ban. Except as otherwise provided in
 27 this Article, no officer, member, or State employee shall
 28 intentionally solicit or accept any gift from any prohibited
 29 source or in violation of any federal or State statute, rule,
 30 or regulation. This ban applies to and includes the spouse of
 31 and immediate family living with the officer, member, or
 32 State employee. No prohibited source shall intentionally

1 offer or make a gift that violates this Section.

2 (93 HB3412enr. Sec. 10-15 new)

3 Sec. 10-15. Gift ban; exceptions. The restriction in
4 Section 10-10 does not apply to the following:

5 (1) Opportunities, benefits, and services that are
6 available on the same conditions as for the general public.

7 (2) Anything for which the officer, member, or State
8 employee pays the market value.

9 (3) Any (i) contribution that is lawfully made under the
10 Election Code or under this Act or (ii) activities associated
11 with a fundraising event in support of a political
12 organization or candidate.

13 (4) Educational materials and missions, subject to rules
14 adopted by the appropriate ethics commission or by the
15 Auditor General for the Auditor General and employees of the
16 Office of the Auditor General.

17 (5) Travel expenses for a meeting to discuss State
18 business, subject to rules adopted by the appropriate ethics
19 commission or by the Auditor General for the Auditor General
20 and employees of the Office of the Auditor General.

21 (6) A gift from a relative, meaning those people related
22 to the individual as father, mother, son, daughter, brother,
23 sister, uncle, aunt, great aunt, great uncle, first cousin,
24 nephew, niece, husband, wife, grandfather, grandmother,
25 grandson, granddaughter, father-in-law, mother-in-law,
26 son-in-law, daughter-in-law, brother-in-law, sister-in-law,
27 stepfather, stepmother, stepson, stepdaughter, stepbrother,
28 stepsister, half brother, half sister, and including the
29 father, mother, grandfather, or grandmother of the
30 individual's spouse and the individual's fiance or fiancée.

31 (7) Anything provided by an individual on the basis of a
32 personal friendship unless the member, officer, or employee
33 has reason to believe that, under the circumstances, the gift

1 was provided because of the official position or employment
2 of the member, officer, or employee and not because of the
3 personal friendship.

4 In determining whether a gift is provided on the basis of
5 personal friendship, the member, officer, or employee shall
6 consider the circumstances under which the gift was offered,
7 such as:

8 (i) the history of the relationship between the
9 individual giving the gift and the recipient of the gift,
10 including any previous exchange of gifts between those
11 individuals;

12 (ii) whether to the actual knowledge of the member,
13 officer, or employee the individual who gave the gift
14 personally paid for the gift or sought a tax deduction or
15 business reimbursement for the gift; and

16 (iii) whether to the actual knowledge of the
17 member, officer, or employee the individual who gave the
18 gift also at the same time gave the same or similar gifts
19 to other members, officers, or employees.

20 (8) Food or refreshments not exceeding \$75 per person in
21 value on a single calendar day; provided that the food or
22 refreshments are (i) consumed on the premises from which they
23 were purchased or prepared or (ii) catered. For the purposes
24 of this Section, "catered" means food or refreshments that
25 are purchased ready to eat and delivered by any means.

26 (9) Food, refreshments, lodging, transportation, and
27 other benefits resulting from the outside business or
28 employment activities (or outside activities that are not
29 connected to the duties of the officer, member, or employee
30 as an office holder or employee) of the officer, member, or
31 employee, or the spouse of the officer, member, or employee,
32 if the benefits have not been offered or enhanced because of
33 the official position or employment of the officer, member,
34 or employee, and are customarily provided to others in

1 similar circumstances.

2 (10) Intra-governmental and inter-governmental gifts.
3 For the purpose of this Act, "intra-governmental gift" means
4 any gift given to a member, officer, or employee of a State
5 agency from another member, officer, or employee of the same
6 State agency; and "inter-governmental gift" means any gift
7 given to a member, officer, or employee of a State agency, by
8 a member, officer, or employee of another State agency, of a
9 federal agency, or of any governmental entity.

10 (11) Bequests, inheritances, and other transfers at
11 death.

12 (12) Any item or items from any one prohibited source
13 during any calendar year having a cumulative total value of
14 less than \$100.

15 Each of the exceptions listed in this Section is mutually
16 exclusive and independent of one another.

17 (93 HB3412enr. Sec. 10-30 new)

18 Sec. 10-30. Gift ban; disposition of gifts. A member,
19 officer, or employee does not violate this Act if the member,
20 officer, or employee promptly takes reasonable action to
21 return the prohibited gift to its source or gives the gift or
22 an amount equal to its value to an appropriate charity that
23 is exempt from income taxation under Section 501 (c)(3) of
24 the Internal Revenue Code of 1986, as now or hereafter
25 amended, renumbered, or succeeded.

26 (93 HB3412enr. Sec. 10-40 new)

27 Sec. 10-40. Gift ban; further restrictions. A State
28 agency may adopt or maintain policies that are more
29 restrictive than those set forth in this Article and may
30 continue to follow any existing policies, statutes, or
31 regulations that are more restrictive or are in addition to
32 those set forth in this Article.

1 (93 HB3412enr. Art. 15, Sec. 15-10)

2 Section 15-10. Protected activity. An officer, a member,
3 a State employee, or a State agency shall not take any
4 retaliatory action against a State employee because the State
5 employee does any of the following:

6 (1) Discloses or threatens to disclose to a supervisor
7 or to a public body an activity, policy, or practice of any
8 officer, member, State agency, or other State employee that
9 the State employee reasonably believes is in violation of a
10 law, rule, or regulation.

11 (2) Provides information to or testifies before any
12 public body conducting an investigation, hearing, or inquiry
13 into any violation of a law, rule, or regulation by any
14 officer, member, State agency, or other State employee.

15 (3) Assists or participates in a proceeding to enforce
16 the provisions of this Act.

17 (Source: 93HB3412enr.)

18 (93 HB3412enr. Art. 15, Sec. 15-20)

19 Section 15-20. Burden of proof. A violation of this
20 Article may be established only upon a finding that (i) the
21 State employee engaged in conduct described in Section 15-10
22 and (ii) that conduct was a contributing factor in the
23 retaliatory action alleged by the State employee. It is not
24 a violation, however, if it is demonstrated by clear and
25 convincing evidence that the officer, member, other State
26 employee, or State agency would have taken the same
27 unfavorable personnel action in the absence of that conduct.

28 (Source: 93HB3412enr.)

29 (93 HB3412enr. Art. 15, Sec. 15-25)

30 Sec. 15-25. Remedies. The State employee may be awarded
31 all remedies necessary to make the State employee whole and
32 to prevent future violations of this Article. Remedies

1 imposed by the court may include, but are not limited to, all
2 of the following:

3 (1) reinstatement of the employee to either the same
4 position held before the retaliatory action or to an
5 equivalent position;

6 (2) 2 times the amount of back pay;

7 (3) interest on the back pay; and

8 (4) the reinstatement of full fringe benefits and
9 seniority rights; and

10 (5) the payment of reasonable costs and attorneys' fees.

11 (Source: 93HB3412enr.)

12 (93 HB3412enr. Art. 15, Sec. 15-40 new)

13 Sec. 15-40. Posting. All officers, members, and State
14 agencies shall conspicuously display notices of State
15 employee protection under this Act.

16 (93 HB3412enr. Art. 20 heading new)

17 ARTICLE 20

18 EXECUTIVE ETHICS COMMISSION AND

19 EXECUTIVE INSPECTORS GENERAL

20 (93 HB3412enr. Sec. 20-5 new)

21 Sec. 20-5. Executive Ethics Commission.

22 (a) The Executive Ethics Commission is created.

23 (b) The Executive Ethics Commission shall consist of 9
24 commissioners, each confirmed by a three-fifths vote of the
25 Senate. The Governor shall appoint 5 commissioners, and the
26 Attorney General, Secretary of State, Comptroller, and
27 Treasurer shall each appoint one commissioner. If the Senate
28 is in recess, the appointing authority may make a temporary
29 appointment until the next meeting of the Senate, when the
30 appointing authority shall make a nomination to fill the
31 office. No more than 5 commissioners may be of the same

1 political party.

2 The terms of the initial commissioners shall commence
3 upon qualification. Four initial appointees of the Governor,
4 as designated by the Governor, shall serve terms running
5 through June 30, 2007. One initial appointee of the
6 Governor, as designated by the Governor, and the initial
7 appointees of the Attorney General, Secretary of State,
8 Comptroller, and Treasurer shall serve terms running through
9 June 30, 2008. The initial appointments shall be made within
10 60 days after the effective date of this Act.

11 After the initial terms, commissioners shall serve for
12 4-year terms commencing on July 1 of the year of appointment
13 and running through June 30 of the fourth following year.
14 Commissioners may be reappointed to one or more subsequent
15 terms.

16 Vacancies occurring other than at the end of a term shall
17 be filled by the appointing authority only for the balance of
18 the term of the commissioner whose office is vacant.

19 Terms shall run regardless of whether the position is
20 filled.

21 (c) The appointing authorities shall appoint
22 commissioners who have experience holding governmental office
23 or employment and shall appoint commissioners from the
24 general public. A person is not eligible to serve as a
25 commissioner if that person (i) has been convicted of a
26 felony or a crime of dishonesty or moral turpitude, (ii) is,
27 or was within the preceding 12 months, engaged in activities
28 that require registration under the Lobbyist Registration
29 Act, (iii) is related to the appointing authority, or (iv) is
30 a State officer or employee.

31 (d) The Executive Ethics Commission shall have
32 jurisdiction over all officers and employees of State
33 agencies other than the General Assembly, the Senate, the
34 House of Representatives, the President and Minority Leader

1 of the Senate, the Speaker and Minority Leader of the House
2 of Representatives, the Senate Operations Commission, the
3 legislative support services agencies, and the Office of the
4 Auditor General. The jurisdiction of the Commission is
5 limited to matters arising under this Act.

6 (e) The Executive Ethics Commission must meet, either in
7 person or by other technological means, at least monthly and
8 as often as necessary. At the first meeting of the Executive
9 Ethics Commission, the commissioners shall choose from their
10 number a chairperson and other officers that they deem
11 appropriate. The terms of officers shall be for 2 years
12 commencing July 1 and running through June 30 of the second
13 following year. Meetings shall be held at the call of the
14 chairperson or any 3 commissioners. Official action by the
15 Commission shall require the affirmative vote of 5
16 commissioners, and a quorum shall consist of 5 commissioners.
17 Commissioners shall receive compensation in an amount equal
18 to the compensation of members of the State Board of
19 Elections and may be reimbursed for their reasonable expenses
20 actually incurred in the performance of their duties.

21 (f) No commissioner or employee of the Executive Ethics
22 Commission may during his or her term of appointment or
23 employment:

24 (1) become a candidate for any elective office;

25 (2) hold any other elected or appointed public
26 office except for appointments on governmental advisory
27 boards or study commissions or as otherwise expressly
28 authorized by law;

29 (3) be actively involved in the affairs of any
30 political party or political organization; or

31 (4) actively participate in any campaign for any
32 elective office.

33 (g) An appointing authority may remove a commissioner
34 only for cause.

1 (h) The Executive Ethics Commission shall appoint an
2 Executive Director. The compensation of the Executive
3 Director shall be as determined by the Commission or by the
4 Compensation Review Board, whichever amount is higher. The
5 Executive Director of the Executive Ethics Commission may
6 employ and determine the compensation of staff, as
7 appropriations permit.

8 (93 HB3412enr. Sec. 20-10 new)

9 Sec. 20-10. Offices of Executive Inspectors General.

10 (a) Five independent Offices of the Executive Inspector
11 General are created, one each for the Governor, the Attorney
12 General, the Secretary of State, the Comptroller, and the
13 Treasurer. Each Office shall be under the direction and
14 supervision of an Executive Inspector General and shall be a
15 fully independent office with separate appropriations.

16 (b) The Governor, Attorney General, Secretary of State,
17 Comptroller, and Treasurer shall each appoint an Executive
18 Inspector General, without regard to political affiliation
19 and solely on the basis of integrity and demonstrated
20 ability. Each Executive Inspector General shall be confirmed
21 by a three-fifths vote of the Senate. If the Senate is in
22 recess, the appointing authority may make a temporary
23 appointment until the next meeting of the Senate, when the
24 appointing authority shall make a nomination to fill the
25 office. If the Senate does not act upon the appointment
26 within 60 session days after the receipt thereof, then the
27 appointment shall be deemed to have received the advice and
28 consent of the Senate.

29 Nothing in this Article precludes the appointment by the
30 Governor, Attorney General, Secretary of State, Comptroller,
31 or Treasurer of any other inspector general required or
32 permitted by law. The Governor, Attorney General, Secretary
33 of State, Comptroller, and Treasurer each may appoint an

1 existing inspector general as the Executive Inspector General
2 required by this Article, provided that such an inspector
3 general is not prohibited by law, rule, jurisdiction,
4 qualification, or interest from serving as the Executive
5 Inspector General required by this Article. An appointing
6 authority may not appoint a relative as an Executive
7 Inspector General.

8 Each Executive Inspector General shall have the following
9 qualifications:

10 (1) has not been convicted of any felony under the
11 laws of this State, another State, or the United States;

12 (2) has earned a baccalaureate degree from an
13 institution of higher education; and

14 (3) has either (A) 5 or more years of service with
15 a federal, State, or local law enforcement agency, at
16 least 2 years of which have been in a progressive
17 investigatory capacity; (B) 5 or more years of service as
18 a federal, State, or local prosecutor; (C) 5 or more
19 years of service as a senior manager or executive of a
20 federal, State, or local agency; or (D) 5 or more years
21 of service as a member, an officer, or a State or federal
22 judge.

23 The term of each initial Executive Inspector General
24 shall commence upon qualification and shall run through June
25 30, 2008. The initial appointments shall be made within 60
26 days after the effective date of this Act.

27 After the initial term, each Executive Inspector General
28 shall serve for 5-year terms commencing on July 1 of the year
29 of appointment and running through June 30 of the fifth
30 following year. An Executive Inspector General may be
31 reappointed to one or more subsequent terms.

32 A vacancy occurring other than at the end of a term shall
33 be filled by the appointing authority only for the balance of
34 the term of the Executive Inspector General whose office is

1 vacant.

2 Terms shall run regardless of whether the position is
3 filled.

4 (c) The Executive Inspector General appointed by the
5 Attorney General shall have jurisdiction over the Attorney
6 General and all officers and employees of, and vendors and
7 others doing business with, State agencies within the
8 jurisdiction of the Attorney General. The Executive Inspector
9 General appointed by the Secretary of State shall have
10 jurisdiction over the Secretary of State and all officers and
11 employees of, and vendors and others doing business with,
12 State agencies within the jurisdiction of the Secretary of
13 State. The Executive Inspector General appointed by the
14 Comptroller shall have jurisdiction over the Comptroller and
15 all officers and employees of, and vendors and others doing
16 business with, State agencies within the jurisdiction of the
17 Comptroller. The Executive Inspector General appointed by the
18 Treasurer shall have jurisdiction over the Treasurer and all
19 officers and employees of, and vendors and others doing
20 business with, State agencies within the jurisdiction of the
21 Treasurer. The Executive Inspector General appointed by the
22 Governor shall have jurisdiction over the Governor, the
23 Lieutenant Governor, and all officers and employees of, and
24 vendors and others doing business with, executive branch
25 State agencies under the jurisdiction of the Executive Ethics
26 Commission and not within the jurisdiction of the Attorney
27 General, the Secretary of State, the Comptroller, or the
28 Treasurer.

29 The jurisdiction of each Executive Inspector General is
30 to investigate allegations of fraud, waste, abuse,
31 mismanagement, misconduct, nonfeasance, misfeasance,
32 malfeasance, or violations of this Act or violations of other
33 related laws and rules.

34 (d) The minimum compensation for each Executive

1 Inspector General shall be determined by the Executive Ethics
2 Commission. The actual compensation for each Executive
3 Inspector General shall be determined by the appointing
4 executive branch constitutional officer and must be at or
5 above the minimum compensation level set by the Executive
6 Ethics Commission. Subject to Section 20-45 of this Act, each
7 Executive Inspector General has full authority to organize
8 his or her Office of the Executive Inspector General,
9 including the employment and determination of the
10 compensation of staff, such as deputies, assistants, and
11 other employees, as appropriations permit. A separate
12 appropriation shall be made for each Office of Executive
13 Inspector General.

14 (e) No Executive Inspector General or employee of the
15 Office of the Executive Inspector General may, during his or
16 her term of appointment or employment or within one year
17 thereafter:

18 (1) become a candidate for any elective office;

19 (2) hold any other elected or appointed public
20 office except for appointments on governmental advisory
21 boards or study commissions or as otherwise expressly
22 authorized by law;

23 (3) be actively involved in the affairs of any
24 political party or political organization; or

25 (4) actively participate in any campaign for any
26 elective office.

27 (f) An Executive Inspector General may be removed only
28 for cause and may be removed only by the appointing
29 constitutional officer. At the time of the removal, the
30 appointing constitutional officer must report to the Senate
31 the justification for the removal.

32 (93 HB3412enr. Sec. 20-15 new)

33 Sec. 20-15. Duties of the Executive Ethics Commission. In

1 addition to duties otherwise assigned by law, the Executive
2 Ethics Commission shall have the following duties:

3 (1) To promulgate rules governing the performance of its
4 duties and the exercise of its powers and governing the
5 investigations of the Executive Inspectors General.

6 (2) To conduct administrative hearings and rule on
7 matters brought before the Commission only upon the receipt
8 of pleadings filed by an Executive Inspector General and not
9 upon its own prerogative, but may appoint special Executive
10 Inspectors General as provided in Section 20-21. Any other
11 allegations of misconduct received by the Commission from a
12 person other than an Executive Inspector General shall be
13 referred to the Office of the appropriate Executive Inspector
14 General.

15 (3) To prepare and publish manuals and guides and,
16 working with the Office of the Attorney General, oversee
17 training of employees under its jurisdiction that explains
18 their duties.

19 (4) To prepare public information materials to facilitate
20 compliance, implementation, and enforcement of this Act.

21 (5) To submit reports as required by this Act.

22 (6) To the extent authorized by this Act, to make
23 rulings, issue recommendations, and impose administrative
24 finances, if appropriate, in connection with the implementation
25 and interpretation of this Act. The powers and duties of the
26 Commission are limited to matters clearly within the purview
27 of this Act.

28 (7) To issue subpoenas with respect to matters pending
29 before the Commission, subject to the provisions of this
30 Article and in the discretion of the Commission, to compel
31 the attendance of witnesses for purposes of testimony and the
32 production of documents and other items for inspection and
33 copying.

34 (8) To appoint special Executive Inspectors General as

1 provided in Section 20-21.

2 (93 HB3412enr. Sec. 20-20 new)

3 Sec. 20-20. Duties of the Executive Inspectors General.

4 In addition to duties otherwise assigned by law, each
5 Executive Inspector General shall have the following duties:

6 (1) To receive and investigate allegations of violations
7 of this Act. The Executive Inspector General may receive
8 information through the Office of any Executive Inspector
9 General or through an ethics commission. An investigation may
10 be conducted only in response to information reported to the
11 Executive Inspector General as provided in this Section and
12 not upon his or her own prerogative. Allegations may not be
13 made anonymously. The Executive Inspector General shall have
14 the discretion to determine the appropriate means of
15 investigation as permitted by law.

16 (2) To request information relating to an investigation
17 from any person when the Executive Inspector General deems
18 that information necessary in conducting an investigation.

19 (3) To issue subpoenas to compel the attendance of
20 witnesses for the purposes of testimony and production of
21 documents and other items for inspection and copying.

22 (4) To submit reports as required by this Act.

23 (5) After finding sufficient evidence, to file pleadings
24 in the name of the Executive Inspector General with the
25 Executive Ethics Commission, through the Attorney General, as
26 provided in this Article.

27 (6) To assist and coordinate the ethics officers for
28 State agencies under the jurisdiction of the Executive
29 Inspector General and to work with those ethics officers.

30 (7) To participate in or conduct, when appropriate,
31 multi-jurisdictional investigations.

32 (8) To request, as the Executive Inspector General deems
33 appropriate, from ethics officers of State agencies under his

1 or her jurisdiction, reports or information on (i) the
2 content of a State agency's ethics training program and (ii)
3 the percentage of new officers and employees who have
4 completed ethics training.

5 (93 HB3412enr. Sec. 20-21 new)

6 Sec. 20-21. Special Executive Inspectors General.

7 (a) The Executive Ethics Commission, on its own
8 initiative and by majority vote, may appoint special
9 Executive Inspectors General to investigate fraud, waste,
10 abuse, mismanagement, misconduct, nonfeasance, misfeasance,
11 malfeasance, violations of this Act, or violations of other
12 related laws and rules with respect to any investigation not
13 concluded within 6 months after its initiation, where the
14 Commission finds that the Inspector General's reasons under
15 Section 20-65 for failing to complete the investigation are
16 insufficient.

17 (b) A special Executive Inspector General must have the
18 same qualifications as an Executive Inspector General
19 appointed under Section 20-10.

20 (c) The Commission's appointment of a special Executive
21 Inspector General must be in writing and must specify the
22 duration and purpose of the appointment. The written
23 appointment shall be a public record.

24 (d) A special Executive Inspector General shall have the
25 same powers and duties with respect to the purpose of his or
26 her appointment as an Executive Inspector General appointed
27 under Section 20-10.

28 (e) A special Executive Inspector General shall report
29 the findings of his or her investigation to the Commission.

30 (f) The Commission may report the findings of a special
31 Executive Inspector General and its recommendations, if any,
32 to the appointing authority of the appropriate Executive
33 Inspector General.

1 (93 HB3412enr. Sec. 20-23 new)

2 Sec. 20-23. Ethics Officers. Each officer and the head
3 of each State agency under the jurisdiction of the Executive
4 Ethics Commission shall designate an Ethics Officer for the
5 office or State agency. Ethics Officers shall:

6 (1) act as liaisons between the State agency and
7 the appropriate Executive Inspector General and between
8 the State agency and the Executive Ethics Commission;

9 (2) review statements of economic interest and
10 disclosure forms of officers, senior employees, and
11 contract monitors before they are filed with the
12 Secretary of State; and

13 (3) provide guidance to officers and employees in
14 the interpretation and implementation of this Act. Such
15 guidance shall be based, wherever possible, upon legal
16 precedent in court decisions, opinions of the Attorney
17 General, and the findings and opinions of the Executive
18 Ethics Commission.

19 (93 HB3412enr. Sec. 20-35 new)

20 Sec. 20-35. Administrative subpoena; compliance. A person
21 duly subpoenaed for testimony, documents, or other items who
22 neglects or refuses to testify or produce documents or other
23 items under the requirements of the subpoena shall be subject
24 to punishment as may be determined by a court of competent
25 jurisdiction, unless (i) the testimony, documents, or other
26 items are covered by the attorney-client privilege or any
27 other privilege or right recognized by law or (ii) the
28 testimony, documents, or other items concern the
29 representation of employees and the negotiation of collective
30 bargaining agreements by a labor organization authorized and
31 recognized under the Illinois Public Labor Relations Act to
32 be the exclusive bargaining representative of employees of
33 the State agency. Nothing in this Section limits a person's

1 right to protection against self-incrimination under the
2 Fifth Amendment of the United States Constitution or Article
3 I, Section 10, of the Constitution of the State of Illinois.

4 (93 HB3412enr. Sec. 20-40 new)

5 Sec. 20-40. Collective bargaining agreements. Any
6 investigation or inquiry by an Executive Inspector General or
7 any agent or representative of an Executive Inspector General
8 must be conducted in compliance with the provisions of a
9 collective bargaining agreement that applies to the employees
10 of the relevant State agency and with an awareness of the
11 rights of the employees as set forth by State and federal law
12 and applicable judicial decisions. Any recommendation for
13 discipline or any action taken against any State employee
14 pursuant to this Act must comply with the provisions of the
15 collective bargaining agreement that applies to the State
16 employee.

17 (93 HB3412enr. Sec. 20-45 new)

18 Sec. 20-45. Standing; representation.

19 (a) Only an Executive Inspector General may bring
20 actions before the Executive Ethics Commission.

21 (b) The Attorney General shall represent an Executive
22 Inspector General in all proceedings before the Commission,
23 except that the Attorney General may appoint special counsel
24 to represent an Executive Inspector General before the
25 Commission if the Attorney General deems it necessary to
26 avoid any actual, potential, or perceived conflict of
27 interest.

28 (c) Attorneys or special counsel representing an
29 Inspector General in proceedings before the Executive Ethics
30 Commission shall be appointed or retained by the Attorney
31 General, shall be under the supervision, direction, and
32 control of the Attorney General, and shall serve at the

1 pleasure of the Attorney General. The compensation of any
2 assistant attorneys and special counsel appointed or retained
3 in accordance with this subsection shall be paid by the
4 appropriate Office of the Executive Inspector General.

5 (93 HB3412enr. Sec. 20-50 new)

6 Sec. 20-50. Investigation reports; complaint procedure.

7 (a) If an Executive Inspector General, upon the
8 conclusion of an investigation, determines that sufficient
9 evidence exists to file pleadings with the Executive Ethics
10 Commission, then the Executive Inspector General shall issue
11 a summary report of the investigation. The report shall be
12 delivered to the appropriate ultimate jurisdictional
13 authority and to the head of each State agency affected by or
14 involved in the investigation, if appropriate.

15 (b) The summary report of the investigation shall
16 include the following:

17 (1) A description of any allegations or other
18 information received by the Executive Inspector General
19 pertinent to the investigation.

20 (2) A description of any alleged misconduct
21 discovered in the course of the investigation.

22 (3) Recommendations for any corrective or
23 disciplinary action to be taken in response to any
24 alleged misconduct described in the report, including but
25 not limited to discharge.

26 (4) Other information the Executive Inspector
27 General deems relevant to the investigation or resulting
28 recommendations.

29 (c) Not less than 30 days after delivery of the summary
30 report of an investigation under subsection (a), the
31 Executive Inspector General, represented by the Attorney
32 General, may file with the Executive Ethics Commission a
33 petition for leave to file a complaint. The petition shall

1 set forth the alleged violation and the grounds that exist to
2 support the petition. The petition for leave to file a
3 complaint must be filed with the Commission within 18 months
4 after an alleged violation of this Act.

5 (d) A copy of the petition must be served on all
6 respondents named in the complaint and on each respondent's
7 ultimate jurisdictional authority in the same manner as
8 process is served under the Code of Civil Procedure.

9 (e) A respondent may file objections to the petition for
10 leave to file a complaint within 30 days after notice of the
11 petition has been served on the respondent.

12 (f) The Commission shall meet, either in person or by
13 telephone, in a closed session to review the sufficiency of
14 the complaint. If the Commission finds that complaint is
15 sufficient, the Commission shall grant the petition for leave
16 to file the complaint. The Commission shall issue notice to
17 the Executive Inspector General and all respondents of the
18 Commission's ruling on the sufficiency of the complaint. If
19 the complaint is deemed to sufficiently allege a violation of
20 this Act, then the Commission shall notify the parties and
21 shall include a hearing date scheduled within 4 weeks after
22 the date of the notice, unless all of the parties consent to
23 a later date. If the complaint is deemed not to sufficiently
24 allege a violation, then the Commission shall send by
25 certified mail, return receipt requested, a notice to the
26 parties of the decision to dismiss the complaint.

27 (g) On the scheduled date the Commission shall conduct a
28 closed meeting, either in person or, if the parties consent,
29 by telephone, on the complaint and allow all parties the
30 opportunity to present testimony and evidence. All such
31 proceedings shall be transcribed.

32 (h) Within an appropriate time limit set by rules of the
33 Executive Ethics Commission, the Commission shall (i) dismiss
34 the complaint or (ii) issue a recommendation of discipline to

1 the respondent and the respondent's ultimate jurisdictional
2 authority or impose an administrative fine upon the
3 respondent, or both.

4 (i) The proceedings on any complaint filed with the
5 Commission shall be conducted pursuant to rules promulgated
6 by the Commission.

7 (j) The Commission may designate hearing officers to
8 conduct proceedings as determined by rule of the Commission.

9 (k) In all proceedings before the Commission, the
10 standard of proof is by a preponderance of the evidence.

11 (93 HB3412enr. Sec. 20-55 new)

12 Sec. 20-55. Decisions; recommendations.

13 (a) All decisions of the Executive Ethics Commission
14 must include a description of the alleged misconduct, the
15 decision of the Commission, including any fines levied and
16 any recommendation of discipline, and the reasoning for that
17 decision. All decisions of the Commission shall be delivered
18 to the head of the appropriate State agency, the appropriate
19 ultimate jurisdictional authority, and the appropriate
20 Executive Inspector General. The Executive Ethics Commission
21 shall promulgate rules for the decision and recommendation
22 process.

23 (b) If the Executive Ethics Commission issues a
24 recommendation of discipline to an agency head or ultimate
25 jurisdictional authority, that agency head or ultimate
26 jurisdictional authority must respond to that recommendation
27 in 30 days with a written response to the Executive Ethics
28 Commission. This response must include any disciplinary
29 action the agency head or ultimate jurisdictional authority
30 has taken with respect to the officer or employee in
31 question. If the agency head or ultimate jurisdictional
32 authority did not take any disciplinary action, or took a
33 different disciplinary action than that recommended by the

1 Executive Ethics Commission, the agency head or ultimate
2 jurisdictional authority must describe the different action
3 and explain the reasons for the different action in the
4 written response. This response must be served upon the
5 Executive Ethics Commission and the appropriate Executive
6 Inspector General within the 30-day period and is not exempt
7 from the provisions of the Freedom of Information Act.

8 (93 HB3412enr. Sec. 20-60 new)

9 Sec. 20-60. Appeals. A decision of the Executive Ethics
10 Commission to impose a fine is subject to judicial review
11 under the Administrative Review Law. All other decisions by
12 the Executive Ethics Commission are final and not subject to
13 review either administratively or judicially.

14 (93 HB3412enr. Sec. 20-65 new)

15 Sec. 20-65. Investigations not concluded within 6 months.
16 If any investigation is not concluded within 6 months after
17 its initiation, the appropriate Executive Inspector General
18 shall notify the Executive Ethics Commission and appropriate
19 ultimate jurisdictional authority of the general nature of
20 the allegation or information giving rise to the
21 investigation and the reasons for failure to complete the
22 investigation within 6 months.

23 (93 HB3412enr. Sec. 20-70 new)

24 Sec. 20-70. Cooperation in investigations. It is the duty
25 of every officer and employee under the jurisdiction of an
26 Executive Inspector General, including any inspector general
27 serving in any State agency under the jurisdiction of that
28 Executive Inspector General, to cooperate with the Executive
29 Inspector General in any investigation undertaken pursuant to
30 this Act. Failure to cooperate with an investigation of the
31 Executive Inspector General is grounds for disciplinary

1 action, including dismissal, unless the failure is based on
2 (i) the attorney-client privilege or any other privilege or
3 right recognized by law or (ii) a collective bargaining
4 agreement with a labor organization authorized and recognized
5 under the Illinois Public Labor Relations Act to be the
6 exclusive bargaining representative of affected employees.

7 Nothing in this Section limits a person's right to
8 protection against self-incrimination under the Fifth
9 Amendment of the United States Constitution or Article I,
10 Section 10, of the Constitution of the State of Illinois.

11 (93 HB3412enr. Sec. 20-80 new)

12 Sec. 20-80. Referrals of investigations. If an Executive
13 Inspector General determines that any alleged misconduct
14 involves any person not subject to the jurisdiction of the
15 Executive Ethics Commission, that Executive Inspector General
16 shall refer the reported allegations to the appropriate
17 Inspector General, appropriate ethics commission, or other
18 appropriate body. If an Executive Inspector General
19 determines that any alleged misconduct may give rise to
20 criminal penalties, the Executive Inspector General shall
21 refer the allegations regarding that misconduct to the
22 appropriate law enforcement authority.

23 (93 HB3412enr. Sec. 20-85 new)

24 Sec. 20-85. Quarterly reports. Each Executive Inspector
25 General shall submit quarterly reports to the executive
26 branch constitutional officers and the Executive Ethics
27 Commission, on dates determined by the Executive Ethics
28 Commission, indicating:

29 (1) the number of allegations received since the
30 date of the last report;

31 (2) the number of investigations initiated since
32 the date of the last report;

1 (3) the number of investigations concluded since
2 the date of the last report;

3 (4) the number of investigations pending as of the
4 reporting date; and

5 (5) the number of actions filed since the last
6 report and the number of actions pending before the
7 Commission as of the reporting date.

8 (93 HB3412enr. Sec. 20-90 new)

9 Sec. 20-90. Confidentiality.

10 (a) The identity of any individual providing information
11 or reporting any possible or alleged misconduct to an
12 Executive Inspector General or the Executive Ethics
13 Commission shall be kept confidential and may not be
14 disclosed without the consent of that individual, unless the
15 individual consents to disclosure of his or her name or
16 disclosure of the individual's identity is otherwise required
17 by law. The confidentiality granted by this subsection does
18 not preclude the disclosure of the identity of a person in
19 any capacity other than as the source of an allegation.

20 (b) Commissioners, employees, and agents of the
21 Executive Ethics Commission, the Executive Inspectors
22 General, and employees and agents of each Office of an
23 Executive Inspector General shall keep confidential and shall
24 not disclose information exempted from disclosure under the
25 Freedom of Information Act or by this Act.

26 (93 HB3412enr. Sec. 20-95 new)

27 Sec. 20-95. Exemptions.

28 (a) Documents generated by an ethics officer under this
29 Act are exempt from the provisions of the Freedom of
30 Information Act.

31 (b) Any allegations and related documents submitted to
32 an Executive Inspector General and any pleadings and related

1 documents brought before the Executive Ethics Commission are
2 exempt from the provisions of the Freedom of Information Act
3 so long as the Executive Ethics Commission does not make a
4 finding of a violation of this Act. If the Executive Ethics
5 Commission finds that a violation has occurred, the entire
6 record of proceedings before the Commission, the decision and
7 recommendation, and the mandatory report from the agency head
8 or ultimate jurisdictional authority to the Executive Ethics
9 Commission are not exempt from the provisions of the Freedom
10 of Information Act but information contained therein that is
11 otherwise exempt from the Freedom of Information Act must be
12 redacted before disclosure as provided in Section 8 of the
13 Freedom of Information Act.

14 (c) Meetings of the Commission under Sections 20-5 and
15 20-15 of this Act are exempt from the provisions of the Open
16 Meetings Act.

17 (d) Unless otherwise provided in this Act, all
18 investigatory files and reports of the Office of an Executive
19 Inspector General, other than annual reports, are
20 confidential, are exempt from disclosure under the Freedom of
21 Information Act, and shall not be divulged to any person or
22 agency, except as necessary (i) to the appropriate law
23 enforcement authority if the matter is referred pursuant to
24 this Act, (ii) to the ultimate jurisdiction authority, (iii)
25 to the Executive Ethics Commission; or (iv) to another
26 Inspector General appointed pursuant to this Act.

27 (93 HB3412enr. Art. 25 heading new)

28 ARTICLE 25

29 LEGISLATIVE ETHICS COMMISSION AND

30 LEGISLATIVE INSPECTOR GENERAL

31 (93 HB3412enr. Sec. 25-5 new)

32 Sec. 25-5. Legislative Ethics Commission.

1 (a) The Legislative Ethics Commission is created.

2 (b) The Legislative Ethics Commission shall consist of 8
3 commissioners appointed 2 each by the President and Minority
4 Leader of the Senate and the Speaker and Minority Leader of
5 the House of Representatives.

6 The terms of the initial commissioners shall commence
7 upon qualification. Each appointing authority shall designate
8 one appointee who shall serve for a 2-year term running
9 through June 30, 2005. Each appointing authority shall
10 designate one appointee who shall serve for a 4-year term
11 running through June 30, 2007. The initial appointments shall
12 be made within 60 days after the effective date of this Act.

13 After the initial terms, commissioners shall serve for
14 4-year terms commencing on July 1 of the year of appointment
15 and running through June 30 of the fourth following year.
16 Commissioners may be reappointed to one or more subsequent
17 terms.

18 Vacancies occurring other than at the end of a term shall
19 be filled by the appointing authority only for the balance of
20 the term of the commissioner whose office is vacant.

21 Terms shall run regardless of whether the position is
22 filled.

23 (c) The appointing authorities shall appoint
24 commissioners who have experience holding governmental office
25 or employment and may appoint commissioners who are members
26 of the General Assembly as well as commissioners from the
27 general public. A person is not eligible to serve as a
28 commissioner if that person (i) has been convicted of a
29 felony or a crime of dishonesty or moral turpitude, (ii) is,
30 or was within the preceding 12 months, engaged in activities
31 that require registration under the Lobbyist Registration
32 Act, (iii) is a relative of the appointing authority, or (iv)
33 is a State officer or employee other than a member of the
34 General Assembly.

1 (d) The Legislative Ethics Commission shall have
2 jurisdiction over members of the General Assembly and all
3 State employees whose ultimate jurisdictional authority is
4 (i) a legislative leader, (ii) the Senate Operations
5 Commission, or (iii) the Joint Committee on Legislative
6 Support Services. The jurisdiction of the Commission is
7 limited to matters arising under this Act.

8 (e) The Legislative Ethics Commission must meet, either
9 in person or by other technological means, monthly or as
10 often as necessary. At the first meeting of the Legislative
11 Ethics Commission, the commissioners shall choose from their
12 number a chairperson and other officers that they deem
13 appropriate. The terms of officers shall be for 2 years
14 commencing July 1 and running through June 30 of the second
15 following year. Meetings shall be held at the call of the
16 chairperson or any 3 commissioners. Official action by the
17 Commission shall require the affirmative vote of 5
18 commissioners, and a quorum shall consist of 5 commissioners.
19 Commissioners shall receive no compensation but may be
20 reimbursed for their reasonable expenses actually incurred in
21 the performance of their duties.

22 (f) No commissioner, other than a commissioner who is a
23 member of the General Assembly, or employee of the
24 Legislative Ethics Commission may during his or her term of
25 appointment or employment:

- 26 (1) become a candidate for any elective office;
- 27 (2) hold any other elected or appointed public
28 office except for appointments on governmental advisory
29 boards or study commissions or as otherwise expressly
30 authorized by law;
- 31 (3) be actively involved in the affairs of any
32 political party or political organization; or
- 33 (4) actively participate in any campaign for any
34 elective office.

1 (g) An appointing authority may remove a commissioner
2 only for cause.

3 (h) The Legislative Ethics Commission shall appoint an
4 Executive Director. The compensation of the Executive
5 Director shall be as determined by the Commission or by the
6 Compensation Review Board, whichever amount is higher. The
7 Executive Director of the Legislative Ethics Commission may
8 employ and determine the compensation of staff, as
9 appropriations permit.

10 (93 HB3412enr. Sec. 25-10 new)

11 Sec. 25-10. Office of Legislative Inspector General.

12 (a) The independent Office of the Legislative Inspector
13 General is created. The Office shall be under the direction
14 and supervision of the Legislative Inspector General and
15 shall be a fully independent office with its own
16 appropriation.

17 (b) The Legislative Inspector General shall be appointed
18 without regard to political affiliation and solely on the
19 basis of integrity and demonstrated ability. The Legislative
20 Ethics Commission shall diligently search out qualified
21 candidates for Legislative Inspector General and shall make
22 recommendations to the General Assembly.

23 The Legislative Inspector General shall be appointed by a
24 joint resolution of the Senate and the House of
25 Representatives, which may specify the date on which the
26 appointment takes effect. A joint resolution, or other
27 document as may be specified by the Joint Rules of the
28 General Assembly, appointing the Legislative Inspector
29 General must be certified by the Speaker of the House of
30 Representatives and the President of the Senate as having
31 been adopted by the affirmative vote of three-fifths of the
32 members elected to each house, respectively, and be filed
33 with the Secretary of State. The appointment of the

1 Legislative Inspector General takes effect on the day the
2 appointment is completed by the General Assembly, unless the
3 appointment specifies a later date on which it is to become
4 effective.

5 The Legislative Inspector General shall have the
6 following qualifications:

7 (1) has not been convicted of any felony under the
8 laws of this State, another State, or the United States;

9 (2) has earned a baccalaureate degree from an
10 institution of higher education; and

11 (3) has either (A) 5 or more years of service with
12 a federal, State, or local law enforcement agency, at
13 least 2 years of which have been in a progressive
14 investigatory capacity; (B) 5 or more years of service as
15 a federal, State, or local prosecutor; or (C) 5 or more
16 years of service as a senior manager or executive of a
17 federal, State, or local agency; or (D) 5 or more years
18 of service as a member, an officer, or a State or federal
19 judge.

20 The Legislative Inspector General may not be a relative
21 of a commissioner.

22 The term of the initial Legislative Inspector General
23 shall commence upon qualification and shall run through June
24 30, 2008.

25 After the initial term, the Legislative Inspector General
26 shall serve for 5-year terms commencing on July 1 of the year
27 of appointment and running through June 30 of the fifth
28 following year. The Legislative Inspector General may be
29 reappointed to one or more subsequent terms.

30 A vacancy occurring other than at the end of a term shall
31 be filled in the same manner as an appointment only for the
32 balance of the term of the Legislative Inspector General
33 whose office is vacant.

34 Terms shall run regardless of whether the position is

1 filled.

2 (c) The Legislative Inspector General shall have
3 jurisdiction over the members of the General Assembly and all
4 State employees whose ultimate jurisdictional authority is
5 (i) a legislative leader, (ii) the Senate Operations
6 Commission, or (iii) the Joint Committee on Legislative
7 Support Services.

8 The jurisdiction of each Legislative Inspector General is
9 to investigate allegations of fraud, waste, abuse,
10 mismanagement, misconduct, nonfeasance, misfeasance,
11 malfeasance, or violations of this Act or violations of other
12 related laws and rules.

13 (d) The compensation of the Legislative Inspector
14 General shall be the greater of an amount (i) determined by
15 the Commission or (ii) by joint resolution of the General
16 Assembly passed by a majority of members elected in each
17 chamber. Subject to Section 25-45 of this Act, the
18 Legislative Inspector General has full authority to organize
19 the Office of the Legislative Inspector General, including
20 the employment and determination of the compensation of
21 staff, such as deputies, assistants, and other employees, as
22 appropriations permit.

23 (e) No Legislative Inspector General or employee of the
24 Office of the Legislative Inspector General may, during his
25 or her term of appointment or employment or within one year
26 thereafter:

27 (1) become a candidate for any elective office;

28 (2) hold any other elected or appointed public
29 office except for appointments on governmental advisory
30 boards or study commissions or as otherwise expressly
31 authorized by law;

32 (3) be actively involved in the affairs of any
33 political party or political organization; or

34 (4) actively participate in any campaign for any

1 elective office.

2 (f) The Commission may remove the Legislative Inspector
3 General only for cause. At the time of the removal, the
4 Commission must report to the General Assembly the
5 justification for the removal.

6 (93 HB3412enr. Sec. 25-15 new)

7 Sec. 25-15. Duties of the Legislative Ethics Commission.
8 In addition to duties otherwise assigned by law, the
9 Legislative Ethics Commission shall have the following
10 duties:

11 (1) To promulgate rules governing the performance of its
12 duties and the exercise of its powers and governing the
13 investigations of the Legislative Inspector General.

14 (2) To conduct administrative hearings and rule on
15 matters brought before the Commission only upon the receipt
16 of pleadings filed by the Legislative Inspector General and
17 not upon its own prerogative, but may appoint special
18 Legislative Inspectors General as provided in Section 25-21.
19 Any other allegations of misconduct received by the
20 Commission from a person other than the Legislative Inspector
21 General shall be referred to the Office of the Legislative
22 Inspector General.

23 (3) To prepare and publish manuals and guides and,
24 working with the Office of the Attorney General, oversee
25 training of employees under its jurisdiction that explains
26 their duties.

27 (4) To prepare public information materials to facilitate
28 compliance, implementation, and enforcement of this Act.

29 (5) To submit reports as required by this Act.

30 (6) To the extent authorized by this Act, to make
31 rulings, issue recommendations, and impose administrative
32 finances, if appropriate, in connection with the implementation
33 and interpretation of this Act. The powers and duties of the

1 Commission are limited to matters clearly within the purview
2 of this Act.

3 (7) To issue subpoenas with respect to matters pending
4 before the Commission, subject to the provisions of this
5 Article and in the discretion of the Commission, to compel
6 the attendance of witnesses for purposes of testimony and the
7 production of documents and other items for inspection and
8 copying.

9 (8) To appoint special Legislative Inspectors General as
10 provided in Section 25-21.

11 (93 HB3412enr. Sec. 25-20 new)

12 Sec. 25-20. Duties of the Legislative Inspector General.
13 In addition to duties otherwise assigned by law, the
14 Legislative Inspector General shall have the following
15 duties:

16 (1) To receive and investigate allegations of violations
17 of this Act. The Legislative Inspector General may receive
18 information through the Office of the Legislative Inspector
19 General or through an ethics commission. An investigation may
20 be conducted only in response to information reported to the
21 Legislative Inspector General as provided in this Section and
22 not upon his or her own prerogative. Allegations may not be
23 made anonymously. The Legislative Inspector General shall
24 have the discretion to determine the appropriate means of
25 investigation as permitted by law.

26 (2) To request information relating to an investigation
27 from any person when the Legislative Inspector General deems
28 that information necessary in conducting an investigation.

29 (3) To issue subpoenas to compel the attendance of
30 witnesses for the purposes of testimony and production of
31 documents and other items for inspection and copying.

32 (4) To submit reports as required by this Act.

33 (5) After finding sufficient evidence, to file pleadings

1 in the name of the Legislative Inspector General with the
2 Legislative Ethics Commission, through the Attorney General,
3 as provided in this Article.

4 (6) To assist and coordinate the ethics officers for
5 State agencies under the jurisdiction of the Legislative
6 Inspector General and to work with those ethics officers.

7 (7) To participate in or conduct, when appropriate,
8 multi-jurisdictional investigations.

9 (8) To request, as the Legislative Inspector General
10 deems appropriate, from ethics officers of State agencies
11 under his or her jurisdiction, reports or information on (i)
12 the content of a State agency's ethics training program and
13 (ii) the percentage of new officers and employees who have
14 completed ethics training.

15 (93 HB3412enr. Sec. 25-21 new)

16 Sec. 25-21. Special Legislative Inspectors General.

17 (a) The Legislative Ethics Commission, on its own
18 initiative and by majority vote, may appoint special
19 Legislative Inspectors General to investigate fraud, waste,
20 abuse, mismanagement, misconduct, nonfeasance, misfeasance,
21 malfeasance, violations of this Act, or violations of other
22 related laws and rules with respect to any investigation not
23 concluded within 6 months after its initiation, where the
24 Commission finds that the Inspector General's reasons under
25 Section 25-65 for failing to complete the investigation are
26 insufficient.

27 (b) A special Legislative Inspector General must have
28 the same qualifications as the Legislative Inspector General
29 appointed under Section 25-10.

30 (c) The Commission's appointment of a special
31 Legislative Inspector General must be in writing and must
32 specify the duration and purpose of the appointment. The
33 written appointment shall be a public record.

1 (d) A special Legislative Inspector General shall have
2 the same powers and duties with respect to the purpose of his
3 or her appointment as the Legislative Inspector General
4 appointed under Section 25-10.

5 (e) A special Legislative Inspector General shall report
6 the findings of his or her investigation to the Commission.

7 (f) The Commission may report the findings of a special
8 Legislative Inspector General and its recommendations, if
9 any, to the General Assembly.

10 (93 HB3412enr. Sec. 25-23 new)

11 Sec. 25-23. Ethics Officers. The President and Minority
12 Leader of the Senate and the Speaker and Minority Leader of
13 the House of Representatives shall each appoint an ethics
14 officer for the members and employees of his or her
15 legislative caucus. The head of each State agency under the
16 jurisdiction of the Legislative Ethics Commission, other than
17 the General Assembly, shall designate an ethics officer for
18 the State agency. Ethics Officers shall:

19 (1) act as liaisons between the State agency and
20 the Legislative Inspector General and between the State
21 agency and the Legislative Ethics Commission;

22 (2) review statements of economic interest and
23 disclosure forms of officers, senior employees, and
24 contract monitors before they are filed with the
25 Secretary of State; and

26 (3) provide guidance to officers and employees in
27 the interpretation and implementation of this Act. Such
28 guidance shall be based, wherever possible, upon legal
29 precedent in court decisions, opinions of the Attorney
30 General, and the findings and opinions of the Legislative
31 Ethics Commission.

32 (93 HB3412enr. Sec. 25-35 new)

1 Sec. 25-35. Administrative subpoena; compliance. A person
2 duly subpoenaed for testimony, documents, or other items who
3 neglects or refuses to testify or produce documents or other
4 items under the requirements of the subpoena shall be subject
5 to punishment as may be determined by a court of competent
6 jurisdiction, unless the testimony, documents, or other items
7 are covered by the attorney-client privilege or any other
8 privilege or right recognized by law. Nothing in this Section
9 limits a person's right to protection against
10 self-incrimination under the Fifth Amendment of the United
11 States Constitution or Article I, Section 10, of the
12 Constitution of the State of Illinois.

13 (93 HB3412enr. Sec. 25-45 new)

14 Sec. 25-45. Standing; representation.

15 (a) Only the Legislative Inspector General may bring
16 actions before the Legislative Ethics Commission.

17 (b) The Attorney General shall represent the Legislative
18 Inspector General in all proceedings before the Commission,
19 except that the Attorney General may appoint special counsel
20 to represent the Legislative Inspector General before the
21 Commission if the Attorney General deems it necessary to
22 avoid any actual, potential, or perceived conflict of
23 interest.

24 (c) Attorneys or special counsel representing an
25 Inspector General in proceedings before the Legislative
26 Ethics Commission shall be appointed or retained by the
27 Attorney General, shall be under the supervision, direction,
28 and control of the Attorney General, and shall serve at the
29 pleasure of the Attorney General. The compensation of any
30 assistant attorneys and special counsel appointed or retained
31 in accordance with this subsection shall be paid by the
32 Office of the Legislative Inspector General.

1 (93 HB3412enr. Sec. 25-50 new)

2 Sec. 25-50. Investigation reports; complaint procedure.

3 (a) If the Legislative Inspector General, upon the
4 conclusion of an investigation, determines that sufficient
5 evidence exists to file pleadings with the Legislative Ethics
6 Commission, then the Legislative Inspector General shall
7 issue a summary report of the investigation. The report shall
8 be delivered to the appropriate ultimate jurisdictional
9 authority and to the head of each State agency affected by or
10 involved in the investigation, if appropriate.

11 (b) The summary report of the investigation shall
12 include the following:

13 (1) A description of any allegations or other
14 information received by the Legislative Inspector General
15 pertinent to the investigation.

16 (2) A description of any alleged misconduct
17 discovered in the course of the investigation.

18 (3) Recommendations for any corrective or
19 disciplinary action to be taken in response to any
20 alleged misconduct described in the report, including but
21 not limited to discharge.

22 (4) Other information the Legislative Inspector
23 General deems relevant to the investigation or resulting
24 recommendations.

25 (c) Not less than 30 days after delivery of the summary
26 report of an investigation under subsection (a), the
27 Legislative Inspector General, represented by the Attorney
28 General, may file with the Legislative Ethics Commission a
29 petition for leave to file a complaint. The petition shall
30 set forth the alleged violation and the grounds that exist to
31 support the petition. The petition for leave to file a
32 complaint must be filed with the Commission within 18 months
33 after an alleged violation of this Act.

34 (d) A copy of the petition must be served on all

1 respondents named in the complaint and on each respondent's
2 ultimate jurisdictional authority in the same manner as
3 process is served under the Code of Civil Procedure.

4 (e) A respondent may file objections to the petition for
5 leave to file a complaint within 30 days after notice of the
6 petition has been served on the respondent.

7 (f) The Commission shall meet, either in person or by
8 telephone, in a closed session to review the sufficiency of
9 the complaint. If the Commission finds that complaint is
10 sufficient, the Commission shall grant the petition for leave
11 to file the complaint. The Commission shall issue notice to
12 the Legislative Inspector General and all respondents of the
13 Commission's ruling on the sufficiency of the complaint. If
14 the complaint is deemed to sufficiently allege a violation of
15 this Act, then the Commission shall notify the parties and
16 shall include a hearing date scheduled within 4 weeks after
17 the date of the notice, unless all of the parties consent to
18 a later date. If the complaint is deemed not to sufficiently
19 allege a violation, then the Commission shall send by
20 certified mail, return receipt requested, a notice to the
21 parties of the decision to dismiss the complaint.

22 (g) On the scheduled date the Commission shall conduct a
23 closed meeting, either in person or, if the parties consent,
24 by telephone, on the complaint and allow all parties the
25 opportunity to present testimony and evidence. All such
26 proceedings shall be transcribed.

27 (h) Within an appropriate time limit set by rules of the
28 Legislative Ethics Commission, the Commission shall (i)
29 dismiss the complaint or (ii) issue a recommendation of
30 discipline to the respondent and the respondent's ultimate
31 jurisdictional authority or impose an administrative fine
32 upon the respondent, or both.

33 (i) The proceedings on any complaint filed with the
34 Commission shall be conducted pursuant to rules promulgated

1 by the Commission.

2 (j) The Commission may designate hearing officers to
3 conduct proceedings as determined by rule of the Commission.

4 (k) In all proceedings before the Commission, the
5 standard of proof is by a preponderance of the evidence.

6 (93 HB3412enr. Sec. 25-55 new)

7 Sec. 25-55. Decisions; recommendations.

8 (a) All decisions of the Legislative Ethics Commission
9 must include a description of the alleged misconduct, the
10 decision of the Commission, including any fines levied and
11 any recommendation of discipline, and the reasoning for that
12 decision. All decisions of the Commission shall be delivered
13 to the head of the appropriate State agency, the appropriate
14 ultimate jurisdictional authority, and the Legislative
15 Inspector General. The Legislative Ethics Commission shall
16 promulgate rules for the decision and recommendation process.

17 (b) If the Legislative Ethics Commission issues a
18 recommendation of discipline to an agency head or ultimate
19 jurisdictional authority, that agency head or ultimate
20 jurisdictional authority must respond to that recommendation
21 in 30 days with a written response to the Legislative Ethics
22 Commission. This response must include any disciplinary
23 action the agency head or ultimate jurisdictional authority
24 has taken with respect to the officer or employee in
25 question. If the agency head or ultimate jurisdictional
26 authority did not take any disciplinary action, or took a
27 different disciplinary action than that recommended by the
28 Legislative Ethics Commission, the agency head or ultimate
29 jurisdictional authority must describe the different action
30 and explain the reasons for the different action in the
31 written response. This response must be served upon the
32 Legislative Ethics Commission and the Legislative Inspector
33 General within the 30-day period and is not exempt from the

1 provisions of the Freedom of Information Act.

2 (93 HB3412enr. Sec. 25-60 new)

3 Sec. 25-60. Appeals. A decision of the Legislative Ethics
4 Commission to impose a fine is subject to judicial review
5 under the Administrative Review Law. All other decisions by
6 the Legislative Ethics Commission are final and not subject
7 to review either administratively or judicially.

8 (93 HB3412enr. Sec. 25-65 new)

9 Sec. 25-65. Investigations not concluded within 6 months.
10 If any investigation is not concluded within 6 months after
11 its initiation, the Legislative Inspector General shall
12 notify the Legislative Ethics Commission and appropriate
13 ultimate jurisdictional authority of the general nature of
14 the allegation or information giving rise to the
15 investigation and the reasons for failure to complete the
16 investigation within 6 months.

17 (93 HB3412enr. Sec. 25-70 new)

18 Sec. 25-70. Cooperation in investigations. It is the duty
19 of every officer and employee under the jurisdiction of the
20 Legislative Inspector General, including any inspector
21 general serving in any State agency under the jurisdiction of
22 the Legislative Inspector General, to cooperate with the
23 Legislative Inspector General in any investigation undertaken
24 pursuant to this Act. Failure to cooperate with an
25 investigation of the Legislative Inspector General is grounds
26 for disciplinary action, including dismissal, unless the
27 failure is based on the attorney-client privilege or any
28 other privilege or right recognized by law.

29 Nothing in this Section limits a person's right to
30 protection against self-incrimination under the Fifth
31 Amendment of the United States Constitution or Article I,

1 Section 10, of the Constitution of the State of Illinois.

2 (93 HB3412enr. Sec. 25-80 new)

3 Sec. 25-80. Referrals of investigations. If the
4 Legislative Inspector General determines that any alleged
5 misconduct involves any person not subject to the
6 jurisdiction of the Legislative Ethics Commission, the
7 Legislative Inspector General shall refer the reported
8 allegations to the appropriate ethics commission or other
9 appropriate body. If the Legislative Inspector General
10 determines that any alleged misconduct may give rise to
11 criminal penalties, the Legislative Inspector General shall
12 refer the allegations regarding that misconduct to the
13 appropriate law enforcement authority.

14 (93 HB3412enr. Sec. 25-85 new)

15 Sec. 25-85. Quarterly reports. The Legislative Inspector
16 General shall submit quarterly reports to the General
17 Assembly and the Legislative Ethics Commission, on dates
18 determined by the Legislative Ethics Commission, indicating:

19 (1) the number of allegations received since the
20 date of the last report;

21 (2) the number of investigations initiated since
22 the date of the last report;

23 (3) the number of investigations concluded since
24 the date of the last report;

25 (4) the number of investigations pending as of the
26 reporting date; and

27 (5) the number of actions filed since the last
28 report and the number of actions pending before the
29 Commission as of the reporting date.

30 (93 HB3412enr. Sec. 25-90 new)

31 Sec. 25-90. Confidentiality.

1 (a) The identity of any individual providing information
2 or reporting any possible or alleged misconduct to the
3 Legislative Inspector General or the Legislative Ethics
4 Commission shall be kept confidential and may not be
5 disclosed without the consent of that individual, unless the
6 individual consents to disclosure of his or her name or
7 disclosure of the individual's identity is otherwise required
8 by law. The confidentiality granted by this subsection does
9 not preclude the disclosure of the identity of a person in
10 any capacity other than as the source of an allegation.

11 (b) Commissioners, employees, and agents of the
12 Legislative Ethics Commission, the Legislative Inspector
13 General, and employees and agents of the Office of the
14 Legislative Inspector General shall keep confidential and
15 shall not disclose information exempted from disclosure under
16 the Freedom of Information Act or by this Act.

17 (93 HB3412enr. Sec. 25-95 new)

18 Sec. 25-95. Exemptions.

19 (a) Documents generated by an ethics officer under this
20 Act are exempt from the provisions of the Freedom of
21 Information Act.

22 (b) Any allegations and related documents submitted to
23 the Legislative Inspector General and any pleadings and
24 related documents brought before the Legislative Ethics
25 Commission are exempt from the provisions of the Freedom of
26 Information Act so long as the Legislative Ethics Commission
27 does not make a finding of a violation of this Act. If the
28 Legislative Ethics Commission finds that a violation has
29 occurred, the entire record of proceedings before the
30 Commission, the decision and recommendation, and the
31 mandatory report from the agency head or ultimate
32 jurisdictional authority to the Legislative Ethics Commission
33 are not exempt from the provisions of the Freedom of

1 Information Act but information contained therein that is
2 exempt from the Freedom of Information Act must be redacted
3 before disclosure as provided in Section 8 of the Freedom of
4 Information Act.

5 (c) Meetings of the Commission under Sections 25-5 and
6 25-15 of this Act are exempt from the provisions of the Open
7 Meetings Act.

8 (d) Unless otherwise provided in this Act, all
9 investigatory files and reports of the Office of the
10 Legislative Inspector General, other than annual reports, are
11 confidential, are exempt from disclosure under the Freedom of
12 Information Act, and shall not be divulged to any person or
13 agency, except as necessary (i) to the appropriate law
14 enforcement authority if the matter is referred pursuant to
15 this Act, (ii) to the ultimate jurisdiction authority, or
16 (iii) to the Legislative Ethics Commission.

17 (93 HB3412enr. Art. 30 heading new)

18 ARTICLE 30

19 AUDITOR GENERAL

20 (93 HB3412enr. Sec. 30-5 new)

21 Sec. 30-5. Appointment of Inspector General.

22 (a) The Auditor General shall appoint an Inspector
23 General (i) to investigate allegations of violations of
24 Articles 5 and 10 by State officers and employees under his
25 or her jurisdiction and (ii) to perform other duties and
26 exercise other powers assigned to the Inspectors General by
27 this or any other Act. The Inspector General shall be
28 appointed within 6 months after the effective date of this
29 Act.

30 (b) The Auditor General shall provide by rule for the
31 operation of his or her Inspector General.

32 (c) The Auditor General may appoint an existing

1 inspector general as the Inspector General required by this
 2 Article, provided that such an inspector general is not
 3 prohibited by law, rule, jurisdiction, qualification, or
 4 interest from serving as the Inspector General required by
 5 this Article.

6 The Auditor General may not appoint a relative as the
 7 Inspector General required by this Article.

8 (93 HB3412enr. Sec. 30-10 new)

9 Sec. 30-10. Ethics Officer. The Auditor General shall
 10 designate an Ethics Officer for the office of the Auditor
 11 General. The ethics officer shall:

12 (1) act as liaison between the Office of the
 13 Auditor General and the Inspector General appointed under
 14 this Article;

15 (2) review statements of economic interest and
 16 disclosure forms of officers, senior employees, and
 17 contract monitors before they are filed with the
 18 Secretary of State; and

19 (3) provide guidance to officers and employees in
 20 the interpretation and implementation of this Act. Such
 21 guidance shall be based, whenever possible, upon legal
 22 precedent in court decisions and opinions of the Attorney
 23 General.

24 ARTICLE 35

25 OTHER INSPECTORS GENERAL WITHIN THE EXECUTIVE BRANCH

26 Section 35-5. Appointment of Inspectors General. Nothing
 27 in this Act precludes the appointment by the Governor, the
 28 Lieutenant Governor, the Attorney General, the Secretary of
 29 State, the Comptroller, or the Treasurer of any inspector
 30 general required or permitted by law. Nothing in this Act
 31 precludes the Governor, the Attorney General, the Secretary
 32 of State, the Comptroller, or the Treasurer from appointing

1 an existing inspector general under his or her jurisdiction
2 to serve simultaneously as an Executive Inspector General.
3 This Act shall be read consistently with all existing State
4 statutes that create inspectors general under the
5 jurisdiction of an executive branch constitutional officer.

6 (93 HB3412enr. Art. 50, Sec. 50-5)

7 Sec. 50-5. Penalties.

8 (a) A person is guilty of a Class A misdemeanor if that
9 person intentionally violates any provision of Section 5-15,
10 5-30, 5-40, or 5-45 or Article 15.

11 (b) A person who intentionally violates any provision of
12 Section 5-20, 5-35, or 5-50 is guilty of a business offense
13 subject to a fine of at least \$1,001 and up to \$5,000.

14 (c) A person who intentionally violates any provision of
15 Article 10 is guilty of a business offense and subject to a
16 fine of at least \$1,001 and up to \$5,000.

17 (d) Any person who intentionally makes a false report
18 alleging a violation of any provision of this Act to an
19 ethics commission, an inspector general, the State Police, a
20 State's Attorney, the Attorney General, or any other law
21 enforcement official is guilty of a Class A misdemeanor.

22 (e) An ethics commission may levy an administrative fine
23 of up to \$5,000 against any person who violates this Act, who
24 intentionally obstructs or interferes with an investigation
25 conducted under this Act by an inspector general, or who
26 intentionally makes a false or frivolous allegation of a
27 violation of this Act.

28 (f) In addition to any other penalty that may apply,
29 whether criminal or civil, a State employee who intentionally
30 violates any provision of Section 5-15, 5-20, 5-30, 5-35,
31 5-40, or 5-50, Article 10, Article 15, or Section 20-90 or
32 25-90 is subject to discipline or discharge by the
33 appropriate ultimate jurisdictional authority.

1 Penalties.

2 (a) -- A person is guilty of a Class A misdemeanor if -- that
3 person -- intentionally violates any provision of Section 5-15,
4 5-30, 5-40, or 5-45 or Article 15.

5 (b) -- A person who intentionally violates any provision of
6 Section 5-20 or Section 5-35 is guilty of a business -- offense
7 subject to a fine of at least \$1,001 and up to \$5,000.

8 (c) -- In -- addition -- to -- any -- other penalty that may apply,
9 whether criminal or civil, a director, -- a -- supervisor, -- or -- a
10 State -- employee -- who -- intentionally violates any provision of
11 Section 5-15, 5-20, 5-30, 5-35, -- or -- 5-40 -- or -- Article -- 15 -- is
12 subject -- to -- discipline -- or -- discharge -- by -- the -- appropriate
13 ultimate jurisdictional authority.

14 (Source: 93HB3412enr.)

15 (93 HB3412enr. Art. 70, Sec. 70-5)

16 Sec. 70-5. Adoption by governmental entities.

17 (a) Within 6 months after the effective date of this
18 Act, each governmental entity shall adopt an ordinance or
19 resolution that regulates, in a manner no less restrictive
20 than Section 5-15 and Article 10 of this Act, (i) the
21 political activities of officers and employees of the
22 governmental entity and (ii) the soliciting and accepting of
23 gifts by and the offering and making of gifts to officers and
24 employees of the governmental entity.

25 (b) The Attorney General shall develop model ordinances
26 and resolutions for the purpose of this Article and shall
27 advise governmental entities on their contents and adoption.

28 (c) As used in this Article, (i) an "officer" means an
29 elected or appointed official; regardless of whether the
30 official is compensated, and (ii) an "employee" means a
31 full-time, part-time, or contractual employee.

32 (Source: 93HB3412enr.)

1 (93 HB3412enr. Art. 70, Sec. 70-15)

2 Sec. 70-15. Home rule preemption. This Article is a
3 denial and limitation of home rule powers and functions in
4 accordance with subsection (i) of Section 6 of Article VII of
5 the Illinois Constitution. A home rule unit may not regulate
6 the political activities of its officers and employees and
7 the soliciting, offering, accepting, and making of gifts in a
8 manner less restrictive than the provisions of Section 70-5
9 this Act.

10 (Source: 93HB3412enr.)

11 Section 55. If and only if House Bill 3412 as passed by
12 the 93rd General Assembly becomes law by override of the
13 Governor's amendatory veto, the Illinois Administrative
14 Procedure Act is amended by changing Section 5-165 as
15 follows:

16 (5 ILCS 100/5-165)

17 Sec. 5-165. Ex parte communications in rulemaking.

18 (a) Notwithstanding any law to the contrary, this
19 Section applies to ex parte communications made during the
20 rulemaking process.

21 (b) "Ex parte communication" means any written or oral
22 communication by any agent of the Governor or any other
23 person required to be registered under the Lobbyist
24 Registration Act to an agency, agency head, administrative
25 law judge, or other agency employee during the rulemaking
26 period that imparts material information or argument
27 regarding potential action concerning an agency's general,
28 emergency, or peremptory rulemaking under this Act and that
29 is communicated to that agency, the head of that agency, or
30 any other employee of that agency. For purposes of this
31 Section, the rulemaking period begins upon the commencement
32 of the first notice period with respect to general rulemaking

1 under Section 5-40, upon the filing of a notice of emergency
2 rulemaking under Section 5-45, or upon the filing of a notice
3 of rulemaking with respect to peremptory rulemaking under
4 Section 5-50. "Ex parte communication" does not include the
5 following: (i) statements by a person publicly made in a
6 public forum; (ii) statements regarding matters of procedure
7 and practice, such as the format of public comments, the
8 number of copies required, the manner of filing such
9 comments, and the status of a rulemaking proceeding; and
10 (iii) statements made by a ~~State-official-or~~ State employee
11 of that agency to the agency head or other employee of that
12 agency.

13 (c) An ex parte communication received by any agency,
14 agency head, or other agency employee,~~-or-administrative-law~~
15 judge shall promptly be made a part of the record of the
16 rulemaking proceeding and shall be filed with the Executive
17 Ethics Commission, including all written communications, all
18 written responses to the communications, and a memorandum
19 stating the nature and substance of all oral communications,
20 and all responses made, and the identity of each person from
21 whom the written or oral ex parte communication was received,
22 the individual or entity represented by that person, any
23 action the person requested or recommended, and any other
24 pertinent information. The disclosure shall also contain the
25 date of any ex parte communication.

26 (Source: 93 HB3412enr.)

27 Section 60. If and only if House Bill 3412 as passed by
28 the 93rd General Assembly becomes law by override of the
29 Governor's amendatory veto, the Open Meetings Act is amended
30 by changing Section 1.02 as follows:

31 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

32 Sec. 1.02. For the purposes of this Act:

1 "Meeting" means any gathering of a majority of a quorum
2 of the members of a public body held for the purpose of
3 discussing public business.

4 "Public body" includes all legislative, executive,
5 administrative or advisory bodies of the State, counties,
6 townships, cities, villages, incorporated towns, school
7 districts and all other municipal corporations, boards,
8 bureaus, committees or commissions of this State, and any
9 subsidiary bodies of any of the foregoing including but not
10 limited to committees and subcommittees which are supported
11 in whole or in part by tax revenue, or which expend tax
12 revenue, except the General Assembly and committees or
13 commissions thereof. "Public body" includes tourism boards
14 and convention or civic center boards located in counties
15 that are contiguous to the Mississippi River with populations
16 of more than 250,000 but less than 300,000. "Public body"
17 includes the Health Facilities Planning Board. "Public body"
18 does not include a child death review team or the Illinois
19 Child Death Review Teams Executive Council established under
20 the Child Death Review Team Act or an ethics commission,
21 ~~ethics-officer, or-ultimate-jurisdictional--authority~~ acting
22 under the State Officials and Employees Ethics Act ~~State-Gift~~
23 ~~Ban-Act-as-provided-by-Section-80-of-that-Act.~~

24 (Source: P.A. 91-782, eff. 6-9-00; 92-468, eff. 8-22-01.)

25 Section 70. If and only if House Bill 3412 as passed by
26 the 93rd General Assembly becomes law by override of the
27 Governor's amendatory veto, the Freedom of Information Act is
28 amended by changing Section 7 as follows:

29 (5 ILCS 140/7) (from Ch. 116, par. 207)

30 Sec. 7. Exemptions.

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

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

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

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

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

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

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

33 (v) information revealing the identity of
34 persons who file complaints with or provide

1 information to administrative, investigative, law
2 enforcement or penal agencies; provided, however,
3 that identification of witnesses to traffic
4 accidents, traffic accident reports, and rescue
5 reports may be provided by agencies of local
6 government, except in a case for which a criminal
7 investigation is ongoing, without constituting a
8 clearly unwarranted per se invasion of personal
9 privacy under this subsection; and

10 (vi) the names, addresses, or other personal
11 information of participants and registrants in park
12 district, forest preserve district, and conservation
13 district programs.

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

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

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

26 (iii) deprive a person of a fair trial or an
27 impartial hearing;

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

31 (v) disclose unique or specialized
32 investigative techniques other than those generally
33 used and known or disclose internal documents of
34 correctional agencies related to detection,

1 observation or investigation of incidents of crime
2 or misconduct;

3 (vi) constitute an invasion of personal
4 privacy under subsection (b) of this Section;

5 (vii) endanger the life or physical safety of
6 law enforcement personnel or any other person; or

7 (viii) obstruct an ongoing criminal
8 investigation.

9 (d) Criminal history record information maintained
10 by State or local criminal justice agencies, except the
11 following which shall be open for public inspection and
12 copying:

13 (i) chronologically maintained arrest
14 information, such as traditional arrest logs or
15 blotters;

16 (ii) the name of a person in the custody of a
17 law enforcement agency and the charges for which
18 that person is being held;

19 (iii) court records that are public;

20 (iv) records that are otherwise available
21 under State or local law; or

22 (v) records in which the requesting party is
23 the individual identified, except as provided under
24 part (vii) of paragraph (c) of subsection (1) of
25 this Section.

26 "Criminal history record information" means data
27 identifiable to an individual and consisting of
28 descriptions or notations of arrests, detentions,
29 indictments, informations, pre-trial proceedings, trials,
30 or other formal events in the criminal justice system or
31 descriptions or notations of criminal charges (including
32 criminal violations of local municipal ordinances) and
33 the nature of any disposition arising therefrom,
34 including sentencing, court or correctional supervision,

1 rehabilitation and release. The term does not apply to
2 statistical records and reports in which individuals are
3 not identified and from which their identities are not
4 ascertainable, or to information that is for criminal
5 investigative or intelligence purposes.

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

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

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

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

1 (i) Valuable formulae, computer geographic systems,
2 designs, drawings and research data obtained or produced
3 by any public body when disclosure could reasonably be
4 expected to produce private gain or public loss. The
5 exemption for "computer geographic systems" provided in
6 this paragraph (i) does not extend to requests made by
7 news media as defined in Section 2 of this Act when the
8 requested information is not otherwise exempt and the
9 only purpose of the request is to access and disseminate
10 information regarding the health, safety, welfare, or
11 legal rights of the general public.

12 (j) Test questions, scoring keys and other
13 examination data used to administer an academic
14 examination or determined the qualifications of an
15 applicant for a license or employment.

16 (k) Architects' plans, engineers' technical
17 submissions, and other construction related technical
18 documents for projects not constructed or developed in
19 whole or in part with public funds and the same for
20 projects constructed or developed with public funds, but
21 only to the extent that disclosure would compromise
22 security, including but not limited to water treatment
23 facilities, airport facilities, sport stadiums,
24 convention centers, and all government owned, operated,
25 or occupied buildings.

26 (l) Library circulation and order records
27 identifying library users with specific materials.

28 (m) Minutes of meetings of public bodies closed to
29 the public as provided in the Open Meetings Act until the
30 public body makes the minutes available to the public
31 under Section 2.06 of the Open Meetings Act.

32 (n) Communications between a public body and an
33 attorney or auditor representing the public body that
34 would not be subject to discovery in litigation, and

1 materials prepared or compiled by or for a public body in
2 anticipation of a criminal, civil or administrative
3 proceeding upon the request of an attorney advising the
4 public body, and materials prepared or compiled with
5 respect to internal audits of public bodies.

6 (o) Information received by a primary or secondary
7 school, college or university under its procedures for
8 the evaluation of faculty members by their academic
9 peers.

10 (p) Administrative or technical information
11 associated with automated data processing operations,
12 including but not limited to software, operating
13 protocols, computer program abstracts, file layouts,
14 source listings, object modules, load modules, user
15 guides, documentation pertaining to all logical and
16 physical design of computerized systems, employee
17 manuals, and any other information that, if disclosed,
18 would jeopardize the security of the system or its data
19 or the security of materials exempt under this Section.

20 (q) Documents or materials relating to collective
21 negotiating matters between public bodies and their
22 employees or representatives, except that any final
23 contract or agreement shall be subject to inspection and
24 copying.

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

31 (s) The records, documents and information relating
32 to real estate purchase negotiations until those
33 negotiations have been completed or otherwise terminated.
34 With regard to a parcel involved in a pending or actually

1 and reasonably contemplated eminent domain proceeding
2 under Article VII of the Code of Civil Procedure,
3 records, documents and information relating to that
4 parcel shall be exempt except as may be allowed under
5 discovery rules adopted by the Illinois Supreme Court.
6 The records, documents and information relating to a real
7 estate sale shall be exempt until a sale is consummated.

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

13 (u) Information concerning a university's
14 adjudication of student or employee grievance or
15 disciplinary cases, to the extent that disclosure would
16 reveal the identity of the student or employee and
17 information concerning any public body's adjudication of
18 student or employee grievances or disciplinary cases,
19 except for the final outcome of the cases.

20 (v) Course materials or research materials used by
21 faculty members.

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

24 (x) Information contained in or related to
25 examination, operating, or condition reports prepared by,
26 on behalf of, or for the use of a public body responsible
27 for the regulation or supervision of financial
28 institutions or insurance companies, unless disclosure is
29 otherwise required by State law.

30 (y) Information the disclosure of which is
31 restricted under Section 5-108 of the Public Utilities
32 Act.

33 (z) Manuals or instruction to staff that relate to
34 establishment or collection of liability for any State

1 tax or that relate to investigations by a public body to
2 determine violation of any criminal law.

3 (aa) Applications, related documents, and medical
4 records received by the Experimental Organ
5 Transplantation Procedures Board and any and all
6 documents or other records prepared by the Experimental
7 Organ Transplantation Procedures Board or its staff
8 relating to applications it has received.

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

13 (cc) Information and records held by the Department
14 of Public Health and its authorized representatives
15 relating to known or suspected cases of sexually
16 transmissible disease or any information the disclosure
17 of which is restricted under the Illinois Sexually
18 Transmissible Disease Control Act.

19 (dd) Information the disclosure of which is
20 exempted under Section 30 of the Radon Industry Licensing
21 Act.

22 (ee) Firm performance evaluations under Section 55
23 of the Architectural, Engineering, and Land Surveying
24 Qualifications Based Selection Act.

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

32 (gg) Information the disclosure of which is
33 restricted and exempted under Section 50 of the Illinois
34 Prepaid Tuition Act.

1 (hh) Information the disclosure of which is
2 exempted under the State Officials and Employees Ethics
3 Act Section-80-of-the-State-Gift-Ban-Act.

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

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

15 (kk) Information and data concerning the
16 distribution of surcharge moneys collected and remitted
17 by wireless carriers under the Wireless Emergency
18 Telephone Safety Act.

19 (ll) Vulnerability assessments, security measures,
20 and response policies or plans that are designed to
21 identify, prevent, or respond to potential attacks upon a
22 community's population or systems, facilities, or
23 installations, the destruction or contamination of which
24 would constitute a clear and present danger to the health
25 or safety of the community, but only to the extent that
26 disclosure could reasonably be expected to jeopardize the
27 effectiveness of the measures or the safety of the
28 personnel who implement them or the public. Information
29 exempt under this item may include such things as details
30 pertaining to the mobilization or deployment of personnel
31 or equipment, to the operation of communication systems
32 or protocols, or to tactical operations.

33 (mm) Maps and other records regarding the location
34 or security of a utility's generation, transmission,

1 distribution, storage, gathering, treatment, or switching
2 facilities.

3 (nn) ~~(ll)~~ Law enforcement officer identification
4 information or driver identification information compiled
5 by a law enforcement agency or the Department of
6 Transportation under Section 11-212 of the Illinois
7 Vehicle Code.

8 (oo) ~~(ll)~~ Records and information provided to a
9 residential health care facility resident sexual assault
10 and death review team or the Residential Health Care
11 Facility Resident Sexual Assault and Death Review Teams
12 Executive Council under the Residential Health Care
13 Facility Resident Sexual Assault and Death Review Team
14 Act.

15 (2) This Section does not authorize withholding of
16 information or limit the availability of records to the
17 public, except as stated in this Section or otherwise
18 provided in this Act.

19 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01;
20 92-281, eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff.
21 7-11-02; 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,
22 eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;
23 93-577, eff. 8-21-03; revised 9-8-03.)

24 Section 75. If and only if House Bill 3412 as passed by
25 the 93rd General Assembly becomes law by override of the
26 Governor's amendatory veto, the Illinois Public Labor
27 Relations Act is amended by changing Section 3 as follows:

28 (5 ILCS 315/3) (from Ch. 48, par. 1603)

29 Sec. 3. Definitions. As used in this Act, unless the
30 context otherwise requires:

31 (a) "Board" means the Illinois Labor Relations Board or,
32 with respect to a matter over which the jurisdiction of the

1 Board is assigned to the State Panel or the Local Panel under
2 Section 5, the panel having jurisdiction over the matter.

3 (b) "Collective bargaining" means bargaining over terms
4 and conditions of employment, including hours, wages, and
5 other conditions of employment, as detailed in Section 7 and
6 which are not excluded by Section 4.

7 (c) "Confidential employee" means an employee who, in
8 the regular course of his or her duties, assists and acts in
9 a confidential capacity to persons who formulate, determine,
10 and effectuate management policies with regard to labor
11 relations or who, in the regular course of his or her duties,
12 has authorized access to information relating to the
13 effectuation or review of the employer's collective
14 bargaining policies.

15 (d) "Craft employees" means skilled journeymen, crafts
16 persons, and their apprentices and helpers.

17 (e) "Essential services employees" means those public
18 employees performing functions so essential that the
19 interruption or termination of the function will constitute a
20 clear and present danger to the health and safety of the
21 persons in the affected community.

22 (f) "Exclusive representative", except with respect to
23 non-State fire fighters and paramedics employed by fire
24 departments and fire protection districts, non-State peace
25 officers, and peace officers in the Department of State
26 Police, means the labor organization that has been (i)
27 designated by the Board as the representative of a majority
28 of public employees in an appropriate bargaining unit in
29 accordance with the procedures contained in this Act, (ii)
30 historically recognized by the State of Illinois or any
31 political subdivision of the State before July 1, 1984 (the
32 effective date of this Act) as the exclusive representative
33 of the employees in an appropriate bargaining unit, (iii)
34 after July 1, 1984 (the effective date of this Act)

1 recognized by an employer upon evidence, acceptable to the
2 Board, that the labor organization has been designated as the
3 exclusive representative by a majority of the employees in an
4 appropriate bargaining unit; or (iv) recognized as the
5 exclusive representative of personal care attendants or
6 personal assistants under Executive Order 2003-8 prior to the
7 effective date of this amendatory Act of the 93rd General
8 Assembly, and the organization shall be considered to be the
9 exclusive representative of the personal care attendants or
10 personal assistants as defined in this Section.

11 With respect to non-State fire fighters and paramedics
12 employed by fire departments and fire protection districts,
13 non-State peace officers, and peace officers in the
14 Department of State Police, "exclusive representative" means
15 the labor organization that has been (i) designated by the
16 Board as the representative of a majority of peace officers
17 or fire fighters in an appropriate bargaining unit in
18 accordance with the procedures contained in this Act, (ii)
19 historically recognized by the State of Illinois or any
20 political subdivision of the State before January 1, 1986
21 (the effective date of this amendatory Act of 1985) as the
22 exclusive representative by a majority of the peace officers
23 or fire fighters in an appropriate bargaining unit, or (iii)
24 after January 1, 1986 (the effective date of this amendatory
25 Act of 1985) recognized by an employer upon evidence,
26 acceptable to the Board, that the labor organization has been
27 designated as the exclusive representative by a majority of
28 the peace officers or fire fighters in an appropriate
29 bargaining unit.

30 (g) "Fair share agreement" means an agreement between
31 the employer and an employee organization under which all or
32 any of the employees in a collective bargaining unit are
33 required to pay their proportionate share of the costs of the
34 collective bargaining process, contract administration, and

1 pursuing matters affecting wages, hours, and other conditions
2 of employment, but not to exceed the amount of dues uniformly
3 required of members. The amount certified by the exclusive
4 representative shall not include any fees for contributions
5 related to the election or support of any candidate for
6 political office. Nothing in this subsection (g) shall
7 preclude an employee from making voluntary political
8 contributions in conjunction with his or her fair share
9 payment.

10 (g-1) "Fire fighter" means, for the purposes of this Act
11 only, any person who has been or is hereafter appointed to a
12 fire department or fire protection district or employed by a
13 state university and sworn or commissioned to perform fire
14 fighter duties or paramedic duties, except that the following
15 persons are not included: part-time fire fighters, auxiliary,
16 reserve or voluntary fire fighters, including paid on-call
17 fire fighters, clerks and dispatchers or other civilian
18 employees of a fire department or fire protection district
19 who are not routinely expected to perform fire fighter
20 duties, or elected officials.

21 (g-2) "General Assembly of the State of Illinois" means
22 the legislative branch of the government of the State of
23 Illinois, as provided for under Article IV of the
24 Constitution of the State of Illinois, and includes but is
25 not limited to the House of Representatives, the Senate, the
26 Speaker of the House of Representatives, the Minority Leader
27 of the House of Representatives, the President of the Senate,
28 the Minority Leader of the Senate, the Joint Committee on
29 Legislative Support Services and any legislative support
30 services agency listed in the Legislative Commission
31 Reorganization Act of 1984.

32 (h) "Governing body" means, in the case of the State,
33 the State Panel of the Illinois Labor Relations Board, the
34 Director of the Department of Central Management Services,

1 and the Director of the Department of Labor; the county board
2 in the case of a county; the corporate authorities in the
3 case of a municipality; and the appropriate body authorized
4 to provide for expenditures of its funds in the case of any
5 other unit of government.

6 (i) "Labor organization" means any organization in which
7 public employees participate and that exists for the purpose,
8 in whole or in part, of dealing with a public employer
9 concerning wages, hours, and other terms and conditions of
10 employment, including the settlement of grievances.

11 (j) "Managerial employee" means an individual who is
12 engaged predominantly in executive and management functions
13 and is charged with the responsibility of directing the
14 effectuation of management policies and practices.

15 (k) "Peace officer" means, for the purposes of this Act
16 only, any persons who have been or are hereafter appointed to
17 a police force, department, or agency and sworn or
18 commissioned to perform police duties, except that the
19 following persons are not included: part-time police
20 officers, special police officers, auxiliary police as
21 defined by Section 3.1-30-20 of the Illinois Municipal Code,
22 night watchmen, "merchant police", court security officers as
23 defined by Section 3-6012.1 of the Counties Code, temporary
24 employees, traffic guards or wardens, civilian parking meter
25 and parking facilities personnel or other individuals
26 specially appointed to aid or direct traffic at or near
27 schools or public functions or to aid in civil defense or
28 disaster, parking enforcement employees who are not
29 commissioned as peace officers and who are not armed and who
30 are not routinely expected to effect arrests, parking lot
31 attendants, clerks and dispatchers or other civilian
32 employees of a police department who are not routinely
33 expected to effect arrests, or elected officials.

34 (l) "Person" includes one or more individuals, labor

1 organizations, public employees, associations, corporations,
2 legal representatives, trustees, trustees in bankruptcy,
3 receivers, or the State of Illinois or any political
4 subdivision of the State or governing body, but does not
5 include the General Assembly of the State of Illinois or any
6 individual employed by the General Assembly of the State of
7 Illinois.

8 (m) "Professional employee" means any employee engaged
9 in work predominantly intellectual and varied in character
10 rather than routine mental, manual, mechanical or physical
11 work; involving the consistent exercise of discretion and
12 adjustment in its performance; of such a character that the
13 output produced or the result accomplished cannot be
14 standardized in relation to a given period of time; and
15 requiring advanced knowledge in a field of science or
16 learning customarily acquired by a prolonged course of
17 specialized intellectual instruction and study in an
18 institution of higher learning or a hospital, as
19 distinguished from a general academic education or from
20 apprenticeship or from training in the performance of routine
21 mental, manual, or physical processes; or any employee who
22 has completed the courses of specialized intellectual
23 instruction and study prescribed in this subsection (m) and
24 is performing related work under the supervision of a
25 professional person to qualify to become a professional
26 employee as defined in this subsection (m).

27 (n) "Public employee" or "employee", for the purposes of
28 this Act, means any individual employed by a public employer,
29 including interns and residents at public hospitals and, as
30 of the effective date of this amendatory Act of the 93rd
31 General Assembly, but not before, personal care attendants
32 and personal assistants working under the Home Services
33 Program under Section 3 of the Disabled Persons
34 Rehabilitation Act, subject to the limitations set forth in

1 this Act and in the Disabled Persons Rehabilitation Act, but
2 excluding all of the following: employees of the General
3 Assembly of the State of Illinois; elected officials;
4 executive heads of a department; members of boards or
5 commissions; the Executive Inspectors General; any special
6 Executive Inspectors General; employees of each Office of an
7 Executive Inspector General; commissioners and employees of
8 the Executive Ethics Commission; the Auditor General's
9 Inspector General; employees of the Office of the Auditor
10 General's Inspector General; the Legislative Inspector
11 General; any special Legislative Inspectors General;
12 employees of the Office of the Legislative Inspector General;
13 commissioners and employees of the Legislative Ethics
14 Commission; employees of any agency, board or commission
15 created by this Act; employees appointed to State positions
16 of a temporary or emergency nature; all employees of school
17 districts and higher education institutions except
18 firefighters and peace officers employed by a state
19 university; managerial employees; short-term employees;
20 confidential employees; independent contractors; and
21 supervisors except as provided in this Act.

22 Personal care attendants and personal assistants shall
23 not be considered public employees for any purposes not
24 specifically provided for in this amendatory Act of the 93rd
25 General Assembly, including but not limited to, purposes of
26 vicarious liability in tort and purposes of statutory
27 retirement or health insurance benefits. Personal care
28 attendants and personal assistants shall not be covered by
29 the State Employees Group Insurance Act of 1971 (5 ILCS
30 375/).

31 Notwithstanding Section 9, subsection (c), or any other
32 provisions of this Act, all peace officers above the rank of
33 captain in municipalities with more than 1,000,000
34 inhabitants shall be excluded from this Act.

1 (o) "Public employer" or "employer" means the State of
2 Illinois; any political subdivision of the State, unit of
3 local government or school district; authorities including
4 departments, divisions, bureaus, boards, commissions, or
5 other agencies of the foregoing entities; and any person
6 acting within the scope of his or her authority, express or
7 implied, on behalf of those entities in dealing with its
8 employees. As of the effective date of this amendatory Act of
9 the 93rd General Assembly, but not before, the State of
10 Illinois shall be considered the employer of the personal
11 care attendants and personal assistants working under the
12 Home Services Program under Section 3 of the Disabled Persons
13 Rehabilitation Act, subject to the limitations set forth in
14 this Act and in the Disabled Persons Rehabilitation Act. The
15 State shall not be considered to be the employer of personal
16 care attendants and personal assistants for any purposes not
17 specifically provided for in this amendatory Act of the 93rd
18 General Assembly, including but not limited to, purposes of
19 vicarious liability in tort and purposes of statutory
20 retirement or health insurance benefits. Personal care
21 attendants and personal assistants shall not be covered by
22 the State Employees Group Insurance Act of 1971 (5 ILCS
23 375/). "Public employer" or "employer" as used in this Act,
24 however, does not mean and shall not include the General
25 Assembly of the State of Illinois, the Executive Ethics
26 Commission, the Offices of the Executive Inspectors General,
27 the Legislative Ethics Commission, the Office of the
28 Legislative Inspector General, the Office of the Auditor
29 General's Inspector General, and educational employers or
30 employers as defined in the Illinois Educational Labor
31 Relations Act, except with respect to a state university in
32 its employment of firefighters and peace officers. County
33 boards and county sheriffs shall be designated as joint or
34 co-employers of county peace officers appointed under the

1 authority of a county sheriff. Nothing in this subsection
2 (o) shall be construed to prevent the State Panel or the
3 Local Panel from determining that employers are joint or
4 co-employers.

5 (p) "Security employee" means an employee who is
6 responsible for the supervision and control of inmates at
7 correctional facilities. The term also includes other
8 non-security employees in bargaining units having the
9 majority of employees being responsible for the supervision
10 and control of inmates at correctional facilities.

11 (q) "Short-term employee" means an employee who is
12 employed for less than 2 consecutive calendar quarters during
13 a calendar year and who does not have a reasonable assurance
14 that he or she will be rehired by the same employer for the
15 same service in a subsequent calendar year.

16 (r) "Supervisor" is an employee whose principal work is
17 substantially different from that of his or her subordinates
18 and who has authority, in the interest of the employer, to
19 hire, transfer, suspend, lay off, recall, promote, discharge,
20 direct, reward, or discipline employees, to adjust their
21 grievances, or to effectively recommend any of those actions,
22 if the exercise of that authority is not of a merely routine
23 or clerical nature, but requires the consistent use of
24 independent judgment. Except with respect to police
25 employment, the term "supervisor" includes only those
26 individuals who devote a preponderance of their employment
27 time to exercising that authority, State supervisors
28 notwithstanding. In addition, in determining supervisory
29 status in police employment, rank shall not be determinative.
30 The Board shall consider, as evidence of bargaining unit
31 inclusion or exclusion, the common law enforcement policies
32 and relationships between police officer ranks and
33 certification under applicable civil service law, ordinances,
34 personnel codes, or Division 2.1 of Article 10 of the

1 Illinois Municipal Code, but these factors shall not be the
2 sole or predominant factors considered by the Board in
3 determining police supervisory status.

4 Notwithstanding the provisions of the preceding
5 paragraph, in determining supervisory status in fire fighter
6 employment, no fire fighter shall be excluded as a supervisor
7 who has established representation rights under Section 9 of
8 this Act. Further, in new fire fighter units, employees
9 shall consist of fire fighters of the rank of company officer
10 and below. If a company officer otherwise qualifies as a
11 supervisor under the preceding paragraph, however, he or she
12 shall not be included in the fire fighter unit. If there is
13 no rank between that of chief and the highest company
14 officer, the employer may designate a position on each shift
15 as a Shift Commander, and the persons occupying those
16 positions shall be supervisors. All other ranks above that
17 of company officer shall be supervisors.

18 (s) (1) "Unit" means a class of jobs or positions that
19 are held by employees whose collective interests may
20 suitably be represented by a labor organization for
21 collective bargaining. Except with respect to non-State
22 fire fighters and paramedics employed by fire departments
23 and fire protection districts, non-State peace officers,
24 and peace officers in the Department of State Police, a
25 bargaining unit determined by the Board shall not include
26 both employees and supervisors, or supervisors only,
27 except as provided in paragraph (2) of this subsection
28 (s) and except for bargaining units in existence on July
29 1, 1984 (the effective date of this Act). With respect
30 to non-State fire fighters and paramedics employed by
31 fire departments and fire protection districts, non-State
32 peace officers, and peace officers in the Department of
33 State Police, a bargaining unit determined by the Board
34 shall not include both supervisors and nonsupervisors, or

1 supervisors only, except as provided in paragraph (2) of
2 this subsection (s) and except for bargaining units in
3 existence on January 1, 1986 (the effective date of this
4 amendatory Act of 1985). A bargaining unit determined by
5 the Board to contain peace officers shall contain no
6 employees other than peace officers unless otherwise
7 agreed to by the employer and the labor organization or
8 labor organizations involved. Notwithstanding any other
9 provision of this Act, a bargaining unit, including a
10 historical bargaining unit, containing sworn peace
11 officers of the Department of Natural Resources (formerly
12 designated the Department of Conservation) shall contain
13 no employees other than such sworn peace officers upon
14 the effective date of this amendatory Act of 1990 or upon
15 the expiration date of any collective bargaining
16 agreement in effect upon the effective date of this
17 amendatory Act of 1990 covering both such sworn peace
18 officers and other employees.

19 (2) Notwithstanding the exclusion of supervisors
20 from bargaining units as provided in paragraph (1) of
21 this subsection (s), a public employer may agree to
22 permit its supervisory employees to form bargaining units
23 and may bargain with those units. This Act shall apply
24 if the public employer chooses to bargain under this
25 subsection.

26 (Source: P.A. 93-204, eff. 7-16-03.)

27 Section 77. If and only if House Bill 3412 as passed by
28 the 93rd General Assembly becomes law by override of the
29 Governor's amendatory veto, the State Employee
30 Indemnification Act is amended by changing Section 1 as
31 follows:

32 (5 ILCS 350/1) (from Ch. 127, par. 1301)

1 Sec. 1. Definitions. For the purpose of this Act:

2 (a) The term "State" means the State of Illinois, the
3 General Assembly, the court, or any State office, department,
4 division, bureau, board, commission, or committee, the
5 governing boards of the public institutions of higher
6 education created by the State, the Illinois National Guard,
7 the Comprehensive Health Insurance Board, any poison control
8 center designated under the Poison Control System Act that
9 receives State funding, or any other agency or
10 instrumentality of the State. It does not mean any local
11 public entity as that term is defined in Section 1-206 of the
12 Local Governmental and Governmental Employees Tort Immunity
13 Act or a pension fund.

14 (b) The term "employee" means any present or former
15 elected or appointed officer, trustee or employee of the
16 State, or of a pension fund, any present or former
17 commissioner or employee of the Executive Ethics Commission
18 or of the Legislative Ethics Commission, any present or
19 former Executive, Legislative, or Auditor General's Inspector
20 General, any present or former employee of an Office of an
21 Executive, Legislative, or Auditor General's Inspector
22 General, any present or former member of the Illinois
23 National Guard while on active duty, individuals or
24 organizations who contract with the Department of
25 Corrections, the Comprehensive Health Insurance Board, or the
26 Department of Veterans' Affairs to provide services,
27 individuals or organizations who contract with the Department
28 of Human Services (as successor to the Department of Mental
29 Health and Developmental Disabilities) to provide services
30 including but not limited to treatment and other services for
31 sexually violent persons, individuals or organizations who
32 contract with the Department of Military Affairs for youth
33 programs, individuals or organizations who contract to
34 perform carnival and amusement ride safety inspections for

1 the Department of Labor, individual representatives of or
2 designated organizations authorized to represent the Office
3 of State Long-Term Ombudsman for the Department on Aging,
4 individual representatives of or organizations designated by
5 the Department on Aging in the performance of their duties as
6 elder abuse provider agencies or regional administrative
7 agencies under the Elder Abuse and Neglect Act, individuals
8 or organizations who perform volunteer services for the State
9 where such volunteer relationship is reduced to writing,
10 individuals who serve on any public entity (whether created
11 by law or administrative action) described in paragraph (a)
12 of this Section, individuals or not for profit organizations
13 who, either as volunteers, where such volunteer relationship
14 is reduced to writing, or pursuant to contract, furnish
15 professional advice or consultation to any agency or
16 instrumentality of the State, individuals who serve as foster
17 parents for the Department of Children and Family Services
18 when caring for a Department ward, and individuals who serve
19 as arbitrators pursuant to Part 10A of Article II of the Code
20 of Civil Procedure and the rules of the Supreme Court
21 implementing Part 10A, each as now or hereafter amended, but
22 does not mean an independent contractor except as provided in
23 this Section. The term includes an individual appointed as an
24 inspector by the Director of State Police when performing
25 duties within the scope of the activities of a Metropolitan
26 Enforcement Group or a law enforcement organization
27 established under the Intergovernmental Cooperation Act. An
28 individual who renders professional advice and consultation
29 to the State through an organization which qualifies as an
30 "employee" under the Act is also an employee. The term
31 includes the estate or personal representative of an
32 employee.

33 (c) The term "pension fund" means a retirement system or
34 pension fund created under the Illinois Pension Code.

1 (Source: P.A. 90-793, eff. 8-14-98; 91-726, eff. 6-2-00.)

2 (5 ILCS 395/Act rep.)

3 Section 80. If and only if House Bill 3412 as passed by
4 the 93rd General Assembly becomes law by override of the
5 Governor's amendatory veto, the Whistle Blower Protection Act
6 is repealed.

7 (5 ILCS 425/Act rep.)

8 Section 85. If and only if House Bill 3412 as passed by
9 the 93rd General Assembly becomes law by override of the
10 Governor's amendatory veto, the State Gift Ban Act is
11 repealed.

12 Section 90. If and only if House Bill 3412 as passed by
13 the 93rd General Assembly becomes law by override of the
14 Governor's amendatory veto, the Personnel Code is amended by
15 changing Section 4c as follows:

16 (20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

17 Sec. 4c. General exemptions. The following positions in
18 State service shall be exempt from jurisdictions A, B, and C,
19 unless the jurisdictions shall be extended as provided in
20 this Act:

21 (1) All officers elected by the people.

22 (2) All positions under the Lieutenant Governor,
23 Secretary of State, State Treasurer, State Comptroller,
24 State Board of Education, Clerk of the Supreme Court, and
25 Attorney General.

26 (3) Judges, and officers and employees of the
27 courts, and notaries public.

28 (4) All officers and employees of the Illinois
29 General Assembly, all employees of legislative
30 commissions, all officers and employees of the Illinois

1 Legislative Reference Bureau, the Legislative Research
2 Unit, and the Legislative Printing Unit.

3 (5) All positions in the Illinois National Guard
4 and Illinois State Guard, paid from federal funds or
5 positions in the State Military Service filled by
6 enlistment and paid from State funds.

7 (6) All employees of the Governor at the executive
8 mansion and on his immediate personal staff.

9 (7) Directors of Departments, the Adjutant General,
10 the Assistant Adjutant General, the Director of the
11 Illinois Emergency Management Agency, members of boards
12 and commissions, and all other positions appointed by
13 the Governor by and with the consent of the Senate.

14 (8) The presidents, other principal administrative
15 officers, and teaching, research and extension faculties
16 of Chicago State University, Eastern Illinois University,
17 Governors State University, Illinois State University,
18 Northeastern Illinois University, Northern Illinois
19 University, Western Illinois University, the Illinois
20 Community College Board, Southern Illinois University,
21 Illinois Board of Higher Education, University of
22 Illinois, State Universities Civil Service System,
23 University Retirement System of Illinois, and the
24 administrative officers and scientific and technical
25 staff of the Illinois State Museum.

26 (9) All other employees except the presidents,
27 other principal administrative officers, and teaching,
28 research and extension faculties of the universities
29 under the jurisdiction of the Board of Regents and the
30 colleges and universities under the jurisdiction of the
31 Board of Governors of State Colleges and Universities,
32 Illinois Community College Board, Southern Illinois
33 University, Illinois Board of Higher Education, Board of
34 Governors of State Colleges and Universities, the Board

1 of Regents, University of Illinois, State Universities
2 Civil Service System, University Retirement System of
3 Illinois, so long as these are subject to the provisions
4 of the State Universities Civil Service Act.

5 (10) The State Police so long as they are subject
6 to the merit provisions of the State Police Act.

7 (11) The scientific staff of the State Scientific
8 Surveys and the Waste Management and Research Center.

9 (12) The technical and engineering staffs of the
10 Department of Transportation, the Department of Nuclear
11 Safety, the Pollution Control Board, and the Illinois
12 Commerce Commission, and the technical and engineering
13 staff providing architectural and engineering services in
14 the Department of Central Management Services.

15 (13) All employees of the Illinois State Toll
16 Highway Authority.

17 (14) The Secretary of the Industrial Commission.

18 (15) All persons who are appointed or employed by
19 the Director of Insurance under authority of Section 202
20 of the Illinois Insurance Code to assist the Director of
21 Insurance in discharging his responsibilities relating to
22 the rehabilitation, liquidation, conservation, and
23 dissolution of companies that are subject to the
24 jurisdiction of the Illinois Insurance Code.

25 (16) All employees of the St. Louis Metropolitan
26 Area Airport Authority.

27 (17) All investment officers employed by the
28 Illinois State Board of Investment.

29 (18) Employees of the Illinois Young Adult
30 Conservation Corps program, administered by the Illinois
31 Department of Natural Resources, authorized grantee under
32 Title VIII of the Comprehensive Employment and Training
33 Act of 1973, 29 USC 993.

34 (19) Seasonal employees of the Department of

1 Agriculture for the operation of the Illinois State Fair
2 and the DuQuoin State Fair, no one person receiving more
3 than 29 days of such employment in any calendar year.

4 (20) All "temporary" employees hired under the
5 Department of Natural Resources' Illinois Conservation
6 Service, a youth employment program that hires young
7 people to work in State parks for a period of one year or
8 less.

9 (21) All hearing officers of the Human Rights
10 Commission.

11 (22) All employees of the Illinois Mathematics and
12 Science Academy.

13 (23) All employees of the Kankakee River Valley
14 Area Airport Authority.

15 (24) The commissioners and employees of the
16 Executive Ethics Commission.

17 (25) The Executive Inspectors General, including
18 special Executive Inspectors General, and employees of
19 each Office of an Executive Inspector General.

20 (26) The commissioners and employees of the
21 Legislative Ethics Commission.

22 (27) The Legislative Inspector General, including
23 special Legislative Inspectors General, and employees of
24 the Office of the Legislative Inspector General.

25 (28) The Auditor General's Inspector General and
26 employees of the Office of the Auditor General's
27 Inspector General.

28 (Source: P.A. 90-490, eff. 8-17-97; 91-214, eff. 1-1-00;
29 91-357, eff. 7-29-99.)

30 Section 95. If and only if House Bill 3412 as passed by
31 the 93rd General Assembly becomes law by override of the
32 Governor's amendatory veto, the General Assembly Compensation
33 Act is amended by changing Section 4 as follows:

1 (25 ILCS 115/4) (from Ch. 63, par. 15.1)

2 Sec. 4. Office allowance. Beginning July 1, 2001, each
3 member of the House of Representatives is authorized to
4 approve the expenditure of not more than \$61,000 per year and
5 each member of the Senate is authorized to approve the
6 expenditure of not more than \$73,000 per year to pay for
7 "personal services", "contractual services", "commodities",
8 "printing", "travel", "operation of automotive equipment",
9 "telecommunications services", as defined in the State
10 Finance Act, and the compensation of one or more legislative
11 assistants authorized pursuant to this Section, in connection
12 with his or her legislative duties and not in connection with
13 any political campaign. On July 1, 2002 and on July 1 of each
14 year thereafter, the amount authorized per year under this
15 Section for each member of the Senate and each member of the
16 House of Representatives shall be increased by a percentage
17 increase equivalent to the lesser of (i) the increase in the
18 designated cost of living index or (ii) 5%. The designated
19 cost of living index is the index known as the "Employment
20 Cost Index, Wages and Salaries, By Occupation and Industry
21 Groups: State and Local Government Workers: Public
22 Administration" as published by the Bureau of Labor
23 Statistics of the U.S. Department of Labor for the calendar
24 year immediately preceding the year of the respective July
25 1st increase date. The increase shall be added to the then
26 current amount, and the adjusted amount so determined shall
27 be the annual amount beginning July 1 of the increase year
28 until July 1 of the next year. No increase under this
29 provision shall be less than zero.

30 A member may purchase office equipment if the member
31 certifies to the Secretary of the Senate or the Clerk of the
32 House, as applicable, that the purchase price, whether paid
33 in lump sum or installments, amounts to less than would be
34 charged for renting or leasing the equipment over its

1 anticipated useful life. All such equipment must be
2 purchased through the Secretary of the Senate or the Clerk of
3 the House, as applicable, for proper identification and
4 verification of purchase.

5 Each member of the General Assembly is authorized to
6 employ one or more legislative assistants, who shall be
7 solely under the direction and control of that member, for
8 the purpose of assisting the member in the performance of his
9 or her official duties. A legislative assistant may be
10 employed pursuant to this Section as a full-time employee,
11 part-time employee, or contractual employee, at the
12 discretion of the member. If employed as a State employee, a
13 legislative assistant shall receive employment benefits on
14 the same terms and conditions that apply to other employees
15 of the General Assembly. Each member shall adopt and
16 implement personnel policies for legislative assistants under
17 his or her direction and control relating to work time
18 requirements, documentation for reimbursement for travel on
19 official State business, compensation, and the earning and
20 accrual of State benefits for those legislative assistants
21 who may be eligible to receive those benefits. The policies
22 shall also require legislative assistants to periodically
23 submit time sheets documenting, in quarter-hour increments,
24 the time spent each day on official State business. The
25 policies shall require the time sheets to be submitted on
26 paper, electronically, or both and to be maintained in either
27 paper or electronic format by the applicable fiscal office
28 for a period of at least 2 years. Contractual employees may
29 satisfy the time sheets requirement by complying with the
30 terms of their contract, which shall provide for a means of
31 compliance with this requirement. A member may satisfy the
32 requirements of this paragraph by adopting and implementing
33 the personnel policies promulgated by that member's
34 legislative leader under the State Officials and Employees

1 Ethics Act with respect to that member's legislative
2 assistants.

3 As used in this Section the term "personal services"
4 shall include contributions of the State under the Federal
5 Insurance Contribution Act and under Article 14 of the
6 Illinois Pension Code. As used in this Section the term
7 "contractual services" shall not include improvements to real
8 property unless those improvements are the obligation of the
9 lessee under the lease agreement. Beginning July 1, 1989, as
10 used in the Section, the term "travel" shall be limited to
11 travel in connection with a member's legislative duties and
12 not in connection with any political campaign. Beginning on
13 the effective date of this amendatory Act of the 93rd General
14 Assembly, as used in this Section, the term "printing"
15 includes, but is not limited to, newsletters, brochures,
16 certificates, congratulatory mailings, greeting or welcome
17 messages, anniversary or birthday cards, and congratulations
18 for prominent achievement cards. As used in this Section,
19 the term "printing" includes fees for non-substantive
20 resolutions charged by the Clerk of the House of
21 Representatives under subsection (c-5) of Section 1 of the
22 Legislative Materials Act. No newsletter or brochure that is
23 paid for, in whole or in part, with funds provided under this
24 Section may be printed or mailed during a period beginning
25 February 1 of the year of a general primary election and
26 ending the day after the general primary election and during
27 a period beginning September 1 of the year of a general
28 election and ending the day after the general election,
29 except that such a newsletter or brochure may be mailed
30 during those times if it is mailed to a constituent in
31 response to that constituent's inquiry concerning the needs
32 of that constituent or questions raised by that constituent.
33 Nothing in this Section shall be construed to authorize
34 expenditures for lodging and meals while a member is in

1 attendance at sessions of the General Assembly.

2 Any utility bill for service provided to a member's
3 district office for a period including portions of 2
4 consecutive fiscal years may be paid from funds appropriated
5 for such expenditure in either fiscal year.

6 If a vacancy occurs in the office of Senator or
7 Representative in the General Assembly, any office equipment
8 in the possession of the vacating member shall transfer to
9 the member's successor; if the successor does not want such
10 equipment, it shall be transferred to the Secretary of the
11 Senate or Clerk of the House of Representatives, as the case
12 may be, and if not wanted by other members of the General
13 Assembly then to the Department of Central Management
14 Services for treatment as surplus property under the State
15 Property Control Act. Each member, on or before June 30th of
16 each year, shall conduct an inventory of all equipment
17 purchased pursuant to this Act. Such inventory shall be
18 filed with the Secretary of the Senate or the Clerk of the
19 House, as the case may be. Whenever a vacancy occurs, the
20 Secretary of the Senate or the Clerk of the House, as the
21 case may be, shall conduct an inventory of equipment
22 purchased.

23 In the event that a member leaves office during his or
24 her term, any unexpended or unobligated portion of the
25 allowance granted under this Section shall lapse. The
26 vacating member's successor shall be granted an allowance in
27 an amount, rounded to the nearest dollar, computed by
28 dividing the annual allowance by 365 and multiplying the
29 quotient by the number of days remaining in the fiscal year.

30 From any appropriation for the purposes of this Section
31 for a fiscal year which overlaps 2 General Assemblies, no
32 more than 1/2 of the annual allowance per member may be spent
33 or encumbered by any member of either the outgoing or
34 incoming General Assembly, except that any member of the

1 incoming General Assembly who was a member of the outgoing
2 General Assembly may encumber or spend any portion of his
3 annual allowance within the fiscal year.

4 The appropriation for the annual allowances permitted by
5 this Section shall be included in an appropriation to the
6 President of the Senate and to the Speaker of the House of
7 Representatives for their respective members. The President
8 of the Senate and the Speaker of the House shall voucher for
9 payment individual members' expenditures from their annual
10 office allowances to the State Comptroller, subject to the
11 authority of the Comptroller under Section 9 of the State
12 Comptroller Act.

13 (Source: P.A. 90-569, eff. 1-28-98; 91-952, eff. 7-1-01; 93
14 HB3412enr.)

15 Section 100. If and only if House Bill 3412 as passed by
16 the 93rd General Assembly becomes law by override of the
17 Governor's amendatory veto, the Legislative Commission
18 Reorganization Act of 1984 is amended by adding Section 9-2.5
19 as follows:

20 (25 ILCS 130/9-2.5)

21 Sec. 9-2.5. Newsletters and brochures. The Legislative
22 Printing Unit may not print for any member of the General
23 Assembly any newsletters or brochures during the period
24 beginning February 1 of the year of a general primary
25 election and ending the day after the general primary
26 election and during a period beginning September 1 of the
27 year of a general election and ending the day after the
28 general election. A member of the General Assembly may not
29 mail, during a period beginning February 1 of the year of a
30 general primary election and ending the day after the general
31 primary election and during a period beginning September 1 of
32 the year of a general election and ending the day after the

1 general election, any newsletters or brochures that were
 2 printed, at any time, by the Legislative Printing Unit,
 3 except that such a newsletter or brochure may be mailed
 4 during those times if it is mailed to a constituent in
 5 response to that constituent's inquiry concerning the needs
 6 of that constituent or questions raised by that constituent.

7 (Source: 93 HB3412enr.)

8 Section 115. If and only if House Bill 3412 as passed by
 9 the 93rd General Assembly becomes law by override of the
 10 Governor's amendatory veto, the Lobbyist Registration Act is
 11 amended by changing Section 5 as follows:

12 (25 ILCS 170/5) (from Ch. 63, par. 175)

13 (Text of Section amended by P.A. 93-32)

14 Sec. 5. Lobbyist registration and disclosure. Every
 15 person required to register under Section 3 shall each-and
 16 ~~every-year,~~ or before any such service is performed which
 17 requires the person to register, but in any event not later
 18 than 2 business days after being employed or retained, and on
 19 or before each January 31 and July 31 thereafter, file in the
 20 Office of the Secretary of State a written statement
 21 containing the following information with respect to each
 22 person or entity employing or retaining the person required
 23 to register:

24 (a) The registrant's name, and permanent address,
 25 e-mail address, if any, fax number, if any, business
 26 telephone number, and temporary address, if the
 27 registrant has a temporary address while lobbying of--the
 28 registrant.

29 (a-5) If the registrant is an organization or
 30 business entity, the information required under
 31 subsection (a) for each person associated with the

1 registrant who will be lobbying, regardless of whether
2 lobbying is a significant part of his or her duties.

3 (b) The name and address of the person or persons
4 employing or retaining registrant to perform such
5 services or on whose behalf the registrant appears.

6 (c) A brief description of the executive,
7 legislative, or administrative action in reference to
8 which such service is to be rendered.

9 (c-5) Each executive and legislative branch agency
10 the registrant expects to lobby during the registration
11 period.

12 (c-6) The nature of the client's business, by
13 indicating all of the following categories that apply:
14 (1) banking and financial services, (2) manufacturing,
15 (3) education, (4) environment, (5) healthcare, (6)
16 insurance, (7) community interests, (8) labor, (9) public
17 relations or advertising, (10) marketing or sales, (11)
18 hospitality, (12) engineering, (13) information or
19 technology products or services, (14) social services,
20 (15) public utilities, (16) racing or wagering, (17) real
21 estate or construction, (18) telecommunications, (19)
22 trade or professional association, (20) travel or
23 tourism, (21) transportation, and (22) other (setting
24 forth the nature of that other business).

25 ~~(d) -- A picture of the registrant.~~

26 The registrant must file an amendment to the statement
27 within 14 calendar days to report any substantial change or
28 addition to the information previously filed, except that a
29 registrant must file an amendment to the statement to
30 disclose a new agreement to retain the registrant for
31 lobbying services before any service is performed which
32 requires the person to register, but in any event not later
33 than 2 business days after entering into the retainer
34 agreement.

1 Not later than 12 months after the effective date of this
2 amendatory Act of the 93rd General Assembly, or as soon
3 thereafter as the Secretary of State has provided adequate
4 software to the persons required to file, all statements and
5 amendments to statements required to be filed shall be filed
6 electronically. The Secretary of State shall promptly make
7 all filed statements and amendments to statements publicly
8 available by means of a searchable database that is
9 accessible through the World Wide Web. The Secretary of State
10 shall provide all software necessary to comply with this
11 provision to all persons required to file. The Secretary of
12 State shall implement a plan to provide computer access and
13 assistance to persons required to file electronically.

14 Persons required to register under this Act prior to July
15 1, 2003, shall remit a single, annual and nonrefundable \$50
16 registration fee. All fees collected for registrations prior
17 to July 1, 2003, shall be deposited into the Lobbyist
18 Registration Administration Fund for administration and
19 enforcement of this Act. Beginning July 1, 2003, all persons
20 other than entities qualified under Section 501(c)(3) of the
21 Internal Revenue Code required to register under this Act
22 shall remit a single, annual, and nonrefundable \$350 ~~\$300~~
23 registration fee and, on an annual basis, a picture of the
24 registrant. Entities required to register under this Act
25 which are qualified under Section 501(c)(3) of the Internal
26 Revenue Code shall remit a single, annual, and nonrefundable
27 \$150 ~~\$100~~ registration fee. A registrant may, in lieu of
28 submitting a picture on an annual basis, authorize the
29 Secretary of State to use any photo identification available
30 in any database maintained by the Secretary of State for
31 other purposes. ~~The-increases-in-the-fees-from--\$50--to--\$100~~
32 ~~and--from--\$50--to--\$300--by--this-amendatory-Act-of-the-93rd~~
33 ~~General-Assembly-are-in-addition-to-any--other--fee--increase~~
34 ~~enacted--by--the--93rd-or-any-subsequent-General-Assembly. Of~~

1 each registration fee collected for registrations on or after
 2 July 1, 2003, \$50 shall be deposited into the Lobbyist
 3 Registration Administration Fund for administration and
 4 enforcement of this Act and is intended to implement and
 5 maintain electronic filing of reports under this Act, any
 6 ~~additional-amount-collected-as-a--result--of--any--other--fee~~
 7 ~~increase--enacted--by--the--93rd--or--any--subsequent-General~~
 8 ~~Assembly-shall-be-deposited-into--the--Lobbyist--Registration~~
 9 ~~Administration-Fund-for-the-purposes-provided-by-law-for-that~~
 10 ~~fee--increase,~~ the next \$100 shall be deposited into the
 11 Lobbyist Registration Administration Fund for administration
 12 and enforcement of this Act, and any balance shall be
 13 deposited into the General Revenue Fund.

14 (Source: P.A. 93-32)

15 (Text of Section as amended by 93 HB3412enr.)

16 Sec. 5. Lobbyist registration and disclosure. Every
 17 person required to register under Section 3 shall before any
 18 service is performed which requires the person to register,
 19 but in any event not later than 2 business days after being
 20 employed or retained, and on or before each January 31 and
 21 July 31 thereafter, file in the Office of the Secretary of
 22 State a written statement containing the following
 23 information with respect to each person or entity employing
 24 or retaining the person required to register:

25 (a) The registrant's name, permanent address,
 26 e-mail address, if any, fax number, if any, business
 27 telephone number, and temporary address, if the
 28 registrant has a temporary address while lobbying.

29 (a-5) If the registrant is an organization or
 30 business entity, the information required under
 31 subsection (a) for each person associated with the
 32 registrant who will be lobbying, regardless of whether
 33 lobbying is a significant part of his or her duties.

1 (b) The name and address of the person or persons
2 employing or retaining registrant to perform such
3 services or on whose behalf the registrant appears.

4 (c) A brief description of the executive,
5 legislative, or administrative action in reference to
6 which such service is to be rendered.

7 (c-5) Each executive and legislative branch agency
8 the registrant expects to lobby during the registration
9 period.

10 (c-6) The nature of the client's business, by
11 indicating all of the following categories that apply:
12 (1) banking and financial services, (2) manufacturing,
13 (3) education, (4) environment, (5) healthcare, (6)
14 insurance, (7) community interests, (8) labor, (9) public
15 relations or advertising, (10) marketing or sales, (11)
16 hospitality, (12) engineering, (13) information or
17 technology products or services, (14) social services,
18 (15) public utilities, (16) racing or wagering, (17) real
19 estate or construction, (18) telecommunications, (19)
20 trade or professional association, (20) travel or
21 tourism, (21) transportation, and (22) other (setting
22 forth the nature of that other business).

23 The registrant must file an amendment to the statement
24 within 14 calendar days to report any substantial change or
25 addition to the information previously filed, except that a
26 registrant must file an amendment to the statement to
27 disclose a new agreement to retain the registrant for
28 lobbying services before any service is performed which
29 requires the person to register, but in any event not later
30 than 2 business days after entering into the retainer
31 agreement.

32 Not later than 12 months after the effective date of this
33 amendatory Act of the 93rd General Assembly, or as soon
34 thereafter as the Secretary of State has provided adequate

1 software to the persons required to file, all statements and
2 amendments to statements required to be filed shall be filed
3 electronically. The Secretary of State shall promptly make
4 all filed statements and amendments to statements publicly
5 available by means of a searchable database that is
6 accessible through the World Wide Web. The Secretary of State
7 shall provide all software necessary to comply with this
8 provision to all persons required to file. The Secretary of
9 State shall implement a plan to provide computer access and
10 assistance to persons required to file electronically.

11 Persons required to register under this Act prior to July
12 1, 2003, shall ~~on an annual basis,~~ remit a single, annual
13 and nonrefundable \$50 ~~\$100~~ registration fee. All fees
14 collected for registrations prior to July 1, 2003, shall be
15 deposited into the Lobbyist Registration Administration Fund
16 for administration and enforcement of this Act. Beginning
17 July 1, 2003, all persons other than entities qualified under
18 Section 501(c)(3) of the Internal Revenue Code required to
19 register under this Act shall remit a single, annual, and
20 nonrefundable \$350 registration fee and, on an annual basis,
21 a picture of the registrant. Entities required to register
22 under this Act which are qualified under Section 501(c)(3) of
23 the Internal Revenue Code shall remit a single, annual, and
24 nonrefundable \$150 registration fee and ~~a picture of the~~
25 registrant. A registrant may, in lieu of submitting a picture
26 on an annual basis, authorize the Secretary of State to use
27 any photo identification available in any database maintained
28 by the Secretary of State for other purposes. Of each
29 registration fee collected for registrations on or after July
30 1, 2003, \$50 ~~All fees~~ shall be deposited into the Lobbyist
31 Registration Administration Fund for administration and
32 enforcement of this Act ~~and. The increase in the fee from \$50~~
33 ~~to \$100 by this amendatory Act and of the 93rd General~~
34 Assembly is intended to be used to implement and maintain

1 electronic filing of reports under this Act, the next \$100
2 shall be deposited into the Lobbyist Registration
3 Administration Fund for administration and enforcement of
4 this Act, and any balance shall be deposited into the General
5 Revenue Fund. ~~and-is-in-addition-to-any--other--fee--increase~~
6 ~~enacted-by-the-93rd-or-any-subsequent-General-Assembly.~~

7 (Source: 93 HB3412enr.)

8 Section 990. Severability. The provisions of this Act
9 are severable under Section 1.31 of the Statute on Statutes.

10 Section 995. Closed sessions; vote requirement. This Act
11 authorizes the ethics commissions of the executive branch and
12 legislative branch to conduct closed sessions, hearings, and
13 meetings in certain circumstances. In order to meet the
14 requirements of subsection (c) of Section 5 of Article IV of
15 the Illinois Constitution, the General Assembly determines
16 that closed sessions, hearings, and meetings of the ethics
17 commissions, including the ethics commission for the
18 legislative branch, are required by the public interest.
19 Thus, this Act is enacted by the affirmative vote of
20 two-thirds of the members elected to each house of the
21 General Assembly.

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