



Rep. Robyn Gabel

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1 AMENDMENT TO SENATE BILL 636

2 AMENDMENT NO. _____. Amend Senate Bill 636, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Open Meetings Act is amended by changing
6 Section 1.02 as follows:

7 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

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

9 "Meeting" means any gathering, whether in person or by
10 video or audio conference, telephone call, electronic means
11 (such as, without limitation, electronic mail, electronic
12 chat, and instant messaging), or other means of contemporaneous
13 interactive communication, of a majority of a quorum of the
14 members of a public body held for the purpose of discussing
15 public business or, for a 5-member public body, a quorum of the
16 members of a public body held for the purpose of discussing

1 public business.

2 Accordingly, for a 5-member public body, 3 members of the
3 body constitute a quorum and the affirmative vote of 3 members
4 is necessary to adopt any motion, resolution, or ordinance,
5 unless a greater number is otherwise required.

6 "Public body" includes all legislative, executive,
7 administrative or advisory bodies of the State, counties,
8 townships, cities, villages, incorporated towns, school
9 districts and all other municipal corporations, boards,
10 bureaus, committees or commissions of this State, and any
11 subsidiary bodies of any of the foregoing including but not
12 limited to committees and subcommittees which are supported in
13 whole or in part by tax revenue, or which expend tax revenue,
14 except the General Assembly and committees or commissions
15 thereof. "Public body" includes tourism boards and convention
16 or civic center boards located in counties that are contiguous
17 to the Mississippi River with populations of more than 250,000
18 but less than 300,000. "Public body" includes the Health
19 Facilities and Services Review Board and the Illinois Health
20 Benefits Exchange Board. "Public body" does not include a child
21 death review team or the Illinois Child Death Review Teams
22 Executive Council established under the Child Death Review Team
23 Act, an ethics commission acting under the State Officials and
24 Employees Ethics Act, a regional youth advisory board or the
25 Statewide Youth Advisory Board established under the
26 Department of Children and Family Services Statewide Youth

1 Advisory Board Act, or the Illinois Independent Tax Tribunal.
2 (Source: P.A. 97-1129, eff. 8-28-12; 98-806, eff. 1-1-15.)

3 Section 6. The Freedom of Information Act is amended by
4 changing Section 2 as follows:

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

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

7 (a) "Public body" means all legislative, executive,
8 administrative, or advisory bodies of the State, state
9 universities and colleges, counties, townships, cities,
10 villages, incorporated towns, school districts and all other
11 municipal corporations, boards, bureaus, committees, or
12 commissions of this State, any subsidiary bodies of any of the
13 foregoing including but not limited to committees and
14 subcommittees thereof, and a School Finance Authority created
15 under Article 1E of the School Code. "Public body" includes the
16 Illinois Health Benefits Exchange. "Public body" does not
17 include a child death review team or the Illinois Child Death
18 Review Teams Executive Council established under the Child
19 Death Review Team Act, or a regional youth advisory board or
20 the Statewide Youth Advisory Board established under the
21 Department of Children and Family Services Statewide Youth
22 Advisory Board Act.

23 (b) "Person" means any individual, corporation,
24 partnership, firm, organization or association, acting

1 individually or as a group.

2 (c) "Public records" means all records, reports, forms,
3 writings, letters, memoranda, books, papers, maps,
4 photographs, microfilms, cards, tapes, recordings, electronic
5 data processing records, electronic communications, recorded
6 information and all other documentary materials pertaining to
7 the transaction of public business, regardless of physical form
8 or characteristics, having been prepared by or for, or having
9 been or being used by, received by, in the possession of, or
10 under the control of any public body.

11 (c-5) "Private information" means unique identifiers,
12 including a person's social security number, driver's license
13 number, employee identification number, biometric identifiers,
14 personal financial information, passwords or other access
15 codes, medical records, home or personal telephone numbers, and
16 personal email addresses. Private information also includes
17 home address and personal license plates, except as otherwise
18 provided by law or when compiled without possibility of
19 attribution to any person.

20 (c-10) "Commercial purpose" means the use of any part of a
21 public record or records, or information derived from public
22 records, in any form for sale, resale, or solicitation or
23 advertisement for sales or services. For purposes of this
24 definition, requests made by news media and non-profit,
25 scientific, or academic organizations shall not be considered
26 to be made for a "commercial purpose" when the principal

1 purpose of the request is (i) to access and disseminate
2 information concerning news and current or passing events, (ii)
3 for articles of opinion or features of interest to the public,
4 or (iii) for the purpose of academic, scientific, or public
5 research or education.

6 (d) "Copying" means the reproduction of any public record
7 by means of any photographic, electronic, mechanical or other
8 process, device or means now known or hereafter developed and
9 available to the public body.

10 (e) "Head of the public body" means the president, mayor,
11 chairman, presiding officer, director, superintendent,
12 manager, supervisor or individual otherwise holding primary
13 executive and administrative authority for the public body, or
14 such person's duly authorized designee.

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

22 (g) "Recurrent requester", as used in Section 3.2 of this
23 Act, means a person that, in the 12 months immediately
24 preceding the request, has submitted to the same public body
25 (i) a minimum of 50 requests for records, (ii) a minimum of 15
26 requests for records within a 30-day period, or (iii) a minimum

1 of 7 requests for records within a 7-day period. For purposes
2 of this definition, requests made by news media and non-profit,
3 scientific, or academic organizations shall not be considered
4 in calculating the number of requests made in the time periods
5 in this definition when the principal purpose of the requests
6 is (i) to access and disseminate information concerning news
7 and current or passing events, (ii) for articles of opinion or
8 features of interest to the public, or (iii) for the purpose of
9 academic, scientific, or public research or education.

10 For the purposes of this subsection (g), "request" means a
11 written document (or oral request, if the public body chooses
12 to honor oral requests) that is submitted to a public body via
13 personal delivery, mail, telefax, electronic mail, or other
14 means available to the public body and that identifies the
15 particular public record the requester seeks. One request may
16 identify multiple records to be inspected or copied.

17 (Source: P.A. 97-579, eff. 8-26-11; 98-806, eff. 1-1-15.)

18 Section 7. The Illinois Public Labor Relations Act is
19 amended by changing Section 3 as follows:

20 (5 ILCS 315/3) (from Ch. 48, par. 1603)

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

23 (a) "Board" means the Illinois Labor Relations Board or,
24 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 other
5 conditions of employment, as detailed in Section 7 and which
6 are not excluded by Section 4.

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

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

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

21 (f) "Exclusive representative", except with respect to
22 non-State fire fighters and paramedics employed by fire
23 departments and fire protection districts, non-State peace
24 officers, and peace officers in the Department of State Police,
25 means the labor organization that has been (i) designated by
26 the Board as the representative of a majority of public

1 employees in an appropriate bargaining unit in accordance with
2 the procedures contained in this Act, (ii) historically
3 recognized by the State of Illinois or any political
4 subdivision of the State before July 1, 1984 (the effective
5 date of this Act) as the exclusive representative of the
6 employees in an appropriate bargaining unit, (iii) after July
7 1, 1984 (the effective date of this Act) recognized by an
8 employer upon evidence, acceptable to the Board, that the labor
9 organization has been designated as the exclusive
10 representative by a majority of the employees in an appropriate
11 bargaining unit; (iv) recognized as the exclusive
12 representative of personal assistants under Executive Order
13 2003-8 prior to the effective date of this amendatory Act of
14 the 93rd General Assembly, and the organization shall be
15 considered to be the exclusive representative of the personal
16 assistants as defined in this Section; or (v) recognized as the
17 exclusive representative of child and day care home providers,
18 including licensed and license exempt providers, pursuant to an
19 election held under Executive Order 2005-1 prior to the
20 effective date of this amendatory Act of the 94th General
21 Assembly, and the organization shall be considered to be the
22 exclusive representative of the child and day care home
23 providers as defined in this Section.

24 With respect to non-State fire fighters and paramedics
25 employed by fire departments and fire protection districts,
26 non-State peace officers, and peace officers in the Department

1 of State Police, "exclusive representative" means the labor
2 organization that has been (i) designated by the Board as the
3 representative of a majority of peace officers or fire fighters
4 in an appropriate bargaining unit in accordance with the
5 procedures contained in this Act, (ii) historically recognized
6 by the State of Illinois or any political subdivision of the
7 State before January 1, 1986 (the effective date of this
8 amendatory Act of 1985) as the exclusive representative by a
9 majority of the peace officers or fire fighters in an
10 appropriate bargaining unit, or (iii) after January 1, 1986
11 (the effective date of this amendatory Act of 1985) recognized
12 by an employer upon evidence, acceptable to the Board, that the
13 labor organization has been designated as the exclusive
14 representative by a majority of the peace officers or fire
15 fighters in an appropriate bargaining unit.

16 Where a historical pattern of representation exists for the
17 workers of a water system that was owned by a public utility,
18 as defined in Section 3-105 of the Public Utilities Act, prior
19 to becoming certified employees of a municipality or
20 municipalities once the municipality or municipalities have
21 acquired the water system as authorized in Section 11-124-5 of
22 the Illinois Municipal Code, the Board shall find the labor
23 organization that has historically represented the workers to
24 be the exclusive representative under this Act, and shall find
25 the unit represented by the exclusive representative to be the
26 appropriate unit.

1 (g) "Fair share agreement" means an agreement between the
2 employer and an employee organization under which all or any of
3 the employees in a collective bargaining unit are required to
4 pay their proportionate share of the costs of the collective
5 bargaining process, contract administration, and pursuing
6 matters affecting wages, hours, and other conditions of
7 employment, but not to exceed the amount of dues uniformly
8 required of members. The amount certified by the exclusive
9 representative shall not include any fees for contributions
10 related to the election or support of any candidate for
11 political office. Nothing in this subsection (g) shall preclude
12 an employee from making voluntary political contributions in
13 conjunction with his or her fair share payment.

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

25 (g-2) "General Assembly of the State of Illinois" means the
26 legislative branch of the government of the State of Illinois,

1 as provided for under Article IV of the Constitution of the
2 State of Illinois, and includes but is not limited to the House
3 of Representatives, the Senate, the Speaker of the House of
4 Representatives, the Minority Leader of the House of
5 Representatives, the President of the Senate, the Minority
6 Leader of the Senate, the Joint Committee on Legislative
7 Support Services and any legislative support services agency
8 listed in the Legislative Commission Reorganization Act of
9 1984.

10 (h) "Governing body" means, in the case of the State, the
11 State Panel of the Illinois Labor Relations Board, the Director
12 of the Department of Central Management Services, and the
13 Director of the Department of Labor; the county board in the
14 case of a county; the corporate authorities in the case of a
15 municipality; and the appropriate body authorized to provide
16 for expenditures of its funds in the case of any other unit of
17 government.

18 (i) "Labor organization" means any organization in which
19 public employees participate and that exists for the purpose,
20 in whole or in part, of dealing with a public employer
21 concerning wages, hours, and other terms and conditions of
22 employment, including the settlement of grievances.

23 (i-5) "Legislative liaison" means a person who is an
24 employee of a State agency, the Attorney General, the Secretary
25 of State, the Comptroller, or the Treasurer, as the case may
26 be, and whose job duties require the person to regularly

1 communicate in the course of his or her employment with any
2 official or staff of the General Assembly of the State of
3 Illinois for the purpose of influencing any legislative action.

4 (j) "Managerial employee" means an individual who is
5 engaged predominantly in executive and management functions
6 and is charged with the responsibility of directing the
7 effectuation of management policies and practices. With
8 respect only to State employees in positions under the
9 jurisdiction of the Attorney General, Secretary of State,
10 Comptroller, or Treasurer (i) that were certified in a
11 bargaining unit on or after December 2, 2008, (ii) for which a
12 petition is filed with the Illinois Public Labor Relations
13 Board on or after April 5, 2013 (the effective date of Public
14 Act 97-1172), or (iii) for which a petition is pending before
15 the Illinois Public Labor Relations Board on that date,
16 "managerial employee" means an individual who is engaged in
17 executive and management functions or who is charged with the
18 effectuation of management policies and practices or who
19 represents management interests by taking or recommending
20 discretionary actions that effectively control or implement
21 policy. Nothing in this definition prohibits an individual from
22 also meeting the definition of "supervisor" under subsection
23 (r) of this Section.

24 (k) "Peace officer" means, for the purposes of this Act
25 only, any persons who have been or are hereafter appointed to a
26 police force, department, or agency and sworn or commissioned

1 to perform police duties, except that the following persons are
2 not included: part-time police officers, special police
3 officers, auxiliary police as defined by Section 3.1-30-20 of
4 the Illinois Municipal Code, night watchmen, "merchant
5 police", court security officers as defined by Section 3-6012.1
6 of the Counties Code, temporary employees, traffic guards or
7 wardens, civilian parking meter and parking facilities
8 personnel or other individuals specially appointed to aid or
9 direct traffic at or near schools or public functions or to aid
10 in civil defense or disaster, parking enforcement employees who
11 are not commissioned as peace officers and who are not armed
12 and who are not routinely expected to effect arrests, parking
13 lot attendants, clerks and dispatchers or other civilian
14 employees of a police department who are not routinely expected
15 to effect arrests, or elected officials.

16 (l) "Person" includes one or more individuals, labor
17 organizations, public employees, associations, corporations,
18 legal representatives, trustees, trustees in bankruptcy,
19 receivers, or the State of Illinois or any political
20 subdivision of the State or governing body, but does not
21 include the General Assembly of the State of Illinois or any
22 individual employed by the General Assembly of the State of
23 Illinois.

24 (m) "Professional employee" means any employee engaged in
25 work predominantly intellectual and varied in character rather
26 than routine mental, manual, mechanical or physical work;

1 involving the consistent exercise of discretion and adjustment
2 in its performance; of such a character that the output
3 produced or the result accomplished cannot be standardized in
4 relation to a given period of time; and requiring advanced
5 knowledge in a field of science or learning customarily
6 acquired by a prolonged course of specialized intellectual
7 instruction and study in an institution of higher learning or a
8 hospital, as distinguished from a general academic education or
9 from apprenticeship or from training in the performance of
10 routine mental, manual, or physical processes; or any employee
11 who has completed the courses of specialized intellectual
12 instruction and study prescribed in this subsection (m) and is
13 performing related work under the supervision of a professional
14 person to qualify to become a professional employee as defined
15 in this subsection (m).

16 (n) "Public employee" or "employee", for the purposes of
17 this Act, means any individual employed by a public employer,
18 including (i) interns and residents at public hospitals, (ii)
19 as of the effective date of this amendatory Act of the 93rd
20 General Assembly, but not before, personal assistants working
21 under the Home Services Program under Section 3 of the Disabled
22 Persons Rehabilitation Act, subject to the limitations set
23 forth in this Act and in the Disabled Persons Rehabilitation
24 Act, (iii) as of the effective date of this amendatory Act of
25 the 94th General Assembly, but not before, child and day care
26 home providers participating in the child care assistance

1 program under Section 9A-11 of the Illinois Public Aid Code,
2 subject to the limitations set forth in this Act and in Section
3 9A-11 of the Illinois Public Aid Code, (iv) as of January 29,
4 2013 (the effective date of Public Act 97-1158), but not before
5 except as otherwise provided in this subsection (n), home care
6 and home health workers who function as personal assistants and
7 individual maintenance home health workers and who also work
8 under the Home Services Program under Section 3 of the Disabled
9 Persons Rehabilitation Act, no matter whether the State
10 provides those services through direct fee-for-service
11 arrangements, with the assistance of a managed care
12 organization or other intermediary, or otherwise, (v)
13 beginning on the effective date of this amendatory Act of the
14 98th General Assembly and notwithstanding any other provision
15 of this Act, any person employed by a public employer and who
16 is classified as or who holds the employment title of Chief
17 Stationary Engineer, Assistant Chief Stationary Engineer,
18 Sewage Plant Operator, Water Plant Operator, Stationary
19 Engineer, Plant Operating Engineer, and any other employee who
20 holds the position of: Civil Engineer V, Civil Engineer VI,
21 Civil Engineer VII, Technical Manager I, Technical Manager II,
22 Technical Manager III, Technical Manager IV, Technical Manager
23 V, Technical Manager VI, Realty Specialist III, Realty
24 Specialist IV, Realty Specialist V, Technical Advisor I,
25 Technical Advisor II, Technical Advisor III, Technical Advisor
26 IV, or Technical Advisor V employed by the Department of

1 Transportation who is in a position which is certified in a
2 bargaining unit on or before the effective date of this
3 amendatory Act of the 98th General Assembly, and (vi) beginning
4 on the effective date of this amendatory Act of the 98th
5 General Assembly and notwithstanding any other provision of
6 this Act, any mental health administrator in the Department of
7 Corrections who is classified as or who holds the position of
8 Public Service Administrator (Option 8K), any employee of the
9 Office of the Inspector General in the Department of Human
10 Services who is classified as or who holds the position of
11 Public Service Administrator (Option 7), any Deputy of
12 Intelligence in the Department of Corrections who is classified
13 as or who holds the position of Public Service Administrator
14 (Option 7), and any employee of the Department of State Police
15 who handles issues concerning the Illinois State Police Sex
16 Offender Registry and who is classified as or holds the
17 position of Public Service Administrator (Option 7), but
18 excluding all of the following: employees of the General
19 Assembly of the State of Illinois; elected officials; executive
20 heads of a department; members of boards or commissions; the
21 Executive Inspectors General; any special Executive Inspectors
22 General; employees of each Office of an Executive Inspector
23 General; commissioners and employees of the Executive Ethics
24 Commission; the Auditor General's Inspector General; employees
25 of the Office of the Auditor General's Inspector General; the
26 Legislative Inspector General; any special Legislative

1 Inspectors General; employees of the Office of the Legislative
2 Inspector General; commissioners and employees of the
3 Legislative Ethics Commission; employees of any agency, board
4 or commission created by this Act; members of the Illinois
5 Health Benefits Exchange Board and employees of the Illinois
6 Health Benefits Exchange; employees appointed to State
7 positions of a temporary or emergency nature; all employees of
8 school districts and higher education institutions except
9 firefighters and peace officers employed by a state university
10 and except peace officers employed by a school district in its
11 own police department in existence on the effective date of
12 this amendatory Act of the 96th General Assembly; managerial
13 employees; short-term employees; legislative liaisons; a
14 person who is a State employee under the jurisdiction of the
15 Office of the Attorney General who is licensed to practice law
16 or whose position authorizes, either directly or indirectly,
17 meaningful input into government decision-making on issues
18 where there is room for principled disagreement on goals or
19 their implementation; a person who is a State employee under
20 the jurisdiction of the Office of the Comptroller who holds the
21 position of Public Service Administrator or whose position is
22 otherwise exempt under the Comptroller Merit Employment Code; a
23 person who is a State employee under the jurisdiction of the
24 Secretary of State who holds the position classification of
25 Executive I or higher, whose position authorizes, either
26 directly or indirectly, meaningful input into government

1 decision-making on issues where there is room for principled
2 disagreement on goals or their implementation, or who is
3 otherwise exempt under the Secretary of State Merit Employment
4 Code; employees in the Office of the Secretary of State who are
5 completely exempt from jurisdiction B of the Secretary of State
6 Merit Employment Code and who are in Rutan-exempt positions on
7 or after April 5, 2013 (the effective date of Public Act
8 97-1172); a person who is a State employee under the
9 jurisdiction of the Treasurer who holds a position that is
10 exempt from the State Treasurer Employment Code; any employee
11 of a State agency who (i) holds the title or position of, or
12 exercises substantially similar duties as a legislative
13 liaison, Agency General Counsel, Agency Chief of Staff, Agency
14 Executive Director, Agency Deputy Director, Agency Chief
15 Fiscal Officer, Agency Human Resources Director, Public
16 Information Officer, or Chief Information Officer and (ii) was
17 neither included in a bargaining unit nor subject to an active
18 petition for certification in a bargaining unit; any employee
19 of a State agency who (i) is in a position that is
20 Rutan-exempt, as designated by the employer, and completely
21 exempt from jurisdiction B of the Personnel Code and (ii) was
22 neither included in a bargaining unit nor subject to an active
23 petition for certification in a bargaining unit; any term
24 appointed employee of a State agency pursuant to Section 8b.18
25 or 8b.19 of the Personnel Code who was neither included in a
26 bargaining unit nor subject to an active petition for

1 certification in a bargaining unit; any employment position
2 properly designated pursuant to Section 6.1 of this Act;
3 confidential employees; independent contractors; and
4 supervisors except as provided in this Act.

5 Home care and home health workers who function as personal
6 assistants and individual maintenance home health workers and
7 who also work under the Home Services Program under Section 3
8 of the Disabled Persons Rehabilitation Act shall not be
9 considered public employees for any purposes not specifically
10 provided for in Public Act 93-204 or Public Act 97-1158,
11 including but not limited to, purposes of vicarious liability
12 in tort and purposes of statutory retirement or health
13 insurance benefits. Home care and home health workers who
14 function as personal assistants and individual maintenance
15 home health workers and who also work under the Home Services
16 Program under Section 3 of the Disabled Persons Rehabilitation
17 Act shall not be covered by the State Employees Group Insurance
18 Act of 1971 (5 ILCS 375/).

19 Child and day care home providers shall not be considered
20 public employees for any purposes not specifically provided for
21 in this amendatory Act of the 94th General Assembly, including
22 but not limited to, purposes of vicarious liability in tort and
23 purposes of statutory retirement or health insurance benefits.
24 Child and day care home providers shall not be covered by the
25 State Employees Group Insurance Act of 1971.

26 Notwithstanding Section 9, subsection (c), or any other

1 provisions of this Act, all peace officers above the rank of
2 captain in municipalities with more than 1,000,000 inhabitants
3 shall be excluded from this Act.

4 (o) Except as otherwise in subsection (o-5), "public
5 employer" or "employer" means the State of Illinois; any
6 political subdivision of the State, unit of local government or
7 school district; authorities including departments, divisions,
8 bureaus, boards, commissions, or other agencies of the
9 foregoing entities; and any person acting within the scope of
10 his or her authority, express or implied, on behalf of those
11 entities in dealing with its employees. As of the effective
12 date of the amendatory Act of the 93rd General Assembly, but
13 not before, the State of Illinois shall be considered the
14 employer of the personal assistants working under the Home
15 Services Program under Section 3 of the Disabled Persons
16 Rehabilitation Act, subject to the limitations set forth in
17 this Act and in the Disabled Persons Rehabilitation Act. As of
18 January 29, 2013 (the effective date of Public Act 97-1158),
19 but not before except as otherwise provided in this subsection
20 (o), the State shall be considered the employer of home care
21 and home health workers who function as personal assistants and
22 individual maintenance home health workers and who also work
23 under the Home Services Program under Section 3 of the Disabled
24 Persons Rehabilitation Act, no matter whether the State
25 provides those services through direct fee-for-service
26 arrangements, with the assistance of a managed care

1 organization or other intermediary, or otherwise, but subject
2 to the limitations set forth in this Act and the Disabled
3 Persons Rehabilitation Act. The State shall not be considered
4 to be the employer of home care and home health workers who
5 function as personal assistants and individual maintenance
6 home health workers and who also work under the Home Services
7 Program under Section 3 of the Disabled Persons Rehabilitation
8 Act, for any purposes not specifically provided for in Public
9 Act 93-204 or Public Act 97-1158, including but not limited to,
10 purposes of vicarious liability in tort and purposes of
11 statutory retirement or health insurance benefits. Home care
12 and home health workers who function as personal assistants and
13 individual maintenance home health workers and who also work
14 under the Home Services Program under Section 3 of the Disabled
15 Persons Rehabilitation Act shall not be covered by the State
16 Employees Group Insurance Act of 1971 (5 ILCS 375/). As of the
17 effective date of this amendatory Act of the 94th General
18 Assembly but not before, the State of Illinois shall be
19 considered the employer of the day and child care home
20 providers participating in the child care assistance program
21 under Section 9A-11 of the Illinois Public Aid Code, subject to
22 the limitations set forth in this Act and in Section 9A-11 of
23 the Illinois Public Aid Code. The State shall not be considered
24 to be the employer of child and day care home providers for any
25 purposes not specifically provided for in this amendatory Act
26 of the 94th General Assembly, including but not limited to,

1 purposes of vicarious liability in tort and purposes of
2 statutory retirement or health insurance benefits. Child and
3 day care home providers shall not be covered by the State
4 Employees Group Insurance Act of 1971.

5 "Public employer" or "employer" as used in this Act,
6 however, does not mean and shall not include the General
7 Assembly of the State of Illinois, the Executive Ethics
8 Commission, the Offices of the Executive Inspectors General,
9 the Legislative Ethics Commission, the Office of the
10 Legislative Inspector General, the Office of the Auditor
11 General's Inspector General, the Office of the Governor, the
12 Governor's Office of Management and Budget, the Illinois
13 Finance Authority, the Office of the Lieutenant Governor, the
14 State Board of Elections, the Illinois Health Benefits
15 Exchange, and educational employers or employers as defined in
16 the Illinois Educational Labor Relations Act, except with
17 respect to a state university in its employment of firefighters
18 and peace officers and except with respect to a school district
19 in the employment of peace officers in its own police
20 department in existence on the effective date of this
21 amendatory Act of the 96th General Assembly. County boards and
22 county sheriffs shall be designated as joint or co-employers of
23 county peace officers appointed under the authority of a county
24 sheriff. Nothing in this subsection (o) shall be construed to
25 prevent the State Panel or the Local Panel from determining
26 that employers are joint or co-employers.

1 (o-5) With respect to wages, fringe benefits, hours,
2 holidays, vacations, proficiency examinations, sick leave, and
3 other conditions of employment, the public employer of public
4 employees who are court reporters, as defined in the Court
5 Reporters Act, shall be determined as follows:

6 (1) For court reporters employed by the Cook County
7 Judicial Circuit, the chief judge of the Cook County
8 Circuit Court is the public employer and employer
9 representative.

10 (2) For court reporters employed by the 12th, 18th,
11 19th, and, on and after December 4, 2006, the 22nd judicial
12 circuits, a group consisting of the chief judges of those
13 circuits, acting jointly by majority vote, is the public
14 employer and employer representative.

15 (3) For court reporters employed by all other judicial
16 circuits, a group consisting of the chief judges of those
17 circuits, acting jointly by majority vote, is the public
18 employer and employer representative.

19 (p) "Security employee" means an employee who is
20 responsible for the supervision and control of inmates at
21 correctional facilities. The term also includes other
22 non-security employees in bargaining units having the majority
23 of employees being responsible for the supervision and control
24 of inmates at correctional facilities.

25 (q) "Short-term employee" means an employee who is employed
26 for less than 2 consecutive calendar quarters during a calendar

1 year and who does not have a reasonable assurance that he or
2 she will be rehired by the same employer for the same service
3 in a subsequent calendar year.

4 (q-5) "State agency" means an agency directly responsible
5 to the Governor, as defined in Section 3.1 of the Executive
6 Reorganization Implementation Act, and the Illinois Commerce
7 Commission, the Illinois Workers' Compensation Commission, the
8 Civil Service Commission, the Pollution Control Board, the
9 Illinois Racing Board, and the Department of State Police Merit
10 Board.

11 (r) "Supervisor" is:

12 (1) An employee whose principal work is substantially
13 different from that of his or her subordinates and who has
14 authority, in the interest of the employer, to hire,
15 transfer, suspend, lay off, recall, promote, discharge,
16 direct, reward, or discipline employees, to adjust their
17 grievances, or to effectively recommend any of those
18 actions, if the exercise of that authority is not of a
19 merely routine or clerical nature, but requires the
20 consistent use of independent judgment. Except with
21 respect to police employment, the term "supervisor"
22 includes only those individuals who devote a preponderance
23 of their employment time to exercising that authority,
24 State supervisors notwithstanding. Nothing in this
25 definition prohibits an individual from also meeting the
26 definition of "managerial employee" under subsection (j)

1 of this Section. In addition, in determining supervisory
2 status in police employment, rank shall not be
3 determinative. The Board shall consider, as evidence of
4 bargaining unit inclusion or exclusion, the common law
5 enforcement policies and relationships between police
6 officer ranks and certification under applicable civil
7 service law, ordinances, personnel codes, or Division 2.1
8 of Article 10 of the Illinois Municipal Code, but these
9 factors shall not be the sole or predominant factors
10 considered by the Board in determining police supervisory
11 status.

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

1 (2) With respect only to State employees in positions
2 under the jurisdiction of the Attorney General, Secretary
3 of State, Comptroller, or Treasurer (i) that were certified
4 in a bargaining unit on or after December 2, 2008, (ii) for
5 which a petition is filed with the Illinois Public Labor
6 Relations Board on or after April 5, 2013 (the effective
7 date of Public Act 97-1172), or (iii) for which a petition
8 is pending before the Illinois Public Labor Relations Board
9 on that date, an employee who qualifies as a supervisor
10 under (A) Section 152 of the National Labor Relations Act
11 and (B) orders of the National Labor Relations Board
12 interpreting that provision or decisions of courts
13 reviewing decisions of the National Labor Relations Board.

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

1 officers, and peace officers in the Department of State Police,
2 a bargaining unit determined by the Board shall not include
3 both supervisors and nonsupervisors, or supervisors only,
4 except as provided in paragraph (2) of this subsection (s) and
5 except for bargaining units in existence on January 1, 1986
6 (the effective date of this amendatory Act of 1985). A
7 bargaining unit determined by the Board to contain peace
8 officers shall contain no employees other than peace officers
9 unless otherwise agreed to by the employer and the labor
10 organization or labor organizations involved. Notwithstanding
11 any other provision of this Act, a bargaining unit, including a
12 historical bargaining unit, containing sworn peace officers of
13 the Department of Natural Resources (formerly designated the
14 Department of Conservation) shall contain no employees other
15 than such sworn peace officers upon the effective date of this
16 amendatory Act of 1990 or upon the expiration date of any
17 collective bargaining agreement in effect upon the effective
18 date of this amendatory Act of 1990 covering both such sworn
19 peace officers and other employees.

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

26 (3) Public employees who are court reporters, as defined in

1 the Court Reporters Act, shall be divided into 3 units for
2 collective bargaining purposes. One unit shall be court
3 reporters employed by the Cook County Judicial Circuit; one
4 unit shall be court reporters employed by the 12th, 18th, 19th,
5 and, on and after December 4, 2006, the 22nd judicial circuits;
6 and one unit shall be court reporters employed by all other
7 judicial circuits.

8 (t) "Active petition for certification in a bargaining
9 unit" means a petition for certification filed with the Board
10 under one of the following case numbers: S-RC-11-110;
11 S-RC-11-098; S-UC-11-080; S-RC-11-086; S-RC-11-074;
12 S-RC-11-076; S-RC-11-078; S-UC-11-052; S-UC-11-054;
13 S-RC-11-062; S-RC-11-060; S-RC-11-042; S-RC-11-014;
14 S-RC-11-016; S-RC-11-020; S-RC-11-030; S-RC-11-004;
15 S-RC-10-244; S-RC-10-228; S-RC-10-222; S-RC-10-220;
16 S-RC-10-214; S-RC-10-196; S-RC-10-194; S-RC-10-178;
17 S-RC-10-176; S-RC-10-162; S-RC-10-156; S-RC-10-088;
18 S-RC-10-074; S-RC-10-076; S-RC-10-078; S-RC-10-060;
19 S-RC-10-070; S-RC-10-044; S-RC-10-038; S-RC-10-040;
20 S-RC-10-042; S-RC-10-018; S-RC-10-024; S-RC-10-004;
21 S-RC-10-006; S-RC-10-008; S-RC-10-010; S-RC-10-012;
22 S-RC-09-202; S-RC-09-182; S-RC-09-180; S-RC-09-156;
23 S-UC-09-196; S-UC-09-182; S-RC-08-130; S-RC-07-110; or
24 S-RC-07-100.

25 (Source: P.A. 97-586, eff. 8-26-11; 97-1158, eff. 1-29-13;
26 97-1172, eff. 4-5-13; 98-100, eff. 7-19-13; 98-1004, eff.

1 8-18-14.)

2 Section 8. The State Employee Indemnification Act is
3 amended by changing Section 1 as follows:

4 (5 ILCS 350/1) (from Ch. 127, par. 1301)

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

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

18 (b) The term "employee" means: any present or former
19 elected or appointed officer, trustee or employee of the State,
20 or of a pension fund; any present or former commissioner or
21 employee of the Executive Ethics Commission or of the
22 Legislative Ethics Commission; any present or former
23 Executive, Legislative, or Auditor General's Inspector
24 General; any present or former employee of an Office of an

1 Executive, Legislative, or Auditor General's Inspector
2 General; any present or former member of the Illinois National
3 Guard while on active duty; individuals or organizations who
4 contract with the Department of Corrections, the Department of
5 Juvenile Justice, the Comprehensive Health Insurance Board, or
6 the Department of Veterans' Affairs to provide services;
7 individuals or organizations who contract with the Department
8 of Human Services (as successor to the Department of Mental
9 Health and Developmental Disabilities) to provide services
10 including but not limited to treatment and other services for
11 sexually violent persons; individuals or organizations who
12 contract with the Department of Military Affairs for youth
13 programs; individuals or organizations who contract to perform
14 carnival and amusement ride safety inspections for the
15 Department of Labor; individuals who contract with the Office
16 of the State's Attorneys Appellate Prosecutor to provide legal
17 services, but only when performing duties within the scope of
18 the Office's prosecutorial activities; individual
19 representatives of or designated organizations authorized to
20 represent the Office of State Long-Term Ombudsman for the
21 Department on Aging; individual representatives of or
22 organizations designated by the Department on Aging in the
23 performance of their duties as adult protective services
24 agencies or regional administrative agencies under the Adult
25 Protective Services Act; individuals or organizations
26 appointed as members of a review team or the Advisory Council

1 under the Adult Protective Services Act; individuals or
2 organizations who perform volunteer services for the State
3 where such volunteer relationship is reduced to writing;
4 individuals who serve on any public entity (whether created by
5 law or administrative action) described in paragraph (a) of
6 this Section; individuals or not for profit organizations who,
7 either as volunteers, where such volunteer relationship is
8 reduced to writing, or pursuant to contract, furnish
9 professional advice or consultation to any agency or
10 instrumentality of the State; individuals who serve as foster
11 parents for the Department of Children and Family Services when
12 caring for a Department ward; individuals who serve as members
13 of an independent team of experts under Brian's Law; and
14 individuals who serve as arbitrators pursuant to Part 10A of
15 Article II of the Code of Civil Procedure and the rules of the
16 Supreme Court implementing Part 10A, each as now or hereafter
17 amended; the term "employee" does not mean an independent
18 contractor except as provided in this Section. The term
19 includes an individual appointed as an inspector by the
20 Director of State Police when performing duties within the
21 scope of the activities of a Metropolitan Enforcement Group or
22 a law enforcement organization established under the
23 Intergovernmental Cooperation Act. An individual who renders
24 professional advice and consultation to the State through an
25 organization which qualifies as an "employee" under the Act is
26 also an employee. The term includes the estate or personal

1 representative of an employee.

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

4 (Source: P.A. 98-49, eff. 7-1-13; 98-83, eff. 7-15-13; 98-732,
5 eff. 7-16-14; 98-756, eff. 7-16-14.)

6 Section 10. The Personnel Code is amended by changing
7 Section 4c as follows:

8 (20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

9 Sec. 4c. General exemptions. The following positions in
10 State service shall be exempt from jurisdictions A, B, and C,
11 unless the jurisdictions shall be extended as provided in this
12 Act:

13 (1) All officers elected by the people.

14 (2) All positions under the Lieutenant Governor,
15 Secretary of State, State Treasurer, State Comptroller,
16 State Board of Education, Clerk of the Supreme Court,
17 Attorney General, and State Board of Elections.

18 (3) Judges, and officers and employees of the courts,
19 and notaries public.

20 (4) All officers and employees of the Illinois General
21 Assembly, all employees of legislative commissions, all
22 officers and employees of the Illinois Legislative
23 Reference Bureau, the Legislative Research Unit, and the
24 Legislative Printing Unit.

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

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

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

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

24 (9) All other employees except the presidents, other
25 principal administrative officers, and teaching, research
26 and extension faculties of the universities under the

1 jurisdiction of the Board of Regents and the colleges and
2 universities under the jurisdiction of the Board of
3 Governors of State Colleges and Universities, Illinois
4 Community College Board, Southern Illinois University,
5 Illinois Board of Higher Education, Board of Governors of
6 State Colleges and Universities, the Board of Regents,
7 University of Illinois, State Universities Civil Service
8 System, University Retirement System of Illinois, so long
9 as these are subject to the provisions of the State
10 Universities Civil Service Act.

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

13 (11) (Blank).

14 (12) The technical and engineering staffs of the
15 Department of Transportation, the Department of Nuclear
16 Safety, the Pollution Control Board, and the Illinois
17 Commerce Commission, and the technical and engineering
18 staff providing architectural and engineering services in
19 the Department of Central Management Services.

20 (13) All employees of the Illinois State Toll Highway
21 Authority.

22 (14) The Secretary of the Illinois Workers'
23 Compensation Commission.

24 (15) All persons who are appointed or employed by the
25 Director of Insurance under authority of Section 202 of the
26 Illinois Insurance Code to assist the Director of Insurance

1 in discharging his responsibilities relating to the
2 rehabilitation, liquidation, conservation, and dissolution
3 of companies that are subject to the jurisdiction of the
4 Illinois Insurance Code.

5 (16) All employees of the St. Louis Metropolitan Area
6 Airport Authority.

7 (17) All investment officers employed by the Illinois
8 State Board of Investment.

9 (18) Employees of the Illinois Young Adult
10 Conservation Corps program, administered by the Illinois
11 Department of Natural Resources, authorized grantee under
12 Title VIII of the Comprehensive Employment and Training Act
13 of 1973, 29 USC 993.

14 (19) Seasonal employees of the Department of
15 Agriculture for the operation of the Illinois State Fair
16 and the DuQuoin State Fair, no one person receiving more
17 than 29 days of such employment in any calendar year.

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

22 (21) All hearing officers of the Human Rights
23 Commission.

24 (22) All employees of the Illinois Mathematics and
25 Science Academy.

26 (23) All employees of the Kankakee River Valley Area

1 Airport Authority.

2 (24) The commissioners and employees of the Executive
3 Ethics Commission.

4 (25) The Executive Inspectors General, including
5 special Executive Inspectors General, and employees of
6 each Office of an Executive Inspector General.

7 (26) The commissioners and employees of the
8 Legislative Ethics Commission.

9 (27) The Legislative Inspector General, including
10 special Legislative Inspectors General, and employees of
11 the Office of the Legislative Inspector General.

12 (28) The Auditor General's Inspector General and
13 employees of the Office of the Auditor General's Inspector
14 General.

15 (29) All employees of the Illinois Power Agency.

16 (30) Employees having demonstrable, defined advanced
17 skills in accounting, financial reporting, or technical
18 expertise who are employed within executive branch
19 agencies and whose duties are directly related to the
20 submission to the Office of the Comptroller of financial
21 information for the publication of the Comprehensive
22 Annual Financial Report (CAFR).

23 (31) All employees of the Illinois Sentencing Policy
24 Advisory Council.

25 (32) The employees of the Illinois Health Benefits
26 Exchange.

1 (Source: P.A. 97-618, eff. 10-26-11; 97-1055, eff. 8-23-12;
2 98-65, eff. 7-15-13.)

3 Section 15. The Department of Insurance Law of the Civil
4 Administrative Code of Illinois is amended by adding Section
5 1405-40 as follows:

6 (20 ILCS 1405/1405-40 new)

7 Sec. 1405-40. Transfer of the Comprehensive Health
8 Insurance Plan.

9 (a) On January 1, 2016, all powers, duties, rights, and
10 responsibilities of the Comprehensive Health Insurance Plan
11 and the Illinois Comprehensive Health Insurance Board shall be
12 transferred to the Department of Insurance.

13 (b) The Department of Insurance shall act on behalf of the
14 Comprehensive Health Insurance Plan and the Illinois
15 Comprehensive Health Insurance Board and shall have the power
16 and duty to receive and answer correspondence, pay claims due
17 and owing to the Department of Central Management Services
18 revolving fund from any unencumbered funds, refer unpaid
19 vendors to the court of claims, and arrange for the orderly
20 termination of any affairs of the Comprehensive Health
21 Insurance Plan and the Illinois Comprehensive Health Insurance
22 Board that remain unresolved on or after January 1, 2016.

23 (c) All books, records, papers, documents, property (real
24 and personal), contracts, causes of action, and pending

1 business pertaining to the powers, duties, rights, and
2 responsibilities transferred by this amendatory Act of the 98th
3 General Assembly from the Comprehensive Health Insurance Plan
4 and the Illinois Comprehensive Health Insurance Board to the
5 Department of Insurance, including, but not limited to,
6 material in electronic or magnetic format and necessary
7 computer hardware and software, shall be transferred to the
8 Department of Insurance. Records shall remain intact as
9 regulated by the federal Health Insurance Portability and
10 Accountability Act of 1996.

11 (d) The personnel of the Comprehensive Health Insurance
12 Plan and the Illinois Comprehensive Health Insurance Board
13 shall be transferred to the Department of Insurance. The status
14 and rights of those employees under the Personnel Code shall
15 not be affected by the transfer. The rights of the employees
16 and the State of Illinois and its agencies under the Personnel
17 Code and applicable collective bargaining agreements or under
18 any pension, retirement, or annuity plan shall not be affected
19 by this amendatory Act of the 98th General Assembly.

20 (e) All unexpended appropriations and balances and other
21 funds available for use by the Comprehensive Health Insurance
22 Plan and the Illinois Comprehensive Health Insurance Board
23 shall be transferred for use by the Department of Insurance.
24 Unexpended balances so transferred shall be expended only for
25 the purpose for which the appropriations were originally made.

26 (f) The powers, duties, rights, and responsibilities

1 transferred from the Comprehensive Health Insurance Plan and
2 the Illinois Comprehensive Health Insurance Board shall be
3 vested in and shall be exercised by the Department of
4 Insurance.

5 (g) Whenever reports or notices are now required to be made
6 or given or papers or documents furnished or served by any
7 person to or upon the Comprehensive Health Insurance Plan or
8 the Illinois Comprehensive Health Insurance Board in
9 connection with any of the powers, duties, rights, and
10 responsibilities transferred by this amendatory Act of the 98th
11 General Assembly, the same shall be made, given, furnished, or
12 served in the same manner to or upon the Department of
13 Insurance.

14 (h) This amendatory Act of the 98th General Assembly does
15 not affect any act done, ratified, or canceled or any right
16 occurring or established or any action or proceeding had or
17 commenced in an administrative, civil, or criminal cause by the
18 Comprehensive Health Insurance Plan or the Illinois
19 Comprehensive Health Insurance Board prior to January 1, 2016;
20 such actions or proceedings may be prosecuted and continued by
21 the Department of Insurance.

22 Section 20. The Illinois State Auditing Act is amended by
23 changing Section 3-1 as follows:

24 (30 ILCS 5/3-1) (from Ch. 15, par. 303-1)

1 Sec. 3-1. Jurisdiction of Auditor General. The Auditor
2 General has jurisdiction over all State agencies to make post
3 audits and investigations authorized by or under this Act or
4 the Constitution.

5 The Auditor General has jurisdiction over local government
6 agencies and private agencies only:

7 (a) to make such post audits authorized by or under
8 this Act as are necessary and incidental to a post audit of
9 a State agency or of a program administered by a State
10 agency involving public funds of the State, but this
11 jurisdiction does not include any authority to review local
12 governmental agencies in the obligation, receipt,
13 expenditure or use of public funds of the State that are
14 granted without limitation or condition imposed by law,
15 other than the general limitation that such funds be used
16 for public purposes;

17 (b) to make investigations authorized by or under this
18 Act or the Constitution; and

19 (c) to make audits of the records of local government
20 agencies to verify actual costs of state-mandated programs
21 when directed to do so by the Legislative Audit Commission
22 at the request of the State Board of Appeals under the
23 State Mandates Act.

24 In addition to the foregoing, the Auditor General may
25 conduct an audit of the Metropolitan Pier and Exposition
26 Authority, the Regional Transportation Authority, the Suburban

1 Bus Division, the Commuter Rail Division and the Chicago
2 Transit Authority and any other subsidized carrier when
3 authorized by the Legislative Audit Commission. Such audit may
4 be a financial, management or program audit, or any combination
5 thereof.

6 The audit shall determine whether they are operating in
7 accordance with all applicable laws and regulations. Subject to
8 the limitations of this Act, the Legislative Audit Commission
9 may by resolution specify additional determinations to be
10 included in the scope of the audit.

11 In addition to the foregoing, the Auditor General must also
12 conduct a financial audit of the Illinois Sports Facilities
13 Authority's expenditures of public funds in connection with the
14 reconstruction, renovation, remodeling, extension, or
15 improvement of all or substantially all of any existing
16 "facility", as that term is defined in the Illinois Sports
17 Facilities Authority Act.

18 The Auditor General may also conduct an audit, when
19 authorized by the Legislative Audit Commission, of any hospital
20 which receives 10% or more of its gross revenues from payments
21 from the State of Illinois, Department of Healthcare and Family
22 Services (formerly Department of Public Aid), Medical
23 Assistance Program.

24 The Auditor General is authorized to conduct financial and
25 compliance audits of the Illinois Distance Learning Foundation
26 and the Illinois Conservation Foundation.

1 As soon as practical after the effective date of this
2 amendatory Act of 1995, the Auditor General shall conduct a
3 compliance and management audit of the City of Chicago and any
4 other entity with regard to the operation of Chicago O'Hare
5 International Airport, Chicago Midway Airport and Merrill C.
6 Meigs Field. The audit shall include, but not be limited to, an
7 examination of revenues, expenses, and transfers of funds;
8 purchasing and contracting policies and practices; staffing
9 levels; and hiring practices and procedures. When completed,
10 the audit required by this paragraph shall be distributed in
11 accordance with Section 3-14.

12 The Auditor General shall conduct a financial and
13 compliance and program audit of distributions from the
14 Municipal Economic Development Fund during the immediately
15 preceding calendar year pursuant to Section 8-403.1 of the
16 Public Utilities Act at no cost to the city, village, or
17 incorporated town that received the distributions.

18 The Auditor General must conduct an audit of the Health
19 Facilities and Services Review Board pursuant to Section 19.5
20 of the Illinois Health Facilities Planning Act.

21 The Auditor General of the State of Illinois shall annually
22 conduct or cause to be conducted a financial and compliance
23 audit of the books and records of any county water commission
24 organized pursuant to the Water Commission Act of 1985 and
25 shall file a copy of the report of that audit with the Governor
26 and the Legislative Audit Commission. The filed audit shall be

1 open to the public for inspection. The cost of the audit shall
2 be charged to the county water commission in accordance with
3 Section 6z-27 of the State Finance Act. The county water
4 commission shall make available to the Auditor General its
5 books and records and any other documentation, whether in the
6 possession of its trustees or other parties, necessary to
7 conduct the audit required. These audit requirements apply only
8 through July 1, 2007.

9 The Auditor General must conduct audits of the Rend Lake
10 Conservancy District as provided in Section 25.5 of the River
11 Conservancy Districts Act.

12 The Auditor General must conduct financial audits of the
13 Southeastern Illinois Economic Development Authority as
14 provided in Section 70 of the Southeastern Illinois Economic
15 Development Authority Act.

16 The Auditor General shall conduct a compliance audit in
17 accordance with subsections (d) and (f) of Section 30 of the
18 Innovation Development and Economy Act.

19 The Auditor General shall have the authority to conduct an
20 audit of the Illinois Health Benefits Exchange. The audit may
21 be a financial audit, a management audit, a program audit, or
22 any combination thereof.

23 (Source: P.A. 95-331, eff. 8-21-07; 96-31, eff. 6-30-09;
24 96-939, eff. 6-24-10.)

25 Section 25. The Illinois Procurement Code is amended by

1 changing Section 1-15.100 as follows:

2 (30 ILCS 500/1-15.100)

3 Sec. 1-15.100. State agency. "State agency" means and
4 includes all boards, commissions, agencies, institutions,
5 authorities, and bodies politic and corporate of the State,
6 created by or in accordance with the constitution or statute,
7 of the executive branch of State government and does include
8 colleges, universities, and institutions under the
9 jurisdiction of the governing boards of the University of
10 Illinois, Southern Illinois University, Illinois State
11 University, Eastern Illinois University, Northern Illinois
12 University, Western Illinois University, Chicago State
13 University, Governor State University, Northeastern Illinois
14 University, and the Board of Higher Education. However, this
15 term does not apply to public employee retirement systems or
16 investment boards that are subject to fiduciary duties imposed
17 by the Illinois Pension Code or to the University of Illinois
18 Foundation. "State agency" does not include units of local
19 government, school districts, community colleges under the
20 Public Community College Act, ~~and~~ the Illinois Comprehensive
21 Health Insurance Board, and the Illinois Health Benefits
22 Exchange.

23 (Source: P.A. 90-572, eff. 2-6-98.)

24 Section 30. The Comprehensive Health Insurance Plan Act is

1 amended by adding Sections 16 and 17 as follows:

2 (215 ILCS 105/16 new)

3 Sec. 16. Cessation of operations.

4 (a) Except as otherwise provided in this Section, the
5 insurance operations of the Plan authorized by this Act shall
6 cease on January 1, 2016.

7 (b) Coverage under the Plan does not apply to service
8 provided on or after January 1, 2016.

9 (c) The Plan shall cease enrolling new participants on
10 December 31, 2015.

11 (d) The Plan shall cease providing coverage for
12 participants enrolled prior to January 1, 2016 at 11:59 p.m. on
13 December 31, 2015. Except as otherwise provided in this
14 subsection (d), the Board shall provide at least 90 days
15 written notice to all Plan participants of the cessation of
16 coverage under this Section. For participants enrolled less
17 than 90 days before January 1, 2016, notice of the cessation of
18 coverage under this Section shall be provided to all applicants
19 and to all participants upon enrollment.

20 (e) Any claim for payment under the Plan must be submitted
21 no later than 90 days after January 1, 2016, and any valid
22 claim submitted on or after January 1, 2016 must be paid within
23 90 days after receipt.

24 (f) Any grievance shall be resolved by the Board not later
25 than October 31, 2016.

1 (g) Balance billing under this Section by a health care
2 provider that is not a member of the provider network
3 arrangement used by the Plan is prohibited.

4 (h) The Board shall, not later than June 30, 2015, submit
5 to the Director a plan of dissolution, which must provide for,
6 but not be limited to, the following:

7 (1) Continuity of care for an individual who is covered
8 under the Plan and is an inpatient on at the time the Plan
9 ceases.

10 (2) A final accounting of assessments.

11 (3) Resolution of any net asset deficiency.

12 (4) Cessation of all liability of the Plan.

13 (5) Final dissolution of the Plan.

14 (i) No legal action by or against the Plan may be filed on
15 or after January 1, 2017.

16 (j) General Revenue Fund funds remaining in the Plan after
17 satisfaction of all of the Plan's liabilities shall be
18 transferred back into the General Revenue Fund.

19 (k) The Board shall cease charging insurer assessments on
20 January 1, 2016; however, the Board may charge and collect
21 insurer assessments pursuant to Section 12 of this Act as
22 necessary to satisfy any remaining liabilities of the Plan.
23 Insurer assessments remaining in the Plan after satisfaction of
24 all of the Plan's liabilities shall be returned to insurers
25 based on subsection (e) of Section 12 of this Act.

1 (215 ILCS 105/17 new)

2 Sec. 17. Repealer. This Act is repealed on July 1, 2017.

3 Section 35. The Illinois Health Benefits Exchange Law is
4 amended by changing Sections 5-3, 5-5, 5-10, and 5-15 and by
5 adding Sections 5-4, 5-11, 5-12, 5-16, 5-17, 5-18, 5-21, 5-23,
6 and 5-30 as follows:

7 (215 ILCS 122/5-3)

8 Sec. 5-3. Legislative intent. The General Assembly finds
9 the health benefits exchanges authorized by the federal Patient
10 Protection and Affordable Care Act represent one of a number of
11 ways in which the State can address coverage gaps and provide
12 individual consumers and small employers access to greater
13 coverage options. The General Assembly also finds that the
14 State is best positioned to implement an exchange that is
15 sensitive to the coverage gaps and market landscape unique to
16 this State.

17 The purpose of this Law is to provide for the establishment
18 of an Illinois Health Benefits Exchange (the Exchange) to
19 facilitate the purchase and sale of qualified health plans and
20 qualified dental plans in the individual market in this State
21 and to provide for the establishment of a Small Business Health
22 Options Program (SHOP Exchange) to assist qualified small
23 employers in this State in facilitating the enrollment of their
24 employees in qualified health plans and qualified dental plans

1 offered in the small group market. The intent of the Exchange
2 is to supplement the existing health insurance market to
3 simplify shopping for individual and small employers by
4 increasing access to benefit options, encouraging a
5 competitive market both inside and outside the Exchange,
6 reducing the number of uninsured, and providing a transparent
7 marketplace and effective consumer education and programmatic
8 assistance tools. ~~The purpose of this Law is to ensure that the~~
9 ~~State is making sufficient progress towards establishing an~~
10 ~~exchange within the guidelines outlined by the federal law and~~
11 ~~to protect Illinoisans from undue federal regulation. Although~~
12 ~~the federal law imposes a number of core requirements on~~
13 ~~state-level exchanges, the State has significant flexibility~~
14 ~~in the design and operation of a State exchange that make it~~
15 ~~prudent for the State to carefully analyze, plan, and prepare~~
16 ~~for the exchange. The General Assembly finds that in order for~~
17 ~~the State to craft a tenable exchange that meets the~~
18 ~~fundamental goals outlined by the Patient Protection and~~
19 ~~Affordable Care Act of expanding access to affordable coverage~~
20 ~~and improving the quality of care, the implementation process~~
21 ~~should (1) provide for broad stakeholder representation; (2)~~
22 ~~foster a robust and competitive marketplace, both inside and~~
23 ~~outside of the exchange; and (3) provide for a broad-based~~
24 ~~approach to the fiscal solvency of the exchange.~~

25 (Source: P.A. 97-142, eff. 7-14-11.)

1 (215 ILCS 122/5-4 new)

2 Sec. 5-4. Definitions. In this Law:

3 "Board" means the Illinois Health Benefits Exchange Board
4 established pursuant to this Law.

5 "Department" means the Department of Insurance.

6 "Director" means the Director of Insurance.

7 "Educated health care consumer" means an individual who is
8 knowledgeable about the health care system, has background or
9 experience in making informed decisions regarding health,
10 medical, and public health matters, and represents the
11 interests of healthcare consumers.

12 "Essential health benefits" has the meaning provided under
13 Section 1302(b) of the Federal Act.

14 "Exchange" means the Illinois Health Benefits Exchange
15 established by this Law and includes the Individual Exchange
16 and the SHOP Exchange, unless otherwise specified.

17 "Executive Director" means the Executive Director of the
18 Illinois Health Benefits Exchange.

19 "Federal Act" means the federal Patient Protection and
20 Affordable Care Act (Public Law 111-148), as amended by the
21 federal Health Care and Education Reconciliation Act of 2010
22 (Public Law 111-152), and any amendments thereto, or
23 regulations or guidance issued under, those Acts.

24 "Health benefit plan" means a policy, contract,
25 certificate, or agreement offered or issued by a health
26 insurance carrier to provide, deliver, arrange for, pay for, or

1 reimburse any of the costs of health care services. "Health
2 benefit plan" does not include:

3 (1) coverage for accident only or disability income
4 insurance or any combination thereof;

5 (2) coverage issued as a supplement to liability
6 insurance;

7 (3) liability insurance, including general liability
8 insurance and automobile liability insurance;

9 (4) workers' compensation or similar insurance;

10 (5) automobile medical payment insurance;

11 (6) credit-only insurance;

12 (7) coverage for on-site medical clinics; or

13 (8) other similar insurance coverage, specified in
14 federal regulations issued pursuant to the federal Health
15 Information Portability and Accountability Act of 1996,
16 Public Law 104-191, under which benefits for health care
17 services are secondary or incidental to other insurance
18 benefits.

19 "Health benefit plan" does not include the following
20 benefits if they are provided under a separate policy,
21 certificate, or contract of insurance or are otherwise not an
22 integral part of the plan:

23 (a) limited scope dental or vision benefits;

24 (b) benefits for long-term care, nursing home care,
25 home health care, community-based care, or any combination
26 thereof; or

1 (c) other similar, limited benefits specified in
2 federal regulations issued pursuant to Public Law 104-191.

3 "Health benefit plan" does not include the following
4 benefits if the benefits are provided under a separate policy,
5 certificate, or contract of insurance, there is no coordination
6 between the provision of the benefits and any exclusion of
7 benefits under any group health plan maintained by the same
8 plan sponsor, and the benefits are paid with respect to an
9 event without regard to whether benefits are provided with
10 respect to such an event under any group health plan maintained
11 by the same plan sponsor:

12 (i) coverage only for a specified disease or illness;

13 or

14 (ii) hospital indemnity or other fixed indemnity
15 insurance.

16 "Health benefit plan" does not include the following if
17 offered as a separate policy, certificate, or contract of
18 insurance:

19 (A) Medicare supplemental health insurance as defined
20 under Section 1882(g)(1) of the federal Social Security
21 Act;

22 (B) coverage supplemental to the coverage provided
23 under Chapter 55 of Title 10, United States Code (Civilian
24 Health and Medical Program of the Uniformed Services
25 (CHAMPUS)); or

26 (C) similar supplemental coverage provided to coverage

1 under a group health plan.

2 "Health benefit plan" does not include a group health plan
3 or multiple employer welfare arrangement to the extent the plan
4 or arrangement is not subject to State insurance regulation
5 under Section 514 of the federal Employee Retirement Income
6 Security Act of 1974.

7 "Health insurance carrier" or "carrier" means an entity
8 subject to the insurance laws and regulations of this State, or
9 subject to the jurisdiction of the Director, that contracts or
10 offers to contract to provide, deliver, arrange for, pay for,
11 or reimburse any of the costs of health care services,
12 including a sickness and accident insurance company, a health
13 maintenance organization, or any other entity providing a plan
14 of health insurance, or health benefits. "Health insurance
15 carrier" does not include short term, accident only, disability
16 income, hospital confinement or fixed indemnity, vision only,
17 limited benefit, or credit insurance, coverage issued as a
18 supplement to liability insurance, insurance arising out of a
19 workers' compensation or similar law, automobile
20 medical-payment insurance, insurance under which benefits are
21 payable with or without regard to fault and which is
22 statutorily required to be contained in any liability insurance
23 policy or equivalent self-insurance, or a Consumer Operated and
24 Oriented Plan.

25 "Illinois Health Benefits Exchange Fund" means the fund
26 created outside of the State treasury to be used exclusively to

1 provide funding for the operation and administration of the
2 Exchange in carrying out the purposes authorized by this Law.

3 "Individual Exchange" means the exchange marketplace
4 established by this Law through which qualified individuals may
5 obtain coverage through an individual market qualified health
6 plan.

7 "Participating insurer" means a health insurance carrier
8 that offers a qualified health plan or qualified dental plan
9 through the Exchange.

10 "Principal place of business" means the location in a state
11 where an employer has its headquarters or significant place of
12 business and where the persons with direction and control
13 authority over the business are employed.

14 "Qualified dental plan" means a limited scope dental plan
15 that has been certified in accordance with this Law.

16 "Qualified employee" means an eligible individual employed
17 by a qualified employer who has been offered health insurance
18 coverage by that qualified employer through the SHOP Exchange.

19 "Qualified employer" means a small employer that elects to
20 make its full-time employees eligible for one or more qualified
21 health plans or qualified dental plans offered through the SHOP
22 Exchange, and at the option of the employer, some or all of its
23 part-time employees, provided that the employer either (i) has
24 its principal place of business in this State and elects to
25 provide coverage through the SHOP Exchange to all of its
26 eligible employees, wherever employed, or (ii) offers coverage

1 through the SHOP Exchange to each eligible employee whose
2 primary worksite is in this State.

3 "Qualified health plan" or "QHP" means a health benefit
4 plan that has in effect a certification that the plan meets the
5 criteria for certification described in Section 1311(c) of the
6 Federal Act.

7 "Qualified health plan issuer" or "QHP issuer" means a
8 health insurance carrier that offers a health plan that the
9 Exchange has certified as a qualified health plan.

10 "Qualified individual" means an individual, including a
11 minor, who:

12 (1) is seeking to enroll in a qualified health plan or
13 qualified dental plan offered to individuals through the
14 Exchange;

15 (2) resides in this State;

16 (3) at the time of enrollment, is not incarcerated,
17 other than incarceration pending the disposition of
18 charges; and

19 (4) is, and is reasonably expected to be, for the
20 entire period for which enrollment is sought, a citizen or
21 national of the United States or an alien lawfully present
22 in the United States.

23 "Secretary" means the Secretary of the federal Department
24 of Health and Human Services.

25 "SHOP Exchange" means the Small Business Health Options
26 Program established under this Law through which a qualified

1 employer can provide small group qualified health plans to its
2 qualified employees through various options available to the
3 employer, including, but not limited to: (a) offering one
4 qualified health plan to employees, (b) offering multiple
5 qualified health plans to employees, or (c) offering an
6 employee-directed choice of a qualified health plan within an
7 employer-selected coverage tier.

8 "Small employer" means, in connection with a group health
9 plan with respect to a calendar year and a plan year, an
10 employer who employed an average of at least one but no more
11 than 50 employees before January 1, 2016 and no more than 100
12 employees on and after January 1, 2016 on business days during
13 the preceding calendar year and who employs at least one
14 employee on the first day of the plan year. For purposes of
15 this definition:

16 (a) all persons treated as a single employer under
17 subsection (b), (c), (m) or (o) of Section 414 of the
18 federal Internal Revenue Code of 1986 shall be treated as a
19 single employer;

20 (b) an employer and any predecessor employer shall be
21 treated as a single employer;

22 (c) employees shall be counted in accordance with
23 federal law and regulations and State law and regulations;
24 provided however, that in the event of a conflict between
25 the federal law and regulations and the State law and
26 regulations, the federal law and regulations shall

1 prevail;

2 (d) if an employer was not in existence throughout the
3 preceding calendar year, then the determination of whether
4 that employer is a small employer shall be based on the
5 average number of employees that is reasonably expected
6 that employer will employ on business days in the current
7 calendar year; and

8 (e) an employer that makes enrollment in qualified
9 health plans or qualified dental plans available to its
10 employees through the SHOP Exchange, and would cease to be
11 a small employer by reason of an increase in the number of
12 its employees, shall continue to be treated as a small
13 employer for purposes of this Law as long as it
14 continuously makes enrollment through the SHOP Exchange
15 available to its employees.

16 (215 ILCS 122/5-5)

17 Sec. 5-5. Establishment of the Exchange ~~State health~~
18 ~~benefits exchange.~~

19 (a) It is declared that this State, beginning on the
20 effective date of this amendatory Act of the 98th General
21 Assembly ~~October 1, 2013,~~ in accordance with Section 1311 of
22 the federal Patient Protection and Affordable Care Act, shall
23 establish a State health benefits exchange to be known as the
24 Illinois Health Benefits Exchange in order to help individuals
25 and small employers ~~with no more than 50 employees~~ shop for,

1 select, and enroll in qualified, affordable private health
2 plans that fit their needs at competitive prices. The Exchange
3 shall separate coverage pools for individuals and small
4 employers and shall supplement and not supplant any existing
5 private health insurance market for individuals and small
6 employers. These health plans shall be available to individuals
7 and small employers for enrollment by October 1, 2015.

8 (b) There is hereby created a political subdivision, body
9 politic and corporate, named the Illinois Health Benefits
10 Exchange. The Exchange shall be a public entity, but shall not
11 be considered a department, institution, or agency of the
12 State, except as otherwise expressly provided by law.

13 (c) The Exchange shall be comprised of an individual and a
14 small business health options (SHOP) exchange. Pursuant to
15 Section 1311(b)(2) of the Federal Act, the Exchange shall
16 provide individual exchange services to qualified individuals
17 and SHOP Exchange services to qualified employers under a
18 single governance and administrative structure. The Board
19 shall produce an assessment, which must include a premium
20 impact study, by July 1, 2017 to determine the viability of
21 merging the SHOP Exchange and Individual Exchange functions
22 into a single exchange by January 1, 2018. Any recommended
23 merger of the SHOP Exchange and Individual Exchange functions
24 shall be subject to legislative approval.

25 (d) The Exchange shall promote a competitive marketplace
26 for consumer access to affordable health coverage options. The

1 Department shall review and recommend that the Board certify
2 health benefit plans on the individual and SHOP Exchange, as
3 applicable, provided that any such health benefit plan meets
4 the requirements set forth in Section 1311(c) of the Federal
5 Act and any other requirements of the Illinois Insurance Code.
6 The Board shall certify health benefit plans that the
7 Department recommends for certification.

8 (e) The Exchange shall not supersede the provisions of the
9 Illinois Insurance Code, nor the functions of the Department of
10 Insurance, the Department of Healthcare and Family Services, or
11 the Department of Public Health.

12 (Source: P.A. 97-142, eff. 7-14-11.)

13 (215 ILCS 122/5-10)

14 Sec. 5-10. Exchange functions.

15 (a) On or before October 1, 2015, in compliance with
16 paragraph (4) of subdivision (d) of Section 1311 of the federal
17 Patient Protection and Affordable Care Act, the Exchange shall,
18 at a minimum, do all of the following to implement Section 1311
19 of the federal Patient Protection and Affordable Care Act:

20 (1) Make qualified health plans available to qualified
21 individuals and qualified employers.

22 (2) Implement procedures for the certification,
23 recertification, and decertification, consistent with
24 Section 5-12 of this Act and the guidelines established by
25 the U.S. Secretary of Health and Human Services, of health

1 plans as qualified health plans.

2 (3) Provide for the operation of a toll-free telephone
3 hotline and call center to respond to requests for
4 assistance.

5 (4) Maintain an Internet website through which
6 enrollees and prospective enrollees of qualified health
7 plans may obtain standardized comparative information on
8 those plans. The Exchange shall include on its website a
9 navigator and producer locator section, featured
10 prominently, through which individuals and small employers
11 can find Exchange-certified producers and navigators.

12 (5) With respect to each qualified health plan offered
13 through the Exchange, do both of the following:

14 (A) assign a rating to each qualified health plan
15 offered through the Exchange in accordance with the
16 criteria developed by the U.S. Secretary of Health and
17 Human Services; and

18 (B) determine each qualified health plan's level
19 of coverage in accordance with regulations adopted by
20 the U.S. Secretary of Health and Human Services under
21 paragraph (A) of subdivision (2) of Section 1302(d) of
22 the federal Patient Protection and Affordable Care Act
23 and any additional regulations adopted by the Exchange
24 under this Law.

25 (6) Utilize a standardized format for presenting
26 health benefits plan options in the Exchange, including the

1 use of the uniform outline of coverage established under
2 Section 2715 of the federal Public Health Service Act.

3 (7) Inform individuals of eligibility requirements for
4 the Medicaid program, the Covering ALL KIDS Health
5 Insurance Program, or any applicable State or local public
6 program and, if through screening of the application by the
7 Exchange the Exchange determines that an individual is
8 eligible for any such program, enroll that individual in
9 the program.

10 (8) Establish and make available by electronic means a
11 calculator to determine the actual cost of coverage after
12 the application of any premium tax credit under Section 36B
13 of the Internal Revenue Code of 1986 and any cost sharing
14 reduction under Section 1402 of the federal Patient
15 Protection and Affordable Care Act.

16 (9) Grant a certification attesting that, for purposes
17 of the individual responsibility penalty under Section
18 5000A of the Internal Revenue Code of 1986, an individual
19 is exempt from the individual requirement or from the
20 penalty imposed by that Section because of either of the
21 following:

22 (A) There is no affordable qualified health plan
23 available through the Exchange or the individual's
24 employer covering the individual.

25 (B) The individual meets the requirements for any
26 other exemption from the individual responsibility

1 requirement or penalty.

2 (10) Transfer to the Secretary of the Treasury of the
3 United States all of the following:

4 (A) a list of the individuals who are issued a
5 certification, including the name and taxpayer
6 identification number of each individual;

7 (B) the name and taxpayer identification number of
8 each individual who was an employee of an employer, but
9 who was determined to be eligible for the premium tax
10 credit under Section 36B of the Internal Revenue Code
11 of 1986 because:

12 (i) the employer did not provide the minimum
13 essential coverage or the employer provided the
14 minimum essential coverage but it was determined
15 under item (C) of paragraph (2) of subdivision (c)
16 of Section 36B of the Internal Revenue Code to
17 either be unaffordable to the employee or not
18 provide the required minimum actuarial value; and

19 (ii) the name and taxpayer identification
20 number of each individual who notifies the
21 Exchange under paragraph (4) of subdivision (b) of
22 Section 1411 of the federal Patient Protection and
23 Affordable Care Act that they have changed
24 employers and of each individual who ceases
25 coverage under a qualified health plan during a
26 plan year, and the effective date of such

1 cessation.

2 (11) Provide to each employer the name of each employee
3 of the employer described in subdivision (i) of Section
4 1311 of the federal Patient Protection and Affordable Care
5 Act who ceases coverage under a qualified health plan
6 during a plan year and the effective date of that
7 cessation.

8 (12) Perform duties required of, or delegated to, the
9 Exchange by the U.S. Secretary of Health and Human Services
10 or the Secretary of the Treasury of the United States
11 related to the following:

12 (A) Determining eligibility for premium tax
13 credits, reduced cost sharing, or individual
14 responsibility exemptions.

15 (B) Establishing procedures necessary for the
16 operation of the program, including, but not limited
17 to, procedures for application, enrollment, risk
18 assessment, risk adjustment, plan administration,
19 performance monitoring, and consumer education.

20 (C) Arranging for collection of contributions from
21 participating employers and individuals.

22 (D) Arranging for payment of premiums and other
23 appropriate disbursements based on the selections of
24 products and services by the individual participants.

25 (E) Establishing criteria for disenrollment of
26 participating individuals based on failure to pay the

1 individual's share of any contribution required to
2 maintain enrollment in selected products.

3 (F) Establishing criteria for exclusion of
4 vendors.

5 (G) Developing and implementing a plan for
6 promoting public awareness of and participation in the
7 program.

8 (H) Evaluating options for employer participation
9 which may conform with common insurance practices.

10 (13) Providing for initial, annual, and special
11 enrollment periods, in accordance with guidelines adopted
12 by the U.S. Secretary of Health and Human Services under
13 paragraph (6) of subdivision (c) of Section 1311 of the
14 federal Patient Protection and Affordable Care Act.

15 (14) Establish the Navigator Program in accordance
16 with subdivision (i) of Section 1311 of the federal Patient
17 Protection and Affordable Care Act. The Exchange shall
18 award grants to certain entities to do the following:

19 (A) Conduct public education activities to raise
20 awareness of the availability of qualified health
21 plans.

22 (B) Distribute fair and impartial information
23 concerning enrollment in qualified health plans and
24 the availability of premium tax credits under Section
25 36B of the Internal Revenue Code of 1986 and
26 cost-sharing reductions under Section 1402 of the

1 federal Patient Protection and Affordable Care Act.

2 (C) Facilitate enrollment in qualified health
3 plans.

4 (D) Provide referrals to any applicable office of
5 health insurance consumer assistance or health
6 insurance ombudsman established under Section 2793 of
7 the federal Public Health Service Act, or any other
8 appropriate State agency or agencies, for any enrollee
9 with a grievance, complaint, or question regarding his
10 or her health plan, coverage, or a determination under
11 that plan or coverage.

12 (E) Refer individuals with a grievance, complaint,
13 or question regarding a plan, a plan's coverage, or a
14 determination under a plan's coverage to a customer
15 relations unit established by the Exchange.

16 (F) Provide information in a manner that is
17 culturally and linguistically appropriate to the needs
18 of the population being served by the Exchange.

19 (15) Establish the Small Business Health Options
20 Program, separate from the activities of the Board related
21 to the individual market, to assist qualified small
22 employers in facilitating the enrollment of their
23 employees in qualified health plans offered through the
24 Exchange in the small employer market in a manner
25 consistent with paragraph (2) of subdivision (a) of Section
26 1312 of the Federal Act. ~~The Illinois Health Benefits~~

1 ~~Exchange shall meet the core functions identified by~~
2 ~~Section 1311 of the Patient Protection and Affordable Care~~
3 ~~Act and subsequent federal guidance and regulations.~~

4 (b) ~~The~~ In order to meet the deadline of October 1, 2013
5 ~~established by federal law to have operational a State~~
6 ~~exchange, the~~ Department of Insurance and the Commission on
7 Government Forecasting and Accountability is authorized to
8 apply for, accept, receive, and use as appropriate for and on
9 behalf of the State any grant money provided by the federal
10 government and to share federal grant funding with, give
11 support to, and coordinate with other agencies of the State and
12 federal government or third parties as determined by the
13 Governor, until the Board has the ability to do so, at which
14 time the Board is authorized to apply for, accept, receive, and
15 use as appropriate for and on behalf of the State any grant
16 money provided by the federal government and to share federal
17 grant funding with, give support to, and coordinate with other
18 agencies of the State and federal government or third parties
19 pursuant to Section 5-11 of this Law.

20 (Source: P.A. 97-142, eff. 7-14-11; 98-756, eff. 7-16-14.)

21 (215 ILCS 122/5-11 new)

22 Sec. 5-11. Exchange powers and authorities. In addition to
23 powers set forth elsewhere in this Law, the Board is authorized
24 to do the following:

25 (1) Have perpetual successions as a political

1 subdivision, body politic and corporate, and adopt bylaws,
2 rules, and regulations to carry out the provisions of this
3 Law.

4 (2) Adopt an official seal and alter the same at
5 pleasure.

6 (3) Maintain an office in the State at such place or
7 places as it may designate.

8 (4) Acquire, lease, purchase, own, manage, hold, and
9 dispose of real and personal property.

10 (5) Apply for, accept, and spend, as appropriate, any
11 federal or State grant money made available through or
12 pursuant to the federal Patient Protection and Affordable
13 Care Act or any other federal or State-related opportunity
14 in order to assist the Board as it implements the
15 provisions of the federal Patient Protection and
16 Affordable Care Act.

17 (6) Enter into contracts or intergovernmental
18 cooperation agreements as are necessary or proper to carry
19 out the provisions and purposes or perform any of the
20 functions described in this Law.

21 (7) Enter into commercial, banking, and financial
22 arrangements as needed to manage the day-to-day operations
23 of the Exchange.

24 (8) Take or defend any legal actions necessary to
25 effectuate the purposes of this Law.

1 (215 ILCS 122/5-12 new)

2 Sec. 5-12. Health benefit plan certification.

3 (a) To be certified as a qualified health plan, a health
4 benefit plan shall, at a minimum:

5 (1) provide the essential health benefits package
6 described in Section 1302(a) of the Federal Act; except
7 that the plan is not required to provide essential benefits
8 that duplicate the minimum benefits of qualified dental
9 plans, as provided in subsection (e) of this Section if:

10 (A) the Board, in cooperation with the Department,
11 has determined that at least one qualified dental plan
12 is available to supplement the plan's coverage; and

13 (B) the health insurance carrier makes prominent
14 disclosure at the time it offers the plan, in a form
15 approved by the Board, that the plan does not provide
16 the full range of essential pediatric dental benefits
17 and that qualified dental plans providing those
18 benefits and other dental benefits not covered by the
19 plan are offered through the Exchange;

20 (2) fulfill all premium rate and contract filing
21 requirements and ensure that no contract language has been
22 disapproved by the Director;

23 (3) provide at least the minimum level of coverage
24 prescribed by the Federal Act;

25 (4) ensure that the cost-sharing requirements of the
26 plan do not exceed the limits established under Section

1 1302(c)(1) of the Federal Act, and if the plan is offered
2 through the SHOP Exchange, the plan's deductible does not
3 exceed the limits established under Section 1302(c)(2) of
4 the Federal Act;

5 (5) be offered by a health insurance carrier that:

6 (A) is authorized and in good standing to offer
7 health insurance coverage;

8 (B) offers at least one qualified health plan at
9 the silver level and at least one plan at the gold
10 level, as described in the Federal Act, through each
11 component of the Board in which the health insurance
12 carrier participates; for the purposes of this
13 subparagraph (B), "component" means the SHOP Exchange
14 and the exchange for individual coverage within the
15 American Health Benefit Exchange;

16 (C) charges the same premium rate for each
17 qualified health plan without regard to whether the
18 plan is offered through the Exchange and without regard
19 to whether the plan is offered directly from the health
20 insurance carrier or through an insurance producer;

21 (D) does not charge any cancellation fees or
22 penalties; and

23 (E) complies with the regulations established by
24 the Secretary under Section 1311 (d) of the Federal Act
25 and any other requirements of the Illinois Insurance
26 Code and the Department;

1 (6) meet the requirements of certification pursuant to
2 the requirements of the Department and the Illinois
3 Insurance Code provided in this Law and the requirements
4 issued by the Secretary under Section 1311(c) of the
5 Federal Act and rules promulgated or adopted pursuant to
6 this Law or the Federal Act, which shall include:

7 (A) minimum standards in the areas of marketing
8 practices;

9 (B) network adequacy;

10 (C) essential community providers in underserved
11 areas;

12 (D) accreditation;

13 (E) quality improvement;

14 (F) uniform enrollment forms and descriptions of
15 coverage; and

16 (G) information on quality measures for health
17 benefit plan performance;

18 (7) include outpatient clinics in the health plan's
19 region that are controlled by an entity that also controls
20 a 340B eligible provider as defined by Section 340B(a)(4)
21 of the federal Public Health Service Act such that the
22 outpatient clinics are subject to the same mission,
23 policies, and medical standards related to the provision of
24 health care services as the 340B eligible provider; and

25 (8) submit a justification for any premium increase
26 prior to the implementation of the increase; the plans

1 (vii) information on cost-sharing and payments
2 with respect to any out-of-network coverage;

3 (viii) information on enrollee and participant
4 rights under Title I of the Federal Act; and

5 (ix) other information as determined
6 appropriate by the Secretary, including, but not
7 limited to, accredited clinical quality measures;
8 and

9 (2) permit individuals to learn, in a timely manner
10 upon the request of the individual, the comparative quality
11 standards of the plans along established clinical
12 data-based standards and the amount of cost-sharing,
13 including deductibles, copayments, and coinsurance, under
14 the individual's plan or coverage that the individual would
15 be responsible for paying with respect to the furnishing of
16 a specific item or service by a participating provider and
17 make this information available to the individual through
18 an Internet website that is publicly accessible and through
19 other means for individuals without access to the Internet.

20 (c) The Department shall not exempt any health insurance
21 carrier seeking certification as a qualified health plan,
22 regardless of the type or size of the health insurance carrier,
23 from licensure or solvency requirements and shall apply the
24 criteria of this Section in a manner that ensures a level
25 playing field between or among health insurance carriers
26 participating in the Exchange.

1 (d) The provisions of this Law that are applicable to
2 qualified health plans shall also apply, to the extent
3 relevant, to qualified dental plans, except as modified in
4 accordance with the provisions of paragraphs (1), (2), and (3)
5 of this subsection (d) or by rules adopted by the Board.

6 (1) The health insurance carrier shall be licensed to
7 offer dental coverage, but need not be licensed to offer
8 other health benefits.

9 (2) The plan shall be limited to dental and oral health
10 benefits, without substantially duplicating the benefits
11 typically offered by health benefit plans without dental
12 coverage and shall include, at a minimum, the essential
13 pediatric dental benefits prescribed by the Secretary
14 pursuant to Section 1302(b)(1)(J) of the Federal Act and
15 such other dental benefits as the Board or the Secretary
16 may specify by rule.

17 (3) Health insurance carriers may jointly offer a
18 comprehensive plan through the Exchange in which the dental
19 benefits are provided by a health insurance carrier through
20 a qualified dental plan and the other benefits are provided
21 by a health insurance carrier through a qualified health
22 plan, provided that the plans are priced separately and are
23 also made available for purchase separately at the same
24 price.

1 Sec. 5-15. Illinois Health Benefits Exchange Legislative
2 Oversight Study Committee.

3 (a) There is created an Illinois Health Benefits Exchange
4 Legislative Oversight Study Committee within the Commission on
5 Government Forecasting and Accountability to provide
6 accountability for ~~conduct a study regarding State~~
7 ~~implementation and establishment of~~ the Illinois Health
8 Benefits Exchange and to ensure Exchange operations and
9 functions align with the goals and duties outlined by this Law.
10 The Committee shall also be responsible for providing policy
11 recommendations to ensure the Exchange aligns with the Federal
12 Act, amendments to the Federal Act, and regulations promulgated
13 pursuant to the Federal Act.

14 (b) Members of the Legislative Oversight Study Committee
15 shall be appointed as follows: 3 members of the Senate shall be
16 appointed by the President of the Senate; 3 members of the
17 Senate shall be appointed by the Minority Leader of the Senate;
18 3 members of the House of Representatives shall be appointed by
19 the Speaker of the House of Representatives; and 3 members of
20 the House of Representatives shall be appointed by the Minority
21 Leader of the House of Representatives. Each legislative leader
22 shall select one member to serve as co-chair of the committee.

23 ~~(c)~~ Members of the Legislative Oversight Study Committee
24 shall be appointed within 30 days after the effective date of
25 this Law. ~~The co chairs shall convene the first meeting of the~~
26 ~~committee no later than 45 days after the effective date of~~

1 ~~this Law.~~

2 (Source: P.A. 97-142, eff. 7-14-11.)

3 (215 ILCS 122/5-16 new)

4 Sec. 5-16. Exchange governance. The governing and
5 administrative powers of the Exchange shall be vested in a body
6 known as the Illinois Health Benefits Exchange Board. The
7 following provisions shall apply:

8 (1) The Board shall consist of 13 voting members
9 appointed by the Governor with the advice and consent of a
10 majority of the members elected to the Senate. In addition,
11 the Director of Insurance, the Director of Public Health,
12 the Secretary of Human Services, the Director of Healthcare
13 and Family Services, and the Executive Director of the
14 Exchange shall serve as non-voting, ex officio members of
15 the Board. The Governor shall also appoint as non-voting,
16 ex officio members one economist with experience in the
17 health care markets and one educated health care consumer
18 advocate. All Board members shall be appointed no later
19 than July 1, 2015.

20 (2) The Governor shall make the appointments so as to
21 reflect no less than proportional representation of the
22 geographic, gender, cultural, racial, and ethnic
23 composition of this State and in accordance with
24 subparagraphs (A), (B), and (C) of this paragraph, as
25 follows:

1 (A) No more than 4 voting members may represent the
2 following interests, of which no more than 2 may
3 represent any one interest:

4 (1) the insurance industry;

5 (2) health care administrators; and

6 (3) licensed health care professionals.

7 (B) At least 9 voting members shall represent the
8 following interest groups, with each interest group
9 represented by at least one voting member:

10 (1) a labor interest group;

11 (2) a women's interest group;

12 (3) a minorities' interest group;

13 (4) a disabled persons' interest group;

14 (5) a small business interest group;

15 (6) a public health interest group;

16 (7) hospitals; and

17 (8) essential community hospital providers.

18 (C) Each person appointed to the Board should have
19 demonstrated experience in at least one of the
20 following areas:

21 (1) individual health insurance coverage;

22 (2) small employer health insurance;

23 (3) health benefits administration;

24 (4) health care finance;

25 (5) administration of a public or private
26 health care delivery system;

1 (6) the provision of health care services;

2 (7) the purchase of health insurance coverage;

3 (8) health care consumer navigation or
4 assistance;

5 (9) health care economics or health care
6 actuarial sciences;

7 (10) information technology; or

8 (11) operating a small business with 50 or
9 fewer employees.

10 (3) The Board shall elect one voting member of the
11 Board to serve as chairperson and one voting member to
12 serve as vice-chairperson, upon approval of a majority of
13 the Board.

14 (4) The Exchange shall be administered by an Executive
15 Director, who shall be appointed, and may be removed, by a
16 majority of the Board. The Board shall have the power to
17 determine compensation for the Executive Director. The
18 Executive Director shall be responsible for the selection
19 of such other staff and the determination of compensation
20 as may be authorized by the Board's operating budget.

21 (5) The terms of the non-voting, ex officio members of
22 the Board shall run concurrent with their terms of
23 appointment to office, or in the case of the Executive
24 Director, his or her term of appointment to that position,
25 subject to the determination of the Board. The terms of the
26 members, including those non-voting, ex officio members

1 appointed by the Governor, shall be 4 years. Upon
2 conclusion of the initial term, the next term and every
3 term subsequent to it shall run for 3 years. Voting members
4 shall serve no more than 3 consecutive terms.

5 A person appointed to fill a vacancy and complete the
6 unexpired term of a member of the Board shall only be
7 appointed to serve out the unexpired term by the individual
8 who made the original appointment within 45 days after the
9 initial vacancy. A person appointed to fill a vacancy and
10 complete the unexpired term of a member of the Board may be
11 re-appointed to the Board for another term, but shall not
12 serve than more than 2 consecutive terms following their
13 completion of the unexpired term of a member of the Board.

14 If a voting Board member's qualifications change due to
15 a change in employment during the term of their
16 appointment, then the Board member shall resign their
17 position, subject to reappointment by the individual who
18 made the original appointment.

19 (6) The Board shall create and appoint qualified
20 persons with requisite expertise to Exchange regional
21 advisory groups. Members of the regional advisory groups
22 shall serve without pay. These Exchange regional advisory
23 groups shall meet in a manner and frequency determined by
24 the Board to discuss exchange-related issues and to provide
25 exchange-related guidance, advice, and recommendations to
26 the Board. There shall be 13 regional advisory groups

1 representing each of the qualified health plan rating areas
2 designated by the Department. Each regional advisory group
3 shall, at a minimum, include one member from each of the
4 following interest groups:

5 (A) insurers;

6 (B) business;

7 (C) consumers;

8 (D) providers;

9 (E) insurance producers;

10 (F) navigators; and

11 (G) dentists.

12 (7) The Board shall meet no less than quarterly on a
13 schedule established by the chairperson. Meetings shall be
14 public and public records shall be maintained, subject to
15 the Open Meetings Act. A majority of the Board shall
16 constitute a quorum and the affirmative vote of a majority
17 is necessary for any action of the Board. No vacancy shall
18 impair the ability of the Board to act provided a quorum is
19 reached. Members shall serve without pay, but shall be
20 reimbursed for their actual and reasonable expenses
21 incurred in the performance of their duties. The
22 chairperson of the Board shall file a written report
23 regarding the activities of the Board and the Exchange to
24 the Governor and General Assembly annually, and the
25 Legislative Oversight Committee established in Section
26 5-15 quarterly, beginning on January 1, 2016 through

1 December 31, 2017.

2 (8) The Board shall adopt conflict of interest rules
3 and recusal procedures. Such rules and procedures shall (i)
4 prohibit a member of the Board from performing an official
5 act that may have a direct economic benefit on a business
6 or other endeavor in which that member has a direct or
7 substantial financial interest and (ii) require a member of
8 the Board to recuse himself or herself from an official
9 matter, whether direct or indirect. All recusals must be in
10 writing and specify the reason and date of the recusal. All
11 recusals shall be maintained by the Executive Director and
12 shall be disclosed to any person upon written request.

13 Within 6 months after the Board is convened, the Board
14 shall adopt rules that regulate, in a manner no less
15 restrictive than Sections 5-15 and 5-45 and Article 10 of
16 the State Officials and Employees Ethics Act, (i) the
17 political activities of Board members and employees of the
18 Exchange, (ii) the soliciting and accepting of gifts by,
19 and the offering and making of gifts to, Board members and
20 employees of the Exchange, and (iii) the future employment
21 of Board members and employees of the Exchange with
22 entities that they regulated or conducted business with
23 preceding the termination of their board membership or
24 employment with the Exchange.

25 (9) The Board shall develop a budget, to be submitted
26 to the General Assembly by August 15, 2015, by March 15,

1 2017, and by March 15 every year thereafter, for the
2 implementation and operation of the Exchange for operating
3 expenses, including, but not limited to:

4 (A) proposed compensation levels for the Executive
5 Director and shall identify personnel and staffing
6 needs for the implementation and operation of the
7 Exchange;

8 (B) disclosure of funds received or expected to be
9 received from the federal government for the
10 infrastructure and systems of the Exchange and those
11 funds received or expected to be received for program
12 administration and operations;

13 (C) delineation of those functions of the Exchange
14 that are to be paid by State and federal programs that
15 are allocable to the State's General Revenue Fund; and

16 (D) insurer assessments.

17 (10) The Board shall, in consultation with the Health
18 Benefits Exchange Legislative Oversight Committee, produce
19 a cost-benefit analysis of the State's essential health
20 benefits no later than August 1, 2016 for the purposes of
21 informing the U.S. Department of Health and Human Services
22 in their re-evaluation of the essential health benefits for
23 plan years 2017 and beyond.

24 (11) Except as otherwise expressly provided by law,
25 employees of the Exchange and members of the Board shall
26 not be considered State employees.

1 (12) The purpose of the Board shall be to implement the
2 Exchange in accordance with this Law.

3 (215 ILCS 122/5-17 new)

4 Sec. 5-17. Insurer's assessment. A participating insurer
5 shall be assessed a monthly fee for each plan it offers through
6 the Exchange in an amount equal to the product of the rate
7 established annually by the Board in accordance with this
8 Section for the applicable benefit year and the monthly premium
9 charged by the insurer prior to application of any premium
10 assistance, including, but not limited to, premium tax credits,
11 for each policy under the plan where enrollment is through the
12 Exchange. No participating insurer shall be assessed while
13 assessments are being made pursuant to Section 12 of the
14 Comprehensive Health Insurance Plan Act. The Board may exempt
15 those insurers whose total assessment would be so minimal as to
16 not exceed the estimated cost of levying the assessment.

17 The total amount assessed on all participating insurers
18 shall not exceed an amount that is reasonably necessary to
19 support the operation and administration of the Exchange and
20 the related functions of the Department for carrying out the
21 purposes authorized in this Law. The assessment rate
22 established by the Board shall not exceed the lesser of 3.5% or
23 the rate established by the United States Department of Health
24 and Human Services pursuant to 45 CFR 156.50(c) for insurers
25 offering plans through the federal facilitated exchange. In

1 establishing the assessment, the Board shall take into
2 consideration any unspent federal funds remaining and shall
3 reduce the assessment accordingly.

4 The assessed fee shall be remitted to the Board within 30
5 days after the end of the month in which the fee was assessed.
6 When a carrier fails to pay the full amount of any assessment
7 of \$100 or more due under this Section there shall be added to
8 the amount due as a penalty the greater of \$50 or an amount
9 equal to 5% of the deficiency for each month or part of a month
10 that the deficiency remains unpaid. All moneys collected by the
11 Board shall be placed in the Illinois Health Benefits Exchange
12 Fund.

13 The Board shall prepare annually a complete and detailed
14 written report accounting for all funds received and dispensed
15 during the preceding fiscal year.

16 Assessments or fees charged to carriers under this Law
17 shall not include any amount based on coverage, or premiums
18 associated with such coverage, that is defined as an excepted
19 benefit under Section 2791(c) of the federal Public Health
20 Service Act (42 U.S.C. 300gg-91).

21 (215 ILCS 122/5-18 new)

22 Sec. 5-18. Illinois Health Benefits Exchange Fund. There
23 is hereby created as a fund outside of the State treasury the
24 Illinois Health Benefits Exchange Fund to be used exclusively
25 by the Exchange and the Department to provide funding for the

1 operation and administration of the Exchange and for carrying
2 out the purposes authorized in this Law. The Fund shall consist
3 of the following:

4 (1) any user fees or other assessment collected by the
5 Exchange, as authorized by this Law;

6 (2) income from investments made on behalf of the Fund;

7 (3) interest on deposits or investments of money in the
8 Fund;

9 (4) money collected by the Board as a result of legal
10 or other action taken by the Board on behalf of the
11 Exchange or the Fund;

12 (5) money donated to the Fund;

13 (6) money awarded to the Fund through grants; and

14 (7) any other money from any other source accepted for
15 the benefit of the Fund.

16 Any investment earnings of the Fund shall be credited to
17 the Fund. No part of the Fund may revert or be credited to the
18 General Revenue Fund or any special fund in the State Treasury.
19 A debt or an obligation of the Fund is not a debt of the State
20 or a pledge of credit of the State.

21 (215 ILCS 122/5-23 new)

22 Sec. 5-23. Examination or investigation of the Exchange.
23 The Director shall have the ability to examine or investigate
24 the Exchange pursuant to his or her authority under Article
25 XXIV of the Illinois Insurance Code.

1 Section 99. Effective date. This Act takes effect June 1,
2 2015.".