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TABLE OF CONTENTS

June 26, 2020 Volume 44, Issue 26

PROPOSED RULES
ATTORNEY GENERAL, OFFICE OF THE
Attorney General's Procurement
44 Ill. Adm. Code 1300.....10831
BOARD OF HIGHER EDUCATION, ILLINOIS
Graduation Incentive Grants (Repealer)
23 Ill. Adm. Code 1002.....10840
CHILDREN AND FAMILY SERVICES, DEPARTMENT OF
Licensing Standards for Day Care Homes
89 Ill. Adm. Code 406.....10846
Licensing Standards for Day Care Centers
89 Ill. Adm. Code 407.....10849
Licensing Standards for Group Day Care Homes
89 Ill. Adm. Code 408.....10852
COMMUNITY COLLEGE BOARD, ILLINOIS
Administration of the Illinois Public Community College Act
23 Ill. Adm. Code 1501.....10855
REVENUE, DEPARTMENT OF
State Tax Lien Registry
86 Ill. Adm. Code 720.....10865
ADOPTED RULES
ATTORNEY GENERAL, OFFICE OF THE
Hospital Financial Assistance under the Fair Patient Billing Act
77 Ill. Adm. Code 4500.....10869
ENVIRONMENTAL PROTECTION AGENCY, ILLINOIS
Public Participation in the Air Pollution Control Permit Program
35 Ill. Adm. Code 252.....10873
GAMING BOARD, ILLINOIS
Video Gaming (General)
11 Ill. Adm. Code 1800.....10891
REVENUE, DEPARTMENT OF
Income Tax
86 Ill. Adm. Code 100.....10907
Retailers' Occupation Tax
86 Ill. Adm. Code 130.....10981
STUDENT ASSISTANCE COMMISSION, ILLINOIS
Illinois National Guard (ING) Grant Program
23 Ill. Adm. Code 2730.....11008
Illinois Veteran Grant (IVG) Program
23 Ill. Adm. Code 2733.....11019

Monetary Award Program (MAP)
23 Ill. Adm. Code 2735.....11032
Adult Vocational Community College Scholarship Program
23 Ill. Adm. Code 2745.....11044
Golden Apple Scholars of Illinois Program
23 Ill. Adm. Code 2764.....11050
AIM HIGH Grant Pilot Program
23 Ill. Adm. Code 2766.....11059
EMERGENCY RULES
CHILDREN AND FAMILY SERVICES, DEPARTMENT OF
Licensing Standards for Day Care Homes (Emergency Amendment to Emergency Rule)
89 Ill. Adm. Code 406.....11070
Licensing Standards for Day Care Centers (Emergency Amendment to Emergency Rule)
89 Ill. Adm. Code 407.....11079
Licensing Standards for Group Day Care Homes (Emergency Amendment to Emergency Rule)
89 Ill. Adm. Code 408.....11094
GAMING BOARD, ILLINOIS
Video Gaming (General)
11 Ill. Adm. Code 1800.....11104
SECOND NOTICES RECEIVED
JOINT COMMITTEE ON ADMINISTRATIVE RULES
Second Notices Received….....11120
OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER
CHILDREN AND FAMILY SERVICES, DEPARTMENT OF
Licensing Standards for Day Care Homes (Withdrawal)
89 Ill. Adm. Code 406.....11121
Licensing Standards for Day Care Centers (Withdrawal)
89 Ill. Adm. Code 407.....11122
Licensing Standards for Group Day Care Homes (Withdrawal)
89 Ill. Adm. Code 408.....11123
POLLUTION CONTROL BOARD
Notice of Public Information.....11124
REGULATORY AGENDA
CHIEF PROCUREMENT OFFICER FOR HIGHER EDUCATION
Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement
44 Ill. Adm. Code 4….....11126
EXECUTIVE ORDERS AND PROCLAMATIONS
EXECUTIVE ORDERS
Executive Order In Response to COVID-19 (COVID-19

Executive Order No. 40)
2020-42…….....11127
PROCLAMATIONS
George Floyd Proclamation
2020-51…….....11130

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2020

Issue#	Rules Due Date	Date of Issue
1	December 23, 2019	January 3, 2020
2	December 30, 2019	January 10, 2020
3	January 6, 2020	January 17, 2020
4	January 13, 2020	January 24, 2020
5	January 21, 2020	January 31, 2020
6	January 27, 2020	February 7, 2020
7	February 3, 2020	February 14, 2020
8	February 10, 2020	February 21, 2020
9	February 18, 2020	February 28, 2020
10	February 24, 2020	March 6, 2020
11	March 2, 2020	March 13, 2020
12	March 9, 2020	March 20, 2020
13	March 16, 2020	March 27, 2020
14	March 23, 2020	April 3, 2020
15	March 30, 2020	April 10, 2020
16	April 6, 2020	April 17, 2020
17	April 13, 2020	April 24, 2020
18	April 20, 2020	May 1, 2020
19	April 27, 2020	May 8, 2020
20	May 4, 2020	May 15, 2020
21	May 11, 2020	May 22, 2020
22	May 18, 2020	May 29, 2020

23	May 26, 2020	June 5, 2020
24	June 1, 2020	June 12, 2020
25	June 8, 2020	June 19, 2020
26	June 15, 2020	June 26, 2020
27	June 22, 2020	July 6, 2020
28	June 29, 2020	July 10, 2020
29	July 6, 2020	July 17, 2020
30	July 13, 2020	July 24, 2020
31	July 20, 2020	July 31, 2020
32	July 27, 2020	August 7, 2020
33	August 3, 2020	August 14, 2020
34	August 10, 2020	August 21, 2020
35	August 17, 2020	August 28, 2020
36	August 24, 2020	September 4, 2020
37	August 31, 2020	September 11, 2020
38	September 8, 2020	September 18, 2020
39	September 14, 2020	September 25, 2020
40	September 21, 2020	October 2, 2020
41	September 28, 2020	October 9, 2020
42	October 5, 2020	October 16, 2020
43	October 13, 2020	October 23, 2020
44	October 19, 2020	October 30, 2020
45	October 26, 2020	November 6, 2020
46	November 2, 2020	November 13, 2020
47	November 9, 2020	November 20, 2020
48	November 16, 2020	November 30, 2020
49	November 23, 2020	December 4, 2020
50	November 30, 2020	December 11, 2020
51	December 7, 2020	December 18, 2020
52	December 14, 2020	December 28, 2020

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Attorney General's Procurement

2) Code Citation: 44 Ill. Adm. Code 1300

3) Section Number: 1300.4500 — Proposed Action: New Section

4) Statutory Authority: Implementing and authorized by Section 9 of the Attorney General Act [15 ILCS 205/9] and Section 1-30(a) of the Illinois Procurement Code [30 ILCS 500/1-30(a)].

5) A Complete Description of the Subjects and Issues Involved: The Attorney General Act was amended by PA 100-801, effective August 10, 2018, to require the Attorney General to establish aspirational goals for contract awards for all contracts for goods and services, not including contracts for services relating to investigations or litigation that are substantially in accordance with the Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575] and to annually post the Office's utilization of businesses owned by minorities, women, and persons with disabilities during the preceding fiscal year on its website.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under the State Mandates Act.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following the publication of this Notice. All written comments filed within 45 days after the date of publication of this Notice will be considered. Comments should be submitted to:

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

Melissa Mahoney
Deputy Chief of Staff, Administration
Office of the Attorney General
100 West Randolph Street, 12th Floor
Chicago IL 60601

312/814-3950

or

Lynn Patton
Rules Coordinator
Office of the Attorney General
500 South Second Street
Springfield IL 62701

217/524-1504

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses owned by minorities, women, and persons with disabilities doing business with or seeking to do business with the Attorney General's Office related to the procurement of goods and services may be affected by this rulemaking.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: No adverse impact.

15) Regulatory Agenda on which this rulemaking was summarized: January 2020

The full text of the Proposed Amendment begins on the next page:

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XX: ATTORNEY GENERAL

PART 1300
ATTORNEY GENERAL'S PROCUREMENT

SUBPART A: GENERAL

Section
1300.01 Title
1300.05 Policy
1300.08 Illinois Procurement Code
1300.10 Application
1300.15 Definitions of Terms Used in This Part
1300.25 Property Rights
1300.30 Contracts Necessary to Prepare for Anticipated Litigation

SUBPART B: PROCUREMENT RULES

Section
1300.525 Procurement by DCMS Rules

SUBPART C: PROCUREMENT AUTHORITY

Section
1300.1002 Conduct and Oversight of Procurements
1300.1010 Construction

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section
1300.1510 Publicizing Procurement Actions
1300.1540 Method of Notices and Reports
1300.1560 Supplemental Notice
1300.1570 Error in Notice
1300.1580 Direct Solicitation

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION − GENERAL

Section
1300.2005 General Provisions
1300.2010 Competitive Sealed Bidding
1300.2012 Multi-Step Sealed Bidding
1300.2015 Competitive Sealed Proposals
1300.2020 Small Purchases
1300.2025 Sole Source Procurement
1300.2030 Emergency Procurements
1300.2035 Competitive Selection Procedures for Professional and Artistic Services
1300.2036 Other Methods of Source Selection
1300.2037 Tie Bids and Proposals
1300.2038 Mistakes
1300.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section
1300.2043 Suppliers
1300.2044 Vendor List/Required Use
1300.2045 Prequalification
1300.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section
1300.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section
1300.2050 Specifications and Samples

SUBPART I: CONTRACT TYPE

Section
1300.2055 Types of Contracts

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

SUBPART J: DURATION OF CONTRACTS

Section
1300.2060 Duration of Contracts − General

SUBPART K: CONTRACT MATTERS

Section
1300.2560 Prevailing Wage
1300.2580 Subcontractors

SUBPART L: CONTRACT PRICING

Section
1300.2800 All Costs Included

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section
1300.4005 Real Property Leases and Capital Improvement Leases
1300.4010 Renewal
1300.4015 Method of Source Selection
1300.4020 Request for Information and Review of Proposed Leases
1300.4025 Lease Requirements
1300.4045 Emergency Lease Requirements

SUBPART O: PREFERENCES

Section
1300.4500 Contracting with Businesses Owned and Controlled by Minorities, Women, and Persons with Disabilities
1300.4505 Procurement Preferences
1300.4510 Resident Bidder Preference
1300.4530 Correctional Industries
1300.4535 Certified Work Centers for Persons with Significant Disabilities
1300.4540 Gas Mileage
1300.4545 Small Business

SUBPART P: ETHICS

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

Section
1300.5013 Conflicts of Interest
1300.5015 Negotiations for Future Employment
1300.5020 Exemptions
1300.5030 Revolving Door
1300.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
1300.5037 Vendor Registration, Certification and Prohibition on Political Contributions
1300.5039 Communications Related to Procurement
1300.5060 Voidable Contracts

SUBPART Q: CONCESSIONS

Section
1300.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section
1300.5510 Complaints Against Vendors or Subcontractors
1300.5520 Suspension
1300.5530 Settlement and Resolution of Contract and Breach of Contract Controversies
1300.5540 Violation of Law or Rule
1300.5550 Protests
1300.5555 Hearings and Decisions

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section
1300.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section
1300.6500 General
1300.6510 OAG Use of Other Contracts
1300.6520 No Agency Relationship

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

Section
1300.7000 Severability
1300.7010 Government Furnished Property
1300.7015 Inspections
1300.7020 Records and Audits
1300.7025 Written Determinations
1300.7030 No Waiver of Sovereign Immunity

AUTHORITY: Implementing and authorized by Section 1-30(a) of the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted by emergency rule at 22 Ill. Reg. 12013, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 15192, effective August 15, 1998; amended at 23 Ill. Reg. 8971, effective July 28, 1999; amended at 36 Ill. Reg. 11974, effective July 13, 2012; amended at 37 Ill. Reg. 19316, effective November 12, 2013; recodified Title heading at 39 Ill. Reg. 5903; amended at 40 Ill. Reg. 3401, effective February 11, 2016; amended at 42 Ill. Reg. 13585, effective June 29, 2018; amended at 44 Ill. Reg. _____, effective _____.

SUBPART O: PREFERENCES

Section 1300.4500 Contracting with Businesses Owned and Controlled by Minorities, Women, and Persons with Disabilities

a) As required by Section 9 of the Attorney General Act [15 ILCS 205] and in accordance with the Business Enterprise for Minorities, Women, and Persons with Disabilities Act [30 ILCS 575] (Act), the Attorney General establishes the following aspirational goals for contract awards for all contracts for goods and services, excluding contracts for services relating to investigations or litigation:

1) At least 20% of the dollar value of OAG contracts shall be awarded to businesses owned by minorities, women, and persons with disabilities; and

2) Of this 20%, 7% shall be for women-owned businesses, 2% for businesses owned by persons with disabilities and not-for-profit agencies for the disabled, and the remaining 11% for other minority-owned businesses.

b) The goals established in subsection (a) may be satisfied, in whole or in part, by counting expenditures made by OAG vendors to subcontractors.

c) Upon direction of the Chief Procurement Officer after consultation with the Business Enterprise Council for Minorities, Women, and Persons with Disabilities (the Business Enterprise Council) (see Section 5 of the Act), the OAG may establish set-asides, including, but not limited to, set-asides for businesses owned by minorities, women, and persons with disabilities, and other preferred vendors certified under the Act.

d) In procuring goods and services to meet its aspirational goals, the OAG may rely on:

1) The list of businesses that have been certified under the Act by the Business Enterprise Council. A list of those businesses appears on the Department of Central Management Services' Business Enterprise website (https://cms.diversitycompliance.com/?TN=cms); or

2) Certifications by other certifying entities that have been accepted by the Business Enterprise Council under the Act. Businesses certified in this manner are included with the list of businesses that have been certified under the Act by the Business Enterprise Council and may be found on the Department of Central Management Services' Business Enterprise website (see subsection (d)(1)).

e) The Procurement Officer may undertake the following actions to reach the goals established in subsection (a):

1) Focus solicitations on those vendors included on the Council's list of certified businesses or by other means;

2) Advertise in appropriate media;

3) Divide job or project requirements into smaller tasks or quantities, when economically, technically, and programmatically feasible;

4) Eliminate extended experience or capitalization requirements when programmatically feasible; and

5) Identify specific, proposed projects, purchases, or contracts as particularly appropriate for participation by businesses that are owned by minorities,

women, or persons with disabilities, and establish set-asides in accordance with applicable law.

f) Those categories of contracts and expenditures exempted by the Business Enterprise Council (see 44 Ill. Adm. Code 10.22), are exempt from the contracting goals established in this Section. Additionally, the CPO may exempt specific contracts or expenditures from the goals established by this Section, prior to advertising for bids or solicitations of proposals, if the CPO has determined, based upon the best information available at the time of the determination, that there are an insufficient number of businesses owned by minorities, women, or persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the specific contract or expenditure.

g) The CPO shall direct that information regarding the OAG's utilization of businesses owned by minorities, women, and persons with disabilities during the preceding fiscal year be posted annually on the OAG's website.

(Source: Added at 44 Ill. Reg. _____, effective _____)

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Graduation Incentive Grants

2) Code Citation: 23 Ill. Adm. Code 1002

3)

Section Numbers:	Proposed Actions:
1002.10	Repealed
1002.20	Repealed
1002.30	Repealed
1002.40	Repealed
1002.50	Repealed

4) Statutory Authority: Implementing and authorized by Section 9.28 of the Board of Higher Education Act [110 ILCS 205/9.28].

5) A Complete Description of the Subjects and Issues Involved: The rulemaking would repeal the entire Part. The original implementing and authorizing legislation has been repealed in PA 101-149. There are no recipients of awards from this program who would continue to be governed by this Part.

6) Published studies and reports, and underlying sources of data, used to compose this rulemaking: None

7) Will this repealer replace any emergency rule currently in effect? No

8) Does this repealer contain an automatic repeal date? No

9) Does this repealer contain incorporation by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: The proposed rulemaking neither creates nor expands any State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805/3].

12) Time, Place and Manner in which interested persons may comment on this rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* with:

Karen Helland, Administrative Rules Coordinator

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED REPEALER

Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701-1377

217/557-7358
fax: 217/782-8548
helland@ibhe.org

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: No adverse impact.

15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Agendas because the Board did not anticipate the need for this rulemaking at that time.

The full Text of the Proposed Repealer begins on the next page:

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1002
GRADUATION INCENTIVE GRANTS (REPEALED)

Section
1002.10 Purpose
1002.20 Definitions
1002.30 Grant Eligibility and Grant Allocation
1002.40 Grant Application Requirements
1002.50 Verifications and Audit

AUTHORITY: Implementing and authorized by Section 9.27 of the Board of Higher Education Act [110 ILCS 205/9.27].

SOURCE: Emergency rulemaking adopted at 23 Ill. Reg. 13248, effective October 18, 1999, for a maximum of 150 days; adopted at 24 Ill. Reg. 3359, effective February 14, 2000; repealed at 44 Ill. Reg. _____, effective _____.

Section 1002.10 Purpose

This Part provides for the administration of *incentive grants to public universities that offer their undergraduate students contracts under which the university commits itself to provide the courses, academic programs, and support services necessary to enable the contracting students to graduate with a baccalaureate degree within* a designated time period. [110 ILCS 205/9.28(a)]

Section 1002.20 Definitions

"Board" means the Illinois Board of Higher Education.

"Contract" means a written agreement between a public university and an undergraduate student in *which the university commits itself to provide the courses, programs, and support services necessary to enable the student to graduate with a baccalaureate degree within* a designated time period. [110 ILCS 205/9.28(a)]

"Designated time period" means not more than four years for an incoming freshman and not more than two years for an incoming community college student.

"Eligible students" means students enrolled on the first day of the fourth full week of classes of the current fall term who have a valid contract with the university.

"Public university" means Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, the campuses of Southern Illinois University, the campuses of the University of Illinois, or Western Illinois University.

Section 1002.30 Grant Eligibility and Grant Allocation

a) *Public universities that offer their undergraduate students contracts under which the university commits itself to provide the courses, programs, and support services necessary to enable the contracting students to graduate with a baccalaureate degree within* a designated time period are eligible to apply for a grant. [110 ILCS 205/9.28(a)]

b) Individual university grants will be based upon the total allocation for graduation incentive grants divided by the total number of eligible students statewide.

Section 1002.40 Grant Application Requirements

Grant application materials may be obtained from the Illinois Board of Higher Education, 431 East Adams Street, Second Floor, Springfield, Illinois 62701-1418. Applications should be submitted to the Graduation Incentive Grant Program, Illinois Board of Higher Education, at the same address. For State fiscal year 2000 grants, applications must be received at the Board by November 12, 1999. In subsequent years, applications must be received at the Board by the second Friday in October.

a) Grant applications shall contain, at a minimum:

1) A copy of the contract of the applicant university;

2) The number of eligible students;

3) A listing of the specific requirements of the graduation contracts offered by the university;

4) A listing of the support services provided by the university to the contracting students;

5) The cost of administering the program for the previous fiscal year;

6) The audit of the previous fiscal year grant as specified in Section 1002.50;

7) Completion rates of previous students enrolled in the program; and

8) The intended use of graduation incentive grant funds.

b) Reductions and Refunds

1) A reduction will be made in the amount of an institution's grant when the enrollment audit from the previous fiscal year identifies an overpayment made for the previous fiscal year grant.

2) A refund to the State will be required of any institution that does not continue to participate in the program when the enrollment audit from the previous fiscal year identifies an overpayment made for the previous fiscal year grant or when no enrollment audit is submitted.

3) Underpayments of a previous fiscal year's grant revealed by an enrollment audit shall not be made to an institution in subsequent year grants.

Section 1002.50 Verifications and Audit

a) Recipients of $25,000 or less in grant funds may submit a statement signed by the chief executive officer of the recipient in lieu of an audit. That statement shall verify that the institution received the grant funds indicated, that the stated number of students on which the grant was based was enrolled and entered into a graduation contract agreement with the institution at the time specified, and that the recipient has complied with all requirements with respect to the grant.

b) Recipients of more than $25,000 shall contract with an external auditor who is registered as a public accountant by the Illinois Department of Professional

Regulation. That auditor shall verify that the institution received the grant funds indicated, that the stated number of students on which the grant was based were enrolled and entered into a graduation contract agreement with the institution at the time specified, and that the recipient has complied with all requirements with respect to the grant. A copy of that audit shall be provided to the Board at the time of application for universities applying for subsequent grants or by the application due date for those universities not applying for subsequent grants.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Licensing Standards for Day Care Homes

2) Code Citation: 89 Ill. Adm. Code 406

3) Section Number: 406.28 — Proposed Action: Amendment

4) Statutory Authority: 225 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: Pursuant to the Restore Illinois Plan, day care homes may resume child care services beginning on May 29, 2020, subject to the requirements of this Part and the guidance issued by the Department of Children and Family Services (Department) entitled "Restore Illinois Licensed Day Care Guidance" and posted to the Department website at: https://www2.illinois.gov/dcfs/Pages/default.aspx#tabitem1. This document will be updated as public health guidance from our public health agency partners evolves and includes but is not limited to information regarding program planning, access to child care facilities, daily health screenings, cleaning, sanitization, and personal hygiene.

6) Published studies and reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace an emergency rule currently in effect? Yes

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
406.2	Amendment	43 Ill. Reg. 10613; September 27, 2019
406.12	Amendment	43 Ill. Reg. 10613; September 27, 2019
406.15	Amendment	43 Ill. Reg. 10613; September 27, 2019

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
fax: 217/557-0692
DCFS.Policy@illinois.gov

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments may have an economic impact on small businesses.

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Day Care Homes

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

A) Types of businesses subject to this proposed rule:

81 Other Services (except Public Administration)

B) Categories that the Agency reasonably believes the rulemaking will impact, including:

i. hiring and additional staffing

ii. regulatory requirements
vi. equipment and material needs
vii. training requirements
viii. record keeping

15) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not included on either of the 2 most recent regulatory agendas because the need for the rulemaking was not anticipated.

The full text of the Proposed Amendment is identical to that of the text of the Emergency Amendment to Emergency Rule for this Part, and begins in this issue of the *Illinois Register* on page 11070.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Day Care Centers

2) Code Citation: 89 Ill. Adm. Code 407

3)

Section Numbers:	Proposed Actions:
407.600	Amendment
407.605	Amendment
407.610	Repealed

4) Statutory Authority: 225 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: Pursuant to the Restore Illinois Plan, day care homes may resume child care services beginning on May 29, 2020, subject to the requirements of this Part and the guidance issued by the Department of Children and Family Services (Department) entitled "Restore Illinois Licensed Day Care Guidance and posted to the Department website at: https://www2.illinois.gov/dcfs/Pages/default.aspx#tabitem1. This document will be updated as public health guidance from our public health agency partners evolves and includes but is not limited to information regarding program planning, access to child care facilities, daily health screenings, cleaning, sanitization, and personal hygiene.

6) Published studies and reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace an emergency rule currently in effect? Yes

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? Yes

Sections Involved:	Proposed Actions:	*Illinois Register* Citations:
407.45	Amendment	43 Ill. Reg. 10634; September 27, 2019
407.250	Amendment	43 Ill. Reg. 10634; September 27, 2019
407.270	Amendment	43 Ill. Reg. 10634; September 27, 2019
407.500	New Section	44 Ill. Reg. 5542; April 3, 2020
407.505	New Section	44 Ill. Reg. 5542; April 3, 2020
407.510	New Section	44 Ill. Reg. 5542; April 3, 2020

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

407.520	New Section	44 Ill. Reg. 5542; April 3, 2020
407.525	New Section	44 Ill. Reg. 5542; April 3, 2020

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
fax: 217/557-0692
DCFS.Policy@illinois.gov

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments may have an economic impact on small businesses.

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Day Care Centers

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

A) Types of businesses subject to the proposed rule:

81 Other Services (except Public Administration)

B) Categories that the agency reasonably believes the rulemaking will impact, including:

i. hiring and additional staffing
ii. regulatory requirements
vi. equipment and material needs
vii. training requirements
viii. record keeping

15) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not included on either of the 2 most recent regulatory agendas because the need for the rulemaking was not anticipated.

The full text of the Proposed Amendments is identical to that of the text of the Emergency Amendments to Emergency Rule which begins in this issue of the *Illinois Register* on page 11079.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Licensing Standards for Group Day Care Homes

2) Code Citation: 89 Ill. Adm. Code 408

3) Section Number: 408.140 — Proposed Action: Amendment

4) Statutory Authority: 225 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: Pursuant to the Restore Illinois Plan, day care homes may resume child care services beginning on May 29, 2020, subject to the requirements of this Part and the guidance issued by the Department of Children and Family Services (Department) entitled "Restore Illinois Licensed Day Care Guidance" and posted to the Department website at: https://www2.illinois.gov/dcfs/Pages/default.aspx#tabitem1. This document will be updated as public health guidance from our public health agency partners evolves and includes but is not limited to information regarding program planning, access to child care facilities, daily health screenings, cleaning, sanitization, and personal hygiene.

6) Published studies and reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace an emergency rule currently in effect? Yes

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
408.5	Amendment	43 Ill. Reg. 10661; September 27, 2019
408.60	Amendment	43 Ill. Reg. 10661; September 27, 2019
408.75	Amendment	43 Ill. Reg. 10661; September 27, 2019

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
fax: 217/557-0692
DCFS.Policy@illinois.gov

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

13) Initial Regulatory Flexibility Analysis: The Department has determined that the proposed amendments may have an economic impact on small businesses.

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Day Care Homes

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

A) Types of businesses subject to the proposed rule:

81 Other Services (except Public Administration)

B) Categories that the Agency reasonably believes the rulemaking will impact, including:

i. hiring and additional staffing

ii. regulatory requirements
vi. equipment and material needs
vii. training requirements
viii. record keeping

15) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not included on either of the 2 most recent regulatory agendas because the need for the rulemaking was not anticipated.

The full text of the Proposed Amendment is identical to that of the text of the Emergency Amendment to Emergency Rule for this Part, and begins in this issue of the *Illinois Register* on page 11094.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Administration of the Illinois Public Community College Act

2) Code Citation: 23 Ill. Adm. Code 1501

3)

Section Numbers:	Proposed Actions:
1501.801	Amendment
1501.803	New Section
1501.804	New Section

4) Statutory Authority: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act [110 ILCS 805/Arts. II and III and 6-5.3].

5) A Complete Description of the Subjects and Issues Involved: PA 99-482 establishes limitations on employment contracts, other than collective bargaining agreements, entered into with an employee of a community college district. PA 99-694 establishes additional guidelines for community college employment contracts with presidents and chancellors. Lastly, PA 100-895 creates the Government Severance Pay Act which further limits severance payments to community college employees. These changes require the ICCB to amend and update its administrative rules.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace an emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: The proposed rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

Illinois Community College Board
Attn: Matt Berry
401 East Capitol Avenue
Springfield IL 62701-1711

217/785-7411
fax: 217/524-4981
Matt.berry@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: None

15) Regulatory Agenda on which this rulemaking was summarized: This proposed rulemaking was not included in any of ICCB's three previous Regulatory Agendas because the need for it was unanticipated.

The full text of the Proposed Amendments begins on the next page:

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

PART 1501
ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section
1501.101 Definition of Terms and Incorporations by Reference
1501.102 Advisory Groups
1501.103 Rule Adoption (Recodified)
1501.104 Manuals
1501.105 Advisory Opinions
1501.106 Executive Director
1501.107 Information Request (Recodified)
1501.108 Organization of ICCB
1501.109 Appearance at ICCB Meetings
1501.110 Appeal Procedure
1501.111 Reporting Requirements (Repealed)
1501.112 Certification of Organization (Repealed)
1501.113 Administration of Detachments and Subsequent Annexations
1501.114 Recognition

SUBPART B: LOCAL DISTRICT ADMINISTRATION

Section
1501.201 Reporting Requirements
1501.202 Certification of Organization
1501.203 Delineation of Responsibilities
1501.204 Maintenance of Documents or Information
1501.205 Recognition Standards (Repealed)
1501.206 Approval of Providers of Training for Trustee Leadership Training

SUBPART C: PROGRAMS

Section
1501.301 Definition of Terms

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

1501.302 Units of Instruction, Research, and Public Service
1501.303 Program Requirements
1501.304 Statewide and Regional Planning
1501.305 College, Branch, Campus, and Extension Centers
1501.306 State or Federal Institutions (Repealed)
1501.307 Cooperative Agreements and Contracts
1501.308 Reporting Requirements
1501.309 Course Classification and Applicability
1501.310 Acceptance of Private Business Vocational School Credits by Community Colleges in Select Disciplines

SUBPART D: STUDENTS

Section
1501.401 Definition of Terms (Repealed)
1501.402 Admission of Students
1501.403 Student Services
1501.404 Academic Records
1501.405 Student Evaluation
1501.406 Reporting Requirements

SUBPART E: FINANCE

Section
1501.501 Definition of Terms
1501.502 Financial Planning
1501.503 Audits
1501.504 Budgets
1501.505 Student Tuition
1501.506 Published Financial Statements
1501.507 Credit Hour Claims
1501.508 Special Populations Grants (Repealed)
1501.509 Workforce Preparation Grants (Repealed)
1501.510 Reporting Requirements
1501.511 Chart of Accounts
1501.514 Business Assistance Grants (Repealed)
1501.515 Advanced Technology Equipment Grant (Repealed)
1501.516 Capital Renewal Grants
1501.517 Retirees Health Insurance Grants (Repealed)

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

1501.518 Uncollectible Debts (Repealed)
1501.519 Special Initiatives Grants
1501.520 Lincoln's Challenge Scholarship Grants
1501.521 Technology Enhancement Grants (Repealed)
1501.522 Deferred Maintenance Grants (Repealed)
1501.523 Foundation Matching Grants (Repealed)

SUBPART F: CAPITAL PROJECTS

Section
1501.601 Definition of Terms
1501.602 Approval of Capital Projects
1501.603 State Funded Capital Projects
1501.604 Locally Funded Capital Projects
1501.605 Project Changes (Repealed)
1501.606 Progress Reports (Repealed)
1501.607 Reporting Requirements
1501.608 Approval of Projects from 110 ILCS 805/3-20.3.01
1501.609 Completion of Projects from 110 ILCS 805/3-20.3.01
1501.610 Demolition of Facilities

SUBPART G: STATE COMMUNITY COLLEGE

Section
1501.701 Definition of Terms (Repealed)
1501.702 Applicability (Repealed)
1501.703 Recognition (Repealed)
1501.704 Programs (Repealed)
1501.705 Finance (Repealed)
1501.706 Personnel (Repealed)
1501.707 Facilities (Repealed)

SUBPART H: PERSONNEL

Section
1501.801 Definition of Terms
1501.802 Sabbatical Leave
1501.803 Employment Contracts
1501.804 President and Chancellor Performance Review

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act [110 ILCS 805] and the Government Severance Pay Act [5 ILCS 415].

SOURCE: Adopted at 6 Ill. Reg. 14262, effective November 3, 1982; codified at 7 Ill. Reg. 2332; amended at 7 Ill. Reg. 16118, effective November 22, 1983; Sections 1501.103, 1501.107 and 1501.108 recodified to 2 Ill. Adm. Code 5175 at 8 Ill. Reg. 6032; amended at 8 Ill. Reg. 14262, effective July 25, 1984; amended at 8 Ill. Reg. 19383, effective September 28, 1984; emergency amendment at 8 Ill. Reg. 22603, effective November 7, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1985; amended at 9 Ill. Reg. 9470, effective June 11, 1985; amended at 9 Ill. Reg. 16813, effective October 21, 1985; amended at 10 Ill. Reg. 3612, effective January 31, 1986; amended at 10 Ill. Reg. 14658, effective August 22, 1986; amended at 11 Ill. Reg. 7606, effective April 8, 1987; amended at 11 Ill. Reg. 18150, effective October 27, 1987; amended at 12 Ill. Reg. 6660, effective March 25, 1988; amended at 12 Ill. Reg. 15973, effective September 23, 1988; amended at 12 Ill. Reg. 16699, effective September 23, 1988; amended at 12 Ill. Reg. 19691, effective November 15, 1988; amended at 13 Ill. Reg. 1182, effective January 13, 1989; amended at 13 Ill. Reg. 14904, effective September 12, 1989; emergency amendment at 14 Ill. Reg. 299, effective November 9, 1989, for a maximum of 150 days; emergency amendment expired on April 9, 1990; amended at 14 Ill. Reg. 4126, effective March 1, 1990; amended at 14 Ill. Reg. 10762, effective June 25, 1990; amended at 14 Ill. Reg. 11771, effective July 9, 1990; amended at 14 Ill. Reg. 13997, effective August 20, 1990; expedited correction at 18 Ill. Reg. 3027, effective August 20, 1990; amended at 15 Ill. Reg. 10929, effective July 11, 1991; amended at 16 Ill. Reg. 12445, effective July 24, 1992; amended at 16 Ill. Reg. 17621, effective November 6, 1992; amended at 17 Ill. Reg. 1853, effective February 2, 1993; amended at 18 Ill. Reg. 4635, effective March 9, 1994; amended at 18 Ill. Reg. 8906, effective June 1, 1994; amended at 19 Ill. Reg. 2299, effective February 14, 1995; amended at 19 Ill. Reg. 2816, effective February 21, 1995; amended at 19 Ill. Reg. 7515, effective May 26, 1995; amended at 21 Ill. Reg. 5891, effective April 22, 1997; amended at 22 Ill. Reg. 2087, effective January 12, 1998; amended at 22 Ill. Reg. 17472, effective July 10, 1998; amended at 24 Ill. Reg. 249, effective December 21, 1999; amended at 24 Ill. Reg. 17522, effective November 20, 2000; amended at 25 Ill. Reg. 7161, effective May 18, 2001; emergency amendment at 25 Ill. Reg. 12863, effective September 28, 2001, for a maximum of 150 days; emergency expired February 24, 2002; amended at 26 Ill. Reg. 646, effective January 7, 2002; amended at 27 Ill. Reg. 17204, effective October 31, 2003; amended at 28 Ill. Reg. 14092, effective October 18, 2004; amended at 29 Ill. Reg. 6239, effective April 25, 2005; amended at 30 Ill. Reg. 2755, effective February 21, 2006; amended at 32 Ill. Reg. 16396, effective September 23, 2008; amended at 40 Ill. Reg. 14054, effective September 29, 2016; amended at

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

41 Ill. Reg. 11274, effective August 28, 2017; amended at 41 Ill. Reg. 15723, effective December 18, 2017; amended at 42 Ill. Reg. 2819, effective January 24, 2018; amended at 42 Ill. Reg. 18869, effective October 3, 2018; amended at 42 Ill. Reg. 24855, effective December 17, 2018; amended at 43 Ill. Reg. 7454, effective June 20, 2019; amended at 44 Ill. Reg. _____, effective _____.

SUBPART H: PERSONNEL

Section 1501.801 Definition of Terms

"Automatic Rollover Clause" means the renewal of an employment contract after the anniversary date for an additional term without any additional agreement or signature.

"Misconduct" includes, but is not limited to, the following:

Conduct demonstrating conscious disregard of a *college district's interest and found to be a deliberate violation or disregard of the reasonable standards of behavior the district expects of its employee.*

Carelessness or negligence to a degree or recurrence that manifests culpability or wrongful intent, or shows an intentional and substantial disregard of the district's interests or of the employee's duties and obligations to his or her college district.

Chronic absenteeism or tardiness in deliberate violation of a known policy of the district or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence.

A violation of a *college district's rule, unless the claimant can demonstrate that:*

He or she did not know, and could not reasonably know, of the rule's requirements;

The rule is not lawful or not reasonably related to the job environment and performance; or

The rule is not fairly or consistently enforced.

Other conduct, including, but not limited to, committing criminal assault or battery on another employee, student, *customer or invitee of the employer.*

"Severance Pay" means the actual or constructive compensation, including salary, benefits, or perquisites, for employment services yet to be rendered that is provided to an employee who has recently been or is about to be terminated. [5 ILCS 415/5]

"Sabbatical Leave" means a leave of absence granted by the Board of Trustees to eligible employees to provide opportunities for those employees to engage in activities aimed at developing the employees professionally and improving their abilities to perform their contractual responsibilities.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1501.803 Employment Contracts

a) Severance Pay. Any community college district that *enters into*, amends, renews or extends *an employment contract that includes a provision for severance pay must include the following in the contract*:

1) The limitation of severance pay to *not exceed any amount greater than 20 weeks of compensation; and*

2) *A prohibition of severance pay when an employee has been fired by the district for misconduct.* [5 ILCS 415/10]

b) *Any employment contract entered into*, amended, renewed, or extended *with* an *employee of the community college district* shall adhere to the following limitations:

1) *A contract with a determinate start and end date may not exceed 4 years* [110 ILCS 805/3-65(b)(2)];

2) *The contract may not include any automatic rollover clauses* [110 ILCS 805/3-65(b)(3)]; *and*

3) All renewals or extensions of contracts must be made during an open meeting of the board.

c) President and Chancellor Employment Contracts

1) *Final action on the formation, renewal, extension, or termination of the employment contract of a president or chancellor must be made during an open meeting of the board.* [110 ILCS 805/3-70(2)]

2) *Any performance-based bonus or incentive-based compensation to the president or chancellors must be approved by the board in an open meeting. The performance criteria and goals upon which the bonus or incentive-based compensation is based must be made available to the public* on the district's official website *no less than 48 hours before board approval.* [110 ILCS 805/3-70(4)]

d) Public Notice. *Public notice*, pursuant to the Illinois Open Meetings Act [5 ILCS 120], of an employment contract entered into, amended, renewed, extended, or terminated shall be provided by publication of the board item documenting, at a minimum, *a description of the proposed financial components of the* contract and a description of the action to be taken by the board.

1) If the proposed contract is written prior to the board meeting, a copy of the contract, including all addendums or any other documents that change an initial contract, shall be posted *prior to* board *action* on the district's official website. [110 ILCS 805/3-70(3)]

2) If the proposed contract is not written prior to the board meeting, the board may take action to approve the contract or terms of the contract, provided that public notice was provided pursuant to this Section. As soon as possible following board action, copies of the contract enacted, including all addendums and other documents that change an initial contract, shall be posted to the district's official website.

e) This Section does not apply to collective bargaining agreements.

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 1501.804 President and Chancellor Performance Review

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

The board *shall complete an annual performance review of the president* or chancellor. The board *shall consider the annual performance review* when contemplating *a bonus, raise, or severance agreement for the president or chancellor*. [110 ILCS 805/3-75] The annual performance criteria and goals shall be made available to the public on the district's official website.

(Source: Added at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULES

1) Heading of the Part: State Tax Lien Registry

2) Code Citation: 86 Ill. Adm. Code 720

3)

Section Numbers:	Proposed Actions:
720.100	New Section
720.110	New Section
720.120	New Section

4) Statutory Authority: 35 ILCS 750/1-30(c)

5) A Complete Description of the Subjects and Issues Involved: These rules implement the provisions of Article 1 of PA 100-22.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace an emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Do these rules contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rules may submit them in writing by no later than 45 days after publication of this Notice to:

Brian Fliflet
Acting General Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson St.
Springfield IL 62794

217/782-2844

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: None

15) Regulatory Agenda on which this rulemaking was summarized: January 2020

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED RULES

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 720
STATE TAX LIEN REGISTRY

Section
720.100 Definitions
720.110 Sale of Information
720.120 Purchase Fee

AUTHORITY: Implementing and authorized by Section 1-30(c) of the State Tax Lien Registration Act [35 ILCS 750].

SOURCE: Adopted at 44 Ill. Reg. _____, effective _____.

Section 720.100 Definitions

As used in this Part:

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court. [35 ILCS 750/1-10]

"Prohibited purpose" means the use of State Tax Lien Registry information for survey, marketing, or solicitation purposes. Survey, marketing, or solicitation purpose does not include any action by the Department or its authorized agent to collect a debt represented by a tax lien appearing in the registry. [35 ILCS 750/1-30(d)]

"Registry" or "State Tax Lien Registry" means the public database maintained by the Department in which tax liens are filed in favor of and enforced by the Department. [35 ILCS 750/1-10]

Section 720.110 Sale of Information

a) Information appearing in the State Tax Lien Registry is available for purchase by subscription. Any person may purchase registry information by filing a request with the Department. The request shall be made on a form prescribed by the Department and made available on its website. The form, completed and signed, shall be deemed filed when received by the Department's Lien Unit and accompanied by payment of the purchase fee.

b) A confirmation of purchase will be issued upon approval of any request filed under this Section. The confirmation entitles the purchaser to receive from the Department an electronic file containing registry information for a period of one year from the date of the confirmation. Subscriptions may be renewed upon expiration of the one-year term by submitting a new request in the same manner as provided under this Section.

c) Registry information sold by the Department will be made available and updated through a secure electronic means to the purchaser.

d) A person may not use registry information for a prohibited purpose.

Section 720.120 Purchase Fee

a) A fee is imposed on the purchase of registry information. The fee shall be determined by the Department based upon its cost to produce and maintain the State Tax Lien Registry. The purchase fee shall be published on the Department's website. The fee must accompany the request for purchase (see Section 720.110(a)).

b) The purchase fee is nonrefundable. Upon expiration of the one-year term, renewals must be accompanied by the purchase fee then in effect.

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Hospital Financial Assistance under the Fair Patient Billing Act

2) Code Citation: 77 Ill. Adm. Code 4500

3) Section Number: 4500.APPENDIX A — Adopted Action: Amendment

4) Statutory Authority: Implementing and authorized by Section 27 of the Fair Patient Billing Act [210 ILCS 88/27].

5) Effective Date of Rule: June 12, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Statement of Availability: A copy of the adopted rule is on file and is available for public inspection in the Attorney General's principal office in Chicago (12th Floor, James R. Thompson Center).

9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 3337; March 6, 2020

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: There are no differences between the proposal and the final version.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: The rule updates Appendix A to reflect the 2020 poverty guidelines published by the United States Department of Health and Human Services (DHHS) in the Federal Register on January 17, 2020.

16) Information and questions regarding this adopted rule shall be directed to:

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

David Buysse
Deputy Chief, Public Interest Division
Office of the Attorney General
100 West Randolph Street, 12th Floor
Chicago IL 60601

312/814-7236

The full text of the Adopted Amendment begins on the next page:

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER XVIII: OFFICE OF THE ATTORNEY GENERAL

PART 4500
HOSPITAL FINANCIAL ASSISTANCE
UNDER THE FAIR PATIENT BILLING ACT

Section

4500.10 Definitions
4500.20 Referenced Materials
4500.30 Hospital Financial Assistance Application Requirements
4500.40 Presumptive Eligibility Criteria
4500.50 Hospital Financial Assistance Electronic and Information Technology
4500.60 Hospital Financial Assistance Reporting Requirements

4500.APPENDIX A 2020~~2019~~ Poverty Income Guidelines

AUTHORITY: Implementing and authorized by Section 27 of the Fair Patient Billing Act [210 ILCS 88].

SOURCE: Adopted at 37 Ill. Reg. 12536, effective July 22, 2013; amended at 38 Ill. Reg. 20263, effective October 10, 2014; amended at 39 Ill. Reg. 10751, effective July 27, 2015; amended at 40 Ill. Reg. 7900, effective May 18, 2016; amended at 41 Ill. Reg. 10653, effective August 4, 2017; amended at 42 Ill. Reg. 13615, effective June 29, 2018; amended at 43 Ill. Reg. 7628, effective June 28, 2019; amended at 44 Ill. Reg. 10869, effective June 12, 2020.

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

Section 4500.APPENDIX A 2020~~2019~~ Poverty Income Guidelines

2020~~2019~~ HEALTH AND HUMAN SERVICES POVERTY GUIDELINES

Persons in Family	Poverty Guideline
1	$12,760~~12,490~~
2	$17,240~~16,910~~
3	$21,720~~21,330~~
4	$26,200~~25,750~~
5	$30,680~~30,170~~
6	$35,160~~34,590~~
7	$39,640~~39,010~~
8	$44,120~~43,430~~
For additional persons, add	$ 4,480~~4,420~~

NOTE: See 85~~84~~ Fed. Reg. 3060~~1167~~ through 3061~~1168~~ (January 17, 2020~~February 1, 2019~~).

(Source: Amended at 44 Ill. Reg. 10869, effective June 12, 2020)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Public Participation in the Air Pollution Control Permit Program

2) Code Citation: 35 Ill. Adm. Code 252

3)

Section Numbers:	Adopted Actions:
252.101	Amendment
252.102	Renumbered/New Section
252.103	Renumbered; Amendment
252.104	Renumbered; Amendment
252.105	Renumbered; Amendment
252.106	Renumbered; Amendment
252.201	Amendment
252.202	Amendment
252.203	Amendment
252.204	Amendment
252.205	Amendment
252.206	Amendment
252.207	New Section
252.208	New Section
252.209	New Section
252.210	New Section
252.211	New Section
252.301	Amendment

4) Statutory Authority: Implementing and authorized by Sections 4, 9.1(d), 9.1(e), 39, 39(f)(2), 39.1(c) and 39.1(d) of the Environmental Protection Act [415 ILCS 5/4, 9.1(d), 9.1(e), 39, 39(f)(2), 39.1(c) and 39.1(d)].

5) Effective Date of Rules: June 10, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules is on file in the Illinois Environmental Protection Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 7028; June 21, 2019

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were issued by JCAR.

13) Will this rulemaking replace any emergency rule currently in effect? No

14) Are there any other rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: These amendments to the public participation procedures will serve to accommodate a United States Environmental Protection Agency (USEPA) approved Prevention of Significant Deterioration (PSD) program in Illinois as part of Illinois' State Implementation Plan (SIP). These proposed rules establish procedures for notifying the public of an opportunity to comment on any proposed permit decision made by the Illinois EPA pursuant to a USEPA-approved PSD program. The Illinois EPA does not expect its amendment to have any substantive impact upon regulated sources.

16) Information and questions regarding these adopted rules shall be directed to:

Sally Carter
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield IL 62794-9276

217/782-5544
sally.carter@illinois.gov

The full text of the Adopted Amendments begins on the next page:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 252
PUBLIC PARTICIPATION IN THE
AIR POLLUTION CONTROL PERMIT PROGRAM

SUBPART A: INTRODUCTION

Section
252.101 Purpose
252.102 Abbreviations and Acronyms
252.103~~104~~ Definitions
252.104~~102~~ Applicability
252.105~~103~~ Application for a PSD~~Prevention of Significant Deterioration~~ Permit
252.106~~105~~ Consolidation

SUBPART B: PROCEDURES FOR PUBLIC REVIEW

Section
252.201 Notice and Opportunity to Comment
252.202 Draft Permit
252.203 Project Summary,~~Fact Sheet and~~ Statement of Basis, or Fact Sheet
252.204 Availability of Documents
252.205 Opportunity for Public Hearing
252.206 Procedures for Public Hearings
252.207 Obligation to Raise Issues and Provide Information During the Public Comment Period for PSD Permits
252.208 Reopening of the Public Comment Period for PSD Permits
252.209 Issuance of a Final PSD Permit Decision
252.210 Response to Comments for a Final PSD Permit Decision
252.211 Administrative Record for a Final PSD Permit Decision

SUBPART C: USEPA REVIEW AND OBJECTION PROCEDURES

Section
252.301 USEPA Review of and Objection to Proposed CAAPP Permits

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: AGENCY ACTION

Section
252.401 Final Permit Action

AUTHORITY: Implementing and authorized by Sections 4, 9.1(d), 9.1(e), 39, 39(f)(2), 39.1(c) and 39.1(d) of the Environmental Protection Act [415 ILCS 5].

SOURCE: Adopted at 4 Ill. Reg. 10, p. 246, effective February 22, 1980; former Part repealed and new Part adopted at 8 Ill. Reg. 8197, effective June 1, 1984; amended at 17 Ill. Reg. 9684, effective June 10, 1993; amended at 22 Ill. Reg. 19253, effective October 13, 1998; amended at 42 Ill. Reg. 15997, effective August 1, 2018; amended at 44 Ill. Reg. 10873, effective June 10, 2020.

SUBPART A: INTRODUCTION

Section 252.101 Purpose

This Part is~~These rules are~~ adopted to:

a) Specify public participation procedures that shall ~~which must~~ accompany the processing of certain air pollution permit applications~~ for certain sources of air pollution~~ by the Illinois Environmental Protection Agency~~ (Agency)~~; and

b) Provide the public with an opportunity to comment on certain proposed air pollution permits~~ for certain sources of air pollution~~ that may be~~are~~ of public interest.

(Source: Amended at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.102 Abbreviations and Acronyms

ACS	Alternative Control Strategies
Act	Illinois Environmental Protection Act [415 ILCS 5]
Agency	Illinois Environmental Protection Agency

Board	Illinois Pollution Control Board
CAA	Clean Air Act (42 USC 7401 et seq.)
CAAPP	Clean Air Act Permit Program
HAPs	Hazardous Air Pollutants
MACT	Maximum Achievable Control Technology
MSSCAM	Major Stationary Sources Construction and Modification
NSR	New Source Review
NANSR	Nonattainment Area New Source Review
PSD	Prevention of Significant Deterioration of Air Quality
USEPA	United States Environmental Protection Agency

(Source: Former Section 252.102 renumbered to Section 252.104 and new Section 252.102 added at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.103~~104~~ Definitions

a) NANSR means rules for MSSCAM at 35 Ill. Adm. Code 203.

b) Other terms in this Part have the same meaning as ascribed in Sections 3 and 39.5(1) of the Act and the Board's rules on Air Pollution (35 Ill. Adm. Code: Subtitle B, Chapter I), as appropriate to the subject matter of the provisions. ~~Terms in these rules have the same meaning as defined in Section 3 of the Act and the Pollution Control Board Rules and Regulations on Air Pollution, 35 Ill. Adm. Code: Subtitle B, Chapter I, as appropriate to the subject matter of the permit.~~

(Source: Former Section 252.103 renumbered to Section 252.105 and new Section 252.103 renumbered from Section 252.104 and amended at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.104~~252.102~~ Applicability

a) This Part applies to all~~permit~~ applications filed with the Agency for:

1) Permits for the construction of a new major stationary source or a major modification of a major stationary source pursuant to the NANSR~~Major Stationary Sources Construction and Modification, the New Source Review (NSR)~~ rules~~,~~ (35 Ill. Adm. Code 203)~~, for major new sources and major modifications~~;

2) Permits for the construction of a new major stationary source or a major modification of a major stationary source pursuant to the ~~federal rules for Prevention of Significant Deterioration of Air Quality (~~PSD~~)~~ rules (35 Ill. Adm. Code 204)~~, 40 CFR 52.21, for construction of major new sources and major modifications~~;

3) Permits for the construction of a source~~sources~~ or a modification of a source that~~modifications which~~ would constitute a~~major~~ new major stationary source~~sources~~ or a major modification of a major stationary source~~modifications~~, subject to public participation~~notice~~ pursuant to subsections~~subsection~~ (a)(1) or (2)~~ above~~, if they were not accompanied by contemporaneous emissions decreases or if federally enforceable significant restrictions were not placed on the source or modification by the permit;

4) Permits for the use of ~~Alternative Control Strategies (~~ACS~~)~~ pursuant to 35 Ill. Adm. Code 202;

5) Permits to operate sources pursuant to CAAPP, Section 39.5 of the ~~Environmental Protection Act (~~Act,~~) (the Clean Air Act Permit Program (CAAPP))~~ and significant modifications of any permit issued thereunder;

6) Permits to operate sources that ~~which~~ contain federally enforceable conditions, including permits that ~~which~~ exclude sources from the applicability of the permitting requirements described in subsection (a)(1), (a)(2)~~,~~ or (a)(5)~~ above~~;

7) Permits for the construction or~~,~~ reconstruction~~, or modification~~ of major sources of ~~hazardous air pollutants (~~HAPs~~)~~ that require a determination of case-by-case ~~Maximum Achievable Control Technology (~~MACT~~)~~,

pursuant to Sections 9.1(d) and 39(f) of the Act and CAA section ~~Section~~ 112(g)~~ and Section 112(j) of the Clean Air Act (CAA)~~ (42 USC 7412(g)); ~~and (j)).~~

8) Permits for the construction of a source of public interest or emission units of public interest at a source, the criteria for which are outlined in subsection (b)~~ below~~;~~ and~~

9) Revisions to permits described in subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6) and (a)(7)~~ above~~ as specified by applicable regulations. This Part shall apply to all revisions that~~which~~: revise any standard established on a case-by-case basis; alter conditions imposed to meet requirements for emissions offsets; or relax testing, monitoring, recordkeeping~~,~~ or reporting requirements.

b) The Director of the Agency shall determine whether a source or~~an~~ emission units are~~unit is~~ of public interest. In making this ~~the~~ decision, the Director of the Agency shall consider:

1) The type of permit for which the application is made;

2) The nature and amount of pollutants that ~~which~~ will be emitted by the source;

3) Possible effects of the emissions on health and the environment;

4) The location of the source;

5) The interest in the source exhibited by the public, based on comments and inquiries received by the Agency;

6) Other factors that ~~which~~ are distinctive to the source; and

7) The proposed action by the Agency.

(Source: Former Section 252.104 renumbered to Section 252.103 and new Section 252.104 renumbered from Section 252.102 and amended at 44 Ill. Reg. 10873, effective June 10, 2020)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENTS

Section 252.105~~252.103~~ Application for a PSD~~Prevention of Significant Deterioration~~ Permit

~~a)~~ ~~Applicable procedures of the Consolidated Permit Regulations, 40 CFR 124, shall be followed for the issuance of permits pursuant to the federal PSD rules for new major stationary sources and major modifications.~~

~~b)~~ ~~Applicable procedures of this Part shall also be followed for issuance of such permits.~~

~~c)~~ ~~The following shall apply regarding denials of PSD permit applications:~~

a)~~1)~~ The procedures of this Part shall also apply if the Agency proposes to deny an application for a PSD permit. ~~if the reasons for denial are those for which appeal to the Administrator of the United States Environmental Protection Agency (USEPA) would be necessary. Such reasons may relate to requirements of the PSD rule which have been subject to interpretation by USEPA, including but not limited to the methodology for performing air quality analyses, the need for gathering site-specific ambient air quality data, the procedures for evaluating Best Available Control Technology (BACT), and the criteria used to establish BACT.~~

b~~2~~) ~~For those PSD permits for which public comment is required~~ For~~for~~ a proposed denial of an application for a PSD~~a~~ permit ~~pursuant to subsection (1) above~~, the following shall apply:

1~~i~~) When ~~Where~~ the procedures of this Part refer to a draft permit, they shall ~~also~~ apply to a draft permit denial letter; and

2~~ii~~) When ~~Where~~ the procedures of this Part refer to a notice of intent to issue, they shall ~~also~~ apply to a notice of intent to deny.

~~3)~~ ~~Following a public comment period on the proposed denial of the permit, if the Agency determines that a permit should be issued, a public comment period shall be held on the proposed issuance of the permit.~~

(Source: Former Section 252.105 renumbered to Section 252.106 and new Section 252.105 renumbered from Section 252.103 and amended at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.106~~252.105~~ Consolidation

a) For a combined PSD and NANSR permit, the Agency shall consolidate the public participation activities.

b~~a~~) For other permits subject to this Part, the~~The~~ Agency may consolidate the public participation activities for two or more permits~~ subject to these rules~~ when the operations to be permitted are similar, related, or in close geographical proximity, when ~~where~~ practicable.

(Source: Section 252.106 renumbered from Section 252.105 and amended at 44 Ill. Reg. 10873, effective June 10, 2020)

SUBPART B: PROCEDURES FOR PUBLIC REVIEW

Section 252.201 Notice and Opportunity to Comment

a) The Agency shall issue a notice for the planned issuance of any permit described in Section 252.104,~~252.102 of this Part and~~ renewal of any operating permit described in Section 252.104~~252.102 of this Part~~, and permit actions described in Section 252.105~~252.103 of this Part~~.

b) The notice shall be given to:

1) The public, by prominent placement at a dedicated page on the Agency's website. The notice shall remain on the Agency's website for the duration of the public comment period. If the Agency's website is unavailable for a prolonged period of time, the comment period will be extended for an equivalent amount of time. Notice shall also be by advertisement in a newspaper of general circulation in the area where the source is located if either:

A) The Director of the Agency or his/her designee determines, for a particular permit, that additional notice would serve the interests of the public or of the Agency. In making this determination, the Agency shall consider public interest; or

B) Pursuant to the Act or other applicable law, notice is required to be published in a newspaper for the type of permit at issue;

2) Local government air pollution control offices within Illinois that are in the area affected by the source;

3) The chief executives of the municipality and county in which the source is to be located, including the mayor or president, clerk, county board chairman, county clerk, and state's attorney;

4) Members of the General Assembly from the legislative district in which the source is located;

5) Any state whose air quality may be affected and that is contiguous to Illinois or is within 50 miles of the source;

~~6) Other officials and agencies identified in 40 CFR 51.24(g)(iv) (1983), for PSD sources only;~~

6~~7~~) The permit applicant;~~ and~~

7~~8~~) Persons on the public participation mailing list for the air pollution control permit program;~~.~~

8) For purposes of PSD permits, in addition to the notice given by means of subsections (b)(1) through (7), notice shall also be given to USEPA; any comprehensive regional land use planning agency for the area in which the source would be located; and any State Land Manager, Federal Land Manager, or Native American Governing Body whose lands may be affected by emissions from the regulated activity; and

9) For purposes of CAAPP permits, in addition to the notice given by means of subsections (b)(1) through (7), the notice shall be given to USEPA when it is provided to the public.

c) The notice shall include:

1) The name and address of the applicant and the source, and the name and address of the Agency;

~~2) The location of the source if different from the applicant's address;~~

2~~3~~) The activity or activities involved in the permit action;

~~4) For a proposed significant modification, a description of the change in the amount or character of the emissions that may result from the modification;~~

3~~5~~) The preliminary decision of the Agency to grant the permit;

4~~6~~) For the proposed issuance of a PSD permit, the degree of ambient air increment consumed by the project;

5~~7~~) For a case-by-case MACT determination pursuant to CAA section 112(g) and (j)~~ of the CAA~~, a description of the emission limitation or work practice standard in the draft permit that constitutes MACT;

6~~8~~) The location of the documents available for public review;

7~~9~~) A request for written comments on the Agency's draft~~ proposed~~ permit;

8~~10~~) The date the comment period closes~~closed~~;

9~~11~~) Instructions on how to request a public hearing if a decision to hold a hearing has not already been made pursuant to Section 252.205(a) or (b); and

10~~12~~) The name, address~~,~~ and telephone number of the Agency contact person from whom the public may obtain additional information.

~~(Agency Note: Material properly claimed as trade secret or confidential pursuant to Sections 7 and 7.1 of the Act and 2 Ill. Adm. Code 1827 will not be subject to public disclosure under this Part. An applicant claiming a trade secret shall provide, in addition to the complete application, a copy of the application for public notice in which the material claimed as trade secret has been deleted.)~~

d) The notice to the permit applicant shall also include the draft permit and project summary,~~fact sheet or~~ statement of basis, or fact sheet required by Section 252.203.

e) The notice shall provide for a 30-day public comment period. The Agency may extend the comment period upon~~on~~ written request if any applicable statutory period for the Agency decision, as prescribed in Section 39 of the Act, allows for an extension.

(Source: Amended at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.202 Draft Permit

The Agency shall prepare for public review a draft permit, including~~ with findings and~~ proposed conditions.

(Source: Amended at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.203 Project Summary,~~Fact Sheet and~~ Statement of Basis, or Fact Sheet

a) The Agency shall prepare a project summary or statement of basis~~fact sheet~~ to accompany the draft permit for a new major~~ new~~ stationary source,~~ major existing source, or~~ major modification of a major stationary source, issuance or renewal of a CAAPP permit, or a significant modification of a CAAPP permit. The project summary or statement of basis~~fact sheet~~ shall describe the basis of the Agency's decision to grant the permit. For purposes of PSD permits, this description shall also include~~ including~~ an explanation of the source's effect on ambient air quality.

b) The Agency shall prepare a fact sheet~~statement of basis~~ for every draft permit for which a project summary or statement of basis~~fact sheet~~ is not prepared.

(Source: Amended at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.204 Availability of Documents

a) Copies of the following documents shall be made available for public inspection during the public comment period:

1) The public notice;

2) The project summary,~~fact sheet or~~ statement of basis, or fact sheet;

3) The draft permit; ~~and~~

4) The permit application, including any compliance plans; and~~.~~

5) For purposes of a draft PSD permit, this shall also include any additional supporting data furnished by the applicant and other information the Agency relied upon in making its proposed decision.

b) A copy of the draft permit shall be placed at a dedicated page on the Agency's website for the duration of the public comment period. Copies of the other documents listed in subsection (a) shall be available for review at:

1) The Bureau of Air's offices at 1021 North Grand Avenue East, Springfield~~,~~ IL 62794-9276; and

2) The Bureau of Air's regional office closest to the location of the source.

c) All documents listed in subsection (a) shall also be available in accordance with 35 Ill. Adm. Code 130 and Sections 7 and 7.1 of the Act.

(Source: Amended at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.205 Opportunity for Public Hearing

a) A public hearing shall be held on any action subject to this Part when ~~these rules where~~ applicable law or rule provides the applicant opportunity for a hearing and the applicant makes a written request for a hearing.

b) The Director of the Agency or his/her designee shall order that a hearing be held on a permit application subject to this Part ~~these rules~~ when the Agency has determined that a hearing would serve the interests of the public or of the Agency. In making this determination, the Agency shall consider:

1) The level of public interest as indicated by the inquiries and comments received by the Agency on the draft permit;

2) The opportunity to increase public understanding of the project and of the Agency's proposed decision by means of public hearing;

3) Receipt by the Agency of a written request for a hearing citing material issues with respect to the terms and conditions of the draft permit from:

A) A significant number of persons, to be determined by the Director of the Agency, either individually or in a petition;

B) A member of the General Assembly representing the district in which the source is located; or

C) A chief executive officer from a county or municipality in which the source is located as described in Section 252.201(b)(3) ~~of this Part~~.

(Source: Amended at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.206 Procedures for Public Hearings

a) Except as provided in subsection (b) ~~below~~, hearings shall be conducted in accordance with the Agency's "Procedures for Permit and Closure Plan Hearings" (35 Ill. Adm. Code 166: Subpart A~~,~~ (Informational Permit and Closure Plan Hearings)).

b) Hearings requested by the ACS permit applicant pursuant to Section 39.1(d) of the Act ~~The following types of hearings~~ shall be conducted in accordance with the Agency's "Procedures for Permit and Closure Plan Hearings" (35 Ill. Adm. Code 166: Subpart B~~,~~ (Contested Case Permit Hearings)).~~:~~

~~1) Hearings requested by the applicant pursuant to Section 39(f)(3) of the Act on a proposed action which includes the Agency's determination with respect to BACT or LAER or case-by-case MACT;~~

~~2) Hearings requested by the ACS permit applicant pursuant to Section 39.1(d) of the Act.~~

c) Notwithstanding subsection (b) ~~above~~, persons requesting hearings subject to ~~the Contested Case Permit Hearings (~~35 Ill. Adm. Code 166: Subpart B~~)~~ may waive their rights to the procedures of the Contested Case Permit Hearings by notifying the hearing officer to that effect. When ~~Where~~ persons waive their rights to Contested Case Permit Hearings, those ~~such~~ hearings shall be held in accordance

with ~~the procedures of Informational Permit and Closure Plan Hearings (~~35 Ill. Adm. Code 166: Subpart A~~)~~.

(Source: Amended at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.207 Obligation to Raise Issues and Provide Information During the Public Comment Period for PSD Permits

All persons, including applicants, who believe any condition of a draft PSD permit is inappropriate or that the Agency's tentative decision to prepare a draft PSD permit is inappropriate shall raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period. Any supporting materials submitted shall be submitted in full and may not be incorporated by reference, unless they are already:

a) Part of the administrative record in the same proceeding; or

b) Consist of State or federal statutes and regulations, USEPA documents of general applicability, or other generally available reference materials.

(Source: Added at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.208 Reopening of the Public Comment Period for PSD Permits

a) The Agency may order the public comment period for PSD permits reopened. The public notice of any comment period under this Section shall be issued under Section 252.201 and shall define the scope of the reopening, including an identification of those issues to which the requirements of this Section apply.

b) Comments filed during the reopened comment period shall be limited to the issues that are the subject of the reopened public comment period as set forth in the notice that caused its reopening under subsection (a). When the public comment period is reopened under this Section, all persons, including the applicant, who believe any relevant condition of a draft permit is inappropriate or that the Agency's decision to prepare a draft permit is inappropriate shall submit all reasonably available factual grounds supporting their position, including all supporting material, by the close of the public comment period.

(Source: Added at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.209 Issuance of a Final PSD Permit Decision

After the close of the public comment period on a draft PSD permit under Section 252.201 or 252.208, the Agency shall provide notice of the final PSD permit decision to the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on the final PSD permit under Section 40.3 of the Act and 35 Ill. Adm. Code 105. For purposes of this Section, a final permit decision means a final decision to issue, deny or modify a PSD permit.

(Source: Added at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.210 Response to Comments for a Final PSD Permit Decision

a) By the date that any final PSD permit decision is issued, the Agency shall consider all written comments submitted by the close of the public comment period and all comments formally made at any public hearing. The Agency shall issue a response to comments that shall briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing. The Agency may group related comments together and provide one unified response for each issue raised; and

b) Any documents, excluding statutory or regulatory references, cited in the response to comments shall be included in the administrative record for the final permit decision. If new points are raised or new material supplied during the public comment period, the Agency may, in addition to formally providing a written response to comments, document its response to those matters by adding new materials to the administrative record.

(Source: Added at 44 Ill. Reg. 10873, effective June 10, 2020)

Section 252.211 Administrative Record for a Final PSD Permit Decision

a) The Agency shall base final PSD permit decisions on the administrative record as defined in subsection (b).

b) In addition to the final permit decision, the administrative record for any final permit decision shall consist of:

1) The application and any supporting data furnished by the applicant;

2) The draft permit or notice of intent to deny the application;

3) The project summary, statement of basis, or fact sheet;

4) All documents cited in the project summary, statement of basis, or fact sheet;

5) All comments received during the public comment period under Section 252.201 (including any reopening under Section 252.208);

6) The transcript of any hearing held under Section 252.205;

7) Any written materials submitted to the Hearing Officer at the hearing;

8) The response to comments required by Section 252.210 and any new material placed in the record under that Section; and

9) Any other information contained in the supporting file for the final permit decision and any other information the Agency relied upon in making its final decision.

(Source: Added at 44 Ill. Reg. 10873, effective June 10, 2020)

SUBPART C: USEPA REVIEW AND OBJECTION PROCEDURES

Section 252.301 USEPA Review of and Objection to Proposed CAAPP Permits

~~a) Notice shall be provided to USEPA at the same time it is provided to the public pursuant to Section 252.201 of this Part.~~

a~~b~~) For draft~~drafting~~ CAAPP permits~~ subject to review under Section 39.5 of the Act~~, following the public notice and comment period provided for by Section 252.201 ~~of this Part~~, the Agency shall consider all comments received~~,~~ and shall determine the contents of a proposed CAAPP permit. The proposed CAAPP permit shall be provided to USEPA for review and comment for a period of 45 days unless USEPA waives review.

b~~c~~) If USEPA objects to the contents of a proposed CAAPP permit in writing and with a justification for its objections as provided in CAA Title V~~ of the Clean Air Act as amended (42 USC §7401 et seq.)~~ and regulations promulgated thereunder, the Agency shall respond to USEPA's objection. The Agency shall provide the applicant and any person who participated in the public comment process under this Part 10 days to submit written comments to the Agency contact person described at Section 252.201(c)(10~~11~~)~~ of this Part~~ regarding any revisions ~~which~~ the Agency is proposing to make in response to USEPA's objections. The Agency may then revise and resubmit the proposed CAAPP permit, without any further public participation, within 90 days after the date of the objection.

c~~d~~) If USEPA does not object to the contents of a proposed CAAPP permit in writing and with a justification for its objections in accordance with procedures established under CAA Title V~~ of the Clean Air Act as amended~~, the Agency shall issue the proposed permit as the CAAPP permit without further change.

d~~e~~) If USEPA does not object in writing to issuance of a proposed CAAPP permit, any person may petition USEPA, within 60 days after expiration of the 45-day review period, to make an ~~such~~ objection in accordance with applicable procedures established under CAA Title V~~ of the Clean Air Act~~.

e~~f~~) If the CAAPP permit has not yet been issued and USEPA objects to the proposed permit as a result of a petition, the Agency shall not issue the permit until USEPA's objection has been resolved. The Agency shall provide for a 10-day comment period as set forth in subsection (b~~c~~)~~ above~~. A petition does not, however, stay the effectiveness of a permit or its requirements if the permit was issued after expiration of the 45-day review period and prior to a USEPA objection.

f~~g~~) If the Agency has issued a CAAPP permit after expiration of the 45-day review period and prior to receipt of a USEPA objection, the Agency may, after receiving an objection from USEPA, revise and resubmit the permit to USEPA after providing for a 10-day comment period as set forth in subsection (b~~c~~)~~ above~~. If the Agency fails to submit a revised permit in response to the objection, USEPA shall modify, terminate or revoke the permit, pursuant to the CAA~~Clean Air Act as amended~~.

(Source: Amended at 44 Ill. Reg. 10873, effective June 10, 2020)

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Video Gaming (General)

2) Code Citation: 11 Ill. Adm. Code 1800

3) Section Number: 1800.340 Adopted Action: New Section

4) Statutory Authority: Section 78(a)(3) of the Video Gaming Act (VGA) [230 ILCS 40/78(a)(3)] empowers the Board "to adopt rules for the purpose of administering the provisions of this Act and to prescribe rules, regulations, and conditions under which all video gaming in the State shall be conducted."

5) Effective Date of Rule: June 10, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office and is available for public inspection.

9) Notice of Proposal published in *Illinois Register*: 43 Ill. Reg. 13354; November 22, 2019.

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: New subsections 1800.340(a)(1) and (3) are amended to provide that the specific information provided to the Board by any person seeking to acquire less than a 100% interest in a terminal operator shall include the reason for acquisition of ownership interest and disclosure of other ownership interests.

In subsection 1800.340(a)(4), language is deleted requiring a licensed terminal operator to bear the costs for all investigations relating to the person seeking to acquire an ownership interest.

New subsection 1800.340(a)(6), and corresponding language in subsection 1800.340(c), pertain to the Board's evaluation of undue economic concentration in connection with the transfer of interest in a terminal operator. This subsection provides that, in considering

whether such a transfer will result in undue economic concentration in the direct or indirect ownership, control or operation of video terminals in Illinois, the Board shall consider the criteria set forth in Section 1800.440(c). Additionally, new subsection 1800.340(a)(6) empowers the Board to place any restrictions or qualifications on the terms of a transfer of an ownership interest in a terminal operator that it deems necessary to prevent or eliminate undue economic concentration.

Subsection (a)(7) [formerly subsection (a)(6)] is amended to provide that denials of transfers of ownership may be contested under the procedures of Subpart G (Disciplinary Actions Against Licensees) rather than Subpart F (Denials of Applications for Licensure).

New subsection 1800.340(a)(9) provides that the Board shall make a determination on a request for leave to transfer an ownership interest of a terminal operator within 90 days after the date upon which the requesting party has provided full and complete disclosure to the Board of all material terms of the proposed transfer. If the terminal operator involved in the proposed transfer has received a disciplinary complaint from the Board, the period for Board determination shall extend further to the date of the second Board meeting following conclusion of the disciplinary proceedings. The required disclosures include but are not limited to all information required under subsections (a)(1), (2) and (3) of Section 1800.520 (Applications).

New subsection 1800.340(b) provides that any information furnished to the Board under this section is strictly confidential and shall not be used for any purposes other than the analysis, evaluation and investigation carried out in connection with the request for transfer of terminal ownership interest.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

14) Are there any rulemakings pending on this Part? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
1800.2110	New Section	43 Ill. Reg. 13488, December 2, 2019
1800.2120	New Section	43 Ill. Reg. 13488, December 2, 2019
1800.2130	New Section	43 Ill. Reg. 13488, December 2, 2019
1800.2140	New Section	43 Ill. Reg. 13488, December 2, 2019
1800.2150	New Section	43 Ill. Reg. 13488, December 2, 2019

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

1800.2160	New Section	43 Ill. Reg. 13488, December 2, 2019
1800.2170	New Section	43 Ill. Reg. 13488, December 2, 2019
1800.EXHIBIT A	New Section	43 Ill. Reg. 13488, December 2, 2019
1800.EXHIBIT B	New Section	43 Ill. Reg. 13488, December 2, 2019
1800.110	Amendment	44 Ill. Reg. 4265, March 20, 2020
1800.350	New Section	44 Ill. Reg. 4265, March 20, 2020
1800.140	New Section	44 Ill. Reg. 10061, June 12, 2020
1800.615	Amendment	44 Ill. Reg. 10061, June 12, 2020
1800.690	Amendment	44 Ill. Reg. 10061, June 12, 2020
1800.715	Amendment	44 Ill. Reg. 10061, June 12, 2020
1800.720	Amendment	44 Ill. Reg. 10061, June 12, 2020
1800.790	Amendment	44 Ill. Reg. 10061, June 12, 2020

15) Summary and Purpose of Rulemaking: Under existing Video Gaming Act rules, and in contrast to the rules governing riverboat and casino gambling, there is no current requirement for Illinois Gaming Board ("IGB" or "Board") approval of the transfer of ownership interests of a terminal operator. Instead, a licensed terminal operator merely has a continuing duty to report sales of ownership interests to the IGB within 21 days after they occur [11 Ill. Adm. Code 1800.220 (Continuing Duty to Report Information)]. Thus, for a period of three weeks following such a sale, the IGB − the State regulator tasked with protecting the safety and integrity of Illinois gaming − is not entitled to any information whatsoever about, and has no ability to intervene in, a sale involving one of its licensees.

The present amendment rectifies the situation by generally providing that an ownership interest in a terminal operator may only be transferred with leave of the Board, thereby bringing needed transparency, disclosure, oversight, and accountability to the process in three essential ways. First, the rule's pre-transfer disclosure requirement precludes a terminal operator licensee or owner facing probable disciplinary Board action (including license revocation, suspension or nonrenewal) from evading liability from wrongdoing by effectuating a quick ownership or assets transfer without Board knowledge or approval. Without the present amendment, such a person, who has acted unethically and in violation of statutory and administrative requirements, can still earn a potentially large profit derived from the license or ownership. Further, the current lack of a prior disclosure requirement regarding transfers of terminal operator ownership and assets means that a person holding an interest in a terminal operator has the opportunity to unload the interest even before the Board is cognizant that a disciplinary situation exists. The current absence of real time Board oversight over terminal operator ownership and asset sales deprives the public of confidence that video gaming business in Illinois

operates in an ethical and transparent manner. The present amendment, by imposing a prior disclosure requirement upon terminal operator licensees and owners, will enhance public confidence in the integrity of video gaming, provides assurance that those who violate video gaming law will not profit from unethical or illegal conduct.

Second, the amendment promotes competition in the video gaming industry. Unregulated transfers of terminal operator ownership and assets tend to diminish economic competition, in conflict with the directive in Section 25(i) of the Video Gaming Act [230 ILCS 40/25(i)] that "[t]he Board shall not allow a terminal operator to operate video gaming terminals if the Board determines such operation will result in undue economic concentration." To further the implementation of this statutory directive, the Board has adopted 11 Ill. Adm. Code 1800.440 (Undue Economic Concentration) establishing criteria for evaluating whether a situation of undue economic concentration exists, and giving the Board "authority to place any restrictions or qualifications on the terms of a terminal operator license that it deems necessary to prevent or eliminate undue economic concentration, including, but not limited to, setting a limit on the maximum amount of use agreements a terminal operator may have" [11 Ill. Adm. Code 1800.440(d)]. The amendment will provide the Board with advance knowledge of terminal operator ownership and asset transfers, thereby enabling the Board to effectively limit these transfers so as to prevent undue economic concentration.

Third, the Board's current lack of timely information regarding ownership transfers and asset sales raises related concerns pertaining to the financial stability of many terminal operators. The disclosure requirements of the present amendment will make it possible for the Board to act to prevent sales of use agreements to those terminal operators whose financial circumstances are precarious to the extent that they will be unable to handle the additional financial requirements that the sales will bring upon them. Without financial stability within the key terminal operator sector of the video gaming industry, video gaming in Illinois will prove incapable of completely fulfilling its statutory purpose of "assisting economic development and promoting Illinois tourism" [230 ILCS 10/2(a)].

In all of the above ways, the amendment provides needed transparency and consistency with respect to terminal operator transactions, and ensures that ethical standards are maintained. The very foundation of gaming regulation is knowledge of who holds ownership of gaming interests. Without it, the pyramid of effective regulation tumbles. The present rule will provide both the Board and general public with this knowledge and the accountability and confidence that flow from it.

The rulemaking contains the following specific provisions:

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

Subsection (a) provides that an ownership interest in a licensed terminal operator may only be transferred with leave of the Board. It also requires leave of the Board for the transfer of any ownership interest in a business entity (other than a publicly traded company) that has an interest in a licensed terminal operator. The documentation to be provided to the Board under this subsection in connection with the acquisition of an ownership interest depends on whether it is a terminal operator or another type of business entity that is seeking to acquire a terminal operator interest.

Under subsection (a)(1), a business entity other than a terminal operator that is seeking to acquire an interest in a terminal operator of less than 100% must complete either a Business Entity or Personal Disclosure form as appropriate, as well as any other information specifically requested by the Board. The additional information may include, but is not limited to, the reason for the acquisition of ownership interest and disclosure of other ownership interests.

Subsection (a)(2) requires a business entity seeking 100% ownership of a terminal operator to submit a terminal operator application.

Subsection (a)(3) provides that a licensed terminal operator seeking to acquire ownership in another licensed terminal operator shall provide any information requested by the Board, which shall include, but not be limited to, the information specified in subsections (a)(1) and (a)(2).

Subsection (a)(4) requires the Board to investigate persons seeking an ownership interest in a terminal operator.

Subsection (a)(5) provides that the Board shall give leave for a transfer of interest in a terminal operator only after it is satisfied that the transaction does not impair public confidence and trust in gaming, does not pose a threat to the security and integrity of video gaming, and does not discredit or tend to discredit the video gaming industry or the State of Illinois. The Board shall consider, without limitation, the licensing criteria in the Video Gaming Act (Act) and Section 1800.420 (Qualifications for Licensure).

Subsection (a)(6) provides that in determining whether a transfer of an ownership interest will result in undue economic concentration, the Board shall also consider the criteria found in subsection (c) of Section 1800.440 (Undue Economic Concentration). It provides the Board with authority to place any restrictions or modifications in the terms

of a transfer of ownership interests in a terminal operator to prevent or eliminate undue economic concentration.

Subsection (a)(7) provides that a denial of transfer of ownership in a terminal operator may be contested under Subpart G (Disciplinary Actions Against Licensees).

Subsection (a)(8) provides that upon conclusion of disciplinary proceedings, the Board shall make a determination within the next two Board meetings on any request to transfer or sell ownership by a terminal operator.

Subsection (a)(9) provides that the Board shall make a determination on a request for leave to transfer an ownership interest of a terminal operator within 90 days after the date upon which the requesting party has provided full and complete disclosure to the Board of all material terms of the proposed transfer, including but not limited to all information required under subsections (a)(1), (2) and (3) of Section 1800.520 (Applications), provided that, if the terminal operator involved in the proposed transfer has received a disciplinary complaint from the Board, the period for Board determination shall extend further to the date of the second Board meeting following conclusion of the disciplinary proceedings.

Subsection (b) provides that any information provided to the Board under Section 1800.340 is strictly confidential and shall not be used for any purposes other than the analysis, evaluation and investigation carried out in connection with a request under that section.

Subsection (c) provides that, except for equipment, no video gaming asset, including the right to place video gaming terminals at a licensed establishment, may be assigned or transferred to another terminal operator without prior approval from the Administrator.

Subsection (d) authorizes the Administrator to deny a request to transfer a video gaming asset to another terminal operator if the Administrator finds that the transfer is not in the best interests of gaming in the State. In making this determination, the Administrator shall consider all relevant factors, including but not limited to:

Undue economic concentration based upon the criteria found in Section 1800.440(c);

Integrity of the State's video gaming industry; and

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

Status of the licensee with the Board.

Subsection (e) requires the Administrator to notify the parties in writing whenever he or she denies a request to transfer or assign a video gaming asset.

Finally, subsection (f) provides that following a denial by the Administrator of a request to transfer or assign a video gaming asset, the terminal operator may only transfer or assign the asset with leave from the Board.

16) Information and questions regarding this adopted rule may be addressed to:

Agostino Lorenzini
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601

IGB.RuleComments@igb.illinois.gov

The full text of the Adopted Amendment begins on the next page:

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section
1800.110 Definitions
1800.115 Gender
1800.120 Inspection
1800.130 Board Meetings

SUBPART B: DUTIES OF LICENSEES

Section
1800.210 General Duties of All Video Gaming Licensees
1800.220 Continuing Duty to Report Information
1800.230 Duties of Licensed Manufacturers
1800.240 Duties of Licensed Distributors
1800.250 Duties of Terminal Operators
1800.260 Duties of Licensed Technicians and Licensed Terminal Handlers
1800.270 Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section
1800.310 Grounds for Disciplinary Actions
1800.320 Minimum Standards for Use Agreements
1800.330 Economic Disassociation
1800.340 Change in Ownership of Terminal Operators and Assets Held by Terminal Operators

SUBPART D: LICENSING QUALIFICATIONS

Section
1800.410 Coverage of Subpart

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

1800.420 Qualifications for Licensure
1800.430 Persons with Significant Influence or Control
1800.440 Undue Economic Concentration

SUBPART E: LICENSING PROCEDURES

Section
1800.510 Coverage of Subpart
1800.520 Applications
1800.530 Submission of Application
1800.540 Application Fees
1800.550 Consideration of Applications by the Board
1800.555 Withdrawal of Applications and Surrender of Licenses
1800.560 Issuance of License
1800.570 Renewal of License
1800.580 Renewal Fees and Dates
1800.590 Death and Change of Ownership of Video Gaming Licensee

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section
1800.610 Coverage of Subpart
1800.615 Requests for Hearing
1800.620 Appearances
1800.625 Appointment of Administrative Law Judge
1800.630 Discovery
1800.635 Subpoenas
1800.640 Motions for Summary Judgment
1800.650 Proceedings
1800.660 Evidence
1800.670 Prohibition on Ex Parte Communication
1800.680 Sanctions and Penalties
1800.690 Transmittal of Record and Recommendation to the Board
1800.695 Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section
1800.710 Coverage of Subpart

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

1800.715 Notice of Proposed Disciplinary Action Against Licensees
1800.720 Hearings in Disciplinary Actions
1800.725 Appearances
1800.730 Appointment of Administrative Law Judge
1800.735 Discovery
1800.740 Subpoenas
1800.745 Motions for Summary Judgment
1800.750 Proceedings
1800.760 Evidence
1800.770 Prohibition on Ex Parte Communication
1800.780 Sanctions and Penalties
1800.790 Transmittal of Record and Recommendation to the Board
1800.795 Persons Subject to Proposed Orders of Economic Disassociation

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN LICENSED VIDEO GAMING LOCATIONS

Section
1800.810 Location and Placement of Video Gaming Terminals
1800.815 Licensed Video Gaming Locations Within Malls
1800.820 Measurement of Distances from Locations
1800.830 Waivers of Location Restrictions

SUBPART I: SECURITY INTERESTS

Section
1800.910 Approvals Required, Applicability, Scope of Approval
1800.920 Notice of Enforcement of a Security Interest
1800.930 Prior Registration

SUBPART J: TRANSPORTATION, REGISTRATION, AND DISTRIBUTION OF VIDEO GAMING TERMINALS

Section
1800.1010 Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
1800.1020 Transportation of Video Gaming Terminals into the State
1800.1030 Receipt of Video Gaming Terminals in the State
1800.1040 Transportation of Video Gaming Terminals Between Locations in the State

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

1800.1050 Approval to Transport Video Gaming Terminals Outside of the State
1800.1060 Placement of Video Gaming Terminals
1800.1065 Registration of Video Gaming Terminals
1800.1070 Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

Section
1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section
1800.1210 Definitions
1800.1220 Entities Authorized to Perform Fingerprinting
1800.1230 Qualification as a Livescan Vendor
1800.1240 Fingerprinting Requirements
1800.1250 Fees for Fingerprinting
1800.1260 Grounds for Revocation, Suspension and Denial of Contract

SUBPART M: PUBLIC ACCESS TO INFORMATION

Section
1800.1310 Public Requests for Information

SUBPART N: PAYOUT DEVICES AND REQUIREMENTS

Section
1800.1410 Ticket Payout Devices
1800.1420 Redemption of Tickets Following Removal or Unavailability of Ticket Payout Devices

SUBPART O: NON-PAYMENT OF TAXES

Section
1800.1510 Non-Payment of Taxes

SUBPART P: CENTRAL COMMUNICATIONS SYSTEM

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

Section
1800.1610 Use of Gaming Device or Individual Game Performance Data

SUBPART Q: RESPONSIBLE GAMING

Section
1800.1710 Conversations About Responsible Gaming
1800.1720 Responsible Gaming Education Programs
1800.1730 Problem Gambling Registry
1800.1740 Utilization of Technology to Prevent Problem Gambling

SUBPART R: IMPLEMENTATION OF TECHNOLOGY

Section
1800.1810 Implementation of Technology

SUBPART S: INDEPENDENT TESTING LABORATORIES

Section
1800.1910 Independent Outside Testing Laboratories
1800.1920 Minimum Duties of an Independent Outside Testing Laboratory
1800.1930 Testing of Video Gaming Equipment
1800.1940 Approval of Video Gaming Equipment

SUBPART T: IN-LOCATION PROGRESSIVE GAMES

Section
1800.2010 In-location Progressive Games
1800.2020 Optional Nature of In-location Progressive Games
1800.2030 Procedures Within Licensed Video Gaming Locations
1800.2040 Payments of Progressive Jackpot Amount
1800.2050 Deductions from Progressive Jackpots
1800.2060 Progressive Jackpot Coordinator

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days;

emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; expedited correction at 39 Ill. Reg. 8183, effective November 21, 2012; amended at 36 Ill. Reg. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014; amended at 38 Ill. Reg. 19919, effective October 2, 2014; amended at 39 Ill. Reg. 5401, effective March 27, 2015; amended at 39 Ill. Reg. 5593, effective April 1, 2015; amended at 40 Ill. Reg. 2952, effective January 27, 2016; amended at 40 Ill. Reg. 8760, effective June 14, 2016; amended at 40 Ill. Reg. 12762, effective August 19, 2016; amended at 40 Ill. Reg. 15131, effective October 18, 2016; emergency amendment at 41 Ill. Reg. 2696, effective February 7, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. 2939, effective February 24, 2017; amended at 41 Ill. Reg. 4499, effective April 14, 2017; amended at 41 Ill. Reg. 10300, effective July 13, 2017; amended at 42 Ill. Reg. 3126, effective February 2, 2018; amended at 42 Ill. Reg. 3735, effective February 6, 2018; emergency amendment at 43 Ill. Reg. 9261, effective August 13, 2019, for a maximum of 150 days; emergency amendment, except for the definition of "in-location bonus jackpot game" or "in-location progressive game" and the definition of "progressive jackpot" in Section 1800.110 and except for Section 1800.250(x), suspended at 43 Ill. Reg. 11061, effective September 18, 2019; emergency amendment at 43 Ill. Reg. 9788, effective August 19, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 11688, effective September 26, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 13464, effective November 8, 2019, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 43 Ill. Reg. 13479, effective November 12, 2019; suspension withdrawn at 44 Ill. Reg. 3583; emergency amendment to emergency rule at 44 Ill. Reg. 3568, effective February 21, 2020, for the remainder of the 150 days; amended at 43 Ill. Reg. 14099, effective November 21, 2019; amended at 44 Ill. Reg. 489, effective December 27,

2019; amended at 44 Ill. Reg. 1961, effective December 31, 2019; amended at 44 Ill. Reg. 3205, effective February 7, 2020; emergency amendment at 44 Ill. Reg. 10193, effective May 27, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. 10891, effective June 10, 2020; emergency amendment at 44 Ill. Reg. 11104, effective June 15, 2020, for a maximum of 150 days.

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section 1800.340 Change in Ownership of Terminal Operators and Assets Held by Terminal Operators

a) Notwithstanding any other Subpart, any ownership interest in a licensed terminal operator may only be transferred with leave of the Board. Any ownership interest in a business entity, other than a publicly traded corporation that has an interest in a licensed terminal operator may only be transferred with leave of the Board.

1) Any person, other than a licensed terminal operator, seeking to acquire less than a 100% ownership interest in a licensed terminal operator must complete either a Business Entity or Personal Disclosure Form, whichever is applicable, and provide any other information specifically requested by the Board, including, but not limited to:

A) the reason for acquisition of ownership interest; and

B) disclosure of other ownership interests.

2) Any person, other than a licensed terminal operator, seeking to acquire a 100% ownership interest in a licensed terminal operator must complete a terminal operator application.

3) Any licensed terminal operator seeking to acquire an ownership interest in another licensed terminal operator must provide any information requested by the Board, including, but not limited to, the information specified in subsections (a)(1)(A) and (a)(1)(B).

4) The Board shall investigate persons seeking to acquire an ownership interest in a licensed terminal operator.

5) The Board shall grant leave to transfer an ownership interest in a terminal operator only after the Board is satisfied that the transaction does not

adversely affect public confidence and trust in gaming, does not pose a threat to the public interests of the State or to the security and integrity of video gaming, and does not discredit or tend to discredit the Illinois gaming industry or the State of Illinois. The Board shall consider, without limitation, the licensing criteria found in the Act and in Section 1800.420 in deciding whether to grant leave to transfer an ownership interest.

6) The Board shall also consider whether granting leave to transfer an ownership interest in a terminal operator will result in undue economic concentration in the direct or indirect ownership, control or operation of video terminals in Illinois, as set forth in the Act and Section 1800.440. In determining whether transfer of an ownership interest in a terminal operator will result in undue economic concentration, the Board shall consider the criteria found in Section 1800.440(c). The Board shall have the authority to place any restrictions or qualifications on the terms of a transfer of an ownership interest in a terminal operator that it deems necessary to prevent or eliminate undue economic concentration.

7) If the Board denies a request to transfer an ownership interest of a licensed terminal operator, the Board shall issue a Notice of Denial and the denied person shall have the ability to contest the denial in accordance with Subpart G. The denied person may request a hearing under Subpart F.

8) Upon conclusion of disciplinary proceedings, the Board shall make a determination within the next two Board meetings on any request to transfer or sell ownership by a terminal operator.

9) The Board shall make a determination on a request for leave to transfer an ownership interest of a terminal operator within 90 days after the date upon which the requesting party has provided full and complete disclosure to the Board of all material terms of the proposed transfer, including but not limited to all information required under subsections (a)(1), (2) and (3) and Section 1800.520; provided that, if the terminal operator involved in the proposed transfer has received a disciplinary complaint from the Board, the period for Board determination shall extend further to the date of the second Board meeting following conclusion of the disciplinary proceedings.

b) Any information provided to the Board under this Section is strictly confidential and shall not be used for any purposes other than the analysis, evaluation and investigation carried out in connection with a request under this Section.

c) Except for equipment, no video gaming asset, including the right to place video gaming terminals at a licensed establishment, held by a licensed terminal operator may be transferred or assigned to another licensed terminal operator without prior approval from the Administrator.

d) The Administrator may deny the request of any terminal operator to transfer or assign a video gaming asset to another licensed terminal operator if the Administrator finds that the request is not in the best interest of gaming in the State. The Administrator shall determine whether a request to transfer or assign a video gaming asset is in the best interest of gaming in the State after considering all relevant factors, including but not limited to:

1) Undue economic concentration based upon the criteria found in Section 1800.440(c);

2) The integrity of the State's video gaming industry; and

3) The status of the licensees with the Board.

e) If the Administrator denies a request to transfer or assign a video gaming asset under this Section, the Administrator shall notify the parties in writing.

f) If the Administrator denies a request to transfer or assign a video gaming asset under this Section, the terminal operator may only transfer or assign the video gaming asset with leave from the Board.

(Source: Added at 44 Ill. Reg. 10891, effective June 10, 2020)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3)

Section Numbers:	Adopted Actions:
100.2197	Amendment
100.2430	Amendment
100.2590	Amendment
100.3100	Amendment
100.3120	Amendment
100.7010	Amendment

4) Statutory Authority: 35 ILCS 5/203(a)(2)(D-17), (D-18) and (D-19), (b)(2)(E-12), (E-13) and (E-14), (c)(2)(G-12), (G-13) and (G-14), and (d)(2)(D-7), (D-8) and (D-9), 304(a)(2)(B), 601(b)(3), and 701(a-5).

5) Effective Date of Rules: June 10, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 97; January 3, 2020 and 44 Ill. Reg. 1785; January 24, 2020

10) Has JCAR issued a Statement of Objection to this Rulemaking? No

11) Differences between Proposal and Final Version: All differences between the proposal and the final version are cosmetic and grammatical.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? Yes

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Section Number:	Proposed Action:	*Illinois Register* Citation:
100.7390	New Section	44 Ill. Reg. 4700; March 20, 2020

15) Summary and Purpose of Rulemaking: This rulemaking amends Sections 100.2197, 100.2590, 100.3100, 100.3120 and 100.7010 of the Illinois Income Tax regulations to reflect amendments to the "duty days" provisions in the IITA for allocating compensation of professional athletes enacted in PA 94-247 and to reflect the "working days" provisions for allocating compensation of employees generally enacted in PA 101-585. It also updates references to federal laws and eliminates duplicative provisions in the regulations. This rulemaking also amends Section 100.2430 of the Illinois Income Tax regulations to reflect the repeal by PA 100-22 of the prohibition on persons who are required to use different apportionment methods from being members of the same unitary business group. After the December 31, 2017, effective date of this repeal, the provisions in the IITA dealing with payments of interest and intangible expenses between taxpayers who would be members of the same unitary business group if not for this prohibition will no longer apply. This rulemaking also amends Section 100.2430 to take into account the limitations on the deduction of business interest expense under Internal Revenue Code Section 163(j) in taxable years beginning after December 31, 2017.

16) Information and questions regarding these adopted rules shall be directed to:

Brian Stocker
Staff Attorney
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield IL 62796

217/782-2844

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000 Introduction
100.2050 Net Income (IITA Section 202)
100.2055 Standard Exemption (IITA Section 204)
100.2060 Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

SUBPART B: CREDITS

Section
100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA Section 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171 Angel Investment Credit (IITA 220)
100.2175 Invest in Kids Credit (IITA 224)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2181 Credit for Instructional Materials and Supplies (IITA Section 225)
100.2185 Film Production Services Credit (IITA Section 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193 Student-Assistance Contributions Credit (IITA 218)

100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986

Section
100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) − Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Current Net Operating Losses: Offsets Between Members
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Carrybacks and Carryforwards
100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) − Effect of Combined Net Operating Loss in Computing Illinois Base Income
100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) − Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES OCCURRING ON OR AFTER DECEMBER 31, 1986

Section
100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986 (IITA Section 207)
100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership
100.2360 Illinois Net Losses and Illinois Net Loss Deductions for Losses of Cooperatives Occurring On or After December 31, 1986 (IITA Section 203(e)(2)(F))

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section
100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
100.2430 Addition and Subtraction Modifications for Transactions with 80/20~~80-20~~ and Noncombination Rule Companies
100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))
100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480 Enterprise Zone and River Edge Redevelopment Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: BASE INCOME OF INDIVIDUALS

Section
100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y)
100.2565 Subtraction for Recovery of Itemized Deductions (IITA Section 203(a)(2)(I))
100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF CORPORATIONS

Section
100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
100.2657 Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))
100.2665 Subtraction for Payments to an Attorney-in-Fact (IITA Section 203(b)(2)(R))
100.2668 Subtraction for Dividends from Controlled Foreign Corporations (IITA Section 203(b)(2)(Z))

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

Section
100.2770 Subtraction for Recovery of Itemized Deductions of a Decedent (IITA Section 203(c)(2)(W))
100.2775 Subtraction for Refunds of Taxes Paid to Other States for Which a Credit Was Claimed (IITA Section 203(c)(2)(X))

SUBPART I: BASE INCOME OF PARTNERSHIPS

Section
100.2850 Subtraction Modification for Personal Service Income or Reasonable Allowance for Compensation to Partners (IITA Section 203(d)(2)(H))

SUBPART J: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3015 Business Income Election (IITA Section 1501)
100.3020 Resident (IITA Section 301)

SUBPART K: COMPENSATION

Section
100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART L: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other Than Residents (IITA Section 304) − In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) − Apportionment (Repealed)
100.3330 Business Income of Persons Other Than Residents (IITA Section 304) − Allocation
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
100.3370 Sales Factor (IITA Section 304)
100.3371 Sales Factor for Telecommunications Services
100.3373 Sales Factor for Publishing
100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400 Apportionment of Business Income of Financial Organizations for Taxable Years

Ending Prior to December 31, 2008 (IITA Section 304(c))
100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3450 Apportionment of Business Income of Transportation Companies (IITA Section 304(d))
100.3500 Allocation and Apportionment of Base Income by Nonresident Partners
100.3600 Combined Apportionment for Taxpayers Using Different Apportionment Formulas (IITA Section 1501(a)(27))

SUBPART N: ACCOUNTING

Section
100.4100 Taxable Years (IITA Section 401)
100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART O: TIME AND PLACE FOR FILING RETURNS

Section
100.5000 Time for Filing Returns (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040 Innocent Spouses
100.5050 Frivolous Returns
100.5060 Reportable Transactions (IITA Section 501(b))
100.5070 List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
100.5080 Registration of Tax Shelters (IITA Section 1405.5)

SUBPART P: COMPOSITE RETURNS

Section
100.5100 Composite Returns: Eligibility (IITA Section 502(f))
100.5110 Composite Returns: Responsibilities of Authorized Agent
100.5120 Composite Returns: Individual Liability
100.5130 Composite Returns: Required forms and computation of Income (IITA Section

502(f))
100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credits on Separate Returns
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.5180 Composite Returns: Overpayments and Underpayments

SUBPART Q: COMBINED RETURNS

Section
100.5200 Filing of Combined Returns
100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205 Election to File a Combined Return
100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
100.5215 Filing of Separate Unitary Returns (IITA Section 304(e))
100.5220 Designated Agent for the Members (IITA Section 304(e))
100.5230 Combined Estimated Tax Payments
100.5240 Claims for Credit of Overpayments
100.5250 Liability for Combined Tax, Penalty and Interest
100.5260 Combined Amended Returns
100.5265 Common Taxable Year
100.5270 Computation of Combined Net Income and Tax (IITA Section 304(e))
100.5280 Combined Return Issues Related to Audits

SUBPART R: PAYMENTS

Section
100.6000 Payment on Due Date of Return (IITA Section 601)

SUBPART S: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section
100.7000 Requirement of Withholding (IITA Section 701)
100.7010 Compensation Paid in this State (IITA Section 701)
100.7020 Transacting Business Within this State (IITA Section 701)
100.7030 Payments to Residents (IITA Section 701)
100.7035 Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
100.7040 Employer Registration (IITA Section 701)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.7050 Computation of Amount Withheld (IITA Section 702)
100.7060 Additional Withholding (IITA Section 701)
100.7070 Voluntary Withholding (IITA Section 701)
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090 Reciprocal Agreement (IITA Section 701)
100.7095 Cross References

SUBPART T: AMOUNT EXEMPT FROM WITHHOLDING

Section
100.7100 Withholding Exemption (IITA Section 702)
100.7110 Withholding Exemption Certificate (IITA Section 702)
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART U: INFORMATION STATEMENT

Section
100.7200 Reports for Employee (IITA Section 703)

SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section
100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)
100.7310 Returns Filed and Payments Made on Annual Basis (IITA Sections 704 and 704A)
100.7320 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)
100.7350 Domestic Service Employment (IITA Sections 704 and 704A)
100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
100.7380 Economic Development for a Growing Economy (EDGE) and Small Business Job

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

Creation Credit (IITA Section 704A(g) and (h))

SUBPART W: ESTIMATED TAX PAYMENTS

Section
100.8000 Payment of Estimated Tax (IITA Section 803)
100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART X: COLLECTION AUTHORITY

Section
100.9000 General Income Tax Procedures (IITA Section 901)
100.9010 Collection Authority (IITA Section 901)
100.9020 Child Support Collection (IITA Section 901)

SUBPART Y: NOTICE AND DEMAND

Section
100.9100 Notice and Demand (IITA Section 902)

SUBPART Z: ASSESSMENT

Section
100.9200 Assessment (IITA Section 903)
100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART AA: DEFICIENCIES AND OVERPAYMENTS

Section
100.9300 Deficiencies and Overpayments (IITA Section 904)
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
100.9320 Limitations on Notices of Deficiency (IITA Section 905)
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART BB: CREDITS AND REFUNDS

Section
100.9400 Credits and Refunds (IITA Section 909)
100.9410 Limitations on Claims for Refund (IITA Section 911)
100.9420 Recovery of Erroneous Refund (IITA Section 912)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

SUBPART CC: INVESTIGATIONS AND HEARINGS

Section
100.9500 Access to Books and Records (IITA Section 913)
100.9505 Access to Books and Records − 60-Day Letters (IITA Section 913) (Repealed)
100.9510 Taxpayer Representation and Practice Requirements
100.9520 Conduct of Investigations and Hearings (IITA Section 914)
100.9530 Books and Records

SUBPART DD: JUDICIAL REVIEW

Section
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART EE: DEFINITIONS

Section
100.9700 Unitary Business Group Defined (IITA Section 1501)
100.9710 Financial Organizations (IITA Section 1501)
100.9715 Transportation Companies (IITA Section 304(d))
100.9720 Nexus
100.9730 Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART FF: LETTER RULING PROCEDURES

Section
100.9800 Letter Ruling Procedures

SUBPART GG: MISCELLANEOUS

Section
100.9900 Tax Shelter Voluntary Compliance Program
100.9910 State Tax Preparer Oversight Act [35 ILCS 35]

100.APPENDIX A Business Income Of Persons Other Than Residents (Repealed)
100.TABLE A Example of Unitary Business Apportionment (Repealed)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

100.TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas (Repealed)

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5].
SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150

days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527;

amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1768, effective January 7, 2015; amended at 39 Ill. Reg. 5057, effective March 17, 2015; amended at 39 Ill. Reg. 6884, effective April 29, 2015; amended at 39 Ill. Reg. 15594, effective November 18, 2015; amended at 40 Ill. Reg. 1848, effective January 5, 2016; amended at 40 Ill. Reg. 10925, effective July 29, 2016; amended at 40 Ill. Reg. 13432, effective September 7, 2016; amended at 40 Ill. Reg. 14762, effective October 12, 2016; amended at 40 Ill. Reg. 15575, effective November 2, 2016; amended at 41 Ill. Reg. 4193, effective March 27, 2017; amended at 41 Ill. Reg. 6379, effective May 22, 2017; amended at 41 Ill. Reg. 10662, effective August 3, 2017; amended at 41 Ill. Reg. 12608, effective September 21, 2017; amended at 41 Ill. Reg. 14217, effective November 7, 2017; emergency amendment at 41 Ill. Reg. 15097, effective November 30, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 4953, effective February 28, 2018; amended at 42 Ill. Reg. 6451, effective March 21, 2018; recodified Subpart H to Subpart G at 42 Ill. Reg. 7980; amended at 42 Ill. Reg. 17852, effective September 24, 2018; amended at 42 Ill. Reg. 19190, effective October 12, 2018; amended at 43 Ill. Reg. 727, effective December 18, 2018; amended at 43 Ill. Reg. 10124, effective August 27, 2019; amended at 44 Ill. Reg. 2363, effective January 17, 2020; amended at 44 Ill. Reg. 2845, effective January 30, 2020; emergency amendment at 44 Ill. Reg. 4700, effective March 4, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. 10907, effective June 10, 2020.

SUBPART B: CREDITS

Section 100.2197 Foreign Tax Credit (IITA Section 601(b)(3))

a) IITA Section 601(b)(3) provides that *the aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by IITA Section 201(a) and (b) shall be credited against the tax imposed by IITA Section 201(a) and (b) otherwise due under the IITA for that~~such~~ taxable year.* (IITA Section 601(b)(3))

b) Definitions applicable to this Section.

1) Tax qualifying for the credit. A tax qualifies for the credit only if it is *imposed upon or measured by income* and is *paid by an Illinois resident* to another state *on income which is also subject to Illinois income tax.*

A) A tax "imposed upon or measured by income" shall mean an income tax or tax on profits imposed by a state and deductible under IRC section 164(a)(3). The~~Such~~ term shall not include penalties or interest imposed with respect to the tax.

B) A tax is "paid by an Illinois resident" to another state "on income which is also subject to Illinois income tax" only to the extent the income included in the tax base of the other state is also included in base income computed under IITA Section 203 during a period in which the taxpayer is an Illinois resident. Thus, for example, income tax paid to another state on retirement income excluded from base income under IITA Section 203(a)(2)(F) does not qualify for the credit, nor would income derived from a partnership or Subchapter S corporation whose tax year ends during a period in which the taxpayer is not an Illinois resident. See IRC section 706(a) and IRC section 1366(a)(1). If tax is paid to another state on income that is not included in base income or on income attributable to a period when the taxpayer was not a resident of Illinois, as well as on income that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois, the amount of tax qualifying for the credit shall be determined by multiplying the tax paid by a fraction equal to the income taxed by the other state that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois divided by the total tax base on which the other state's tax was computed.

2) For purposes of IITA Section 601(b)(3), "state" *means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any political subdivision of any of the foregoing.* (IITA Section 1501(a)(22)) This definition is effective for tax years ending on or after December 31, 1989. The term "state" does not include foreign countries or any political subdivision of a foreign country.

3) "Resident" is defined at IITA Section 1501(a)(20) and in Section 100.3020 ~~of this Part~~.

4) *Base income subject to tax both by another state and by this State* or "double-taxed income" means items of income minus items deducted or excluded in computing the tax for which credit is claimed, to the extent those~~such~~ items of income, deduction or exclusion are taken into account in the computation of base income under IITA Section 203 for the person claiming the credit. However, under IITA Section 601(b)(3), as in effect prior to January 1, 2006 (the effective date of Public Act 94-247), *no compensation received by a resident which qualifies as compensation paid in this State as determined under IITA Section 304(a)(2)(B) shall be considered income subject to tax by another state or states.*

A) Under IITA Section 203(a), base income of an individual is computed without allowing the standard deduction allowed in computing federal taxable income, and without allowing the exemptions provided in IITA Section 204. Double-taxed income is therefore computed without reduction for any standard deductions or exemptions allowed by the other state.

B) An item of income is not included in double-taxed income to the extent it is excluded or deducted in computing the tax for which the credit is claimed. For example, State X allows a deduction or exclusion equal to 60% of long-term capital gains and for 100% of winnings from the State X lottery. Only 40% of long-term capital gains is subject to tax in that state. Similarly, an individual subject to the Washington, D.C. unincorporated business tax is allowed to deduct from taxable income a reasonable allowance for compensation for personal services rendered. This deduction is in fact an exclusion for the "personal income" of the individual, which Congress has forbidden Washington, D.C. to tax except in the case of residents. Accordingly, double-taxed income is net of this deduction.

C) An item of income that is excluded, subtracted or deducted in the computation of base income under IITA Section 203 cannot be included in double-taxed income. For example, IITA Section 203(a)(2)(L) allows a subtraction for federally-taxed Social Security and Railroad Retirement benefits, while dividends received from a Subchapter S corporation are excluded from federal gross income and therefore from base income.

Accordingly, even if another state taxes those~~such~~ benefits or dividends, these amounts are not included in double-taxed income.

D) An item of expense is deducted or subtracted in computing double-taxed income only to the extent that item is deducted or subtracted in computing the tax base in the other state and in computing base income under IITA Section 203. For example, State Y allows deductions for federal itemized deductions and for individual federal income taxes paid. No deduction for federal income taxes is allowed in computing base income under IITA Section 203, and so that deduction is not taken into account in computing base income subject to tax in State Y. Also, IITA Section 203(a) generally does not allow a deduction for federal itemized deductions, and so federal itemized deductions are generally not taken into account in computing base income subject to tax in State Y. However, IITA Section 203(a)(2)(V) allows self-employed individuals a subtraction modification for health insurance premiums, which can be taken as an itemized deduction in computing federal taxable income in some taxable years. Accordingly, in the case of a self-employed individual eligible for the Illinois subtraction, any itemized deduction for health insurance premiums taken into account in computing the State Y tax base is also taken into account in computing double-taxed income.

E) For taxable years beginning prior to January 1, 2006, compensation paid in Illinois under IITA Section 304(a)(2)(B), as further explained in Section 100.3120 as in effect for the taxable year~~of this Part~~, is not included in double-taxed income, even if another state taxes that~~such~~ compensation. For example, an Illinois resident whose base of operations is in Illinois during 2005, but whose employment requires him or her to work in Illinois and for a substantial period of time in State Z, must treat all compensation from his or her~~such~~ employment as paid in Illinois under IITA Section 304(a)(2)(B)(iii) as in effect for 2006. None of that compensation may be included in double-taxed income, even if State Z actually taxes the compensation earned for periods during which the resident was working in State Z. Public Act 94-247 (effective January 1, 2006) repealed the provision in IITA

Section 601(b)(3) that stated compensation paid in Illinois may not be included in double-taxed income, and so compensation paid in Illinois may be included in double-taxed income in taxable years beginning on or after January 1, 2006.

F) Some states impose an alternative minimum tax similar to the tax imposed by IRC section 55, under which a taxpayer computes a regular taxable income and also computes an alternative minimum taxable income by reducing some exclusions or deductions, and eliminating other exclusions and deductions entirely. The taxpayer applies different rate structures to regular taxable income and to alternative minimum taxable income, and is liable for the higher of the two taxes so computed. An item of income included in a state's alternative minimum taxable income but not in the regular taxable income of that state is not included in base income subject to tax in that state unless the taxpayer is actually liable for alternative minimum tax in that state. For example, a state allows a 60% capital gains exclusion for regular tax purposes, but includes 100% of the capital gains in its alternative minimum taxable income. If a taxpayer incurs alternative minimum tax liability in that state, 100% of the capital gains is included in double-taxed income. If only regular tax liability is incurred, only 40% of capital gains is included in double-taxed income.

G) Some states compute the tax liability of a nonresident by first computing the tax on all income of the nonresident from whatever source derived, and then multiplying the resulting amount by a percentage equal to in-state sources of income divided by total sources of income or by allowing a credit based on the percentage of total income from sources outside the state. Other states determine the tax base of a nonresident by computing the tax base as if the person were a resident and multiplying the result by the percentage equal to in-state sources of income divided by total sources of income. The use of either of these methods of computing tax does not mean that income from all sources is included in double-taxed income. (See Comptroller of the Treasury v. Hickey, 114 Md. App. 388, 689 A.2d 1316 (1997); Chin v. Director, Division of Taxation, 14 N.J. Tax 304 (T.C. N.J. 1994)). When a state uses either of these methods of computation,

double-taxed income shall be the base income of the taxpayer from all sources subject to tax in that state, as computed in accordance with the rest of this subsection (b)(4), multiplied by the percentage of income from sources in that state, as computed under that state's law; provided, however, that no compensation paid in Illinois under IITA Section 304(a)(2)(B) shall be treated as income from sources in that state in computing that~~such~~ percentage in any taxable year beginning prior to January 1, 2006.

EXAMPLE 1: Individual, an Illinois resident, has federal adjusted gross income of $80,000 in Year 1, comprised of $75,000 in wages, $1,000 in taxable interest and $4,000 in net rental income. Taxable interest includes $200 in interest on federal government obligations and excludes $500 in municipal bond interest. The rental income is from property in State X. Individual is subject to $6,000 in federal income tax in Year 1. Individual's Illinois base income is $80,300: his $80,000 in adjusted gross income, plus $500 in municipal bond interest, minus $200 in federal government obligation interest.

State X computes Individual's income subject to its tax by starting with the $4,000 in net rental income included in his federal adjusted gross income, and requiring him to add back $3,000 in depreciation allowed on his rental property under IRC Section 168 in excess of straight-line depreciation, and subtracting the portion of his federal income tax liability allocable to his State X income. State X also allows Individual an exemption of $1,000.

Double-taxed income in this case is $7,000: the $4,000 in net rental income plus the $3,000 addition modification for excess depreciation. The $3,000 addition modification for excess depreciation is a deduction allowed by Illinois but not by State X, and only the amount of depreciation deductible in both states is taken into account. The subtraction for federal income tax and the exemption are not taken into account in computing base income under IITA Section 203(a), and therefore are not taken into account in computing double-taxed income.

EXAMPLE 2:~~.~~ Assume the same facts as in Example 1, except that State X requires Individual to compute income tax as if he were a resident of State X, and then multiply the result by a fraction equal to his federal

adjusted gross income from State X sources divided by total federal adjusted gross income. Under this method, Individual has State X taxable income of $76,300 ($80,000 in federal adjusted gross income, plus $500 in municipal bond interest and $3,000 in excess depreciation, minus $200 in federal government obligation interest, $6,000 in federal income taxes, and the $1,000 exemption). The fraction actually taxed by State X is 5% (the $4,000 in rental income divided by $80,000 in federal adjusted gross income).

Under subsection (b)(4)(G), double-taxed income is $4,165, computed as follows. First, State X taxable income is computed using only those items of income and deduction taken into account by both State X and Illinois. Accordingly, the $6,000 in federal income taxes and the $1,000 exemption are not taken into account. The State X taxable income so computed is $83,300 ($80,000 federal adjusted gross income plus $3,000 in excess depreciation and $500 in municipal bond interest minus $200 in federal government obligation interest). Multiplying that amount by the 5% fraction used by State X yields double-taxed income of $4,165.

EXAMPLE 3: Assume the same facts as in Example 2, except that State X deems $10,000 of Individual's wages to be earned in State X. Under IITA Section 304(a)(2)(B)(iii), all of Individual's wages are considered "compensation paid in this State", even though Individual performs services in State X, because Individual's base of operations is in Illinois. Accordingly, Individual's State X taxable income is $76,300, just as in Example 2, but his fraction allocated to State X is 17.5% ($10,000 in wages plus $4,000 in net rental income, the total divided by $80,000 in federal adjusted gross income).

For taxable years beginning prior to January 1, 2006, Individual's double-taxed income is $4,165, the same as in Example 2. Because compensation deemed "paid in this State" cannot be treated as double-taxed income, the State X fraction must be computed under subsection (b)(4)(G) without treating the $10,000 in wages as allocable to State X. Accordingly, double-taxed income is the $83,300 total of all items taxed by both states minus deductions allowed by both states, times 5% (the $4,000 in net rental income divided by the $80,000 in federal adjusted gross income).

For taxable years beginning on or after January 1, 2006, Individual's

double-taxed income is $14,578, which is the $83,300 total of all items taxed by both states minus deductions allowed by both states, times 17.5% (the $10,000 in wages taxed by both states plus the $4,000 in net rental income, divided by the $80,000 in federal adjusted gross income).

c) Amount of the credit. Subject to limitations described in subsections~~subsection~~ (d) and (e)~~of this Section~~, the amount of the credit for a taxable year is the *aggregate amount of tax paid by a resident for the taxable year*. (IITA Section 601(b)(3)) Because the credit is allowed for taxes paid for the taxable year, rather than for taxes paid in or during the taxable year:

1) The amount of tax withheld for another state, estimated payments made to that state and overpayments from prior years applied against the current liability to that state are not relevant to the computation of the credit.

2) Any credit (including a credit for taxes paid to Illinois or another state, but not including a credit that is allowed for an actual payment of tax, such as a credit for income taxes withheld, for estimated taxes paid or for an overpayment of income tax in another taxable year) that is taken into account in determining the amount of tax actually paid or payable to another state shall reduce the amount of credit to which the taxpayer is entitled under this Section. In a case in which the taxpayer claims a transferable credit purchased by the taxpayer on the other state's return, the amount of the credit allowed is~~shall be~~ treated as an actual payment of tax, and does not~~up to the amount the taxpayer paid for the credit, and only the amount of credit in excess of the amount paid shall~~ reduce the amount of credit to which the taxpayer is entitled under this Section.

3) Any increase or decrease in the amount of tax paid to another state for a taxable year, as the result of an audit, claim for refund, or other change, shall increase or decrease the amount of credit for that taxable year, not for the taxable year in which the increase or decrease is paid or credited.

d) Limitations on the amount of credit allowed for taxable years ending prior to December 31, 2009. *The aggregate credit allowed under IITA Section 601(b)(3) shall not exceed that amount which bears the same ratio to the tax imposed by IITA Section 201(a) and (b) otherwise due as the amount the taxpayer's base income subject to tax both by that~~such~~ other state or states and by this State bears to his total base income subject to tax by this State for the taxable year*. (IITA

Section 601(b)(3)) The credit allowed under this Section for taxable years ending prior to December 31, 2009 is therefore the smaller of either the total amount of taxes paid to other states for the year or the product of Illinois income tax otherwise due (before taking into account any Article 2 credit or the foreign tax credit allowed under IITA Section 601(b)(3)) multiplied by a fraction equal to the aggregate amount of the taxpayer's double-taxed income, divided by the taxpayer's Illinois base income.

1) In computing the aggregate amount of the taxpayer's double-taxed income, any item of income or deduction taken into account in more than one state shall be taken into account only once. For example, an individual subject to tax on his or her compensation by both State X and by a city in State X shall include the amount of that~~such~~ compensation only once in computing the aggregate amount of double-taxed income.

2) Because base income subject to tax both in another state and in Illinois cannot exceed 100% of base income, the credit cannot exceed 100% of the tax otherwise due under IITA Section 201(a) and (b).

3) No carryover of any amount in excess of this limitation is allowed by the IITA.

e) Limitations on the amount of credit allowed for taxable years ending on or after December 31, 2009.

1) *The credit allowed under IITA Section 601(b)(3) for tax paid to other states shall not exceed that amount which bears the same ratio to the tax imposed by IITA Section 201(a) and (b) otherwise due under the IITA as the amount of the taxpayer's base income that would be allocated or apportioned to other states if all other states had adopted the provisions in Article 3 of the IITA bears to the taxpayer's total base income subject to tax by this State for the taxable year.* (IITA Section 601(b)(3)) The credit allowed under this Section for taxable years ending on or after December 31, 2009 is therefore the smaller of either the total amount of taxes paid to other states for the year or the product of Illinois income tax otherwise due (before taking into account any Article 2 credit or the foreign tax credit allowed under IITA Section 601(b)(3)) multiplied by a fraction equal to the amount of the taxpayer's base income that is sourced outside Illinois

using the allocation and apportionment provisions of Article 3 of the IITA, divided by the taxpayer's Illinois base income.

2) For purposes of this subsection (e), the 30-day threshold in IITA Section 304(a)(2)(B)(iii) (as in effect for taxable years ending on or after December 31, 2020) and Section 100.3120(a)(1)(E) does not apply in determining the number of working days in which services are performed in another state during the year. (See IITA Section 601(b)(3).) However, the provisions for employees providing services in this State during a disaster period in IITA Section 304(a)(2)(B)(iii)(c) and Section 100.3120(a)(1)(E)(ii) of this Part do apply.

EXAMPLE 4: Individual is an Illinois resident whose only income is employee compensation. Individual's employment requires him or her to spend a substantial amount of time each year working in other states, but Individual's base of operations under IITA Section 304(a)(2)(B)(iii) is in Illinois. For taxable years ending prior to December 31, 2020, because~~Because~~ all of Individual's base income is employee compensation that is sourced to Illinois under IITA Section 304(a)(2)(B)(iii) as in effect for that period, the limitation under this subsection (e) on Individual's credit for taxes paid to other states will be zero, even if some or all of the employee compensation is actually taxed by another state. For taxable years ending on or after December 31, 2020, the amount of Individual's compensation allocated to other states is determined by using the working days formula under IITA Section 304(a)(2)(B)(iii), as in effect for the taxable year, and the number of working days Individual performed services in other states, without regard to whether Individual actually owed tax to any of those states or to the provision in IITA Section 304(a)(2)(B)(iii) that the working days formula applies only if the employee performs services in this State for more than 30 working days during the taxable year. However, working days during which Individual performed services in other states do not include any working day to which the disaster period provisions in IITA Section 304(a)(2)(B)(iii)(c) and Section 100.3120(a)(1)(E)(ii) of this Part would apply if the other states had adopted those provisions.

EXAMPLE 5: Individual is an Illinois resident whose only income is employee compensation. Individual's employment requires him or her to spend a substantial amount of time each year working in several states, but Individual's base of operations under IITA Section 304(a)(2)(B) is in a state that imposes no personal income tax. For taxable years ending prior to December 31, 2020,

because~~Because~~ all of Individual's base income is employee compensation that is sourced outside Illinois under IITA Section 304(a)(2)(B), his or her credit for taxes paid to other states may offset 100% of his or her Illinois income tax liability, even if some of his or her employee compensation is not actually taxed by another state. For taxable years ending on or after December 31, 2020, the amount of Individual's compensation allocated to other states is determined by using the working days formula under IITA Section 304(a)(2)(B)(iii), as in effect for the taxable year, and the number of working days Individual performed services in other states, without regard to whether Individual actually owed tax to any of those states or to the provision in IITA Section 304(a)(2)(B)(iii) that the working days formula applies only if the employee performs services in this State for more than 30 working days during the taxable year. However, working days during which Individual performed services in other states do not include any working day to which the disaster period provisions in IITA Section 304(a)(2)(B)(iii)(c) and Section 100.3120(a)(1)(E)(ii) of this Part would apply if the other states had adopted those provisions.

EXAMPLE 6: Individual is an Illinois resident partner in a partnership engaged in multistate business activities, and his or her only income is business income derived from the partnership. The partnership apportions 25% of its business income to Illinois under IITA Section 304(a). Individual's credit may offset 75% of his or her Illinois income tax liability, regardless of how much of his or her income from the partnership is actually taxed by other states.

f) Disallowance of credit for taxes deducted in computing base income. *The credit provided by IITA Section 601(b)(3) shall not be allowed if any creditable tax was deducted in determining base income for the taxable year*. (IITA Section 601(b)(3)) A trust that has deducted the amount of a state tax imposed upon or measured by net income may include that~~such~~ tax in the computation of the credit allowed under this Section, but IITA Section 203(c)(2)(F) requires that trust to add back to its federal taxable income *an amount equal to the tax deducted pursuant to IRC section 164 if the trust or estate is claiming the same tax for purposes of the Illinois foreign tax credit*. The amount that must be added back for a taxable year shall be the amount of tax deducted for that taxable~~such~~ year on the trust's federal income tax return. Because no similar provision is made for individuals, an individual who has deducted taxes paid to another state in computing his or her federal adjusted gross income may not claim a credit for those~~such~~ taxes on his or her Illinois tax return.

g) Credit for taxes paid on behalf of the taxpayer. An Illinois resident individual who is a shareholder or partner claiming a foreign tax credit for the shareholder's or partner's share of personal income taxes paid to a foreign state on his or her behalf by a Subchapter S corporation or a partnership, respectively, must attach to his or her Illinois return a written statement from the Subchapter S corporation or partnership containing the name and federal employee identification number of the Subchapter S corporation or partnership and clearly showing the paid amount of foreign tax attributable to the shareholder or partner, respectively. Additionally, for taxable years ending prior to December 31, 2009, the statement must include the shareholder's or partner's share of the Subchapter S corporation's or partnership's items of income, deduction and exclusion in sufficient detail to allow computation of the amount of base income subject to tax under subsection (b)(4) of this Section. Taxes imposed directly on the Subchapter S corporation or the partnership are not eligible for the credit.

h) Documentation required to support claims for credit. Any person claiming the credit under IITA Section 601(b)(3) *shall attach a statement in support thereof and shall notify the Director of any refund or reductions in the amount of tax claimed as a credit under IITA Section 601(b)(3) all in the~~such~~ manner and at the~~such~~ time as the Department shall by regulations prescribe.* For taxable years ending on or after December 31, 2009, the documentation required to be provided with the taxpayer's return in order to support the credit shall be as stated in the forms or instructions. For taxable years ending prior to December 31, 2009, no credit shall be allowed under this Section for any tax paid to another state nor shall any item of income be included in base income subject to tax in that state except to the extent the amount of the~~such~~ tax and income is evidenced by the following documentation attached to the taxpayer's return (or, in the case of an electronically-filed return, to the taxpayer's Form IL-8453, Illinois Individual Income Tax Electronic Filing Declaration), amended return or claim for refund:

1) Unless otherwise provided in this subsection (h), a taxpayer claiming the credit must attach a copy of the tax return filed for taxes paid to the other state or states to the taxpayer's Illinois income tax return, Form IL-8453, amended return or claim for refund.

2) If the tax owed to the other state is satisfied by withholding of the tax from payments due to the taxpayer without the necessity of a return filing by the taxpayer, the taxpayer must attach a copy of the statement provided by the payor evidencing the amount of tax withheld and the amount of income

subject to withholding.

3) A taxpayer claiming a credit for taxes paid by a Subchapter S corporation or partnership on the taxpayer's behalf must attach a copy of the statement provided to the taxpayer by the Subchapter S corporation or partnership pursuant to subsection (g)~~ of this Section~~, showing the taxpayer's share of the taxes paid and the income of the taxpayer on which the taxes were paid.

(Source: Amended at 44 Ill. Reg. 10907, effective June 10, 2020)

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section 100.2430 Addition and Subtraction Modifications for Transactions with 80/20~~80-20~~ and Noncombination Rule Companies

a) For taxable years ending on or after December 31, 2004, IITA Section 203 requires a taxpayer, in computing base income, to add back deductions allowed in computing federal taxable income or adjusted gross income for interest expenses and intangible expenses incurred in transactions with a person who would be a member of a unitary business group with the taxpayer, if not for the 80/20~~80-20~~ test. These provisions were expanded by Public Act 95-233 and Public Act 95-707 to also require the add-back of deductions for interest expenses, intangible expenses and insurance premium expenses when incurred in taxable years ending on or after December 31, 2008, in transactions with a person who would be a member of a unitary business group with a taxpayer if not for the prohibition in IITA Section 1501(a)(27) against including in a single unitary business group taxpayers who use different apportionment formulas under IITA Section 304 (the "noncombination rule"). The noncombination rule was repealed by Public Act 100-22, so that the expansions of the add-back provisions in Public Act 95-233 and Public Act 95-707 have no application for taxable years ending on or after December 31, 2017. Taxpayers are also allowed subtraction modifications that would ensure that the addition modifications do not result in double taxation. Exceptions are provided for instances in which requiring the addition modifications would not be appropriate.

b) Definitions

1) Dividend Included in Base Income. "Dividend" means any item defined as a dividend under 26 USC 316 and any other item of income characterized or treated as a dividend under the Internal Revenue Code, and includes any item *included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code.* (IITA Section 203(a)(2)(D-17), (D-18) and (D-19), (b)(2)(E-12), (E-13) and (E-14), (c)(2)(G-12), (G-13) and (G-14), and (d)(2)(D-7), (D-8) and (D-9)) A dividend is included in base income of a taxpayer only to the extent the dividend is neither deducted in computing the federal taxable or adjusted gross income of the taxpayer nor subtracted from federal taxable income or adjusted gross income under IITA Section 203.

2) Foreign Person. A "foreign person" is any person who would be included in a unitary business group with the taxpayer if not for the fact that *80% or more of that person's business activities are conducted outside the United States*. (IITA Section 1501(a)(30))

3) Interest. "Interest" means "compensation for the use or forbearance of money". (See Deputy v. du Pont, 308 U.S. 488, 498 (1940).) Interest includes the amortization of any discount at which an obligation is purchased and is net of the amortization of any premium at which an obligation is purchased.

4) Intangible Expense. "Intangible expense" includes *expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; losses incurred, directly or indirectly, from factoring transactions or discounting transactions; royalty, patent, technical, and copyright fees; licensing fees; and other similar expenses and costs.* (IITA Section 203(a)(2)(D-18), (b)(2)(E-13), (c)(2)(G-13) and (d)(2)(D-8))

5) Intangible Income. "Intangible income" means the income received or accrued by a person from a transaction that generates intangible expense for the other party to the transaction.

6) Intangible Property. "Intangible property" includes *patents, patent applications, trade names, trademarks, service marks, copyrights, mask*

works, trade secrets, and similar types of intangible assets. (IITA Section 203(a)(2)(D-18), (b)(2)(E-13), (c)(2)(G-13) and (d)(2)(D-8))

7) Related Party. "Related parties" means persons disallowed a deduction for losses by section 267(b), (c) and (f) of the Internal Revenue Code, as well as a partner and its partnership and each of the other partners in that partnership.

8) Noncombination Rule Company. "Noncombination rule company" means any person who would be a member of a unitary business group with a taxpayer if not for the prohibition in IITA Section 1501(a)(27) against including in a single unitary business group persons who use different apportionment formulas under IITA Section 304.

9) Insurance Premiums. "Insurance premiums" means the total amount paid or accrued during the taxable year, net of refunds or abatements, for coverage against any risk under a policy issued by an entity that is required to apportion its business income under the provisions of IITA Section 304(b) or that would be required to do so if it were subject to Illinois income taxation.

10) Federal Deduction Allowed for Interest Paid to a Foreign Person

A) Under 26 USC 163(j), for taxable years beginning after December 31, 2017, a taxpayer's federal income tax deduction for business interest paid is limited to an amount equal to the sum of the taxpayer's business interest income plus 30% of its adjusted taxable income plus its floor plan financing interest. Business interest in excess of that limitation is carried forward under 26 USC 163(j)(2) and treated as interest paid in the following taxable year. For purposes of this Section, in the case of a taxpayer whose federal income tax deduction for business interest expense for a taxable year beginning after December 31, 2017 is subject to limitation by 26 USC 163(j):

i) the deduction allowed in computing federal taxable income for business interest paid to a foreign person for that taxable year equals the business interest paid to that foreign person for that taxable year (including any amount of

business interest paid to that foreign person in the preceding taxable year and carried forward from the preceding taxable year under 26 USC 163(j)(2)) times a fraction equal to the deduction allowed under 26 USC 163(j) in computing federal taxable income for business interest paid for that taxable year divided by the total business interest paid for that taxable year (including any amount of business interest paid in the preceding taxable year and carried forward from the preceding taxable year under 26 USC 163(j)(2)); and

ii) the amount of business interest paid to a foreign person for a taxable year and carried forward to the next taxable year under 26 USC 163(j)(2) equals the business interest paid to that foreign person for that taxable year (including any amount of business interest carried forward from the preceding taxable year under 26 USC 163(j)(2)) times a fraction equal to the total amount of business interest to be carried forward to the next taxable year under 26 USC 163(j)(2) divided by the total business interest paid for that taxable year (including any amount of business interest carried forward from the preceding taxable year and carried forward to that taxable year under 26 USC 163(j)(2)).

B) EXAMPLE:

i) In Year 1, Taxpayer paid $100 in business interest to Foreign Person and $1,000 in total business interest. There was no carryforward under 26 USC 163(j)(2) from the prior year. Under 26 USC 163(j), Taxpayer's federal income tax deduction for business interest in Year 1 was limited to $800. In Year 2, Taxpayer paid $130 in business interest to Foreign Person and $1,800 in total business interest. Taxpayer's federal income tax deduction for business interest in Year 2 was limited under 26 USC 163(j) to $1,200.

ii) For purposes of this Section, the federal income tax deduction allowed to Taxpayer for interest paid to Foreign

Person in Year 1 equals $80: the $100 actually paid multiplied by 80% (the $800 federal income tax deduction allowed for business interest divided by the $1,000 in total business interest paid). The carryforward of interest paid to Foreign Person in Year 1 to Year 2 equals $20: the $100 actually paid to Foreign Person multiplied by 20% (the $200 carryforward to Year 2 divided by the $1,000 in total business interest paid in Year 1).

iii) For purposes of this Section, the federal income tax deduction allowed to Taxpayer for interest paid to Foreign Person in Year 2 equals $90: the $130 in interest actually paid to Foreign Person in Year 2 plus the $20 paid to Foreign Person in Year 1 and carried forward to Year 2, or $150, multiplied by 60% (the $1,200 federal income tax deduction allowed for business interest divided by the $2,000 in total business interest for Year 2, which equals the $1,800 actually paid plus the $200 carryover from Year 1). The carryforward of interest paid to Foreign Person in Year 2 to Year 3 equals $60: the $150 paid to Foreign Person in Year 2 or carried forward from Year 1, multiplied by 40% (the $800 carryforward to Year 3 divided by the $2,000 in total business interest paid in Year 2 or carried forward from Year 1).

c) Addition Modifications

1) Interest. Except as otherwise provided in this subsection (c)(1), every taxpayer must add back to its base income any deduction otherwise allowed in the taxable year for interest paid to a foreign person or (for taxable years ending on or after December 31, 2008 and prior to December 31, 2017) to a noncombination rule company, to the extent the interest exceeds the amount of dividends received from the foreign person or noncombination rule company by the taxpayer and included in base income for the same taxable year. (See IITA Section 203(a)(2)(D-17), (b)(2)(E-12), (c)(2)(G-12) and (d)(2)(D-7).) This addition modification shall not apply to an item of interest expense if:

A) The foreign person or noncombination rule company is subject in a foreign country or state, other than a state that requires mandatory unitary reporting by the taxpayer and the foreign person or noncombination rule company, to a tax on or measured by net income with respect to the interest. The foreign person or noncombination rule company is subject to a tax on or measured by net income with respect to the interest if the interest is included in its tax base, even if the tax base is offset in whole or in part by deductions for expenses incurred in the production of income or by generally-applicable exemptions, or if the tax imposed by the foreign country or state is offset in whole or in part by credits that are not contingent on the receipt of the interest. If the foreign person or noncombination rule company is a partnership, subchapter S corporation or trust, the foreign person or noncombination rule company is subject to a tax on or measured by net income with respect to the interest to the extent that the interest is included in the tax base of a partner, shareholder or beneficiary who is subject to a tax on or measured by net income in a foreign country or state. For purposes of this subsection (c)(1)(A), it is irrelevant that, under the laws of the foreign country or state, the interest is included in the tax base in a period other than the taxable year in which the deduction is otherwise allowable.

B) The taxpayer can establish, based on a preponderance of the evidence, both of the following:

i) the foreign person or noncombination rule company~~,~~ (during the same taxable year in which the taxpayer paid the interest)~~,~~ paid, accrued, or incurred the interest to a person that is not a related party; and

ii) the transaction giving rise to the interest expense between the taxpayer and the foreign person or noncombination rule company did not have as a principal purpose the avoidance of Illinois income tax, and interest is paid pursuant to a contract or agreement that reflects an arms-length interest rate and terms.

C) The taxpayer can establish, based on clear and convincing evidence, that the item of interest relates to a contract or agreement entered into at arms-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance.

D) The taxpayer establishes by clear and convincing evidence that the adjustment would be unreasonable.

E) The taxpayer has received permission under Section 100.3390 ~~of this Part~~ to use an alternative method of apportionment allowing the deduction of the item.

2) Intangible Expenses. Except as otherwise provided in this subsection (c)(2), every taxpayer must add back to its base income any deduction otherwise allowed in the taxable year for intangible expenses incurred with respect to transactions with a foreign person or (for taxable years ending on or after December 31, 2008 and prior to December 31, 2017) with a noncombination rule company, to the extent the intangible expenses exceed the amount of dividends received from the foreign person or noncombination rule company by the taxpayer and included in base income for the same taxable year. If a taxpayer incurs both interest and intangible expenses with the same foreign person or noncombination rule company, any dividends received from that foreign person or noncombination rule company shall be applied first against interest under subsection (c)(1) and only the excess (if any) of the dividends over the interest expenses shall be applied against intangible expenses under this subsection (c)(2). (See IITA Section 203(a)(2)(D-18), (b)(2)(E-13), (c)(2)(G-13) and (d)(2)(D-8).) This addition modification shall not apply to an item of intangible expense if:

A) The item arises from a transaction with a foreign person or noncombination rule company who is subject in a foreign country or state, other than a state that requires mandatory unitary reporting by the taxpayer and the foreign person or noncombination rule company, to a tax on or measured by net income with respect to the intangible income related to the item. The foreign person or noncombination rule company is subject to a tax on, or measured by net income with respect to, the intangible income if the intangible income is included in its tax base, even if the tax base is

offset in whole or in part by deductions for expenses incurred in the production of income or by generally-applicable exemptions or if the tax imposed by the foreign country or state is offset in whole or in part by credits that are not contingent on the receipt of the intangible income. If the foreign person or noncombination rule company is a partnership, subchapter S corporation or trust, the foreign person or noncombination rule company is subject to a tax on or measured by net income with respect to the intangible income to the extent that the intangible income is included in the tax base of a partner, shareholder or beneficiary who is subject to a tax on or measured by net income in a foreign country or state. For purposes of this subsection (c)(2)(A), it is irrelevant that, under the laws of the foreign country or state, the intangible income is included in the tax base in a period other than the taxable year in which the deduction for the intangible expense is otherwise allowable.

B) The taxpayer can establish, based on a preponderance of the evidence, both of the following:

i) the foreign person or noncombination rule company (during the same taxable year in which the taxpayer paid the intangible expense) paid, accrued, or incurred the intangible expense to a person that is not a related party; and

ii) the transaction giving rise to the intangible expense between the taxpayer and the foreign person or noncombination rule company did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arms-length terms.

C) If the taxpayer establishes, by clear and convincing evidence, that the adjustments are unreasonable.

D) The taxpayer has received permission under Section 100.3390 ~~of this Part~~ to use an alternative method of apportionment, allowing the deduction of the item.

3) Insurance Premiums. For taxable years ending on or after December 31, 2008 and prior to December 31, 2017, every~~Every~~ taxpayer must add back to its base income any deduction otherwise allowed in the taxable year for insurance premiums paid to a noncombination rule company, to the extent the insurance premium expense exceeds the amount of dividends received from the noncombination rule company by the taxpayer and included in base income for the same taxable year. If a taxpayer incurs both interest or intangible expenses and insurance premium expenses with the same noncombination rule company, any dividends received from that noncombination rule company shall be applied first against interest under subsection (c)(1), then against intangibles expenses under subsection (c)(2), and only the excess (if any) of the dividends over the interest expenses and intangible expenses shall be applied against insurance premium expenses under this subsection (c)(3). (See IITA Section 203(a)(2)(D-19), (b)(2)(E-14), (c)(2)(G-14) and (d)(2)(D-9).)

d) Subtraction Modifications

1) Interest Income of a Foreign Person or Noncombination Rule Company. If interest paid to a foreign person or noncombination rule company is added back by a taxpayer under subsection (c)(1), the foreign person or noncombination rule company is allowed a subtraction for the amount of that interest included in its base income for the taxable year, net of deductions allocable to that income. The subtraction allowed under this subsection (d)(1) shall not exceed the amount of the corresponding addition under subsection (c)(1). (See IITA Section 203(a)(2)(CC), (b)(2)(V), (c)(2)(T) and (d)(2)(Q).)

2) Intangible Income of a Foreign Person or Noncombination Rule Company. If intangible expense incurred in a transaction with a foreign person or noncombination rule company is added back by a taxpayer under subsection (c)(2), the foreign person or noncombination rule company is allowed a subtraction for the amount of the intangible income from that transaction included in its base income for the taxable year, net of deductions allocable to that income. The subtraction allowed under this subsection (d)(2) shall not exceed the amount of the corresponding addition under subsection (c)(2). (See IITA Section 203(a)(2)(CC), (b)(2)(V), (c)(2)(T) and (d)(2)(Q).)

3) Interest Income from a Foreign Person or Noncombination Rule Company. A taxpayer who receives interest income from a foreign person or noncombination rule company is allowed a subtraction for the amount of that interest income, net of deductions allocable to that income. The subtraction allowed in this subsection (d)(3) for a taxable year may not exceed the amount of the addition modification for the taxable year under subsection (c)(1) for interest paid by the taxpayer to the foreign person or noncombination rule company. (See IITA Section 203(a)(2)(DD), (b)(2)(W), (c)(2)(U) and (d)(2)(R).)

4) Intangible Income from a Foreign Person or Noncombination Rule Company. A taxpayer who receives intangible income from a transaction with a foreign person or noncombination rule company is allowed a subtraction for the amount of the intangible income, net of deductions allocable to that income. The subtraction allowed in this subsection (d)(4) for the taxable year may not exceed the amount of the addition modification for the taxable year under subsection (c)(2) for intangible expenses incurred by the taxpayer in transactions with the foreign person or noncombination rule company. (See IITA Section 203(a)(2)(EE), (b)(2)(X), (c)(2)(V) and (d)(2)(S).)

5) Insurance Premium Income of a Noncombination Rule Company. If insurance premium expense incurred in a transaction with a noncombination rule company is added back by a taxpayer under subsection (c)(3), the noncombination rule company is allowed a subtraction for the amount of the insurance premium income from that transaction included in its base income for the taxable year, net of deductions allocable to that income. The subtraction allowed under this subsection (d)(5) shall not exceed the amount of the corresponding addition under subsection (c)(3). (See IITA Section 203(b)(2)(V).)

6) Insurance Paid by a Noncombination Rule Company. For taxable years ending on or after December 31, 2011, in the case of a taxpayer who added back any insurance premiums under subsection (c)(3), the taxpayer may elect to subtract that part of a reimbursement received from the insurance company to which the premiums were paid equal to the amount of the expense or loss (including expenses incurred by the insurance company) that would have been taken into account as a deduction for

federal income tax purposes if the expense or loss had not been insured by the policy for which the premiums were paid. If a taxpayer makes the election provided for by this subsection (d)(6), the insurer to which the premiums were paid must (if required to file an Illinois income tax return) add back to its taxable income the amount subtracted by the taxpayer under this subsection (d)(6). (See IITA Section 203(a)(2)(GG), (b)(2)(Y) (c)(2)(Y) and (d)(2)(T).)

e) Unitary Business Groups. The provisions of this Section apply both to persons who are members of a unitary business group and to persons who are not members of a unitary business group because of the application of the 80/20~~80-20~~ rule or (for taxable years ending on or after December 31, 2008 and prior to December 31, 2017) because of the prohibition in IITA Section 1501(a)(27) against including in a single unitary business group taxpayers using different apportionment formulas under IITA Section 304(a) through (d). In applying the provisions of this Section in the case of a unitary business group, any reference to the "taxpayer" in this Section shall be deemed to refer to the unitary business group.

(Source: Amended at 44 Ill. Reg. 10907, effective June 10, 2020)

SUBPART F: BASE INCOME OF INDIVIDUALS

Section 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

a) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation. By virtue of the provisions of federal laws cited in this Section~~law quoted in subsections (a)(1) through (4) below~~, compensation that would otherwise be subject to Illinois income taxation and withholding by virtue of IITA Sections 302(a) and 304(a)(2)(B) is subtracted from adjusted gross income in determining Illinois base income (and is not subject to Illinois income tax withholding) pursuant to IITA Section 203(a)(2)(N)~~, and is not subject to Illinois income tax withholding. This subtraction is taken on form IL-1040 on the line entitled "Other subtractions." The statutory basis of the subtraction under Illinois law is IITA Section 203(a)(2)(N)~~ which provides a subtraction from adjusted gross income for *an amount equal to all amounts included in adjusted gross income that~~such total which~~ are exempt from taxation by this State by*

reason of the ...statutes of the United States.

1) Railroad Employees. 49 USCUSCA 11502(a) states that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Surface Transportation BoardInterstate Commerce Commission under subchapter I of chapter 105 of this title to an employee who performs regularly assigned duties as such an employee on a railroad in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

2) Motor Carrier Employees. 49 USCUSCA 14503(a)(1) states that no part of the compensation paid by a motor carrier providing transportation subject to the jurisdiction of the Surface Transportation BoardCommission under subchapter I of chapter 135 of this title or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more states as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

3) Merchant Mariner Employees. 46 USCUSCA 11108 states that no part of the compensation paid by a merchant mariner to an employee who performs his regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision of the employee's residence.

4) Air Carrier Employees. 49 USCUSCA 40116(f)(2) states that no part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one state, shall be subject to the income tax laws of any state or its subdivision thereof other than the state or subdivision thereof of thesuch employee's residence and the state or subdivision thereof in which the employee's scheduled flight time would have been more than 50% of the employee's total scheduled flight time for the calendar yearsuch employee earns more than 50% of the compensation paid by the carrier to such employee.

b) Examples

1) EXAMPLE 1: A is a locomotive engineer employed by Interstate Railway. Interstate operates a rail yard in Illinois. Interstate also operates in Missouri, where it has a rail yard, as well as its administrative and payroll offices. A is a resident of Missouri. A is assigned to, and primarily reports to, the Illinois rail yard of Interstate and drives locomotives for Interstate on trips that go throughout the United States. However, on occasion, A is required to report to the Missouri rail yard of Interstate and drive locomotives on trips that originate in Missouri. Pursuant to 49 USC 11502(a), Interstate may only withhold the Missouri personal income tax on A's wages, and A is not subject to Illinois income tax on the wages paid by Interstate.

2) EXAMPLE 2: A is an airline pilot for World-Wide Airlines. World-Wide provides passenger and freight service to various destinations throughout the United States from an airport in Missouri, as well as from an airport in Illinois. A lives in Missouri, but A reports to and flies out of the World-Wide airport in Illinois. A primarily flies to destinations outside of Illinois. Less than 50% of A's compensation (as determined by flight time in Illinois versus flight time everywhere) is earned within Illinois. Therefore, A is only subject to Missouri income taxation on his or her compensation from World-Wide.

3) EXAMPLE 3: The facts are the same as in Example 2, except that A pilots commuter planes between airports in Illinois. In this situation, A will be subject to Illinois income taxation by virtue of the fact that A earns more than 50% of his or her compensation within the State of Illinois.~~49 USCA 11108 provides that the State of Illinois may not require the withholding of Illinois income taxes from certain employees of water carriers and merchant mariners. 49 USCA 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. However, this provision of federal law does not affect the liability of these employees for Illinois income taxes, nor does it affect the obligation of such employees to make payments of estimated income taxes~~

~~as required by IITA Section 803. The provision of federal law merely affects the authority of the State of Illinois to require withholding by employers of such employees.~~

(Source: Amended at 44 Ill. Reg. 10907, effective June 10, 2020)

SUBPART K: COMPENSATION

Section 100.3100 Compensation (IITA Section 302)

a) General Definition~~definition~~
Compensation is defined in IITA Section 1502(a)(3) to mean wages, salaries, commissions and any other form of remuneration paid to employees for personal services. The term is thus comparable to the term "wages" as used in IRC~~26 U.S.C.~~ Section 3401(a), except that the exceptions set forth in the Code section are inapplicable for purposes of Article 3 of the Act. (See Section 100.7000 for definition of compensation subject to withholding.)

b) Employee
Compensation is defined as remuneration for personal services performed by an "employee". If the employer-employee relationship does not exist, remuneration for services performed does not constitute "compensation." The term "employee" includes every individual performing services if the relationship between him or her and the person for whom he or she performs the~~such~~ services is the legal relationship of employer and employee. The term has the same meaning under the Illinois Income Tax Act as under IRC~~26 U.S.C.~~ Section 3401(c) and 26 CFR 31.3401(c)-l.

c) Types of Compensation~~compensation~~
The name by which remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, commissions on sales or on insurance premiums, and pensions and retired pay are compensation within the meaning of the statute if paid for services performed by an employee for his or her employer.

d) Past Services~~services~~
Remuneration for personal services constitutes compensation even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them, so long as the~~such~~ relationship existed when the services were

rendered.

~~e)~~ ~~Duty days~~

~~*Beginning with taxable years ending on or after December 31, 1992, for* persons who are members of professional sports teams that are *residents of states that impose a comparable tax liability on* persons who are members of professional sports teams that are *residents of this State . . . in the case of persons who perform personal services under personal service contracts for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State*. (IITA Section 304(a)(2)(B)) Such income is compensation income and is allocated to Illinois under Section 100.3400 on the basis of duty days. Duty days are days during any part of which the person is under a duty to perform personal services under the terms of his or her personal services contract.~~

~~1)~~ ~~For players, total duty days shall include all days from the beginning of the official pre-season training period through the last game in which the player competes. If a player is involved in post-season games, duty days include all days through the last post-season game in which the player participates. Post-season games are any play-off games in which the player participates. Also included in post-season games are any all star games in which the player is chosen to participate.~~

~~2)~~ ~~Duty days include off days, practice days and travel days. In the case of a travel day, only days in which the player, manager, coach and other full time traveling personnel spends at least 8 hours in this State will be considered a duty day. Duty days for any person who joins a team or leaves a team during the season shall begin or end on the day such person becomes a member of a team or ceases to be a member of a team.~~

~~3)~~ ~~For trainers and other full time traveling employees, total duty days will include all days in the calendar year.~~

~~4)~~ ~~Duty days in Illinois shall equal one (1) day for each duty day during any part of which the employee is physically present in Illinois.~~

e~~f~~) Examples

The standards set forth in this Section may be illustrated, in part, by the following examples:

1) EXAMPLE 1: A is a salesman for B corporation. B conducts a selling contest among its salesmen, first prize being a two-week vacation in Las Vegas. A is the winner of the contest and is awarded the vacation. The fair market value of the trip constitutes compensation.

2) EXAMPLE 2: C is employed by D corporation during the month of January 1970 and is entitled to receive remuneration of $100 for services performed for D during the~~such~~ month. C leaves the employ of D at the close of business on January 31, 1970. On February 15, 1970 (when C is no longer an employee of D), D pays C the remuneration of $100 for services performed in January. The $100 is compensation.

3) EXAMPLE 3: The facts are the same as in Example 2,~~subsection (f)(2) above~~ except that C is discharged by D at the end of January. In addition to the $100 earned by C for services performed in January, D pays C $50 severance pay. The $50 constitutes compensation.

(Source: Amended at 44 Ill. Reg. 10907, effective June 10, 2020)

Section 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

a) Compensation Paid in This State – General Rule~~In general~~

1) In order for items of compensation paid to an individual who is a nonresident of Illinois at the time of payment to be allocated to Illinois, the~~such~~ compensation must constitute "compensation paid in this State". If the test is met, then all items of the~~such~~ compensation, and all items of deduction directly allocable thereto, are allocated to Illinois under IITA Section 302(a) (except items allocated under IITA Section 301(c)(2)~~301(b)(2)~~, as to which see subsection (d)~~(c) below~~). Compensation paid to a nonresident, which is allocated to Illinois, enters into the computation of the~~such~~ individual's net income under IITA Section 202 and is generally subject to withholding under IITA Section 701 (see Sections 100.7000, 100.7010 and 100.7020). The tests for determining whether compensation is paid in Illinois appear in IITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment Insurance~~Compensation~~ Act [820 ILCS 405] (and similar unemployment compensation acts of other

states). Except as provided in this Section, compensationCompensation is paid in Illinois if:

A) The individual's service is localized in Illinois because it is performed entirely within Illinois (IITA Section 304(a)(2)(B)(i));

B) The individual's service is localized in Illinois although it is performed both within and without Illinois, because the service performed without Illinois is incidental to the individual's service performed within Illinois (see IITA Section 304(a)(2)(B)(ii)); or

C) For taxable years ending prior to December 31, 2020, theThe individual's service is not localized in any state under subsections (a)(1)(A) and (B), but some of the service is performed within Illinois and either:

i) the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within Illinois;, or

ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in Illinois. (See IITA Section 304(a)(2)(B)(iii).)

D2) The foregoing rules in subsections (a)(1)(A) through (C) are to be applied in asuch manner so that, if they were in effect in other states, an item of compensation would constitute compensation "paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in thatsuch other state under subsection (a)(1)(B) above, it could not also be compensation paid in Illinois. Pursuant to 50 USC 574, compensation for military or naval service paid to a nonresident does not constitute "compensation paid in" Illinois even though it meets the tests set forth in subsection (a)(1) above. For further discussion of these tests, see Section 100.7010(a), (d), (e) and (f), dealing with withholding.

E) For taxable years ending on or after December 31, 2020, the individual's service is not localized in any state under subsection (a)(1)(A) or (B), but *some of the individual's service is performed within this State and the individual's service is performed within this State for more than 30 working days during the taxable year, the amount of compensation paid in this State shall include the portion of the individual's total compensation for services performed on behalf of his or her employer during the taxable year that the number of working days spent within this State during the taxable year bears to the total number of working days spent both within and without this State during the taxable year.* (IITA Section 304(a)(2)(B)(iii)) For purposes of this subsection (a)(1)(E):

i) "Working day" means *each day during the taxable year in which the individual performs duties on behalf of his or her employer. All days in which the individual performs no duties on behalf of his or her employer (e.g., weekends, vacation days, sick days, and holidays) are not working days.* (IITA Section 304(a)(2)(B)(iii)(a))

ii) A working day is "spent within this State" if:

- *the individual performs service on behalf of the employer and a greater amount of time on that day is spent by the individual performing duties on behalf of the employer within this State, without regard to time spent traveling, than is spent performing duties on behalf of the employer without this State; or*

- *the only service the individual performs on behalf of the employer on that day is traveling to a destination within this State, and the individual arrives on that day.* (IITA Section 304(a)(2)(B)(iii)(b))

iii) Working days "spent within this State" do not include *any day in which the employee is performing services in this*

State during a disaster period solely in response to a request made to his or her employer by the government of this State, by any political subdivision of this State, or by a person conducting business in this State to perform disaster or emergency-related services in this State. (IITA Section 304(a)(2)(B)(iii)(c)) For purposes of this subsection (a)(1)(E)(iii):

- "Declared State disaster or emergency" means *a disaster or emergency event for which a Governor's proclamation of a state of emergency has been issued or for which a Presidential declaration of a federal major disaster or emergency has been issued.*

- "Disaster period" means *a period that begins 10 days prior to the date of the Governor's proclamation or the President's declaration (whichever is earlier) and extends for a period of 60 calendar days after the end of the declared disaster or emergency period.*

- "Disaster or emergency-related services" means *repairing, renovating, installing, building, or rendering services or conducting other business activities that relate to infrastructure that has been damaged, impaired, or destroyed by the declared State disaster or emergency.*

- "Infrastructure" means *property and equipment owned or used by a public utility, communications network, broadband and internet service provider, cable and video service provider, electric or gas distribution system, or water pipeline that provides service to more than one customer or person, including related support facilities.* "Infrastructure" includes, but is not limited to, *real and personal property such as buildings, offices, power lines, cable lines, poles, communications lines, pipes,*

structures, and equipment. (IITA Section 304(a)(2)(B)(iii)(c))

2) Localization Tests

A) If compensation is paid in this State because the service is localized in this State under either of the tests set forth in subsection (a)(1)(A) or (B), the factors in subsections (a)(1)(C) and (D) are not considered. In those cases, the place of the base of operations, the place from which the service is directed or controlled, and the number of working days spent in any state are irrelevant.

B) In determining whether an individual's service performed outside of this State is incidental to the service performed within this State for purposes of the test set forth in subsection (a)(1)(B), the term "incidental" means any service that is necessary to, or supportive of, the primary service performed by the employee or that is temporary or transitory in nature or consists of isolated transactions. The incidental service may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an individual who normally performs all of his or her service in this State may be sent by the employer to another state to perform service that is totally different in nature from his or her usual work, or he or she may be sent to do similar work. So long as the service is temporary or consists merely of isolated transactions, it will be considered to be incidental to the service performed within this State, and the employee's entire compensation will be subject to withholding.

C) In some cases, it may be difficult to determine whether service performed in another state is incidental to service performed within this State. In those cases, the facts (including any contract of employment) should be carefully considered. In many instances, the contract of employment will provide a definite territorial assignment that will be prima facie evidence that the service is localized within that territory. However, the presence or absence of a contract of employment is but one fact to be considered. In every

case, the ultimate determination to be made is whether the individual's service was intended to be, and was in fact, principally performed within this State and whether any service that was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed outside this State should not be regarded as decisive, in itself, in determining whether that service is incidental to service performed within this State. For example, an individual normally performing service within this State might be sent on a special assignment to another state for a period of months. The service in the other state would nevertheless be incidental to service within this State if that special assignment were an isolated transaction.

D) This subsection (a)(2) may be illustrated by the following examples:

i) EXAMPLE 1: A is a resident of State X and a salesman for the B Corporation, located in State X. A's territory covers the northern part of Illinois. Sporadically, A is requested by B corporation to call on particular customers who are located in State X. The compensation for service that A performs in Illinois and State X is paid in Illinois because the service performed in State X is incidental to the service performed in Illinois, since it consists of isolated transactions.

ii) EXAMPLE 2: The facts are the same as in Example 1 except that A's regular territory covers several counties in Illinois and one or two towns in State X. A goes to the State X towns on a regular basis even though more than 95% of A's time spent and sales made are in Illinois. The compensation for service that A performs in Illinois and State X is not localized in Illinois under the provisions of subsection (a)(1)(B) because the service performed in State X is regular and permanent in nature and is not necessary to or supportive of sales made in Illinois.

iii) EXAMPLE 3: A works for B construction company in Chicago. Occasionally the company obtains a construction job in State X that may last from one to several weeks. A is sent by the company to supervise the construction jobs in State X. The compensation for the service A performs in Illinois and State X is paid in Illinois because the service performed in State X, being temporary in nature, is incidental to the service performed in Illinois.

iv) EXAMPLE 4: A is a resident of Illinois and a buyer for a department store located in State X. Regular buying trips by A to Illinois are incidental to the service performed in State X because they are necessary to and supportive of A's primary duties that are localized in State X and not in Illinois. A's compensation is not paid in Illinois under the provisions of subsection (a)(1)(B).

3) Base of Operations

A) For taxable years ending prior to December 31, 2020, if the localization tests in subsection (a)(1)(A) or (B) are not determinative of the issue of whether compensation is paid in this State and the individual's base of operations is within this State, his or her entire compensation is paid in Illinois. However, if his or her base of operations is outside this State, none of his or her compensation is paid in this State. (See IITA Section 304(a)(2)(B)(iii).)

B) The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his or her business office (which may be maintained in the employee's home), or the contract of employment may specify a place at which the employee is to receive directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which the employee has his or her business mail, supplies, and equipment sent or the place where the employee maintains his or her business records. An employee's base of operations may change during a tax year, but only if there is a change in the

employee's circumstances that is expected to be permanent. The base of operations does not change when the employee is temporarily assigned to work at a different location.

C) This subsection (a)(3) may be illustrated by the following examples:

i) EXAMPLE 1: A is a salesman for the B corporation located in Chicago. A's territory includes Illinois, State X and State Y. A uses the corporation office in Chicago as a base of operations. The compensation for service performed by A is paid in Illinois because the service is not localized in any of the three states in which it is performed, but part of the service is performed in Illinois and A's base of operations is in Illinois.

ii) EXAMPLE 2: A is a salesman for the B corporation located in Chicago. A lives in State X and A's territory includes State X and part of Cook County, Illinois. A starts his or her sales calls from and returns to his or her home daily. A keeps a catalogue and copies of correspondence from customers at his or her home, and writes his or her sales reports there. About once a week, A reports to B's sales office in Chicago for consultation with and directions from the sales manager. Communications from customers to A are addressed to the Chicago sales office. A's letters to customers are on letterheads bearing the Chicago sales office address and are sometimes typed by A at home and sometimes dictated by him or her to a stenographer when he or she is in the Chicago sales office. Correspondence to A and A's paychecks are sometimes picked up by A in Chicago and otherwise are forwarded by the sales office to A's home. The duties that A performs at home are sufficient to make his or her home the base of operations. A's compensation is therefore not paid in Illinois because A's base of operations is in State X, and part of A's service is performed in that state.

iii) EXAMPLE 3: A, a resident of Illinois, sells products in Illinois, State X and State Y for B corporation, which is located in State Z. A operates from his or her home, where he or she receives instructions from B corporation, communications from customers, etc. Once a year, A goes to State Z for a 10 day sales meeting. All of A's compensation is paid in Illinois because the service is not localized in any state, but part of the service is performed in Illinois and A's base of operations is A's home in Illinois.

iv) EXAMPLE 4: A works for a company whose home office is in State X. A is a regional director working out of a branch office in Illinois. A works mostly in Illinois but spends considerable time in State X. A's base of operations is the branch office in Illinois. Since A performs some service in Illinois and his base of operations is in Illinois, it is immaterial that A's source of direction and control is in State X. All of A's compensation for service is paid in Illinois.

v) EXAMPLE 5: A, a resident of Illinois, is a salesman for the B corporation, which has its main office in State X. A works out of the main office and A's territory is divided equally between State X and Illinois. A's compensation is not paid in Illinois because A's base of operations is in State X, and part of A's service is performed in that State.

vi) EXAMPLE 6: B, an Indiana resident, is a certified public accountant based in her employer's Chicago office. B is regularly sent to perform auditing services at clients' offices outside Illinois, often for periods of weeks or months. Some of her assignments are recurring, requiring her to perform services at the same client's office for some period or periods every year. B's base of operations is in Illinois, and does not change with any of these temporary assignments.

4) Place of Direction or Control

A) For taxable years ending prior to December 31, 2020, if the localization tests in subsection (a)(1)(A) or (B) are not determinative of the issue of whether compensation is paid in this State and the individual has no base of operations or the individual performs no services in the state in which his or her base of operations is located, the permanent place from which an employee's service is directed or controlled is relevant in determining whether the employee's wages are paid in Illinois. In those cases, if the place from which the individual's service is directed or controlled is within this State, and some of the employee's services are performed within this State, then the employee's entire compensation will be paid in Illinois. (See IITA Section 304(a)(2)(B)(iii).) For example, a salesman's territory may be so indefinite and so widespread that the employee will not retain any fixed business office or address but will receive orders or instructions wherever he or she may happen to be. In that case, the location of the permanent place from which direction and control is exercised must be determined, and the employee's compensation will be paid in Illinois if the place of direction and control is in Illinois and the employee performs some services in Illinois.

B) This subsection (a)(4) may be illustrated by the following examples:

i) EXAMPLE 1: A, a resident of State X, is employed as a salesman by B, a corporation with its main office in State Y. B has a permanent branch office and sales supervisor in Cairo, Illinois. A was hired by the branch office and sells merchandise for B in Illinois and other neighboring states as directed by the branch office in telephone calls, but A has no place that is used as a base of operations. All of the compensation for service performed by A for B is paid in Illinois because A's service is not localized in any state and A has no base of operations, but part of A's service is performed in Illinois and the place from which the service is directed is in Illinois.

ii) EXAMPLE 2: A is a salesman residing in State X, who works for a concern whose factory and selling office is in Chicago, Illinois. A's territory covers five states, including Illinois. A does not report, start from, or return to the Chicago office, and does not work from his or her residence in State X. State X is the territory of another salesman. A does not have a base of operations, and his or her compensation is paid in Illinois since part of A's service is performed in Illinois and the place from which the service is directed is in Illinois.

iii) EXAMPLE 3: A, a contractor whose main office is in Illinois, is regularly engaged in road construction work in Illinois and State X. All operations are under direction of a general superintendent whose permanent office is in Illinois. Work in each state is directly supervised by field supervisors working from temporary field offices located in each of the two states. Each field supervisor has the power to hire and fire personnel; however, all requests for manpower must be cleared through the Illinois office. Employees report for work at the field offices. Time cards are sent weekly to the main office in Illinois where the payrolls are prepared. A is hired by a field supervisor in State X and regularly performs service in both Illinois and State X. In this case, neither the localization nor the base-of-operations test would apply, but A's compensation would be paid in Illinois because part of A's service is performed in Illinois and the place of direction or control is in Illinois because the permanent office from which basic direction and control emanates is the Illinois office.

5) When Residence Is Important

A) For taxable years ending prior to December 31, 2020, residence is a factor in determining whether compensation of an employee is paid in Illinois only when the localization tests in subsection (a)(1)(A) or (B) are not determinative of the issue of whether compensation is paid in this State and the individual has no base of operations or the individual performs no services in the state in

which his or her base of operations is located, and the employee performs no service in the state from which his or her service is directed or controlled. In these cases, if the individual is a resident of this State, and some of his or her service is performed within this State, the employee's entire compensation will be paid in this State. (See IITA Section 304(a)(2)(B)(iii).)

EXAMPLE: A is a salesman employed by the B company located in State X. A's services are directed and controlled from the State X office and A has no base of operations. A lives in Illinois but A's territory includes State Y and State Z as well as Illinois. For taxable years ending prior to December 31, 2020, all of A's wages are paid in Illinois because no part of his service is performed in the state (State X) in which the place from which A's services are directed is located, but part of A's service is performed in Illinois and A's residence is in Illinois.

B) For all taxable years, residence is also important in determining the Illinois income tax obligations of certain employees of railroads, motor carriers, merchant marine and air carriers. (See Section 100.2590.)

~~3) Personal services under personal service contracts for sports performance~~

~~A) For purposes of subsection (a)(1)(A) above, beginning with taxable years ending on or after December 31, 1992, for all persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on all persons who are members of professional sports teams that are residents of this State...in the case of persons who perform personal services under personal service contracts for sports performance, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (IITA Section 304(a)(2)(B)) The amount of income constituting compensation paid in this State to such person shall be determined by multiplying the person's total compensation for performing such personal services by a fraction, the denominator of which contains the total number of duty days and the numerator of which is the number of duty days in Illinois during the taxable year.~~

~~B) The income of persons who engage in sports performance in Illinois, but do not perform personal services under personal services contracts of employment, remains apportionable to Illinois. Such income is business income, as defined by IITA Section 1501(a)(1) and Section 100.3010(a) of this Part. Also see IITA Section 304(a) and Section 100.3310 of this Part.~~

b) Compensation Paid in This State – Nonresident Members of Professional Athletic Teams

1) Notwithstanding the provisions of subsection (a), compensation of a nonresident individual who is a member of a professional athletic team paid in this State includes *the portion of the individual's total compensation for services performed as a member of a professional athletic team during the taxable year which the number of duty days spent within this State performing services for the team in any manner during the taxable year bears to the total number of duty days spent both within and without this State during the taxable year.* (IITA Section 304(a)(2)(B)(iv)(a))

2) For purposes of this subsection (b):

A) "Professional athletic team" includes, but is not limited to, *any professional baseball, basketball, football, soccer, or hockey team.* (IITA Section 304(a)(2)(B)(iv)(c)(1))

B) "Member of a professional athletic team" includes those employees who are *active players, players on the disabled list, and any other persons required to travel and who travel with, and perform services on behalf of, a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers, and trainers.* (IITA Section 304(a)(2)(B)(iv)(c)(2))

C) "Duty days" means *all days during the taxable year from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete. Duty days are counted for the year in which they occur, including instances in which a team's official*

pre-season training period through the last game in which the team competes or is scheduled to compete occurs during more than one tax year. (IITA Section 304(a)(2)(B)(iv)(c)(3))

i) "Duty days" includes *days on which a member of a professional athletic team performs service for a team on a date that does not fall within the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete (e.g., participation in instructional leagues, the "All Star Game", or promotional "caravans"). Performing a service for a professional athletic team includes conducting training and rehabilitation activities, when those activities are conducted at team facilities.* (IITA Section 304(a)(2)(B)(iv)(c)(3)(A))

ii) "Duty days" includes *game days, practice days, days spent at team meetings, promotional caravans, preseason training camps, and days served with the team through all post-season games in which the team competes or is scheduled to compete.* (IITA Section 304(a)(2)(B)(iv)(c)(3)(B))

iii) *"Duty days" for any person who joins a team during the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes, or is scheduled to compete, begins on the day that person joins the team. Conversely, "duty days" for any person who leaves a team during this period ends on the day that person leaves the team. When a person switches teams during a taxable year, a separate duty-day calculation is made for each period the person was with each team.* (IITA Section 304(a)(2)(B)(iv)(c)(3)(C)) For purposes of this provision, "team" means the employer, so that if a single employer operates more than one club, a player who is transferred from one of the employer's clubs to another is not leaving or joining a team.

iv) "Duty days" does not include *any day for which a member of a professional athletic team is not compensated and is not performing services for the team in any manner, including days when that member has been suspended without pay and prohibited from performing any services for the team.* (IITA Section 304(a)(2)(B)(iv)(c)(3)(D))

v) *Days for which a member of a professional athletic team is on the disabled list and does not conduct rehabilitation activities at facilities of the team, and is not otherwise performing services for the team in Illinois, are not duty days spent in this State. All days on the disabled list, however, are considered to be included in total duty days spent both within and outside of this State.* (IITA Section 304(a)(2)(B)(iv)(c)(3)(E))

vi) *Travel days that do not involve either a game, practice, team meeting, or other similar team event are not considered duty days spent in this State. However, travel days are considered in the total duty days spent both within and outside of this State.* (IITA Section 304(a)(2)(B)(iv)(b))

D) Total Compensation

i) "Total compensation for services performed as a member of a professional athletic team" means *the total compensation received during the taxable year for services performed:*

- *from the beginning of the official pre-season training period through the last game in which the team competes or is scheduled to compete during that taxable year* (IITA Section 304(a)(2)(B)(iv)(c)(4)(A)); *and*

- *during the taxable year on a date that does not fall within the foregoing period (e.g., participation in instructional leagues, the "All Star Game", or*

promotional caravans). This compensation includes, but is not limited to, salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year. (IITA Section 304(a)(2)(B)(iv)(c)(4)(B))

ii) For purposes of this subsection (b)(2)(D), *compensation does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services performed for the team.* (IITA Section 304(a)(2)(B)(iv)(c))

iii) For purposes of this subsection (b)(2)(D), "bonuses" included in "total compensation for services performed as a member of a professional athletic team" subject to allocation under this subsection (b)(2)(D) are: *bonuses earned as a result of play (e.g., performance bonuses) during the season, including bonuses paid for championship, playoff or "bowl" games played by a team, or for selection to all-star or other honorary positions; and bonuses paid for signing a contract, unless the payment of the signing bonus is not conditional upon the signee playing any games for the team or performing any subsequent services for the team or even making the team, payable separately from the salary and any other compensation, and nonrefundable.* (IITA Section 304(a)(2)(B)(iv)(c))

c) Compensation Paid~~paid~~ for Past Service~~past service~~

1) A federal law, P.L. 104-95 (4 USC 114), which applies to amounts received after December 31, 1995, limits the power of states to impose income taxation on certain nonresident pension income. This limitation also impacts income received by a nonresident in the form of distributions from many deferred compensation plans. The allocation of distributions to nonresidents from deferred compensation plans which are not governed by that law and which are potentially income taxable in this State is

governed by this subsection (c~~b~~)(1). For~~Where compensation is paid to a nonresident for past service, such compensation will, for~~ the purpose of determining whether and to what extent~~ such~~ compensation paid for past service is "paid in" Illinois and is allocated to Illinois under IITA Section 302(a), that compensation is~~be~~ presumed to have been earned ratably over the employee's last 5 years of service with the employer (or any predecessor or successor of the employer or a parent or subsidiary corporation of the employer), in the absence of clear and convincing evidence that the~~such~~ compensation is properly attributable to a different period of employment or that it was not earned ratably over the appropriate period of employment. Compensation earned in each past year will be deemed compensation paid in Illinois if the individual's service in that~~such~~ year met the tests set forth in subsection (a) applicable to that year~~above~~. Compensation paid for past service includes amounts paid under deferred compensation agreements where the amount of compensation is unrelated to the amount of service being currently rendered. Amounts paid to nonresidents under deferred compensation agreements are~~may be~~ allocated to Illinois under IITA Section 302(a) in accordance with this subsection (c)(1)~~paragraph~~ notwithstanding the fact that amounts paid to nonresidents are exempted from~~under such agreements will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will not be subject to~~ withholding under~~(see~~ Section 100.7010(g)~~)~~.

2) The standards detailed in this~~the previous~~ subsection (c)(1) may be illustrated by the following examples:

A) EXAMPLE 1: A is a union member employed by B corporation as a factory worker. During the years 1965-1968, A was employed in B's factory in Illinois; in 1969, A worked in B's factory in State X. In 1970, as a result of union labor contract negotiations, A received a lump-sum payment of $500 in lieu of a retroactive wage increase. A is at all times a resident of State X. Unless A establishes, by clear and convincing evidence, facts to support a different result, $100 is deemed to have been earned in each of the 5 years 1965-1969. Further, $400 is deemed to have been earned by service localized in Illinois and $100 by service localized in State X (see subsection (a)~~above~~). Therefore, $400 is allocable to Illinois under IITA Section 302(a).

B) EXAMPLE 2: The facts are the same as in Example 1,~~the previous example~~ except that A is able to establish that the $500 constituted a wage increase retroactive to July 1, 1969. In this~~such~~ case, no part of the $500 is allocable to Illinois, since it was earned by service in 1969 localized in State X.

C) EXAMPLE 3: C is a corporate executive. On January 1, 1965, C entered into an agreement with D corporation under which he was to be employed by D in an executive capacity for a period of 5 years. Under the contract C is entitled to a stated annual salary and to additional compensation of $10,000 for each year, the additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of $5,000 on C's retirement beginning January 1, 1970. In the event of C's death prior to exhaustion of the account, the balance is to be paid to C's personal representative. C is required to render consultative services to D when called upon after December 31, 1969. During 1970, C is paid $5,000 while a resident of Florida. The $5,000 is deemed to have been earned at the rate of $1,000 in each of the years 1965-1969, since the amount paid is unrelated to C's current consultative services. Whether the $1,000 earned in each~~ such~~ year is allocable to Illinois under IITA Section 302(a) must be determined by applying the tests set forth in subsection (a)~~ above~~ to that~~each such~~ year.

d~~c~~) Exceptions to General Allocation Rules~~general allocation rules~~

1) While "compensation" may include items of income taken into account by a nonresident employee under the provisions of IRC sections~~26 USC~~ 401 through 425~~424~~, such as, for example, amounts received by a beneficiary of an employees' trust (taxable to the employee under IRC section~~26 USC~~ 402, whether the trust is exempt or non-exempt from federal income tax), or income resulting from a disqualifying disposition of stock acquired pursuant to the exercise of a qualified stock option (taxable to the employee under IRC section~~26 USC~~ 421(b)),~~ such compensation is not allocated under IITA Section 302(a). Such compensation is allocated~~ under the express provision~~rules~~ of IITA Section 301(c)(2)(A), that compensation~~301(b)(2)(A), i.e.,~~ is not allocated to Illinois~~, whereas~~

~~compensation which is allocated pursuant to IITA Section 302(a) is allocated to Illinois, if "paid in" this State (see subsections (a) and (b) above)~~. Consequently, a nonresident claiming the~~that~~ compensation that~~which~~ would otherwise constitute compensation paid in Illinois is~~should~~ not~~ be~~ allocated to Illinois under IITA Section 301(c)(2)(A)~~301(b)(2)(A)~~ must establish that the~~such~~ compensation was properly taken into account by the~~such~~ individual under the provisions of IRC sections~~26 USC~~ 401 through 425~~424~~.

2) Reciprocal Exemptions~~exemptions~~
In any case in which the Director has entered into an agreement with the taxing authorities of another state which imposes a tax on or measured by income to provide the~~that~~ compensation paid in that~~such~~ state to residents of Illinois is~~shall be~~ exempt from that state's~~such~~ tax, compensation paid in Illinois to residents of that~~such~~ state will not be allocated to Illinois.

3) Employees Engaged in Interstate Transportation~~Federal Law~~. Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation, even though in the absence of specific federal provisions those employees would be subject to Illinois taxation by virtue of IITA Section 302(a). (See Section 100.2590.) Compensation that Illinois may not tax under those provisions is not "paid in this State" under this Section.

~~A) Railroad employees. 49 USCA 11502(a) provides that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of the chapter 105 of Title 49, to an employee who performs regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.~~

~~B) Motor carrier employees. 49 USCA 14503(a)(1) states that no part of the compensation paid by a motor carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 135 of Title 49, or by a motor private carrier, to an employee who performs regularly assigned duties in 2 or more states as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or~~

~~subdivision of that state, other than the state or subdivision thereof of the employee's residence.~~

~~C)~~ ~~Merchant mariner employees. 46 USCA 11108 provides that no part of the compensation paid by a merchant mariner to an employee who performs his regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision of the employee's residence.~~

~~D)~~ ~~Air carrier employees. 49 USCA 40116(f)(2) states that no part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one state shall be subject to the income tax laws of any state or subdivision thereof other than the state or subdivision thereof of such employee's residence and the state or subdivision thereof in which such employee earns more than 50% of the compensation paid by the carrier to such employee.~~

4) Military Servicemembers and Spouses of Servicemembers. Pursuant to 50 USC 4001, compensation for military service paid to a nonresident servicemember and compensation paid to a servicemember's spouse, if the spouse is not a resident of Illinois and is in Illinois solely to be with the servicemember serving in compliance with military orders, do not constitute "compensation paid in" Illinois even though it meets the tests set forth in this subsection (d).~~The standards set forth in this Section may be illustrated by the following examples:~~

~~A)~~ ~~A is a factory worker for B corporation which is located in Illinois. A resides in State X. When A reaches retirement age, he begins receiving a pension from the exempt trust under B's qualified pension plan. For federal income tax purposes, A properly takes his payments into account under the provisions of 26 USC 402(a). Accordingly, under IITA Section 301(c)(2)(A), A's payments are not allocated to Illinois.~~

~~B)~~ ~~The facts are the same as in the previous example except that B corporation does not fund its employees' pension benefits through the creation of a trust or the purchase of annuities, but pays retired~~

~~employees each year out of corporate funds. For federal income tax purposes, A is required to take his payments into account under 26 USC 61(a), rather than under 26 USC 401 through 424. Accordingly, allocation of A's pension payments is governed by IITA Section 302(a) above (see subsections (a) and (b) of this Section).~~

~~C)~~ ~~A is a locomotive engineer employed by Interstate railway.Interstate operates a rail yard in East St. Louis, Illinois.Interstate also operates out of St. Louis, Missouri, where it has a rail yard, as well as its administrative and payroll offices. A lives in St. Louis, Missouri.A is assigned to the East St. Louis rail yard and primarily reports to the East St. Louis rail yard of Interstate and drives locomotives for Interstate on trips that go throughout the United States. However, on occasion, A is required to report to the St. Louis, Missouri yard of Interstate and drive locomotives on trips that originate from St. Louis, Missouri. Pursuant to 49 USCA 111502(a), Interstate may only withhold, and A is only subject to, the Missouri personal income tax.~~

~~D)~~ ~~A is an airline pilot for World-Wide Airlines. World-Wide provides passenger and freight service to various destinations throughout the United States from Lambert Field in St. Louis, Missouri, as well as from the municipal airport in Alton, Illinois.A lives in St. Louis, Missouri, but A reports to and flies out of the World-Wide terminal in Alton, Illinois. A primarily flies to destinations outside of Illinois.Less than 50% of A's compensation (as determined by flight time in Illinois versus flight time everywhere) (see 49 USCA 1512(b)) is earned within Illinois. Therefore, by virtue of 49 USCA 1513(a), A is only subject to Missouri income taxation on his compensation from World-Wide.~~

~~E)~~ ~~The facts are the same as in the previous example, except that A pilots commuter planes between Alton and Chicago, Illinois. In this situation, A will be subject to Illinois income taxation by virtue of the fact that A earns more than 50% of his compensation within the State of Illinois.~~

(Source: Amended at 44 Ill. Reg. 10907, effective June 10, 2020)

SUBPART S: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section 100.7010 Compensation Paid in this State (IITA Section 701)

a) Except as provided in this Section, or in Section 100.7090 with respect to reciprocal withholding exemption agreements for employees residing in certain states, withholding is required with respect to "compensation paid in this State" under Section 100.3120.~~General rules~~

~~1) Withholding is required with respect to "compensation paid in this State" – except as provided in reciprocal withholding exemption agreements for employees residing in certain states. (See Section 100.7090.) Illinois will recognize reciprocal withholding exemption agreements for those members of professional sports teams whose compensation is "paid in this State" under Section 100.3100(e), to the extent that the state of residence of the team by which they are employed recognizes the reciprocal withholding exemption agreement with respect to individuals employed by teams with Illinois residence. The entire amount of such compensation is subject to withholding if withholding is required under Section 100.7000. The tests for determining whether compensation is paid in this State appear in IITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment Compensation Act [820 ILCS 405] (and similar unemployment compensation acts of other states). Compensation is paid in this State if:~~

~~A) The individual's service is localized in this State because it is performed entirely within this State;~~

~~B) The individual's service is localized in this State although it is performed both within and without this State, because the service performed without this State is incidental to the individual's service performed within this State; or~~

~~C) The individual's service is not localized in any state but some of the service is performed within this State and either; the base of operations, or if there is not a base of operations, the place from which the service is directed or controlled is within this State, or the base of operations of the place from which the service is~~

~~directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.~~

~~2)~~ ~~For purposes of subsection (a)(1)(A)~~~~*, beginning with taxable years ending on or after December 31, 1992, for*~~ ~~all persons who are members of professional sports teams that are~~ ~~*residents of states that impose a comparable tax liability on*~~ ~~all persons who are members of professional sports teams that are~~ ~~*residents of this State,..., in the case of persons who perform personal services under personal service contracts for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State.*~~ ~~(IITA Section 304(a)(2)(B))~~

~~3)~~ ~~The foregoing rules are to be applied in such manner that, if they were in effect in other states, an item of compensation would constitute "compensation paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in such other state under the test of subsection (a)(1)(A), it could not also be compensation paid in Illinois.~~

b) Withholding from Nonresident Employees. *For taxable years beginning on or after January 1, 2020, in determining compensation paid in this State under IITA Section 304(a)(2)(B) for purposes of this Section:*~~Place of residence of employee~~

1) *If an employer maintains a time and attendance system that tracks where employees perform services on a daily basis, then data from the time and attendance system shall be used.* (IITA Section 701(a-5)(1)) For purposes of this subsection (b)(1), "time and attendance system" means a system:

A) *in which the employee is required, on a contemporaneous basis, to record the work location for every day worked outside of the State where the employment duties are primarily performed* (IITA Section 701(a-5)(1)(A)); and

B) *that is designed to allow the employer to allocate the employee's wages for income tax purposes among all states in which the employee performs services* (IITA Section 701(a-5)(1)(B)).

2) *In all other cases, the employer shall obtain a written statement from the employee of the number of days reasonably expected to be spent performing services in this State during the taxable year. Absent the employer's actual knowledge of fraud or gross negligence by the employee in making the determination or collusion between the employer and the employee to evade tax, the certification made by the employee and maintained in the employer's books and records shall be prima facie evidence and constitute a rebuttable presumption of the number of days spent performing services in this State.* (IITA Section 701(a-5)(2))

3) The provisions of this subsection (b) are relevant only to the issue of whether or not the employer has withheld the proper amount of Illinois income tax from the compensation of an employee. The amount of an employee's compensation "paid in this State" for all other purposes must be determined by using the actual working days within and outside of this State.

~~1) In general, except in the limited circumstances referred to in subsection (a)(1)(C) and subsections (b)(2) and (3), the place of residence of any employee is irrelevant to the determination of "compensation paid in this State", and, therefore, whether withholding is required with respect to such employee. However, compensation paid to residents that would not otherwise be considered "compensation paid in this State" applying the definition in IITA Section 304(a)(2)(B) may be deemed "compensation paid in this State" under IITA Section 701(b) and therefore be subject to withholding in accordance with Section 100.7030 of this Part. In addition, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) and that would be considered "compensation paid in this State" applying the rules of IITA Section 304(a)(2)(B) is exempt from withholding.~~

~~2) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation and withholding. See Section 100.2590 which provides that certain employees of rail carriers, motor carriers, merchant mariners, and air carriers may only be subject to the income tax laws of any state or subdivision of that state of the employee's residence.~~

~~3) Federal law also affects the authority of the State to withhold income tax~~

~~from employees of certain water carriers and merchant mariners. 49 USCA 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. It should be noted that this provision affects only the authority of this state to have Illinois income tax withheld from wages of these employees. It does not affect the obligation of these employees to pay Illinois income taxes or to make payments of estimated income taxes as required under IITA Section 803.~~

~~c) Localization tests~~

~~1) If compensation is paid in this State because the service is localized here under either of the tests set forth in subsections (a)(1)(A) and (B), no other factors need be considered. In such cases, the place of the base of operations, the place from which the service is directed or controlled, and the place of the individual's residence are all irrelevant. (But see Section 100.7090.)~~

~~2) In determining whether an individual's service performed without this State is incidental to his service performed within this State for purposes of the test set forth in subsection (a)(1)(B), the term "incidental" means any service which is necessary to or supportive of the primary service performed by the employee or which is temporary or transitory in nature or consists of isolated transactions. The incidental service referred to above may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an individual who normally performs all of his service in this State may be sent by his employer to another state to perform service which is totally different in nature from his usual work or he may be sent to do similar work. So long as such service is temporary or consists merely of isolated transactions, it will be considered to be incidental to his service performed within this State, and his entire compensation will be subject to withholding.~~

~~3)~~ ~~In some cases, it may be difficult to determine whether service performed in another state is incidental to service performed within this State. In any such case, the facts (including any contract of employment) should be carefully considered. In many instances, the contract of employment will provide a definite territorial assignment which will be prima facie evidence that the service is localized within such territory. However, the presence or absence of a contract of employment is but one fact to be considered. In every case, the ultimate determination to be made is whether the individual's service was intended to be and was in fact principally performed within this State and whether any service which was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed without this State should not be regarded as decisive, in itself, in determining whether such service is incidental to service performed within this State. For example, an individual normally performing service within this State might be sent on a special assignment to another state for a period of months. The service in the other state would nevertheless be incidental to service within this State if such special assignment were an isolated transaction.~~

~~4)~~ ~~This Section may be illustrated by the following examples:~~

~~A)~~ ~~A is a resident of State X and is a salesman for the B corporation, located in State Y. A's base of operations is his home in State X and his service is controlled from State Y. All of A's customers are located in Illinois. A's compensation is subject to withholding even though he is a nonresident with a State X base of operations, who is directed from State Y, because all of his service is performed in Illinois.~~

~~B)~~ ~~A is a resident of State X and a salesman for the B Corporation, located in State X. A's territory covers the northern part of Illinois. Sporadically, A is requested by B corporation to call on particular customers who are located in State X. The compensation for service which A performs in Illinois and State X is subject to withholding because the service performed in State X is incidental to the service performed in Illinois, since it consists of isolated transactions.~~

~~C) The facts are the same as in the previous example except that A's regular territory covers several counties in Illinois and one or two towns in State X. A goes to the State X towns on a regular basis even though more than 95% of his time and sales are with reference to his Illinois territory. The compensation for service which A performs in Illinois and State X is not localized in Illinois within the meaning of subsection (a)(2) because the service performed in State X is regular and permanent in nature and is not necessary to or supportive of sales made in Illinois. Whether withholding is required must therefore be determined under subsection (a)(1)(C) (see subsections (d) and (e)).~~

~~D) A works for B construction company in Chicago. Occasionally the company obtains a construction job in State X which may last from one to several weeks. A is sent by the company to supervise the construction jobs in State X. The compensation for the service A performs in Illinois and State X is subject to withholding because the service performed in State X, being temporary in nature, is incidental to the service which he performs in Illinois.~~

~~E) A is a resident of Illinois and a buyer for a department store located in State X. Regular buying trips by A to Illinois are incidental to the service performed in State X because they are necessary to and supportive of A's primary duties which are localized in State X and not in Illinois. Unless compensation for the services A performs in Illinois and State X is deemed "compensation paid in this State" pursuant to IITA Section 701(b) and Section 100.7030 of this Part, compensation for the services A performs in Illinois and State X is not subject to withholding, notwithstanding that A being a resident, is taxable in Illinois on such compensation under IITA Sections 201 and 301(a).~~

~~d) Base of operations~~

~~1) The localization tests are not applicable where an individual's employment normally or continually includes service within this State and also services without the State which are not "incidental" to the services performed within this State. In such case, if the individual's base of operations is within this State, his entire compensation will be subject to withholding,~~

~~but if his base of operations is without this State, none of his compensation will be subject to withholding.~~

~~2)~~ ~~The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his business office (which may be maintained in his home), or his contract of employment may specify a place at which the employee is to receive his directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which he has his business mail, supplies, and equipment sent or the place where he maintains his business records.~~

~~3)~~ ~~This Section may be illustrated by the following examples:~~

~~A)~~ ~~A is a salesman for the B corporation located in Chicago. His territory includes Illinois, State X and State Y. A uses the corporation office in Chicago as a base of operations. The compensation for service performed by A is subject to withholding because the service is not localized in any of the three States in which it is performed, but part of the service is performed in Illinois and A's base of operations is in Illinois.~~

~~B)~~ ~~A is a salesman for the B corporation located in Chicago. A lives in State X and his territory includes State X and part of Cook County, Illinois. A starts his sales calls from and returns to his home daily. He keeps a catalogue and copies of correspondence from customers at his home, and writes his sales reports there. About once a week he reports to B's sales office in Chicago for consultation with and directions from the sales manager. Communications from customers to A are addressed to the Chicago sales office. A's letters to customers are on letterheads bearing the Chicago sales office address and are sometimes typed by A at home and sometimes dictated by him to a stenographer when he is in the Chicago sales office. Correspondence to A and his paychecks are sometimes picked up by A in Chicago and otherwise are forwarded by the sales office to his home. The duties which A performs at home are sufficient to make his home his base of operations. A's compensation is therefore not subject to withholding because his base of operations is in State X, and part~~

~~of his service is performed in that state.~~

~~C)~~ ~~A, a resident of Illinois, sells products in Illinois, State X and State Y for B corporation, which is located in State Z. A operates from his home, where he receives instructions from his employer, communications from his customers, etc. Once a year, A goes to State Z for a 10 day sales meeting. All of A's compensation is subject to withholding; the service is not localized in any state but part of the service is performed in Illinois and A's base of operations is his home in Illinois.~~

~~D)~~ ~~A works for a company whose home office is in State X. He is a regional director working out of a branch office in Illinois. He works mostly in Illinois but spends considerable time in State X. A's base of operations is the branch office in Illinois. Since he performs some service in Illinois and his base of operations is in Illinois, it is immaterial that his source of direction and control is in State X. All of A's compensation for service is subject to withholding.~~

~~E)~~ ~~A, a resident of Illinois, is a salesman for the B corporation, which has its main office in State X. A works out of the main office and his territory is divided equally between State X and Illinois. A's compensation is not subject to withholding because his base of operations is in State X, and part of his service is performed in that State.~~

~~F)~~ ~~A, an airplane pilot for B airline, lives in State X and regularly flies between Chicago and cities in other states. A does not have an office but reports to a flight operations office in Chicago which determines flight assignments for A and other pilots reporting to that office. A receives his paycheck and other company mail at the flight operations office in Chicago. A's base of operations is Illinois. He performs some service in Illinois and it is not "incidental" to service performed elsewhere. All of A's compensation for service is subject to withholding.~~

~~e)~~ ~~Place of direction or control~~

~~1)~~ ~~The permanent place from which the employee's service is directed or controlled is relevant in determining whether wages are subject to withholding if the localization tests are not applicable and it is impossible to determine the base of operation for such individual. In such a case, if both the place from which the individual's service is directed or controlled is within this State, and some of the service is performed within this State, then his entire compensation will be subject to withholding, but if not, none of his compensation will be subject to withholding. For example, a salesman's territory may be so indefinite and so widespread that he will not retain any fixed business office or address but will receive his orders or instructions by mail or wire wherever he may happen to be. In such case, the location of the permanent place from which direction and control is exercised must be determined.~~

~~2)~~ ~~The previous subsection may be illustrated by the following examples:~~

~~A)~~ ~~A, a resident of State X, is employed as a salesman by B, a corporation with its main office in State Y. B has a permanent branch office and sales supervisor in Cairo, Illinois. A was hired by the branch office and sells merchandise for B in Illinois and other neighboring states as directed by the branch office in telephone calls but he has no place which he uses as a base of operations. All of the compensation for service performed by A for B is subject to withholding because A's service is not localized in any of the states in which he operates and he has no base of operations, but part of his service is performed in Illinois and the place from which the service is directed is in Illinois.~~

~~B)~~ ~~A is a salesman residing in State X, who works for a concern whose factory and selling office is in Chicago, Illinois. A's territory covers five states, including Illinois. He does not report, start from or return to the Chicago office or from his residence in State X. State X is the territory of another salesman. A does not have a base of operations but would be subject to withholding since part of his service is performed in Illinois and the place from which the service is directed is in Illinois.~~

~~C)~~ ~~A, a contractor whose main office is in Illinois, is regularly engaged in road construction work in Illinois and State X. All~~

~~operations are under direction of a general superintendent whose permanent office is in Illinois. Work in each state is directly supervised by field supervisors working from temporary field offices located in each of the two states. Each field supervisor has the power to hire and fire personnel; however, all requests for manpower must be cleared through the Illinois office. Employees report for work at the field offices. Time cards are sent weekly to the main office in Illinois where the payrolls are prepared. A is hired by a field supervisor in State X; he regularly performs service in both Illinois and State X. In such case, neither the localization nor the base-of-operations test would apply, but A's compensation would be subject to withholding. Part of A's service is performed in Illinois and his service is regarded as controlled from Illinois because the permanent office from which basic direction and control emanates is the Illinois office.~~

~~f) When residence is important~~

~~1) Residence is a factor in determining whether compensation paid to an individual is subject to withholding only when his service is not localized within some state; he performs no service in the state in which he has his base of operations (if he has a base of operations); and he performs no service in the state from which his service is directed or controlled. In such case, if the individual is a resident of this State, and some of his service is performed within this State, his entire compensation will be subject to withholding. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.~~

~~2) Residence is also important in determining the Illinois income tax obligations of certain employees of railroads, motor carriers and air carriers (see Section 100.2590 of this Part and subsection (b)).~~

~~3) Subsection (f)(1) may be illustrated by the following example:~~
~~A is a salesman employed by the B company located in State X. His services are directed and controlled from the State X office and he has no base of operations. A lives in Illinois but his territory includes State Y and State Z as well as Illinois. All of A's wages are subject to withholding because no part of his service is performed in the state (State X) in which~~

~~the place from which his services are directed is located, but part of his service is performed in Illinois and his residence is in Illinois.~~

c~~g~~) Deferred Compensation~~compensation~~

1) Under~~ certain contractual unfunded~~ deferred compensation agreements, payments are made by an employer to an employee for service rendered at an earlier date. In many~~ such~~ agreements, the employee receiving deferred compensation payments is not required to render any current service whatsoever, whereas in others he may be required to hold himself available to render advisory and consultative service, if called upon to do so, and to refrain from competition, but in either case, the amount of compensation is unrelated to any service being currently rendered. Payments made under that kind of~~any such~~ deferred compensation agreement will be deemed to meet the tests set forth in Section 100.3120~~subsection (a)~~ for compensation paid in Illinois if paid to the individual while a resident of this State. Conversely, payments made under that kind of~~such an~~ agreement~~ will be deemed not to be compensation paid in this State and~~ will not be subject to withholding if paid to the individual while a nonresident. Amounts paid to nonresidents under deferred compensation agreements may be allocated to Illinois under IITA Section 302(a) in accordance with Section 100.3120~~(b)(1)~~ notwithstanding the fact that those~~such~~ amounts are~~will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will~~ not~~ be~~ subject to withholding.

2) This subsection (c)~~Subsection (g)(1)~~ may be illustrated by the following example:

EXAMPLE: A is a corporate executive. On January 1, 1965, A entered into an agreement with B corporation under which A~~he~~ was to be employed by B in an executive capacity for a period of 5 years. Under the contract A is entitled to a stated annual salary and to additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of $5,000 on A's retirement beginning January 1, 1970. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 1969. During 1970, A is paid $5,000 while a resident of Illinois. This

amount will be subject to withholding, because A's prior service will be deemed to have met one of the tests for compensation paid in Illinois.

(Source: Amended at 44 Ill. Reg. 10907, effective June 10, 2020)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Code 130

3)

Section Number:	Adopted Action:
130.310	Amendment

4) Statutory Authority: 35 ILCS 120/12; 20 ILCS 2505/2505-795

5) Effective Date of Rule: June 10, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in *Illinois Register*: 44 Ill. Reg. 1811; January 24, 2020

10) Has JCAR issued a Statement of Objection to this rulemaking? No. '

11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. No substantive changes were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes. The emergency rule was effective January 13, 2020, for a period of 180 days. 44 Ill. Reg. 2055; January 24, 2020.

14) Are there any rulemakings pending on this Part? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
130.425	Amendment	44 Ill. Reg. 485; January 10, 2020
130.455	Amendment	44 Ill. Reg. 485; January 10, 2020

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

15) Summary and Purpose of Rulemaking: PA 101-593 amends Section 2-10 of the Retailers' Occupation Tax Act. The amendments to Section 2-10 clarify that that food consisting of or infused with adult use cannabis is taxed at the general merchandise rate of 6.25%, not the 1% rate imposed on food for human consumption that is to be consumed off the premises where it is sold. "Adult use cannabis" is defined as cannabis subject to tax under the Cannabis Cultivation Privilege Tax Law and the Cannabis Purchaser Excise Tax Law and does not include cannabis subject to tax under the Compassionate Use of Medical Cannabis Program Act.

16) Information and questions regarding this adopted rule shall be directed to:

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section
130.101 Character and Rate of Tax
130.105 Responsibility of Trustees, Receivers, Executors or Administrators
130.110 Occasional Sales
130.111 Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115 Habitual Sales
130.120 Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section
130.201 The Test of a Sale at Retail
130.205 Sales for Transfer Incident to Service
130.210 Sales of Tangible Personal Property to Purchasers for Resale
130.215 Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220 Sales to Lessors of Tangible Personal Property
130.225 Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section
130.305 Farm Machinery and Equipment
130.310 Food, Soft Drinks and Candy
130.311 Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321 Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions
130.325 Graphic Arts Machinery and Equipment Exemption
130.330 Manufacturing Machinery and Equipment

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

130.331 Manufacturer's Purchase Credit
130.332 Automatic Vending Machines
130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
130.340 Rolling Stock
130.341 Commercial Distribution Fee Sales Tax Exemption
130.345 Oil Field Exploration, Drilling and Production Equipment
130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351 Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section
130.401 Meaning of Gross Receipts
130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410 Cost of Doing Business Not Deductible
130.415 Transportation and Delivery Charges
130.420 Finance or Interest Charges – Penalties – Discounts
130.425 Traded-In Property
130.430 Deposit or Prepayment on Purchase Price
130.435 State and Local Taxes Other Than Retailers' Occupation Tax
130.440 Penalties
130.445 Federal Taxes
130.450 Installation, Alteration and Special Service Charges
130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section
130.501 Monthly Tax Returns – When Due – Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration – Separate

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540 Returns on a Transaction by Transaction Basis
130.545 Registrants Must File a Return for Every Return Period
130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552 Alcoholic Liquor Reporting
130.555 Vending Machine Information Returns
130.560 Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section
130.601 Preliminary Comments (Repealed)
130.605 Sales of Property Originating in Illinois; Questions of Interstate Commerce
130.610 Sales of Property Originating in Other States (Repealed)

SUBPART G: CERTIFICATE OF REGISTRATION

Section
130.701 General Information on Obtaining a Certificate of Registration
130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710 Procedure When Security Must be Forfeited
130.715 Sub-Certificates of Registration
130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725 Display
130.730 Replacement of Certificate
130.735 Certificate Not Transferable
130.740 Certificate Required For Mobile Vending Units
130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section
130.801 Books and Records − General Requirements
130.805 What Records Constitute Minimum Requirement
130.810 Records Required to Support Deductions
130.815 Preservation and Retention of Records

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

130.820 Preservation of Books During Pendency of Assessment Proceedings
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section
130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section
130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
130.1410 Requirements for Certificates of Resale (Repealed)
130.1415 Resale Number – When Required and How Obtained
130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
130.1501 Claims for Credit – Limitations – Procedure
130.1505 Disposition of Credit Memoranda by Holders Thereof
130.1510 Refunds
130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section
130.1601 When Returns are Required After a Business is Discontinued
130.1605 When Returns Are Not Required After Discontinuation of a Business
130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
130.1801 When Powers of Attorney May be Given
130.1805 Filing of Power of Attorney With Department
130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section	
130.1901	Addition Agents to Plating Baths
130.1905	Agricultural Producers
130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiropodists, Osteopaths and Chiropractors
130.1934	Community Water Supply
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1946	Tangible Personal Property Used or Consumed in Graphic Arts Production within Enterprise Zones Located in a County of more than 4,000 Persons and less than 45,000 Persons
130.1947	Tangible Personal Property Used or Consumed in the Process of Manufacturing and Assembly within Enterprise Zones or by High Impact Businesses
130.1948	Tangible Personal Property Used or Consumed in the Operation of Pollution Control Facilities Located within Enterprises Zones
130.1949	Sales of Building Materials Incorporated into the South Suburban Airport
130.1950	Sales of Building Materials Incorporated into the Illiana Expressway
130.1951	Sales of Building Materials Incorporated into Real Estate within Enterprise Zones
130.1952	Sales of Building Materials to a High Impact Business
130.1953	Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
130.1954	Sales of Building Materials Incorporated into Real Estate within River Edge Redevelopment Zones
130.1955	Farm Chemicals
130.1956	Dentists
130.1957	Tangible Personal Property Used in the Construction or Operation of Data Centers
130.1960	Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
130.1965	Florists and Nurserymen
130.1970	Hatcheries
130.1971	Sellers of Pets and the Like
130.1975	Operators of Games of Chance and Their Suppliers

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

130.1980	Optometrists and Opticians
130.1985	Pawnbrokers
130.1990	Peddlers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2004	Sales to Nonprofit Arts or Cultural Organizations
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2013	Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

130.2100 Sellers of Feeds and Breeding Livestock
130.2101 Sellers of Floor Coverings
130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110 Sellers of Seeds and Fertilizer
130.2115 Sellers of Machinery, Tools and Special Order Items
130.2120 Suppliers of Persons Engaged in Service Occupations and Professions
130.2125 Discount Coupons, Gift Situations, Trading Stamps, Automobile Rebates and Dealer Incentives
130.2130 Undertakers and Funeral Directors
130.2135 Vending Machines
130.2140 Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145 Vendors of Meals
130.2150 Vendors of Memorial Stones and Monuments
130.2155 Tax Liability of Sign Vendors
130.2156 Vendors of Steam
130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165 Veterinarians
130.2170 Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section
130.2500 Direct Payment Program
130.2505 Qualifying Transactions, Non-transferability of Permit
130.2510 Permit Holder's Payment of Tax
130.2515 Application for Permit
130.2520 Qualification Process and Requirements
130.2525 Application Review
130.2530 Recordkeeping Requirements
130.2535 Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Cards
130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration
130.ILLUSTRATION C Food Flow Chart

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Department of Revenue Law [20 ILCS 2505].

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

SOURCE: Adopted July l, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June l, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July l, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997;

amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421,

effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38 Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12, 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015; amended at 39 Ill. Reg. 14616, effective October 22, 2015; amended at 40 Ill. Reg. 6130, effective April 1, 2016; amended at 40 Ill. Reg. 13448, effective September 9, 2016; amended at 41 Ill. Reg. 10721, effective August 1, 2017; amended at 42 Ill. Reg. 2850, effective January 26, 2018; amended at 43 Ill. Reg. 4201, effective March 20, 2019; amended at 43 Ill. Reg. 5069, effective April 17, 2019; amended at 43 Ill. Reg. 8865, effective July 30, 2019; emergency amendment at 43 Ill. Reg. 9841, effective August 21, 2019, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 552, effective December 27, 2019, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 2055, effective January 13, 2020, for a maximum of 180 days; amended at 44 Ill. Reg. 5392, effective March 16, 2020; amended at 44 Ill. Reg. 10981, effective June 10, 2020.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.310 Food, Soft Drinks and Candy

a) Food. *With respect to food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, candy~~candy~~ and food that has been prepared for immediate consumption), the tax is imposed at the rate of 1%. Food for human consumption that is to be consumed off the premises where it is sold includes all food sold through a vending machine, except soft drinks,* candy, *and food products that are dispensed hot from a vending machine, regardless of the location of the vending machine.* (Section 2-10 of the Act) Public Acts 96-34, 96-37 and 96-38 included changes to the definition of soft drinks and provided that candy is not considered "food for human consumption that is to be consumed off the premises where it is sold". For further information on the definition and taxation of soft drinks, see subsection (d)(6). For further information regarding the definition and taxation of candy, see subsection (d)(7).

b) The manner in which food is taxed depends upon 2 distinct factors that must both be considered in determining if food is taxed at the high rate as "food prepared for immediate consumption" or the low rate as "food prepared for consumption off the premises where sold".

1) The first factor is whether the retailer selling the food provides premises for consumption of food. If so, a rebuttable presumption is created that all sales of food by that retailer are considered to be prepared for immediate

consumption and subject to tax at the high rate. As a result of this presumption, even bulk food could potentially be taxable at the high rate. However, this presumption is rebutted if a retailer demonstrates that:

A) the area for on-premises consumption is physically separated or otherwise distinguishable from the area where food not for immediate consumption is sold; and

B) the retailer has a separate means of recording and accounting for collection of receipts from sales of both high and low rate foods. For purposes of this subsection (b)(1)(B), the phrase "separate means of recording and accounting for collection of receipts" includes cash registers that separately identify high rate and low rate sales, separate cash registers, and any other methods by which the tax on high and low rate sales are recorded at the time of collection.

2) The second factor is the nature of the food item being sold. As provided in subsection (c), some foods, such as hot foods, are always considered to be "food prepared for immediate consumption", and thus subject to the high rate of tax.

3) Numerous examples applying these factors to different types of food and food retailers are provided in subsection (d)(4)(A) through –(I).

c) Definitions

1) "Food". Food is any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice.

2) "Food Prepared for Immediate Consumption". Food prepared for immediate consumption means food that is prepared or made ready by a retailer to be eaten without substantial delay after the final stage of preparation by the retailer.

A) Food prepared for immediate consumption includes, but is not limited to, the following:

i) all hot foods, whether sold in a restaurant, delicatessen, grocery store, discount store, concession stand, bowling alley, vending machine or any other location. At a grocery store, hot foods subject to the high rate of tax include, but are not limited to, pizza, soup, rotisserie or fried chicken and coffee; other examples of food prepared for immediate consumption include popcorn or nachos sold at a movie concession stand; hot dogs sold by a street vendor; and hot precooked meals sold to customers, such as a Thanksgiving dinner. For purposes of this Section, "hot" means any temperature that is greater than room temperature;

ii) sandwiches, either hot or cold, prepared by a retailer to the individual order of a customer;

iii) salad, olive or sushi bars offered by a retailer at which individuals prepare their own salads (hot or cold);

iv) all coffee, tea, cappuccino and other drinks prepared by a retailer for individual consumption, whether hot or cold, are subject to the high rate of tax;

v) all food sold for consumption on the premises where sold.

B) "Food prepared for immediate consumption" does not include:

i) doughnuts, cookies, bagels or other bakery items prepared by a retailer and sold either individually or in another quantity selected by the customer, provided they are for consumption off the premises where sold;

ii) whole breads, pies and cakes prepared by a retailer, even when prepared to the individual order of a customer;

iii) sandwiches that are prepared by a retailer and placed in a deli case or other storage unit;

iv) cold salads, jellos, stuffed vegetables or fruits sold by weight or by quart, pint or other quantity by a retailer;

v) cheese, fruit, vegetable or meat trays prepared by a retailer, either to the individual order of a customer or premade and set out for sale;

vi) food items sold by a retailer that are not prepared or otherwise manufactured by that retailer, such as pre-packaged snacks or chips, unless these items will be consumed on the premises where sold (e.g., in a sandwich shop). For grocers, such items include, but are not limited to, fruits, vegetables, meats, milk, canned goods and yogurt. In addition, effective September 1, 2009, all sales of "candy", as defined in subsection (d)(7), are subject to the high rate of tax.

C) The provisions of subsection (c)(2)(B) are subject to the rebuttable presumption described in subsection (d). That is, the items listed in subsection (c)(2)(B) are taxable at the low rate only if the retailer had a separate means of recording and accounting for high and low rate sales, and the retailer provides no on-premises facilities for consumption of the food or, if the retailer does provide such facilities, they are physically separated or otherwise distinguishable from the area where food not for immediate consumption is sold.

3) "Premises". Premises is that area over which the retailer exercises control, whether by lease, contract, license or otherwise, and, in addition, the area in which facilities for eating are provided, including areas designated for, or devoted to, use in conjunction with the business engaged in by the vendor. Vendor premises include eating areas provided by employers for employees and common or shared eating areas in shopping centers or public buildings if customers of food vendors adjacent to those areas are permitted to use them for consumption of food products.

4) "Adult use cannabis". *"Adult use cannabis" means cannabis subject to tax under the Cannabis Cultivation Privilege Tax Law and the Cannabis Purchaser Excise Tax Law and does not include cannabis subject to tax*

under the Compassionate Use of Medical Cannabis Program Act [410 ILCS 130].

d) Test to Determine Applicable Rate. The rate at which food is taxable is determined as follows:

1) If retailers provide seating or facilities for on-premises consumption of food, all food sales are presumed to be taxable at the high rate as "food prepared for immediate consumption". However, this presumption can be rebutted by evidence that:

A) the area for on-premises consumption is physically separated or otherwise distinguishable from the area where food not for immediate consumption is sold; and

B) the retailer utilizes a means of recording and accounting for collection of receipts from the sales of food prepared for immediate consumption (high rate) and the sales of food that are not prepared for immediate consumption (low rate).

2) If a retailer does not provide seating or facilities for on-premises consumption of food, then the low rate of tax will be applied to all food items except for "food prepared for immediate consumption by the retailer" as provided in subsection (b) and soft drinks, candy and alcoholic beverages. However, in order for the low rate of tax to apply, retailers that sell both food prepared for immediate consumption and food for consumption off the premises where sold must utilize means of recording and accounting for collection of receipts from the sales of food prepared for immediate consumption (high rate) and the sales of food that are not prepared for immediate consumption (low rate). If these receipts are not maintained, all sales will be presumed to be at the high rate of tax.

3) Illustration C is a decision tree to assist in making high rate/low rate determinations.

4) EXAMPLES~~Examples~~:

A) Grocery Store – On-premises Facilities for Consumption of Food. Provided that the requirements of subsection (d)(1) are met,

examples of high rate items include, but are not limited to, hot foods (soup, pizza, rotisserie or fried chicken, stuffed potatoes, hot dogs); all sandwiches, either hot or cold, that are prepared to the individual order of a customer; salads prepared by customers at a salad/olive/sushi bar; and all food sold for consumption on the premises. Also included are hot precooked meals sold to customers, such as a Thanksgiving dinner; however, if precooked meals are sold in an unheated state of preparation, they are considered to be low rate. Meal packages sold by a grocer (e.g., 2 or more pieces of fried chicken with choice of two sides and dinner rolls sold at one price) that include at least 1 hot food item are taxable at the high rate, even if some foods in the package, sold alone, would be taxable at the low rate. Low rate items would include, but are not limited to, doughnuts (regardless of quantity), bagels, rolls and whole breads or bakery items prepared by the retailer; sandwiches that are premade by the retailer and set out for sale to customers; cold pizzas prepared by the retailer and set out for sale to customers; stuffed olives or peppers prepared by the retailer and set out for sale in individual sized containers; and deli items sold by the retailer to customers by size or weight (prepared salads, e.g., potato, pasta, bean or fruit salads; jello; pudding; stuffed olives).

B) Grocery Store – No On-premises Facilities for Consumption of Food. Provided that the requirements of subsection (d)(2) are met, examples of high rate items would include, but are not limited to, hot foods (soup, pizza, rotisserie or fried chicken, hot dogs); all sandwiches, either hot or cold, that are prepared to the individual order of a customer; and salads that are made by customers at a salad/olive/sushi bar. In addition, effective September 1, 2009, all sales of "candy", as defined in subsection (d)(7), are subject to the high rate of tax. Also included are hot precooked meals sold to customers, such as a Thanksgiving dinner. If precooked meals are sold in an unheated state of preparation, however, they are considered to be low rate. Low rate items would include, but are not limited to, doughnuts (regardless of quantity), bagels, rolls and whole breads or bakery items prepared by the retailer; sandwiches that are premade by the retailer and set out for sale to customers; cold pizzas prepared by the retailer and set out for sale to

customers; stuffed olives or peppers prepared by the retailer and set out for sale in individual sized containers; and deli items sold by the retailer to customers by size or weight.

C) Restaurants and Cafeterias. All foods sold by a restaurant or a cafeteria are considered food prepared for immediate consumption. Such food can either be prepared to the individual order of a customer or premade and set out for selection by the customer. However, if a restaurant or cafeteria also sells whole pies, cakes or individual pastries for sale, these items are taxable at the low rate, as long as the requirements of subsection (d)(1) are met.

D) Bakery. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, the following items are taxable at the low rate: doughnuts, cookies or individual pastries, regardless of quantity, sold for consumption off the premises where sold, and whole cakes or pies, such as wedding or special occasion cakes. Food sold for consumption on the premises, such as doughnuts and coffee, are subject to the high rate of tax.

E) Delicatessen. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, meat, cheese and prepared salads sold by weight or volume are taxable at the low rate. Individual sandwiches prepared to the individual order of a customer are high rate, as well as other food sold for consumption on the premises.

F) Ice Cream Store. Ice cream items in individual sizes, either prepared to the individual order of a customer or premade and offered for sale by a retailer, constitute "food prepared for immediate consumption" and are subject to the high rate of tax. These items include ice cream cones, cups of ice cream, sundaes, shakes and premade ice cream sandwiches, bars or cookies. However, provided that the requirements of either subsection (d)(1) or (d)(2) are met, ice cream cakes or rolls or ice cream packaged in premeasured containers, such as a pint, quart or gallon, are subject to tax at the low rate.

G) Food Sold at Food Courts. All hot food and food prepared to the individual order of a customer by a retailer at a food court is

subject to the high rate of tax. In addition, all other food sold for consumption on the premises of a food court is subject to the high rate of tax.

H) Convenience Stores. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, prepackaged food items not prepared by a convenience store retailer are subject to the low rate of tax. These items include, but are not limited to, chips, snacks, bread products and cookies. The sale of hot food items, such as hot dogs, nachos or pretzels, are subject to the high rate of tax, as well as other food sold for consumption on the premises. In addition, effective September 1, 2009, all sales of "candy", as defined in subsection (d)(7), are subject to the high rate of tax.

I) Coffee Shops. Provided that the requirements of either subsection (d)(1) or (d)(2) are met, coffee, latte, cappuccino and tea (prepared either hot or cold) and food sold for consumption on the premises (e.g., pastries, cookies, snacks) are subject to the high rate of tax. Bulk coffees (beans or grounds, for instance) and teas, or pastries that are not consumed on the premises, are subject to the low rate of tax.

5) Alcoholic Beverages. The reduced rate does not extend to alcoholic beverages. An alcoholic beverage is any beverage subject to the tax imposed under Article VIII of the Liquor Control Act of 1934 [235 ILCS 5/Art. VIII].

6) Soft Drinks. The reduced rate does not extend to soft drinks. Soft drinks are taxed at the State sales tax rate of 6.25%. Soft drinks are taxable at the high rate regardless of the type of establishment where they are sold, e.g., a grocery store, restaurant or vending machine.

A) Until September 1, 2009, the term "soft drinks" means any *complete, finished, ready-to-use, non-alcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container regardless of size. "Soft drinks" does not*

include coffee, tea, non-carbonated water, infant formula, milk or milk products as defined in Section 3(a)(2) and (4) of the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635], *or drinks containing 50% or more natural fruit or vegetable juice.* (Section 2-10 of the Act) Frozen concentrated fruit juice, dry powdered drink mixes and fruit juices that are reconstituted to natural strength are not soft drinks.

B) *On and after September 1, 2009, the term "soft drinks" means non-alcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice or similar milk substitutes, or greater than 50% of vegetable or fruit juice by volume.* (Section 2-10 of the Act)

C) Natural and artificial sweeteners include, but are not limited to, corn syrup, high fructose corn syrup, invert sugar, dextrose, sucrose, fructose, lactose, saccharose, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, Rebaudioside A (Reb A), erythritol, xylitol, aspartame, saccharin, acesulfame K, sucralose and sorbitol. Beverages that list in the ingredient list natural and/or artificial sweeteners including, but not limited to, those listed in this subsection (d)(6)(C), meet the definition of "soft drinks". (Note, for purposes of this Section, natural and artificial sweeteners do not include natural or artificial flavors.)

D) Examples of soft drinks include, but are not limited to:

i) soda pop;

ii) carbonated and noncarbonated water that contains natural or artificial sweeteners;

iii) root beer;

iv) sport or energy drinks;

v) sweetened tea or coffee (without milk or milk products; see subsection (d)(6)(E));

vi) non-alcoholic beer;

vii) fruit drinks containing 50% or less fruit juice; and

viii) "ready-to-use" non-alcoholic beverage mixers containing 50% or less vegetable or fruit juice by volume, e.g., ready-to-use margarita mixes.

E) Examples of products that are not considered soft drinks include, but are not limited to:

i) beverage powders or dry mixes;

ii) concentrates, e.g., frozen concentrate lemonade;

iii) ground or whole bean coffee and loose leaf tea or tea bags;

iv) carbonated and noncarbonated water that does not contain natural or artificial sweeteners;

v) carbonated and noncarbonated water that does not contain natural or artificial sweeteners but does contain natural or artificial flavor;

vi) vegetable or fruit juices containing greater than 50% vegetable or fruit juice, even if these beverages contain natural or artificial sweeteners;

vii) any drinks that contain milk or milk products, soy, rice or similar milk substitutes; and

viii) brewed unsweetened black coffee or tea. (Note, even though brewed unsweetened black coffee and tea are not considered soft drinks, hot coffee or hot tea, regardless of whether they contain natural or artificial sweeteners or milk or milk products, are subject to tax at the 6.25% rate because they are considered to be "food prepared for immediate consumption". (See subsection (c)(2)(A)(iv).))

7) Candy. On and after September 1, 2009, the reduced rate does not extend to "candy". Candy is taxed at the State sales tax rate of 6.25%.

A) *"Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation that contains flour or requires refrigeration.* (Section 2-10 of the Act) To meet the definition of candy, the item must be analyzed by using four factors, as explained in subsections (d)(7)(B) through (E).

B) Flour: Products whose ingredient list contain the word "flour", regardless of the type of flour (e.g., wheat, rice) are not candy. A product does not contain flour unless the product label specifically lists flour as an ingredient. Ingredients such as soy or whey that may be used in place of, or as a substitute for, flour are not considered to be flour for purposes of determining if the item qualifies as candy unless they are specifically labeled as flour in the ingredient list.

i) Items that are not considered candy because they list flour as one of the ingredients on the label include, but are not limited to, certain licorice, certain candy bars, cookies and chocolate covered pretzels.

ii) Snack mixes that contain both candy and non-candy items, such as trail mix that contains products with flour or bags of individually wrapped candy bars in which some candy bars contain flour and others do not, are not candy if the ingredient list on the bag lists flour as an ingredient of any of the items.

C) Refrigeration: Items that require refrigeration are not considered to be candy. For example, popsicles and ice cream bars are not candy. Items that otherwise qualify as candy and do not require refrigeration are candy even if they are sold refrigerated or frozen, e.g., a candy bar that has been frozen. Merely suggesting that the product be refrigerated (e.g., to ensure product quality, please keep

this package stored in a cool place, at or below 65°F) is insufficient to meet the refrigeration requirement.

D) Sweeteners: Candy is limited to products that contain sugar, honey or other natural or artificial sweeteners. Examples of natural or artificial sweeteners include, but are not limited to, corn syrup, high fructose corn syrup, invert sugar, dextrose, sucrose, fructose, lactose, saccharose, fruit juice concentrates, molasses, evaporated cane juice, rice syrup, barley malt, honey, Rebaudioside A (Reb A), erythritol, xylitol, aspartame, saccharin, acesulfame K, sucralose, sorbitol.

E) Bars, drops or pieces: Items must be in the form of bars, drops or pieces to be considered candy.

i) Examples of items that are not in the form of bars, drops or pieces and are not candy include, but are not limited to, jars of honey, syrups, peanut butter, preserves or jams, cans of fruit in syrup, cans or tubes of cake frosting and cereals.

ii) Examples of items that are in the form of bars, drops or pieces and are candy include, but are not limited to, sweetened cooking or baking bars or chips, sweetened coconut flakes, honey glazed peanuts, baking sprinkles, caramel-coated popcorn (does not include un-popped popcorn), artificially flavored candy mints, caramel or candied apples and almond bark.

F) Examples of items that are considered candy (provided that they meet all the requirements of subsections (d)(7)(B) through (D)) include, but are not limited to:

i) chocolate bars, including sweet or semi-sweet bars or bits;

ii) chocolate molded items (e.g., bunny, snowman);

iii) chocolate covered or dipped strawberries, chocolate or carob covered raisins or nuts;

iv) chocolate covered potato chips;

v) chocolate covered bacon;

vi) caramel-coated popcorn (does not include un-popped popcorn), caramel apples, caramel corn or rice cakes;

vii) almond bark, peanut brittle;

viii) marshmallows;

ix) breath mints;

x) chewing gum;

xi) fruit roll-ups;

xii) glazed dried apricots;

xiii) trail mixes that contain candy ingredients, e.g., sweetened nuts;

xiv) granola bars;

xv) any type of nut that is sweetened with any natural or artificial sweetener, e.g., if the ingredient list contains any natural or artificial sweetener.

G) Examples of items that are not considered candy because they do not meet the requirements of subsections (d)(7)(B) through (D) include, but are not limited to (note, if some of the items listed below, such as popcorn, are covered or dipped in chocolate, caramel or other candy coating, they may be considered candy):

i) cakes, pies, cookies, pastry;

ii) ice cream, ice cream bars, frozen yogurt, popsicles, hot fudge ice cream topping;

iii) pretzels;

iv) corn chips, potato chips, popcorn and beef jerky;

v) chocolate milk, strawberry milk, fruit juice, soft drinks;

vi) powdered hot chocolate cocoa mix and other drink mixes;

vii) food coloring;

viii) unsweetened chocolate;

ix) cereals; and

x) licorice and candy bars that contain flour as an ingredient.

8) Adult Use Cannabis. The reduced rate does not extend to adult use cannabis. All adult use cannabis (e.g., cannabis flower, concentrate, cannabis-infused products) is taxed at the State rate of 6.25%.

e) Reporting

1) The retailer must keep an actual record of all sales and must report tax at the applicable rates, based on sales as reflected in the retailer's records. Books and records must be maintained in sufficient detail so that all receipts reported with respect to food can be supported.

2) A retailer who finds it difficult to maintain detailed records of receipts from sales of food at the reduced rate, as well as detailed records of receipts from all other sales of tangible personal property at the full rate, may request the use of a formula. The request must be made to the Department in writing, must state the reasons that a formula method is necessary, and must outline the proposed formula in detail. Included in the request must be a description of how the method can be audited by the Department. Upon a finding that the formula can be audited and will produce results that will reasonably approximate the actual taxable receipts in each category, the Department may issue its approval for use of the formula. If approval is granted, the Department reserves the right to withdraw approval or require a change in procedure at any time.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 44 Ill. Reg. 10981, effective June 10, 2020)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois National Guard (ING) Grant Program

2) Code Citation: 23 Ill. Adm. Code 2730

3)

Section Numbers:	Adopted Actions:
2730.20	Amendment
2730.30	Amendment
2730.40	Amendment

4) Statutory Authority: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)].

5) Effective Date of Rules: July 1, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 3143; February 21, 2020

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposed and Final Version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part was revised to designate potential State benefits available via the Illinois National Guard (ING) Grant Program as the last payer for veterans with 100% Post-9/11 GI Bill eligibility who are concurrently drawing ING

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

benefits. The change is intended to maximize benefit preservation for veterans who qualify for both potentially available state benefits and the Post-9/11 GI Bill.

16) Information and questions regarding these adopted rules shall be directed to:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782.5161
jackie.eckley@illinois.gov

The full text of the Adopted Amendments begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2730
ILLINOIS NATIONAL GUARD (ING) GRANT PROGRAM

Section
2730.10 Summary and Purpose
2730.20 Applicant Eligibility
2730.30 Program Procedures
2730.40 Institutional Procedures

AUTHORITY: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; rules repealed at 6 Ill. Reg. 8239, effective June 30, 1982; new rules adopted at 6 Ill. Reg. 8413, effective June 30, 1982; codified at 7 Ill. Reg. 10877; amended at 8 Ill. Reg. 17016, effective September 5, 1984; amended at 9 Ill. Reg. 20827, effective January 1, 1986; amended at 11 Ill. Reg. 3202, effective January 29, 1987; amended at 12 Ill. Reg. 11531, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1730 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2730 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17857; amended at 14 Ill. Reg. 10567, effective July 1, 1990; amended at 16 Ill. Reg. 11254, effective July 1, 1992; amended at 17 Ill. Reg. 10563, effective July 1, 1993; amended at 18 Ill. Reg. 10303, effective July 1, 1994; amended at 20 Ill. Reg. 9187, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11119, effective July 18, 1997; amended at 22 Ill. Reg. 11100, effective July 1, 1998; amended at 24 Ill. Reg. 9148, effective July 1, 2000; amended at 25 Ill. Reg. 8406, effective July 1, 2001; amended at 26 Ill. Reg. 10013, effective July 1, 2002; amended at 27 Ill. Reg. 10338, effective July 1, 2003; amended at 29 Ill. Reg. 9904, effective July 1, 2005; amended at 30 Ill. Reg. 11623, effective July 1, 2006; amended at 32 Ill. Reg. 10305, effective July 1, 2008; amended at 36 Ill. Reg. 9408, effective July 1, 2012; amended at 37 Ill. Reg. 9504, effective July 1, 2013; emergency amendment at 37 Ill. Reg. 15439, effective September 3, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 2891, effective January 15, 2014; amended at 39 Ill. Reg. 8415, effective July 1, 2015; amended at 41 Ill. Reg. 8121, effective July 1, 2017; amended at 44 Ill. Reg. 11008, effective July 1, 2020.

Section 2730.20 Applicant Eligibility

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

a) Students must file an application annually indicating the institution to be attended. No payment will be authorized for any applicant until a current application is on file. The deadline for applications will be October 1 for consideration for all terms, March 1 for consideration for second semester/second and third quarter and summer, and June 15 for consideration for the summer term only.

1) Qualified applicants will receive an eligibility letter from ISAC for each academic year following the filing of the application. Ineligible applicants will receive written notification from ISAC of their ineligibility to receive program benefits; and

2) ISAC will verify application data in consultation with the Illinois Department of Military Affairs (DMAIL) when reviewing an application. Changes to a recipient's National Guard status must be reported to ISAC by DMAIL.

b) A qualified applicant must:

1) be in active status in the Illinois Army or Air National Guard and have served for at least one year in the Illinois National Guard; or

2) have been active in the Illinois National Guard for at least five consecutive years and had ~~his or her~~ studies interrupted by being called to federal active duty for at least six months, and be within the 12 month period immediately following ~~his or her~~ discharge from the Illinois National Guard.

c) Eligibility is not available to those persons who are members of the inactive Illinois National Guard.

d) Recipients must maintain an acceptable grade point average as determined by the institution pursuant to a published policy.

e) Changes of address, name, status with the Illinois National Guard or institution of attendance must be reported in writing to ISAC.

(Source: Amended at 44 Ill. Reg. 11008, effective July 1, 2020)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 2730.30 Program Procedures

a) The recipient is exempt from paying the following:

1) tuition;

2) registration fees;

3) graduation fees;

4) general activity fees;

5) matriculation fees; and

6) term fees.

b) The recipient is responsible for payment of other fees, including the following:

1) book rental fees;

2) laboratory and supply fees;

3) air flight fees;

4) hospital and health insurance fees;

5) room and board;

6) parking fees;

7) student union fees;

8) athletic fees;

9) proficiency or placement exam fees and other similar fees; and

10) service fees.

c) Benefits are applicable to both undergraduate and graduate enrollment. There is

no minimum credit-hour enrollment requirement. Benefits are applicable for noncredit courses.

d) Benefits are limited to use only at Illinois public senior universities and at any Illinois public community college.

e) Within the constraints of appropriation levels, two semester or three quarter term payments and one summer term payment are made directly to the institution after it officially certifies to ISAC that the applicant has registered and is attending classes. No seminars or other special terms are covered under the grant. Summer term is considered the final term of the academic and fiscal year.

f) Benefits for eligible recipients who have completed less than 10 years of active duty service in the Illinois National Guard are limited to the equivalent of four academic years of full-time enrollment.

g) Benefits for eligible recipients who have completed 10 years of active duty service in the Illinois National Guard are limited to the equivalent of six academic years of full-time enrollment.

1) Benefits for an academic year shall be determined on the basis of credit hours in which the qualified applicant enrolls. Each credit hour (and noncredit hour for which benefits are used) will be converted to "eligibility units" according to the following chart:

Number of Hours	Semester School	Quarter School
12 or more hours	12 units	8 units
9 - 11.99 hours	9 units	6 units
6 - 8.99 hours	6 units	4 units
3 - 5.99 hours	3 units	2 units
0 - 2.99 hours	1 unit	1 unit

2) When a qualified applicant becomes eligible to receive educational assistance under Section 2730.40(b), the number of units used will be calculated as follows:

A) Multiply the percentage of the tuition and fee charges exempted by the ING Grant by the number of credit hours attempted.

B) Convert the result to eligibility units, as described in the table in subsection (g)(1).

3) Eligible recipients who have completed less than 10 years of active duty service in the Illinois National Guard may continue to reapply and accumulate up to 120 units. Eligible recipients who have completed 10 years of active duty service in the Illinois National Guard may continue to reapply and accumulate up to 180 units. Full program benefits may be extended for one additional term if the recipient has accumulated fewer than the maximum number of eligibility units but does not have enough units remaining for the number of hours in which the recipient~~she/he~~ is enrolled for the term.

4) If an eligible recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive a grant for costs incurred up to the term award provided the institution's tuition refund policy indicates the recipient has incurred charges in the amount of the claim.

5) In the event that the recipient withdraws from a course or courses prior to the end of a term, a refund will be made according to the institution's refund withdrawal policy and eligibility units will be adjusted accordingly.

6) The eligibility units used for a noncredit course shall be the same as the number of eligibility units used for a credit course having the same number of total faculty contact hours.

h) If a current year applicant is discharged, transferred to the inactive Illinois National Guard, or has membership extended by the Illinois National Guard, ISAC will send a revised eligibility letter or ineligibility letter to the applicant. In the case of discharge, a copy of the letter will be sent to the institution of record.

i) Except as otherwise provided in this Part, if a recipient ceases to be an active status member of the Illinois National Guard during a term, benefits cease, and the student is responsible for the unpaid costs attributed to the remainder of the term. If an applicant becomes eligible during a term, in accordance with Section 2730.20(b), benefits will be prorated for that portion of the term for which the applicant is eligible, provided the application is submitted by the deadlines. Costs

are prorated on the basis of the institution's scheduled days of instruction minus institutionally scheduled holidays and examination periods.

Calculation: Total tuition cost divided by total instructional days = cost per day x days of eligibility = total proration.

j) If the recipient of a grant awarded under this Part ceases to be a member of the Illinois National Guard, but has been active in the Illinois National Guard for at least five consecutive years and had ~~his or her~~ studies interrupted by being called to federal active duty for at least six months, then that recipient shall continue to be eligible for a grant for one year after ~~his or her~~ discharge from the Illinois National Guard, provided that the recipient has not already received the exemption from tuition and fees for the equivalent of four years of full-time enrollment under this Part.

k) Out-of-state residents will receive tuition and applicable fee benefits equivalent to those received by in-state residents at the Illinois institution; recipients attending out-of-district community colleges will receive tuition and applicable fee benefits equivalent to those at the in-district rate. Recipients shall not be responsible for paying the difference between in-state and out-of-state tuition nor will they be responsible for paying the difference between in-district and out-of-district tuition. Institutions are permitted to require documentation of residency in order to determine in-district or out-of-district payment.

l) If a student is eligible for both an Illinois National Guard Grant and a MAP grant, the Illinois National Guard benefits must be used first. A student cannot decline an Illinois National Guard Grant in favor of using MAP.

m) If a recipient of the grant fails to complete the~~his or her~~ military obligation according to the agreement, all proceeds received must be repaid to the Illinois Department of Military Affairs. DMAIL will collect the funds, which will be used by ISAC for the purpose of this Part.

(Source: Amended at 44 Ill. Reg. 11008, effective July 1, 2020)

Section 2730.40 Institutional Procedures

a) The institution must establish a qualified applicant's initial eligibility before requesting payment from ISAC. A valid Illinois National Guard Grant eligibility

letter may be used for this purpose.

b) If a student is eligible for, and has indicated to the institution the intent~~that he/she has elected~~ to receive, educational assistance through the Post-9/11 GI Bill (38 USC, Chapter 33), ~~and that assistance is an amount described at 38 USC 3313(c)(2), (c)(3), (c)(4), (c)(5), (c)(6) or (c)(7) (net cost of tuition and fees),~~ the institution must first apply Post-9/11 GI Bill benefits to the student's financial aid award. ING Grant benefits can then be used to cover the remaining ING Grant eligible tuition and fees.

c) Institutions must report the total number of hours for which payment is being requested (including credit and noncredit hours) so that ISAC can accurately track the recipient's use of eligibility units.

d) ING Grants are paid directly to the approved institution of record that certifies to ISAC that the applicant is an eligible recipient.

1) ISAC will annually establish priority claim dates for the submission of payment requests and inform institutions of the required priority dates. For the fall term, the priority claim date will be during the month of December; for the spring term, the priority claim date will be during the last two weeks of March or the first two weeks of April; for the summer term, the priority claim date will be during the month of July.

2) Late payment requests will result in delayed processing of payments. Payment requests are processed in the sequence of receipt by ISAC and as funds are available.

3) Institutions may submit payment requests beginning 10 days prior to the start of classes for the term for which payment is being requested.

e) Claims will be paid as follows:

1) first semester and first quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full;

2) if funds remain after first semester and first quarter claims are paid, then second semester and second and third quarter claims received by the

designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full;

3) if funds still remain after the preceding claims are paid, summer term claims received by the designated deadline date will be paid, or prorated if remaining funds are insufficient to pay all summer claims in full;

4) in the event that funds are not exhausted by summer term payments, claims received after the designated deadline dates will be paid or prorated; and

5) timely claims for the difference between in-district/state and out-of-district/state tuition for recipients who do not qualify for chargebacks will be considered for payment at the same time, and in the same priority order, as all other timely claims, in accordance with the provisions of this subsection (e).

f) Payments on behalf of a recipient will be made to only one institution per term. For any institution that has a concurrent registration opportunity, the same payment policy will be in effect as that used in the Monetary Award Program. (See: 23 Ill. Adm. Code 2735.40(h).)

g) Institutions are required to reconcile payments, both payment data and actual funds, received through ING and, as applicable, submit all necessary corrections to student records on a timely basis.

1) Within 30 days after and including the date of receiving payment of any ING funds claimed pursuant to this Section, the institution shall credit the ING funds against the recipients' tuition and eligible fee charges for the appropriate term.

2) Within 30 days after the end of an academic term during which ING funds are credited to recipients' tuition and eligible fee charges, institutions must reconcile data received from ISAC as a result of payment claim processing against the eligibility status throughout that term for each student for whom payment claims were made. In reconciling the data with student eligibility, an institution must determine whether:

A) The amount of the claim applied to a student's tuition and eligible fee charges exceeded the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

B) The amount of the claim applied to a student's tuition and eligible fee charges was less than the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

C) The amount of the claim applied to a student's tuition and eligible fee charges equaled the amount that the student was eligible to receive.

3) Any institution that determines that the amount of a claim applied to a student's tuition and mandatory fee charges either exceeded the amount that the student was eligible to receive or was less than that amount must submit an accounting of all such adjustments to ISAC within 30 days following the end of the applicable term.

4) For any claims determined to exceed the amount that the student was eligible to receive, the amount in excess paid for the claims shall be remitted to ISAC within 45 days after the end of the applicable term unless the payment is received after the end of the regular school year. If the payment of claims is made after the end of the regular school year, the institution shall have 60 days following receipt of the payment to complete reconciliation and remit any funds due to ISAC.

5) Award payments made in the name of one recipient cannot be applied to another recipient at the same institution. A refund of the payment made must be submitted to ISAC, and a supplemental request for payment must be processed for the proper recipient.

(Source: Amended at 44 Ill. Reg. 11008, effective July 1, 2020)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Veteran Grant (IVG) Program

2) Code Citation: 23 Ill. Adm. Code 2733

3)

Section Numbers:	Adopted Actions:
2733.20	Amendment
2733.30	Amendment
2733.40	Amendment

4) Statutory Authority: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/40 and 20(f)].

5) Effective Date of Rules: July 1, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 3154; February 21, 2020

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposed and Final Version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part was revised to clarify the new 15-year Illinois residency requirement and to document a priority claim date that better aligns with program processing procedures. Additionally, revisions were made to designate potential state benefits available via the Illinois Veteran Grant (IVG) Program as the last

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

payer for veterans with 100% Post-9/11 GI Bill eligibility who are concurrently drawing IVG benefits. The change is intended to maximize benefit preservation for veterans who qualify for both potentially available state benefits and the Post-9/11 GI Bill.

16) Information and questions regarding these adopted rules shall be directed to:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782.5161
jackie.eckley@illinois.gov

The full text of the Adopted Amendments begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2733
ILLINOIS VETERAN GRANT (IVG) PROGRAM

Section
2733.10 Summary and Purpose
2733.20 Applicant Eligibility
2733.30 Program Procedures
2733.40 Institutional Procedures

AUTHORITY: Implementing Section 40 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947].

SOURCE: Emergency rule adopted at 10 Ill. Reg. 14322, effective August 20, 1986 for a maximum of 150 days; emergency expired January 16, 1987; adopted at 11 Ill. Reg. 3207, effective January 29, 1987; amended at 12 Ill. Reg. 11536, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1733 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2733 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17858; amended at 14 Ill. Reg. 10571, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 15613, effective October 11, 1991, for a maximum of 150 days; emergency expired March 9, 1992; emergency amendment at 15 Ill. Reg. 18778, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 6880, effective April 14, 1992; amended at 16 Ill. Reg. 11261, effective July 1, 1992; amended at 17 Ill. Reg. 10570, effective July 1, 1993; amended at 18 Ill. Reg. 10309, effective July 1, 1994; amended at 20 Ill. Reg. 9200, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11139, effective July 18, 1997; amended at 22 Ill. Reg. 11114, effective July 1, 1998; amended at 23 Ill. Reg. 7575, effective July 1, 1999; amended at 24 Ill. Reg. 9166, effective July 1, 2000; amended at 25 Ill. Reg. 8418, effective July 1, 2001; amended at 26 Ill. Reg. 10020, effective July 1, 2002; amended at 27 Ill. Reg. 10342, effective July 1, 2003; emergency amendment at 28 Ill. Reg. 12932, effective September 15, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2462, effective February 1, 2005; amended at 29 Ill. Reg. 9912, effective July 1, 2005; amended at 30 Ill. Reg. 11646, effective July 1, 2006; amended at 32 Ill. Reg. 10313, effective July 1, 2008; amended at 36 Ill. Reg. 9426, effective July 1, 2012; amended at 37 Ill. Reg. 9522, effective July 1, 2013; amended at 39 Ill. Reg. 8425, effective July 1, 2015; amended at 42 Ill. Reg. 13628, effective July 1, 2018; emergency amendment at 43 Ill. Reg. 10804, effective September 18,

2019, for a maximum of 150 days; amended at 44 Ill. Reg. 2893, effective February 1, 2020; amended at 44 Ill. Reg. 11019, effective July 1, 2020.

Section 2733.20 Applicant Eligibility

a) A qualified applicant shall be any member of the Armed Forces of the United States, a reserve component of the Armed Forces, or the Illinois National Guard who has served at least one year of federal active duty service and whose service has been characterized as honorable, provided the applicant~~he or she~~:

1) was a:

A) resident of Illinois at the time of entering federal active duty service or within 6 months prior to entering the service; or

B) student at an Illinois public university or community college at the time of entering federal active duty service; and

2) established or plans to establish Illinois residency within 6 months after leaving federal active duty service, or if married to a person in continued military service:

A) applied for this grant within 6 months after and including the date that the spouse was stationed within Illinois; or

B) established Illinois residency within 6 months after and including the date that the spouse was separated (if the spouse was stationed outside Illinois).

b) To use benefits, a qualified applicant meeting the requirements of subsection (a) must reside in Illinois while enrolled unless ~~he or she is serving~~ federal active duty is being served during the time of enrollment or the qualified applicant is residing with a spouse in continued military service who is currently stationed outside of Illinois.

c) An applicant who does not meet the residency requirements in subsection (a) may be a qualified applicant if the applicant~~he or she~~:

1) resides in Illinois at the time of application and while enrolled; and

2) has been a resident of Illinois for at least 15 consecutive years at some point since leaving federal active duty.

d) Any member of the Armed Forces of the United States, a reserve component of the Armed Forces, or the Illinois National Guard who has served at least one year of federal active duty service and who meets the Illinois residency requirements of this Section is a qualified applicant if the~~his or her~~ service was characterized as honorable. If the applicant is still in service, the individual shall be subject to verification of continued eligibility for assistance under this Part after each period of federal active duty service.

e) A recipient must maintain an acceptable grade point average as determined by the institution pursuant to a published policy.

f) An individual is not a qualified applicant unless the individual's service was characterized as honorable for each period of federal active duty service.

g) An individual is not a qualified applicant if the individual's federal active duty service was for less than one year unless:

1) the applicant's separation from such service for medical reasons directly connected with such service was characterized as honorable; or

2) the applicant's separation prior to August 11, 1967 was characterized as honorable; or

3) the applicant's federal active duty service, which included service in a foreign country in a time of hostilities in that country, was characterized as honorable. As used in this Section, "time of hostilities in a foreign country" means any action by the Armed Forces of the United States that is recognized by the issuance of a Presidential proclamation or a Presidential executive order and in which the Armed Forces expeditionary medal or other campaign service medals are awarded according to Presidential executive order.

h) Members of the Reserve Officer Training Corps (ROTC) are not eligible for assistance under this Part.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

i) Applicants are not eligible if their only service has been attendance at a service academy.

j) In order to establish eligibility for this grant, an individual shall submit to ISAC an application and documentation of all periods of service.

1) An applicant should submit a copy of the~~his or her~~ Certificate of Release or Discharge From Active Duty (DD Form 214) or Discharge Certificate, which can be obtained from the National Personnel Records Center or the Illinois Department of Veterans' Affairs.

2) If the applicant does not have a copy of the DD Form 214, the applicant~~he/she~~ should submit documentation that provides the following information: date of entry, date of separation, character of service, total active service, home or place of entry into the service, and home or place of separation from the service. The documentation must have been issued by the United States Department of Defense (DD) or the United States Department of Veterans Affairs.

3) If the applicant is a member of the Armed Forces at the time of application,~~ he or she shall submit~~ a letter from the commanding officer shall be submitted. This letter must:

A) indicate that the applicant is a member of the Armed Forces at the time of application;

B) include character of service;

C) include the veteran's home of record at the time of original enlistment;

D) state the individual's length of time in each period of federal active duty service; and

E) state the expiration date of the current enlistment.

4) The definition of "Resident of Illinois" contained in 23 Ill. Adm. Code 2700.20 does not apply to the Illinois Veteran Grant Program; rather, for the purposes of this program, residency is established as stated in

subsections (a) and (b) or (c). If the applicant's DD Form 214 does not indicate Illinois residency when entering and/or separating from the Armed Forces, and when any other residency requirement is being verified, ~~he/she may verify~~ residency may be verified by providing one or more of the documents listed in this subsection (j)(4). ISAC may choose to request documents in addition to, or instead of, those listed. The dates recorded on the documents must indicate the applicant has resided in Illinois for the required period.

A) Illinois driver's license issued during the relevant 6 month period;

B) Illinois high school or college transcripts demonstrating attendance during the relevant 6 month period;

C) Utility bills/rent receipts in the applicant's name for the relevant 6 month period;

D) Illinois motor vehicle registration issued during the relevant 6 month period;

E) Residential lease in the applicant's name for the relevant 6 month period;

F) Statement of benefits history from the Illinois Department of Public Aid for the relevant 6 month period;

G) Statement of benefits from the Illinois Department of Employment Security for the relevant 6 month period;

H) State of Illinois identification card issued during the relevant 6 month period; or

I) Letter of employment verified by certification in accordance with Illinois law (see 735 ILCS 5/1-109) and printed on company letterhead.

(Source: Amended at 44 Ill. Reg. 11019, effective July 1, 2020)

Section 2733.30 Program Procedures

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

a) An applicant must apply to ISAC for assistance under this Part. ISAC will issue a Notice of Eligibility to each qualified applicant.

b) To receive an Illinois Veteran Grant, a qualified applicant must notify the institution of the qualified applicant's~~his or her~~ eligibility no later than the last scheduled day of classes for the term for which a grant is requested.

c) Benefits are applicable to both undergraduate and graduate enrollment. There are no minimum credit hour enrollment requirements and benefits are applicable for noncredit courses.

d) Benefits are limited to use only at Illinois public universities and Illinois public community colleges.

e) Costs exempted by the IVG:

1) The recipient is exempt from paying costs as follows:

A) tuition and fees that meet the definition of tuition (see 23 Ill. Adm. Code 2700.20);

B) mandatory fees (see 23 Ill. Adm. Code 2700.20).

2) A qualified applicant who has previously received benefits under this Part for a non-mandatory fee shall continue to receive benefits covering those~~such~~ fees while~~ he or she is~~ enrolled in a continuous program of study. The qualified applicant shall no longer receive a grant covering non-mandatory fees if the applicant~~he or she~~ fails to enroll during an academic term, unless~~ he or she is serving on~~ federal active duty is being served. The non-mandatory fees include the following:

A) instructional fees not meeting the definition of tuition;

B) application fees;

C) graduation and transcript fees;

D) proficiency exam, College Level Exam Program (CLEP), placement exam and similar fees;

E) off-campus and other extension course fees;

F) air flight instructor and athletic fees; and

G) matriculation, service and other registration type fees.

f) Recipients attending out-of-district community colleges receive tuition and fee benefits equivalent to those at the in-district rate. Recipients shall not be responsible for paying the difference between in-district and out-of-district tuition. Institutions are permitted to require documentation of residency in order to determine in-district or out-of-district payment.

g) Benefits are limited to the equivalent of four academic years of full-time enrollment, which is measured in eligibility units. Recipients may accumulate up to 120 eligibility units.

1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to eligibility units according to the following table:

Number of Hours	Semester Term	Quarter Term
12 or more hours	12 units	8 units
9 - 11.99 hours	9 units	6 units
6 - 8.99 hours	6 units	4 units
3 - 5.99 hours	3 units	2 units
up to 2.99 hours	1 unit	1 unit

2) When a qualified applicant becomes eligible to receive educational assistance under Section 2733.40(b), the number of units used will be calculated as follows:

A) Multiply the percentage of the tuition and mandatory fee charges covered by the IVG by the number of credit hours attempted.

B) Convert the result to eligibility units, as described in the table in

subsection (g)(1).

3) Full program benefits may be extended for one additional term if the recipient has accumulated fewer than 120 eligibility units but does not have enough units remaining for the number of hours in which the recipient~~he or she~~ is enrolled for the term.

4) In the event that a recipient withdraws from a course prior to the end of a term, a refund will be made according to the institution's refund withdrawal policy and eligibility units will be adjusted accordingly.

5) The eligibility units used for a noncredit course shall be the same as the number of eligibility units used for a credit course having the same number of faculty contact hours.

6) If, for any reason, the U.S. Department of Veteran Affairs (VA) terminates or suspends a veteran educational benefits program, assistance under this Part shall cease six months following this action. This does not include veterans who have begun receiving educational benefits under this Part. In the event that the VA resumes terminated or suspended educational benefits, all current rules will be enforced.

(Source: Amended at 44 Ill. Reg. 11019, effective July 1, 2020)

Section 2733.40 Institutional Procedures

a) If a student is eligible for both an IVG and a Monetary Award Program (MAP) grant, the IVG benefits must be used first. A student cannot decline IVG benefits in favor of using MAP.

b) If a student is eligible for, and has indicated to the institution the intent~~that he/she has elected~~ to receive educational assistance through, the Post-9/11 GI Bill (38 USC, Chapter 33), ~~and that assistance is an amount described at 38 USC 3313(c)(2), (c)(3), (c)(4), (c)(5), (c)(6) or (c)(7) (net cost of tuition and fees),~~ the institution must first apply Post-9/11 GI Bill benefits to the student's financial aid award. IVG benefits can then be used to cover the remaining IVG eligible tuition and mandatory fees.

c) A notice of eligibility from ISAC must be used by the institution to establish a

qualified applicant's initial eligibility.

d) Institutions shall submit a payment request to ISAC.

e) Institutions must report the total number of hours for which payment is being requested (including credit and noncredit hours) so that ISAC can accurately track the recipient's use of eligibility units.

f) ISAC will annually establish priority claim dates for the submission of payment requests and inform institutions of the required priority dates. For the summer term, the priority claim date will be during the month of September; for the fall term, the priority claim date will be during the month of December; for the spring term, the priority claim date will be during the month of May~~last two weeks of March or the first two weeks of April~~.

g) The reimbursement to institutions for Illinois Veteran Grants is contingent upon available funding. Should General Assembly appropriations be insufficient to pay all claims, institutions will be reimbursed in accordance with this subsection:

1) summer term claims received by the deadline date designated in subsection (f) will be paid, or prorated if funding is insufficient to pay all claims in full;

2) if funds remain after summer term claims are paid, first semester and first quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full;

3) if funds remain after first semester and first quarter claims are paid, then second semester/second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full;

4) if funds remain after second semester/second and third quarter claims are paid, claims received by ISAC after the designated deadline dates will be paid or prorated; and

5) timely claims for the difference between in-district/state and out-of-district/state tuition for recipients who do not qualify for chargebacks will be considered for payment at the same time, and in the same priority

order, as all other timely claims, in accordance with the provisions of this subsection (g).

h) Institutions are required to reconcile payments, both payment data and actual funds, received through IVG and, as applicable, submit all necessary corrections to student records on a timely basis.

1) Within 30 days after and including the date of receiving payment of any IVG funds claimed pursuant to this Section, the institution shall credit the IVG funds against the recipient's tuition and mandatory fee charges for the appropriate term.

2) Within 30 days after the end of an academic term during which IVG funds are credited to recipient's tuition and mandatory fee charges, institutions must reconcile data received from ISAC as a result of payment claim processing against the eligibility status throughout that term for each student for whom payment claims were made. In reconciling the data with student eligibility, an institution must determine whether:

A) The amount of the claim applied to a student's tuition and mandatory fee charges exceeded the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

B) The amount of the claim applied to a student's tuition and mandatory fee charges was less than the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

C) The amount of the claim applied to a student's tuition and mandatory fee charges equaled the amount that the student was eligible to receive.

3) Any institution that determines that the amount of a claim applied to a student's tuition and mandatory fee charges either exceeded the amount that the student was eligible to receive, or was less than that amount, must submit an accounting of all such adjustments to ISAC within 30 days following the end of the applicable term.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

4) For any claims determined to exceed the amount that the student was eligible to receive, the amount in excess paid for the claims shall be remitted to ISAC within 45 days after the end of the applicable term unless the payment is received after the end of the applicable term. If the payment of claims is made after the end of the applicable term, the institution shall have 60 days following receipt of the payment to complete reconciliation and remit any funds due to ISAC.

5) Award payments made in the name of one recipient cannot be applied to another recipient at the same institution. A refund of the payment made must be submitted to ISAC, and a supplemental request for payment must be processed for the proper recipient.

(Source: Amended at 44 Ill. Reg. 11019, effective July 1, 2020)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Monetary Award Program (MAP)

2) Code Citation: 23 Ill. Adm. Code 2735

3)

Section Numbers:	Adopted Actions:
2735.30	Amendment
2735.35	Amendment
2735.40	Amendment

4) Statutory Authority: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947].

5) Effective Date of Rules: July 1, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of these adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 3167; February 21, 2020

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposed and Final Version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part was revised to more accurately reflect the award announcement process and to update the name of the Workforce Innovation and Opportunity Act.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted rules shall be directed to:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782-5161
jackie.eckley@illinois.gov

The full text of the Adopted Amendments begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2735
MONETARY AWARD PROGRAM (MAP)

Section
2735.10 Summary and Purpose
2735.20 Applicant Eligibility
2735.30 Program Procedures
2735.35 Dislocated Workers
2735.40 Institutional Procedures
2735.50 Advance Payment Option
2735.60 Contractual Agreement Requirements (Repealed)

2735.APPENDIX A Advance Payment Formula

AUTHORITY: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947].

SOURCE: Adopted at 9 Ill. Reg. 20857, effective January 1, 1986; amended at 11 Ill. Reg. 3225, effective January 29, 1987; amended at 11 Ill. Reg. 14134, effective August 10, 1987; amended at 12 Ill. Reg. 11546, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1735 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2735 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17864; amended at 14 Ill. Reg. 7242, effective May 1, 1990, amended at 16 Ill. Reg. 11296, effective July 1, 1992; emergency amendment at 16 Ill. Reg. 19237, effective November 23, 1992, for a maximum of 150 days; emergency expired on April 22, 1993; emergency amendment at 17 Ill. Reg. 6672, effective April 15, 1993, for a maximum of 150 days; emergency expired on September 18, 1993; amended at 17 Ill. Reg. 10596, effective July 1, 1993; amended at 17 Ill. Reg. 22576, effective January 1, 1994; amended at 19 Ill. Reg. 8369, effective July 1, 1995; amended at 20 Ill. Reg. 9227, effective July 1, 1996; old Part repealed, new Part adopted at 21 Ill. Reg. 11184, effective July 18, 1997; amended at 22 Ill. Reg. 11149, effective July 1, 1998; amended at 23 Ill. Reg. 7592, effective July 1, 1999; amended at 24 Ill. Reg. 9187, effective July 1, 2000; amended at 25 Ill. Reg. 8424, effective July 1, 2001; amended at 26 Ill. Reg. 10024, effective July 1, 2002; amended at 27 Ill. Reg. 10349, effective July 1, 2003; amended at 28 Ill. Reg. 10043, effective July 15, 2004; amended at 29 Ill. Reg. 9920, effective July 1, 2005; amended at 30 Ill. Reg. 11654, effective July 1, 2006; amended at 36 Ill. Reg. 9432, effective

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

July 1, 2012; amended at 37 Ill. Reg. 9528, effective July 1, 2013; amended at 39 Ill. Reg. 8434, effective July 1, 2015; amended at 43 Ill. Reg. 7281, effective July 1, 2019; amended at 43 Ill. Reg. 15025, effective January 1, 2020; amended at 44 Ill. Reg. 11032, effective July 1, 2020.

Section 2735.30 Program Procedures

a) An application for a MAP grant must be submitted annually. An applicant uses the Free Application for Federal Student Aid (FAFSA).

b) Applicants, spouses and the parents of applicants are required to submit financial information on the application that will be kept confidential, regarding income, asset value and non-taxable income.

c) Priority Deadline Date for Renewing Applicants
No later than September 30, the Commission will annually publish a priority deadline date for renewing applicants. *In this subsection (c), renewing applicant means a student attending an institution of higher learning who received a MAP grant during the prior academic year.* [110 ILCS 947/35] Subject to appropriation, a renewing applicant who files by the published priority deadline date shall receive a grant if ~~he or she continues to meet~~ the program's eligibility requirements under this Section continue to be met. A renewing applicant's failure to apply by the priority deadline date would not disqualify an applicant from receiving a grant if sufficient funding is available to provide awards after that date.

d) Awards will be announced concurrently, both for~~to~~ students who had not received a MAP award the previous regular school year and for~~to~~ students who did receive a MAP award during the previous regular school year. Award announcements will be made concurrently through the date of suspension of award announcements.

e) If it becomes necessary to suspend the processing of award announcements in order to remain within appropriated funding levels, the suspension will be applied concurrently to students who had not received a MAP award for the previous regular school year and to students who did receive a MAP award the previous regular school year.

f) Corrections to applications received prior to the final suspension of award announcements will be processed and announced up to 2 months after the final

suspension date or until the completion of the processing cycle, whichever comes first.

g) When an application is incomplete, a notice will be sent to the applicant. The applicant then has an opportunity to furnish the missing information; however, depending on processing schedules, the applicant may be considered only for subsequent term awards.

h) Applicants are informed that they are MAP recipients on the basis of application data supplied to ISAC. ISAC will recalculate awards for those applicants whose applications are not in basic agreement with their financial records, after receipt of corrected data. All announced MAP recipients are subject to verification.

i) The Commission shall annually establish and publicize guidelines for the release of or increase in MAP awards as additional funds become available.

j) MAP grants are applicable only toward tuition and mandatory fees. MAP grants may not exceed the:

1) maximum award specified at Section 35(c) of the Higher Education Student Assistance Act [110 ILCS 947]; or

2) institution's tuition and mandatory fee charges on file with ISAC.

k) The maximum MAP grant available to a recipient attending a public community college is limited to the in-district tuition and mandatory fees. It is the recipient's responsibility to make arrangements to pay the additional costs incurred as an out-of-district student.

l) For each credit hour of MAP benefits paid on behalf of the recipient, the recipient will be assessed one MAP paid credit hour toward the~~his or her~~ maximum usage. For each credit hour used, payment will be made to the school on behalf of the recipient in an amount equal to $^{1}/_{15}$ of the student's calculated term award amount, with a minimum of 3 hours and a maximum of 15 hours paid per term.

m) A recipient may receive the equivalent of 135 semester credit hours of MAP benefits paid. Eligibility may be extended for one additional term if the recipient has accumulated fewer than 135 MAP paid credit hours but does not have enough credit hours of payment remaining for the number of hours for which the

recipient~~he or she~~ is enrolled for the term.

n) A recipient may use more than 75 MAP paid credit hours while enrolled at the freshman or sophomore level, although doing so may leave the student with insufficient remaining MAP eligibility to apply to all remaining credit hours required for the completion of a baccalaureate degree.

o) The MAP grant shall not pay for academic programs intended to prepare a student for the high school equivalency certificate or for a high school diploma.

p) The MAP grant shall not pay for audit courses, credit-by-examination and/or life experience, graduate-level courses leading to a degree above the baccalaureate level, or noncredit course offerings (except qualifying remedial courses). Remedial courses shall be eligible for MAP payment provided the student has been accepted into an eligible degree/certificate program and is taking the remedial courses as part of that program. Payment shall not be made for more than the equivalent of one year of remedial course work (i.e., 30 semester hours or 45 quarter hours).

q) The MAP grant may be used by students repeating previously passed courses for the first time. The MAP grant may not be used for courses that a student has previously passed 2 or more times.

r) If a recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive MAP grant payment for tuition and mandatory fee costs incurred up to the term award provided the institution's tuition refund policy indicates the recipient has incurred charges in the amount of the claim.

s) MAP paid credit hours are assessed to a recipient whenever MAP funds are disbursed on behalf of the recipient.

t) MAP grant payment is subject to the limits of dollars appropriated to ISAC by the General Assembly.

u) It is the responsibility of MAP recipients to gain admission to approved Illinois institutions of higher learning. Illinois institutions of higher learning are not obligated to admit MAP recipients. The institution is obligated to provide MAP recipients the same facilities and instruction, on the same terms, as are provided to

other students.

v) If a recipient's academic program involves out-of-state and/or foreign study, subsection (j) applies and enrollment must be in accordance with the following provisions:

1) The recipient must be enrolled at the ISAC-approved institution of higher learning, and the out-of-state/foreign study must be applicable to the student's degree or certificate program at the student's institution of record.

2) The ISAC-approved institution of higher learning must record the course credits on the official academic transcript as institutionally earned credit and not as transfer credit.

3) An institution shall not request more than 2 semesters/3 quarters of MAP assistance for any one qualified applicant enrolled on a full-time basis, or 4 semesters/6 quarters of MAP for an applicant-enrolled on a half-time basis.

(Source: Amended at 44 Ill. Reg. 11032, effective July 1, 2020)

Section 2735.35 Dislocated Workers

a) Dislocated workers, as defined by the federal Workforce Innovation and Opportunity~~Investment~~ Act ~~of 1998~~ (29 USC 3102~~P.L. 105-220~~), shall receive additional and specific MAP consideration.

b) Dislocated workers must meet all the MAP applicant eligibility requirements established by Section 2735.20.

c) For the 2015-16 and 2016-17 academic years:

1) A dislocated worker applicant will be considered for MAP assistance, even if the application date is after the suspension of award announcements for the general pool of applicants.

2) In determining the number of grants to be offered, ISAC shall consider the financial resources needed to serve dislocated worker applicants who apply after the suspension of award announcements for the upcoming

regular academic year, but prior to the beginning of that academic year. Dislocated worker applicants shall be considered until estimated financial resources are exhausted, but no later than August 15.

(Source: Amended at 44 Ill. Reg. 11032, effective July 1, 2020)

Section 2735.40 Institutional Procedures

a) MAP recipients must report to the institution all additional gift assistance that applies toward tuition and mandatory fees, such as tuition waivers and scholarships.

b) In order for applicants to receive additional and specific consideration as a dislocated worker, as defined by the federal Workforce Innovation and Opportunity Act ~~(29 USC 3102)~~, the institution shall:

1) Verify that the applicant indicated on the FAFSA ~~that he or she~~ is a dislocated worker; and

2) Ensure that the applicant certifies to the institution that the applicant~~he or she~~ is a dislocated worker as defined by the federal Workforce Innovation and Opportunity Act.

c) If a MAP recipient receives other assistance targeted specifically for tuition and fees, the combined assistance shall not exceed the total tuition and fee expenses incurred.

d) If an applicant is eligible for assistance under the Illinois National Guard (ING) Grant Program or the Illinois Veteran Grant (IVG) Program (23 Ill. Adm. Code 2730 and 2733), the applicant is not eligible for a full MAP grant because ING and IVG must be factored into the financial aid packaging prior to awarding MAP gift assistance. The institution may request payment of a partial MAP grant to finance fee expenses not covered by the programs listed in this subsection.

e) If an applicant is eligible to receive tuition or fee benefits through a prepaid or reimbursable tuition plan other than the Illinois Prepaid Tuition Program (23 Ill. Adm. Code 2775), or through a payment to the institution of higher learning by the applicant's employer, the institution of higher learning shall request MAP payment in accordance with this subsection:

1) A prepaid tuition plan is any program that exempts a student from tuition charges because of a payment to the institution at a time prior to the student's enrollment. A reimbursable tuition plan is a program that reimburses a student for tuition costs after satisfactory completion of course work.

2) The institution of higher learning shall recalculate the applicant's MAP eligibility by decreasing the applicant's tuition and fee charges by the amount of benefits the applicant is eligible to receive from the sources in subsection (e)(1). The institution of higher learning shall report the applicant's reduced grant award on the payment request.

f) The provisions of this Section shall not apply to benefits derived from the Baccalaureate Savings Act [110 ILCS 920] and 23 Ill. Adm. Code 2771.

g) Notwithstanding the provisions of other ISAC-administered programs, the total amount of a student's gift assistance may not exceed the cost of attendance. Any excess gift assistance is considered an overaward and the institution of higher learning is required to reduce the MAP award and/or other gift assistance to prevent such an overaward. For the purposes of this calculation, federal veterans benefits are not counted as gift assistance.

h) The institution shall announce MAP eligibility, including the estimated award amount, using ISAC-provided award notification language. The institution shall also provide notification to affected students of any change in award eligibility that may occur during the academic year.

i~~h~~) Institutions of higher learning shall submit payment requests to ISAC.

j~~i~~) For any institution of higher learning that has concurrent registration opportunities, the following policy pertains:

1) The recipient must indicate the~~his/her~~ institution of record on the MAP application.

2) The payment of the term award by ISAC will require the institution of record to receive MAP payment on behalf of any other institutions and the institution of record shall distribute the appropriate share of the award to

the other institutions. Payment by ISAC will not be made to more than one institution.

3) The amount paid cannot exceed the maximum term award for students at the institution of record, or the tuition and mandatory fee costs at the institution of record if the costs are less than the maximum term award.

4) Concurrent registration is limited to ISAC-approved institutions of higher learning.

5) The recipient's academic records at the institution of record must document the total number of credit hours for which the student is enrolled.

k~~j~~) If an Illinois institution operates an out-of-state center, residents of Illinois enrolled in classes at the out-of-state center may receive MAP benefits in accordance with Section 2735.30(v).

l~~k~~) If an announced recipient's credit hour enrollment decreases before the expiration of the tuition refund/withdrawal adjustment period, the institution shall only request payment up to the tuition and mandatory fee amount based on the number of credit hours enrolled.

m~~l~~) Upon receipt of a payment request from the institution of record, ISAC remits MAP grant funds to the institution of record on behalf of the recipient. The institution of record shall credit these funds to the recipient's account.

n~~m~~) MAP grants are paid directly to the approved institution of record that certifies to ISAC that the applicant is an eligible recipient.

1) ISAC will annually establish priority claim dates for the submission of payment requests and inform schools of the required priority dates.

2) Late payment requests will result in delayed processing of payments. Payment requests are processed in the sequence of receipt by ISAC and as funds are available.

3) Institutions may submit their payment requests beginning 10 days prior to the start of classes for the term for which they are requesting payment.

o~~n~~) Institutional Processing of Payments

1) Within 30 days after and including the date of receiving payment of any MAP funds claimed or advanced pursuant to this Section, the institution shall credit the MAP funds against the recipients' tuition and mandatory fee charges for the appropriate term.

2) Within 30 days after the end of an academic term during which MAP funds were credited to recipients' tuition and mandatory fee charges, institutions must reconcile data received from ISAC as a result of payment claim processing against the eligibility status throughout that term for each student for whom payment claims were made. In reconciling the data with student eligibility, an institution must determine whether:

A) The amount of the claim applied to a student's tuition and mandatory fee charges exceeded the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals;

B) The amount of the claim applied to a student's tuition and mandatory fee charges was less than the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or

C) The amount of the claim applied to a student's tuition and mandatory fee charges equaled the amount that the student was eligible to receive.

3) Any institution that determines that the amount of a claim applied to a student's tuition and mandatory fee charges either exceeded the amount that the student was eligible to receive or was less than that amount must submit an accounting of all such adjustments to ISAC within 30 days following the end of the applicable term.

4) For any claims determined to exceed the amount that the student was eligible to receive, the amount in excess paid for the claims shall be remitted to ISAC within 45 days after the end of the institutions regular school year unless the payment is received after the end of the regular

school year. If the payment of claims are made after the end of the regular school year, the institution shall have 60 days following receipt of the payment to complete reconciliation and remit any funds due to ISAC.

5) Award payments made in the name of one recipient cannot be applied to another recipient at the same institution. A refund of the payment made must be submitted to ISAC, and a supplemental request for payment must be processed for the proper recipient.

6) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests except for summer term must be received by ISAC no later than July 1. Summer term payment requests must be received no later than July 31.

7) Payment requests received after August 1 for the prior academic year will be processed as time and available funds permit; however, final action may require institutions to go to the Illinois Court of Claims to obtain payment for approved claims. (See the Court of Claims Act [705 ILCS 505].)

(Source: Amended at 44 Ill. Reg. 11032, effective July 1, 2020)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Adult Vocational Community College Scholarship Program

2) Code Citation: 23 Ill. Adm. Code 2745

3)

Section Numbers:	Adopted Actions:
2745.10	New Section
2745.20	New Section
2745.30	New Section
2745.40	New Section

4) Statutory Authority: Implemented and authorized by Section 65.105 of the Higher Education Student Assistance Act [110 ILCS 947/65.105].

5) Effective Date of Rules: July 1, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of these adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 3179; February 21, 2020

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposed and Final Version: Changes were made to clarify the type of assistance the program provides and the age requirement of applicants. Other minor wording changes were made to add clarity.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

15) Summary and Purpose of Rulemaking: PA 101-315, signed into law on August 9, 2019, established the Adult Vocational Community College Scholarship Program. As required by the legislation, this rulemaking establishes the necessary rules to implement the program.

16) Information and questions regarding these adopted rules shall be directed to:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782-5161
jackie.eckley@illinois.gov

The full text of the Adopted Amendments begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2745
ADULT VOCATIONAL COMMUNITY COLLEGE SCHOLARSHIP PROGRAM

Section
2745.10 Summary and Purpose
2745.20 Applicant Eligibility
2745.30 Program Procedures
2745.40 Institutional Procedures

AUTHORITY: Implemented and authorized by Section 65.105 of the Higher Education Student Assistance Act [110 ILCS 947].

SOURCE: Adopted at 44 Ill. Reg. 11044, effective July 1, 2020.

Section 2745.10 Summary and Purpose

a) The Adult Vocational Community College Scholarship Program provides, subject to appropriation, unemployed persons who are over 30 years of age and who have been actively searching for employment, scholarship assistance for training, or a certificate, credential, or associate degree at their local Community College.

b) This Part governs the Adult Vocational Community College Scholarship Program. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

Section 2745.20 Applicant Eligibility

a) A qualified applicant shall:

1) be a citizen of the United States or eligible noncitizen;

2) be a resident of Illinois;

3) be over 30 years of age;

4) have been unemployed and actively searching for employment, including being enrolled on the Department of Employment Security's job-search website for at least 6 months prior to the date the application is submitted by the applicant;

5) be enrolled or accepted for enrollment at the local community college organized under the Public Community College Act;

6) be able to identify:

A) the specific training certificate, credential, or associate degree that is being sought;

B) the specific career that the certificate, credential, or degree will help effectuate; and

C) how long it will take the applicant to complete the educational goal described in subsecton (a)(6)(A).

b) Applicants may re-apply if they can demonstrate continual progress, in terms of grades and attendance, toward the desired certificate, credential, or degree.

Section 2745.30 Program Procedures

a) An applicant must:

1) file a FAFSA by June 1 prior to the academic year for which assistance is being requested; and

2) provide proof that the applicant is unemployed and has been actively searching for employment and that the applicant was enrolled on the Department of Employment Security's job-search website for at least 6 months prior to the date the application is submitted by the applicant.

b) The scholarship shall be sufficient to cover the cost of tuition and fees to attend the community college, but in no event shall the scholarship exceed $2,000 per scholarship recipient per academic year.

c) Scholarship funds are applicable toward 2 semesters of enrollment within an academic year.

d) The total amount of a scholarship awarded by the Commission under this Part to an individual in any given fiscal year, when added to other financial assistance awarded to that individual for that year, shall not exceed the cost of attendance at the community college at which the student is enrolled.

e) The scholarship will be disbursed in installments depending on the number of terms financed by the scholarship.

f) The scholarship payment is subject to the availability of funds and the amounts appropriated to ISAC by the General Assembly. If funds appropriated for the program are insufficient to provide scholarships to each eligible applicant, the Commission will prioritize the distribution of scholarships based on factors that include an applicant's financial need, duration of unemployment, prior level of educational attainment, and the FAFSA filing date.

g) It is the responsibility of applicants to gain admission to their local approved Illinois community college. Institutions are not obligated to admit them based upon their participation in the scholarship program.

Section 2745.40 Institutional Procedures

a) The institution shall submit eligibility information for qualified applicants in sufficient time for ISAC to make award announcements.

b) The institution shall submit its request for payment within the time frame requested by ISAC, which shall be no sooner than 30 days unless a more rapid response is necessary to expend appropriated funds prior to the end of the academic year.

c) By submitting a payment request, an institution is certifying that the qualified applicants meet the requirements of Section 2745.20.

d) Funds shall be remitted by ISAC to institutions on behalf of the recipients.

e) Upon receipt of scholarship funds, the institution shall verify the qualified applicant's enrollment status, the program the student is enrolled in, and the length of time necessary to complete the program.

f) If the applicant is enrolled in a program that meets the eligibility requirements in Section 2745.20, the institution may credit the scholarship funds to the student's account for cost of tuition and fees due and payable.

g) Upon receipt of the scholarship, if the qualified applicant has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the scholarship payment to ISAC.

h) Assistance received by a student under this Program must not be reduced by the receipt of other financial aid from any source. Other aid must be reduced when the total amount of gift assistance received would exceed the cost of attendance used to calculate Title IV aid for that student.

i) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests, except for summer term, must be received by ISAC no later than July 1. Summer term payment requests must be received no later than July 31.

j) Payment requests received after those dates for the award year will be processed as time and available funds permit; however, final action may require institutions to go to the Illinois Court of Claims to obtain payment for approved claims. (See the Court of Claims Act [705 ILCS 505].)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Golden Apple Scholars of Illinois Program

2) Code Citation: 23 Ill. Adm. Code 2764

3)

Section Numbers:	Adopted Actions:
2764.30	Amendment
2764.40	Amendment

4) Statutory Authority: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)].

5) Effective Date of Rules: July 1, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of these adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 3185; February 21, 2020

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposed and Final Version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part was revised to more accurately reflect the institution's role in certifying recipient eligibility.

16) Information and questions regarding these adopted rules shall be directed to:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782-5161
jackie.eckkley@illinois.gov

The full text of the Adopted Amendments begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2764
GOLDEN APPLE SCHOLARS OF ILLINOIS PROGRAM

Section
2764.10 Summary and Purpose
2764.20 Applicant Eligibility
2764.30 Program Procedures
2764.40 Institutional Procedures

AUTHORITY: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947].

SOURCE: Emergency rules adopted at 19 Ill. Reg. 976, effective February 1, 1995, for a maximum of 150 days; emergency expired on June 30, 1995; adopted at 19 Ill. Reg. 11367, effective August 1, 1995; amended at 20 Ill. Reg. 9141, effective July 1, 1996; old Part repealed at 21 Ill. Reg. 11027 and new Part adopted at 21 Ill. Reg. 11029, effective July 18, 1997; amended at 22 Ill. Reg. 11043, effective July 1, 1998; amended at 24 Ill. Reg. 9095, effective July 1, 2000; amended at 27 Ill. Reg. 10395, effective July 1, 2003; emergency amendment at 27 Ill. Reg. 14860, effective September 10, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1749, effective January 25, 2004; amended at 28 Ill. Reg. 9162, effective July 1, 2004; amended at 30 Ill. Reg. 11687, effective July 1, 2006; amended at 32 Ill. Reg. 10333, effective July 1, 2008; amended at 33 Ill. Reg. 9784, effective July 1, 2009; amended at 36 Ill. Reg. 13957, effective September 1, 2012; emergency amendment at 37 Ill. Reg. 15446, effective September 3, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 2898, effective January 15, 2014; amended at 39 Ill. Reg. 8462, effective July 1, 2015; amended at 42 Ill. Reg. 13649, effective July 1, 2018; amended at 44 Ill. Reg. 11050, effective July 1, 2020.

Section 2764.30 Program Procedures

a) Qualified applicants shall have completed and filed an application for program participation with the Foundation prior to becoming eligible for scholarship assistance under this Section. Applications shall be made available to qualified applicants by and submitted to the Foundation before a qualified applicant may be designated as a Golden Apple Scholar by the Foundation.

b) The Foundation shall designate Golden Apple Scholars as defined in their established selection protocol.

c) Each year, the Foundation shall identify Golden Apple Scholars eligible to receive scholarship assistance from ISAC under this Part by submitting to ISAC any necessary data related to the qualified applicant and, at such time, by certifying that:

1) Students selected to receive scholarship assistance under this Part meet the eligibility requirements described in Section 2764.20(a) or in the Higher Education Student Assistance Act [110 ILCS 947/52];

2) Students selected to receive scholarship assistance under this Part have entered into a Program Agreement and Promissory Note with the Foundation that satisfies the requirements listed in this Part; and

3) Thirty percent of students selected to receive scholarship assistance under this Part in a given fiscal year will be awarded to students residing in counties having a population of fewer than 500,000.

d) In order to receive scholarship assistance under this Part, a Golden Apple Scholar must have signed a program agreement and promissory note with the Foundation on behalf of ISAC that includes the following stipulations:

1) the recipient pledges to teach, on a full time basis, for a period of not less than five years and in accordance with any additional commitment to teach in a teacher shortage discipline, which shall include early childhood education;

2) the recipient shall begin teaching within two years following completion of the postsecondary education degree or certificate program for which the scholarship was awarded, and shall teach on a continuous basis for the required period of time;

3) the teaching requirement will be fulfilled at a nonprofit Illinois public, private or parochial preschool, or an Illinois public elementary or secondary school that qualifies for teacher loan cancellation under section 465(a)(2)(A) of the HEA (20 USC 1087ee(a)(2)(A));

4) if the teaching requirement is not fulfilled, the scholarship assistance provided under this Part converts to a loan and the recipient must repay the entire amount of the scholarship prorated according to the fraction of the teaching obligation not completed, plus interest at a rate equal to five percent and, if applicable, reasonable collection fees;

5) the recipient agrees to provide the Foundation or ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and

6) the recipient promises to use the proceeds of the scholarship for educational expenses.

e) All amounts collected on a scholarship that converts to a loan under this Part, less any portion of those funds that equals the amount in expenses that ISAC has incurred in collecting the debt, shall be remitted to the Comptroller for deposit in the General Revenue Fund.

f) A recipient of a scholarship awarded under this Part shall not be in violation of the program agreement and promissory note for failing to begin teaching within two years after graduation if, during that period, the recipient:

1) serves, for not more than three years, as a member of the United States Armed Forces; or

2) is enrolled full-time in a graduate course of study related to the field of teaching at an institution of higher learning; or

3) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a qualified physician; or

4) is actively seeking and unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (d)(3) for one continuous period not to exceed two years, and is able to provide evidence of that fact; or

5) is taking additional courses, on at least a half-time basis, needed to obtain licensure as a teacher in Illinois; or

6) is fulfilling teaching requirements associated with other programs administered by ISAC if the requirements~~he or she~~ cannot be concurrently fulfilled~~fulfill them~~ in a period of time equal to the length of the teaching commitment; or

7) is participating in a program established by Executive Order 10924 of the President of the United States or the National Community Service Act of 1990 (42 USC 12501 et seq., as amended).

g) If a recipient is required to repay any portion of the scholarship, the repayment period shall be completed within 10 years. The Commission shall grant a period of forbearance or deferment during repayment of the loan that shall not be counted toward the 10-year repayment period, if the recipient:

1) serves, for not more than three years, as a member of the United States Armed Forces; or

2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician; or

3) is pursuing a graduate course of study and is enrolled on a full-time basis for one continuous period of time not to exceed three years; or

4) is seeking and unable to find full-time employment for one continuous period not to exceed two years and is able to provide evidence of that fact; or

5) withdraws from a course of study leading to licensure/approval in a teacher shortage discipline, but is enrolled at least half-time as an undergraduate for one continuous period of time not to exceed three years.

h) During the time a recipient qualifies for periods of deferment or forbearance described in subsection (g), ~~he or she shall not be required to make~~ payments shall not be required and interest shall not accrue.

i) A recipient shall enter repayment status on the earliest of the following dates:

1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to licensure as a teacher, but not until six months have elapsed after the cessation of at least half-time enrollment in such a course of study;

2) the date the Foundation informs ISAC or ISAC otherwise learns that a recipient of scholarship assistance has not fulfilled the teaching obligation; or

3) the day after the latest date upon which the recipient must have begun teaching after completing the postsecondary education for which the scholarship was awarded.

j) A recipient shall not be required to repay the amount of the scholarship received if the recipient~~he or she~~ becomes permanently and totally disabled, so as to be unable to perform the essential function of a teacher with or without accommodation as determined by a licensed physician, or if a recipient's~~his or her~~ representative provides ISAC with a death certificate or other evidence that the recipient has died.

(Source: Amended at 44 Ill. Reg. 11050, effective July 1, 2020)

Section 2764.40 Institutional Procedures

a) The institution shall certify~~submit~~ eligibility information for selected recipients~~ in sufficient time for ISAC to make award announcements~~.

b) The institution shall submit its request for payment within the time frame requested by ISAC, which shall be no sooner than 30 days unless a more rapid response is necessary to expend appropriated funds prior to the end of the academic year.

c) ISAC shall disburse scholarship funds in two or three installments, depending on the number of terms financed by the scholarship, except that multiple disbursements shall not be required in cases where the applicant's eligibility is not determined until the final term of the academic year for which the scholarship is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

d) Funds shall be remitted by ISAC to institutions on behalf of the recipients.

e) Upon receipt of scholarship funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended. If enrolled, the institution may credit the scholarship funds to the recipient's account for expenses due and payable. The balance of the disbursement shall be released to the recipient.

f) Upon receipt of the scholarship funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the scholarship payment to ISAC.

g) Scholarship assistance provided under this Part shall be subject to the following conditions:

1) A recipient may receive up to 8 semesters or 12 quarters of scholarship assistance under this program.

2) Scholarship funds are applicable toward two semesters or three quarters of half-time and full-time study within an academic year.

3) The total number of scholarships awarded in a given fiscal year is contingent upon available funding.

4) Program scholarships are applicable only toward tuition, fees and room and board charges or commuter allowances, if applicable.

5) The annual scholarship amount shall be computed by the institution and be the lesser of:

A) tuition and fees plus room and board expenses charged by the institution;

B) tuition and fees plus the institution's standard cost of living allowance for students living off-campus;

C) an amount not to exceed $5,000 unless otherwise authorized by this Section.

6) The total amount of scholarship assistance awarded under this Section to a recipient of scholarship assistance under this Part in a given academic year, when added to the other financial aid available to the qualified applicant for that year, cannot exceed the cost of attendance.

7) A recipient of scholarship assistance under this Part may receive grant assistance under the Monetary Award Program only up to the amount by which the qualified applicant's cost of attendance exceeds the amount of the scholarship assistance awarded under this Section.

h) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests must be received by ISAC no later than July 1.

(Source: Amended at 44 Ill. Reg. 11050, effective July 1, 2020)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: AIM HIGH Grant Pilot Program

2) Code Citation: 23 Ill. Adm. Code 2766

3)

Section Numbers:	Adopted Actions:
2766.10	Amendment
2766.15	Amendment
2766.20	Amendment
2766.40	Amendment
2766.50	Amendment

4) Statutory Authority: Implementing and authorized by Section 65.100 of the Higher Education Student Assistance Act [110 ILCS 947/65.100].

5) Effective Date of Rules: July 1, 2020

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of these adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 3194; February 21, 2020

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposed and Final Version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part was revised to incorporate a clarification from PA 101-613 that defines the period of time used to determine a

university's baseline award amount that is used to meet the Maintenance of Effort requirement.

16) Information and questions regarding these adopted rules shall be directed to:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782.5161
jackie.eckkley@illinois.gov

The full text of the Adopted Amendments begins on the next page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2766
AIM HIGH GRANT PILOT PROGRAM

Section
2766.10 Summary and Purpose
2766.15 Definitions
2766.20 Institutional Applicant Eligibility
2766.30 Program Procedures
2766.40 Institutional Procedures
2766.50 Student Applicant and Recipient Eligibility

AUTHORITY: Implementing and authorized by Section 65.100 of the Higher Education Student Assistance Act [110 ILCS 947].

SOURCE: Former Part 2766 repealed at 31 Ill. Reg. 9523, effective July 1, 2007; new Part 2766 adopted by emergency rulemaking at 42 Ill. Reg. 17265, effective September 13, 2018, for a maximum of 150 days; new Part adopted at 43 Ill. Reg. 2263, effective February 1, 2019; amended at 43 Ill. Reg. 15048, effective January 1, 2020; amended at 44 Ill. Reg. 11059, effective July 1, 2020.

Section 2766.10 Summary and Purpose

a) In an effort to increase enrollment of Illinois residents at Illinois public universities, increase overall retention of Illinois college students in Illinois, and encourage Illinois residents to attain a college degree, State appropriated funds are to be used to enable Illinois public universities to establish a merit-based, means-tested award program known as the Aspirational Institutional Match Helping Illinois Grow Higher Education Grant Pilot Program (AIM HIGH) to make college more affordable at their campuses while reducing the amount of student loan debt. Each eligible public university campus must match those funds with non-loan financial aid for eligible students and maintain or exceed levels of financial aid given to its Illinois residents from the 2017-18 academic year, not including the summer term~~fiscal year 2018~~. ISAC is responsible for administering the distribution of AIM HIGH grant funds to the public universities in compliance with this Part and the AIM HIGH Grant Agreement.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

b) This Part establishes rules that govern AIM HIGH. Additional rules and definitions are contained in General Provisions (23 Ill. Adm. Code 2700 and 44 Ill. Adm. Code 7000).

(Source: Amended at 44 Ill. Reg. 11059, effective July 1, 2020)

Section 2766.15 Definitions

"Baseline Awards" means the total amount of qualifying non-loan financial aid the public university campus awarded to its Illinois resident undergraduate students in academic year 2017-18, not including the summer term.

"Illinois High School" − any high school located in Illinois whether or not recognized by the State Board of Education. [110 ILCS 947/65.100]

"Maintenance of Effort" or "MOE" − a requirement that in the academic year AIM HIGH funds are received by the public university campus, the total amount of qualifying non-loan financial aid the public university campus awards to its Illinois resident undergraduate students must be at least as much as its baseline~~those same~~ awards ~~in fiscal year 2018~~ and shall not include AIM HIGH funded awards or matching requirement awards made in that academic year.

"Matching Requirement" − a requirement that the public university campus use its own funds in the academic year for which the AIM HIGH funds are used:

to equally match those AIM HIGH funds allocated to it; and

to award non-loan financial aid to its students who meet at least the qualifications described in Section 2766.50(b).

"Public University" − any public 4-year university in Illinois. [110 ILCS 947/10]

"Public University Campus" − any campus under the governance or supervision of a public university. [110 ILCS 947/10]

"Qualifying Non-loan Financial Aid" – non-loan financial aid, the awarding of which is mostly within the control of the public university campus. The data requested to demonstrate this awarding shall be determined by ISAC and shall be applied uniformly across university campuses.

"Resident of Illinois" or "Illinois Resident" − defined by the laws governing eligibility for in-state tuition at the public university campus.

(Source: Amended at 44 Ill. Reg. 11059, effective July 1, 2020)

Section 2766.20 Institutional Applicant Eligibility

a) A public university applicant is eligible to apply for and receive an allocation of an appropriation of AIM HIGH funds if it:

1) submits a timely and complete application that includes a description of the award to be funded with AIM HIGH funds that meet program eligibility criteria in Section 2766.50(a), (b) and (c) to be used solely for non-loan financial aid at that university or university campus during the academic year, not including the summer term;

2) certifies in good faith that it shall use its own funds, in the academic year for which the AIM HIGH funds are requested, to equally match those AIM HIGH funds allocated to it and award non-loan financial aid to its students who meet at least the qualifications described in Section 2766.50(b);

3) certifies the total amount of its ~~qualifying non-loan financial aid it awarded to its Illinois resident undergraduate students in fiscal year 2018, which shall serve as a~~ baseline awards~~for its MOE going forward~~;

4) certifies that, during the academic year for which the AIM HIGH funds are requested, it shall, in addition to awards made for the matching requirement, make a good faith effort to award qualifying non-loan financial aid to its Illinois resident undergraduate students, not including AIM HIGH funded awards, in an amount:

A) that is at least equal to its baseline awards~~ the amount of aid awarded to its Illinois resident undergraduate students at that public institution in fiscal year 2018;,~~ or

B) if enrollment is less than in academic~~fiscal~~ year 2017-18, not including the summer term~~2018~~, that total amount calculated on a per student basis;

5) has met all information reporting requirements in Section 2766.40(c);

6) has not been suspended or disqualified from receiving an allocation for the upcoming academic year; and

7) enters into an AIM HIGH Grant Agreement with ISAC.

b) For renewal applications, in addition to complying with subsection (a), the public university campus shall:

1) demonstrate that it met its matching requirement and MOE in the previous academic year;

2) in any academic year the public university campus fails to meet its entire matching requirement, demonstrate that it made a good faith effort to meet its matching requirement to be eligible for an allocation that is necessary to fund only renewal AIM HIGH funded awards in the next academic year; and

3) in any academic year when the public university campus fails to make its entire MOE, demonstrate that it made a good faith effort to make its MOE to be eligible for:

A) 100% of its allocation of AIM HIGH funds if, in the preceding academic year, the public university campus made its entire MOE;

B) 90% of the previous academic year's AIM HIGH funds received and distributed by the public university campus if it is the second consecutive academic year the public university campus fails to make its entire MOE; and

C) an allocation that is necessary to fund only renewal AIM HIGH funded awards in any academic year that is the third or more consecutive academic year that the public university campus fails to make its entire MOE.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 44 Ill. Reg. 11059, effective July 1, 2020)

Section 2766.40 Institutional Procedures

a) In addition to complying with Section 2766.30, the public university campus shall be responsible for administering and making awards to students in compliance with this Section, Section 2766.50 and the policies of the university campus. For its own awards using its AIM HIGH allocation, a public university campus shall:

1) *establish the amount of the award* based *on an individual or broad basis* in compliance with Section 2766.50 [110 ILCS 947/65.100];

2) establish reasonable criteria consistent with eligibility criteria in Section 2766.50;

3) use grant funds solely to fund awards of non-loan financial aid at that university campus during the academic year, not including summer terms;

4) renew the award each year for each student who meets the renewal criteria established by the public university campus, consistent with the renewal eligibility criteria in Section 2766.50, in amounts not less than the amount provided in the student's first year at that university campus;

5) give preference to eligible renewal applicants in any academic year funding is insufficient to award to all eligible applicants;

6) use its best efforts to delegate grant funds amongst a racially diverse range of students and not use a student's race, color, religion, sex (including gender identity, sexual orientation, or pregnancy), national origin, age, disability, or genetic information to disqualify a student~~him or her~~ from receiving an AIM HIGH award (see P.A. 100-587 and P.A. 100-1015);

7) post on its website the criteria and eligibility requirements and the amount of the AIM HIGH award and provide that information to ISAC and the Illinois Board of Higher Education (IBHE) to post on their respective websites (www.isac.org and www.ibhe.org);

8) indicate in each initial student award application the renewal criteria for each academic year and not change those criteria for that recipient;

9) make each renewal award contingent upon the availability of funding for the academic year in which the award is used; and

10) reconcile the amount of claimed and unexpended AIM HIGH funds that were retained but not used for awards in the academic year for which funds were granted before receiving the distribution of its allocation for the next academic year.

b) Each institution shall be responsible for meeting its statutorily-mandated matching requirement and MOE to remain eligible for its allocation. (See Sections 2766.15 and 2766.20.)

c) Annually, on or about the end of each academic year, in a format determined by ISAC, each participating public university campus shall report the following information to ISAC:

1) *the Program's impact on tuition revenue and enrollment goals and increase in access and affordability at the public university campus;*

2) *total funds received by the public university campus under the Program;*

3) *total non-loan financial aid awarded to undergraduate students attending the public university campus;*

4) *total amount of funds matched by the public university campus;*

5) *total amount of claimed and unexpended funds retained by the public university campus;*

6) *the percentage of total financial aid*, including awards made with matching funds, *distributed under the Program by the public university campus; and*

7) *the total number of students receiving awards from the public university campus under the Program including awards made with matching funds and those students' name, date of birth, grade level, race, ethnicity,*

gender, income level, family size, Monetary Award Program eligibility, Pell Grant eligibility, ZIP code of residence, and the amount of each award and the total cost of attendance for each student after non-loan financial aid. This information shall include unit record data on those students regarding variables associated with the parameters of the public university campus' Program, including, but not limited to, a student's ACT or SAT college admissions test score, high school or university cumulative grade point average, or program of study. [110 ILCS 947/65.100]

(Source: Amended at 44 Ill. Reg. 11059, effective July 1, 2020)

Section 2766.50 Student Applicant and Recipient Eligibility

a) An eligible student applicant for funding from an AIM HIGH allocation shall:

1) have attended an Illinois high school;

2) be engaged in a program of study (i.e., course) that in due course will be completed by the end of the school year;

3) complete an application for the award no later than 12 months from the last date of the school year within which the coursework was completed;

4) apply to be enrolled for the first time at the public university campus where the award will be used; and

5) meet all the student eligibility qualifications and requirements under subsection (b) before receiving an award.

b) In order to meet the eligibility qualifications and requirements, an award recipient shall:

1) *be a resident of Illinois and a citizen or eligible noncitizen of the United States;*

2) *file a Free Application for Federal Student Aid (FAFSA) and demonstrate financial need with a household income no greater than 6 times the poverty guidelines updated periodically in the Federal Register by the*

U.S. Department of Health and Human Services under the authority of 42 USC 9902(2);

3) *meet the minimum cumulative grade point average or ACT or SAT college admissions test score, as determined by the public university campus;*

4) *be enrolled in a participating public university campus as an undergraduate student on a full-time basis;*

5) *have not yet received a baccalaureate degree or the equivalent of 135 semester credit hours;*

6) *not be incarcerated;*

7) *not be in default on any student loan nor owe a refund or repayment on any State or federal grant or scholarship; and*

8) *meet any other reasonable criteria, as determined by the public university campus.* [110 ILCS 947/65.100]

c) An AIM HIGH funded award recipient who meets the eligibility criteria for renewals shall be eligible for an AIM HIGH renewal award in subsequent academic years, the criteria for which shall be determined by the public university campus consistent with the criteria in this Section. AIM HIGH funded award renewal amounts shall be in an amount not less than the AIM HIGH funded amount from the renewal applicant's first year of attendance at the university campus, unless there is a reduction due to changes in the student's cost of attendance, including, but not limited to:

1) a reduction in credit hours in which a student~~he or she~~ is enrolled, but remains a full time student; or

2) switching to a course of study with a lower tuition rate.

d) An AIM HIGH funded award recipient under subsection (a) or a renewal applicant shall be eligible for non-loan financial aid in the amount determined by the public university campus during the academic year, not including summer terms, and shall be eligible to receive other financial aid.

e) The total amount of the AIM HIGH funds awarded to a qualified recipient in a given academic year, when added to other financial aid available to the qualified recipient for that year, shall not exceed the cost of attendance.

f) Applicants eligible for an award using matching requirement funds must meet the criteria in subsection (b). Renewal availability and eligibility criteria shall be determined by the public university campus as required by subsection (b).

(Source: Amended at 44 Ill. Reg. 11059, effective July 1, 2020)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

1) Heading of the Part: Licensing Standards for Day Care Homes

2) Code Citation: 89 Ill. Adm. Code 406

3)

Section Number:	Emergency Action:
406.28	Amendment

4) Statutory Authority: 225 ILCS 10

5) Effective Date of Emergency Rule: June 12, 2020

6) If this emergency amendment will expire before the end of the 150-day period, please specify the date on which it is to expire: None

7) Date Filed with the Index Department: June 12, 2020

8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Reason for Emergency: Pursuant to the Restore Illinois Plan, day care homes may resume child care services beginning on May 29, 2020, subject to the requirements of this Part and the guidance issued by the Department of Children and Family Services (Department) entitled "Restore Illinois Licensed Day Care Guidance" and posted to the Department website at: https://www2.illinois.gov/dcfs/Pages/default.aspx#tabitem1. This document will be updated as public health guidance from our public health agency partners evolves and includes but is not limited to information regarding program planning, access to child care facilities, daily health screenings, cleaning, sanitization, and personal hygiene.

10) A Complete Description of the Subjects and Issues Involved: The changes establish standards for all day care homes reopening to full capacity under the Phase III and Phase IV of Restore Illinois.

11) Are there any other rulemakings pending to this Part? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
406.2	Amendment	43 Ill. Reg. 10613; September 27, 2019
406.12	Amendment	43 Ill. Reg. 10613; September 27, 2019
406.15	Amendment	43 Ill. Reg. 10613; September 27, 2019

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

12) Statement of Statewide Policy Objective: This amendment does not create or expand a State mandate.

13) Information and questions regarding this emergency rule shall be directed to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
DCFS.Policy@illinois.gov

The full text of the Emergency Amendment to the Emergency Rule begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 406
LICENSING STANDARDS FOR DAY CARE HOMES

Section

406.1 Purpose
406.2 Definitions
406.3 Effective Date of Standards (Repealed)
406.4 Application for License
406.5 Application for Renewal of License
406.6 Provisions Pertaining to the License
406.7 Provisions Pertaining to Permits
406.8 General Requirements for Day Care Homes
406.9 Characteristics and Qualifications of the Day Care Family
406.10 Qualifications for Assistants
406.11 Substitutes
406.12 Admission and Discharge Procedures
406.13 Number and Ages of Children Served
406.14 Health, Medical Care and Safety
406.15 Discipline of Children
406.16 Activity Requirements
406.17 Nutrition and Meals
406.18 Transportation of Children By Day Care Home
406.19 Swimming
406.20 Children with Special Needs
406.21 School Age Children
406.22 Children Under 30 Months of Age
406.23 Night Care
406.24 Records and Reports
406.25 Confidentiality of Records and Information
406.26 Cooperation with the Department
406.27 Severability of This Part
406.28 Operation During Public Health Emergency
EMERGENCY

406.APPENDIX A Meal Pattern Chart for Children 0 to 12 Months of Age

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

406.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
406.APPENDIX C	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Day Care Home
406.APPENDIX D	Pre-Service and In-Service Training
406.APPENDIX E	List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Section 5 of the Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted and codified at 7 Ill. Reg. 7855, effective July 1, 1983; amended at 8 Ill. Reg. 24951, effective January 1, 1985; amended at 9 Ill. Reg. 2454, effective March 1, 1985; emergency amendment at 15 Ill. Reg. 15088, effective October 8, 1991, for a maximum of 150 days; modified at 16 Ill. Reg. 2269; amended at 16 Ill. Reg. 7602, effective April 30, 1992; amended at 18 Ill. Reg. 5531, effective April 1, 1994; amended at 19 Ill. Reg. 2765, effective February 23, 1995; amended at 21 Ill. Reg. 4524, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4207, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17047, effective November 1, 2000; amended at 25 Ill. Reg. 5714, effective April 1, 2001; emergency amendment at 26 Ill. Reg. 13694, effective August 30, 2002, for a maximum of 150 days; emergency expired on January 26, 2003; amended at 27 Ill. Reg. 19180, effective December 15, 2003; amended at 30 Ill. Reg. 18280, effective November 13, 2006; amended at 32 Ill. Reg. 9137, effective June 20, 2008; amended at 34 Ill. Reg. 18358, effective December 15, 2010; amended at 36 Ill. Reg. 4103, effective March 5, 2012; amended at 36 Ill. Reg. 13057, effective August 15, 2012; amended at 36 Ill. Reg. 13388, effective August 15, 2012; amended at 37 Ill. Reg. 19127, effective November 30, 2013; amended at 40 Ill. Reg. 10769, effective July 29, 2016; emergency amendment at 42 Ill. Reg. 8519, effective May 9, 2018, for a maximum of 150 days; emergency expired October 5, 2018; amended at 43 Ill. Reg. 187, effective January 1, 2019; emergency amendment at 44 Ill. Reg. 10161, effective May 29, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 11070, effective June 12, 2020, for the remainder of the 150 days.

Section 406.28 Operation During Public Health Emergency
EMERGENCY

Pursuant to the Restore Illinois Plan, day care homes may resume child care services beginning on May 29, 2020, subject to the requirements of this Part and the guidance issued by the Department of Children and Family Services (Department) entitled "Restore Illinois Licensed Day Care Guidance" and posted to the Department website at: https://www2.illinois.gov/dcfs/

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

Pages/default.aspx#tabitem1. This guidance includes but is not limited to information regarding program planning, access to child care facilities, daily health screenings, cleaning, sanitization, and personal hygiene and will be updated as public health guidance from the Illinois Department of Public Health (IDPH) and the Centers for Disease Control (CDC) evolves. During Phases III and IV of Restore Illinois:

a) Children must remain with the same group each day while in care.

b) Required Ratios and Maximum Group Sizes. In order to provide the level of supervision necessary to adhere to the health and safety requirements established by the Illinois Department of Public Health in response to the COVID-19 pandemic, the following staff-to-child ratios must be maintained at all times during the program day.

	Staff to Child Ratio	Maximum Group Size (Children)
Mixed Age Group	1 Caregiver alone	8 children
Mixed Age Group	1 Caregiver and 1 Assistant	8 children plus 2 school age children =10 children

These mixed groups include the licensed caregiver's own children under the age of 12. The additional 2 children must be school age children who are enrolled full time in school.

~~This Section describes the process for day care home operations during the federal, State or local government-declared public health emergency based on the COVID-19 outbreak. Day care homes reopening under Phase III and IV of the Restore Illinois plan must comply with the following additional measures in accordance with Centers for Disease Control and Prevention (CDC) and Illinois Department of Public Health (IDPH) guidance.~~

~~a) Section 406.4 (Application for License) and, additionally:~~

~~1) Day care homes must submit to their local licensing office and maintain on file a detailed preventative COVID-19 Action Plan. The plan shall follow CDC guidelines, which include, but are not limited to the following.~~

~~A) Exclusion policies for employees and children shall address serious illnesses, contagious diseases, and reportable diseases. These polices shall be in conformance with regulations and~~

~~recommendations of IDPH's Division of Communicable Disease Control and shall be in accordance with Section 406.14(d).~~

~~B)~~ ~~Notification to all parents and guardians shall be in accordance with IDPH recommendations when any communicable disease or condition has been introduced into the day care home.~~

~~C)~~ ~~Post signs outside any entrance prohibiting entry for anyone with symptoms of illness, including respiratory infection.~~

~~D)~~ ~~Temperature of providers, children, parents, guardians, and any person authorized to pick up and drop off children shall be taken upon arrival each day. Individuals with a temperature of 100.4º F, or higher shall be excluded.~~

~~E)~~ ~~Licensee shall supply personal protective equipment (PPE) for employees and children, including face masks, gloves, etc.~~

~~F)~~ ~~Household members and employees shall wear face masks or face shields, while on site.~~

~~2)~~ ~~The licensee shall submit to the Department a PPE Plan. The plan shall detail where PPE will be stored, how it is inventoried, and how employees are informed and trained about the availability, location, and procedures for reporting refilling needs.~~

~~b)~~ ~~Section 406.8 (General Requirements for Day Care Homes)~~

~~1)~~ ~~The licensee shall post CDC handwashing guidelines and COVID-19 precautions in visible locations throughout the home where child care is provided, including hand washing areas accessible to employees, enrolled children, their parents, guardians, or authorized persons.~~

~~2)~~ ~~The licensee shall post signs throughout the home where child care is provided, including where children are dropped off and picked up, describing ways to prevent the spread of germs.~~

~~3)~~ ~~All equipment shall be cleaned and disinfected daily with a germicidal solution approved by the CDC.~~

~~4) Routine cleaning and disinfecting shall be increased to hourly, during hours of operation, for frequently touched items, including doorknobs, toys, phones, keyboards, mice and other items identified as frequently handled objects.~~

~~5) Licensee's, employees', and household members' temperatures must be taken with non-contact thermometers and logged daily, reflecting, at a minimum, the date, time, name and temperature reading. Individuals with a temperature of 100.4º F or higher shall be excluded from the day care home;~~

~~6) Face masks or face shields are required for licensee, employees, and household members during hours of operation and when within 6 feet of others.~~

~~7) Handshaking/physical contact is not permitted between providers, parents and authorized persons at the day care home.~~

~~c) Section 406.9 (Characteristics and Qualifications of the Day Care Family)~~

~~1) Licensee, employees and all members of the household shall provide medical evidence, as required by Section 406.24(i), that they are free of reportable communicable diseases. In the case of providers, evidence must also show they are free of physical or mental conditions that could interfere with child care responsibilities. Licensees and employees are not required to be tested for COVID-19 to reopen.~~

~~2) Licensees and employees holding first aid and CPR certification that has expired or will expire during COVID-19 response closures may utilize online certification extension programs through State of Illinois approved training sources to renew their certifications.~~

~~d) Section 406.12 (Admission and Discharge Procedures)~~

~~1) Upon arrival for admission and discharge, parents, guardians, and authorized persons must wear a face mask.~~

2) ~~Written notification shall be provided to parents and guardians within 24 hours after any confirmed COVID-19 exposure.~~

e) ~~Section 406.13 (Number and Ages of Children Served)~~
~~All provisions of Section 406.13 (age groupings) shall be in compliance with this Section limiting the maximum group size to no more than 8 children to be served in a day care home or 10 children with an assistant present.~~

f) ~~Section 406.14 (Health, Medical Care and Safety)~~

1) ~~The licensee shall conduct and record daily temperature checks for each child, upon arrival, to monitor for signs/symptoms of COVID-19. Individuals with a temperature of 100.4º F or higher shall be excluded.~~

2) ~~The licensee shall develop a communication plan with employees, parents and guardians in the event a COVID-19 case occurs with an employee or child.~~

3) ~~The licensee shall ensure employees clean their hands according to CDC guidelines, including before and after contact with household members, and after contact with contaminated surfaces or equipment.~~

4) ~~No stuffed animals shall be used or made available to children in a day care home during a communicable disease related public health crisis.~~

5) ~~All children napping or sleeping shall be separated by at least 6 feet or separated by a barrier.~~

g) ~~Section 406.16 (Activity Requirements)~~
~~Children ages 2 and older shall wear face masks, when tolerable, while on site; except during napping and eating.~~

h) ~~Section 406.22 (Children Under 30 Months of Age)~~

1) ~~Each child under 15 months of age shall have his or her own crib or sleeping arrangements that are maintained at least 6 feet apart or separated by a barrier.~~

2) ~~Sheets and bedding shall be changed when soiled.~~

~~3) All sheets shall be cleaned and laundered daily.~~

~~i) Section 406.23 (Night Care)~~

~~1) Children shall not sleep with masks while napping.~~

~~2) Each child admitted for night care shall have separate sleeping arrangements, not to be interchanged, that are maintained at least 6 feet apart or separated by a barrier.~~

~~3) Bedding is to be changed when soiled.~~

~~4) All sheets shall be cleaned and laundered daily.~~

~~5) Day care homes that operate day and night must close for an hour, between the end of day care and the start of night care, for cleaning and disinfecting of all surfaces and equipment before the arrival of the next group of children.~~

~~j) Section 406.24 (Records and Reports)~~

~~1) The licensee shall notify the local licensing office immediately by telephone and in writing upon any confirmed infection or exposure to COVID-19.~~

~~2) The licensee shall promptly report any known or suspected case or carrier of communicable disease to the local licensing office and to local health authorities and shall comply with IDPH's rules for the Control of Communicable Diseases (77 Ill. Adm. Code 690).~~

(Source: Added by emergency rulemaking at 44 Ill. Reg. 10161, effective May 29, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 11070, effective June 12, 2020, for the remainder of the 150 days)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

1) Heading of the Part: Licensing Standards for Day Care Centers

2) Code Citation: 89 Ill. Adm. Code 407

3)

Section Numbers:	Emergency Actions:
407.600	Amendment
407.605	Amendment
407.610	Repealed

4) Statutory Authority: 225 ILCS 10

5) Effective Date of Emergency Rules: June 12, 2020

6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: None

7) Date Filed with the Index Department: June 12, 2020

8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Reason for Emergency: Pursuant to the Restore Illinois Plan, day care homes may resume child care services beginning on May 29, 2020, subject to the requirements of this Part and the guidance issued by the Department of Children and Family Services (Department) entitled “Restore Illinois Licensed Day Care Guidance” and posted to the Department website at: https://www2.illinois.gov/dcfs/Pages/default.aspx#tabitem1. This document will be updated as public health guidance from our public health agency partners evolves and includes but is not limited to information regarding program planning, access to child care facilities, daily health screenings, cleaning, sanitization, and personal hygiene.

10) A Complete Description of the Subjects and Issues Involved: The changes establish standards for all day care centers reopening to full capacity under the Phase III and Phase IV of Restore Illinois.

11) Are there any other rulemakings pending to this Part? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
407.45	Amendment	43 Ill. Reg. 10634; September 27, 2019

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

407.250	Amendment	43 Ill. Reg. 10634; September 27, 2019
407.270	Amendment	43 Ill. Reg. 10634; September 27, 2019
407.500	New Section	44 Ill. Reg 5542; April 3, 2020
407.505	New Section	44 Ill. Reg 5542; April 3, 2020
407.510	New Section	44 Ill. Reg 5542; April 3, 2020
407.515	New Section	44 Ill. Reg 5542; April 3, 2020
407.520	New Section	44 Ill. Reg 5542; April 3, 2020
407.525	New Section	44 Ill. Reg 5542; April 3, 2020

12) Statement of Statewide Policy Objective: This amendment does not create or expand a State mandate.

13) Information and questions regarding these emergency rules shall be directed to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
DCFS.Policy@illinois.gov

The full text of the Emergency Amendments to Emergency Rule begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 407
LICENSING STANDARDS FOR DAY CARE CENTERS

Section

407.1 Purpose (Repealed)
407.2 Definitions (Repealed)
407.3 Effective Date of Standards (Repealed)
407.4 Application for License (Repealed)
407.5 Application for Renewal of License (Repealed)
407.6 Provisions Pertaining to the License (Repealed)
407.7 Provisions Pertaining to Permits (Repealed)
407.8 Organization and Administration (Repealed)
407.9 Finances (Repealed)
407.10 General Requirements for Personnel (Repealed)
407.11 Child Care Director (Repealed)
407.12 Child Care Workers and Group Workers (Repealed)
407.13 Child Care Assistants (Repealed)
407.14 Use of Students (Repealed)
407.15 Service Staff (Repealed)
407.16 Substitutes and Volunteers (Repealed)
407.17 Background Inquiry (Repealed)
407.18 Admission and Discharge Procedures (Repealed)
407.19 Discipline (Repealed)
407.20 Personal Care and Hygiene (Repealed)
407.21 Program (Repealed)
407.22 Equipment and Materials (Repealed)
407.23 Grouping and Staffing (Repealed)
407.24 Nutrition (Repealed)
407.25 Night Care (Repealed)
407.26 Children with Special Needs (Repealed)
407.27 Infants and Toddlers (Repealed)
407.28 School-Age Children (Repealed)
407.29 Health Requirements for Children (Repealed)
407.30 Transportation (Repealed)
407.31 Plant and Equipment (Repealed)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

407.32 Records and Reports (Repealed)
407.33 Confidentiality of Records and Information (Repealed)
407.34 Records Retention (Repealed)
407.35 Severability of This Part (Renumbered)

SUBPART A: INTRODUCTION, DEFINITIONS, AND APPLICABILITY

Section
407.40 Purpose and Applicability
407.45 Definitions

SUBPART B: PERMITS AND LICENSES

Section
407.50 Application for License
407.55 Application for Renewal of License
407.60 Provisions Pertaining to the License
407.65 Provisions Pertaining to Permits

SUBPART C: ADMINISTRATION

Section
407.70 Organization and Administration
407.80 Confidentiality of Records and Information

SUBPART D: STAFFING

Section
407.90 Staffing Structure
407.100 General Requirements for Personnel
407.110 Background Checks for Personnel
407.120 Personnel Records
407.130 Qualifications for Child Care Director
407.140 Qualifications for Early Childhood Teachers and School-age Workers
407.150 Qualifications for Early Childhood Assistants and School-age Worker Assistants
407.160 Students and Youth Aides
407.170 Substitutes
407.180 Volunteers
407.190 Grouping and Staffing

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

SUBPART E: PROGRAM REQUIREMENTS

Section
407.200 Program Requirements for All Ages
407.210 Special Requirements for Infants and Toddlers
407.220 Special Requirements for School-Age Children
407.230 Intergenerational Programs
407.240 Evening, Night, Weekend and Holiday Care

SUBPART F: STRUCTURE AND SAFETY

Section
407.250 Enrollment and Discharge Procedures
407.260 Daily Arrival and Departure of Children
407.270 Guidance and Discipline
407.280 Transportation
407.290 Swimming and Wading
407.300 Animals

SUBPART G: HEALTH AND HYGIENE

Section
407.310 Health Requirements for Children
407.320 Hand Washing
407.330 Nutrition and Meal Service
407.340 Diapering and Toileting Procedures
407.350 Napping and Sleeping
407.360 Medications

SUBPART H: FACILITY AND EQUIPMENT

Section
407.370 Physical Plant/Indoor Space
407.380 Equipment and Materials
407.390 Outdoor Play Area

SUBPART I: SEVERABILITY OF THIS PART

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

Section
407.400 Severability of This Part

SUBPART J: EMERGENCY DAY CARE PROGRAM (EDC)

Section
407.500 Purpose
EMERGENCY
407.505 Definitions
EMERGENCY
407.510 Application for License for Emergency Day Care Program
EMERGENCY
407.515 Compliance with Licensing Standards
EMERGENCY
407.520 On Site Visit
EMERGENCY
407.525 Approval of Application
EMERGENCY

SUBPART K: REOPENING OF DAY CARE CENTERS

Section
407.600 Reopening of Day Care Centers
EMERGENCY
407.605 Grouping and Staffing~~Compliance with Licensing Standards During Reopening~~
EMERGENCY
407.610 On Site Visit (Repealed)
EMERGENCY

407.APPENDIX A Equipment for Infants and Toddlers
407.APPENDIX B Equipment for Preschool Children
407.APPENDIX C Equipment for School-Age Children
407.APPENDIX D Infant Daily Food Requirements
407.APPENDIX E Meal Patterns and Serving Sizes for Child Care Programs
407.APPENDIX F Resource Reference List
407.APPENDIX G Early Childhood Teacher Credentialing Programs
407.APPENDIX H Playground Surfacing and Critical Height

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10] and

the Children's Product Safety Act [430 ILCS 125].

SOURCE: Adopted and codified at 7 Ill. Reg. 9215, effective August 15, 1983; amended at 8 Ill. Reg. 8713, effective June 15, 1984; amended at 8 Ill. Reg. 24937, effective January 1, 1985; amended at 16 Ill. Reg. 7597, effective April 30, 1992; emergency amendment at 20 Ill. Reg. 11366, effective August 1, 1996, for a maximum of 150 days; emergency expired December 28, 1996; amended at 21 Ill. Reg. 923, effective January 15, 1997; amended at 22 Ill. Reg. 1728, effective January 1, 1998; amended at 24 Ill. Reg. 17036, effective November 1, 2000; amended at 28 Ill. Reg. 3011, effective February 15, 2004; amended at 29 Ill. Reg. 4502, effective March 15, 2005; amended at 34 Ill. Reg. 4700, effective March 22, 2010; amended at 36 Ill. Reg. 13076, effective August 15, 2012; amended at 38 Ill. Reg. 17293, effective August 1, 2014; emergency amendment at 42 Ill. Reg. 8555, effective May 9, 2018, for a maximum of 150 days; emergency expired October 5, 2018; amended at 43 Ill. Reg. 224, effective January 1, 2019; emergency amendment at 44 Ill. Reg. 5734, effective March 20, 2020, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 10170, effective May 29, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 11079, effective June 12, 2020, for the remainder of the 150 days.

SUBPART K: REOPENING OF DAY CARE CENTERS

Section 407.600 Reopening of Day Care Centers
EMERGENCY

Pursuant to the Restore Illinois Plan, day care centers may resume child care services beginning on May 29, 2020, subject to the requirements of this Part and the guidance issued by the Department of Children and Family Services (Department) entitled "Restore Illinois Licensed Day Care Guidance" and posted to the Department website at: https://www2.illinois.gov/dcfs/Pages/default.aspx#tabitem1. This guidance includes but is not limited to information regarding program planning, access to child care facilities, daily health screenings, cleaning, sanitization, and personal hygiene and will be updated as public health guidance from the Illinois Department of Public Health (IDPH) and the Centers for Disease Control (CDC) evolves. ~~All providers who were issued EDC licenses under Subpart J during the period of March 21, 2020 to May 29, 2020, and were licensed prior to the issuance of the EDC licenses, shall revert to the license they held immediately prior to March 21, 2020. Those licensees shall comply with this Part's standards for all day care centers, except when those standards are inconsistent with the special requirements prescribed by this Subpart. These programs may reopen in Phases III and IV of Restore Illinois upon submission of a reopening plan consistent with this Subpart. The licensed capacity of these programs will be amended by the Department according to the requirements of this Subpart and based on square footage and staffing plans submitted in the centers reopening plan. Licensed~~

~~centers seeking to amend their license to care for additional children during Phases III and IV of Restore Illinois will be considered if they can demonstrate changes to the room or facility to meet the requirements of this Subpart.~~

(Source: Added by emergency rulemaking at 44 Ill. Reg. 10170, effective May 29, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 11079, effective June 12, 2020, for the remainder of the 150 days)

Section 407.605 Grouping and Staffing~~Compliance with Licensing Standards During Reopening~~
EMERGENCY

During Phases III and IV of Restore Illinois:

a) Children must remain with the same group each day while in care.

b) Groups must not be combined at any time.

c) Required Ratios and Maximum Group Sizes. In order to provide the level of supervision necessary to adhere to the health and safety requirements established by the Illinois Department of Public Health in response to the COVID-19 pandemic, the following staff-to-child ratios must be maintained at all times during the program day.

Ages	Staff to Child ratio	Maximum Group Size (Children)
Infant	1:4	8
Toddler	1:5	12
Two	1:8	12
Three	1:10	15
Four	1:10	15
Five	1:15	15
School Age	1:15	15

~~Day care centers reopening under Phase III and IV of Restore Illinois must comply with the Centers for Disease Control and Prevention (CDC) and Illinois Department of Public Health (IDPH) guidance and the additional measures stated in this Subpart. Day care centers must submit an Agency Action Plan providing details on preventive measures and continuity of operations prior to reopening. The plan shall include, but is not limited to, the following measures, in addition to those contained in the cited Sections:~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

~~a) The requirements of Section 407.70(k). Additionally, the center shall develop a written enhanced risk management plan (ERMP) that identifies potential operational risks, specifies ways to reduce or eliminate the risks, and establishes procedures to be followed in a declared emergency or crisis. All staff shall be trained in the implementation of the plan. The ERMP shall specifically address at least each of the following:~~

~~1) Exclusion policies for staff and children shall address serious illnesses, contagious diseases, and reportable diseases in conformance with regulations and recommendations set by IDPH's Division of Communicable Disease Control (see Section 407.310(b) and (e)).~~

~~2) Notification of all parents or legal guardians in accordance with IDPH recommendations when any communicable disease or condition has been introduced into the program (see Section 407.80(b));~~

~~3) Signage posted outside all entrances restricting entry to anyone with symptoms of illness/respiratory infection (see Section 407.320);~~

~~4) Daily health checks for all persons entering the day care center, including, but not limited to, all staff, children, parents, legal guardians, cleaning staff, caterers, nurses, visitors, and authorized representatives of the Department that enter the premises. These checks shall include temperature checks that are completed according to CDC guidance for child care programs that remain open;~~

~~5) Day care centers shall limit all non-essential visitors to the day care.~~

~~6) Facility shall supply personal protective equipment (PPE), including, but not limited to, face masks or face shields for staff and children and gloves (see Section 407.310(j)).~~

~~A) Staff shall wear a mask or face shield at all times when indoors;~~

~~B) Non-permeable gloves shall be worn while serving food, diaper changing and/or dealing with wounds. Frequent hand washing is required when gloves are not in use; and~~

~~C) Children ages 2 years and up, when tolerable, shall wear a face mask when arriving at and leaving the day care center, when in hallways, and throughout the day, except when napping, playing outdoors, or eating.~~

~~7) Drop Off and Pick Up Procedures~~

~~A) Parents, legal guardians or authorized persons are permitted entrance to the day care center upon drop-off and pick-up but not permitted access to the classroom;~~

~~B) Parents, legal guardians, or persons authorized for pickup must wear a face mask when dropping off and picking up their children from the day care center.~~

~~8) The day care center must close each classroom one hour between part day programs, day care and night care shifts to clean and disinfect.~~

~~b) A written plan of operation shall be provided to the Department that addresses PPE, including masks, face shields and gloves. The plan may also include additional measures such as changes of clothing or smocks. The plan shall state:~~

~~1) Where the center's PPE supplies will be stored within the facility;~~

~~2) A minimum supply list and plan for reorder of supplies;~~

~~3) How and when PPE supplies are inventoried; and~~

~~4) How staff are informed or trained on the availability, location and contents of PPE with procedures for reporting refilling low supplies.~~

~~c) The requirements of Section 407.90(a), (d) and (f). Additionally, the center shall develop an enhanced staffing plan to address the following:~~

~~1) Children should be kept in the same group with same staff every day including meal, snack, rest and play periods;~~

~~2) Classroom interchanging or mixing is not permitted;~~

~~3) Qualifications for Early Childhood Teachers shall comply with Section 407.140. Staff qualified to work as Early Childhood Teachers in EDC and served in that role during the months of March through May 2020, may continue to work as an Early Childhood Teacher through July 31, 2020; and~~

~~4) Staff shall take the temperature of parents, legal guardians, or other persons bringing a child to the day care center upon arrival. Individuals with a temperature of 100.4º F or higher shall be excluded.~~

~~d) The requirements of Section 407.100. Additionally, day care staff shall take their temperatures before entering the facility at the beginning of their reported work period and shall maintain records of monitoring. Staff shall be rechecked for fever during their work period if they begin to feel ill or experience any sign of respiratory illness. Individuals with a temperature of 100.4º F or higher shall be excluded from the day care center.~~

~~e) The requirements of Section 407.100. Additionally, the center shall develop and maintain a list of qualified substitutes in the event that staff are out sick. Staff holding first aid and CPR certification that has expired or will expire during COVID-19 response closures may utilize online certification extension programs through State of Illinois approved training sources to renew their certifications.~~

~~f) The requirements of Section 407.190. Grouping and staffing limits shall be in accordance with CDC and IDPH guidelines during Phases III and IV as follows:~~

~~1) Day care centers reopening under this Subpart that did not operate as an EDC are limited to no more than 10 children in a room during the first 4 weeks of operation.~~

~~2) Infants: Maximum of 8 children (1 staff to 4 children);~~

~~3) Toddlers: Maximum of 12 children (1 staff to every 5 children); a third staff is required when exceeding 10 children in a group;~~

~~4) Age 2: Maximum of 12 children with 2 staff;~~

~~5) Ages 3 to 5: Maximum of 15 children with 2 staff;~~

~~6) School-agers: Maximum of 15 children with 2 staff;~~

~~7) Each classroom must be afforded an additional qualified staff for the purpose of relieving primary staff. The additional staff must be qualified for the position being provided relief. The additional staff must be used between the same two classrooms.;~~

~~8) Centers may allow programs to staff classrooms with Early Childhood Assistant qualified staff for up to 3 hours of their program day, provided this is documented in a written staffing plan;~~

~~9) There shall be no mixing of groups or individuals within groups. If more than one group of children is cared for at one facility, each group shall be in a separate room;~~

~~10) Child care staff and children shall be assigned to the same group every day, including meal, snack, rest and play periods; and~~

~~11) A transition plan shall be developed when moving a child to a new group.~~

~~g) The requirements of Sections 407.200 and 407.370. Additionally, the center shall comply with enhanced square footage requirements as follows:~~

~~1) When children are napping or sleeping, there shall be a minimum of 6 feet between each crib or cot; or~~

~~2) Clear dividers may be used to separate cribs and cots when children are napping or sleeping, provided the dividers are commercially produced for this purpose.~~

~~h) The requirements of Section 407.260. Additionally, the center shall develop an enhanced daily arrival and departure plan and communicate this plan to parents or legal guardians as day care services begin under this Subpart. This plan shall include, but is not limited to:~~

~~1) Daily temperature checks shall be conducted and recorded for each parent, legal guardian, or person bringing a child to day care upon arrival at the~~

~~day care center. Individuals with a temperature of 100.4º F or higher, shall be excluded;~~

~~2) Children ages 2 years and up, when tolerable, shall wear a face mask when arriving at and leaving the day care center, when in hallways, and throughout the day, except when napping, playing outdoors, or eating;~~

~~3) One person will be allowed entrance to the day care upon drop off and pick-up, but will not be permitted access to the classroom;~~

~~4) Parents, legal guardians, or authorized persons shall wear a face mask when dropping off and picking up their children from the day care center; and~~

~~5) Parents, legal guardians, or persons authorized for dropping off or picking up children from day care and staff shall not engage in hand shaking or physical contact.~~

~~i) Section 407.310 requires that any child suspected of having COVID-19, diagnosed with COVID-19, or having been in contact with persons suspected of or diagnosed with COVID-19 shall be excluded from the day care center until written documentation is provided by the child's physician that the child is no longer communicable and may return to day care.~~

~~j) Section 407.320 requires staff and children to wash hands and follow a specific handwashing procedure. Staff are required to assist children not able to wash their hands independently. The COVID-19 emergency demands a continued vigilance in adhering to these guidelines, in addition to the following:~~

~~1) Employees shall clean their hands according to CDC guidelines, including before and after contact with individuals, and after contact with contaminated surfaces or equipment; and~~

~~2) Alcohol-based hand sanitizer shall be placed in every room and at the entrance to every child care room. Hand sanitizer is not an acceptable substitute for soap and running water.~~

~~k) The requirements of Section 407.370. Additionally, the center shall develop enhanced plans to ensure a safe indoor and outdoor space for children, staff and visitors. These plans shall include, but are not limited to:~~

~~1) Removal of all soft plush toys that can harbor germs and cannot be readily cleaned;~~

~~2) Increased sanitizing utilizing disinfection solution as defined in Section 407.45. cleaning all high touch surfaces including doorknobs, toys, phones, keyboards, computer mouse and keyboards and other items identified as frequently handled every hour and more often as needed;~~

~~3) Toys and or items that are mouthed shall be removed for sanitizing immediately. For infant and toddler children, teething toys shall be removed for sanitizing once discarded by a child;~~

~~4) Post signs throughout the facility describing ways to prevent the spread of germs;~~

~~5) Clean and disinfect areas used, equipment and toys at the end of each day; and~~

~~6) Encourage parents to leave a pair of shoes for their children's exclusive use at day care.~~

~~l) Section 407.370 requires the day care center to have communication plans in emergencies. Centers reopening under Phase III and IV of Restore Illinois shall:~~

~~1) Develop a written communication plan to be shared with parents, guardians and staff to be implemented in the event a staff or child in attendance at the day care center tests positive for COVID-19;~~

~~2) Notify IDPH, CDC, and the local Licensing Office immediately upon being informed of exposure to COVID-19 by telephone and follow-up in writing to the local Licensing Office; and~~

~~3) Families must immediately notify the day care if someone in their home tests positive or if the child has been in close contact with a positive case~~

~~m) The requirements of Section 407.390. Additionally, the center shall develop enhanced plans to ensure a safe outdoor space for children, staff and visitors. This plan shall include, but is not limited to:~~

~~1) playground space used during Phase III and Phase IV shall be used for one classroom at a time; and~~

~~2) to the extent possible each group should utilize classroom assigned toys.~~

(Source: Added by emergency rulemaking at 44 Ill. Reg. 10170, effective May 29, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 11079, effective June 12, 2020, for the remainder of the 150 days)

Section 407.610 On Site Visit (Repealed)
EMERGENCY

~~For licensed day care centers operating under this Subpart, the Department may conduct on-site visits as needed to ensure the health and safety of children in care.~~

(Source: Added by emergency rulemaking at 44 Ill. Reg. 10170, effective May 29, 2020, for a maximum of 150 days; emergency repeal of emergency rule at 44 Ill. Reg. 11079, effective June 12, 2020, for the remainder of the 150 days)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

1) Heading of the Part: Licensing Standards for Group Day Care Homes

2) Code Citation: 89 Ill. Adm. Code 408

3)

Section Number:	Emergency Action:
408.140	Amendment

4) Statutory Authority: 225 ILCS 10

5) Effective Date of Emergency Rule: June 12, 2020

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: None

7) Date Filed with the Index Department: June 12, 2020

8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Reason for Emergency: Pursuant to the Restore Illinois Plan, day care homes may resume child care services beginning on May 29, 2020, subject to the requirements of this Part and the guidance issued by the Department of Children and Family Services (Department) entitled "Restore Illinois Licensed Day Care Guidance" and posted to the Department website at: https://www2.illinois.gov/dcfs/Pages/default.aspx#tabitem1. This document will be updated as public health guidance from our public health agency partners evolves and includes but is not limited to information regarding program planning, access to child care facilities, daily health screenings, cleaning, sanitization, and personal hygiene.

10) A Complete Description of the Subjects and Issues Involved: The changes establish standards for all group day care homes reopening to full capacity under the Phase III and Phase IV of Restore Illinois.

11) Are there any other rulemakings pending to this Part? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
408.5	Amendment	43 Ill. Reg. 10661; September 27, 2019
408.60	Amendment	43 Ill. Reg. 10661; September 27, 2019
408.75	Amendment	43 Ill. Reg. 10661; September 27, 2019

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

12) Statement of Statewide Policy Objective: This amendment does not create or expand a State mandate.

13) Information and questions regarding this emergency rule shall be directed to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
DCFS.Policy@illinois.gov

The full text of the Emergency Amendment to Emergency Rule begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 408
LICENSING STANDARDS FOR GROUP DAY CARE HOMES

Section

408.1 Purpose
408.5 Definitions
408.7 Effective Date of Standards (Repealed)
408.10 Application for License
408.15 Application for Renewal of License
408.20 Provisions Pertaining to the License
408.25 Provisions Pertaining to Permits
408.30 General Requirements for Group Day Care Homes
408.35 General Requirements for Group Day Care Home Family
408.40 Background Checks
408.45 Caregivers
408.50 Child Care Assistants
408.55 Substitutes
408.60 Admission and Discharge Procedures
408.65 Number and Ages of Children Served
408.70 Health, Medical Care and Safety
408.75 Discipline of Children
408.80 Nutrition and Meals
408.85 Program
408.90 Transportation of Children
408.95 Swimming
408.100 Children with Special Needs
408.105 Children Under 30 Months of Age
408.110 School Age Children
408.115 Night Care
408.120 Records and Reports
408.125 Confidentiality of Records and Information
408.130 Cooperation with the Department
408.135 Severability of This Part
408.140 Operation During Public Health Emergency

EMERGENCY

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

408.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
408.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
408.APPENDIX C	Minimum Equipment and Supplies – Preschool Programs
408.APPENDIX D	Minimum Equipment and Supplies – Infant and Toddler Programs
408.APPENDIX E	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Group Day Care Home
408.APPENDIX F	Early Childhood Teacher Credentialing Programs
408.APPENDIX G	Pre-Service and In-Service Training
408.APPENDIX H	Chart of Number and Ages of Children Served
408.APPENDIX I	List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2] and Section 5 of the Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted at 13 Ill. Reg. 14828, effective October 1, 1989; emergency amendment at 15 Ill. Reg. 15104, effective October 8, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 8950, effective May 30, 1992; amended at 18 Ill. Reg. 5540, effective April 1, 1994; amended at 19 Ill. Reg. 2784, effective February 23, 1995; amended at 21 Ill. Reg. 4563, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4212, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17057, effective November 1, 2000; amended at 25 Ill. Reg. 5281, effective April 1, 2001; amended at 27 Ill. Reg. 19232, effective December 15, 2003; amended at 30 Ill. Reg. 18310, effective November 13, 2006; amended at 32 Ill. Reg. 9164, effective June 20, 2008; amended at 34 Ill. Reg. 18411, effective December 15, 2010; amended at 36 Ill. Reg. 4114, effective March 5, 2012; amended at 36 Ill. Reg. 13105, effective August 15, 2012; amended at 36 Ill. Reg. 13403, effective August 15, 2012; amended at 37 Ill. Reg. 19149, effective November 30, 2013; amended at 40 Ill. Reg. 10808, effective July 29, 2016; emergency amendment at 42 Ill. Reg. 8593, effective May 9, 2018, for a maximum of 150 days; emergency expired October 5, 2018; amended at 43 Ill. Reg. 265, effective January 1, 2019; emergency amendment at 44 Ill. Reg. 10184, effective May 29, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 11094, effective June 12, 2020, for the remainder of the 150 days.

Section 408.140 Operation During Public Health Emergency
EMERGENCY

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

Pursuant to the Restore Illinois Plan, group day care homes may resume child care services beginning on May 29, 2020, subject to the requirements of this Part and the guidance issued by the Department of Children and Family Services (Department) entitled "Restore Illinois Licensed Day Care Guidance" and posted to the Department website at: https://www2.illinois.gov/dcfs/Pages/default.aspx#tabitem1. This guidance includes but is not limited to information regarding program planning, access to child care facilities, daily health screenings, cleaning, sanitization, and personal hygiene and will be updated as public health guidance from the Illinois Department of Public Health (IDPH) and the Centers for Disease Control (CDC) evolves. During Phases III and IV of Restore Illinois:

a) Children must remain with the same group each day while in care.

b) Required Ratios and Maximum Group Sizes. In order to provide the level of supervision necessary to adhere to the health and safety requirements established by the Illinois Department of Public Health in response to the COVID-19 pandemic, the following staff-to-child ratios must be maintained at all times during the program day.

	Staff to Child Ratio	Maximum Group Size (Children)
Mixed Age Group	1 Caregiver alone	8 children
Mixed Age Group	1 Caregiver and 1 Assistant	12 children

These mixed groups include the licensed caregiver's own children under the age of 12.

~~This Section describes the process for group day care home operations during the federal, State or local government-declared public health emergency based on the COVID-19 outbreak. Group day care homes reopening under Phase III and IV of the Restore Illinois plan must comply with the following additional measures in accordance with Centers for Disease Control and Prevention (CDC) and Illinois Department of Public Health (IDPH) guidance.~~

~~a) Section 408.10 (Application for License) and, additionally:~~

~~1) Group day care homes must submit to their local licensing office and maintain on file a detailed preventative COVID-19 Action Plan. The plan shall follow CDC guidelines, which include, but are not limited to the following.~~

~~A)~~ ~~Exclusion policies for employees and children shall address serious illnesses, contagious diseases, and reportable diseases. These polices shall be in conformance with regulations and recommendations of IDPH's Division of Communicable Disease Control and shall be in accordance with Section 408.70(b).~~

~~B)~~ ~~Notification to all parents and guardians shall be in accordance with IDPH recommendations when any communicable disease or condition has been introduced into the group day care home.~~

~~C)~~ ~~Post signs outside any entrance prohibiting entry for anyone with symptoms of illness, including respiratory infection.~~

~~D)~~ ~~Temperature of providers, children, parents, guardians, and any person authorized to pick up and drop off children shall be taken upon arrival each day. Individuals with a temperature of 100.4º F, or higher shall be excluded.~~

~~E)~~ ~~Licensee shall supply personal protective equipment (PPE) for employees and children, including face masks, gloves, etc.~~

~~F)~~ ~~Household members and employees shall wear face masks or face shields, while on site.~~

~~2)~~ ~~The licensee shall submit to the Department a PPE Plan. The plan shall detail where PPE will be stored, how it is inventoried, and how employees are informed and trained about the availability, location, and procedures for reporting refilling needs.~~

~~b)~~ ~~Section 408.30 (General Requirements for Group Day Care Homes)~~

~~1)~~ ~~The licensee shall post CDC handwashing guidelines and COVID-19 precautions in visible locations throughout the home where child care is provided, including hand washing areas accessible to employees, enrolled children, their parents, guardians, or authorized persons. The licensee shall post signs throughout the home where child care is provided, including where children are dropped off and picked up, describing ways to prevent the spread of germs.~~

~~3) All equipment shall be cleaned and disinfected daily with a germicidal solution approved by the CDC.~~

~~4) Routine cleaning and disinfecting shall be increased to hourly, during hours of operation, for frequently touched items, including doorknobs, toys, phones, keyboards, mice and other items identified as frequently handled objects.~~

~~5) Licensee's, employees', and household members' temperatures must be taken with non-contact thermometers and logged daily, reflecting, at a minimum, the date, time, name and temperature reading. Individuals with a temperature of 100.4º F or higher shall be excluded from the group day care home;~~

~~6) Face masks or face shields are required for licensee, employees, and household members during hours of operation and when within 6 feet of others.~~

~~7) Handshaking/physical contact is not permitted between providers, parents and authorized persons at the group day care home.~~

~~c) Section 408.35 (General Requirements for Group Day Care Home Family)~~

~~1) Licensee, employees and all members of the household shall provide medical evidence, as required by Section 408.35(f), that they are free of reportable communicable diseases. In the case of providers, evidence must also show they are free of physical or mental conditions that could interfere with child care responsibilities. Licensees and employees are not required to be tested for COVID-19 to reopen.~~

~~2) Licensees and employees holding first aid and CPR certification that has expired or will expire during COVID-19 response closures may utilize online certification extension programs through State of Illinois approved training sources to renew their certifications.~~

~~d) Section 408.60 (Admission and Discharge Procedures)~~

~~1) Upon arrival for admission and discharge, parents, guardians, and authorized persons must wear a face mask.~~

~~2) Written notification shall be provided to parents and guardians within 24 hours after any confirmed COVID-19 exposure.~~

~~3) Daily temperature checks shall be conducted and recorded upon arrival to monitor children for signs/symptoms of COVID-19.~~

~~4) Children ages 2 years and up shall wear a face mask, when tolerable, throughout the day, except when napping or eating.~~

~~e) Section 408.65 (Number and Ages of Children Served)~~
~~All provisions of Section 408.65 (age groupings) shall be in compliance with this Section limiting the maximum group size to no more than 10 children to be served in a group day care home.~~

~~f) Section 408.70 (Health, Medical Care and Safety)~~

~~1) The licensee shall conduct and record daily temperature checks for each child, upon arrival, to monitor for signs/symptoms of COVID-19. Individuals with a temperature of 100.4º F or higher shall be excluded.~~

~~2) The licensee shall develop a communication plan with employees, parents and guardians in the event a COVID-19 case occurs with an employee or child.~~

~~3) The licensee shall ensure employees clean their hands according to CDC guidelines, including before and after contact with household members, and after contact with contaminated surfaces or equipment.~~

~~4) No stuffed animals shall be used or made available to children in a group day care home during a communicable disease related public health crisis.~~

~~5) All children napping or sleeping shall be separated by at least 6 feet or separated by a barrier.~~

~~g) Section 408.85 (Program)~~

~~1) Children ages 2 and older shall wear face masks, when tolerable, while on site; except during napping and eating.~~

~~2) Licensees shall place alcohol-based hand sanitizer in every room (both inside and outside of the room is recommended).~~

~~h) Section 408.105 (Children Under 30 Months of Age)~~

~~1) Each child under 15 months of age shall have his or her own crib or sleeping arrangements that are maintained at least 6 feet apart or separated by a barrier.~~

~~2) Sheets and bedding shall be changed when soiled.~~

~~3) All sheets shall be cleaned and laundered daily.~~

~~i) Section 408.115 (Night Care)~~

~~1) Children shall not sleep with masks while napping.~~

~~2) Each child admitted for night care shall have separate sleeping arrangements, not to be interchanged, that are maintained at least 6 feet apart or separated by a barrier.~~

~~3) Bedding is to be changed when soiled.~~

~~4) All sheets shall be cleaned and laundered daily.~~

~~5) Group day care homes that operate day and night must close for an hour, between the end of day care and the start of night care, for cleaning and disinfecting of all surfaces and equipment before the arrival of the next group of children.~~

~~j) Section 408.120 (Records and Reports)~~

~~1) The licensee shall notify the local licensing office immediately by telephone and in writing upon any confirmed infection or exposure to COVID-19.~~

~~2) The licensee shall promptly report any known or suspected case or carrier of communicable disease to the local licensing office and to local health~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

~~authorities and shall comply with IDPH's rules for the Control of Communicable Diseases (77 Ill. Adm. Code 690).~~

(Source: Added by emergency rulemaking at 44 Ill. Reg. 10184, effective May 29, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 11094, effective June 12, 2020, for the remainder of the 150 days)

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Video Gaming (General)

2) Code Citation: 11 Ill. Adm. Code 1800

3) Section Number: 1800.320 Emergency Action: Amendment

4) Statutory Authority: Section 5-45 (b) of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-45 (b)] confers rulemaking authority upon a covered agency if the agency finds that an emergency exists requiring adoption of a rule upon fewer days than is required for general rulemaking under Section 5-40 of the IAPA. Section 5-45 (a) of the IAPA [5 ILCS 100/5-45 (a)] defines an emergency as "any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." As described in item 9 below, the present COVID-19 outbreak has created a situation in which the present inability of the Illinois Gaming Board (Board) and parties before the Board to serve documents by e-mail threatens the public interest, safety, and welfare.

5) Effective Date of Rule: June 15, 2020

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: The emergency amendment will expire at the end of the 150-day period or upon adoption of permanent rules, whichever comes first.

7) Date Filed with the Index Department: June 15, 2020

8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Illinois Gaming Board's principal office and is available for public inspection.

9) Reason for Emergency: Because of COVID-19, many applicants and licensees of the Illinois Gaming Board (IGB), as well as interested persons under Section 1800.320(b), are closed or have reduced hours. As a result, there is no way to ensure that mail sent by the Board is actually being received by the licensees. E-mail is a way of serving documents that can be received anywhere with assurance of delivery.

Additionally, this rule will enable a reduction in needed trips to the post office by Board employees as well as licensees, applicants, and interested persons. This reduction will, in turn, lessen the number of physical objects changing hands that can provide vectors for disease transmission. In this way, the proposed rulemaking will promote public health goals during the COVID-19 outbreak.

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

10) A Complete Description of the Subjects and Issues Involved: Section 10-75 of the Administrative Procedure Act (IAPA) [5 ILCS 100/10-75] permits an agency to establish requirements for serving certain notices via e-mail. It authorizes an agency to require any attorney representing a party to a hearing, and any person to the extent they are subject to licensure, permitting or regulation by the agency, to accept service of documents by e-mail. Section 10-75 applies to all administrative proceedings under Section 10-25 (contested cases) and 10-50 (decisions and orders) of the IAPA.

In conformity with Section 10-75 of the IAPA, the emergency rulemaking amends Section 1800.320(b) to authorize e-mail service under Section 1800.320(b) by applicants, licensees, interested persons, and the Board itself. The rulemaking is complementary to the emergency rulemaking published at 44 Ill. Reg. 10193 (June 12, 2020), effective May 27, 2020, that authorizes e-mail service by applicants, licensees and the Board outside of contested matters under Section 1800.320(b).

11) Are there any other rulemakings pending to this Part? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
1800.2110	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2120	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2130	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2140	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2150	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2160	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2170	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.EXHIBIT A	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.EXHIBIT B	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.110	Amendment	44 Ill. Reg. 4265; March 20, 2020
1800.350	New Section	44 Ill. Reg. 4265; March 20, 2020
1800.140	New Section	44 Ill. Reg. 10061; June 12, 2020
1800.615	Amendment	44 Ill. Reg. 10061; June 12, 2020
1800.690	Amendment	44 Ill. Reg. 10061; June 12, 2020
1800.715	Amendment	44 Ill. Reg. 10061; June 12, 2020
1800.720	Amendment	44 Ill. Reg. 10061; June 12, 2020
1800.790	Amendment	44 Ill. Reg. 10061; June 12 2020

12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under 30 ILCS 805.

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

13) Information and questions regarding this emergency rules shall be directed to:

Agostino Lorenzini
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601

IGB.RuleComments@igb.illinois.gov

The full text of the Emergency Amendment begins on the next page:

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section
1800.110 Definitions
1800.115 Gender
1800.120 Inspection
1800.130 Board Meetings

SUBPART B: DUTIES OF LICENSEES

Section
1800.210 General Duties of All Video Gaming Licensees
1800.220 Continuing Duty to Report Information
1800.230 Duties of Licensed Manufacturers
1800.240 Duties of Licensed Distributors
1800.250 Duties of Terminal Operators
1800.260 Duties of Licensed Technicians and Licensed Terminal Handlers
1800.270 Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section
1800.310 Grounds for Disciplinary Actions
1800.320 Minimum Standards for Use Agreements
EMERGENCY
1800.330 Economic Disassociation
1800.340 Change in Ownership of Terminal Operators and Assets Held by Terminal Operators

SUBPART D: LICENSING QUALIFICATIONS

Section

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

1800.410 Coverage of Subpart
1800.420 Qualifications for Licensure
1800.430 Persons with Significant Influence or Control
1800.440 Undue Economic Concentration

SUBPART E: LICENSING PROCEDURES

Section
1800.510 Coverage of Subpart
1800.520 Applications
1800.530 Submission of Application
1800.540 Application Fees
1800.550 Consideration of Applications by the Board
1800.555 Withdrawal of Applications and Surrender of Licenses
1800.560 Issuance of License
1800.570 Renewal of License
1800.580 Renewal Fees and Dates
1800.590 Death and Change of Ownership of Video Gaming Licensee

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section
1800.610 Coverage of Subpart
1800.615 Requests for Hearing
1800.620 Appearances
1800.625 Appointment of Administrative Law Judge
1800.630 Discovery
1800.635 Subpoenas
1800.640 Motions for Summary Judgment
1800.650 Proceedings
1800.660 Evidence
1800.670 Prohibition on Ex Parte Communication
1800.680 Sanctions and Penalties
1800.690 Transmittal of Record and Recommendation to the Board
1800.695 Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

1800.710 Coverage of Subpart
1800.715 Notice of Proposed Disciplinary Action Against Licensees
1800.720 Hearings in Disciplinary Actions
1800.725 Appearances
1800.730 Appointment of Administrative Law Judge
1800.735 Discovery
1800.740 Subpoenas
1800.745 Motions for Summary Judgment
1800.750 Proceedings
1800.760 Evidence
1800.770 Prohibition on Ex Parte Communication
1800.780 Sanctions and Penalties
1800.790 Transmittal of Record and Recommendation to the Board
1800.795 Persons Subject to Proposed Orders of Economic Disassociation

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN LICENSED VIDEO GAMING LOCATIONS

Section
1800.810 Location and Placement of Video Gaming Terminals
1800.815 Licensed Video Gaming Locations Within Malls
1800.820 Measurement of Distances from Locations
1800.830 Waivers of Location Restrictions

SUBPART I: SECURITY INTERESTS

Section
1800.910 Approvals Required, Applicability, Scope of Approval
1800.920 Notice of Enforcement of a Security Interest
1800.930 Prior Registration

SUBPART J: TRANSPORTATION, REGISTRATION, AND DISTRIBUTION OF VIDEO GAMING TERMINALS

Section
1800.1010 Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
1800.1020 Transportation of Video Gaming Terminals into the State
1800.1030 Receipt of Video Gaming Terminals in the State

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

1800.1040 Transportation of Video Gaming Terminals Between Locations in the State
1800.1050 Approval to Transport Video Gaming Terminals Outside of the State
1800.1060 Placement of Video Gaming Terminals
1800.1065 Registration of Video Gaming Terminals
1800.1070 Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

Section
1800.1111 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section
1800.1210 Definitions
1800.1220 Entities Authorized to Perform Fingerprinting
1800.1230 Qualification as a Livescan Vendor
1800.1240 Fingerprinting Requirements
1800.1250 Fees for Fingerprinting
1800.1260 Grounds for Revocation, Suspension and Denial of Contract

SUBPART M: PUBLIC ACCESS TO INFORMATION

Section
1800.1310 Public Requests for Information

SUBPART N: PAYOUT DEVICES AND REQUIREMENTS

Section
1800.1410 Ticket Payout Devices
1800.1420 Redemption of Tickets Following Removal or Unavailability of Ticket Payout Devices

SUBPART O: NON-PAYMENT OF TAXES

Section
1800.1510 Non-Payment of Taxes

SUBPART P: CENTRAL COMMUNICATIONS SYSTEM

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

Section
1800.1610 Use of Gaming Device or Individual Game Performance Data

SUBPART Q: RESPONSIBLE GAMING

Section
1800.1710 Conversations About Responsible Gaming
1800.1720 Responsible Gaming Education Programs
1800.1730 Problem Gambling Registry
1800.1740 Utilization of Technology to Prevent Problem Gambling

SUBPART R: IMPLEMENTATION OF TECHNOLOGY

Section
1800.1810 Implementation of Technology

SUBPART S: INDEPENDENT TESTING LABORATORIES

Section
1800.1910 Independent Outside Testing Laboratories
1800.1920 Minimum Duties of an Independent Outside Testing Laboratory
1800.1930 Testing of Video Gaming Equipment
1800.1940 Approval of Video Gaming Equipment

SUBPART T: IN-LOCATION PROGRESSIVE GAMES

Section
1800.2010 In-location Progressive Games
1800.2020 Optional Nature of In-location Progressive Games
1800.2030 Procedures Within Licensed Video Gaming Locations
1800.2040 Payments of Progressive Jackpot Amount
1800.2050 Deductions from Progressive Jackpots
1800.2060 Progressive Jackpot Coordinator

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010;

emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; expedited correction at 39 Ill. Reg. 8183, effective November 21, 2012; amended at 36 Ill. Reg. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014; amended at 38 Ill. Reg. 19919, effective October 2, 2014; amended at 39 Ill. Reg. 5401, effective March 27, 2015; amended at 39 Ill. Reg. 5593, effective April 1, 2015; amended at 40 Ill. Reg. 2952, effective January 27, 2016; amended at 40 Ill. Reg. 8760, effective June 14, 2016; amended at 40 Ill. Reg. 12762, effective August 19, 2016; amended at 40 Ill. Reg. 15131, effective October 18, 2016; emergency amendment at 41 Ill. Reg. 2696, effective February 7, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. 2939, effective February 24, 2017; amended at 41 Ill. Reg. 4499, effective April 14, 2017; amended at 41 Ill. Reg. 10300, effective July 13, 2017; amended at 42 Ill. Reg. 3126, effective February 2, 2018; amended at 42 Ill. Reg. 3735, effective February 6, 2018; emergency amendment at 43 Ill. Reg. 9261, effective August 13, 2019, for a maximum of 150 days; emergency amendment, except for the definition of "in-location bonus jackpot game" or "in-location progressive game" and the definition of "progressive jackpot" in Section 1800.110 and except for Section 1800.250(x), suspended at 43 Ill. Reg. 11061, effective September 18, 2019; emergency amendment at 43 Ill. Reg. 9788, effective August 19, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 11688, effective September 26, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 13464, effective November 8, 2019, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 43 Ill. Reg. 13479, effective November 12, 2019; suspension withdrawn at 44 Ill. Reg. 3583; emergency amendment to emergency rule at 44 Ill. Reg. 3568, effective February 21, 2020, for the remainder of the 150 days; amended at 43 Ill.

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

Reg. 14099, effective November 21, 2019; amended at 44 Ill. Reg. 489, effective December 27, 2019; amended at 44 Ill. Reg. 1961, effective December 31, 2019; amended at 44 Ill. Reg. 3205, effective February 7, 2020; emergency amendment at 44 Ill. Reg. 10193, effective May 27, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. 10891, effective June 10, 2020; emergency amendment at 44 Ill. Reg. 11104, effective June 15, 2020, for a maximum of 150 days.

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section 1800.320 Minimum Standards for Use Agreements
EMERGENCY

a) In addition to the requirements set forth in the Act, a Use Agreement must satisfy the following:

1) Only be between:

A) a licensed terminal operator that, beginning July 15, 2014, is licensed by the Board at the time the Use Agreement is signed; and

B) a licensed establishment, licensed truck stop establishment, licensed veterans establishment or licensed fraternal establishment;

2) Contain an affirmative statement that no inducement was offered or accepted regarding the placement or operation of video gaming terminals in a licensed establishment, licensed truck stop establishment, licensed veterans establishment or licensed fraternal establishment;

3) Contain an indemnity and hold harmless provision on behalf of the State, the Board and its agents relative to any cause of action arising from a use agreement;

4) Prohibit any assignment other than from a licensed terminal operator to another licensed terminal operator;

5) Contain a provision that releases the video gaming location from any continuing contractual obligation to the terminal operator in the event that the terminal operator has its license revoked or denied, has its renewal denied, or surrenders its license;

6) State which sales agent, broker or other person, if any, procured the Use Agreement on behalf of the terminal operator;

7) Not provide for automatic renewal in the absence of cancellation;

8) Not be for a length of time exceeding eight years.

b) Petitions

1) The Board shall decide a petition brought by a terminal operator, licensed video gaming location or other interested party to determine the validity or enforceability of an agreement, or portion of an agreement, that purports to control the location and operation of video gaming terminals . For purposes of this Section an "interested party" is a party asserting legal rights whose enforcement requires, or may be materially and substantially affected by, Board action. Issues the Board has authority to decide under this subsection (b) include, but are not limited to, the following:

A) Whether the agreement is one that controls the placement or operation of video gaming terminals.

B) When two or more agreements between a licensed video gaming location and one or more terminal operators have overlapping effective dates, which of the agreements is valid during the period of overlap.

C) Whether an agreement, or portion of an agreement, complies with the requirements of the Act and this Part.

D) Whether a renewal provision in an agreement poses such obstacles against non-renewal, or confusion about the procedures for non-renewal, as to constitute an undue burden on the licensed video gaming location that has entered into the provision.

E) Whether a terminal operator or anyone on its behalf has used coercion, deception, or an inducement or incentive in violation of Section 25(c) of the Act or this Part to persuade a licensed video gaming location to enter into or renew an agreement.

F) Whether one or more terms of an agreement constitute practices detrimental to the public interest or against the best interests of video gaming.

2) Petitions under this subsection (b) shall be in writing and shall include an original and one copy unless submitted by e-mail to an e-mail address designated for that purpose on the Board's website. Any petitioner under this Section shall bear the burden of proof by clear and convincing evidence. A petition shall contain the following:

A) The name, current address, ~~and~~ current telephone number and e-mail address of the petitioner.

B) Detailed facts and reasons upon which the petitioner relies in arguing that an agreement, or portion of an agreement, is invalid or unenforceable. Petitions may include documentary evidence and affidavits. When the petitioner is petitioning as an interested party, the petition must include detailed facts and reasons upon which the petitioner relies in arguing that it has legal rights whose enforcement requires, or may be materially and substantially affected by, Board action.

C) A signature of the petitioner.

D) A verification of the petition in the following form:

"The undersigned certifies that the statements set forth in this petition are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies that he or she verily believes the same to be true."

E) A notarization.

3) Following receipt of a petition meeting the requirements of subsection (b)(2), the Administrator shall promptly send by certified mail or e-mail to each non-petitioning terminal operator or licensed video gaming location or other interested party named in the petition a complete copy of the petition, including all submitted documents. Non-petitioning parties

named in the petition must file a response within 21 days after their receipt of the petition. All responses shall be in writing and shall include an original and one copy unless submitted by e-mail to an e-mail address designated for that purpose on the Board's website. A response shall be deemed filed on the date on which it is postmarked. The response shall contain the following:

A) The name, current address, ~~and~~ current telephone number and e-mail address of the responding party~~licensee~~.

B) A clear and concise statement admitting or denying each of the allegations set forth in the petition.

C) For all allegations that the licensee denies, detailed facts and reasons upon which the non-petitioning party relies in arguing that the agreement, or portion of the agreement, is valid or enforceable. Responses may include documentary evidence and affidavits.

D) A signature of the licensee.

E) A verification of the licensee in the following form:

"The undersigned certifies that the statements set forth in this response are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies that he or she verily believes the same to be true."

F) A notarization.

4) The Administrator shall promptly provide a petitioning party with complete copies of all submitted responses meeting the requirements of subsection (c)(2).

5) Before rendering a recommended decision, the Administrator may require the parties to attend a conference to attempt to settle any dispute under this subsection (b)(5).

6) Administrator's Recommended Decision

A) Following the expiration of the 21-day response period, the Administrator shall issue a written recommended decision on the validity or enforceability of the contested agreement, or contested portions of the agreement, based on the contents of the petition and any responses.

B) The Administrator's recommended decision shall set forth the reasons the Administrator is recommending the granting or denial of the petition. When the petition asserts more than one claim as to the validity or enforceability of the agreement, or a portion of the agreement, the Administrator shall separately decide each claim.

C) Copies of the Administrator's recommended decision shall be served on each party by personal delivery, certified mail or overnight express mail to the party's last known address, or e-mail provided pursuant to Section 1800.140 or subsection (b)(2)(A).

7) A petitioning party or party named in a petition brought under this subsection (b) may file exceptions to the recommended decision of the Administrator. The exception shall be filed with the Board no later than 14 days after receipt of the recommended decision. Exceptions shall specify each finding of fact and conclusion of law to which exception is taken. There shall be no oral argument on exceptions.

8) Intervention

A) Upon timely written application prior to the Administrator issuing a recommendation, the Administrator may, in his or her discretion, permit any interested party to intervene in the petition process, if that party may be materially and adversely affected by a final order arising from the petition.

B) In exercising his or her discretion, the Administrator shall consider whether intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

C) A petition for intervention must meet the same standards as an initial petition or response under subsection (b)(2) or (b)(3). It

must also include sufficient facts for the Administrator to find that the intervening party may be materially and adversely affected by a final order arising from the petition.

D) Upon making a determination that a party may be permitted to intervene, the Administrator shall provide to the intervenor a copy of the original petition, as well as any responses. The Administrator shall also notify all other parties that the petition to intervene has been granted, and provide those parties with a copy of the petition to intervene.

9) Prior to the Board rendering a decision, the Administrator may require the parties to attend a conference to attempt to settle any dispute under this subsection (b).

10) Any relief given by the Board under this subsection (b) shall be limited to deciding which agreement, or portion of the agreement, is valid for the placement and operation of video gaming terminals in a licensed video gaming location. The Board has the express authority to order a licensed terminal operator to remove its Video Gaming Terminals from a licensed establishment if an agreement, or portion of the agreement, is invalidated. The Board shall not award monetary damages of any kind. Any failure by a party to abide by the Board's decision shall subject the licensee to discipline.

11) Ex Parte Communication Prohibited. No party or its representative shall make any communication directly or indirectly with the Administrator, employees, or members of the Illinois Gaming Board regarding a pending petition that imparts material information or makes a material argument, except upon notice to and opportunity for all parties to participate.

12) Final Board Order

A) The Board shall review the entire record, including the petitions filed, the Administrator's recommended decision, and any exceptions filed, and shall render a written order including the bases for its decision.

B) Copies of the final Board order shall be served on each licensee by personal delivery, certified mail or overnight express mail to the licensee's last known address.

C) A final Board order shall become effective upon personal delivery to a party or upon posting by certified or overnight express mail to the party's last known address.

c) The Board shall promulgate a standard form for Use Agreements and establish an effective date for its implementation. All new and renewed Use Agreements entered into on or after that effective date shall incorporate the language of the standard form and shall be consistent with the standard form in all respects.

d) Unless otherwise indicated, whenever the term "agreement" is used in this Section, it refers to an agreement that purports to control the operation and placement of video gaming terminals.

(Source: Amended by emergency rulemaking at 44 Ill. Reg. 11104, effective June 15, 2020, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SECOND NOTICES RECEIVED

The following second notices were received during the period of June 9, 2020 through June 15, 2020. These rulemakings are scheduled for the July 14, 2020 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
7/17/20	Department of Healthcare and Family Services, Medical Payment (89 Ill. Adm. Code 140)	3/20/20 44 Ill. Reg. 4288	7/14/20
7/29/20	Department of Insurance, Prior Notification of Dividends or Distributions (50 Ill. Adm. Code 1305)	2/21/20 44 Ill. Reg. 3039	7/14/20

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Day Care Homes

2) Code Citation: 89 Ill. Adm. Code 406

3) Section Number: 406.28 — Proposed Action: New Section

4) Date Notice of Proposed Amendments published in the *Illinois Register*: 44 Ill. Reg. 10052; June 12, 2020

5) Reason for the Withdrawal: Upon further consideration, the Department wishes to withdraw proposed amendments to 89 Ill. Adm. Code 406 in order to make additional amendments to allow day care providers to open in a safe manner during the COVID-19 emergency.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Day Care Centers

2) Code Citation: 89 Ill. Adm. Code 407

3)

Section Numbers:	Proposed Actions:
407.600	New Section
407.605	New Section
407.610	New Section

4) Date Notice of Proposed Amendments published in the *Illinois Register*: 44 Ill. Reg. 10055; June 12, 2020

5) Reason for the Withdrawal: Upon further consideration, the Department wishes to withdraw proposed amendments to 89 Ill. Adm. Code 407 in order to make additional amendments to allow day care providers to open in a safe manner during the COVID-19 emergency.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) Heading of the Part: Licensing Standards for Group Day Care Homes

2) Code Citation: 89 Ill. Adm. Code 408

3) Section Number: 408.140 — Proposed Action: New Section

4) Date Notice of Proposed Amendments published in the *Illinois Register*: 44 Ill. Reg. 10058; June 12, 2020

5) Reason for the Withdrawal: Upon further consideration, the Department wishes to withdraw proposed amendments to 89 Ill. Adm. Code 408 in order to make additional amendments to allow day care providers to open in a safe manner during the COVID-19 emergency.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION

NOTICE PURSUANT TO 415 ILCS 5/28.1(d)(3)

LISTINGS OF ADJUSTED STANDARDS AND COMBINED SEWER OVERFLOW EXCEPTIONS GRANTED BY THE BOARD DURING FISCAL YEAR 2020

Section 28.1(d)(3) of the Environmental Protection Act (Act) (415 ILCS 5/28.1(d)(3) (2016)) requires the Board to annually publish in the *Illinois Register* and *Environmental Register* a listing of all determinations made pursuant to Section 28.1 at the end of each fiscal year. This notice sets forth all adjusted standard and combine sewer overflow exception determinations made by the Board during the fiscal year 2020.

Final Actions Taken by the Pollution Control Board in Adjusted Standards Proceedings During Fiscal Year 2020 (July 1, 2019 through June 30, 2020)

Docket/Docket Title	Final Determination
In the Matter of: Petition of Midwest Generation, LLC for an adjusted standard from 35 Ill. Adm. Code 811 and 814 AS 19-1 (February 20, 2020)	Petitioner asked the Board to revise AS 96-9 due to new technology that was not available in 1996. Petitioner sought relief for its main quarry at the Joliet/Lincoln quarry site in Will County. The site is used to dispose of coal combustion residuals from two of its generating stations. Petitioner subsequently filed a motion to withdraw the petition due to upcoming regulatory changes. The Board granted the motion to withdraw the petition.

Final Actions Taken by the Pollution Control Board in Combine Sewer Overflow Exception Proceedings During Fiscal Year 2020 (July 1, 2019 through June 30, 2020)

The Board took no action in combined sewer overflow exception proceedings, as none were filed with the Board or pending during fiscal year 2020.

Dockets are available on the Pollution Control Board's website www.pcb.illinois.gov. For assistance, please contact:

Don Brown, Clerk
Pollution Control Board

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION

100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

312-814-3461
Don.Brown@illinois.gov

Address questions concerning this notice, noting the appropriate docket number, to:

Carol Webb
Pollution Control Board
1021 North Grand Avenue East
Springfield, Illinois 62794-9274

217-524-8509
Carol.Webb@illinois.gov

CHIEF PROCUREMENT OFFICER FOR HIGHER EDUCATION

JULY 2020 REGULATORY AGENDA

a) Part (Heading and Code Citation): Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement, (44 Ill. Adm. Code 4).

1) Rulemaking:

A) Description: The Chief Procurement Officer for Higher Education anticipates amendments to the standard procurement rules to implement changes to address legislative changes made by the General Assembly, policy changes by the Chief Procurement Officer, and to provide for simplification and better readability.

B) Statutory Authority: 30 ILCS 500, 30 ILCS 525

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date Agency anticipates First Notice: December 2020

E) Affect on small businesses, small municipalities or not-for-profit corporations: The proposals may affect small businesses that contract with the State of Illinois.

F) Agency contact person for information:

Keely Burton
Procurement Services Administrator
Chief Procurement Office for Public Institutions of Higher Education
520 Stratton Office Building
401 S. Spring St.
Springfield IL 62706

217/720-6229

G) Related rulemakings and other pertinent information: None

2020-42
EXECUTIVE ORDER IN RESPONSE TO COVID-19
(COVID-19 EXECUTIVE ORDER NO. 40)

WHEREAS, Coronavirus Disease 2019 (COVID-19), a novel severe acute respiratory illness, has rapidly spread throughout Illinois, necessitating stringent guidance from federal, state, and local public health officials and significant measures to address the increasing public health disaster; and,

WHEREAS, COVID-19 spreads among people through respiratory transmissions and presents significantly increased risks and challenges because asymptomatic people can transmit the virus and there is currently no effective treatment or vaccine; and,

WHEREAS, on March 9, 2020, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area in response to the outbreak of COVID-19; and,

WHEREAS, on April 1, 2020, I declared all counties in the State of Illinois as a disaster area due to the exponential spread of COVID-19; and,

WHEREAS, on April 30, 2020, due to the expected continuing spread of COVID-19 and the resulting health impacts across the State, as well as the need to prevent potential shortages of hospital beds, ICU beds, ventilators, personal protective equipment and materials for testing for the virus, I declared all counties in the State of Illinois as a disaster area; and,

WHEREAS, on May 29, 2020, due to the thousands of lives lost to COVID-19 in Illinois, the continued increase of cases, the continued threat of shortages of hospital beds, ER beds, and ventilators, the improved but still insufficient testing capacity, and the financial destruction caused by the virus, I again declared all counties in the State of Illinois as a disaster area (together with the previous proclamations identified in this Executive Order, the Gubernatorial Disaster Proclamations); and,

WHEREAS, it is necessary and appropriate for the State of Illinois to continue to take immediate and significant measures to prevent or slow the spread of COVID-19 and protect public health during the COVID-19 outbreak; and,

WHEREAS, the Centers for Disease Control and Prevention (CDC) advises that limiting face-to-face contact with others is the best way to reduce the spread of COVID-19, and that social distancing – staying at least 6 feet away from other people, not gathering in groups, and staying out of crowded places – is among the best tools to slow the spread of the virus; and,

EXECUTIVE ORDER

WHEREAS, the CDC recommends wearing cloth face coverings in public settings where social distancing measures are difficult to maintain and undertaking other critical precautions to slow the spread of COVID-19, such as frequent hand washing, covering coughs and sneezes, and cleaning and disinfecting frequently touched surfaces; and,

WHEREAS, in keeping with CDC guidance, Executive Order 2020-38 mandates the practice of social distancing, wearing face coverings in public spaces, and limited gatherings of ten people or less; and,

WHEREAS, there have been over 131,000 confirmed cases of COVID-19 in 101 Illinois counties, and,

WHEREAS, Illinois has had more than 6,260 deaths resulting from COVID-19; and,

WHEREAS, although the number of new COVID-19 cases have stabilized and potentially begun to decrease in recent weeks, the virus continues to infect thousands of individuals and claim the lives of too many Illinoisans each day; and,

WHEREAS, as the virus has progressed through Illinois, the crisis facing the State continues to develop and requires an evolving response to ensure hospitals, health care professionals, and first responders are able to meet the health care needs of all Illinoisans and in a manner consistent with guidance from the Illinois Department of Public Health and the CDC, which continues to be updated; and,

WHEREAS, the State Fair Act, 20 ILCS 210/5, provides that the Illinois Department of Agriculture (IDOA) shall annually hold a State Fair in Springfield, Illinois (Illinois State Fair) and DuQuoin, Illinois (DuQuoin State Fair), collectively, the State Fairs, to promote agriculture, the agriculture industry, and provide for exhibits and activities in the fields of industry, education, the arts and crafts, labor, entertainment and other areas interest to the people of the State; and,

WHEREAS, the Illinois State Fair in Springfield is scheduled for August 13 – August 23, 2020, and the DuQuoin State Fair is scheduled for August 28 – September 7, 2020; and,

WHEREAS, the State Fairs traditionally host entertainment, competitions, exhibits, vendors, rides, and other activities that draw large crowds in close proximity – over 600,000 individuals attended the State Fairs in 2019; and,

WHEREAS, maintaining adequate social distancing and other adequate health precautions would be extremely difficult, if not impossible, at many of the activities at either State Fair; and,

EXECUTIVE ORDER

WHEREAS, the health and safety of fairgoers, entertainers, competitors, vendors, employees, and those living in the surrounding areas of the State Fairs is of upmost importance;

THEREFORE, by the powers vested in me as the Governor of the State of Illinois, pursuant to Sections 7(1), 7(2), 7(8), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, I hereby order the following:

Section 1. During the duration of the Disaster Proclamations, the provision in the State Fair Act, 20 ILCS 210 ILCS/5, providing that the Department shall annually hold a State Fair at Springfield and DuQuoin is hereby suspended. The Department of Agriculture is directed to cancel the State Fairs scheduled for 2020 in accordance with this Executive Order.

Section 2. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor June 12, 2020
Filed by the Secretary of State June 12, 2020

PROCLAMATION

2020-51
George Floyd Proclamation

WHEREAS, today George Floyd – a beloved father, son, friend, and Black man – who deserved to breathe and to live, but was denied those rights in a horrifying act of police brutality, will be laid to rest in his hometown of Houston; and,

WHEREAS, for too long and too often, being Black in America has been a death sentence – Floyd's murder, along with those of Breonna Taylor, Ahmaud Arbery, and countless others whose memories we cannot allow time to erase, are a part of a violent history of police brutality and white supremacy; and,

WHEREAS, over the past week, tens of thousands of Black Americans – joined by allies of every race – have come together to express their grief, pain and rage at the lack of accountability and action despite centuries of injustice; and,

WHEREAS, these tragedies come before we have had the chance to grieve the loss of over 100,000 Americans from COVID-19, a disease that has caused yet another disproportionate burden on Black Americans due to longstanding health inequities borne on racial lines; and,

WHEREAS, to grieve and heal, we must acknowledge Illinois' own troubled history of race relations, including but not limited to the 1908 Springfield Race Riot that would prove a seminal event in the founding of the NAACP, the East St. Louis Race Riot of 1917, Emmett Till's 1955 open casket funeral in his home state of Illinois after his lynching in Mississippi, the Cairo Race Riot of 1967, and Laquan McDonald's and Rekia Boyd's 21st century deaths at the hands of Chicago police officers; and,

WHEREAS, we – as a state and as a country – must contend with the systemic racism that has been woven into the fabric of our nation since the first ship of enslaved Africans crossed the Atlantic; and,

WHEREAS, my administration is committed to rooting out the racism that permeates our society; this structural change requires consistent action, and it is the only way we will achieve true accountability for the stains of this nation's past and create a just society where Black lives matter and are celebrated;

THEREFORE, we, JB PRITZKER, Governor of the State of Illinois, and JULIANA STRATTON, Lieutenant Governor of the State of Illinois, do hereby proclaim, Tuesday, June 9, 2020 as a day to honor George Floyd and the many like him who've suffered these vile, horrid acts, and to ask all Illinois residents to stand up and demand change and equality for our brothers and sisters.

20

PROCLAMATION

Issued by the Governor June 9, 2020
Filed by the Secretary of State June 9, 2020

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 44, Issue 26 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

44 - 1300 10831
23 - 1002 10840
89 - 406 10846
89 - 407 10849
89 - 408 10852
23 - 1501 10855
86 - 720 10865
89 - 406 11121
89 - 407 11122
89 - 408 11123

ADOPTED RULES

77 - 4500 6/12/2020 10869
35 - 252 6/10/2020 10873
11 - 1800 6/10/2020 10891
86 - 100 6/10/2020 10907
86 - 130 6/10/2020 10981
23 - 2730 7/1/2020 11008
23 - 2733 7/1/2020 11019
23 - 2735 7/1/2020 11032
23 - 2745 7/1/2020 11044
23 - 2764 7/1/2020 11050
23 - 2766 7/1/2020 11059

EMERGENCY RULES

89 - 406 6/12/2020 11070
89 - 407 6/12/2020 11079
89 - 408 6/12/2020 11094
11 - 1800 6/15/2020 11104

EXECUTIVE ORDERS AND PROCLAMATIONS

20 - 42 6/12/2020 11127
20 - 51 6/9/2020 11130

REGULATORY AGENDA

44 - 4 11126