



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

October 20, 2006

FILE NO. 06-003

FINANCE:

Authority of Illinois Student Assistance  
Commission to Sell its Entire Loan Portfolio  
Without Approval of the General Assembly

The Honorable Richard P. Myers  
Minority Spokesperson  
House Appropriations - Higher Education Committee  
State Representative, 94<sup>th</sup> District  
331 North Lafayette  
Macomb, Illinois 61455

Dear Representative Myers:

I have your letter inquiring whether the Illinois Student Assistance Commission (the Commission) has the authority to sell its entire \$3.5 billion student loan portfolio, resulting in the discontinuance of its secondary student loan market program known as the Illinois Designated Account Purchase Program (IDAPP), without first obtaining statutory authorization from the General Assembly. It is my understanding that the Commission has not yet decided whether to sell the entire IDAPP student loan portfolio or any portion thereof. However, the Commission recently selected two companies to provide strategic financial advisory services

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regarding increasing revenue from Commission assets. Accordingly, I will answer your questions as submitted to provide guidance to the Commission as it develops its plan.

Your letter concerning the potential sale of the IDAPP student loan portfolio also raises related questions regarding: (1) whether the Commission has the authority to sell an entire administrative program, like IDAPP, consisting of personnel, intellectual property, and the going concern value of the program without additional statutory authority; and (2) if the Commission has the authority to sell the IDAPP student loan portfolio, what is the proper disposition of the money derived from those sales. For the following reasons, it is my opinion that: (1) the Commission does not currently have the statutory authority to sell the IDAPP student loan portfolio so as to discontinue the IDAPP without first obtaining General Assembly authorization; (2) the Commission does not currently have the statutory authority to sell a program that it administers; and (3) any surplus funds derived from the sale of the IDAPP student loan portfolio, after statutory authorization is received, must be deposited in the Student Loan Operating Fund (110 ILCS 947/113 (West 2004)), unless the General Assembly amends the Higher Education Student Assistance Act (the Assistance Act) (110 ILCS 947/1 *et seq.* (West 2004)) or the Education Loan Purchase Program Law (the Program Law) (110 ILCS 947/125 through 170 (West 2004)) to allow for deposit into another State fund.

### **BACKGROUND**

In 1957, the General Assembly created the Commission to ensure that financial considerations would not prevent Illinois students from completing their post-secondary education. *See* Ill. Rev. Stat. 1957, ch. 122, pars. 37-2, 37-4; *see also* 110 ILCS 947/5, 15, 130

(West 2004).<sup>1</sup> The Commission currently consists of 10 individuals who are appointed by the Governor with the advice and consent of the Senate. 110 ILCS 947/15(a) (West 2004). The Commission generally makes post-secondary education more accessible to students through the administration of various financial assistance programs, including grants, scholarships, loans, and prepaid college tuition programs.<sup>2</sup> 110 ILCS 947/20 (West 2004); 110 ILCS 979/15 (West 2004). Through these programs, the Commission annually awards in excess of \$1 billion of financial assistance to over 250,000 applicants.

With regard to its student loan program, the Commission actively participates in all five student loan business segments. Specifically, the Commission acts as an originator/lender, consolidator, servicer, guarantor, and secondary market. The Commission administers an array of low interest, educational loan programs, including the Federal Stafford

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<sup>1</sup>As originally enacted, the Commission was known as the State Scholarship Commission, and the law creating the State Scholarship Commission was entitled the State Scholarship Act. *See* Ill. Rev. Stat. 1957, ch. 122, pars. 37-1, 37-4. The State Scholarship Commission was later changed to its current name, the Illinois Student Assistance Commission, in 1989. *See* Public Act 86-164, effective August 13, 1989. The State Scholarship Act was changed to the State Scholarships Law in 1961 (*see* 1961 Ill. Laws 31 (§30-15)); the Higher Education Student Assistant Law in 1967 (*see* 1967 Ill. Laws 2644 (§30-15)); and finally to its current name, the Higher Education Student Assistance Act in 1992 (*see* Public Act 87-997, effective September 3, 1992).

<sup>2</sup>The Commission administers grants and scholarships ranging from those based on financial need to those that recognize academic achievement or a chosen field of study/profession and those that reward military service. The Commission's grant and scholarship programs include, among others: the Monetary Award Program (MAP) (110 ILCS 947/35 (West 2004)); the Monetary Award Program Plus (MAP Plus) (added by Public Act 94-1056, effective July 1, 2006, to be codified at 110 ILCS 947/39); the Silas Purnell Illinois Incentive for Access Grant Program (110 ILCS 947/36 (West 2004)); the Merit Recognition Scholarship Program (110 ILCS 947/31 (West 2004)); the Illinois Veteran Grant Program (110 ILCS 947/40 (West 2005 Supp.)); the Illinois National Guard Grant Program (110 ILCS 947/45 (West 2005 Supp.)), as amended by Public Act 94-1020, effective July 11, 2006); the Minority Teachers of Illinois Scholarship Program (110 ILCS 947/50 (West 2005 Supp.)); and grants for dependents of police, fire, and correctional officers (110 ILCS 947/55, 60 (West 2004)).

The Commission also administers a prepaid tuition program known as College Illinois!. *See* 110 ILCS 979/15 (West 2004). Through College Illinois!, the Commission offers a tax-advantaged method of saving for college tuition. This investment program allows families to prepay future tuition and fee costs in advance of enrollment. 110 ILCS 979/15 (West 2004).

Loan program (20 U.S.C.A. §1078 (West 2000 & West 2005 Supp.)), the Federal PLUS loan program (20 U.S.C.A. §1078-2 (West 2000)), and the Federal Consolidation Loan program (20 U.S.C.A. §1078-3 (West 2000 & West 2005 Supp.)). 110 ILCS 947/80 (West 2004). Since 1966, the Commission has also guaranteed Federal Family Education Loan Program (FFELP) loans for qualified borrowers for use at any approved institution of higher learning. 110 ILCS 947/80 (West 2004). Further, the Commission manages a credit-based, alternative loan program aimed at post-secondary students whose needs are not being sufficiently met through traditional government educational loan programs. 110 ILCS 947/100 (West 2004). This program is funded and operated through IDAPP, the Commission's secondary loan market.

In 1977, the General Assembly created, through the Program Law, a secondary market for certain educational loans known as IDAPP. 110 ILCS 947/125 through 170 (West 2004); 23 Ill. Adm. Code §2720.105(a) (Conway Greene CD-ROM June 2003). IDAPP originates, purchases, and services loans made under the Commission's FFELP. The Commission creates the secondary market by purchasing or servicing certain loans of borrowers with the proceeds from the sale of bonds, the earnings received from investments, or eligible loan receipts. 110 ILCS 947/135 (West 2004). The purpose of the Commission's secondary loan market is to reduce the administrative expenses associated with educational loans of lenders, facilitate the early identification and treatment of delinquent loan accounts, and generally increase the availability of education loans. 110 ILCS 947/130 (West 2004); 23 Ill. Adm. Code §2720.105 (Conway Greene CD-ROM June 2003). Through the secondary market, IDAPP can purchase student loans from individual lenders. IDAPP then services those loans and

subsequently collects payments from the borrowers. Through its purchase activity, IDAPP provides lenders with the liquidity they need to make additional loans.

In May 2005, Governor Blagojevich proposed selling the IDAPP student loan portfolio. It was estimated that the sale would generate approximately \$300 to \$500 million, which would be used, in part, to balance the State's budget. In fact, legislation was introduced authorizing the Governor's Office of Management and Budget (GOMB), with the assistance of the Commission, to undertake the sale of outstanding, eligible student loans and attendant loan origination and servicing rights. *See* 94<sup>th</sup> Ill. Gen. Assem., House Bill 806, Senate Amendment No. 2, 2005 Sess.<sup>3</sup> The legislation further provided that one-third of the proceeds remaining from the sale, after all bonds had been paid, would be transferred into the Student Loan Operating Fund, and two-thirds into the General Revenue Fund. The proposal was eventually dropped, and the legislation was later amended to create the ALL KIDS Health Insurance Act.<sup>4</sup>

During the Governor's State of the State address in January 2006, the Governor proposed a \$1,000 tax credit for every student who attends an Illinois college. To pay for the tax

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<sup>3</sup>Senate Amendment No. 2 to House Bill No. 806 amended section 140 of the Assistance Act to specifically authorize the Commission "[t]o make, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Governor's Office of Management and Budget Commission, eligible loans, including loans guaranteed by the Commission." The amendment also granted the GOMB, with the assistance of the Commission, the authority "to undertake the sale of the Commission's outstanding eligible loans and attendant loan origination and servicing rights in an 'Eligible Loan Portfolio Sale'."]

When the Commission became aware of Senate Amendment No. 2 to House Bill No. 806, it discussed the passage of a formal resolution "expressing the Commission's concern over the possible sale of the secondary market." The Commission's chairman asked that the Commission Executive Director and staff "continue to work hard as representatives of the Commission to educate members of the General Assembly on the work of the secondary market." *See* Commission, Agenda Item 2, Minutes of June 24, 2005 Meeting, at 3-8 (September 19, 2005).

<sup>4</sup>*See* 94<sup>th</sup> Ill. Gen. Assem., House Bill 806, Senate Amendment No. 3, 2005 Sess.

credit and other higher education items, the Governor proposed, in his annual budget address in February 2006, to sell the IDAPP student loan portfolio and transaction services. The Governor later abandoned the tax credit proposal in favor of the creation of the MAP Plus Program and additional funding for MAP. As you are aware, legislation was also introduced in the spring of 2006 prohibiting the sale of the IDAPP student loan portfolio, or the attendant loan origination and servicing rights. This legislation was referred to the House of Representatives' Rules Committee and did not advance beyond first reading.<sup>5</sup>

On June 23, 2006, the Commission and its secondary student loan program, IDAPP, published in the electronic Illinois Procurement Bulletin--Supplies and Services Request for Proposals No. 22010927 (the RFP) for strategic financial advisory services. The RFP states that the Commission seeks to enter into a contract with one or more strategic financial advisors "to assist [the Commission] in developing ways to maximize financial efficiency from [Commission] assets[.]" Specifically, according to the RFP, the strategic financial advisor(s) must identify specific areas of the Commission's businesses that could generate short-term revenues without compromising the mission of the Commission. The analysis must examine three primary areas: (1) the Commission's current business processes and the possibility of entering into strategic partnerships to improve those processes; (2) the Commission's core units and the possibility of gaining operational efficiencies through agency restructuring; and (3) IDAPP student loan portfolio debt restructuring and strategic sale options for the IDAPP portfolio. As to the later, the RFP notes that "[i]f the entire portfolio is offered for sale, the

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<sup>5</sup>See 94<sup>th</sup> Ill. Gen. Assem., House Bill 5767, 2006 Sess.

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impact to Illinois students of not having a nonprofit secondary market in the state should be evaluated." The strategic financial advisor(s) also must assist the Commission with developing requests for proposals to undertake the potential transactions and evaluating the proposals. The first addendum to the RFP indicates that contracts with partners, service providers, and/or purchasers are to be executed by October 13, 2006. All refinancing and asset sale transactions are to be completed by October 31, 2006. The first addendum to the RFP also specifies that all due dates are subject to change as necessary. My office has not received any information suggesting that the Commission has changed the dates set out in the first addendum to the RFP.

Proposals in response to the RFP were due July 10, 2006, and the anticipated date for the execution of a contract with the selected advisor(s) was July 21, 2006. According to the contract award notice published on September 20, 2006, four proposals were submitted in response to the RFP, but the Commission deemed only two bids as responsive. The contract award notice further indicates that the Commission has awarded two contracts for strategic financial advisory services in response to the RFP. The Commission selected Morgan Stanley & Co., Inc., as its primary strategic financial advisor, and Garder, Underwood & Bacon as its co-advisor. The Commission has not provided my office with a copy of executed contracts with these vendors, or with any information indicating that the contracts will contain completion dates different from those specified in the first addendum to the RFP.

In an effort to respond to your request for an opinion, staff from the Attorney General's office met with representatives of the Governor's office, the GOMB, and the Commission on January 31, 2006. At that time, representatives of the Governor's office, GOMB,

and the Commission indicated that they were exploring, on a conceptual level, the possibility of a sale of the IDAPP student loan portfolio, but were not yet prepared to offer details of a potential sales transaction. By letter dated March 16, 2006, we informed you of this meeting and indicated that representatives of the Governor's office reiterated their commitment to provide my office with additional information about a potential sale. Based on information we have found in public records, it appears that a proposed sale or restructuring of Commission assets is proceeding. Therefore, it is my intent that this opinion provide guidance to the Commission as that process moves forward.

#### ANALYSIS

##### **Sale of IDAPP Student Loan Portfolio**

Your question concerns whether the Commission has the authority to sell its IDAPP student loan portfolio and discontinue the IDAPP without first obtaining statutory authorization from the General Assembly. As explained above, the Commission operates its secondary student loan program by issuing bonds and using the proceeds from the sale of the bonds to make or acquire eligible loans. *See* 110 ILCS 947/135(b) (West 2004) (defining the term "eligible loan"). The Commission's authority regarding the secondary loan market stems from section 140 of the Program Law (110 ILCS 947/140(d), (e) (West 2004)), which provides, in pertinent part:

*Powers and Duties. The Commission shall have the following powers in furtherance of the programs authorized by this Act:*



(a) To adopt rules and regulations governing the purchasing, servicing, and *selling of eligible loans* and any other matters relating to the activities of the guaranteed loan programs.

(b) To perform such other acts as may be necessary or appropriate in connection with the making, purchasing, servicing, and *selling of eligible loans*.

\* \* \*

(d) To make, purchase, service, *sell*, or otherwise deal in, at *prices and on terms and conditions determined by the Commission, eligible loans*, including loans guaranteed by the Commission.

(e) To issue bonds to make or acquire eligible loans or to refund the bonds of the Commission and to provide for the security and payment of those bonds and for the rights of the holders thereof. (Emphasis added.) 110 ILCS 947/140(a), (b), (d), (e) (West 2004).

The Governor's office and the Commission's representatives rely on section 140 as providing the necessary authority for the Commission to sell its entire student loan portfolio under IDAPP. The primary rule of statutory construction is to ascertain and give effect to the intent of the General Assembly. *Wauconda Fire Protection District v. Stonewall Orchards, LLP*, 214 Ill. 2d 417, 430 (2005). The statutory language is the best indicator of legislative intent and that language must be given its plain and ordinary meaning. *King v. First Capital Financial Services Corp.*, 215 Ill. 2d 1, 26 (2005). Where the language of a statute is clear and unambiguous, it should be given effect as written, without reading into it exceptions, limitations, or conditions that the General Assembly did not express. *Land v. Board of Education of the City of Chicago*, 202 Ill. 2d 414, 426 (2002).

While section 140 grants the Commission broad authority to sell "eligible loans," this authority is not without limitation. The Assistance Act does not specifically grant the Commission the authority to sell the entire loan portfolio and discontinue its secondary student loan market program. Rather, the express language of section 140 conditions the Commission's authority to sell any eligible loans on the sale being "in furtherance of the programs authorized by this Act." 110 ILCS 947/140 (West 2004). When ascertaining legislative intent, the rules of statutory construction require consideration of the entire statute. *People v. Brooks*, 158 Ill. 2d 260, 264 (1994). Moreover, a statute must be read as a whole, and no word or paragraph should be interpreted so as to be rendered meaningless. *Williams v. Staples*, 208 Ill. 2d 480, 487 (2004). Thus, based on section 140, the sale of any eligible loans must further the various programs set forth in the Act.

The sale of eligible loans may, in certain circumstances, be "in furtherance of the programs authorized by this Act." For example, the sale of an eligible loan could allow an individual debtor to consolidate his or her loans and the corresponding loan payments. This creates the opportunity for reducing student loan defaults, while at the same time freeing up money for the Commission to make or purchase additional loans. Conversely, although the money generated from the sale of the entire student loan portfolio may benefit some of the programs administered by the Commission and supported or subsidized by the IDAPP, selling the entire student loan portfolio would not be in furtherance of the Program Law, which established the student loan secondary market, unless the Commission used the sale proceeds to further programs authorized by the Act and continued to operate the IDAPP as set forth

in the statute.<sup>6</sup> Without continuing to purchase additional loans, the IDAPP would cease to exist as a program. Selling loans in order to raise funds to balance the State's budget, or to terminate the IDAPP program, would not be "in furtherance of the programs authorized by this Act." *Cf. MCI Telecommunications Corp. v. American Telephone and Telegraph Co.*, 512 U.S. 218, 114 S. Ct. 2223 (1994) (Federal Communication Commission's authority to "modify" requirements related to the filing of tariffs is not a grant to eliminate the tariff filing requirement for qualifying long-distance carriers). Therefore, selling the entire student loan portfolio without directing the funds to programs authorized by the Assistance Act, or discontinuing the IDAPP, is not within the Commission's enumerated powers nor is it supported by the plain language of the Assistance Act, as it is not "in furtherance of the programs authorized by this Act."

The General Assembly, by enacting the Program Law, specifically determined that it was in the State's best interests to have a secondary market for student loans and authorized the Commission to establish and operate this program. In this regard, section 130 of the Program Law (110 ILCS 947/130 (West 2004)) provides:

Purpose. The General Assembly finds and declares that (1) the provision of an education for all residents of this State who desire an education and are properly qualified therefor is important to the welfare and security of this State and Nation and, consequently, is an important public purpose, and (2) many qualified students are deterred by financial considerations from

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<sup>6</sup>See Commission, Agenda Item 3, Executive Director's Report, State Legislative Update, at 3-1 (June 24, 2005). ("[A] late amendment considered by the Senate Executive Committee would have allowed the Governor's Office of Management and Budget to conduct a competitive bidding process for the sale of ISAC's [Illinois Student Assistance Commission] student loan secondary market. The bill failed to pass either chamber[.] \* \* \* Without the revenues invested into ISAC's financial aid administration and outreach programs by the student loan secondary market, ISAC would find it very difficult to continue offering the high-level services that we now provide to Illinois students, families, schools, and banks.")

completing their education, with a consequent irreparable loss to the State and Nation of talents vital to welfare and security. Improved access to loans will enable those residents to attend the institutions of their choice. Establishment of a secondary market for certain loans will reduce lender administrative costs associated with educational loans, facilitate the early identification and treatment of delinquent loan accounts, and reduce potential student loan default losses so as to improve student access to loans made by commercial lenders.

In support of the secondary loan program, the General Assembly established a statutory mechanism to fund the program through the issuance of bonds. 110 ILCS 947/145 (West 2004).

The bonds are secured by the loans purchased by the Commission and are paid through the collection of eligible loan receipts. 110 ILCS 947/150(b) (West 2004). In construing a statute, the statute should be evaluated as a whole; each provision should be construed in connection with every other section. *Eden Retirement Center, Inc. v. Department of Revenue*, 213 Ill. 2d 273, 291 (2004). When considering the Program Law as a whole, it evinces an intent on the part of the General Assembly that a continuing program be administered by the Commission to improve student access to loans made by commercial lenders.

The General Assembly has established a secondary loan program to be administered by the Commission. The Commission currently has no authority to sell eligible loans in the IDAPP loan portfolio without using the proceeds for Commission purposes, or in order to discontinue the secondary loan program. If the Commission ultimately decides that such a transaction is financially advantageous, it must first seek legislative authority by amending the

Program Law or the Assistance Act to allow for such sale and the discontinuance of the State's secondary loan program.<sup>7</sup>

**Sale of a Program of the Commission**

A related issue to the question of whether the Commission currently possesses statutory authority to sell the IDAPP student loan portfolio is whether the Commission has the authority to sell a program it administers, like IDAPP, consisting of personnel, intellectual property, and the going concern value of the program. It is well established in Illinois that administrative agencies possess only those powers that are expressly granted to them by statute, together with those powers that may be necessarily implied therefrom to effectuate the powers which have been granted. *Granite City Division of National Steel Co. v. Illinois Pollution Control Board*, 155 Ill. 2d 149, 171 (1993); *County of Whiteside v. Illinois Property Tax Appeal Board*, 276 Ill. App. 3d 182, 188 (1995), *appeal denied*, 166 Ill. 2d 556 (1996). Under the Assistance Act and Program Law, the Commission has been given broad authority to establish and administer financial assistance programs to make post-secondary education accessible to Illinois students. Nothing in the language of either the Assistance Act or the Program Law,

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<sup>7</sup>You also have asked whether legislation authorizing the Commission to sell the IDAPP loan portfolio must be passed by three-fifths vote of each house of the General Assembly. The Illinois Constitution sets forth various circumstances under which a three-fifths vote of each house of the General Assembly is required. You have not cited to any particular provision of the Illinois Constitution as requiring that legislation authorizing the sale of the IDAPP loan portfolio be passed by three-fifths vote of each house of the General Assembly. We assume that you are asking whether the sale would create "State debt," as that term is used in article IX, section 9, of the Illinois Constitution, thereby requiring the enabling legislation to pass by a three-fifths vote of each house of the General Assembly. Without the exact details of the proposed sale, it is difficult to envision how "State debt" would be created through such a transaction. Because the loan portfolio is an asset, the selling of it would generate revenue, not debt. Absent specific information regarding a sale of the IDAPP loan portfolio, we cannot definitively resolve this issue. However, it is unlikely that "State debt" would be created, thereby requiring a three-fifths vote of each house of the General Assembly.

however, either expressly or impliedly grants to the Commission the authority to sell a program that it operates. Therefore, the power to do so, if it exists, must be derived from another source. Our review of the pertinent statutory provisions has not revealed any other statutory authority that would authorize such a sale. Consequently, if the Commission wants to sell a program that it operates or a part of the agency, it must seek specific legislative authority to do so.

#### **Disposition of Funds**

The final question related to your inquiry concerns the proper disposition of the money derived from a sale of the IDAPP student loan portfolio. Because I have concluded that the Commission does not currently possess the authority to sell the IDAPP student loan portfolio so as to discontinue the IDAPP, the only remaining question involves the proper disposition of the money derived from such a sale, if the General Assembly grants the Commission the authority to sell the IDAPP student loan portfolio.

As previously noted, the Commission has the authority to make or acquire eligible loans through the issuance of bonds. 110 ILCS 947/145(a) (West 2004). The bonds, in turn, are secured by the income and revenues derived from the loans. 110 ILCS 947/150 (West 2004). In connection with the issuance of the bonds and to secure payment of the bonds, the Commission must agree that, so long as any bonds remain outstanding and unpaid, the Commission will collect all eligible loan receipts and pay the bonds at maturity. 110 ILCS 947/150(c), (f) (West 2004). Assuming all outstanding bonds have been repaid, section 160 of the Program Law (110 ILCS 947/160 (West 2004)) sets forth the proper disposition of Commission funds:

Moneys of the Commission. Notwithstanding the provisions of this Act or of any other law, all proceeds from the sale of the bonds of the Commission issued pursuant to this Act or pledged or assigned to or in trust for the benefit of the holder or holders thereof shall be deposited by the Chairman of the Commission in such bank or banks or trust company or trust companies as may be designated by the Commission, and all deposits of such moneys shall, if required by the Commission, be secured by direct or fully guaranteed obligations of the United States of America, of a market value equal at all times to the amount of the moneys on deposit. Such moneys shall be disbursed as may be directed by the Commission and in accordance with the terms of any agreements with the holder or holders of any bonds. This Section shall not be construed as limiting the power of the Commission to agree in connection with the issuance of any of its bonds as to the custody and disposition of the moneys received from the sale of the bonds or from the income and revenues pledged or assigned to or in trust for the benefit of the holder or holders thereof. In addition to the authority otherwise available to invest funds, the Commission may invest any of its funds in obligations the interest upon which is tax-exempt under the provision of Section 103 of the Internal Revenue Code of 1986, or any successor code or provision. *When all of the bonds of the Commission have been paid or provision has been made for the payment thereof and when the Commission has determined that it has accumulated more funds than are necessary therefor, those surplus funds shall be paid into the Student Loan Fund established under Section 110.* (Emphasis added.)

In construing the provisions of the Program Law, it is evident that the General Assembly intended that income generated from student loans would be used to pay the bonds issued to acquire the eligible loans. The plain language of section 160 further indicates that, once all bonds have been paid, any surplus funds are to be deposited into the Student Loan Operating Fund, a special fund authorized by statute. 110 ILCS 947/113, 160 (West 2004). Therefore, any surplus funds generated from the sale of a portion of the student loan portfolio must be deposited

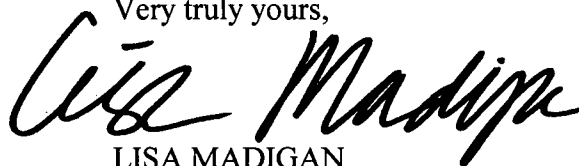
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into the Student Loan Operating Fund. To divert the funds to another use would violate current Illinois law. Therefore, if the Commission intends to use the funds for other purposes or to deposit the surplus funds into another fund, such as the State's General Revenue Fund, the Commission must seek legislative authorization by amending the Program Law or the Assistance Act to allow for such use or deposit.

### CONCLUSION

For the foregoing reasons, it is my opinion that: (1) the Commission does not currently possess the statutory authority to sell the IDAPP student loan portfolio and discontinue the IDAPP program; (2) the Commission does not currently possess the statutory authority to sell a program that it administers; and (3) assuming the requisite statutory authority for a sale of the portfolio is obtained, any surplus funds derived from the sale of the IDAPP student loan portfolio must be deposited in the Student Loan Operating Fund, unless the General Assembly amends the Program Law or the Assistance Act to allow the deposit into another State fund.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lisa Madigan". The signature is written in a cursive, flowing style.

LISA MADIGAN  
ATTORNEY GENERAL