



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-THIRD GENERAL ASSEMBLY

78TH LEGISLATIVE DAY

MONDAY, FEBRUARY 9, 2004

4:15 O'CLOCK P.M.

SENATE
Daily Journal Index
78th Legislative Day

Action	Page(s)
Introduction of Senate Bill No. 3220	11
Joint Action Motion Filed	14
Joint Action Motions Filed.....	14
Legislative Measures Filed.....	3
Presentation of Senate Joint Resolution No. 54.....	6
Presentation of Senate Joint Resolution No. 55.....	6
Presentation of Senate Joint Resolution No. 56.....	9
Presentation of Senate Joint Resolution No. 57.....	10
Presentation of Senate Resolution No 410-413	3
Presentation of Senate Resolution No 416.....	15
Presentation of Senate Resolution No. 414.....	3
Presentation of Senate Resolution No. 415.....	4
Presentation of Senate Resolution No. 53.....	5
Report from Rules Committee	14

Bill Number	Legislative Action	Page(s)
SJR 0053	Committee on Rules	5
SJRCA 0054	Constitutional Amendment	6
SJRCA 0055	Constitutional Amendment	6
SJRCA 0056	Constitutional Amendment	9
SJRCA 0057	Constitutional Amendment	10
SR 0414	Committee on Rules.....	3
SR 0415	Committee on Rules.....	4
HB 3937	First Reading.....	15

The Senate met pursuant to adjournment.
 Honorable Emil Jones, Jr., President of the Senate, presiding.
 Prayer by Reverend Percy L. Johnson, Greater Faith Baptist Church, Waukegan, Illinois.
 Senator Link led the Senate in the Pledge of Allegiance.

The Journal of Thursday, February 5, 2004, was being read when on motion of Senator Schoenberg, further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

The Journal of Friday, February 6, 2004, was being read when on motion of Senator Schoenberg, further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

LEGISLATIVE MEASURES FILED

The following Committee amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Senate Committee Amendment No. 1 to Senate Bill 2140
 Senate Committee Amendment No. 1 to Senate Bill 2142
 Senate Committee Amendment No. 1 to Senate Bill 2158
 Senate Committee Amendment No. 1 to Senate Bill 2165
 Senate Committee Amendment No. 1 to Senate Bill 2167
 Senate Committee Amendment No. 1 to Senate Bill 2270
 Senate Committee Amendment No. 1 to Senate Bill 2337
 Senate Committee Amendment No. 1 to Senate Bill 2350
 Senate Committee Amendment No. 1 to Senate Bill 2386

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 410

Offered by Senator Link and all Senators:
 Mourns the death of Eloise "Ellie" Onan of Waukegan.

SENATE RESOLUTION 411

Offered by Senator Viverito and all Senators:
 Mourns the death of Timothy T. "Tim" O'Donnell.

SENATE RESOLUTION 412

Offered by Senator Viverito and all Senators:
 Mourns the death of Eileen M. La Bash (nee Jaronski) of Evergreen Park.

SENATE RESOLUTION 413

Offered by Senator Meeks and all Senators:
 Mourns the death of Detective William "Wally" Rolniak of Riverdale.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

Senators Luechtefeld - Watson - Dillard - J. Jones offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 414

WHEREAS, The House of Representatives of the United States has passed H.R. 5, the Help Efficient,

[February 9, 2004]

Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2003; and

WHEREAS, H.R. 5 is currently pending in the United States Senate; and

WHEREAS, H.R. 5 will implement health care liability reforms to: improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services; reduce the incidence of defensive medicine and lower the cost of health care liability insurance; ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages; improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we urge the United States Senate to act responsibly and pass H.R. 5, the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2003; and be it further

RESOLVED, That copies of this resolution be presented to United States Senator Richard Durbin and United States Senator Peter G. Fitzgerald.

Senator Schoenberg offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 415

WHEREAS, During the month of May 2004, Temple Judea Mizpah Skokie's original Reform Jewish Congregation will celebrate 50 years of worship, providing a faith community, life-long education, social justice, and commitment to the neighborhoods and communities of its members, the State of Illinois, and the Federal Government; and

WHEREAS, Temple Judea Mizpah has served Skokie since the first service on March 4, 1954, and adopted the name Temple Judea in May of 1954; and

WHEREAS, Temple Judea Mizpah's original Rabbi, Karl Weiner, provided inspiration, leadership, education, a strong sense of social justice, and compassion that radiated throughout the congregation, the community, and Illinois; and

WHEREAS, Temple Judea Mizpah received the land it currently occupies at Conrad and Niles Center Road as a gift from congregants on July 23, 1954; and

WHEREAS, Temple Judea Mizpah initiated the first religious school classes in September, 1954; and

WHEREAS, Temple Judea Mizpah conducted the first Reform Jewish High Holy Day Services in Niles Township on September 27 and 28, 1954; and

WHEREAS, On October 17, 1954, Temple Judea Mizpah broke ground for the construction of the temple building at 8610 Niles Center Road; and

WHEREAS, Temple Judea Mizpah congregants marched in Selma, Alabama, protested the Democratic National Convention during the Vietnam War, stood up to the Neo-Nazis and Ku Klux Klan in Skokie, provided settlement services to new Russian immigrants, adopted Vietnamese Boat families, fed the poor and hungry at the Good News Soup Kitchen, planted trees in Israel, and presented challenging adult and youth education through such venues as the religious school and the Karl Weiner Memorial Scholar in Residence program; and

WHEREAS, Temple Judea merged with Temple Mizpah, the original Reform Jewish Congregation in the Rogers Park area of Chicago in the summer of 1977 to become one of the most significant North Shore congregations in the metropolitan Chicago area; and

[February 9, 2004]

WHEREAS, Temple Judea Mizpah provides educational programs, community leadership, a strong faith community, a commitment to social justice, leadership in bringing the diverse citizens of Skokie and the North Shore together, and dedicated service to its congregants via Rabbi Audrey Korotkin; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we designate the week of May 1, 2004, through May 8, 2004, as Celebration of Temple Judea Mizpah's Golden Jubilee 50th Anniversary Week in the State of Illinois; and be it further

RESOLVED, That a suitable copy of this resolution be presented to Temple Judea Mizpah as an expression of our congratulations on the occasion of its Golden Jubilee 50th Anniversary.

Senator Cullerton offered the following Senate Joint Resolution, which was referred to the Committee on Rules:

SENATE JOINT RESOLUTION NO. 53

WHEREAS, The adoption of balanced and restorative justice in the Juvenile Court Act of 1987 also imposes on the juvenile court system an obligation to provide competency-building services to youths while under the jurisdiction of the court; and

WHEREAS, The adoption of Redeploy Illinois has the potential to provide funding for competency-building services in counties throughout the State, thereby reducing the State's costly practice of relying on incarceration; and

WHEREAS, Recent national studies question whether juveniles are developmentally competent to make the legal decisions necessary in adult criminal court proceedings; and

WHEREAS, One recent study of nearly 1,000 juveniles concluded that approximately one-third of 11 through 13 year olds and approximately one-fifth of 14 through 15 year olds were as impaired in capacities that affect their competence to stand trial as are seriously mentally ill adults who would likely be considered incompetent; and

WHEREAS, In addition, studies indicate that immaturity may affect the performance of youths as defendants in ways that extend beyond the elements of understanding and reasoning that are explicitly relevant under the law, since, compared to young adults, adolescents are more likely to comply with authority figures, less likely to recognize the risks inherent in the various choices they face, and less likely to consider the long-term consequences of their legal decisions; and

WHEREAS, Numerous national, legal, and medical organizations (including the American Bar Association, the National Council of Juvenile and Family Court Judges, the American Academy of Pediatricians, and the Association of Adolescent Psychiatrists) oppose the trial of youths in adult criminal court unless the decision has been made on an individual basis following a court hearing with adequate consideration of all relevant issues and with full due process protections; and

WHEREAS, Courts have consistently warned that fundamental due process protections are necessary to ensure that the critical decision to try a minor as an adult is made on an individual basis, taking into account all relevant factors including the circumstances of the offense, the age of the minor, the competency of the minor, the educational and emotional capacity of the minor, the background of the minor including physical, developmental, and mental capacity, and the resources of the juvenile court; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there is created a Task Force on Trial of Juveniles in Adult Court, comprised of members of the General Assembly, representatives of the Governor, and concerned members of the public, to study and make recommendations for improvements in transfer laws stating when juveniles shall be tried as adults; and

[February 9, 2004]

be it further

RESOLVED, That two members who are elected members of the House of Representatives and two members who are elected members of the Senate be appointed, one each by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate; and be it further

RESOLVED, That the Speaker of the House of Representatives and the President of the Senate or their designees shall serve as co-chairs; and be it further

RESOLVED, That at least one member be appointed by the Governor; and be it further

RESOLVED, That the Task Force shall meet at least 4 times while the General Assembly is in recess and report any findings and recommendations to the General Assembly by December 31, 2004.

Senators Luechtefeld - Watson - Dillard - J. Jones offered the following Senate Joint Resolution, which was ordered printed and referred to the Committee on Rules:

**SENATE JOINT RESOLUTION NO. 54
CONSTITUTIONAL AMENDMENT**

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this resolution a proposition to add Section 13.5 to Article IV of the Illinois Constitution as follows:

ARTICLE IV

THE LEGISLATURE

SECTION 13.5. LIMITATION ON LIABILITY FOR NON-ECONOMIC DAMAGES

(a) In this Section "economic damages" means compensatory damages for any pecuniary loss or damage. The term does not include any loss or damage for past, present, and future physical pain and suffering, mental anguish and suffering, loss of consortium, loss of companionship and society, disfigurement, or physical impairment.

(b) Notwithstanding any other provision of this constitution, the General Assembly may determine by statute the limit of liability for all damages and losses other than economic damages of a provider of medical or health care with respect to treatment, lack of treatment, or other claimed departure from an accepted standard of medical or health care or safety that is or is claimed to be a cause of or that contributes or is claimed to contribute to the disease, injury, or death of a person. This subsection (b) applies without regard to whether the claim or cause of action arises under or is derived from common law, a statute, or other law, including any claim or cause of action based or sounding in tort, contract, or any other theory or any combination of theories of liability. The claim or cause of action includes a medical or health care liability claim as defined by the legislature.

(c) This Section applies to any law enacted by the General Assembly on or after the effective date of this constitutional amendment.

(d) A legislative exercise of authority under subsection (b) of this Section requires a majority vote of all the members elected to each house and must include language citing this Section.

SCHEDULE

This Constitutional Amendment takes effect upon being declared adopted in accordance with Section 7 of the Illinois Constitutional Amendment Act.

Senator Schoenberg offered the following Senate Joint Resolution, which was ordered printed and referred to the Committee on Rules:

**SENATE JOINT RESOLUTION NO. 55
CONSTITUTIONAL AMENDMENT**

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there

[February 9, 2004]

shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this resolution a proposition to amend Section 12 of and add Sections 12.1 and 12.2 to Article VI of the Illinois Constitution as follows:

ARTICLE VI
THE JUDICIARY

SECTION 12. ELECTION AND RETENTION

(a) Supreme, Appellate and Circuit Judges shall be nominated at primary elections or by petition. Judges shall be elected at general or judicial elections as the General Assembly shall provide by law. A person eligible for the office of Judge may cause his name to appear on the ballot as a candidate for Judge at the primary and at the general or judicial elections by submitting petitions. The General Assembly shall prescribe by law the requirements for petitions.

(b) The office of a Judge shall be vacant upon his death, resignation, retirement, removal, or upon the conclusion of his term without retention in office. Whenever an additional Appellate or Circuit Judge is authorized by law, the office shall be filled in the manner provided for filling a vacancy in that office.

(c) A vacancy occurring in the office of Supreme, Appellate or Circuit Judge shall be filled as the General Assembly may provide by law. In the absence of a law, vacancies may be filled by appointment by the Supreme Court. A person appointed to fill a vacancy 60 or more days prior to the next primary election to nominate Judges shall serve until the vacancy is filled for a term at the next general or judicial election. A person appointed to fill a vacancy less than 60 days prior to the next primary election to nominate Judges shall serve until the vacancy is filled at the second general or judicial election following such appointment.

(d) Except as otherwise provided in this Article, not less than six months before the general election preceding the expiration of his term of office, a Supreme, Appellate or Circuit Judge who has been elected to that office may file in the office of the Secretary of State a declaration of candidacy to succeed himself. The Secretary of State, not less than 63 days before the election, shall certify the Judge's candidacy to the proper election officials. The names of Judges seeking retention shall be submitted to the electors, separately and without party designation, on the sole question whether each Judge shall be retained in office for another term. The retention elections shall be conducted at general elections in the appropriate Judicial District, for Supreme and Appellate Judges, and in the circuit for Circuit Judges. The affirmative vote of three-fifths of the electors voting on the question shall elect the Judge to the office for a term commencing on the first Monday in December following his election.

(e) A law reducing the number of Appellate or Circuit Judges shall be without prejudice to the right of the Judges affected to seek retention in office. A reduction shall become effective when a vacancy occurs in the affected unit.

(Source: Illinois Constitution.)

(ILCON Art. VI, Sec. 12.1. new)

SECTION 12. 1. RETENTION PROCEDURES FOR JUDGES IN THE CIRCUIT OF COOK COUNTY

(a) No later than the first Monday in December of the calendar year before the year in which a term of a Judge of the Circuit of Cook County expires pursuant to Section 10, he or she may file in the office of the Director of the Administrative Office of Illinois Courts a declaration of candidacy for retention in that office. Any Judge of the Circuit of Cook County who holds office subsequent to the effective date of this Constitutional Amendment shall be eligible for retention in the office to which he or she was appointed. No later than 11 months before the general election next preceding the expiration of the term of office of a Judge seeking retention, the Director of the Administrative Office of Illinois Courts shall notify the Chair of the appropriate Judicial Review Commission of the Judge's candidacy. The Chair shall then promptly convene the Commission.

(b) No later than 195 days before the general election to be held in that calendar year, each Judicial Review Commission shall issue a notice to the public and shall make all reasonable efforts to publicize the notice. The notice shall provide that any individual or organization shall have until at least 165 days before the general election in which to submit written comments about the performance of and capacity to continue serving of any Judge being considered for retention by the particular Judicial Review Commission. The Judicial Review Commission's notice to the public shall list the names and then current assignments of all Judges being considered by it for retention and shall provide an address to which written comments may be sent. All written comments shall be made public by the Director of the Administrative Office of Illinois Courts at the same time that the evaluations of the Judges and the Judicial Review Commission's written report on each Judge are made public pursuant to subsection (d), except that written comments shall not be made public if the commenter so requests.

[February 9, 2004]

(c) If by concurrence of not less than three-fifths of its members the Judicial Review Commission finds the candidate to be qualified to serve another term, the candidate shall be deemed retained in office for a full term commencing on the first Monday in December of that calendar year. The Judicial Review Commission shall investigate the qualifications of all Judges seeking retention and, in particular, shall evaluate each Judge's character, background, temperament, professional aptitude, experience, intellect, integrity, sense of compassion, and commitment to equal justice under law.

All Judges shall be considered for retention by the Judicial Review Commission free from discrimination on the basis of race, color, creed, national origin, sex, sexual orientation, disability (so long as the Judge can perform the essential functions of a Judge), political party, or political affiliation. Not less than 150 days before the general election to be held in that calendar year, the Judicial Review Commission shall submit to each candidate its finding as to whether the candidate is qualified or not qualified to serve another term. The Judicial Review Commission's finding shall include a written statement evaluating the candidate's performance in office during the term that is expiring and shall comment upon its assessment of the candidate's performance under all of the criteria set forth in this subsection.

(d) Not less than 135 days before the election, the Judicial Review Commission shall submit to the Director of the Administrative Office of Illinois Courts a list stating by name: (i) which candidates it has found qualified to serve another term; (ii) which candidates it has found not qualified to serve another term; and (iii) which candidates have withdrawn their candidacy by written notification to the Judicial Review Commission. At the same time that the Judicial Review Commission tenders its list to the Director of the Administrative Office of Illinois Courts, the Judicial Review Commission shall also make its list public. In addition, the Judicial Review Commission shall make public its written evaluations, which it previously submitted to all of the candidates who sought retention, except for those candidates who withdrew their retention candidacies no later than 135 days before the general election.

(e) A Judge found not qualified for retention by a Judicial Review Commission shall have the right to stand for retention by the electorate at the general election. The Judge shall file in the office of the Secretary of State, not less than 135 days before the election, a declaration of candidacy for retention by the electorate. Not less than 115 days before the general election, the Secretary of State shall certify the Judge's candidacy to the proper election officials. At the election, the name of each Judge who has timely filed a declaration of candidacy for retention by the electorate shall be submitted to the electorate, separately and without party designation, on the sole question of retention in office for another term. Retention elections shall be conducted at the same time as general elections. The affirmative vote of three-fifths of the electors voting on the question of retention shall be necessary to retain a Judge in that office for a full term commencing on the first Monday in December following the election.

(f) A Judge eligible to file a declaration of candidacy for retention who (i) fails to do so by the first Monday in December of the calendar year before the expiration of his or her then current term or (ii) declares his or her candidacy for retention and subsequently withdraws that candidacy pursuant to subsection (d) or fails of retention shall vacate the office on the first Monday in December following the general election held in that calendar year, whether or not a successor shall yet have been elected and qualified. If an incumbent Judge does not timely file a declaration of candidacy for retention or withdraws as a candidate 135 days or more before the next general election, the election of a successor, if any, shall proceed in the manner provided in Section 12.

(g) An authorized reduction in the number of Judges in the Circuit of Cook County shall be without prejudice to the right of Judges in office at the time of the reduction to seek retention in accordance with this Section. The reduction shall become effective when a vacancy occurs in the Circuit of Cook County.

SECTION 12. 2. JUDICIAL REVIEW COMMISSIONS

(a) In the Circuit of Cook County, a Judicial Review Commission shall be created to determine qualifications for retention of Circuit Judges. A separate Judicial Review Commission shall be created for each subcircuit of the Circuit of Cook County to review the performance in office of any Judge in the Circuit of Cook County who was originally elected by subcircuit rather than on an at-large basis.

(b) The circuit-wide Judicial Review Commission shall consist of 15 members, eight of whom are not lawyers and seven of whom are lawyers. Two of the non-lawyer members and four of the lawyer members, all of whom shall be residents of the Circuit of Cook County, shall be chosen from the Circuit of Cook County at large. Two non-lawyer members and one lawyer member shall be chosen from each of three subdistricts within the Circuit of Cook County and they shall be residents of the subdistrict from which they are chosen. The subdistricts shall be determined on the basis of population by the General Assembly in like manner to that provided for legislative redistricting in Section 3 of Article IV.

A separate Judicial Review Commission shall be created for each judicial subcircuit within the Circuit

of Cook County. Each subcircuit Judicial Review Commission shall consist of 11 members, six of whom are not lawyers and five of whom are lawyers. Three of the non-lawyer members and three of the lawyer members shall be residents of the subcircuit in which they serve. The remaining members shall be residents of the Circuit of Cook County, but need not be residents of the subcircuit in which they serve.

(c) Half of the non-lawyer members of each Judicial Review Commission shall be appointed by the Attorney General and the other half by the State official or officer first in the order indicated who was elected to office and is not affiliated with the same political party as the Attorney General: the Secretary of State, the Comptroller, the Treasurer, the President of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the Senate; provided that two of the resident non-lawyer members and one of the resident lawyer members of each subcircuit Judicial Review Commission shall be appointed by the President of the Cook County Board of Commissioners and one resident non-lawyer member and two resident lawyer members of each subcircuit Judicial Review Commission shall be appointed by the member of the Cook County Board of Commissioners with the most seniority who is of another political party than the President of the Cook County Board of Commissioners.

(d) The lawyer members of each Judicial Review Commission, except the resident lawyer members of subcircuit Judicial Review Commissions, shall be selected by the Supreme Court pursuant to Supreme Court Rule. Not more than a simple majority of the lawyers appointed shall be primary electors of the same political party.

(e) The terms of all members of a Judicial Review Commission shall begin 11 months before the general election in each calendar year in which a general election is held and shall expire on the first Monday in November of the same calendar year. Appointments to a Judicial Review Commission may not be made earlier than 45 days before the term is to commence.

(f) A vacancy in the non-lawyer membership of a Judicial Review Commission shall be filled for an unexpired term or for a full term, as the case may be, by the Attorney General, if qualified by being affiliated with the same political party as the official or officer who had appointed the person whose vacancy is to be filled, or otherwise by the State official or officer who is so qualified and first in the order indicated in subsection (c). A vacancy in the lawyer membership of a Judicial Review Commission shall be filled for an unexpired term or for a full term, as the case may be, by the Supreme Court pursuant to Supreme Court Rule.

(g) The Chair of each Judicial Review Commission shall be elected by a majority vote of all of the members of the Commission. The term of a Chair shall be 11 months.

(h) Any person who holds any office under the United States, this State, or any political subdivision, municipal corporation, or unit of local government of this State and receives compensation for services rendered in that office, or who holds any office or official position in a political party, shall be ineligible to serve on a Judicial Review Commission. Compensation for services in the State militia or the armed services of the United States for a period of time as may be determined by Supreme Court Rule shall not be considered a disqualification. No member of a Judicial Review Commission may be appointed to judicial office while serving on the Commission or for a period of three years thereafter.

(i) Each Judicial Review Commission may conduct investigations, meetings, and hearings, all of which may be confidential, and employ staff members as may be necessary to perform its duties. Members of each Commission shall not receive any compensation for their services but shall be entitled to reimbursement for necessary expenses. The General Assembly shall appropriate funds for that reimbursement and for all other administrative expenses of the Judicial Review Commissions.

(j) All members of each Judicial Review Commission shall be subject to ethics and economic disclosure requirements as provided by law.

SCHEDULE

This Constitutional Amendment takes effect upon being declared adopted in accordance with Section 7 of the Illinois Constitutional Amendment Act.

Senator J. Jones offered the following Senate Joint Resolution, which was ordered printed and referred to the Committee on Rules:

SENATE JOINT RESOLUTION NO. 56 CONSTITUTIONAL AMENDMENT

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next

[February 9, 2004]

occurring at least 6 months after the adoption of this resolution a proposition to add Section 9 to Article XIII of the Illinois Constitution as follows:

ARTICLE XIII
GENERAL PROVISIONS

SECTION 9. SAME SEX MARRIAGE

Only marriage between one man and one woman shall be valid or recognized in Illinois. The uniting of persons of the same sex in a civil union, domestic partnership, or other similar same sex relationship shall not be valid or recognized in Illinois.

SCHEDULE

This Constitutional Amendment takes effect upon being declared adopted in accordance with Section 7 of the Illinois Constitutional Amendment Act.

Senators Petka - W. Jones offered the following Senate Joint Resolution, which was ordered printed and referred to the Committee on Rules:

**SENATE JOINT RESOLUTION NO. 57
CONSTITUTIONAL AMENDMENT**

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this resolution a proposition to amend the Illinois Constitution by changing Section 3 of Article IV as follows:

ARTICLE IV
THE LEGISLATURE

SECTION 3. LEGISLATIVE REDISTRICTING

(a) Legislative Districts shall be compact, contiguous and substantially equal in population of citizens. Representative Districts shall be compact, contiguous, and substantially equal in population of citizens.

(b) In the year following each Federal decennial census year, the General Assembly by law shall redistrict the Legislative Districts and the Representative Districts.

If no redistricting plan becomes effective by June 30 of that year, a Legislative Redistricting Commission shall be constituted not later than July 10. The Commission shall consist of eight members, no more than four of whom shall be members of the same political party.

The Speaker and Minority Leader of the House of Representatives shall each appoint to the Commission one Representative and one person who is not a member of the General Assembly. The President and Minority Leader of the Senate shall each appoint to the Commission one Senator and one person who is not a member of the General Assembly.

The members shall be certified to the Secretary of State by the appointing authorities. A vacancy on the Commission shall be filled within five days by the authority that made the original appointment. A Chairman and Vice Chairman shall be chosen by a majority of all members of the Commission.

Not later than August 10, the Commission shall file with the Secretary of State a redistricting plan approved by at least five members.

If the Commission fails to file an approved redistricting plan, the Supreme Court shall submit the names of two persons, not of the same political party, to the Secretary of State not later than September 1.

Not later than September 5, the Secretary of State publicly shall draw by random selection the name of one of the two persons to serve as the ninth member of the Commission.

Not later than October 5, the Commission shall file with the Secretary of State a redistricting plan approved by at least five members.

An approved redistricting plan filed with the Secretary of State shall be presumed valid, shall have the force and effect of law and shall be published promptly by the Secretary of State.

The Supreme Court shall have original and exclusive jurisdiction over actions concerning redistricting the House and Senate, which shall be initiated in the name of the People of the State by the Attorney General.

(Source: Amendment adopted at general election November 4, 1980.)

SCHEDULE

This Constitutional Amendment takes effect beginning with redistricting in 2011.

[February 9, 2004]

INTRODUCTION OF BILLS

SENATE BILL NO. 3220. Introduced by Senator Walsh, a bill for AN ACT concerning appropriations.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1913

A bill for AN ACT concerning the executive branch.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1913

Passed the House, as amended, February 9, 2004.

BRADLEY S. BOLIN, Assistant Clerk of the House

AMENDMENT NO. 1. Amend Senate Bill 1913 by replacing everything after the enacting clause with the following:

"Section 5. The State Budget Law of the Civil Administrative Code of Illinois is amended by changing Sections 50-5 and 50-10 as follows:

(15 ILCS 20/50-5) (was 15 ILCS 20/38)

Sec. 50-5. Governor to submit State budget. The Governor shall, as soon as possible and not later than the second Wednesday in April in 2003 and the third Wednesday in February of each year beginning in 2004, except as otherwise provided in this Section, submit a State budget, embracing therein the amounts recommended by the Governor to be appropriated to the respective departments, offices, and institutions, and for all other public purposes, the estimated revenues from taxation, the estimated revenues from sources other than taxation, and an estimate of the amount required to be raised by taxation. In 2004 only, the Governor shall submit the capital development section of the State budget not later than the fourth Tuesday of March (March 23, 2004). The amounts recommended by the Governor for appropriation to the respective departments, offices and institutions shall be formulated according to the various functions and activities for which the respective department, office or institution of the State government (including the elective officers in the executive department and including the University of Illinois and the judicial department) is responsible. The amounts relating to particular functions and activities shall be further formulated in accordance with the object classification specified in Section 13 of the State Finance Act.

The Governor shall not propose expenditures and the General Assembly shall not enact appropriations that exceed the resources estimated to be available, as provided in this Section.

For the purposes of Article VIII, Section 2 of the 1970 Illinois Constitution, the State budget for the following funds shall be prepared on the basis of revenue and expenditure measurement concepts that are in concert with generally accepted accounting principles for governments:

- (1) General Revenue Fund.
- (2) Common School Fund.
- (3) Educational Assistance Fund.
- (4) Road Fund.
- (5) Motor Fuel Tax Fund.
- (6) Agricultural Premium Fund.

These funds shall be known as the "budgeted funds". The revenue estimates used in the State budget for the budgeted funds shall include the estimated beginning fund balance, plus revenues estimated to be received during the budgeted year, plus the estimated receipts due the State as of June 30 of the budgeted year that are expected to be collected during the lapse period following the budgeted year, minus the receipts collected during the first 2 months of the budgeted year that became due to the State in the year before the budgeted year. Revenues shall also include estimated federal reimbursements associated with

[February 9, 2004]

the recognition of Section 25 of the State Finance Act liabilities. For any budgeted fund for which current year revenues are anticipated to exceed expenditures, the surplus shall be considered to be a resource available for expenditure in the budgeted fiscal year.

Expenditure estimates for the budgeted funds included in the State budget shall include the costs to be incurred by the State for the budgeted year, to be paid in the next fiscal year, excluding costs paid in the budgeted year which were carried over from the prior year, where the payment is authorized by Section 25 of the State Finance Act. For any budgeted fund for which expenditures are expected to exceed revenues in the current fiscal year, the deficit shall be considered as a use of funds in the budgeted fiscal year.

Revenues and expenditures shall also include transfers between funds that are based on revenues received or costs incurred during the budget year.

By March 15 of each year, the Economic and Fiscal Commission shall prepare revenue and fund transfer estimates in accordance with the requirements of this Section and report those estimates to the General Assembly and the Governor.

For all funds other than the budgeted funds, the proposed expenditures shall not exceed funds estimated to be available for the fiscal year as shown in the budget. Appropriation for a fiscal year shall not exceed funds estimated by the General Assembly to be available during that year.

(Source: P.A. 93-1, eff. 2-6-03.)

(15 ILCS 20/50-10) (was 15 ILCS 20/38.1)

Sec. 50-10. Budget contents. The budget shall be submitted by the Governor with line item and program data. The budget shall also contain performance data presenting an estimate for the current fiscal year, projections for the budget year, and information for the 3 prior fiscal years comparing department objectives with actual accomplishments, formulated according to the various functions and activities, and, wherever the nature of the work admits, according to the work units, for which the respective departments, offices, and institutions of the State government (including the elective officers in the executive department and including the University of Illinois and the judicial department) are responsible.

For the fiscal year beginning July 1, 1992 and for each fiscal year thereafter, the budget shall include the performance measures of each department's accountability report.

For the fiscal year beginning July 1, 1997 and for each fiscal year thereafter, the budget shall include one or more line items appropriating moneys to the Department of Human Services to fund participation in the Home-Based Support Services Program for Mentally Disabled Adults under the Developmental Disability and Mental Disability Services Act by persons described in Section 2-17 of that Act.

The budget shall contain a capital development section in which the Governor will present (1) information on the capital projects and capital programs for which appropriations are requested, (2) the capital spending plans, which shall document the first and subsequent years cash requirements by fund for the proposed bonded program, and (3) a statement that shall identify by year the principal and interest costs until retirement of the State's general obligation debt. In addition, the principal and interest costs of the budget year program shall be presented separately, to indicate the marginal cost of principal and interest payments necessary to retire the additional bonds needed to finance the budget year's capital program. In 2004 only, the capital development section of the State budget shall be submitted by the Governor not later than the fourth Tuesday of March (March 23, 2004).

For the budget year, the current year, and 3 prior fiscal years, the Governor shall also include in the budget estimates of or actual values for the assets and liabilities for General Assembly Retirement System, State Employees' Retirement System of Illinois, State Universities Retirement System, Teachers' Retirement System of the State of Illinois, and Judges Retirement System of Illinois.

The budget submitted by the Governor shall contain, in addition, in a separate book, a tabulation of all position and employment titles in each such department, office, and institution, the number of each, and the salaries for each, formulated according to divisions, bureaus, sections, offices, departments, boards, and similar subdivisions, which shall correspond as nearly as practicable to the functions and activities for which the department, office, or institution is responsible.

Together with the budget, the Governor shall transmit the estimates of receipts and expenditures, as received by the Director of the Governor's Office of Management and Budget Bureau of the Budget, of the elective officers in the executive and judicial departments and of the University of Illinois.

(Source: P.A. 91-239, eff. 1-1-00; revised 8-23-03.)

Section 10. The Governor's Office of Management and Budget Act is amended by changing Section 2.5 as follows:

(20 ILCS 3005/2.5) (from Ch. 127, par. 412.5)

[February 9, 2004]

Sec. 2.5. Effective January 1, 1980, to require the preparation and submission of an annual long-range capital expenditure plan for all State agencies. Such Capital Plan shall detail each project for each of the following 3 fiscal years, including the project cost in current dollar amounts, the future maintenance costs for the completed project, the anticipated life expectancy of the project and the impact the project will have on the annual operating budget for the agency. Each State agency's annual capital plan shall include energy conservation projects intended to reduce energy costs to the greatest extent possible in those agency's buildings and facilities included in the capital plan. Each State agency's annual capital plan shall be submitted to the Office no later than January 15th of each year. A summary of all capital plans and future needs assessments shall be included in the Governor's Budget Request and the detail of the capital plans shall be delivered to the Chairmen and Minority Spokesmen of the House and Senate Appropriations Committees and the Illinois Economic and Fiscal Commission on the date of the Governor's Budget Address to the General Assembly; except that, in 2004 only, the summary and detail shall be delivered not later than the fourth Tuesday in March (March 23, 2004).
(Source: P.A. 93-25, eff. 6-20-03.)

Section 15. The State Finance Act is amended by changing Section 13.4 as follows:
(30 ILCS 105/13.4) (from Ch. 127, par. 149.4)

Sec. 13.4. All appropriations recommended to the General Assembly by the Governor in the State Budget submitted pursuant to Section 50-5 of the State Budget Law (15 ILCS 20/50-5) shall be incorporated into and prepared as one or more appropriation bills which shall either be introduced in the General Assembly or submitted to the legislative leaders of both the Senate and the House of Representatives not later than 2 session days after the submission of the Governor's budget recommendations, as provided in Section 50-5 of the State Budget Law of the Civil Administrative Code of Illinois, immediately preceding the start of the fiscal year for which the Budget is recommended.
(Source: P.A. 91-239, eff. 1-1-00.)

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 1913**, with House Amendment No. 1 was referred to the Secretary's Desk.

A message from the House by
Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 3937

A bill for AN ACT concerning propane.
Passed the House, February 9, 2004.

BRADLEY S. BOLIN, Assistant Clerk of the House

The foregoing **House Bill No. 3937** was taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 53

WHEREAS, The State of Illinois recognizes certain dates of the year for honoring specific patriotic, civic, cultural and historic persons, activities, symbols, or events; and

WHEREAS, On June 20, 1782, the American eagle was designated as the National Emblem of the United States when the Great Seal of the United States was adopted, and is the living symbol of the United States' freedoms, spirit and strength; in December 1818, shortly after the Illinois Territory gained statehood, the bald eagle became part of Great Seal of the State of Illinois; and

[February 9, 2004]

WHEREAS, Found only in North America and once on the endangered species list, the bald eagle population is now growing again, especially along the western border of Illinois; while the natural domain of bald eagles is from Alaska to California, and Maine to Florida, the great State of Illinois provides a winter home for thousands of these majestic birds as they make their journey northwards to the upper Midwest and Canada for spring nesting; and

WHEREAS, From December through February, Illinois is home to the largest concentration of wintering bald eagles in the Continental United States; eagle-watching has become a thriving hobby and form of State tourism in at least 27 Illinois counties; many organizations and municipalities across the State host annual eagle viewing and educational events and celebrations; and

WHEREAS, Illinois is home to two major waterways; our treasured Illinois River as it connects Lake Michigan to the Mississippi River, and the mighty Mississippi River as it flows along the western border, perfect habitats for eagles who must live near large bodies of open water where there are fish to eat and tall trees for nesting and roosts; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that we recognize the fourth Saturday in January as American Eagle Day in Illinois and encourage public and private entities of the State to celebrate these magnificent birds and strive to keep them flying free.

Adopted by the House, February 5, 2004.

BRADLEY S. BOLIN, Assistant Clerk of the House

The foregoing message from the House of Representatives, reporting House Joint Resolution No. 53, was referred to the Committee on Rules.

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 3553

A bill for AN ACT concerning air pollution.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 3553

Concurred in by the House, February 5, 2004.

BRADLEY S. BOLIN, Assistant Clerk of the House

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:

SENATE JOINT RESOLUTION NO. 52

Concurred in by the House, February 5, 2004.

BRADLEY S. BOLIN, Assistant Clerk of the House

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 1913

EXCUSED FROM ATTENDANCE

On motion of Senator Dillard, Senator Cronin was excused from attendance due to illness.

[February 9, 2004]

REPORT FROM RULES COMMITTEE

Senator Demuzio, Chairperson of the Committee on Rules, during its February 9, 2004 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Education: **Senate Floor Amendment No. 2 to House Bill 754.**

Environment & Energy: **Senate Committee Amendment No. 1 to Senate Bill 2142; Senate Committee Amendment No. 1 to Senate Bill 2350.**

Health & Human Services: **Senate Committee Amendment No. 1 to Senate Bill 2270.**

Judiciary: **Senate Committee Amendment No. 1 to Senate Bill 2165; Senate Committee Amendment No. 1 to Senate Bill 2167; Senate Committee Amendment No. 1 to Senate Bill 2274; Senate Committee Amendment No. 1 to Senate Bill 2386.**

Local Government: **Senate Committee Amendment No. 1 to Senate Bill 2158; Senate Committee Amendment No. 1 to Senate Bill 2337.**

Senator Demuzio, Chairperson of the Committee on Rules, during its February 9, 2004 meeting, reported the following Joint Action Motion has been assigned to the indicated Standing Committee of the Senate:

Executive: **Motion to Concur in House Amendment 1 to Senate Bill 1913**

PRESENTATION OF RESOLUTION

SENATE RESOLUTION 416

Offered by Senator Demuzio and all Senators:

Mourns the death of Wallace L. Heil Sr. of Havana.

By unanimous consent, the foregoing resolution was referred to the Resolutions Consent Calendar.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 3937, sponsored by Senator Clayborne was taken up, read by title a first time and referred to the Committee on Rules.

At the hour of 4:37 o'clock p.m., the Chair announced that the Senate stand adjourned until Tuesday, February 10, 2004, at 12:00 o'clock noon.