



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-THIRD GENERAL ASSEMBLY

157TH LEGISLATIVE DAY

TUESDAY, NOVEMBER 16, 2004

12:04 O'CLOCK P.M.

SENATE
Daily Journal Index
157th Legislative Day

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The Senate met pursuant to adjournment.
 Senator Debbie DeFrancesco Halvorson, Kankakee, Illinois, presiding.
 Prayer by Father Stewart Ruch, Church of the Resurrection, Wheaton, Illinois.
 Senator Link led the Senate in the Pledge of Allegiance.

The Journal of Wednesday, November 10, 2004, was being read when on motion of Senator Haine, 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.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 732

Offered by Senator E. Jones and all Senators:
 Mourns the death of Lena A. Mason of Springfield.

SENATE RESOLUTION 733

Offered by Senator Hunter and all Senators:
 Mourns the death of Lawrence Larry Allen of Chicago.

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

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

SENATE RESOLUTION NO. 734

WHEREAS, Morton College, the second-oldest community college in Illinois, has ably served its community, enabling thousands of students to prosper since 1924; and

WHEREAS, Morton College District 527 has changed profoundly in the recent past, evolving as an institution with the greatest percentage of Latino students of any public college or university in Illinois; and

WHEREAS, The Board, the President, and all others associated with Morton College have embraced its changing community and have contributed toward its considerable and profound renewal in becoming bilingual and inclusive, making every effort to serve all persons in its District; and

WHEREAS, The College, while in the midst of transforming itself in every way, is making dramatic improvements in its physical plant, most specifically with a fully redesigned and constructed library, new student service areas, new space for ESL, as well as new signage, to name a few; and

WHEREAS, The College has been especially exemplary in Latino employment, currently with the greatest percentage of Latino college administration of any Illinois public college or university; and

WHEREAS, The College has made considerable strides in self-study with a determination to help all students succeed by fostering a positive internal climate for staff and students alike; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we congratulate Morton College in recognition of its distinguished progress, and we proclaim it to be the most improved Illinois Community College in 2004; and be it further

RESOLVED, That a suitable copy of this resolution be presented to Morton College with best wishes for continued success.

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

[November 16, 2004]

SENATE RESOLUTION NO. 735

WHEREAS, Chronic Obstructive Pulmonary Disease (COPD) is an umbrella term used to describe airflow obstruction that is associated mainly with emphysema and chronic bronchitis; and

WHEREAS, COPD affects an estimated 24 million people and kills more than 112,000 people a year, but many people have not yet learned about this debilitating disease; and

WHEREAS, Of the top five diseases that kill Americans, including heart disease and cancer, all are on the decline except COPD; and

WHEREAS, Pulmonary experts predict that by the year 2020, COPD will be the third most deadly disease in the world; and

WHEREAS, COPD currently accounts for 1.5 million emergency room visits and 8 million physician office and hospital outpatient visits per year; the direct and indirect medical costs of COPD to the U.S. economy are estimated to be \$32.1 billion per year; and

WHEREAS, While the Chicago area is acknowledged as the epicenter of the asthma epidemic, smoking and exposure to second-hand smoke and other air pollutants from smokestack industries, such as coal-fired power plants, are identified as primary irritants in the area; and

WHEREAS, Research has identified a hereditary factor to COPD that manifests in families that tend to develop the disease despite lack of exposure to environmental triggers; and

WHEREAS, Recently, the death rate of women with COPD has surpassed the death rate of men with COPD; women over the age of 40 are the fastest growing segment of the population developing this irreversible disease, due in large part to the equalization of opportunity for men and women to smoke over the past several generations; and

WHEREAS, There is no cure for COPD; medical treatments exist to address symptom relief and slow the progression of the disease, and there are promising research leads on medications that might be able to repair damage to lung tissue caused by COPD; and

WHEREAS, Until there is a cure, the best approaches to preventing COPD and its considerable health, societal, and mortality impacts lie with education, awareness and expanded delivery of detection and management protocols; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we hereby declare the month of November as COPD Awareness Month in Illinois.

MOTION IN WRITING

Senator Trotter submitted the following Motion in Writing:

MOTION

I move that House Bill 7029 do pass, notwithstanding the veto of the Governor.

Date: November 16, 2004

s/Donne E. Trotter
Senator

The foregoing Motion in Writing was filed with the Secretary and placed on the Senate Calendar.

MESSAGE FROM THE GOVERNOR

Message for the Governor by Joseph B. Handley
Deputy Chief of Staff for Legislative Affairs

[November 16, 2004]

November 10, 2004

Mr. President,

The Governor directs me to lay before the Senate the following Message:

STATE OF ILLINOIS
EXECUTIVE DEPARTMENTTo the Honorable
Members of the Senate
Ninety-Third General Assembly

I have nominated and appointed the following named persons to the offices enumerated below and respectfully ask concurrence in and confirmation of these appointments of your Honorable body.

EXECUTIVE ETHICS COMMISSION

To be a Member of the Executive Ethics Commission for a term commencing October 25, 2004 and ending June 30, 2007:

James Michael Brennan of Wheaton
Salaried

To be a Member of the Executive Ethics Commission for a term commencing October 25, 2004 and ending June 30, 2007:

Lawrence Oliver II of Orland Park
Salaried**POLLUTION CONTROL BOARD**

To be a Member of the Pollution Control Board for a term commencing September 1, 2004 and ending July 1, 2007:

Andrea S. Moore of Libertyville
Salaried**CAPITAL DEVELOPMENT BOARD**

To be a Member of the Capital Development Board for a term commencing August 16, 2004 and ending January 15, 2007:

Michael Chin of Chicago
Non-Salaried**CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMMISSION**

To be a Member of the Central Midwest Interstate Low-Level Radioactive Waste Commission for a term commencing August 9, 2004 and ending January 17, 2005:

Mary K. O'Brien of Essex
Non-Salaried**EASTERN ILLINOIS UNIVERSITY BOARD OF TRUSTEES**

To be a Member of the Eastern Illinois University Board of Trustees for a term commencing August 18, 2004 and ending January 15, 2007:

[November 16, 2004]

Roger L. Kratochvil of Mt. Olive
Non-Salaried

To be a Member of the Eastern Illinois University Board of Trustees for a term commencing August 18, 2004 and ending January 17, 2005:

Robert D. Webb of Mattoon
Non-Salaried

To be a Member of the Eastern Illinois University Board of Trustees for a term commencing August 18, 2004 and ending January 15, 2007:

Leo Welch of O'Fallon
Non-Salaried

EDUCATION, STATE BOARD OF

To be a Member of the State Board of Education for a term commencing September 15, 2004 and ending January 10, 2007:

Andrea Brown of Goreville
Non-Salaried

To be a Member of the State Board of Education for a term commencing September 15, 2004 and ending January 10, 2007:

David L. Fields of Danville
Non-Salaried

To be a Member of the State Board of Education for a term commencing September 15, 2004 and ending January 10, 2007:

Edward J. Geppert, Jr. of Belleville
Non-Salaried

To be a Member of the State Board of Education for a term commencing September 15, 2004 and ending January 10, 2007:

Vinni M. Hall of Chicago
Non-Salaried

To be a Member of the State Board of Education for a term commencing September 15, 2004 and ending January 14, 2009:

Brenda J. Holmes of Springfield
Non-Salaried

To be a Member and Chair of the State Board of Education for a term commencing September 15, 2004 and ending January 10, 2007:

Jesse H. Ruiz of Chicago
Non-Salaried

To be a Member of the State Board of Education for a term commencing September 15, 2004 and ending January 14, 2009:

Christopher J. Ward of Lockport
Non-Salaried

[November 16, 2004]

EMPLOYMENT SECURITY ADVISORY BOARD, DEPARTMENT OF

To be a Member of the Department of Employment Security Advisory Board for a term commencing August 9, 2004 and ending January 17, 2005:

Kim Clarke Maisch of Springfield
Non-Salaried

HEALTH FACILITIES PLANNING BOARD

To be a Member of the Health Facilities Planning Board for a term commencing October 25, 2004 and ending July 1, 2005:

Courtney Renee Avery of Chicago
Non-Salaried

To be a Member of the Health Facilities Planning Board for a term commencing September 23, 2004 and ending July 1, 2006:

Susana G. Lopatka of Chicago
Non-Salaried

To be a Member and Chair of the Health Facilities Planning Board for a term commencing September 23, 2004 and ending July 1, 2007:

Glenn Poshard of Murphysboro
Non-Salaried

To be a Member of the Health Facilities Planning Board for a term commencing October 25, 2004 and ending July 1, 2005:

Ronald Joseph Winters of Elgin
Non-Salaried

To be a Member of the Health Facilities Planning Board for a term commencing September 23, 2004 and ending July 1, 2006:

Pamela H. Woodward of Palos Park
Non-Salaried

KASKASKIA REGIONAL PORT DISTRICT BOARD

To be a Member of the Kaskaskia Regional Port District Board for a term commencing October 8, 2004 and ending June 30, 2005:

Michael G. Conrad of Columbia
Non-Salaried

METROPOLITAN PIER AND EXPOSITION AUTHORITY

To be a Member of the Metropolitan Pier and Exposition Authority for a term commencing August 18, 2004 and ending June 1, 2009:

James V. Riley of Chicago
Non-Salaried

NATURAL RESOURCES AND CONSERVATION, BOARD OF

To be a Member of the Board of Natural Resources and Conservation for a term commencing September 6, 2004:

Phyllis Kay Whitlock of Chicago
Non-Salaried

PUBLIC ADMINISTRATOR AND PUBLIC GUARDIAN OF CRAWFORD COUNTY

To be Public Administrator and Public Guardian of Crawford County for a term commencing August 10, 2004 and ending December 4, 2004:

Dana M. Tylka of Robinson
Non-Salaried

PUBLIC ADMINISTRATOR AND PUBLIC GUARDIAN OF RICHLAND COUNTY

To be Public Administrator and Public Guardian of Richland County for a term commencing October 4, 2004 and ending December 3, 2005:

Walter Buss of Olney
Non-Salaried

PUBLIC ADMINISTRATOR AND PUBLIC GUARDIAN OF ROCK ISLAND COUNTY

To be Public Administrator and Public Guardian of Rock Island County for a term commencing August 9, 2004 and ending December 5, 2005:

Linnea E. Thompson of Moline
Non-Salaried

RACING BOARD, ILLINOIS

To be Member of the Illinois Racing Board for a term commencing September 14, 2004 and ending July 1, 2010:

William H. Farley, Jr. of Oak Park
Non-Salaried

To be Member of the Illinois Racing Board for a term commencing August 16, 2004 and ending July 1, 2010:

Timothy P. Martin of Homer Glen
Non-Salaried

To be Member of the Illinois Racing Board for a term commencing September 14, 2004 and ending July 1, 2010:

Jonathan P. Metcalf of Indian Head Park
Non-Salaried

To be Member and Chair of the Illinois Racing Board for a term commencing August 16, 2004 and ending July 1, 2010:

Lorna E. Propes of Chicago
Non-Salaried

[November 16, 2004]

SPINAL CORD AND HEAD INJURIES, ADVISORY COUNCIL ON

To be a Member of the Advisory Council on Spinal Cord and Head Injuries for a term commencing August 4, 2004:

Philicia L. Deckard of Evanston
Non-Salaried

To be a Member of the Advisory Council on Spinal Cord and Head Injuries for a term commencing August 4, 2004:

John M. Eckert of Springfield
Non-Salaried

TRI-CITY REGIONAL PORT DISTRICT BOARD

To be a Member of the Tri-City Regional Port District Board for a term commencing July 26, 2004 and ending May 31, 2007:

Joseph M. Schuler of Granite City
Non-Salaried

WORKFORCE INVESTMENT BOARD

To be a Member of the Workforce Investment Board for a term commencing August 16, 2004 and ending July 1, 2006:

Michael A. Johl of Elmwood Park
Non-Salaried

Rod Blagojevich
GOVERNOR

Under the rules, the foregoing Message was referred to the Committee on Executive Appointments.

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 1 to House Bill 552
Senate Floor Amendment No. 1 to House Bill 678
Senate Floor Amendment No. 1 to House Bill 734
Senate Floor Amendment No. 1 to House Bill 768
Senate Floor Amendment No. 4 to House Bill 834
Senate Floor Amendment No. 5 to House Bill 834
Senate Floor Amendment No. 2 to House Bill 867
Senate Floor Amendment No. 3 to House Bill 914
Senate Floor Amendment No. 1 to House Bill 925
Senate Floor Amendment No. 1 to House Bill 1000
Senate Floor Amendment No. 1 to House Bill 1021
Senate Floor Amendment No. 1 to House Bill 3641

The following Committee amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Senate Committee Amendment No. 1 to House Bill 6424

[November 16, 2004]

The following Floor amendment to the Senate Joint Resolution listed below has been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 1 to Senate Joint Resolution 89

JOINT ACTION MOTIONS FILED

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

Motion to Concur in House Amendment 1 to Senate Bill 1641
Motion to Concur in House Amendment 1 to Senate Bill 1994

CONSIDERATION OF HOUSE BILLS VETOED BY THE GOVERNOR

Pursuant to the Motion in Writing filed on Wednesday, November 10, 2004 and journalized Wednesday, November 10, 2004, Senator Clayborne moved that **House Bill No. 4651** do pass, the veto of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

Yeas 28; Nays 28.

The following voted in the affirmative:

Brady	Haine	Peterson	Syverson
Burzynski	Harmon	Petka	Watson
Clayborne	Hendon	Raoul	Wojcik
Cronin	Jacobs	Righter	Mr. President
del Valle	Jones, J.	Roskam	
DeLeo	Jones, W.	Sandoval	
Dillard	Luechtefeld	Silverstein	
Geo-Karis	Munoz	Sullivan, D.	

The following voted in the negative:

Althoff	Hunter	Risinger	Trotter
Bomke	Lauzen	Ronen	Viverito
Collins	Lightford	Rutherford	Walsh
Crotty	Link	Schoenberg	Welch
Demuzio	Maloney	Shadid	
Forby	Martinez	Sieben	
Garrett	Radogno	Soden	
Halvorson	Rauschenberger	Sullivan, J.	

The motion having failed to received the vote of three-fifths of the members elected was lost. Ordered that the Secretary inform the House of Representatives thereof.

Pursuant to the Motion in Writing filed on Wednesday, November 10, 2004 and journalized Wednesday, November 10, 2004, Senator Clayborne moved that **House Bill No. 826** do pass, the specific recommendations of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

Yeas 37; Nays 22.

The following voted in the affirmative:

Brady	Harmon	Martinez	Soden
Clayborne	Hendon	Meeks	Syverson

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Collins	Hunter	Munoz	Trotter
Cronin	Jacobs	Raoul	Viverito
Crotty	Jones, J.	Ronen	Walsh
Cullerton	Jones, W.	Rutherford	Watson
del Valle	Lightford	Sandoval	Mr. President
DeLeo	Link	Schoenberg	
Dillard	Luechtefeld	Shadid	
Haine	Maloney	Silverstein	

The following voted in the negative:

Althoff	Geo-Karis	Rauschenberger	Sullivan, J.
Bomke	Halvorson	Righter	Welch
Burzynski	Lauzen	Risinger	Winkel
Demuzio	Peterson	Roskam	Wojcik
Forby	Petka	Sieben	
Garrett	Radogno	Sullivan, D.	

This bill, having received the vote of three-fifths of the members elected, was declared passed, the specific recommendations of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof.

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its November 16, 2004 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Education: **Senate Floor Amendment No. 1 to House Bill 768; Senate Floor Amendment No. 1 to House Bill 925; Senate Floor Amendment No. 1 to Senate Joint Resolution 89.**

Environment and Energy: **Senate Floor Amendment No. 1 to House Bill 872.**

Executive: **Senate Floor Amendment No. 3 to House Bill 914; Senate Floor Amendment No. 1 to House Bill 1000.**

Insurance and Pensions: **Senate Floor Amendment No. 1 to House Bill 678.**

Judiciary: **Senate Floor Amendment No. 1 to House Bill 552; Senate Floor Amendment No. 1 to House Bill 734; Senate Floor Amendment No. 1 to House Bill 1021.**

Revenue: **Senate Floor Amendment No. 5 to House Bill 834; Senate Floor Amendment No. 2 to House Bill 867.**

Senator Viverito, Chairperson of the Committee on Rules, during its November 16, 2004 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Executive: **Motion to Concur in House Amendment 1 to Senate Bill 1641, Motion to Concur in House Amendments 1, 3 and 4 to Senate Bill 1737, Motion to Concur in House Amendment 1 to Senate Bill 2257**

Labor and Commerce: **Motion to Concur in House Amendment 1 to Senate Bill 1994**

Senator Viverito, Chairperson of the Committee on Rules, during its November 16, 2004 meeting, reported the following Senate Resolution has been assigned to the indicated Standing Committee of the Senate:

Executive: **Senate Resolution No. 717.**

Senator Viverito, Chairperson of the Committee on Rules, reported that the Committee recommends that **Senate Amendment No. 7 to House Bill 911** be re-referred from the Committee on Environment and Energy to the Committee on Executive.

[November 16, 2004]

Senator Viverito, Chairperson of the Committee on Rules, to which was referred **House Bills Numbered 626, 640, 665 and 1002** on July 1, 2003, pursuant to Rule 3-9(b), reported that the Committee recommends that the bills be approved for consideration and returned to the calendar in their former position.

The report of the Committee was concurred in.

And **House Bills Numbered 626, 640, 665 and 1002** were returned to the order of third reading.

Senator Viverito, Chairperson of the Committee on Rules, to which was referred **House Bill No. 3589** on August 24, 2004, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **House Bill No. 3589** was returned to the order of third reading.

Senator Viverito, Chairperson of the Committee on Rules, to which was referred **Senate Bill No. 1994** on July 1, 2003, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **Senate Bill No. 1994** was returned to the order of concurrence.

Senator Viverito, Chairperson of the Committee on Rules, to which was referred **Senate Bill No. 2257** on August 24, 2004, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **Senate Bill No. 2257** was returned to the order of concurrence.

Senator Viverito, Chairperson of the Committee on Rules, reported that the following Legislative Measures have been approved for consideration:

Senate Floor Amendment No. 4 to House Bill 834

Senate Floor Amendment No. 1 to House Bill 3641

The foregoing floor amendments were placed on the Secretary's Desk.

PRESENTATION OF RESOLUTION

SENATE RESOLUTION 736

Offered by Senator Harmon and all Senators:

Mourns the death of Patrick J. Roche of Chicago.

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

MOTION IN WRITING

Senator Clayborne submitted the following Motion in Writing:

MOTION

I move that Senate Bill 4651 do pass, notwithstanding the veto of the Governor.

Date: November 16, 2004

s/James F. Clayborne
Senator

The foregoing Motion in writing was filed with the Secretary and placed on the Senate Calendar.

[November 16, 2004]

COMMITTEE MEETING ANNOUNCEMENTS

Senator del Valle, Chairperson of the Committee on Education, announced that the Education Committee will meet today in Room 212 Capitol Building, at 3:00 o'clock p.m.

Senator Jacobs, Chairperson of the Committee on Insurance and Pensions, announced that the Insurance and Pensions Committee will meet today in Room 400 Capitol Building, at 3:00 o'clock p.m.

Senator Crotty, Chairperson of the Committee on Revenue, announced that the Revenue Committee will meet today in Room 400 Capitol Building, at 2:00 o'clock p.m.

Senator Ronen, Chairperson of the Committee on Labor and Commerce, announced that the Labor and Commerce Committee will meet today in Room 400 Capitol Building, at 4:30 o'clock p.m.

Senator Silverstein, Chairperson of the Committee on Executive, announced that the Executive Committee will meet today in Room 212 Capitol Building, at 2:00 o'clock p.m.

Senator Cullerton, Chairperson of the Committee on Judiciary, announced that the Judiciary Committee will meet today in Room 400 Capitol Building, at 3:30 o'clock p.m.

Senator Burzynski announced there would be a Republican caucus at 1:00 p.m.

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its November 16, 2004 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Agriculture and Conservation: **Senate Floor Amendment No. 1 to House Bill 665.**

Executive: **Senate Floor Amendment No. 1 to House Bill 626; Senate Floor Amendment No. 8 to House Bill 911.**

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 1 to House Bill 626
 Senate Floor Amendment No. 1 to House Bill 665
 Senate Floor Amendment No. 8 to House Bill 911
 Senate Floor Amendment No. 1 to House Bill 1002

COMMITTEE MEETING ANNOUNCEMENTS

Senator Walsh, Chairperson of the Committee on Agriculture and Conservation, announced that the Education Committee will meet today in Room A-1 Stratton Building at 4:00 o'clock p.m.

At the hour of 1:18 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 5:45 o'clock p.m., the Senate resumed consideration of business.
 Senator DeLeo, presiding.

[November 16, 2004]

REPORTS FROM STANDING COMMITTEES

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 1 to House Bill 626
 Senate Amendments numbered 7 and 8 to House Bill 911
 Senate Amendment No. 3 to House Bill 914
 Senate Amendment No. 1 to House Bill 1000

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motions to concur with House Amendments to the following Senate Bills, reported that the Committee recommends that they be adopted:

Motion to Concur in House Amendment 1 to Senate Bill 1641
 Motion to Concur in House Amendments 1, 3 and 4 to Senate Bill 1737
 Motion to Concur in House Amendment 1 to Senate Bill 2257

Under the rules, the foregoing Motions are eligible for consideration by the Senate.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred **Senate Joint Resolution No. 90**, reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Joint Resolution No. 90** was placed on the Secretary's Desk.

Senator del Valle, Chairperson of the Committee on Education, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be approved for consideration:

Senate Amendment No. 2 to House Bill 757
 Senate Amendment No. 1 to House Bill 768
 Senate Amendment No. 1 to House Bill 925
 Senate Amendment No. 1 to Senate Joint Resolution 89

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senators Cullerton and Dillard, Co-Chairpersons of the Committee on Judiciary, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 1 to House Bill 552
 Senate Amendment No. 1 to House Bill 734
 Senate Amendment No. 1 to House Bill 1021

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Ronen, Chairperson of the Committee on Labor and Commerce, to which was referred the Motion to concur with House Amendment to the following Senate Bills, reported that the Committee recommends that it be adopted:

Motion to Concur in House Amendment 1 to Senate Bill 1994

Under the rules, the foregoing Motion is eligible for consideration by the Senate.

Senator Crotty, Chairperson of the Committee on Revenue, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

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Senate Amendment No. 5 to House Bill 834
Senate Amendment No. 2 to House Bill 867

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Walsh, Chairperson of the Committee on Agriculture and Conservation, to which was referred the following Senate floor amendment, reported that the Committee recommends that it be adopted:

Senate Amendment No. 1 to House Bill 665

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 737

Offered by Senator J. Sullivan and all Senators:
Mourns the death of Corporal Joshua Douglas Palmer of Blandinsville.

SENATE RESOLUTION 738

Offered by Senator Link and all Senators:
Mourns the death of Dominic Ronzani of Highwood.

SENATE RESOLUTION 739

Offered by Senator Clayborne and all Senators:
Mourns the death of Assistant Fire Chief Billy Ray Riley of East St. Louis.

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

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

SENATE JOINT RESOLUTION NO. 91

WHEREAS, Tinley Park Mental Health Center (MHC) is an essential element in the network of mental health care providers serving Chicago's south side, south suburban Cook County, and Will, Grundy, and Kankakee counties; and

WHEREAS, Community-based agencies in this region provide outpatient therapy, housing assistance, and case management for many thousands of individuals with mental illness; and

WHEREAS, Tinley Park MHC effectively functions as a safety net for community-based agencies that can refer mentally ill individuals to Tinley Park MHC when they are in crisis and represent a danger to themselves or others or are in need of more intensive psychiatric services; and

WHEREAS, Tinley Park MHC is a nationally accredited, highly regarded treatment center which offers an exceptional and comprehensive range of medical, social, and psychiatric supports to clients in acute phases of their illness; and

WHEREAS, Tinley Park MHC also functions as an essential alternative to incarceration for individuals with mental illness who engage in anti-social behavior that brings them into contact with law enforcement officials; and

WHEREAS, The communities served by Tinley Park MHC already suffer from a shortage of affordable, accessible mental health services; and

WHEREAS, With over 140 beds, Tinley Park MHC is the largest inpatient psychiatric treatment center in the region, with more than 2,000 admissions annually; and

[November 16, 2004]

WHEREAS, Tinley Park MHC has excelled at stabilizing individuals in crisis and aiding them to return to independent lives in their communities, with an average length of inpatient treatment of just ten days; and

WHEREAS, Tinley Park MHC maintains close working relationships with community-based mental health agencies and services, jointly developing discharge plans, linking patients with community resources, and providing transition services; and

WHEREAS, Those private hospitals in the region that do have inpatient psychiatric units frequently refer their poorest and most difficult patients to Tinley Park MHC and few have the comprehensive level of services that Tinley Park MHC offers; and

WHEREAS, As a State-operated facility, Tinley Park MHC treats patients who have no insurance or who have exhausted their mental health coverage and is the only mental health resource in the region that reliably provides inpatient treatment to those who cannot pay; and

WHEREAS, The costs at Tinley Park MHC are more than 50% below those of comparable private hospitals in the area; and

WHEREAS, Although the Department of Human Services' (DHS) FY05 budget includes full-year funding for Tinley Park MHC, the budget narrative states that the budget is premised on the "closure and sale of the Tinley Park mental health facility"; and

WHEREAS, DHS has established a Metro South Planning Task Force to develop the best possible network of services for the Chicago "Southland" region; and

WHEREAS, The Cook County Board and more than two dozen Southland elected officials, as well as professional and advocacy organizations, have spoken out against closing Tinley Park MHC; and

WHEREAS, This broad consensus makes clear that closing down the Southland region's only public inpatient mental health center would violate the will of the affected communities; and

WHEREAS, Tinley Park MHC has a dedicated and skilled workforce with a unique body of experience in treating the most severely mentally ill; and

WHEREAS, Tinley Park MHC is not an aged or dilapidated facility; in fact, it is newer than many of the private hospitals in the region; 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 Chicago's South Side, Southern Cook County, Will County, and Kankakee County, all of which are now served by Tinley Park MHC, must continue to have a public inpatient mental health facility that can appropriately serve the most severely mentally ill; and be it further

RESOLVED, That if the Metro Task Force determines that the current Tinley Park MHC facility cannot continue to meet the needs of these communities, a new facility should be purchased or built; and be it further

RESOLVED, That Tinley Park MHC should remain open at its current location unless and until a new DHS-operated inpatient mental health center is opened in the Southland region; and be it further

RESOLVED, That the Department of Human Services maintain its full admission and service capacity at the Tinley Park MHC; and be it further

RESOLVED, That the Department of Human Services should continue to work to foster a comprehensive array of services throughout the region; and be it further

RESOLVED, That a copy of this resolution be delivered to the Secretary of Human Services.

[November 16, 2004]

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, 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. 958

A bill for AN ACT in relation to labor.

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. 958

Passed the House, as amended, November 16, 2004, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 . Amend Senate Bill 958 by replacing the title with the following: "AN ACT concerning public employee benefits."; and

by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Sections 4-109.3, 4-110, 4-110.1, 4-111, and 4-114 as follows:

(40 ILCS 5/4-109.3)

Sec. 4-109.3. Employee creditable service.

(a) As used in this Section:

"Final monthly salary" means the monthly salary attached to the rank held by the firefighter at the time of his or her last withdrawal from service under a particular pension fund.

"Last pension fund" means the pension fund in which the firefighter was participating at the time of his or her last withdrawal from service.

(b) The benefits provided under this Section are available only to a firefighter who:

(1) is a firefighter at the time of withdrawal from the last pension fund and for at least the final 3 years of employment prior to that withdrawal;

(2) has established service credit with at least one pension fund established under this

Article other than the last pension fund;

(3) has a total of at least 20 years of service under the various pension funds

established under this Article and has attained age 50; and

(4) is in service on or after the effective date of this amendatory Act of the 93rd

General Assembly.

(c) A firefighter who is eligible for benefits under this Section may elect to receive a retirement pension from each pension fund under this Article in which the firefighter has at least one year of service credit but has not received a refund under Section 4-116 (unless the firefighter repays that refund under subsection (g)) or subsection (c) of Section 4-118.1, by applying in writing and paying the contribution required under subsection (i).

(d) From each such pension fund other than the last pension fund, in lieu of any retirement pension otherwise payable under this Article, a firefighter to whom this Section applies may elect to receive a monthly pension of 1/12th of 2.5% of his or her final monthly salary under that fund for each month of service in that fund, subject to a maximum of 75% of that final monthly salary.

(e) From the last pension fund, in lieu of any retirement pension otherwise payable under this Article, a firefighter to whom this Section applies may elect to receive a monthly pension calculated as follows:

The last pension fund shall calculate the retirement pension that would be payable to the firefighter under subsection (a) of Section 4-109 as if he or she had participated in that last pension fund during his or her entire period of service under all pension funds established under this Article (excluding any period of service for which the firefighter has received a refund under Section 4-116, unless the firefighter repays that refund under subsection (g), or for which the firefighter has received a refund under subsection (c) of Section 4-118.1). From this hypothetical pension there shall be subtracted the original amounts of the retirement pensions payable to the firefighter by all other pension funds under subsection (d). The remainder is the retirement pension payable to the firefighter by the last pension fund

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under this subsection (e).

(f) Pensions elected under this Section shall be subject to increases as provided in subsection (d) of Section 4-109.1.

(g) A current firefighter may reinstate creditable service in a pension fund established under this Article that was terminated upon receipt of a refund, by payment to that pension fund of the amount of the refund together with interest thereon at the rate of 6% per year, compounded annually, from the date of the refund to the date of payment. A repayment of a refund under this Section may be made in equal installments over a period of up to 10 years, but must be paid in full prior to retirement.

(h) ~~As a condition of being eligible for the benefits provided in this Section, a person who is hired to a position as a firefighter on or after July 1, 2004, the effective date of this amendatory Act of the 93rd General Assembly, a firefighter must, within 21 months after being hired, notify the new employer, all of his or her previous employers under this Article, and the Public Pension Division of the Division Department of Insurance of the Department of Financial and Professional Regulation, within one year of being hired, of his or her intent to receive the benefits provided under this Section all periods of service of at least one year under a pension fund established under this Article.~~

(i) In order to receive a pension under this Section or an occupational disease disability pension for which he or she becomes eligible due to the application of subsection (m) of this Section, a firefighter must pay to each pension fund from which he or she has elected to receive a pension under this Section a contribution equal to ~~1/12th of~~ 1% of monthly salary for each month of service credit that the firefighter has in that fund (other than service credit for which the firefighter has already paid the additional contribution required under subsection (c) of Section 4-118.1), together with interest thereon at the rate of 6% per annum, compounded annually, from the firefighter's first day of employment with that fund or the first day of the fiscal year of that fund that immediately precedes the firefighter's first day of employment with that fund, whichever is earlier.

In order for a firefighter who, as of the effective date of this amendatory Act of the 93rd General Assembly, has not begun to receive a pension under this Section or an occupational disease disability pension under subsection (m) of this Section and who has contributed 1/12th of 1% of monthly salary for each month of service credit that the firefighter has in that fund (other than service credit for which the firefighter has already paid the additional contribution required under subsection (c) of Section 4-118.1), together with the required interest thereon, to receive a pension under this Section or an occupational disease disability pension for which he or she becomes eligible due to the application of subsection (m) of this Section, the firefighter must, within one year after the effective date of this amendatory Act of the 93rd General Assembly, make an additional contribution equal to 11/12ths of 1% of monthly salary for each month of service credit that the firefighter has in that fund (other than service credit for which the firefighter has already paid the additional contribution required under subsection (c) of Section 4-118.1), together with interest thereon at the rate of 6% per annum, compounded annually, from the firefighter's first day of employment with that fund or the first day of the fiscal year of that fund that immediately precedes the firefighter's first day of employment with the fund, whichever is earlier. A firefighter who, as of the effective date of this amendatory Act of the 93rd General Assembly, has not begun to receive a pension under this Section or an occupational disease disability pension under subsection (m) of this Section and who has contributed 1/12th of 1% of monthly salary for each month of service credit that the firefighter has in that fund (other than service credit for which the firefighter has already paid the additional contribution required under subsection (c) of Section 4-118.1), together with the required interest thereon, in order to receive a pension under this Section or an occupational disease disability pension under subsection (m) of this Section, may elect, within one year after the effective date of this amendatory Act of the 93rd General Assembly to forfeit the benefits provided under this Section and receive a refund of that contribution, ~~time the service was rendered to the date of payment.~~

(j) A retired firefighter who is receiving pension payments under Section 4-109 may reenter active service under this Article. Subject to the provisions of Section 4-117, the firefighter may receive credit for service performed after the reentry if the firefighter (1) applies to receive credit for that service, (2) suspends his or her pensions under this Section, and (3) makes the contributions required under subsection (i).

(k) A firefighter who is newly hired or promoted to a position as a firefighter shall not be denied participation in a fund under this Article based on his or her age.

(l) If a firefighter who elects to make contributions under subsection (c) of Section 4-118.1 for the pension benefits provided under this Section becomes entitled to a disability pension under Section 4-110, the last pension fund is responsible to pay that disability pension and the amount of that disability pension shall be based only on the firefighter's service with the last pension fund.

(m) Notwithstanding any provision in Section 4-110.1 to the contrary, if a firefighter who elects to

make contributions under subsection (c) of Section 4-118.1 for the pension benefits provided under this Section becomes entitled to an occupational disease disability pension under Section 4-110.1, each pension fund to which the firefighter has made contributions under subsection (c) of Section 4-118.1 must pay a portion of that occupational disease disability pension equal to the proportion that the firefighter's service credit with that pension fund for which the contributions under subsection (c) of Section 4-118.1 have been made bears to the firefighter's total service credit with all of the pension funds for which the contributions under subsection (c) of Section 4-118.1 have been made. A firefighter who has made contributions under subsection (c) of Section 4-118.1 for at least 5 years of creditable service shall be deemed to have met the 5-year creditable service requirement under Section 4-110.1, regardless of whether the firefighter has 5 years of creditable service with the last pension fund.

(n) If a firefighter who elects to make contributions under subsection (c) of Section 4-118.1 for the pension benefits provided under this Section becomes entitled to a disability pension under Section 4-111, the last pension fund is responsible to pay that disability pension, provided that the firefighter has at least 7 years of creditable service with the last pension fund.

(Source: P.A. 93-689, eff. 7-1-04.)

(40 ILCS 5/4-110) (from Ch. 108 1/2, par. 4-110)

Sec. 4-110. Disability pension - Line of duty. If a firefighter, as the result of sickness, accident or injury incurred in or resulting from the performance of an act of duty or from the cumulative effects of acts of duty, is found, pursuant to Section 4-112, to be physically or mentally permanently disabled for service in the fire department, so as to render necessary his or her being placed on disability pension, the firefighter shall be entitled to a disability pension equal to the greater of (1) 65% of the monthly salary attached to the rank held by him or her in the fire department at the date he or she is removed from the municipality's fire department payroll or (2) the retirement pension that the firefighter would be eligible to receive if he or she retired (but not including any automatic annual increase in that retirement pension). A firefighter shall be considered "on duty" while on any assignment approved by the chief of the fire department, even though away from the municipality he or she serves as a firefighter, if the assignment is related to the fire protection service of the municipality.

Such firefighter shall also be entitled to a child's disability benefit of \$20 a month on account of each unmarried child less than 18 years of age and dependent upon the firefighter for support, either the issue of the firefighter or legally adopted by him or her. The total amount of child's disability benefit payable to the firefighter, when added to his or her disability pension, shall not exceed 75% of the amount of salary which the firefighter was receiving at the date of retirement.

Benefits payable on account of a child under this Section shall not be reduced or terminated by reason of the child's attainment of age 18 if he or she is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. Individuals over the age of 18 and adjudged to be disabled persons pursuant to Article XIa of the Probate Act of 1975, except for persons receiving benefits under Article III of the Illinois Public Aid Code, shall be eligible to receive benefits under this Act.

If a firefighter dies while still disabled and receiving a disability pension under this Section, the disability pension shall continue to be paid to the firefighter's survivors in the sequence provided in Section 4-114 ~~but shall, from the date of death, become subject to the requirements, including limitations on amount, that are provided for pensions to survivors under Section 4-114.~~ A pension previously granted under Section 4-114 to a survivor of a firefighter who died while receiving a disability pension under this Section shall be deemed to be a continuation of the pension provided under this Section and shall be deemed to be in the nature of worker's compensation payments. The changes to this Section made by this amendatory Act of 1995 are intended to be retroactive and are not limited to persons in service on or after its effective date.

(Source: P.A. 91-466, eff. 8-6-99.)

(40 ILCS 5/4-110.1) (from Ch. 108 1/2, par. 4-110.1)

Sec. 4-110.1. Occupational disease disability pension. The General Assembly finds that service in the fire department requires firefighters in times of stress and danger to perform unusual tasks; that firefighters are subject to exposure to extreme heat or extreme cold in certain seasons while performing their duties; that they are required to work in the midst of and are subject to heavy smoke fumes, and carcinogenic, poisonous, toxic or chemical gases from fires; and that these conditions exist and arise out of or in the course of employment.

An active firefighter with 5 or more years of creditable service who is found, pursuant to Section 4-112, unable to perform his or her duties in the fire department by reason of heart disease, stroke, tuberculosis, or any disease of the lungs or respiratory tract, resulting from service as a firefighter, is entitled to an occupational disease disability pension during any period of such disability for which he or

she has no right to receive salary.

Any active firefighter who has completed 5 or more years of service and is unable to perform his or her duties in the fire department by reason of a disabling cancer, which develops or manifests itself during a period while the firefighter is in the service of the fire department, shall be entitled to receive an occupational disease disability benefit during any period of such disability for which he or she does not have a right to receive salary. In order to receive this occupational disease disability benefit, (i) the type of cancer involved must be a type which may be caused by exposure to heat, radiation or a known carcinogen as defined by the International Agency for Research on Cancer and (ii) the cancer must (and is rebuttably presumed to) arise as a result of service as a firefighter.

A firefighter who enters the service after August 27, 1971 shall be examined by one or more practicing physicians appointed by the board. If the examination discloses impairment of the heart, lungs or respiratory tract, or the existence of any cancer, the firefighter shall not be entitled to the occupational disease disability pension unless and until a subsequent examination reveals no such impairment or cancer.

The occupational disease disability pension shall be equal to the greater of (1) 65% of the salary attached to the rank held by the firefighter in the fire service at the time of his or her removal from the municipality's fire department payroll or (2) the retirement pension that the firefighter would be eligible to receive if he or she retired (but not including any automatic annual increase in that retirement pension).

The firefighter is also entitled to a child's disability benefit of \$20 a month for each natural or legally adopted unmarried child less than age 18 dependent upon the firefighter for support. The total child's disability benefit when added to the occupational disease disability pension shall not exceed 75% of the firefighter's salary at the time of the grant of occupational disease disability pension.

The occupational disease disability pension is payable to the firefighter during the period of the disability. If the disability ceases before the death of the firefighter, the disability pension payable under this Section shall also cease and the firefighter thereafter shall receive such pension benefits as are provided in accordance with other provisions of this Article.

If a firefighter dies while still disabled and receiving a disability pension under this Section, the disability pension shall continue to be paid to the firefighter's survivors in the sequence provided in Section 4-114 but shall, from the date of death, become subject to the requirements, including limitations on amount, that are provided for pensions to survivors under Section 4-114. A pension previously granted under Section 4-114 to a survivor of a firefighter who died while receiving a disability pension under this Section shall be deemed to be a continuation of the pension provided under this Section and shall be deemed to be in the nature of worker's occupational disease compensation payments. The changes to this Section made by this amendatory Act of 1995 are intended to be retroactive and are not limited to persons in service on or after its effective date.

The child's disability benefit shall terminate if the disability ceases while the firefighter is alive or when the child or children attain age 18 or marry, whichever event occurs first, except that benefits payable on account of a child under this Section shall not be reduced or terminated by reason of the child's attainment of age 18 if he or she is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. Individuals over the age of 18 and adjudged as a disabled person pursuant to Article XIa of the Probate Act of 1975, except for persons receiving benefits under Article III of the Illinois Public Aid Code, shall be eligible to receive benefits under this Act.

(Source: P.A. 91-466, eff. 8-6-99.)

(40 ILCS 5/4-111) (from Ch. 108 1/2, par. 4-111)

Sec. 4-111. Disability pension - Not in duty. A firefighter having at least 7 years of creditable service who becomes disabled as a result of any cause other than an act of duty, and who is found, pursuant to Section 4-112, to be physically or mentally permanently disabled so as to render necessary his or her being placed on disability pension, shall be granted a disability pension of 50% of the monthly salary attached to the rank held by the firefighter in the fire service at the date he or she is removed from the municipality's fire department payroll. If a firefighter dies while still disabled and receiving a disability pension under this Section, the disability pension shall continue to be paid to the firefighter's survivors in the sequence provided in Section 4-114 if that disability pension is greater than the survivors pension provided under subsection (a) of Section 4-114.

(Source: P.A. 83-1440.)

(40 ILCS 5/4-114) (from Ch. 108 1/2, par. 4-114)

Sec. 4-114. Pension to survivors. If a firefighter who is not receiving a disability pension under Section 4-110 or 4-110.1 dies (1) as a result of any illness or accident, or (2) from any cause while in

receipt of a disability pension under this Article, or (3) during retirement after 20 years service, or (4) while vested for or in receipt of a pension payable under subsection (b) of Section 4-109, or (5) while a deferred pensioner, having made all required contributions, a pension shall be paid to his or her survivors, based on the monthly salary attached to the firefighter's rank on the last day of service in the fire department, as follows:

(a)(1) To the surviving spouse, a monthly pension of 40% of the monthly salary, and to the guardian of any minor child or children including a child which has been conceived but not yet born, 12% of such monthly salary for each such child until attainment of age 18 or until the child's marriage, whichever occurs first. Beginning July 1, 1993, the monthly pension to the surviving spouse shall be 54% of the monthly salary for all persons receiving a surviving spouse pension under this Article, regardless of whether the deceased firefighter was in service on or after the effective date of this amendatory Act of 1993.

(2) Beginning July 1, 2004, unless the amount provided under paragraph (1) of this subsection (a) is greater, the total monthly pension payable under this paragraph (a), including any amount payable on account of children, to

the surviving spouse of a firefighter who died (i) while receiving a retirement pension, (ii) while he or she was a deferred pensioner with at least 20 years of creditable service, or (iii) while he or she was in active service having at least 20 years of creditable service, regardless of age, including any amount payable on account of children, shall be no less than 100% of the monthly retirement pension earned by that the deceased firefighter at the time of death, regardless of whether death occurs before or after attainment of age 50, was receiving at the time of death, including any increases under Section 4-109.1. This minimum applies to all such surviving spouses who are eligible to receive a surviving spouse pension, regardless of whether the deceased firefighter was in service on or after the effective date of this amendatory Act of the 93rd General Assembly, and notwithstanding any limitation on maximum pension under paragraph (d) or any other provision of this Article.

(3) If the pension paid on and after July 1, 2004 to the surviving spouse of a firefighter who died on or after July 1, 2004 and before the effective date of this amendatory Act of the 93rd General Assembly was less than the minimum pension payable under paragraph (1) or (2) of this subsection (a), the fund shall pay a lump sum equal to the difference within 90 days after the effective date of this amendatory Act of the 93rd General Assembly.

The pension to the surviving spouse shall terminate in the event of the surviving spouse's remarriage prior to July 1, 1993; remarriage on or after that date does not affect the surviving spouse's pension, regardless of whether the deceased firefighter was in service on or after the effective date of this amendatory Act of 1993.

The surviving spouse's pension shall be subject to the minimum established in Section 4-109.2.

(b) Upon the death of the surviving spouse leaving one or more minor children, to the duly appointed guardian of each such child, for support and maintenance of each such child until the child reaches age 18 or marries, whichever occurs first, a monthly pension of 20% of the monthly salary.

(c) If a deceased firefighter leaves no surviving spouse or unmarried minor children under age 18, but leaves a dependent father or mother, to each dependent parent a monthly pension of 18% of the monthly salary. To qualify for the pension, a dependent parent must furnish satisfactory proof that the deceased firefighter was at the time of his or her death the sole supporter of the parent or that the parent was the deceased's dependent for federal income tax purposes.

(d) The total pension provided under paragraphs (a), (b) and (c) of this Section shall not exceed 75% of the monthly salary of the deceased firefighter (1) when paid to the survivor of a firefighter who has attained 20 or more years of service credit and who receives or is eligible to receive a retirement pension under this Article, or (2) when paid to the survivor of a firefighter who dies as a result of illness or accident, or (3) when paid to the survivor of a firefighter who dies from any cause while in receipt of a disability pension under this Article, or (4) when paid to the survivor of a deferred pensioner. For all other survivors of deceased firefighters, the total pension provided under paragraphs (a), (b) and (c) of this Section shall not exceed 50% of the retirement annuity the firefighter would have received on the date of death.

The maximum pension limitations in this paragraph (d) do not control over any contrary provision of this Article explicitly establishing a minimum amount of pension or granting a one-time or annual increase in pension.

(e) If a firefighter leaves no eligible survivors under paragraphs (a), (b) and (c), the board shall refund to the firefighter's estate the amount of his or her accumulated contributions, less the amount of pension payments, if any, made to the firefighter while living.

(f) An adopted child is eligible for the pension provided under paragraph (a) if the child was adopted

before the firefighter attained age 50.

(g) If a judgment of dissolution of marriage between a firefighter and spouse is judicially set aside subsequent to the firefighter's death, the surviving spouse is eligible for the pension provided in paragraph (a) only if the judicial proceedings are filed within 2 years after the date of the dissolution of marriage and within one year after the firefighter's death and the board is made a party to the proceedings. In such case the pension shall be payable only from the date of the court's order setting aside the judgment of dissolution of marriage.

(h) Benefits payable on account of a child under this Section shall not be reduced or terminated by reason of the child's attainment of age 18 if he or she is then dependent by reason of a physical or mental disability but shall continue to be paid as long as such dependency continues. Individuals over the age of 18 and adjudged as a disabled person pursuant to Article XIa of the Probate Act of 1975, except for persons receiving benefits under Article III of the Illinois Public Aid Code, shall be eligible to receive benefits under this Act.

(i) Beginning January 1, 2000, the pension of the surviving spouse of a firefighter who dies on or after January 1, 1994 as a result of sickness, accident, or injury incurred in or resulting from the performance of an act of duty or from the cumulative effects of acts of duty shall not be less than 100% of the salary attached to the rank held by the deceased firefighter on the last day of service, notwithstanding subsection (d) or any other provision of this Article.

(j) Beginning July 1, 2004, the pension of the surviving spouse of a firefighter who dies on or after January 1, 1988 as a result of sickness, accident, or injury incurred in or resulting from the performance of an act of duty or from the cumulative effects of acts of duty shall not be less than 100% of the salary attached to the rank held by the deceased firefighter on the last day of service, notwithstanding subsection (d) or any other provision of this Article.

(Source: P.A. 93-689, eff. 7-1-04.)

Section 90. The State Mandates Act is amended by adding Section 8.28 as follows:

(30 ILCS 805/8.28 new)

Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 93rd General Assembly.

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

Under the rules, the foregoing **Senate Bill No. 958**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, 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. 2133

A bill for AN ACT concerning elections.

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. 2133

Passed the House, as amended, November 16, 2004, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 . Amend Senate Bill 2133 by replacing everything after the enacting clause with the following:

"Section 5. The Election Code is amended by adding Sections 4-50, 5-50, and 6-100 as follows:

(10 ILCS 5/4-50 new)

Sec. 4-50. Grace period. Notwithstanding any other provision of this Code to the contrary, each election authority shall establish procedures for the registration of voters and for change of address during the period from the close of registration for a primary or election and until the 14th day before the primary or election. During this grace period, an unregistered qualified elector may register to vote, and a registered voter may submit a change of address form, in person in the office of the election authority or at a voter registration location specifically designated for this purpose by the election authority. The election authority shall register that individual, or change a registered voter's address, in the same

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manner as otherwise provided by this Article for registration and change of address.

If a voter who registers or changes address during this grace period wishes to vote at the first election or primary occurring after the grace period, he or she must do so by grace period voting, either in person in the office of the election authority or at a location specifically designated for this purpose by the election authority, or by mail, at the discretion of the election authority. Grace period voting shall be in a manner substantially similar to voting under Article 19. Ballots cast by persons who register or change address during the grace period must be transmitted to and counted at the election authority's central ballot counting location and shall not be transmitted to and counted at precinct polling places.

(10 ILCS 5/5-50 new)

Sec. 5-50. Grace period. Notwithstanding any other provision of this Code to the contrary, each election authority shall establish procedures for the registration of voters and for change of address during the period from the close of registration for a primary or election and until the 14th day before the primary or election. During this grace period, an unregistered qualified elector may register to vote, and a registered voter may submit a change of address form, in person in the office of the election authority or at a voter registration location specifically designated for this purpose by the election authority. The election authority shall register that individual, or change a registered voter's address, in the same manner as otherwise provided by this Article for registration and change of address.

If a voter who registers or changes address during this grace period wishes to vote at the first election or primary occurring after the grace period, he or she must do so by grace period voting, either in person in the office of the election authority or at a location specifically designated for this purpose by the election authority, or by mail, at the discretion of the election authority. Grace period voting shall be in a manner substantially similar to voting under Article 19. Ballots cast by persons who register or change address during the grace period must be transmitted to and counted at the election authority's central ballot counting location and shall not be transmitted to and counted at precinct polling places.

(10 ILCS 5/6-100 new)

Sec. 6-100. Grace period. Notwithstanding any other provision of this Code to the contrary, each election authority shall establish procedures for the registration of voters and for change of address during the period from the close of registration for a primary or election and until the 14th day before the primary or election. During this grace period, an unregistered qualified elector may register to vote, and a registered voter may submit a change of address form, in person in the office of the election authority or at a voter registration location specifically designated for this purpose by the election authority. The election authority shall register that individual, or change a registered voter's address, in the same manner as otherwise provided by this Article for registration and change of address.

If a voter who registers or changes address during this grace period wishes to vote at the first election or primary occurring after the grace period, he or she must do so by grace period voting, either in person in the office of the election authority or at a location specifically designated for this purpose by the election authority, or by mail, at the discretion of the election authority. Grace period voting shall be in a manner substantially similar to voting under Article 19. Ballots cast by persons who register or change address during the grace period must be transmitted to and counted at the election authority's central ballot counting location and shall not be transmitted to and counted at precinct polling places.

Section 99. Effective date. This Act takes effect July 1, 2005."

Under the rules, the foregoing **Senate Bill No. 2133**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, 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. 2234

A bill for AN ACT in relation to the legislature.

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. 2234

Passed the House, as amended, November 16, 2004, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

[November 16, 2004]

AMENDMENT NO. 1. Amend Senate Bill 2234 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Administrative Procedure Act is amended by changing and reenacting Sections 5-115, 5-120, and 5-125 and validating all actions taken thereunder as follows:

(5 ILCS 100/5-115) (from Ch. 127, par. 1005-115)

Sec. 5-115. Other action by the Joint Committee.

(a) If the Joint Committee determines that the adoption and effectiveness of a proposed rule, amendment, or repealer or portion of a proposed rule, amendment, or repealer by an agency would be objectionable under any of the standards for the Joint Committee's review specified in Section 5-100, 5-105, 5-110, 5-120, or 5-130 and would constitute a serious threat to the public interest, safety, or welfare, the Joint Committee may issue a statement to that effect at any time before the proposed rule, amendment, or repealer takes effect. The statement may be issued by the Joint Committee only upon the affirmative vote of three-fifths of the members appointed to the Joint Committee. The Joint Committee, however, may withdraw a statement within 180 days after it is issued upon the affirmative vote of a majority of the members appointed to the Joint Committee. A certified copy of each statement and withdrawal shall be transmitted to the proposing agency and to the Secretary of State for publication in the next available issue of the Illinois Register.

(b) The proposed rule, amendment, or repealer or the portion of the proposed rule, amendment, or repealer to which the Joint Committee has issued a statement under subsection (a) shall not be accepted for filing by the Secretary of State and shall not ~~not~~ take effect unless the statement is withdrawn or a joint resolution is passed as provided in subsection (c). The agency may not enforce or invoke for any reason a proposed rule, amendment, or repealer or any portion thereof that is prohibited from being filed by this subsection.

(c) After the issuance of a statement under subsection (a), any member of the General Assembly may introduce in the General Assembly a joint resolution stating that the General Assembly desires to discontinue the prohibition against the proposed rule, amendment, or repealer or the portion thereof to which the statement was issued being filed and taking effect. If the joint resolution is not passed by both houses of the General Assembly within 180 days after receipt of the statement by the Secretary of State or the statement is not withdrawn as provided in subsection (a), the agency shall be prohibited from filing the proposed rule, amendment, or repealer or the portion thereof and the proposed rule, amendment, or repealer or the portion thereof shall not take effect. The Secretary of State shall not accept for filing the proposed rule, amendment, or repealer or the portion thereof with respect to which the Joint Committee has issued a statement under subsection (a) unless that statement is withdrawn or a joint resolution is passed as provided in this subsection. If the 180-day period expires before passage of the joint resolution, the agency may not file the proposed rule, amendment, or repealer or the portion thereof as adopted and it shall not take effect.

(d) If a statement is issued under this Section, then, in response to an objection or suggestion of the Joint Committee, the agency may propose changes to the proposed rule, amendment, or repealer or portion of a proposed rule, amendment, or repealer. If the agency proposes changes, it must provide additional notice to the Joint Committee under the same terms and conditions and shall be subject to the same requirements and limitations as those set forth for a second notice period under subsection (c) of Section 5-40.

(Source: P.A. 93-1035, eff. 9-10-04.)

(5 ILCS 100/5-120) (from Ch. 127, par. 1005-120)

Sec. 5-120. Responsibilities of the Joint Committee with respect to emergency, preemptory, and other existing rules.

(a) The Joint Committee may examine any rule to determine whether the rule is within the statutory authority upon which it is based and whether the rule is in proper form.

(b) If the Joint Committee objects to a rule, it shall, within 5 days of the objection, certify the fact to the adopting agency and include within the certification a statement of its specific objections.

(c) Within 90 days after receiving the certification, the agency shall do one of the following:

(1) Notify the Joint Committee that it has elected to amend the rule to meet the Joint Committee's objection.

(2) Notify the Joint Committee that it has elected to repeal the rule.

(3) Notify the Joint Committee that it refuses to amend or repeal the rule.

(d) If the agency elects to amend a rule to meet the Joint Committee's objections, it shall notify the Joint Committee in writing and shall initiate rulemaking procedures for that purpose by giving notice as required by Section 5-35. The Joint Committee shall give priority to rules so amended when setting its agenda.

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(e) If the agency elects to repeal a rule as a result of the Joint Committee's objections, it shall notify the Joint Committee in writing of its election and shall initiate rulemaking procedures for that purpose by giving notice as required by Section 5-35.

(f) If the agency elects to amend or repeal a rule as a result of the Joint Committee's objections, it shall complete the process within 180 days after giving notice in the Illinois Register.

(g) Failure of the agency to respond to the Joint Committee's objections to a rule within the time prescribed in subsection (c) shall constitute a refusal to amend or repeal the rule.

(h) If an agency refuses to amend or repeal a rule to remedy an objection stated by the Joint Committee, it shall notify the Joint Committee in writing of its refusal and shall submit a notice of refusal to the Secretary of State. The notice shall be published in the next available issue of the Illinois Register. If the Joint Committee, in response to an agency refusal, decides to suspend ~~a~~ the rule adopted under Section 5-45 or 5-50, then it may do so pursuant to Section 5-125. Any member of the General Assembly may introduce legislation in the General Assembly to implement the recommendations of the Joint Committee concerning emergency, preemptory, and other existing rules.

(Source: P.A. 93-1035, eff. 9-10-04.)

(5 ILCS 100/5-125) (from Ch. 127, par. 1005-125)

Sec. 5-125. Other Joint Committee action with respect to emergency or preemptory rulemaking.

(a) If the Joint Committee determines that a rule or portion of a rule adopted under Section 5-45 or 5-50 is objectionable under any of the standards for the Joint Committee's review specified in Section 5-100, 5-105, 5-110, 5-120, or 5-130 and constitutes a serious threat to the public interest, safety, or welfare, the Joint Committee may issue a statement to that effect. The statement may be issued by the Joint Committee only upon the affirmative vote of three-fifths of the members appointed to the Joint Committee. The Joint Committee, however, may withdraw a statement within 180 days after it is issued upon the affirmative vote of a majority of the members appointed to the Joint Committee. A certified copy of each statement and withdrawal shall be transmitted to the affected agency and to the Secretary of State for publication in the next available issue of the Illinois Register. Within 30 days of transmittal of the statement to the agency, the agency shall notify the Joint Committee in writing whether it has elected to repeal or amend the rule. Failure of the agency to notify the Joint Committee and Secretary of State within 30 days constitutes a decision by the agency to not repeal the rule.

(b) The effectiveness of the rule or the portion of a rule shall be suspended immediately upon receipt of the certified statement by the Secretary of State. The Secretary of State shall indicate the suspension prominently and clearly on the face of the affected rule or the portion of a rule filed in the Office of the Secretary of State. Rules or portions of rules suspended under this subsection shall not become effective again unless the statement is withdrawn as provided in subsection (a) or unless within 180 days from receipt of the statement by the Secretary of State, the General Assembly discontinues the suspension by joint resolution under subsection (c). The agency may not enforce, or invoke for any reason, a rule or portion of a rule that has been suspended under this subsection. During the 180-day period, the agency may not file, ~~and nor may~~ the Secretary of State may not accept for filing, any rule that (i) has the same purpose and effect as the rules or portions of rules suspended under this subsection or (ii) does not substantially address the statement issued under subsection (a), except as otherwise provided in this Section.

(c) After the issuance of a statement under subsection (a), any member of the General Assembly may introduce in the General Assembly a joint resolution stating that the General Assembly desires to discontinue the suspension of effectiveness of a rule or the portion of the rule to which the statement was issued. If the joint resolution is not passed by both houses of the General Assembly within the 180-day period provided in subsection (b) or the statement is not withdrawn, the rule or the portion of the rule shall be considered repealed and the Secretary of State shall immediately remove the rule or portion of a rule from the collection of effective rules.

(d) If a statement is issued under this Section, then, in response to an objection or suggestion of the Joint Committee, the agency may propose changes to the rule, amendment, or repealer or portion of a rule, amendment, or repealer. If the agency proposes changes, it must provide additional notice to the Joint Committee under the same terms and conditions and shall be subject to the same requirements and limitations as those set forth for a second notice period under subsection (c) of Section 5-40.

(Source: P.A. 93-1035, eff. 9-10-04.)

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

Under the rules, the foregoing **Senate Bill No. 2234**, with House Amendment No. 1, was referred to the Secretary's Desk.

[November 16, 2004]

A message from the House by

Mr. Mahoney, 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. 2277

A bill for AN ACT concerning local government.

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. 2277

Passed the House, as amended, November 16, 2004, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 . Amend Senate Bill 2277 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by changing Section 5-1097.5 as follows:

(55 ILCS 5/5-1097.5)

Sec. 5-1097.5. Adult entertainment facility. It is prohibited within a county to locate an adult entertainment facility within 3,000 ~~1,000~~ feet of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means (i) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or (ii) an adult bookstore or adult video store whose primary business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions.

(Source: P.A. 90-394, eff. 1-1-98; 90-634, eff. 7-24-98.)

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

Under the rules, the foregoing **Senate Bill No. 2277**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, 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. 3090

A bill for AN ACT concerning schools.

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. 3090

Passed the House, as amended, November 16, 2004, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 . Amend Senate Bill 3090 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Section 17-3.5 as follows:

(105 ILCS 5/17-3.5 new)

Sec. 17-3.5. Maximum-authorized district educational purposes tax rate. If, at any election held prior to March 19, 2004, the voters of a school district having a population of less than 500,000 inhabitants approved the proposition to increase the educational purposes tax rate of the district and the proposition to increase the rate set forth as the existing maximum-authorized educational purposes tax rate of the district the tax rate most recently extended for educational purposes, then, for the purposes of this Code and the Property Tax Code, the maximum-authorized educational purposes tax rate of the district shall be calculated as follows:

(1) for the first tax year affected by the results of the referendum, the district's tax rates shall be calculated based upon the rates set forth in the proposition; and

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(2) for each tax year thereafter, the district's maximum-authorized educational purposes tax rate approved at the referendum shall be equal to the sum of the district's maximum-authorized educational purposes tax rate immediately preceding the referendum plus the difference between the rates set forth in the proposition submitted to the voters of the district at the referendum.

Within 10 days after the effective date of this amendatory Act of the 93rd General Assembly, the school board of any school district affected by this subsection (a) may, notwithstanding the requirements of any other law to the contrary, amend its certificate of tax levy for any year for which its equalized assessed valuation has not yet been certified by the county clerk. The amended certificate of tax levy shall be filed with the county clerk within the 10-day period after the effective date of this amendatory Act of the 93rd General Assembly.

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

Under the rules, the foregoing **Senate Bill No. 3090**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Mahoney, 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 the following joint resolution, to-wit:

HOUSE JOINT RESOLUTION NO. 64

Senate Amendment No. 1

Action taken by the House, November 16, 2004.

MARK MAHONEY, Clerk of the House

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills 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 2133
Motion to Concur in House Amendment 1 to Senate Bill 3090
Motion to Concur in House Amendment 1 to Senate Bill 3367

At the hour of 5:48 o'clock p.m., the Chair announced that the Senate stand adjourned until Wednesday, November 17, 2004, at 10:00 o'clock a.m.

[November 16, 2004]