



# **SENATE JOURNAL**

**STATE OF ILLINOIS**

**NINETY-FOURTH GENERAL ASSEMBLY**

**50TH LEGISLATIVE DAY**

**FRIDAY, MAY 27, 2005**

**10:19 O'CLOCK A.M.**

**SENATE**  
**Daily Journal Index**  
**50th Legislative Day**

<b>Action</b>	<b>Page(s)</b>
Committee Meeting Announcement .....	47
Introduction of Senate Bill No. 2121 .....	5
Joint Action Motions Filed.....	4, 48, 72, 93, 102
Legislative Measure(s) Filed.....	4, 29, 50, 93
Presentation of Senate Resolution No. 253.....	101
Report from Rules Committee .....	46, 93

<b>Bill Number</b>	<b>Legislative Action</b>	<b>Page(s)</b>
SB 0026	Concur in House Amendment(s).....	17
SB 0061	Concur in House Amendment(s).....	18
SB 0069	Concur in House Amendment(s).....	18
SB 0098	Concur in House Amendment(s).....	19
SB 0100	Concur in House Amendment(s).....	19
SB 0122	Concur in House Amendment(s).....	85
SB 0158	Refuse Concur in House Amendment(s) .....	20
SB 0250	Concur in House Amendment(s).....	20
SB 0274	Concur in House Amendment(s).....	90
SB 0538	Concur in House Amendment(s).....	21
SB 0599	Concur in House Amendment(s).....	21
SB 0662	Refuse Concur in House Amendment(s) .....	91
SB 0799	Recalled – Amendment(s).....	72
SB 0799	Third Reading.....	76
SB 0847	Concur in House Amendment(s).....	22
SB 1185	Recalled – Amendment(s).....	77
SB 1185	Third Reading.....	78
SB 1234	Concur in House Amendment(s).....	85
SB 1251	Concur in House Amendment(s).....	86
SB 1333	Recalled – Amendment(s).....	26
SB 1333	Third Reading.....	29
SB 1354	Concur in House Amendment(s).....	87
SB 1493	Concur in House Amendment(s).....	87
SB 1627	Concur in House Amendment(s).....	22
SB 1638	Concur in House Amendment(s).....	23
SB 1666	Concur in House Amendment(s).....	88
SB 1669	Concur in House Amendment(s).....	23
SB 1701	Concur in House Amendment(s).....	26
SB 1862	Concur in House Amendment(s).....	24
SB 1883	Concur in House Amendment(s).....	88
SB 1909	Concur in House Amendment(s).....	89
SB 1910	Concur in House Amendment(s).....	24
SB 1953	Concur in House Amendment(s).....	89
SB 2060	Concur in House Amendment(s).....	25
SB 2082	Concur in House Amendment(s).....	90
SJR 0038	Adopted.....	31
SJR 0040	Adopted.....	31
SJR 0045	Adopted, as amended.....	32
SJR 0047	Adopted.....	33
SJR 0048	Adopted.....	33
SR 0061	Adopted .....	93
SR 0061	Posting Notice Waived.....	48
SR 0139	Adopted .....	34

[May 27, 2005]

SR 0148	Adopted .....	34
SR 0209	Adopted .....	34
SR 0210	Adopted .....	35
SR 0218	Adopted .....	35
SR 0253	Committee on Rules .....	101
HB 0227	Recalled – Amendment(s) .....	79
HB 0227	Third Reading .....	80
HB 0350	Other proceedings .....	72
HB 0369	Recalled – Amendment(s) .....	16
HB 0369	Third Reading .....	16
HB 0399	Recalled – Amendment(s) .....	94
HB 0399	Third Reading .....	99
HB 0601	Recedes from Senate Amendment No. 0001 .....	91
HB 0870	Other proceedings .....	4
HB 0870	Recedes from Senate Amendment No. 0003 .....	92
HB 0973	Third Reading .....	6
HB 1427	Third Reading .....	7
HB 1663	Third Reading .....	7
HB 1679	Recedes from Senate Amendment No. 0002 .....	92
HB 2062	Recalled – Amendment(s) .....	80
HB 2062	Third Reading .....	84
HB 2221	First Reading .....	4
HB 2222	Third Reading .....	5
HB 2451	Recalled – Amendment(s) .....	8
HB 2451	Third Reading .....	8
HB 2487	Third Reading .....	9
HB 2531	Other proceedings .....	93, 102
HB 2578	Recalled – Amendment(s) .....	9
HB 2578	Third Reading .....	10
HB 3121	Third Reading .....	5
HB 3415	Recalled – Amendment(s) .....	11
HB 3415	Third Reading .....	15
HB 3498	Third Reading .....	6
HJR 0011	Adopted .....	30
HJR 0019	Adopted .....	30

The Senate met pursuant to adjournment.  
 Senator Rickey R. Hendon, Chicago, Illinois, presiding.  
 Prayer by Reverend John Parks, Korean United Presbyterian Church, Springfield, Illinois.  
 Senator Maloney led the Senate in the Pledge of Allegiance.

The Journal of Tuesday, May 24, 2005, was being read when on motion of Senator Hunter, 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 Wednesday, May 25, 2005, was being read when on motion of Senator Hunter, 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.

Senator Hunter moved that reading and approval of the Journal of Thursday, May 26, 2005, be postponed, pending arrival of the printed Journal.  
 The motion prevailed.

### **LEGISLATIVE MEASURES FILED**

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

Senate Amendment No. 1 to House Bill 227

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

Senate Amendment No. 1 to Senate Bill 799  
 Senate Amendment No. 1 to Senate Bill 1185

### **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 350  
 Motion to Concur in House Amendment 1 to Senate Bill 1234  
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 1354  
 Motion to Concur in House Amendment 1 to Senate Bill 1666  
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 1883

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

Motion to Recede from Senate Amendment 3 to House Bill 870

### **READING BILL FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME**

**House Bill No. 2221**, sponsored by Senator Clayborne, was taken up, read by title a first time and referred to the Committee on Rules.

[May 27, 2005]

## INTRODUCTION OF BILL

**SENATE BILL NO. 2121.** Introduced by Senator Crotty, a bill for AN ACT concerning regulation.

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

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Haine, **House Bill No. 2222**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 43; Nays 12.

The following voted in the affirmative:

Burzynski	Geo-Karis	Maloney	Shadid
Clayborne	Haine	Martinez	Sieben
Collins	Halvorson	Meeks	Silverstein
Crotty	Harmon	Munoz	Sullivan, J.
Cullerton	Hendon	Raoul	Trotter
Dahl	Hunter	Rauschenberger	Viverito
del Valle	Jacobs	Righter	Watson
DeLeo	Jones, J.	Risinger	Wilhelmi
Demuzio	Lightford	Ronen	Winkel
Forby	Link	Sandoval	Mr. President
Garrett	Luechtefeld	Schoenberg	

The following voted in the negative:

Althoff	Pankau	Roskam
Bomke	Peterson	Rutherford
Jones, W.	Petka	Syverson
Lauzen	Radogno	Wojcik

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Halvorson, **House Bill No. 3121**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Sieben
Bomke	Halvorson	Pankau	Silverstein
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.

[May 27, 2005]

Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Raoul	Trotter
Crotty	Jones, J.	Rauschenberger	Viverito
Cullerton	Jones, W.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Wojcik
Demuzio	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	
Geo-Karis	Meeks	Shadid	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Crotty, **House Bill No. 3498**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Sieben
Bomke	Halvorson	Pankau	Silverstein
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Raoul	Trotter
Crotty	Jones, J.	Rauschenberger	Viverito
Cullerton	Jones, W.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Wojcik
Demuzio	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	
Geo-Karis	Meeks	Shadid	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Link, **House Bill No. 973**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

[May 27, 2005]

Althoff	Haine	Munoz	Sieben
Bomke	Halvorson	Pankau	Silverstein
Brady	Harmon	Peterson	Sullivan, D.
Burzynski	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Raoul	Trotter
Crotty	Jones, J.	Rauschenberger	Viverito
Cullerton	Jones, W.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Wojcik
Demuzio	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	
Geo-Karis	Meeks	Shadid	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Link, **House Bill No. 1427**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Shadid
Bomke	Haine	Munoz	Sieben
Brady	Halvorson	Pankau	Silverstein
Burzynski	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Raoul	Trotter
Crotty	Jones, J.	Rauschenberger	Viverito
Cullerton	Jones, W.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Wojcik
Demuzio	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Harmon, **House Bill No. 1663**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 43; Nays 14.

[May 27, 2005]

The following voted in the affirmative:

Althoff	Haine	Meeks	Shadid
Clayborne	Halvorson	Munoz	Sieben
Collins	Harmon	Pankau	Silverstein
Cronin	Hendon	Radogno	Sullivan, D.
Crotty	Hunter	Raoul	Syverson
Cullerton	Jacobs	Rauschenberger	Trotter
del Valle	Jones, W.	Risinger	Viverito
DeLeo	Lightford	Ronen	Wilhelmi
Forby	Link	Rutherford	Wojcik
Garrett	Maloney	Sandoval	Mr. President
Geo-Karis	Martinez	Schoenberg	

The following voted in the negative:

Bomke	Demuzio	Peterson	Sullivan, J.
Brady	Jones, J.	Petka	Watson
Burzynski	Lauzen	Righter	
Dahl	Luechtefeld	Roskam	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).  
Ordered that the Secretary inform the House of Representatives thereof.

#### HOUSE BILL RECALLED

On motion of Senator Schoenberg, **House Bill No. 2451** was recalled from the order of third reading to the order of second reading.

Senator Schoenberg offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 2451

AMENDMENT NO. 1. Amend House Bill 2451 on page 6, by replacing lines 26 through 28 with the following:

"which the person making the request has a prescription. Prices quoted".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

#### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Schoenberg, **House Bill No. 2451**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays 1.

The following voted in the affirmative:

Althoff	Garrett	Meeks	Shadid
Bomke	Geo-Karis	Munoz	Sieben
Brady	Haine	Pankau	Silverstein
Burzynski	Halvorson	Peterson	Sullivan, D.

[May 27, 2005]



Clayborne	Harmon	Petka	Sullivan, J.
Collins	Hendon	Radogno	Syverson
Cronin	Hunter	Raoul	Trotter
Crotty	Jones, J.	Rauschenberger	Viverito
Cullerton	Jones, W.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Wojcik
Demuzio	Luechtefeld	Rutherford	Mr. President
Dillard	Maloney	Sandoval	
Forby	Martinez	Schoenberg	

The following voted in the negative:

Jacobs

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Crotty, **House Bill No. 2487**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Meeks	Shadid
Bomke	Geo-Karis	Munoz	Sieben
Brady	Haine	Pankau	Silverstein
Burzynski	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Raoul	Trotter
Crotty	Jones, J.	Rauschenberger	Viverito
Cullerton	Jones, W.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Wojcik
Demuzio	Luechtefeld	Rutherford	Mr. President
Dillard	Maloney	Sandoval	
Forby	Martinez	Schoenberg	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

#### HOUSE BILL RECALLED

On motion of Senator Lightford, **House Bill No. 2578** was recalled from the order of third reading to the order of second reading.

Senator Lightford offered the following amendment and moved its adoption:

[May 27, 2005]

**AMENDMENT NO. 1 TO HOUSE BILL 2578**

AMENDMENT NO. 1. Amend House Bill 2578 on page 3, line 22, by changing "January" to "March"; and

by replacing lines 31 through 34 on page 21, all of page 22, and lines 1 through 29 on page 23 with the following:

"Section 95. The County Jail Act is amended by adding Section 17.10 as follows:

(730 ILCS 125/17.10 new)

Sec. 17.10. Requirements in connection with HIV/AIDS.

(a) In each county other than Cook, during the medical admissions exam, the warden of the jail, a correctional officer at the jail, or a member of the jail medical staff must provide the prisoner with appropriate written information concerning human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS). The Department of Public Health and community-based organizations certified to provide HIV/AIDS testing must provide these informational materials to the warden at no cost to the county. The warden, a correctional officer, or a member of the jail medical staff must inform the prisoner of the option of being tested for infection with HIV by a certified local community-based agency or other available medical provider at no charge to the prisoner.

(b) In Cook County, during the medical admissions exam, an employee of the Cook County Bureau of Health Services must provide the prisoner with appropriate written information concerning human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) and must also provide the prisoner with option of testing for infection with HIV or any other identified causative agent of AIDS, as well as counseling in connection with such testing. The Department of Public Health and community-based organizations certified to provide HIV/AIDS testing must provide these informational materials to the Bureau at no cost to the county. The testing provided under this subsection (b) shall be conducted by the Cook County Bureau of Health Services and shall consist of an enzyme-linked immunosorbent assay (ELISA) test or any other test approved by the Department of Public Health. If the test result is positive, the Western Blot Assay or more reliable confirmatory test shall be administered.

(c) In each county, the warden of the jail must make appropriate written information concerning HIV/AIDS available to every visitor to the jail. This information must include information concerning persons or entities to contact for local counseling and testing. The Department of Public Health and community-based organizations certified to provide HIV/AIDS testing must provide these informational materials to the warden at no cost to the office of the county sheriff.

(d) Implementation of this Section is subject to appropriation."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Lightford offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO HOUSE BILL 2578**

AMENDMENT NO. 2. Amend House Bill 2578 on page 13, by replacing lines 9 through 11 with the following:

"with no copay to the committed person. A person committed to the Department who has tested positive for infection with HIV is entitled to medical care while incarcerated,"; and

on page 18, by replacing lines 8 and 9 with the following:

"AIDS, including information concerning how to contact the Illinois Department of Public Health for counseling information. The Department shall develop the".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Lightford, **House Bill No. 2578**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

[May 27, 2005]

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Richter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

#### HOUSE BILL RECALLED

On motion of Senator Trotter, **House Bill No. 3415** was recalled from the order of third reading to the order of second reading.

Senator Trotter offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 3415

AMENDMENT NO. 1. Amend House Bill 3415 by replacing everything after the enacting clause with the following:

"Section 5. The Juvenile Court Act of 1987 is amended by changing Sections 2-10 and 2-10.1 as follows:

(705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

Sec. 2-10. Temporary custody hearing. At the appearance of the minor before the court at the temporary custody hearing, all witnesses present shall be examined before the court in relation to any matter connected with the allegations made in the petition.

(1) If the court finds that there is not probable cause to believe that the minor is abused, neglected or dependent it shall release the minor and dismiss the petition.

(2) If the court finds that there is probable cause to believe that the minor is abused, neglected or dependent, the court shall state in writing the factual basis supporting its finding and the minor, his or her parent, guardian, custodian and other persons able to give relevant testimony shall be examined before the court. The Department of Children and Family Services shall give testimony concerning indicated reports of abuse and neglect, of which they are aware of through the central registry, involving the minor's parent, guardian or custodian. After such testimony, the court may, consistent with the health, safety and best interests of the minor, enter an order that the minor shall be released upon the request of parent, guardian or custodian if the parent, guardian or custodian appears to take custody. Custodian shall include any agency of the State which has been given custody or wardship of the child. If it is consistent with the health, safety and best interests of the minor, the court may also prescribe shelter care and order that the minor be kept in a suitable place designated by the court or in a shelter care facility designated by the Department of Children and Family Services or a licensed child welfare

[May 27, 2005]

agency; however, a minor charged with a criminal offense under the Criminal Code of 1961 or adjudicated delinquent shall not be placed in the custody of or committed to the Department of Children and Family Services by any court, except a minor less than 13 years of age and committed to the Department of Children and Family Services under Section 5-710 of this Act or a minor for whom an independent basis of abuse, neglect, or dependency exists, which must be defined by departmental rule. In placing the minor, the Department or other agency shall, to the extent compatible with the court's order, comply with Section 7 of the Children and Family Services Act. In determining the health, safety and best interests of the minor to prescribe shelter care, the court must find that it is a matter of immediate and urgent necessity for the safety and protection of the minor or of the person or property of another that the minor be placed in a shelter care facility or that he or she is likely to flee the jurisdiction of the court, and must further find that reasonable efforts have been made or that, consistent with the health, safety and best interests of the minor, no efforts reasonably can be made to prevent or eliminate the necessity of removal of the minor from his or her home. The court shall require documentation from the Department of Children and Family Services as to the reasonable efforts that were made to prevent or eliminate the necessity of removal of the minor from his or her home or the reasons why no efforts reasonably could be made to prevent or eliminate the necessity of removal. When a minor is placed in the home of a relative, the Department of Children and Family Services shall complete a preliminary background review of the members of the minor's custodian's household in accordance with Section 4.3 of the Child Care Act of 1969 within 90 days of that placement. If the minor is ordered placed in a shelter care facility of the Department of Children and Family Services or a licensed child welfare agency, the court shall, upon request of the appropriate Department or other agency, appoint the Department of Children and Family Services Guardianship Administrator or other appropriate agency executive temporary custodian of the minor and the court may enter such other orders related to the temporary custody as it deems fit and proper, including the provision of services to the minor or his family to ameliorate the causes contributing to the finding of probable cause or to the finding of the existence of immediate and urgent necessity.

Where the Department of Children and Family Services Guardianship Administrator is appointed as the executive temporary custodian, the Department of Children and Family Services shall file with the court and serve on the parties a parent-child visiting plan, within 10 days, excluding weekends and holidays, after the appointment. The parent-child visiting plan shall set out the time and place of visits, the frequency of visits, the length of visits, who shall be present at the visits, and where appropriate, the minor's opportunities to have telephone and mail communication with the parents. For good cause, the court may waive the requirement to file the parent-child visiting plan or extend the time for filing the parent-child visiting plan. Any party may, by motion, request the court to review the parent-child visiting plan to determine whether it is reasonably calculated to expeditiously facilitate the achievement of the permanency goal and is consistent with the minor's best interest. The frequency, duration, and locations of visitation shall be measured by the needs of the child and family, and not by the convenience of Department personnel. Child development principles shall be considered by the court in its analysis of how frequent visitation should be, how long it should last, where it should take place, and who should be present. If upon motion of the party to review the plan and after receiving evidence, the court determines that the parent-child visiting plan is not reasonably calculated to expeditiously facilitate the achievement of the permanency goal or that the restrictions placed on parent-child contact are contrary to the child's best interests, the court shall put in writing the factual basis supporting the determination and enter specific findings based on the evidence. The court shall enter an order for the Department to implement changes to the parent-child visiting plan, consistent with the court's findings. At any stage of proceeding, any party may by motion request the court to enter any orders necessary to implement the parent-child visiting plan. Nothing under this subsection (2) shall restrict the court from granting discretionary authority to the Department to increase opportunities for additional parent-child contacts, without further court orders. Nothing in this subsection (2) shall restrict the Department from immediately restricting or terminating parent-child contact, without either amending the parent-child visiting plan or obtaining a court order, where the Department or its assigns reasonably believe that continuation of parent-child contact, as set out in the parent-child visiting plan, would be contrary to the child's health, safety, and welfare. The Department shall file with the court and serve on the parties any amendments to the visitation plan within 10 days, excluding weekends and holidays, of the change of the visitation. Any party may, by motion, request the court to review the parent-child visiting plan to determine whether the parent-child visiting plan is reasonably calculated to expeditiously facilitate the achievement of the permanency goal, and is consistent with the minor's health, safety, and best interest.

Acceptance of services shall not be considered an admission of any allegation in a petition made pursuant to this Act, nor may a referral of services be considered as evidence in any proceeding pursuant

[May 27, 2005]

to this Act, except where the issue is whether the Department has made reasonable efforts to reunite the family. In making its findings that it is consistent with the health, safety and best interests of the minor to prescribe shelter care, the court shall state in writing (i) the factual basis supporting its findings concerning the immediate and urgent necessity for the protection of the minor or of the person or property of another and (ii) the factual basis supporting its findings that reasonable efforts were made to prevent or eliminate the removal of the minor from his or her home or that no efforts reasonably could be made to prevent or eliminate the removal of the minor from his or her home. The parents, guardian, custodian, temporary custodian and minor shall each be furnished a copy of such written findings. The temporary custodian shall maintain a copy of the court order and written findings in the case record for the child. The order together with the court's findings of fact in support thereof shall be entered of record in the court.

Once the court finds that it is a matter of immediate and urgent necessity for the protection of the minor that the minor be placed in a shelter care facility, the minor shall not be returned to the parent, custodian or guardian until the court finds that such placement is no longer necessary for the protection of the minor.

If the child is placed in the temporary custody of the Department of Children and Family Services for his or her protection, the court shall admonish the parents, guardian, custodian or responsible relative that the parents must cooperate with the Department of Children and Family Services, comply with the terms of the service plans, and correct the conditions which require the child to be in care, or risk termination of their parental rights.

(3) If prior to the shelter care hearing for a minor described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is unable to serve notice on the party respondent, the shelter care hearing may proceed ex-parte. A shelter care order from an ex-parte hearing shall be endorsed with the date and hour of issuance and shall be filed with the clerk's office and entered of record. The order shall expire after 10 days from the time it is issued unless before its expiration it is renewed, at a hearing upon appearance of the party respondent, or upon an affidavit of the moving party as to all diligent efforts to notify the party respondent by notice as herein prescribed. The notice prescribed shall be in writing and shall be personally delivered to the minor or the minor's attorney and to the last known address of the other person or persons entitled to notice. The notice shall also state the nature of the allegations, the nature of the order sought by the State, including whether temporary custody is sought, and the consequences of failure to appear and shall contain a notice that the parties will not be entitled to further written notices or publication notices of proceedings in this case, including the filing of an amended petition or a motion to terminate parental rights, except as required by Supreme Court Rule 11; and shall explain the right of the parties and the procedures to vacate or modify a shelter care order as provided in this Section. The notice for a shelter care hearing shall be substantially as follows:

NOTICE TO PARENTS AND CHILDREN  
OF SHELTER CARE HEARING

On ..... at ....., before the Honorable ....., (address:)

....., the State of Illinois will present evidence (1) that (name of child or children)

..... are abused, neglected or dependent for the following reasons:

..... and (2) that there is "immediate and urgent

necessity" to remove the child or children from the responsible relative.

**YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN PLACEMENT of the**

**child or children**

in foster care until a trial can be held. A trial may not be held for up to 90 days. You will not be entitled to further notices of proceedings in this case, including the filing of an amended petition or a motion to terminate parental rights.

At the shelter care hearing, parents have the following rights:

1. To ask the court to appoint a lawyer if they cannot afford one.
2. To ask the court to continue the hearing to allow them time to prepare.
3. To present evidence concerning:
  - a. Whether or not the child or children were abused, neglected or dependent.
  - b. Whether or not there is "immediate and urgent necessity" to remove the child from home (including: their ability to care for the child, conditions in the home, alternative means of protecting the child other than removal).
  - c. The best interests of the child.
4. To cross examine the State's witnesses.

The Notice for rehearings shall be substantially as follows:

NOTICE OF PARENT'S AND CHILDREN'S RIGHTS  
TO REHEARING ON TEMPORARY CUSTODY

If you were not present at and did not have adequate notice of the Shelter Care Hearing at which temporary custody of ..... was awarded to ....., you have the right to request a full rehearing on whether the State should have temporary custody of ....., To request this rehearing, you must file with the Clerk of the Juvenile Court (address): ....., in person or by mailing a statement (affidavit) setting forth the following:

1. That you were not present at the shelter care hearing.
2. That you did not get adequate notice (explaining how the notice was inadequate).
3. Your signature.
4. Signature must be notarized.

The rehearing should be scheduled within 48 hours of your filing this affidavit.

At the rehearing, your rights are the same as at the initial shelter care hearing. The enclosed notice explains those rights.

At the Shelter Care Hearing, children have the following rights:

1. To have a guardian ad litem appointed.
2. To be declared competent as a witness and to present testimony concerning:
  - a. Whether they are abused, neglected or dependent.
  - b. Whether there is "immediate and urgent necessity" to be removed from home.
  - c. Their best interests.
3. To cross examine witnesses for other parties.
4. To obtain an explanation of any proceedings and orders of the court.

(4) If the parent, guardian, legal custodian, responsible relative, minor age 8 or over, or counsel of the minor did not have actual notice of or was not present at the shelter care hearing, he or she may file an affidavit setting forth these facts, and the clerk shall set the matter for rehearing not later than 48 hours, excluding Sundays and legal holidays, after the filing of the affidavit. At the rehearing, the court shall proceed in the same manner as upon the original hearing.

(5) Only when there is reasonable cause to believe that the minor taken into custody is a person described in subsection (3) of Section 5-105 may the minor be kept or detained in a detention home or county or municipal jail. This Section shall in no way be construed to limit subsection (6).

(6) No minor under 16 years of age may be confined in a jail or place ordinarily used for the confinement of prisoners in a police station. Minors under 17 years of age must be kept separate from confined adults and may not at any time be kept in the same cell, room, or yard with adults confined pursuant to the criminal law.

(7) If the minor is not brought before a judicial officer within the time period as specified in Section 2-9, the minor must immediately be released from custody.

(8) If neither the parent, guardian or custodian appears within 24 hours to take custody of a minor released upon request pursuant to subsection (2) of this Section, then the clerk of the court shall set the matter for rehearing not later than 7 days after the original order and shall issue a summons directed to the parent, guardian or custodian to appear. At the same time the probation department shall prepare a report on the minor. If a parent, guardian or custodian does not appear at such rehearing, the judge may enter an order prescribing that the minor be kept in a suitable place designated by the Department of Children and Family Services or a licensed child welfare agency.

(9) Notwithstanding any other provision of this Section any interested party, including the State, the temporary custodian, an agency providing services to the minor or family under a service plan pursuant to Section 8.2 of the Abused and Neglected Child Reporting Act, foster parent, or any of their representatives, on notice to all parties entitled to notice, may file a motion that it is in the best interests of the minor to modify or vacate a temporary custody order on any of the following grounds:

(a) It is no longer a matter of immediate and urgent necessity that the minor remain in shelter care; or

(b) There is a material change in the circumstances of the natural family from which the minor was removed and the child can be cared for at home without endangering the child's health or safety; or

(c) A person not a party to the alleged abuse, neglect or dependency, including a parent, relative or legal guardian, is capable of assuming temporary custody of the minor; or

(d) Services provided by the Department of Children and Family Services or a child welfare agency or other service provider have been successful in eliminating the need for temporary custody and the child can be cared for at home without endangering the child's health or safety.

In ruling on the motion, the court shall determine whether it is consistent with the health, safety and

best interests of the minor to modify or vacate a temporary custody order.

The clerk shall set the matter for hearing not later than 14 days after such motion is filed. In the event that the court modifies or vacates a temporary custody order but does not vacate its finding of probable cause, the court may order that appropriate services be continued or initiated in behalf of the minor and his or her family.

(10) When the court finds or has found that there is probable cause to believe a minor is an abused minor as described in subsection (2) of Section 2-3 and that there is an immediate and urgent necessity for the abused minor to be placed in shelter care, immediate and urgent necessity shall be presumed for any other minor residing in the same household as the abused minor provided:

(a) Such other minor is the subject of an abuse or neglect petition pending before the court; and

(b) A party to the petition is seeking shelter care for such other minor.

Once the presumption of immediate and urgent necessity has been raised, the burden of demonstrating the lack of immediate and urgent necessity shall be on any party that is opposing shelter care for the other minor.

(Source: P.A. 89-21, eff. 7-1-95; 89-422; 89-582, eff. 1-1-97; 89-626, eff. 8-9-96; 90-28, eff. 1-1-98; 90-87, eff. 9-1-97; 90-590, eff. 1-1-99; 90-655, eff. 7-30-98.)

(705 ILCS 405/2-10.1) (from Ch. 37, par. 802-10.1)

Sec. 2-10.1. Whenever a minor is placed in shelter care with the Department or a licensed child welfare agency in accordance with Section 2-10, the Department or agency, as appropriate, shall prepare and file with the court within 45 days of placement under Section 2-10 a case plan which complies with the federal Adoption Assistance and Child Welfare Act of 1980 and is consistent with the health, safety and best interests of the minor.

For the purposes of this Act, "case plan" and "service plan" shall have the same meaning.  
(Source: P.A. 90-28, eff. 1-1-98.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Trotter, **House Bill No. 3415**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

[May 27, 2005]

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Trotter, **House Bill No. 369** was recalled from the order of third reading to the order of second reading.

Senator Trotter offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 369

AMENDMENT NO. 1. Amend House Bill 369 on page 1, line 8, by replacing "In" with "Except as otherwise provided in subsection (q), in"; and

on page 4, immediately below line 28, by inserting the following:

"(q) This Section does not apply in a county with a population of 3,000,000 or more."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Trotter offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO HOUSE BILL 369

AMENDMENT NO. 2. Amend House Bill 369 on page 1, line 8, by replacing "In" with "Except as otherwise provided in subsection (q), in"; and

on page 4, immediately below line 28, by inserting the following:

"(q) This Section does not apply in a county with a population of 500,000 or more."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Trotter, **House Bill No. 369**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 30; Nays 25; Present 3.

The following voted in the affirmative:

Clayborne	Haine	Martinez	Silverstein
Collins	Halvorson	Meeks	Sullivan, J.
Crotty	Hendon	Munoz	Trotter
del Valle	Hunter	Raoul	Viverito
DeLeo	Jacobs	Ronen	Wilhelmi
Demuzio	Lightford	Sandoval	Mr. President
Forby	Link	Schoenberg	
Garrett	Maloney	Shadid	

The following voted in the negative:

[May 27, 2005]



Althoff	Jones, J.	Radogno	Sullivan, D.
Bomke	Jones, W.	Rauschenberger	Syverson
Brady	Lauzen	Righter	Winkel
Burzynski	Luechtefeld	Risinger	Wojcik
Cronin	Pankau	Roskam	
Dahl	Peterson	Rutherford	
Geo-Karis	Petka	Sieben	

The following voted present:

Cullerton  
Dillard  
Harmon

This roll call verified.

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

Senator Burzynski asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 11:31 o'clock a.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

#### AFTER RECESS

At the hour of 12:16 o'clock p.m., the Senate resumed consideration of business.  
Senator Hendon, presiding.

#### CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Clayborne, **Senate Bill No. 26**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Clayborne moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik

[May 27, 2005]

Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 26**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Harmon, **Senate Bill No. 61**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Harmon moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 61**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Brady, **Senate Bill No. 69**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Brady moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Sieben
Bomke	Geo-Karis	Meeks	Silverstein
Brady	Haine	Munoz	Sullivan, D.
Burzynski	Halvorson	Pankau	Sullivan, J.
Clayborne	Harmon	Peterson	Syverson
Collins	Hendon	Petka	Trotter
Cronin	Hunter	Radogno	Viverito
Crotty	Jacobs	Raoul	Watson

[May 27, 2005]

Cullerton	Jones, J.	Rauschenberger	Wilhelmi
Dahl	Jones, W.	Risinger	Winkel
del Valle	Lauzen	Ronen	Wojeik
DeLeo	Lightford	Rutherford	Mr. President
Demuzio	Link	Sandoval	
Dillard	Luechtefeld	Schoenberg	
Forby	Maloney	Shadid	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 69**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator W. Jones, **Senate Bill No. 98**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator W. Jones moved that the Senate concur with the House in the adoption of their amendments to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojeik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 98**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator W. Jones, **Senate Bill No. 100**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator W. Jones moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Munoz	Sieben
Bomke	Geo-Karis	Pankau	Silverstein
Brady	Haine	Peterson	Sullivan, D.

[May 27, 2005]

Burzynski	Halvorson	Petka	Sullivan, J.
Clayborne	Harmon	Radogno	Syverson
Collins	Hendon	Raoul	Trotter
Cronin	Hunter	Rauschenberger	Viverito
Crotty	Jacobs	Righter	Watson
Cullerton	Jones, J.	Risinger	Wilhelmi
Dahl	Lauzen	Ronen	Winkel
del Valle	Lightford	Roskam	Wojcik
DeLeo	Luechtefeld	Rutherford	Mr. President
Demuzio	Maloney	Sandoval	
Dillard	Martinez	Schoenberg	
Forby	Meeks	Shadid	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 100**.

Ordered that the Secretary inform the House of Representatives thereof.

Senator W. Jones asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 100**.

Senator Link asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 100**.

On motion of Senator Crotty, **Senate Bill No. 158**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Crotty moved that the Senate non-concur with the House in the adoption of their amendment to said bill.

The motion prevailed.

And the Senate non-concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 158**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Cullerton, **Senate Bill No. 250**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Cullerton moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

[May 27, 2005]

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 250**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Righter, **Senate Bill No. 538**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Righter moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 538**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator W. Jones, **Senate Bill No. 599**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator W. Jones moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Meeks	Shadid
Bomke	Geo-Karis	Munoz	Sieben
Brady	Haine	Pankau	Silverstein
Burzynski	Halvorson	Peterson	Sullivan, D.
Clayborne	Harmon	Petka	Sullivan, J.
Collins	Hendon	Radogno	Syverson
Cronin	Hunter	Raoul	Trotter
Crotty	Jacobs	Rauschenberger	Viverito
Cullerton	Jones, J.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel

[May 27, 2005]

DeLeo	Link	Roskam	Wojcik
Demuzio	Luechtefeld	Rutherford	Mr. President
Dillard	Maloney	Sandoval	
Forby	Martinez	Schoenberg	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 599**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Link, **Senate Bill No. 847**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Link moved that the Senate concur with the House in the adoption of their amendments to said bill.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Wojcik
Demuzio	Link	Roskam	Mr. President
Dillard	Luechtefeld	Rutherford	
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 847**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Ronen, **Senate Bill No. 1627**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Ronen moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Shadid
Bomke	Geo-Karis	Munoz	Sieben
Brady	Haine	Pankau	Silverstein
Burzynski	Halvorson	Peterson	Sullivan, D.
Clayborne	Harmon	Petka	Sullivan, J.
Collins	Hendon	Radogno	Syverson

[May 27, 2005]

Cronin	Hunter	Raoul	Trotter
Crotty	Jacobs	Rauschenberger	Viverito
Cullerton	Jones, J.	Righter	Watson
Dahl	Jones, W.	Risinger	Wilhelmi
del Valle	Lauzen	Ronen	Winkel
DeLeo	Lightford	Roskam	Wojcik
Demuzio	Link	Rutherford	Mr. President
Dillard	Luechtefeld	Sandoval	
Forby	Maloney	Schoenberg	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1627**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Burzynski, **Senate Bill No. 1638**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Burzynski moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1638**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator DeLeo, **Senate Bill No. 1669**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator DeLeo moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1669**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Garrett, **Senate Bill No. 1862**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Garrett moved that the Senate concur with the House in the adoption of their amendments to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1862**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Haine, **Senate Bill No. 1910**, with House Amendments numbered 1 and 3 on the Secretary's Desk, was taken up for immediate consideration.

Senator Haine moved that the Senate concur with the House in the adoption of their amendments to said bill.

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

[May 27, 2005]



Yeas 56; Nays 1.

The following voted in the affirmative:

Althoff	Geo-Karis	Munoz	Sieben
Bomke	Haine	Pankau	Silverstein
Brady	Halvorson	Peterson	Sullivan, D.
Burzynski	Harmon	Petka	Sullivan, J.
Clayborne	Hendon	Radogno	Syverson
Collins	Hunter	Raoul	Trotter
Cronin	Jacobs	Rauschenberger	Viverito
Crotty	Jones, J.	Righter	Watson
Cullerton	Jones, W.	Risinger	Wilhelmi
Dahl	Lightford	Ronen	Wojcik
del Valle	Link	Roskam	Mr. President
DeLeo	Luechtefeld	Rutherford	
Dillard	Maloney	Sandoval	
Forby	Martinez	Schoenberg	
Garrett	Meeks	Shadid	

The following voted in the negative:

Winkel

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 3 to **Senate Bill No. 1910**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator D. Sullivan, **Senate Bill No. 2060**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator D. Sullivan moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 2060**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Clayborne, **Senate Bill No. 1701**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Clayborne moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1701**.

Ordered that the Secretary inform the House of Representatives thereof.

#### SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 1333** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO SENATE BILL 1333

AMENDMENT NO. 2. Amend Senate Bill 1333, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Firearm Owners Identification Card Act is amended by changing Sections 1.1, 3, 3.1, 3a, and 5 as follows:

(430 ILCS 65/1.1) (from Ch. 38, par. 83-1.1)

Sec. 1.1. For purposes of this Act:

"Counterfeit" means to copy or imitate, without legal authority, with intent to deceive.

"Federally licensed firearm dealer" means a person who is licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).

"Firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however:

(1) any pneumatic gun, spring gun, paint ball gun or B-B gun which either expels a single globular projectile not exceeding .18 inch in diameter and which has a maximum muzzle velocity of less than 700 feet per second or breakable paint balls containing washable marking colors;

[May 27, 2005]

(2) any device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission;

(3) any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition; and

(4) an antique firearm (other than a machine-gun) which, although designed as a weapon, the Department of State Police finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

"Firearm ammunition" means any self-contained cartridge or shotgun shell, by whatever name known, which is designed to be used or adaptable to use in a firearm; excluding, however:

(1) any ammunition exclusively designed for use with a device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; and

(2) any ammunition designed exclusively for use with a stud or rivet driver or other similar industrial ammunition.

"Gun show" means an event or function:

(1) at which the sale and transfer of firearms is the regular and normal course of business and where 50 or more firearms are displayed, offered, or exhibited for sale, transfer, or exchange; or

(2) at which not less than 10 gun show vendors display, offer, or exhibit for sale, sell, transfer, or exchange firearms.

"Gun show" includes the entire premises provided for an event or function, including parking areas for the event or function, that is sponsored to facilitate the purchase, sale, transfer, or exchange of firearms as described in this Section.

"Gun show" does not include training or safety classes, competitive shooting events, such as rifle, shotgun, or handgun matches, trap, skeet, or sporting clays shoots, dinners, banquets, raffles, or any other event where the sale or transfer of firearms is not the primary course of business.

"Gun show promoter" means a person who organizes or operates a gun show.

"Gun show vendor" means a person who exhibits, sells, offers for sale, transfers, or exchanges any firearms at a gun show, regardless of whether the person arranges with a gun show promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange any firearm.

"Sanctioned competitive shooting event" means a shooting contest officially recognized by a national or state shooting sport association, and includes any sight-in or practice conducted in conjunction with the event.

(Source: P.A. 91-357, eff. 7-29-99; 92-414, eff. 1-1-02.)

(430 ILCS 65/3) (from Ch. 38, par. 83-3)

Sec. 3. (a) Except as provided in Section 3a, no person may knowingly transfer, or cause to be transferred, any firearm or any firearm ammunition to any person within this State unless the transferee with whom he deals displays a currently valid Firearm Owner's Identification Card which has previously been issued in his name by the Department of State Police under the provisions of this Act. In addition, all firearm transfers by federally licensed firearm dealers are subject to Section 3.1.

(a-5) Any person who is not a federally licensed firearm dealer and who desires to transfer or sell a firearm while that person is on the grounds of a gun show must, before selling or transferring the firearm, request the Department of State Police to conduct a background check on the prospective recipient of the firearm in accordance with Section 3.1.

(b) Any person within this State who transfers or causes to be transferred any firearm shall keep a record of such transfer for a period of 10 years from the date of transfer. Such record shall contain the date of the transfer; the description, serial number or other information identifying the firearm if no serial number is available; and, if the transfer was completed within this State, the transferee's Firearm Owner's Identification Card number. On demand of a peace officer such transferor shall produce for inspection such record of transfer. If the transfer or sale took place at a gun show, the record shall include the unique identification number. Failure to record the unique identification number is a petty offense.

(c) The provisions of this Section regarding the transfer of firearm ammunition shall not apply to those persons specified in paragraph (b) of Section 2 of this Act.

(Source: P.A. 92-442, eff. 8-17-01.)

(430 ILCS 65/3.1) (from Ch. 38, par. 83-3.1)

Sec. 3.1. Dial up system.

(a) The Department of State Police shall provide a dial up telephone system or utilize other existing technology which shall be used by any federally licensed firearm dealer, gun show promoter, or gun show vendor who is to transfer a firearm under the provisions of this Act. The Department of State

Police ~~may shall~~ utilize existing technology which allows the caller to be charged a fee ~~equivalent to the cost of providing this service but~~ not to exceed \$2. Fees collected by the Department of State Police shall be deposited in the State Police Services Fund and used to provide the service.

(b) Upon receiving a request from a federally licensed firearm dealer, gun show promoter, or gun show vendor, the Department of State Police shall immediately approve, or within the time period established by Section 24-3 of the Criminal Code of 1961 regarding the delivery of firearms, notify the inquiring dealer, gun show promoter, or gun show vendor of any objection that would disqualify the transferee from acquiring or possessing a firearm. In conducting the inquiry, the Department of State Police shall initiate and complete an automated search of its criminal history record information files and those of the Federal Bureau of Investigation, including the National Instant Criminal Background Check System, and of the files of the Department of Human Services relating to mental health and developmental disabilities to obtain any felony conviction or patient hospitalization information which would disqualify a person from obtaining or require revocation of a currently valid Firearm Owner's Identification Card.

(c) If receipt of a firearm would not violate Section 24-3 of the Criminal Code of 1961, federal law, or this Act the Department of State Police shall:

(1) assign a unique identification number to the transfer; and

(2) provide the licensee, gun show promoter, or gun show vendor with the number.

(d) Approvals issued by the Department of State Police for the purchase of a firearm are valid for 30 days from the date of issue.

(e) The Department of State Police must act as the Illinois Point of Contact for the National Instant Criminal Background Check System.

(f) The Department of State Police shall promulgate rules not inconsistent with this Section to implement this system.

(Source: P.A. 91-399, eff. 7-30-99.)

(430 ILCS 65/3a) (from Ch. 38, par. 83-3a)

Sec. 3a. (a) Any resident of Illinois who has obtained a firearm owner's identification card pursuant to this Act and who is not otherwise prohibited from obtaining, possessing or using a firearm may purchase or obtain a rifle or shotgun or ammunition for a rifle or shotgun in Iowa, Missouri, Indiana, Wisconsin or Kentucky.

(b) Any resident of Iowa, Missouri, Indiana, Wisconsin or Kentucky or a non-resident with a valid non-resident hunting license, who is 18 years of age or older and who is not prohibited by the laws of Illinois, the state of his domicile, or the United States from obtaining, possessing or using a firearm, may purchase or obtain a rifle, shotgun or ammunition for a rifle or shotgun in Illinois.

(b-5) Any non-resident who is participating in a sanctioned competitive shooting event, who is 18 years of age or older and who is not prohibited by the laws of Illinois, the state of his or her domicile, or the United States from obtaining, possessing, or using a firearm, may purchase or obtain a shotgun or shotgun ammunition in Illinois for the purpose of participating in that event. A person may purchase or obtain a shotgun or shotgun ammunition under this subsection only at the site where the sanctioned competitive shooting event is being held.

~~For purposes of this subsection, "sanctioned competitive shooting event" means a shooting contest officially recognized by a national or state shooting sport association, and includes any sight in or practice conducted in conjunction with the event.~~

(c) Any transaction under this Section is subject to the provisions of the Gun Control Act of 1968 (18 U.S.C. 922 (b)(3)).

(Source: P.A. 92-528, eff. 2-8-02.)

(430 ILCS 65/5) (from Ch. 38, par. 83-5)

Sec. 5. The Department of State Police shall either approve or deny all applications within 30 days from the date they are received, and every applicant found qualified pursuant to Section 8 of this Act by the Department shall be entitled to a Firearm Owner's Identification Card upon the payment of a \$5 fee. \$3 of each fee derived from the issuance of Firearm Owner's Identification Cards, or renewals thereof, shall be deposited in the Wildlife and Fish Fund in the State Treasury; \$1 of such fee shall be deposited in the State Police Services Fund ~~General Revenue Fund in the State Treasury~~ and \$1 of such fee shall be deposited in the Firearm Owner's Notification Fund. Monies in the Firearm Owner's Notification Fund shall be used exclusively to pay for the cost of sending notices of expiration of Firearm Owner's Identification Cards under Section 13.2 of this Act. Excess monies in the Firearm Owner's Notification Fund shall be used to ensure the prompt and efficient processing of applications received under Section 4 of this Act.

(Source: P.A. 84-1426.)

[May 27, 2005]

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended was ordered to a third reading.

### READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 1333**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 37; Nays 17; Present 1.

The following voted in the affirmative:

Althoff	Geo-Karis	Pankau	Silverstein
Clayborne	Harmon	Radogno	Sullivan, D.
Collins	Hendon	Raoul	Syverson
Cronin	Hunter	Rauschenberger	Trotter
Crotty	Lightford	Ronen	Viverito
Cullerton	Link	Roskam	Wojcik
del Valle	Maloney	Rutherford	Mr. President
DeLeo	Martinez	Sandoval	
Dillard	Meeks	Schoenberg	
Garrett	Munoz	Shadid	

The following voted in the negative:

Bomke	Jacobs	Petka	Watson
Burzynski	Jones, J.	Righter	Wilhelmi
Dahl	Jones, W.	Risinger	
Demuzio	Luechtefeld	Sieben	
Forby	Peterson	Sullivan, J.	

The following voted present:

Haine

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### LEGISLATIVE MEASURE FILED

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

Senate Amendment No. 1 to House Bill 1038

**CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK**

Senator Petka moved that **House Joint Resolution No. 11**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Petka moved that House Joint Resolution No. 11 be adopted.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Shadid
Bomke	Haine	Munoz	Sieben
Brady	Halvorson	Pankau	Silverstein
Burzynski	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Raoul	Trotter
Crotty	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Luechtefeld moved that **House Joint Resolution No. 19**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Luechtefeld moved that House Joint Resolution No. 19 be adopted.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.  
 And the resolution was adopted.  
 Ordered that the Secretary inform the House of Representatives thereof.

Senator Dillard moved that **Senate Joint Resolution No. 38**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.  
 Senator Dillard moved that Senate Joint Resolution No. 38 be adopted.  
 And on that motion a call of the roll was had resulting as follows:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.  
 And the resolution was adopted.  
 Ordered that the Secretary inform the House of Representatives thereof, and ask their concurrence therein.

Senator Hunter moved that **Senate Joint Resolution No. 40**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.  
 Senator Hunter moved that Senate Joint Resolution No. 40 be adopted.  
 And on that motion a call of the roll was had resulting as follows:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel

[May 27, 2005]

Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof, and ask their concurrence therein.

Senator Lightford moved that **Senate Joint Resolution No. 45**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Lightford offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE JOINT RESOLUTION 45**

AMENDMENT NO. 1. Amend Senate Joint Resolution 45 on page 1, by replacing lines 7 through 12 with the following:

"RESOLVED, BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that each of the school district waiver requests identified below by school district name and by the identifying number and subject area of the waiver request as summarized in the report filed by the State Board of Education is disapproved:

- (1) Somonauk CUSD 432 - DeKalb, WM100-3370, instructional time;
- (2) South Beloit CUSD 320 - Winnebago, WM100-3447-4, instructional time;
- (3) Thornton Fractional THSD 215 - Cook, WM100-3401-2, physical education; and
- (4) South Beloit CUSD 320 - Winnebago, WM100-3447-2, physical education; and be it further

RESOLVED, That each of the school district waiver requests identified below by school district name and by the identifying number and subject area of the waiver request as summarized in the report filed by the State Board of Education is approved for only one year and disapproved for the remaining years:

- (1) Gavin SD 37 - Lake, WM100-3517-2, course requirements;
- (2) Hollis CSD 328 - Peoria, WM100-3460, nonresident tuition;
- (3) Gavin SD 37 - Lake, WM100-3517-1, physical education;
- (4) Cook County SD 130 - Cook, WM100-3454, substitute teachers; and
- (5) Freeport SD 145 - Stephenson, WM100-3506-1, substitute teachers."

The motion prevailed.

And the amendment was adopted.

Senator Lightford moved that Senate Joint Resolution No. 45, as amended, be adopted.

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

Yeas 55; Nays 4.

The following voted in the affirmative:

Althoff	Garrett	Maloney	Sandoval
Bomke	Geo-Karis	Martinez	Schoenberg
Brady	Haine	Meeks	Shadid
Clayborne	Halvorson	Munoz	Sieben
Collins	Harmon	Pankau	Silverstein
Cronin	Hendon	Peterson	Sullivan, D.
Crotty	Hunter	Petka	Sullivan, J.
Cullerton	Jacobs	Radogno	Trotter
Dahl	Jones, J.	Raoul	Viverito
del Valle	Jones, W.	Rauschenberger	Watson

[May 27, 2005]



DeLeo	Lauzen	Righter	Winkel
Demuzio	Lightford	Risinger	Wojcik
Dillard	Link	Ronen	Mr. President
Forby	Luechtefeld	Roskam	

The following voted in the negative:

Burzynski	Syverson
Rutherford	Wilhelmi

The motion prevailed.

And the resolution, as amended, was adopted.

Ordered that the Secretary inform the House of Representatives thereof, and ask their concurrence therein.

Senator Lightford moved that **Senate Joint Resolution No. 47**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Lightford moved that Senate Joint Resolution No. 47 be adopted.

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof, and ask their concurrence therein.

Senator Hunter moved that **Senate Joint Resolution No. 48**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Hunter moved that Senate Joint Resolution No. 48 be adopted.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof, and ask their concurrence therein.

Senator Silverstein moved that **Senate Resolution No. 139**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Silverstein moved that Senate Resolution No. 139 be adopted.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the resolution was adopted.

Senator Geo-Karis moved that **Senate Resolution No. 148**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Geo-Karis moved that Senate Resolution No. 148 be adopted.

The motion prevailed.

And the resolution was adopted.

Senator J. Sullivan moved that **Senate Resolution No. 209**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator J. Sullivan moved that Senate Resolution No. 209 be adopted.

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

Yeas 54; Nays None; Present 3.

The following voted in the affirmative:

Althoff	Garrett	Meeks	Sieben
Bomke	Geo-Karis	Munoz	Silverstein
Brady	Haine	Peterson	Sullivan, D.
Clayborne	Halvorson	Petka	Sullivan, J.
Collins	Harmon	Radogno	Syverson
Cronin	Hendon	Raoul	Trotter
Crotty	Hunter	Rauschenberger	Viverito
Cullerton	Jacobs	Righter	Watson
Dahl	Jones, J.	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Wojcik

[May 27, 2005]

Demuzio	Luechtefeld	Sandoval	Mr. President
Dillard	Maloney	Schoenberg	
Forby	Martinez	Shadid	

The following voted present:

Burzynski  
Jones, W.  
Pankau

The motion prevailed.  
And the resolution was adopted.

Senator Risinger moved that **Senate Resolution No. 210**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Risinger moved that Senate Resolution No. 210 be adopted.

The motion prevailed.

And the resolution was adopted.

Senator Hunter moved that **Senate Resolution No. 218**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Hunter moved that Senate Resolution No. 218 be adopted.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.  
And the resolution was adopted.

At the hour of 1:50 o'clock p.m., Senator Halvorson presiding.

#### MESSAGES FROM THE HOUSE

A message from the House by  
Mr. Mahoney, Clerk:

[May 27, 2005]

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. 1233

A bill for AN ACT concerning revenue.

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. 1233

Passed the House, as amended, May 27, 2005.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1233**

AMENDMENT NO. 1. Amend Senate Bill 1233 on page 6, by replacing lines 4 through 15 with the following:

"(8) Beginning on the effective date of this amendatory Act of the 94th General Assembly, undyed diesel fuel used by tugs and spotter equipment to shift vehicles or parcels on both private and airport property. Any claim under this item (8) may be made only by a claimant that owns tugs and spotter equipment and operates that equipment on both private and airport property. The aggregate of all credits or refunds resulting from claims filed under this item (8) by a claimant in any calendar year may not exceed \$100,000. A claim may not be made under this item (8) by the same claimant more often than once each quarter. For the purposes of this item (8), "tug" means a vehicle designed for use on airport property that shifts custom-designed containers of parcels from loading docks to aircraft, and "spotter equipment" means a vehicle designed for use on both private and airport property that shifts trailers containing parcels between staging areas and loading docks."

Under the rules, the foregoing **Senate Bill No. 1233**, 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. 1832

A bill for AN ACT concerning criminal law.

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. 1832

Passed the House, as amended, May 27, 2005.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1832**

AMENDMENT NO. 1. Amend Senate Bill 1832 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by adding Section 24-9.5 as follows:

(720 ILCS 5/24-9.5 new)

Sec. 24-9.5. Handgun safety devices.

(a) It is unlawful for a person licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923) to offer for sale, sell, or transfer a handgun to a person not licensed under that Act, unless he or she sells or includes with the handgun a device or mechanism, other than the firearm safety, designed to render the handgun temporarily inoperable or inaccessible. This includes but is not limited to:

(1) An external device that is:

(i) attached to the handgun with a key or combination lock; and

(ii) designed to prevent the handgun from being discharged unless the device has been deactivated.

(2) An integrated mechanical safety, disabling, or locking device that is:

[May 27, 2005]

(i) built into the handgun; and

(ii) designed to prevent the handgun from being discharged unless the device has been deactivated.

(b) Sentence. A person who violates this Section is guilty of a Class C misdemeanor and shall be fined not less than \$1,000. A second or subsequent violation of this Section is a Class A misdemeanor.

(c) For the purposes of this Section, "handgun" has the meaning ascribed to it in clause (h)(2) of subsection (A) of Section 24-3 of this Code.

(d) This Section does not apply to:

(1) the purchase, sale, or transportation of a handgun to or by a federally licensed firearms dealer or manufacturer that provides or services a handgun for:

(i) personnel of any unit of the federal government;

(ii) members of the armed forces of the United States or the National Guard;

(iii) law enforcement personnel of the State or any local law enforcement agency in the State while acting within the scope of their official duties; and

(iv) an organization that is required by federal law governing its specific business or activity to maintain handguns and applicable ammunition;

(2) a firearm modified to be permanently inoperative;

(3) the sale or transfer of a handgun by a federally licensed firearms dealer or manufacturer described in item (1) of this subsection (d);

(4) the sale or transfer of a handgun by a federally licensed firearms dealer or manufacturer to a lawful customer outside the State; or

(5) an antique firearm."

Under the rules, the foregoing **Senate Bill No. 1832**, 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. 1853

A bill for AN ACT concerning education.

Together with the following amendments which are 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. 1853

House Amendment No. 2 to SENATE BILL NO. 1853

Passed the House, as amended, May 27, 2005.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1853**

AMENDMENT NO. 1. Amend Senate Bill 1853 on page 1, line 5, by deleting "1B-5,"; and

by deleting line 20 on page 4 through line 8 on page 6.

**AMENDMENT NO. 2 TO SENATE BILL 1853**

AMENDMENT NO. 2. Amend Senate Bill 1853 on page 1, line 5, after "1B-8," by inserting "1E-25, 1E-35,"; and

on page 8, immediately below line 35, by inserting the following:

"(105 ILCS 5/1E-25)

Sec. 1E-25. General powers. The purposes of the Authority shall be to exercise financial control over the district and to furnish financial assistance so that the district can provide public education within the district's jurisdiction while permitting the district to meet its obligations to its creditors and the holders of its debt. Except as expressly limited by this Article, the Authority shall have all powers granted to a voluntary or involuntary Financial Oversight Panel and to a Financial Administrator under Article 1B of this Code and all other powers necessary to meet its responsibilities and to carry out its purposes and the purposes of this Article, including without limitation all of the following powers, provided that the

[May 27, 2005]

Authority shall have no power to violate any statutory provision, to impair any contract or obligation of the district, or to terminate any employee without following the statutory procedures for such terminations set forth in this Code:

(1) To sue and to be sued.

(2) To make and execute contracts, leases, subleases and all other instruments or agreements necessary or convenient for the exercise of the powers and functions granted by this Article.

(3) To purchase real or personal property necessary or convenient for its purposes; to execute and deliver deeds for real property held in its own name; and to sell, lease, or otherwise dispose of such of its property as, in the judgment of the Authority, is no longer necessary for its purposes.

(4) To appoint officers, agents, and employees of the Authority, including a chief executive officer, a chief fiscal officer, and a chief educational officer to administer and manage, under the direction of the Authority, the operations and educational programs of the district, in accordance with this Article and all other provisions of this Code; to define their duties and qualifications; and to fix their compensation and employee benefits.

(5) To transfer to the district such sums of money as are not required for other purposes.

(6) To borrow money and to issue obligations pursuant to this Article; to fund, refund, or advance refund the same; to provide for the rights of the holders of its obligations; and to repay any advances.

(7) Subject to the provisions of any contract with or for the benefit of the holders of its obligations, to purchase or redeem its obligations.

(8) To procure all necessary goods and services for the Authority in compliance with the purchasing laws and requirements applicable to the district.

(8.5) To take action on behalf of the district as the Authority deems necessary and in accordance with this Article and all other provisions of this Code, based on the recommendation of the chief executive officer, chief educational officer, or chief fiscal officer, and the district shall be bound by such action in all respects as if the action had been approved by the district itself.

(9) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given to it by this Article.

(Source: P.A. 92-547, eff. 6-13-02.)

(105 ILCS 5/1E-35)

Sec. 1E-35. Chief educational officer. Upon expiration of the contract of the school district's superintendent who is serving at the time the Authority is established, the Authority shall, following consultation with the district, employ a chief educational officer for the district. The chief educational officer shall report to the Authority or the chief executive officer appointed by the Authority.

The chief educational officer shall have authority to determine the agenda and order of business at school board meetings, as needed in order to carry forward and implement the objectives and priorities of the Authority in the administration and management of the district.

The chief educational officer shall have all of the powers and duties of a school district superintendent under this Code and such other duties as may be assigned by the Authority, in accordance with this Code. The district shall not thereafter employ a superintendent during the period that a chief educational officer is serving in the district. The chief educational officer shall hold a certificate with a superintendent endorsement issued under Article 21 of this Code.

(Source: P.A. 92-547, eff. 6-13-02.); and

on page 36, line 13, by replacing "Act takes" with "Section and the provisions changing Section 1E-25 and 1E-35 of the School Code in Section 5 take effect upon becoming law. All of the other provisions of this Act take".

Under the rules, the foregoing **Senate Bill No. 1853**, with House Amendments numbered 1 and 2, 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:

[May 27, 2005]

## SENATE BILL NO. 1912

A bill for AN ACT concerning regulation.

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. 1912

Passed the House, as amended, May 27, 2005.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1912**

AMENDMENT NO. 1. Amend Senate Bill 1912 by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Sections 16-111 and 16-111.3 as follows:  
(220 ILCS 5/16-111)

Sec. 16-111. Rates and restructuring transactions during mandatory transition period.

(a) During the mandatory transition period, notwithstanding any provision of Article IX of this Act, and except as provided in subsections (b), (d), (e), and (f) of this Section, the Commission shall not (i) initiate, authorize or order any change by way of increase (other than in connection with a request for rate increase which was filed after September 1, 1997 but prior to October 15, 1997, by an electric utility serving less than 12,500 customers in this State), (ii) initiate or, unless requested by the electric utility, authorize or order any change by way of decrease, restructuring or unbundling (except as provided in Section 16-109A), in the rates of any electric utility that were in effect on October 1, 1996, or (iii) in any order approving any application for a merger pursuant to Section 7-204 that was pending as of May 16, 1997, impose any condition requiring any filing for an increase, decrease, or change in, or other review of, an electric utility's rates or enforce any such condition of any such order; provided, however, that this subsection shall not prohibit the Commission from:

(1) approving the application of an electric utility to implement an alternative to rate of return regulation or a regulatory mechanism that rewards or penalizes the electric utility through adjustment of rates based on utility performance, pursuant to Section 9-244;

(2) authorizing an electric utility to eliminate its fuel adjustment clause and adjust its base rate tariffs in accordance with subsection (b), (d), or (f) of Section 9-220 of this Act, to fix its fuel adjustment factor in accordance with subsection (c) of Section 9-220 of this Act, or to eliminate its fuel adjustment clause in accordance with subsection (e) of Section 9-220 of this Act;

(3) ordering into effect tariffs for delivery services and transition charges in accordance with Sections 16-104 and 16-108, for real-time pricing in accordance with Section 16-107, or the options required by Section 16-110 and subsection (n) of 16-112, allowing a billing experiment in accordance with Section 16-106, or modifying delivery services tariffs in accordance with Section 16-109; or

(4) ordering or allowing into effect any tariff to recover charges pursuant to Sections 9-201.5, 9-220.1, 9-221, 9-222 (except as provided in Section 9-222.1), 16-108, and 16-114 of this Act, Section 5-5 of the Electricity Infrastructure Maintenance Fee Law, Section 6-5 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997, and Section 13 of the Energy Assistance Act.

After December 31, 2004, the provisions of this subsection (a) shall not apply to an electric utility whose average residential retail rate was less than or equal to 90% of the average residential retail rate for the "Midwest Utilities", as that term is defined in subsection (b) of this Section, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, and which served between 150,000 and 250,000 retail customers in this State on January 1, 1995 unless the electric utility or its holding company has been acquired by or merged with an affiliate of another electric utility subsequent to January 1, 2002. This exemption shall be limited to this subsection (a) and shall not extend to any other provisions of this Act.

(b) Notwithstanding the provisions of subsection (a), each Illinois electric utility serving more than 12,500 customers in Illinois shall file tariffs (i) reducing, effective August 1, 1998, each component of its base rates to residential retail customers by 15% from the base rates in effect immediately prior to January 1, 1998 and (ii) if the public utility provides electric service to (A) more than 500,000 customers but less than 1,000,000 customers in this State on January 1, 1999, reducing, effective May 1, 2002, each component of its base rates to residential retail customers by an additional 5% from the base rates in effect immediately prior to January 1, 1998, or (B) at least 1,000,000 customers in this State on January

[May 27, 2005]

1, 1999, reducing, effective October 1, 2001, each component of its base rates to residential retail customers by an additional 5% from the base rates in effect immediately prior to January 1, 1998. Provided, however, that (A) if an electric utility's average residential retail rate is less than or equal to the average residential retail rate for a group of Midwest Utilities (consisting of all investor-owned electric utilities with annual system peaks in excess of 1000 megawatts in the States of Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin), based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, then it shall only be required to file tariffs (i) reducing, effective August 1, 1998, each component of its base rates to residential retail customers by 5% from the base rates in effect immediately prior to January 1, 1998, (ii) reducing, effective October 1, 2000, each component of its base rates to residential retail customers by the lesser of 5% of the base rates in effect immediately prior to January 1, 1998 or the percentage by which the electric utility's average residential retail rate exceeds the average residential retail rate of the Midwest Utilities, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1999, and (iii) reducing, effective October 1, 2002, each component of its base rates to residential retail customers by an additional amount equal to the lesser of 5% of the base rates in effect immediately prior to January 1, 1998 or the percentage by which the electric utility's average residential retail rate exceeds the average residential retail rate of the Midwest Utilities, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 2001; and (B) if the average residential retail rate of an electric utility serving between 150,000 and 250,000 retail customers in this State on January 1, 1995 is less than or equal to 90% of the average residential retail rate for the Midwest Utilities, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, then it shall only be required to file tariffs (i) reducing, effective August 1, 1998, each component of its base rates to residential retail customers by 2% from the base rates in effect immediately prior to January 1, 1998; (ii) reducing, effective October 1, 2000, each component of its base rates to residential retail customers by 2% from the base rate in effect immediately prior to January 1, 1998; and (iii) reducing, effective October 1, 2002, each component of its base rates to residential retail customers by 1% from the base rates in effect immediately prior to January 1, 1998. Provided, further, that any electric utility for which a decrease in base rates has been or is placed into effect between October 1, 1996 and the dates specified in the preceding sentences of this subsection, other than pursuant to the requirements of this subsection, shall be entitled to reduce the amount of any reduction or reductions in its base rates required by this subsection by the amount of such other decrease. The tariffs required under this subsection shall be filed 45 days in advance of the effective date. Notwithstanding anything to the contrary in Section 9-220 of this Act, no restatement of base rates in conjunction with the elimination of a fuel adjustment clause under that Section shall result in a lesser decrease in base rates than customers would otherwise receive under this subsection had the electric utility's fuel adjustment clause not been eliminated.

(c) Any utility reducing its base rates by 15% on August 1, 1998 pursuant to subsection (b) shall include the following statement on its bills for residential customers from August 1 through December 31, 1998: "Effective August 1, 1998, your rates have been reduced by 15% by the Electric Service Customer Choice and Rate Relief Law of 1997 passed by the Illinois General Assembly.". Any utility reducing its base rates by 5% on August 1, 1998, pursuant to subsection (b) shall include the following statement on its bills for residential customers from August 1 through December 31, 1998: "Effective August 1, 1998, your rates have been reduced by 5% by the Electric Service Customer Choice and Rate Relief Law of 1997 passed by the Illinois General Assembly."

Any utility reducing its base rates by 2% on August 1, 1998 pursuant to subsection (b) shall include the following statement on its bills for residential customers from August 1 through December 31, 1998: "Effective August 1, 1998, your rates have been reduced by 2% by the Electric Service Customer Choice and Rate Relief Law of 1997 passed by the Illinois General Assembly."

(d) During the mandatory transition period, but not before January 1, 2000, and notwithstanding the provisions of subsection (a), an electric utility may request an increase in its base rates if the electric utility demonstrates that the 2-year average of its earned rate of return on common equity, calculated as its net income applicable to common stock divided by the average of its beginning and ending balances of common equity using data reported in the electric utility's Form 1 report to the Federal Energy Regulatory Commission but adjusted to remove the effects of accelerated depreciation or amortization or other transition or mitigation measures implemented by the electric utility pursuant to subsection (g) of this Section and the effect of any refund paid pursuant to subsection (e) of this Section, is below the 2-year average for the same 2 years of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication. The Commission shall review the electric utility's request, and may review the justness and reasonableness of all rates for tariffed services, in accordance with the provisions



of Article IX of this Act, provided that the Commission shall consider any special or negotiated adjustments to the revenue requirement agreed to between the electric utility and the other parties to the proceeding. In setting rates under this Section, the Commission shall exclude the costs and revenues that are associated with competitive services and any billing or pricing experiments conducted under Section 16-106.

(e) For the purposes of this subsection (e) all calculations and comparisons shall be performed for the Illinois operations of multijurisdictional utilities. During the mandatory transition period, notwithstanding the provisions of subsection (a), if the 2-year average of an electric utility's earned rate of return on common equity, calculated as its net income applicable to common stock divided by the average of its beginning and ending balances of common equity using data reported in the electric utility's Form 1 report to the Federal Energy Regulatory Commission but adjusted to remove the effect of any refund paid under this subsection (e), and further adjusted to include the annual amortization of any difference between the consideration received by an affiliated interest of the electric utility in the sale of an asset which had been sold or transferred by the electric utility to the affiliated interest subsequent to the effective date of this amendatory Act of 1997 and the consideration for which such asset had been sold or transferred to the affiliated interest, with such difference to be amortized ratably from the date of the sale by the affiliated interest to December 31, 2006, exceeds the 2-year average of the Index for the same 2 years by 1.5 or more percentage points, the electric utility shall make refunds to customers beginning the first billing day of April in the following year in the manner described in paragraph (3) of this subsection. For purposes of this subsection (e), the "Index" shall be the sum of (A) the average for the 12 months ended September 30 of the number referred to in Section 16-111.3 of this Act ~~the monthly average yields of 30 year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H-15 Statistical Release or successor publication~~ for each year 1998 through 2006, and (B) (i) 4.00 percentage points for each of the 12-month periods ending September 30, 1998 through September 30, 1999 or 8.00 percentage points if the electric utility's average residential retail rate is less than or equal to 90% of the average residential retail rate for the "Midwest Utilities", as that term is defined in subsection (b) of this Section, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, and the electric utility served between 150,000 and 250,000 retail customers on January 1, 1995, (ii) 7.00 percentage points for each of the 12-month periods ending September 30, 2000 through September 30, 2006 if the electric utility was providing service to at least 1,000,000 customers in this State on January 1, 1999, or 9.00 percentage points if the electric utility's average residential retail rate is less than or equal to 90% of the average residential retail rate for the "Midwest Utilities", as that term is defined in subsection (b) of this Section, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995 and the electric utility served between 150,000 and 250,000 retail customers in this State on January 1, 1995, (iii) 11.00 percentage points for each of the 12-month periods ending September 30, 2000 through September 30, 2006, but only if the electric utility's average residential retail rate is less than or equal to 90% of the average residential retail rate for the "Midwest Utilities", as that term is defined in subsection (b) of this Section, based on data reported on Form 1 to the Federal Energy Regulatory Commission for calendar year 1995, the electric utility served between 150,000 and 250,000 retail customers in this State on January 1, 1995, and the electric utility offers delivery services on or before June 1, 2000 to retail customers whose annual electric energy use comprises 33% of the kilowatt hour sales to that group of retail customers that are classified under Division D, Groups 20 through 39 of the Standard Industrial Classifications set forth in the Standard Industrial Classification Manual published by the United States Office of Management and Budget, excluding the kilowatt hour sales to those customers that are eligible for delivery services pursuant to Section 16-104(a)(1)(i), and offers delivery services to its remaining retail customers classified under Division D, Groups 20 through 39 on or before October 1, 2000, and, provided further, that the electric utility commits not to petition pursuant to Section 16-108(f) for entry of an order by the Commission authorizing the electric utility to implement transition charges for an additional period after December 31, 2006, or (iv) 5.00 percentage points for each of the 12-month periods ending September 30, 2000 through September 30, 2006 for all other electric utilities or 7.00 percentage points for such utilities for each of the 12-month periods ending September 30, 2000 through September 30, 2006 for any such utility that commits not to petition pursuant to Section 16-108(f) for entry of an order by the Commission authorizing the electric utility to implement transition charges for an additional period after December 31, 2006 or 11.00 percentage points for each of the 12-month periods ending September 30, 2005 and September 30, 2006 for each electric utility providing service to fewer than 6,500, or between 75,000 and 150,000, electric retail customers in this State on January 1, 1995 if such utility commits not to petition pursuant to Section 16-108(f) for entry of an order by the Commission authorizing the electric utility to implement transition charges for an additional period after

December 31, 2006.

(1) For purposes of this subsection (e), "excess earnings" means the difference between (A) the 2-year average of the electric utility's earned rate of return on common equity, less (B) the 2-year average of the sum of (i) the Index applicable to each of the 2 years and (ii) 1.5 percentage points; provided, that "excess earnings" shall never be less than zero.

(2) On or before March 31 of each year 2000 through 2007 each electric utility shall file a report with the Commission showing its earned rate of return on common equity, calculated in accordance with this subsection, for the preceding calendar year and the average for the preceding 2 calendar years.

(3) If an electric utility has excess earnings, determined in accordance with paragraphs (1) and (2) of this subsection, the refunds which the electric utility shall pay to its customers beginning the first billing day of April in the following year shall be calculated and applied as follows:

(i) The electric utility's excess earnings shall be multiplied by the average of the beginning and ending balances of the electric utility's common equity for the 2-year period in which excess earnings occurred.

(ii) The result of the calculation in (i) shall be multiplied by 0.50 and then divided by a number equal to 1 minus the electric utility's composite federal and State income tax rate.

(iii) The result of the calculation in (ii) shall be divided by the sum of the electric utility's projected total kilowatt-hour sales to retail customers plus projected kilowatt-hours to be delivered to delivery services customers over a one year period beginning with the first billing date in April in the succeeding year to determine a cents per kilowatt-hour refund factor.

(iv) The cents per kilowatt-hour refund factor calculated in (iii) shall be credited to the electric utility's customers by applying the factor on the customer's monthly bills to each kilowatt-hour sold or delivered until the total amount calculated in (ii) has been paid to customers.

(f) During the mandatory transition period, an electric utility may file revised tariffs reducing the price of any tariffed service offered by the electric utility for all customers taking that tariffed service, which shall be effective 7 days after filing.

(g) During the mandatory transition period, an electric utility may, without obtaining any approval of the Commission other than that provided for in this subsection and notwithstanding any other provision of this Act or any rule or regulation of the Commission that would require such approval:

(1) implement a reorganization, other than a merger of 2 or more public utilities as defined in Section 3-105 or their holding companies;

(2) retire generating plants from service;

(3) sell, assign, lease or otherwise transfer assets to an affiliated or unaffiliated entity and as part of such transaction enter into service agreements, power purchase agreements, or other agreements with the transferee; provided, however, that the prices, terms and conditions of any power purchase agreement must be approved or allowed into effect by the Federal Energy Regulatory Commission; or

(4) use any accelerated cost recovery method including accelerated depreciation, accelerated amortization or other capital recovery methods, or record reductions to the original cost of its assets.

In order to implement a reorganization, retire generating plants from service, or sell, assign, lease or otherwise transfer assets pursuant to this Section, the electric utility shall comply with subsections (c) and (d) of Section 16-128, if applicable, and subsection (k) of this Section, if applicable, and provide the Commission with at least 30 days notice of the proposed reorganization or transaction, which notice shall include the following information:

(i) a complete statement of the entries that the electric utility will make on its

books and records of account to implement the proposed reorganization or transaction together with a certification from an independent certified public accountant that such entries are in accord with generally accepted accounting principles and, if the Commission has previously approved guidelines for cost allocations between the utility and its affiliates, a certification from the chief accounting officer of the utility that such entries are in accord with those cost allocation guidelines;

(ii) a description of how the electric utility will use proceeds of any sale, assignment, lease or transfer to retire debt or otherwise reduce or recover the costs of services provided by such electric utility;

(iii) a list of all federal approvals or approvals required from departments and

[May 27, 2005]

agencies of this State, other than the Commission, that the electric utility has or will obtain before implementing the reorganization or transaction;

(iv) an irrevocable commitment by the electric utility that it will not, as a result of the transaction, impose any stranded cost charges that it might otherwise be allowed to charge retail customers under federal law or increase the transition charges that it is otherwise entitled to collect under this Article XVI; and

(v) if the electric utility proposes to sell, assign, lease or otherwise transfer a generating plant that brings the amount of net dependable generating capacity transferred pursuant to this subsection to an amount equal to or greater than 15% of the electric utility's net dependable capacity as of the effective date of this amendatory Act of 1997, and enters into a power purchase agreement with the entity to which such generating plant is sold, assigned, leased, or otherwise transferred, the electric utility also agrees, if its fuel adjustment clause has not already been eliminated, to eliminate its fuel adjustment clause in accordance with subsection (b) of Section 9-220 for a period of time equal to the length of any such power purchase agreement or successor agreement, or until January 1, 2005, whichever is longer; if the capacity of the generating plant so transferred and related power purchase agreement does not result in the elimination of the fuel adjustment clause under this subsection, and the fuel adjustment clause has not already been eliminated, the electric utility shall agree that the costs associated with the transferred plant that are included in the calculation of the rate per kilowatt-hour to be applied pursuant to the electric utility's fuel adjustment clause during such period shall not exceed the per kilowatt-hour cost associated with such generating plant included in the electric utility's fuel adjustment clause during the full calendar year preceding the transfer, with such limit to be adjusted each year thereafter by the Gross Domestic Product Implicit Price Deflator.

(vi) In addition, if the electric utility proposes to sell, assign, or lease, (A) either (1) an amount of generating plant that brings the amount of net dependable generating capacity transferred pursuant to this subsection to an amount equal to or greater than 15% of its net dependable capacity on the effective date of this amendatory Act of 1997, or (2) one or more generating plants with a total net dependable capacity of 1100 megawatts, or (B) transmission and distribution facilities that either (1) bring the amount of transmission and distribution facilities transferred pursuant to this subsection to an amount equal to or greater than 15% of the electric utility's total depreciated original cost investment in such facilities, or (2) represent an investment of \$25,000,000 in terms of total depreciated original cost, the electric utility shall provide, in addition to the information listed in subparagraphs (i) through (v), the following information: (A) a description of how the electric utility will meet its service obligations under this Act in a safe and reliable manner and (B) the electric utility's projected earned rate of return on common equity, calculated in accordance with subsection (d) of this Section, for each year from the date of the notice through December 31, 2006 both with and without the proposed transaction. If the Commission has not issued an order initiating a hearing on the proposed transaction within 30 days after the date the electric utility's notice is filed, the transaction shall be deemed approved. The Commission may, after notice and hearing, prohibit the proposed transaction if it makes either or both of the following findings: (1) that the proposed transaction will render the electric utility unable to provide its tariffed services in a safe and reliable manner, or (2) that there is a strong likelihood that consummation of the proposed transaction will result in the electric utility being entitled to request an increase in its base rates during the mandatory transition period pursuant to subsection (d) of this Section. Any hearing initiated by the Commission into the proposed transaction shall be completed, and the Commission's final order approving or prohibiting the proposed transaction shall be entered, within 90 days after the date the electric utility's notice was filed. Provided, however, that a sale, assignment, or lease of transmission facilities to an independent system operator that meets the requirements of Section 16-126 shall not be subject to Commission approval under this Section.

In any proceeding conducted by the Commission pursuant to this subparagraph (vi), intervention shall be limited to parties with a direct interest in the transaction which is the subject of the hearing and any statutory consumer protection agency as defined in subsection (d) of Section 9-102.1. Notwithstanding the provisions of Section 10-113 of this Act, any application seeking rehearing of an order issued under this subparagraph (vi), whether filed by the electric utility or by an intervening party, shall be filed within 10 days after service of the order.

The Commission shall not in any subsequent proceeding or otherwise, review such a reorganization or other transaction authorized by this Section, but shall retain the authority to allocate costs as stated in Section 16-111(i). An entity to which an electric utility sells, assigns, leases or transfers assets pursuant

to this subsection (g) shall not, as a result of the transactions specified in this subsection (g), be deemed a public utility as defined in Section 3-105. Nothing in this subsection (g) shall change any requirement under the jurisdiction of the Illinois Department of Nuclear Safety including, but not limited to, the payment of fees. Nothing in this subsection (g) shall exempt a utility from obtaining a certificate pursuant to Section 8-406 of this Act for the construction of a new electric generating facility. Nothing in this subsection (g) is intended to exempt the transactions hereunder from the operation of the federal or State antitrust laws. Nothing in this subsection (g) shall require an electric utility to use the procedures specified in this subsection for any of the transactions specified herein. Any other procedure available under this Act may, at the electric utility's election, be used for any such transaction.

(h) During the mandatory transition period, the Commission shall not establish or use any rates of depreciation, which for purposes of this subsection shall include amortization, for any electric utility other than those established pursuant to subsection (c) of Section 5-104 of this Act or utilized pursuant to subsection (g) of this Section. Provided, however, that in any proceeding to review an electric utility's rates for tariffed services pursuant to Section 9-201, 9-202, 9-250 or 16-111(d) of this Act, the Commission may establish new rates of depreciation for the electric utility in the same manner provided in subsection (d) of Section 5-104 of this Act. An electric utility implementing an accelerated cost recovery method including accelerated depreciation, accelerated amortization or other capital recovery methods, or recording reductions to the original cost of its assets, pursuant to subsection (g) of this Section, shall file a statement with the Commission describing the accelerated cost recovery method to be implemented or the reduction in the original cost of its assets to be recorded. Upon the filing of such statement, the accelerated cost recovery method or the reduction in the original cost of assets shall be deemed to be approved by the Commission as though an order had been entered by the Commission.

(i) Subsequent to the mandatory transition period, the Commission, in any proceeding to establish rates and charges for tariffed services offered by an electric utility, shall consider only (1) the then current or projected revenues, costs, investments and cost of capital directly or indirectly associated with the provision of such tariffed services; (2) collection of transition charges in accordance with Sections 16-102 and 16-108 of this Act; (3) recovery of any employee transition costs as described in Section 16-128 which the electric utility is continuing to incur, including recovery of any unamortized portion of such costs previously incurred or committed, with such costs to be equitably allocated among bundled services, delivery services, and contracts with alternative retail electric suppliers; and (4) recovery of the costs associated with the electric utility's compliance with decommissioning funding requirements; and shall not consider any other revenues, costs, investments or cost of capital of either the electric utility or of any affiliate of the electric utility that are not associated with the provision of tariffed services. In setting rates for tariffed services, the Commission shall equitably allocate joint and common costs and investments between the electric utility's competitive and tariffed services. In determining the justness and reasonableness of the electric power and energy component of an electric utility's rates for tariffed services subsequent to the mandatory transition period and prior to the time that the provision of such electric power and energy is declared competitive, the Commission shall consider the extent to which the electric utility's tariffed rates for such component for each customer class exceed the market value determined pursuant to Section 16-112, and, if the electric power and energy component of such tariffed rate exceeds the market value by more than 10% for any customer class, may establish such electric power and energy component at a rate equal to the market value plus 10%. In any such case, the Commission may also elect to extend the provisions of Section 16-111(e) for any period in which the electric utility is collecting transition charges, using information applicable to such period.

(j) During the mandatory transition period, an electric utility may elect to transfer to a non-operating income account under the Commission's Uniform System of Accounts either or both of (i) an amount of unamortized investment tax credit that is in addition to the ratable amount which is credited to the electric utility's operating income account for the year in accordance with Section 46(f)(2) of the federal Internal Revenue Code of 1986, as in effect prior to P.L. 101-508, or (ii) "excess tax reserves", as that term is defined in Section 203(e)(2)(A) of the federal Tax Reform Act of 1986, provided that (A) the amount transferred may not exceed the amount of the electric utility's assets that were created pursuant to Statement of Financial Accounting Standards No. 71 which the electric utility has written off during the mandatory transition period, and (B) the transfer shall not be effective until approved by the Internal Revenue Service. An electric utility electing to make such a transfer shall file a statement with the Commission stating the amount and timing of the transfer for which it intends to request approval of the Internal Revenue Service, along with a copy of its proposed request to the Internal Revenue Service for a ruling. The Commission shall issue an order within 14 days after the electric utility's filing approving, subject to receipt of approval from the Internal Revenue Service, the proposed transfer.

(k) If an electric utility is selling or transferring to a single buyer 5 or more generating plants located

in this State with a total net dependable capacity of 5000 megawatts or more pursuant to subsection (g) of this Section and has obtained a sale price or consideration that exceeds 200% of the book value of such plants, the electric utility must provide to the Governor, the President of the Illinois Senate, the Minority Leader of the Illinois Senate, the Speaker of the Illinois House of Representatives, and the Minority Leader of the Illinois House of Representatives no later than 15 days after filing its notice under subsection (g) of this Section or 5 days after the date on which this subsection (k) becomes law, whichever is later, a written commitment in which such electric utility agrees to expend \$2 billion outside the corporate limits of any municipality with 1,000,000 or more inhabitants within such electric utility's service area, over a 6-year period beginning with the calendar year in which the notice is filed, on projects, programs, and improvements within its service area relating to transmission and distribution including, without limitation, infrastructure expansion, repair and replacement, capital investments, operations and maintenance, and vegetation management.

(Source: P.A. 91-50, eff. 6-30-99; 92-537, eff. 6-6-02; 92-690, eff. 7-18-02; revised 9-10-02.)  
(220 ILCS 5/16-111.3)

Sec. 16-111.3. Transition period earnings calculations. The rate for the purpose of calculating the Index defined in subpart (A) of subsection (e) of Section 16-111 of this Act shall be established by reference to the weekly H.15 Statistical Release or successor publication of the Board of Governors of the Federal Reserve System. Of each of the following that are published in that weekly Statistical Release or successor publication, the lowest shall be used: (i) monthly average nominal yields of 20-year U.S. Treasury Bonds, (ii) Monthly Average Nominal Treasury Long-Term Treasury Rates (25 years and above), and (iii) monthly average nominal yields of 30-year U.S. Treasury bonds. At such time as the Board of Governors of the Federal Reserve System ceases to include the monthly average yields of 30 year U.S. Treasury bonds in its weekly H.15 Statistical Release or successor publication, the Monthly Treasury Long Term Average Rates (25 years and above) published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication shall instead be used to establish a rate for the purpose of calculating the Index defined in subsection (e) of Section 16-111 of this Act, and at such time, such Monthly Treasury Long Term Average Rates (25 years and above) shall also be used in place of the monthly average yields of 30 year U.S. Treasury bonds in the rate of return calculation required by subsection (d) of Section 16-111. An electric utility shall also remove the effects, if any, of any impairment due to the application of Statement of Financial Accounting Standards No. 142, which was issued in June 2001, when making the calculations required by this Section or by subsections (d) and (e) of Section 16-111.  
(Source: P.A. 92-537, eff. 6-6-02.)"

Under the rules, the foregoing **Senate Bill No. 1912**, 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. 1962

A bill for AN ACT concerning firearms.

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. 1962

Passed the House, as amended, May 27, 2005.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1962**

AMENDMENT NO. 1. Amend Senate Bill 1962 on page 3, line 8, by inserting after the period the following:

"A person acquiring or possessing a stun gun or taser must present to the transferor of the stun gun or taser such proof as required by the Department of State Police that he or she has completed a course of instruction of at least one hour in the use of a stun gun or taser approved by the Department of State Police,"; and

[May 27, 2005]

on page 5, line 22, by inserting after the period the following:

"A person may not knowingly transfer, or cause to be transferred, any stun gun or taser unless the transferee presents such proof to the transferor as required by the Department of State Police that the transferee has completed a course of instruction of at least one hour in the use of a stun gun or taser approved by the Department of State Police."

Under the rules, the foregoing **Senate Bill No. 1962**, 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 bills of the following titles, to-wit:

SENATE BILL NO. 22

A bill for AN ACT concerning local government.

SENATE BILL NO. 502

A bill for AN ACT concerning local government.

SENATE BILL NO. 1623

A bill for AN ACT concerning identification.

Passed the House, May 27, 2005.

MARK MAHONEY, Clerk of 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. 1776

A bill for AN ACT in relation to the military.

Passed the House, May 27, 2005.

MARK MAHONEY, Clerk of the House

### REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its May 27, 2005 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Agriculture & Conservation: **Motion to Recede from Senate Amendment 1 to House Bill 601**

Commerce & Economic Development: **Motion to Concur in House Amendment 1 to Senate Bill 1251; Motion to Concur in House Amendments 1 and 2 to Senate Bill 1354**

Education: **Motion to Concur in House Amendment 1 to Senate Bill 1493**

Environment & Energy: **Motion to Concur in House Amendment 1 to Senate Bill 1909**

Executive: **Motion to Concur in House Amendment 1 to Senate Bill 122; Motion to Recede from Senate Amendment 3 to House Bill 870**

Judiciary: **Motion to Concur in House Amendment 1 to Senate Bill 1234; Motion to Concur in House Amendments 1 and 2 to Senate Bill 1883; Motion to Concur in House Amendment 2 to Senate Bill 1953; Motion to Concur in House Amendment 1 to Senate Bill 2082**

Local Government: **Motion to Recede from Senate Amendment 2 to House Bill 1679**

[May 27, 2005]

State Government: **Motion to Concur in House Amendment 1 to Senate Bill 350**

Transportation: **Motion to Concur in House Amendment 1 to Senate Bill 1666**

Senator Viverito, Chairperson of the Committee on Rules, during its May 27, 2005 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Executive: **Floor Amendment No. 1 to Senate Bill 1031; Floor Amendment 1 to Senate Bill 1185.**

Health & Human Services: **Floor Amendment No. 3 to House Bill 399; Floor Amendment No. 3 to House Bill 2062.**

Pensions & Investments: **Floor Amendment No. 1 to House Bill 227; Floor Amendment No. 1 to Senate Bill 799.**

#### COMMITTEE MEETING ANNOUNCEMENTS

Senator Garrett, Chairperson of the Committee on State Government, announced that the State Government Committee will meet today in Room A-1 Stratton Building, at 4:15 o'clock p.m.

Senator Lightford, Chairperson of the Committee on Education, announced that the Education Committee will meet today in Room 212 Capitol Building, at 4:45 o'clock p.m.

Senator Crotty, Chairperson of the Committee on Local Government, announced that the Local Government Committee will meet today in Room A-1 Stratton Building, at 4:45 o'clock p.m.

Senator Cullerton, Co-Chairperson of the Committee on Judiciary, announced that the Judiciary Committee will meet today in Room 212 Capitol Building, at 3:15 o'clock p.m.

Senator Cullerton, Vice-Chairperson of the Committee on Executive, announced that the Executive Committee will meet today in Room 212 Capitol Building, at 4:15 o'clock p.m.

Senator Ronen, Chairperson of the Committee on Health & Human Services, announced that the Health & Human Services Committee will meet today in Room 400 Capitol Building, at 4:00 o'clock p.m.

Senator Martinez, Chairperson of the Committee on Pensions & Investments, announced that the Pensions & Investments Committee will meet today in Room 400 Capitol Building, at 3:45 o'clock p.m.

Senator Clayborne, Chairperson of the Committee on Environment & Energy, announced that the Environment & Energy Committee will meet today in Room 212 Capitol Building, at 4:00 o'clock p.m.

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

Senator Meeks, Vice-Chairperson of the Committee on Commerce & Economic Development, announced that the Commerce & Economic Development Committee will meet today in Room A-1 Stratton Building, at 4:30 o'clock p.m.

### JOINT ACTION MOTION 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 1233  
 Motion to Concur in House Amendment 1 to Senate Bill 1962

### POSTING NOTICE WAIVED

Senator del Valle moved to waive the six-day posting requirement on **Senate Resolution No. 61** so that the bill may be heard in the Committee on State Government that is scheduled to meet today. The motion prevailed.

### COMMITTEE MEETING ANNOUNCEMENT

Senator Munoz, Chairperson of the Committee on Transportation, announced that the Transportation Committee will meet today in Room 400 Capitol Building, at 3:15 o'clock p.m.

At the hour of 2:07 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 5:55 o'clock p.m., the Senate resumed consideration of business. Senator Halvorson, presiding.

### REPORTS FROM STANDING COMMITTEES

Senator Munoz, Chairperson of the Committee on Transportation, to which was referred the Motion to concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 1666

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

Senators Cullerton and Dillard, Co-Chairpersons of the Committee on Judiciary, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 1234  
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 1883  
 Motion to Concur in House Amendment 2 to Senate Bill 1953  
 Motion to Concur in House Amendment 1 to Senate Bill 2082

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

Senator Martinez, Chairperson of the Committee on Pensions & Investments, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 1 to Senate Bill 799  
 Senate Amendment No. 1 to House Bill 227

[May 27, 2005]



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

Senator Clayborne, Chairperson of the Committee on Environment & Energy, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends that it be adopted:

Motion to Concur in House Amendment 1 to Senate Bill 1909

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

Senator Ronen, Chairperson of the Committee on Health & Human Services, to which was referred the following Senate floor amendments, reported that the Committee recommends that they be adopted:

Senate Amendment No. 3 to House Bill 399  
Senate Amendment No. 2 to House Bill 2062

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

Senator J. Sullivan, Chairperson of the Committee on Agriculture & Conservation, to which was referred the Motion to Recede from Senate Amendment to the following House Bill, reported that the Committee recommends do adopt:

Motion to Recede from Senate Amendment 1 to House Bill 601

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

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 122

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

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motion to Recede from Senate Amendment to the following House Bill, reported that the Committee recommends do adopt:

Motion to Recede from Senate Amendment 3 to House Bill 870

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

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 1185

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

Senator Garrett, Chairperson of the Committee on State Government, to which was referred **Senate Resolution No. 61**, reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Resolution No. 61** was placed on the Secretary's Desk.

Senator Garrett, Chairperson of the Committee on State Government, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 350

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

Senator Sandoval, Chairperson of the Committee on Commerce & Economic Development, 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 1251

Motion to Concur in House Amendments 1 and 2 to Senate Bill 1354

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

Senator Lightford, Chairperson of the Committee on Education, to which was referred the Motion to concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 1493

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

Senator Crotty, Chairperson of the Committee on Local Government, to which was referred the Motion to Recede from Senate Amendment to the following House Bill, reported that the Committee recommends do adopt:

Motion to Recede from Senate Amendment 2 to House Bill 1679

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

### **LEGISLATIVE MEASURES FILED**

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

Senate Amendment No. 3 to Senate Bill 507

Senate Amendment No. 2 to Senate Bill 1028

### **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. 431

A bill for AN ACT concerning safety.

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. 10 to SENATE BILL NO. 431

Passed the House, as amended, May 27, 2005.

MARK MAHONEY, Clerk of the House

### **AMENDMENT NO. 10 TO SENATE BILL 431**

AMENDMENT NO. 10. Amend Senate Bill 431 as follows:

on page 1, by deleting lines 4 through 7; and

[May 27, 2005]

on page 1, line 9, after "Sections", by inserting "3.160,"; and

on page 1, line 10, by deleting "4.2, 21.7,"; and

on page 1, by replacing lines 12 through 17 with the following:

"(415 ILCS 5/3.160) (was 415 ILCS 5/3.78 and 3.78a)

Sec. 3.160. Construction or demolition debris.

(a) "General construction or demolition debris" means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and piping or metals incidental to any of those materials.

General construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any general construction or demolition debris or other waste.

To the extent allowed by federal law, uncontaminated concrete with protruding rebar shall be considered clean construction or demolition debris and shall not be considered "waste" if it is separated or processed and returned to the economic mainstream in the form of raw materials or products within 4 years of its generation, if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with item (i) in subsection (b) of this Section within 30 days of its generation.

(b) "Clean construction or demolition debris" means uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, reclaimed asphalt pavement, or soil generated from construction or demolition activities.

Clean construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any clean construction or demolition debris or other waste.

To the extent allowed by federal law, clean construction or demolition debris shall not be considered "waste" if it is (i) used as fill material outside of a setback zone if the fill is placed no higher than the highest point of elevation existing prior to the filling immediately adjacent to the fill area, and if covered by sufficient uncontaminated soil to support vegetation within 30 days of the completion of filling or if covered by a road or structure, or (ii) separated or processed and returned to the economic mainstream in the form of raw materials or products, if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with item (i) within 30 days of its generation, or (iii) solely broken concrete without protruding metal bars used for erosion control, or (iv) generated from the construction or demolition of a building, road, or other structure and used to construct, on the site where the construction or demolition has taken place, a manmade functional structure not to exceed 20 feet above the highest point of elevation of the property immediately adjacent to the new manmade functional structure as that elevation existed prior to the creation of that new structure, provided that the structure shall be covered with sufficient soil materials to sustain vegetation or by a road or structure, and further provided that no such structure shall be constructed within a home rule municipality with a population over 500,000 without the consent of the municipality.

(Source: P.A. 92-574, eff. 6-26-02; 93-179, eff. 7-11-03.); and

on page 3, by deleting lines 30 through 35; and

on page 4, by deleting lines 1 through 3; and

on page 7, by replacing lines 16 through 19 with the following:

"(j) Except for willful and wanton misconduct, neither the State, the Director, nor any State employee shall be liable for any damages or injuries arising out of or resulting from any act or omission occurring under the provisions of this amendatory Act of the 94th General Assembly.

(k) Before taking preventive or corrective action under this Section, the Agency shall consider whether the open dumping:

(1) occurred on public land;

(2) occurred on a public right-of-way;

(3) occurred in a park or natural area;

(4) occurred in an environmental justice area;

(5) was cause or allowed by persons other than the owner of the site;

(6) creates the potential for groundwater contamination;

(7) creates the potential for surface water contamination;

(8) creates the potential for disease vectors;

(9) creates a fire hazard; or

(10) preventive or corrective action by the Agency has been requested by a unit of local government.

In taking preventive or corrective action under this Section, the Agency shall not expend more than \$50,000 at any single site in response to open dumping unless: (i) the Director determines that the open dumping poses an imminent and substantial endangerment to the public health or welfare or the environment; or (ii) the General Assembly appropriates more than \$50,000 for preventive or corrective action in response to the open dumping, in which case the Agency may spend the appropriated amount."; and

on page 12, by replacing lines 20 through 24 with the following:

"(4) This subsection (b) does not apply to:

(A) the use of clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation located on the site where the clean construction or demolition debris was generated; or

(B) the use of clean construction or demolition debris as fill material in an excavation other than a current or former quarry or mine if this use complies with Illinois Department of Transportation specifications."; and

on page 37, by deleting lines 22 through 34; and

by deleting pages 38 through 51; and

on page 52, by deleting lines 1 through 30.

Under the rules, the foregoing **Senate Bill No. 431**, with House Amendment No. 10, 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. 506

A bill for AN ACT concerning children.

Together with the following amendments which are 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. 506

House Amendment No. 2 to SENATE BILL NO. 506

House Amendment No. 3 to SENATE BILL NO. 506

Passed the House, as amended, May 27, 2005.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 506**

AMENDMENT NO. 1. Amend Senate Bill 506 on page 2, line 18, by changing "Section 25" to "Section 30"; and

on page 3, after line 10, by inserting the following:

"Section 25. Parent support service. The Department may establish and operate a voluntary support service for parents who struggle with infant crying. The support service may include, but need not be limited to, telephone consultation and referrals to appropriate professional assistance."; and

[May 27, 2005]

on page 3, line 11, by changing "Section 25." to "Section 30."

**AMENDMENT NO. 2 TO SENATE BILL 506**

AMENDMENT NO. 2. Amend Senate Bill 506 on page 3, by replacing lines 1 and 2 with the following:

"(b) Hospitals shall report to the Department by no later"; and

on page 3, line 8, by deleting "or other facility".

**AMENDMENT NO. 3 TO SENATE BILL 506**

AMENDMENT NO. 3. Amend Senate Bill 506 on page 3, by deleting lines 19 through 29.

Under the rules, the foregoing **Senate Bill No. 506**, with House Amendments numbered 1, 2 and 3, 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. 1446

A bill for AN ACT concerning public employee benefits.

Together with the following amendments which are 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. 1446

House Amendment No. 2 to SENATE BILL NO. 1446

Passed the House, as amended, May 27, 2005.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1446**

AMENDMENT NO. 1. Amend Senate Bill 1446 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Section 1-119 as follows:

(40 ILCS 5/1-119)

Sec. 1-119. Qualified Illinois Domestic Relations Orders.

(a) For the purposes of this Section:

(1) "Alternate payee" means the spouse, former spouse, child, or other dependent of a member, as designated in a QILDRO.

(2) "Death benefit" means any nonperiodic benefit payable upon the death of a member to a survivor of the member or to the member's estate or designated beneficiary, including any refund of contributions following the member's death, whether or not the benefit is so called under the applicable Article of this Code.

(3) "Disability benefit" means any periodic or nonperiodic benefit payable to a disabled member based on occupational or nonoccupational disability or disease, including any periodic or nonperiodic increases in the benefit, whether or not the benefit is so called under the applicable Article of this Code.

(4) "Member" means any person who participates in or has service credits in a retirement system, including a person who is receiving or is eligible to receive a retirement or disability benefit, without regard to whether the person has withdrawn from service.

(5) "Member's refund" means a return of all or a portion of a member's contributions that is elected by the member (or provided by operation of law) and is payable before the member's death.

(5.5) "Permissive service" means service credit purchased by the member, unused vacation, and unused sick leave that the retirement system includes by statute in a member's benefit calculations.

(6) "Qualified Illinois Domestic Relations Order" or "QILDRO" means an Illinois court order that creates or recognizes the existence of an alternate payee's right to receive all or a portion of

[May 27, 2005]

a member's accrued benefits in a retirement system, is issued pursuant to this Section and Section 503(b)(2) of the Illinois Marriage and Dissolution of Marriage Act, and meets the requirements of this Section. A QILDRO is not the same as a qualified domestic relations order or QDRO issued pursuant to Section 414(p) of the Internal Revenue Code of 1986. The requirements of paragraphs (2) and (3) of that Section do not apply to orders issued under this Section and shall not be deemed a guide to the interpretation of this Section; a QILDRO is intended to be a domestic relations order within the meaning of paragraph (11) of that Section.

(7) "Regular payee" means the person to whom a benefit would be payable in the absence of an effective QILDRO.

(7.5) "Regular service" means service credit earned by the member, including a repayment of a refund for regular service that the retirement system includes by statute in a member's benefit calculations. "Regular service" does not include service credit purchased by the member, unused vacation, or unused sick leave.

(8) "Retirement benefit" means any periodic or nonperiodic benefit payable to a retired member based on age or service, or on the amounts accumulated to the credit of the member for retirement purposes, including any periodic or nonperiodic increases in the benefit, whether or not the benefit is so called under the applicable Article of this Code.

(9) "Retirement system" or "system" means any retirement system, pension fund, or other public employee retirement benefit plan that is maintained or established under any of Articles 2 through 18 of this Code.

(10) "Surviving spouse" means the spouse of a member at the time of the member's death.

(11) "Survivor's benefit" means any periodic benefit payable to a surviving spouse, child, parent, or other survivor of a deceased member, including any periodic or nonperiodic increases in the benefit or nonperiodic payment included with the benefit, whether or not the benefit is so called under the applicable Article of this Code.

(b) (1) An Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for support or the distribution of property, or any proceeding to amend or enforce such support or a property distribution, may order that all or any part of any (i) member's retirement benefit, ~~or~~ (ii) member's refund payable to or on behalf of the member, ~~or (iii) death benefit, or portion thereof, that would otherwise be payable to the member's death benefit beneficiaries or estate~~ be instead paid by the retirement system to ~~the a designated alternate payee~~.

(2) An order issued under this Section provides only for the diversion to an alternate payee of certain benefits otherwise payable by the retirement system under the provisions of this Code. The existence of a QILDRO shall not cause the retirement system to pay any benefit, or any amount of benefit, to an alternate payee that would not have been payable by the system to a regular payee in the absence of the QILDRO.

(3) A QILDRO shall not affect the vesting, accrual, or amount of any benefit, nor the date or conditions upon which any benefit becomes payable, nor the right of the member or the member's survivors to make any election otherwise authorized under this Code, except as provided in subsections (i) and (j).

(4) A QILDRO shall not apply to or affect the payment of any survivor's benefit, ~~death benefit~~, disability benefit, life insurance benefit, or health insurance benefit.

(c) (1) A QILDRO must contain the name, ~~mailing residence~~ address, and social security number of the member and of the alternate payee and must identify the retirement system to which it is directed and the court issuing the order.

(2) A QILDRO must specify each benefit to which it applies, and it must specify the amount of the benefit to be paid to the alternate payee. In the case of a non-periodic benefit, this amount must be specified as a dollar amount or as a percentage as specifically provided in subsection (n). In the case of a periodic benefit, this amount must be specified as a dollar amount per month or as a percentage per month as specifically provided in subsection (n), which in the case of a nonperiodic benefit shall be expressed as a dollar amount (except that a nonperiodic benefit payable to an alternate payee of a participant in the self-managed plan authorized under Article 15 of this Code may be expressed as a dollar amount or as a percentage of the participant's account), and in the case of a periodic benefit shall be expressed as a dollar amount per month.

(3) With respect to each benefit to which it applies, a QILDRO must specify when the order will take effect. In the case of a lump sum benefit payable to an alternate payee of a participant in the self-managed plan authorized under Article 15 of this Code, the benefit shall be paid upon the proper request of the alternate payee. In the case of a periodic benefit that is being paid at the time the order is

received, a QILDRO shall take effect immediately or on a specified later date; if it takes effect immediately, it shall become effective on the first benefit payment date occurring at least 30 days after the order is received by the retirement system. In the case of any other benefit, a QILDRO shall take effect when the benefit becomes payable, unless some later date is specified pursuant to subsection (n), except that a lump sum benefit payable to an alternate payee of a participant in the self-managed plan authorized under Article 15 of this Code may be paid upon the request of the alternate payee. However, in no event shall a QILDRO apply to any benefit paid by the retirement system before or within 30 days after the order is received. A retirement system may adopt rules to prorate the amount of the first and final periodic payments to an alternate payee.

(4) A QILDRO must also contain any provisions required under subsection (n) or (p).

(5) If a QILDRO indicates that the alternate payee is to receive a percentage of any retirement system benefit, the calculations required shall be performed by the member, the alternate payee, their designated representatives or their designated experts. The results of said calculations shall be provided to the retirement system via a QILDRO Calculation Court Order issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage. The QILDRO Calculation Court Order shall follow the form provided in subsection (n-5). The retirement system shall have no duty or obligation to assist in such calculations or in completion of the QILDRO Calculation Court Order, other than to provide the information required to be provided pursuant to subsection (h).

(6) Within 45 days after the receipt of a QILDRO Calculation Court Order, the retirement system shall notify the member and the alternate payee (or one designated representative of each) of the receipt of the Order. If a valid QILDRO underlying the QILDRO Calculation Court Order has not been filed with the retirement system, or if the QILDRO Calculation Court Order does not clearly indicate the amount the retirement system is to pay to the alternate payee, then the retirement system shall at the same time notify the member and the alternate payee (or one designated representative of each) of the situation. Unless a valid QILDRO has not been filed with the retirement system, or the QILDRO Calculation Court Order does not clearly indicate the amount the retirement system is to pay the alternate payee, the retirement system shall implement the QILDRO based on the QILDRO Calculation Court Order as soon as administratively possible once benefits are payable. The retirement system shall have no obligation to make any determination as to whether the calculations in the QILDRO Calculation Court Order are accurate or whether the calculations are in accordance with the parties' QILDRO, agreement, or judgment. The retirement system shall not reject a QILDRO Calculation Court Order because the calculations are not accurate or not in accordance with the parties' QILDRO, agreement, or judgment. The retirement system shall have no responsibility for the consequences of its implementation of a QILDRO Calculation Court Order that is inaccurate or not in accordance with the parties' QILDRO, agreement, or judgment.

(d) (1) An order issued under this Section shall not be implemented unless a certified copy of the order has been filed with the retirement system. The system shall promptly notify the member and the alternate payee by first class mail of its receipt of the order.

(2) Neither the retirement system, nor its board, nor any of its employees shall be liable to the member, the regular payee, or any other person for any amount of a benefit that is paid in good faith to an alternate payee in accordance with a QILDRO.

(3) Each new or modified QILDRO or QILDRO Calculation Court Order that At the time the order is submitted to the retirement system, it shall be accompanied by a nonrefundable \$50 processing fee payable to the retirement system, to be used by the system to defer any administrative costs arising out of the implementation of the order QILDRO.

(e) (1) Each alternate payee is responsible for maintaining a current mailing residence address on file with the retirement system. The retirement system shall have no duty to attempt to locate any alternate payee by any means other than sending written notice to the last known address of the alternate payee on file with the system.

(2) In the event that the system cannot locate an alternate payee when a benefit becomes payable, the system shall hold the amount of the benefit payable to the alternate payee and make payment to the alternate payee if he or she is located within the following 180 days. If the alternate payee has not been located within 180 days from the date the benefit becomes payable, the system shall pay the benefit and the amounts held to the regular payee. If the alternate payee is subsequently located, the system shall thereupon implement the QILDRO, but the interest of the alternate payee in any amounts already paid to the regular payee shall be extinguished. Amounts held under this subsection shall not bear interest.

(f) (1) If the amount of a benefit that is specified in a QILDRO or QILDRO Calculation Court Order for payment to an alternate payee exceeds the actual amount of that benefit payable by the retirement

system, the excess shall be disregarded. The retirement system shall have no liability to any alternate payee or any other person for the disregarded amounts.

(2) In the event of multiple QILDROs against a member, the retirement system shall honor all of the QILDROs to the extent possible. However, if the total amount of a benefit to be paid to alternate payees under all QILDROs in effect against the member exceeds the actual amount of that benefit payable by the system, the QILDROs shall be satisfied in the order of their receipt by the system until the amount of the benefit is exhausted, and shall not be adjusted pro rata. Any amounts that cannot be paid due to exhaustion of the benefit shall remain unpaid, and the retirement system shall have no liability to any alternate payee or any other person for such amounts.

(3) A modification of a QILDRO shall be filed with the retirement system in the same manner as a new QILDRO. A modification that does not increase the amount of any benefit payable to the alternate payee, as that amount was designated in the QILDRO, and does not expand the QILDRO to affect any benefit not affected by the unmodified QILDRO, does not affect the priority of payment under subdivision (f)(2); the priority of payment of a QILDRO that has been modified to increase the amount of any benefit payable to the alternate payee, or to expand the QILDRO to affect a benefit not affected by the unmodified QILDRO, shall be based on the date on which the system receives the modification of the QILDRO.

(4) A modification of a QILDRO Calculation Court Order shall be filed with the retirement system in the same manner as a new QILDRO Calculation Court Order.

(g) (1) Upon the death of the alternate payee under a QILDRO, the QILDRO shall expire and cease to be effective, and in the absence of another QILDRO, the right to receive any affected benefit shall revert to the regular payee.

(2) All QILDROs relating to a member's participation in a particular retirement system shall expire and cease to be effective upon the issuance of a member's refund that terminates the member's participation in that retirement system, without regard to whether the refund was paid to the member or to an alternate payee under a QILDRO. An expired QILDRO shall not be automatically revived by any subsequent return by the member to service under that retirement system.

(h) (1) Within 45 days after receiving a subpoena from any party to a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage in which a QILDRO may be issued, or after receiving a request from the member, a retirement system shall provide in response ~~issue~~ a statement of a member's accumulated contributions, accrued benefits, and other interests in the plan administered by the retirement system based on the data on file with the system on the date the subpoena is received. If so requested in the subpoena, the retirement system shall also provide in response general retirement plan information available to a member; and of any relevant procedures, rules, or modifications to the model QILDRO form that have been adopted by the retirement system.

(1.5) If a QILDRO provides for the alternate payee to receive a percentage of a retirement benefit (as opposed to providing for the alternate payee to receive specified dollar amounts of a retirement benefit), then the retirement system shall provide the applicable information to the member and to the alternate payee, or to one designated representative of each (e.g., the member's attorney and the alternate payee's attorney) as indicated below:

(A) If the member is a participant in the self-managed plan authorized under Article 15 of this Code and the QILDRO provides that the only benefit the alternate payee is to receive is a percentage of a lump sum benefit as of a specific date that has already past, then, within 30 days after the retirement system receives the QILDRO, the retirement system shall provide the lump sum amount to which the QILDRO percentage is to be applied.

(B) For all situations except that situation described in item (A), if the retirement system receives the QILDRO before the member's effective date of retirement, then, within 45 days after the retirement system receives the QILDRO, the retirement system shall provide all of the following information:

(i) The date of the member's initial membership in the retirement system, expressed as month, day, and year, if available, or the most exact date that is available to the retirement system.

(ii) The amount of permissive and regular service the member accumulated in the retirement system from the time of initial membership through the most recent date available prior to the retirement system receiving the QILDRO (the dates used by the retirement system shall also be provided). Service amounts shall be expressed using the most exact time increments available to the retirement system (e.g., months or fractions of years).

(iii) The gross amount of the member's non-reduced monthly annuity benefit earned, calculated as of the most recent date available prior to the retirement system receiving the QILDRO, the date used by the retirement system, and the earliest date the member may be eligible to commence the benefit. This amount shall include any permissive service and upgrades purchased by the member, and those



amounts shall be noted separately.

(iv) The gross amount of the member's refund or partial refund, including any interest payable on those amounts, calculated as of the most recent date available prior to the retirement system receiving the QILDRO (the date used by the retirement system shall also be provided).

(v) The gross amount of the death benefits that would be payable to the member's death benefit beneficiaries or estate, assuming the member died on the date or a date as close as possible to the date the QILDRO was received by the retirement system, including any interest payable on the amounts, calculated as of the most recent date available prior to the retirement system receiving the QILDRO (the date used by the retirement system shall also be provided).

(vi) Whether the member has notified the retirement system of the date the member intends to retire, and if so, that date.

(vii) If the member has provided a date that he or she intends to retire, the date, if available, that the retirement system reasonably believes will be the member's effective date of retirement.

(C) For all situations except that situation described in item (A), if the retirement system receives the QILDRO after the effective date of retirement, then, within 45 days after the retirement system receives the QILDRO, or, if the retirement system receives the QILDRO before the member's effective date of retirement, then as soon as administratively possible before or after the member's effective date of retirement (but not later than 45 days after the member's effective date of retirement), the retirement system shall provide all of the following information:

(i) The member's effective date of retirement.

(ii) The date the member commenced benefits or, if not yet commenced, the date the retirement system has scheduled the member's benefits to commence.

(iii) The amount of permissive and regular service the member accumulated in the retirement system from the time of initial membership through the member's effective date of retirement. Service amounts shall be expressed using the most exact time increments available to the retirement system (e.g., months or fractions of years).

(iv) The gross amount of the member's monthly annuity benefit, calculated as of the member's effective date of retirement. This amount shall include any permissive service and upgrades purchased by the member, and those amounts shall be noted separately.

(v) The gross amount of the member's refund or partial refund, including any interest payable on those amounts, calculated as of the member's effective date of retirement.

(vi) The gross amount of death benefits that would be payable to the member's death benefit beneficiaries or estate, assuming the member died on the member's effective date of retirement, including any interest payable on those amounts.

(D) If, and only if, the alternate payee is entitled to benefits under Section VII of the QILDRO, then, within 45 days after the retirement system receives notice of the member's death, the retirement system shall provide the gross amount of death benefits payable, including any interest payable on those amounts, calculated as of the member's date of death.

(2) In no event shall the retirement system be required to furnish to any person an actuarial opinion as to the present value of the member's benefits or other interests.

(3) The papers, entries, and records, or parts thereof, of any retirement system may be proved by a copy thereof, certified under the signature of the secretary of the system or other duly appointed keeper of the records of the system and the corporate seal, if any.

(i) In a retirement system in which a member or beneficiary is required to apply to the system for payment of a benefit, the required application may be made by an alternate payee who is entitled to all of ~~that benefit~~ a termination refund or retirement benefit or part of a death benefit that is payable under a QILDRO, provided that all other qualifications and requirements have been met. However, the alternate payee may not make the required application ~~for death benefits while the member is alive~~ for a member's refund or a retirement benefit if the member is in active service or below the minimum age for receiving an undiscounted retirement annuity in the retirement system that has received the QILDRO or in any other retirement system in which the member has regular or permissive creditable service and in which the member's rights under the Retirement Systems Reciprocal Act would be affected as a result of the alternate payee's application for a member's refund or retirement benefit.

(j) (1) So long as there is in effect a QILDRO relating to a member's retirement benefit, the affected member may not elect a form of payment that has the effect of diminishing the amount of the payment to which any alternate payee is entitled, unless the alternate payee has consented to the election in a writing that includes the alternate payee's notarized signature, and this written and notarized consent has been filed with the retirement system.

(2) If a member attempts to make an election prohibited under subdivision (j)(1), the retirement

system shall reject the election and advise the member of the need to obtain the alternate payee's consent.

(3) If a retirement system discovers that it has mistakenly allowed an election prohibited under subdivision (j)(1), it shall thereupon disallow that election and recalculate any benefits affected thereby. If the system determines that an amount paid to a regular payee should have been paid to an alternate payee, the system shall, if possible, recoup the amounts as provided in subsection (k) of this Section.

(k) In the event that a regular payee or an alternate payee is overpaid, the retirement system shall have the authority to and shall recoup the amounts by deducting the overpayment from future payments and making payment to the other payee. The system may make deductions for recoupment over a period of time in the same manner as is provided by law or rule for the recoupment of other amounts incorrectly disbursed by the system in instances not involving a QILDRO. The retirement system shall incur no liability to either the alternate payee or the regular payee as a result of any payment made in good faith, regardless of whether the system is able to accomplish recoupment.

(l) (1) A retirement system that has, before the effective date of this Section, received and implemented a domestic relations order that directs payment of a benefit to a person other than the regular payee may continue to implement that order, and shall not be liable to the regular payee for any amounts paid in good faith to that other person in accordance with the order.

(2) A domestic relations order directing payment of a benefit to a person other than the regular payee that was issued by a court but not implemented by a retirement system prior to the effective date of this Section shall be void. However, a person who is the beneficiary or alternate payee of a domestic relations order that is rendered void under this subsection may petition the court that issued the order for an amended order that complies with this Section.

(3) A retirement system that received a valid QILDRO before the effective date of this amendatory Act of the 94th General Assembly shall continue to implement the QILDRO and shall not be liable to any party for amounts paid in good faith pursuant to the QILDRO.

(m) (1) In accordance with Article XIII, Section 5 of the Illinois Constitution, which prohibits the impairment or diminishment of benefits granted under this Code, a QILDRO issued against a member of a retirement system established under an Article of this Code that exempts the payment of benefits or refunds from attachment, garnishment, judgment or other legal process shall not be effective without the written consent of the member if the member began participating in the retirement system on or before the effective date of this Section. That consent must specify the retirement system, the court case number, and the names and social security numbers of the member and the alternate payee. The consent must accompany the QILDRO when it is filed with the retirement system, and must be in substantially the following form:

CONSENT TO ISSUANCE OF QILDRO

Case Caption: .....  
Court Case Number: .....  
Member's Name: .....  
Member's Social Security Number: .....  
Alternate payee's Name: .....  
Alternate payee's Social Security Number: .....

I, (name), a member of the (retirement system), hereby irrevocably consent to the issuance of a Qualified Illinois Domestic Relations Order. I understand that under the Order, certain benefits that would otherwise be payable to me, or to my ~~death benefit beneficiaries surviving spouse~~ or estate, will instead be payable to (name of alternate payee). I also understand that my right to elect certain forms of payment of my retirement benefit or member's refund may be limited as a result of the Order.

DATED:.....  
SIGNED:.....

(2) A member's consent to the issuance of a QILDRO shall be irrevocable, and shall apply to any QILDRO that pertains to the alternate payee and retirement system named in the consent.

(n) A QILDRO An order issued under this Section shall be in substantially the following form (omitting any provisions that are not applicable to benefits that are or may be ultimately payable to the member):

QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDER

.....  
(Enter Case Caption Here)  
.....

[May 27, 2005]

(Enter Retirement System Name Here)

THIS CAUSE coming before the Court for the purpose of the entry of a Qualified Illinois Domestic Relations Order under the provisions of Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119), the Court having jurisdiction over the parties and the subject matter hereof; the Court finding that one of the parties to this proceeding is a member of a retirement system subject to Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119), this Order is entered to implement a division of that party's interest in the retirement system; and the Court being fully advised;

IT IS HEREBY ORDERED AS FOLLOWS:

I. The definitions and other provisions of Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119) are adopted by reference and made a part of this Order.

II. Identification of Retirement System and parties:

Retirement System:

.....  
(Name)

.....  
(Address)

Member:

.....  
(Name)

.....  
(Mailing Address)

.....  
(Social Security Number)

Alternate payee:

.....  
(Name)

.....  
(Mailing Address)

.....  
(Social Security Number)

The alternate payee is the member's .... current or former spouse/ .... child or other dependent [check one].

III. The Retirement System shall pay the indicated amounts of the member's retirement benefits to the alternate payee under the following terms and conditions:

(A) The Retirement System shall pay the alternate payee pursuant to one of the following methods [complete the ONE option that applies]:

(1) \$..... per month [enter amount]; or

(2) .....% [enter percentage] per month of the marital portion of said benefit with the marital portion defined using the formula in Section IX; or

(3) .....% [enter percentage] per month of the gross amount of said benefit calculated as of the date the .... member's/ .... alternate payee's [check one] benefit commences [check alternate payee only if the alternate payee will commence benefits after the member commences benefits, e.g. if the member is receiving retirement benefits at the time this Order is entered].

(B) If the member's retirement benefit has already commenced, payments to the alternate payee shall commence either [check/complete the ONE option that applies]:

(1) .... as soon as administratively possible upon this order being received and accepted by the Retirement System; or

(2) .... on the date of ..... [enter any benefit payment date that will occur at least 30 days after the date the retirement system receives a valid QILDRO, but ONLY if payment to the alternate payee is to be delayed to some future date; otherwise, check item (1) above].

(C) If the member's retirement benefit has not yet commenced, payments to the alternate payee shall commence as of the date the member's retirement benefit commences.

(D) Payments to the alternate payee under this Section III shall terminate [check/complete the ONE option that applies]:

[May 27, 2005]

(1) .... upon the death of the member or the death of the alternate payee, whichever is the first to occur; or

(2) .... after ..... payments are made to the alternate payee [enter any set number] or upon the death of the member or the death of the alternate payee, whichever is the first to occur.

IV. If the member's retirement benefits are subject to annual post-retirement increases, the alternate payee's share of said benefits .... shall/ .... shall not [check one] be recalculated or increased annually to include a proportionate share of the applicable annual increases.

V. The Retirement System shall pay to the alternate payee the indicated amounts of any refund or lump sum retirement benefit that becomes payable to the member upon termination, under the following terms and conditions:

(A) The Retirement System shall pay the alternate payee pursuant to one of the following methods [complete the ONE option that applies]:

(1) \$..... [enter amount]; or

(2) .....% [enter percentage] of the marital portion of the refund or lump sum retirement benefit, with the marital portion defined using the formula in Section IX; or

(3) .....% [enter percentage] of the gross amount of the refund or lump sum retirement benefit, calculated when the member's refund or lump sum retirement benefit is paid.

(B) The amount payable to an alternate payee under Section V(A)(2) or V(A)(3) shall include any applicable interest that would otherwise be payable to the member under the rules of the Retirement System.

(C) The alternate payee's benefit under this Section V shall be paid when the member's benefit is paid.

VI. The Retirement System shall pay to the alternate payee the indicated amounts of any partial refund that becomes payable to the member under the following terms and conditions:

(A) The Retirement System shall pay the alternate payee pursuant to one of the following methods [complete the ONE option that applies]:

(1) \$..... [enter amount]; or

(2) .....% [enter percentage] of the marital portion of said benefit, with the marital portion defined using the formula in Section IX; or

(3) .....% [enter percentage] of the gross amount of the benefit calculated when the member's refund is paid.

(B) The amount payable to an alternate payee under Section VI(A)(2) or VI(A)(3) shall include any applicable interest that would otherwise be payable to the member under the rules of the Retirement System.

(C) The alternate payee's share of the refund under this Section VI shall be paid when the member's benefit is paid.

VII. The Retirement System shall pay to the alternate payee the indicated amounts of any death benefits that become payable to the member's death benefit beneficiaries or estate under the following terms and conditions:

(A) To the extent and only to the extent required to effectuate this Section VII, the alternate payee shall be designated as and considered to be a beneficiary of the member at the time of the member's death and shall receive [complete ONE of the following options]:

(1) \$..... [enter amount]; or

(2) .....% [enter percentage] of the marital portion of death benefits, with the marital portion defined using the formula in Section IX; or

(3) .....% [enter percentage] of the gross amount of death benefits calculated when said benefits become payable.

(B) The amount payable to an alternate payee under Section VII(A)(2) or VII(A)(3) shall include any applicable interest payable to the death benefit beneficiaries under the rules of the Retirement System.

(C) The alternate payee's share of death benefits under this Section VII shall be paid as soon as administratively possible after the member's death.

VIII. If this Order indicates that the alternate payee is to receive a percentage of any retirement benefit or refund, upon receipt of the information required to be provided by the Retirement System under Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119), the calculations required shall be performed by the member, by the alternate payee, or by their designated representatives or designated experts. The results of the calculations shall be provided to the Retirement System via a QILDRO Calculation Court Order in accordance with Section 1-119 of the Illinois Pension Code.

IX. Marital Portion Benefit Calculation Formula (Option to calculate benefit in items III(A)(2),

V(A)(2), VI(A)(2), and VII(A)(2) above). If in this Section "other" is circled in the definition of A, B, or C, then a supplemental order must be entered simultaneously with this QILDRO clarifying the intent of the parties or the Court as to that item. The supplemental order cannot require the Retirement System to take any action not permitted under Illinois law or the Retirement System's administrative rules. To the extent that the supplemental order does not conform to Illinois law or administrative rule, it shall not be binding upon the Retirement System.

(1) The amount of the alternate payee's benefit shall be the result of  $(A/B) \times C \times D$  where:

"A" equals the number of months of .... regular/ .... regular plus permissive/ .... other [check only one] service that the member accumulated in the Retirement System from the date of marriage ..... [enter date MM/DD/YYYY] to the date of divorce ..... [enter date MM/DD/YYYY]. This number of months of service shall be calculated as whole months after receipt of information required from the Retirement System pursuant to Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119).

"B" equals the number of months of .... regular/ .... regular plus permissive/ .... other [check only one] service that the member accumulated in the Retirement System from the time of initial membership in the Retirement System through the member's effective date of retirement. The number of months of service shall be calculated as whole months after receipt of information required from the Retirement System pursuant to Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119).

"C" equals the gross amount of:

(i) the member's monthly retirement benefit (Section III(A)) calculated as of the member's effective date of retirement, .... including/ .... not including/ .... other [check only one] permissive service, upgrades purchased, and other benefit formula enhancements;

(ii) the member's refund payable upon termination or lump sum retirement benefit that becomes payable, including any payable interest (Section V(A)) calculated as of the time said refund becomes payable to the member;

(iii) the member's partial refund, including any payable interest (Section VI(A)) calculated as of the time said partial refund becomes payable to the member; or

(iv) the death benefit payable to the member's death benefit beneficiaries or estate, including any payable interest (Section VII(A)) calculated as of the time said benefit becomes payable to the member's beneficiary;

whichever are applicable pursuant to Section III, V, VI, or VII of this Order. These gross amounts shall be provided by the Retirement System pursuant to Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119).

"D" equals the percentage noted in Section III(A)(2), V(A)(2), VI(A)(2), or VII(A)(2), whichever are applicable.

(2) The alternate payee's benefit under this Section IX shall be paid in accordance with all Sections of this Order that apply.

X. In accordance with subsection (j) of Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119), so long as this QILDRO is in effect, the member may not elect a form of payment of the retirement benefit that has the effect of diminishing the amount of the payment to which the alternate payee is entitled, unless the alternate payee has consented to the election in writing, the consent has been notarized, and the consent has been filed with the Retirement System.

XI. If the member began participating in the Retirement System before July 1, 1999, this Order shall not take effect unless accompanied by the written consent of the member as required under subsection (m) of Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119).

XII. The Court retains jurisdiction over this matter for all of the following purposes:

(1) To establish or maintain this Order as a Qualified Illinois Domestic Relations Order.

(2) To enter amended QILDROs and QILDRO Calculation Court Orders to conform to the parties' Marital Settlement Agreement or Agreement for Legal Separation ("Agreement"), to the parties' Judgment for Dissolution of Marriage or Judgment for Legal Separation ("Judgment"), to any modifications of the parties' Agreement or Judgment, or to any supplemental orders entered to clarify the parties' Agreement or Judgment.

(3) To enter supplemental orders to clarify the intent of the parties or the Court regarding the benefits allocated herein in accordance with the parties' Agreement or Judgment, with any modifications of the parties' Agreement or Judgment, or with any supplemental orders entered to clarify the parties' Agreement or Judgment. A supplemental order may not require the Retirement System to take any action not permitted under Illinois law or the Retirement System's administrative rules. To the extent that the supplemental order does not conform to Illinois law or administrative rule, it shall not be binding upon the Retirement System.

DATED: .....

SIGNED: .....  
[Judge's Signature]

(n-5) A QILDRO Calculation Court Order issued under this Section shall be in substantially the following form:

QILDRO Calculation Court Order

.....  
[Enter case caption here]

.....  
[Enter Retirement System name here]

THIS CAUSE coming before the Court for the purpose of the entry of a QILDRO Calculation Court Order under the provisions of Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119), the Court having jurisdiction over the parties and the subject matter hereof; the Court finding that a QILDRO has previously been entered in this matter, that the QILDRO has been received and accepted by the Retirement System, and that the QILDRO requires percentage calculations to allocate the alternate payee's share of the member's benefit or refund, the Court not having found that the QILDRO has become void or invalid, and the Court being fully advised;

IT IS HEREBY ORDERED AS FOLLOWS:

(1) The definitions and other provisions of Section 1-119 of the Illinois Pension Code [40 ILCS 5/1-119] are adopted by reference and made a part of this Order.

(2) Identification of Retirement System and parties:

Retirement System: .....  
(Name)  
.....  
(Address)

Member: .....  
(Name)  
.....  
(Mailing Address)  
.....  
(Social Security Number)

Alternate payee: .....  
(Name)  
.....  
(Mailing Address)  
.....  
(Social Security Number)

The Alternate payee is the member's .... current or former spouse/ .... child or other dependent [check one].

(3) The following shall apply if and only if the QILDRO allocated benefits to the alternate payee in the specific Section noted. The Retirement System shall pay the amounts as directed below, but only if and when the benefits are payable pursuant to the QILDRO and Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119). Parties shall see QILDRO Section IX for the definitions of A, B, C and D as used below.

(a) The alternate payee's benefit pursuant to QILDRO Section III(A)(2) shall be calculated pursuant to Section IX of the QILDRO and paid as follows:

[May 27, 2005]

$(\text{...../.....}) \times \text{.....} \times \text{.....} = \text{.....}$   
 [Enter A] [Enter B] [Enter C] [Enter D] [Monthly Amount]

(b) The alternate payee's benefit pursuant to QILDRO Section V(A)(2) shall be calculated pursuant to Section IX of the QILDRO and paid as follows:

$(\text{...../.....}) \times \text{.....} \times \text{.....} = \text{.....}$   
 [Enter A] [Enter B] [Enter C] [Enter D] [Amount]

(c) The alternate payee's benefit pursuant to QILDRO Section VI(A)(2) shall be calculated pursuant to Section IX of the QILDRO and paid as follows:

$(\text{...../.....}) \times \text{.....} \times \text{.....} = \text{.....}$   
 [Enter A] [Enter B] [Enter C] [Enter D] [Amount]

(d) The alternate payee's benefit pursuant to QILDRO Section VII(A)(2) shall be calculated pursuant to Section IX of the QILDRO and paid as follows:

$(\text{...../.....}) \times \text{.....} \times \text{.....} = \text{.....}$   
 [Enter A] [Enter B] [Enter C] [Enter D] [Amount]

The Retirement System's sole obligation with respect to the equations in this paragraph (3) is to pay the amounts indicated as the result of the equations. The Retirement System shall have no obligation to review or verify the equations or to assist in the calculations used to determine such amounts.

(4) The following shall apply only if the QILDRO allocated benefits to the alternate payee in the specific Section noted. The Retirement System shall pay the monthly amounts as directed below, but only if and when the benefits are payable pursuant to the QILDRO and Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119).

(A) The alternate payee's benefit pursuant to QILDRO Section III(A)(3) shall be calculated and paid as follows:

$\text{.....} \times \text{.....} = \text{.....}$   
 [Gross benefit amount] [Percentage] [Monthly Amount]

(B) The alternate payee's benefit pursuant to QILDRO Section V(A)(3) shall be calculated and paid as follows:

$\text{.....} \times \text{.....} = \text{.....}$   
 [Gross benefit amount] [Percentage] [Amount]

(C) The alternate payee's benefit pursuant to QILDRO Section VI(A)(3) shall be calculated and paid as follows:

$\text{.....} \times \text{.....} = \text{.....}$   
 [Gross benefit amount] [Percentage] [Amount]

(D) The alternate payee's benefit pursuant to QILDRO Section VII(A)(3) shall be calculated and paid as follows:

$\text{.....} \times \text{.....} = \text{.....}$   
 [Gross benefit amount] [Percentage] [Amount]

The Retirement System's sole obligation with respect to the equations in this paragraph (4) is to pay the amounts indicated as the result of the equations. The Retirement System shall have no obligation to review or verify the equations or to assist in the calculations used to determine such amounts.

(5) The Court retains jurisdiction over this matter for the following purposes:

(A) to establish or maintain this Order as a QILDRO Calculation Court Order;

[May 27, 2005]

(B) to enter amended QILDROs and QILDRO Calculation Court Orders to conform to the parties' QILDRO, Marital Settlement Agreement or Agreement for Legal Separation ("Agreement"), to the parties' Judgment for Dissolution of Marriage or Judgment for Legal Separation ("Judgment"), to any modifications of the parties' QILDRO, Agreement, or Judgment, or to any supplemental orders entered to clarify the parties' QILDRO, Agreement, or Judgment; and

(C) To enter supplemental orders to clarify the intent of the parties or the Court regarding the benefits allocated herein in accordance with the parties' Agreement or Judgment, with any modifications of the parties' Agreement or Judgment, or with any supplemental orders entered to clarify the parties' Agreement or Judgment. A supplemental order may not require the Retirement System to take any action not permitted under Illinois law or the Retirement System's administrative rules. To the extent the supplemental order does not conform to Illinois law or administrative rule, it shall not be binding upon the Retirement System.

DATED: .....

SIGNED: .....  
[Judge's Signature]

**QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDER**

THIS CAUSE coming before the Court for the purpose of the entry of a Qualified Illinois Domestic Relations Order under the provisions of Section 1-119 of the Illinois Pension Code, the Court having jurisdiction over the parties and the subject matter hereof, the Court finding that one of the parties to this proceeding is a member of a retirement system subject to Section 1-119 of the Illinois Pension Code, this Order is entered to implement a division of that party's interest in the retirement system; and the Court being fully advised;

IT IS HEREBY ORDERED AS FOLLOWS:

(1) The definitions and other provisions of Section 1-119 of the Illinois Pension Code are adopted by reference and made a part of this Order.

(2) Identification of Retirement System and parties:

Retirement System: (name and address)

Member: (name, residence address and social security number)

Alternate payee: (name, residence address and social security number)

(3) The Retirement System shall pay the indicated amounts of the following specified benefits to the alternate payee under the following terms and conditions:

(i) Of the member's retirement benefit, the Retirement System shall pay to the alternate payee \$..... per month, beginning (if the benefit is already being paid, either immediately or on a specified later date; otherwise, on the date the retirement benefit commences), and ending upon the termination of the retirement benefit or the death of the alternate payee, whichever occurs first.

(ii) Of any member's refund that becomes payable, the Retirement System shall pay to the alternate payee \$..... when the member's refund becomes payable.

(4) In accordance with subsection (j) of Section 1-119 of the Illinois Pension Code, so long as this QILDRO is in effect, the member may not elect a form of payment of the retirement benefit that has the effect of diminishing the amount of the payment to which the alternate payee is entitled, unless the alternate payee has consented to the election in writing and this consent has been filed with the retirement system.

(5) If the member began participating in the Retirement System before the effective date of this Section, this Order shall not take effect unless accompanied by the written consent of the member as required under subsection (m) of Section 1-119 of the Illinois Pension Code.

(6) The Court retains jurisdiction to modify this Order.

DATED: .....

SIGNED: .....

(o) (1) A court in Illinois that has issued a QILDRO shall retain jurisdiction of all issues relating to the modification of the QILDRO as indicated in Section XII of the QILDRO and in accordance with Illinois law. A court in Illinois that has issued a QILDRO Calculation Court Order shall retain jurisdiction of all issues relating to the modification of the QILDRO Calculation Court Order as indicated in Section 5 of the QILDRO Calculation Court Order and in accordance with Illinois law.



(2) The Administrative Review Law and the rules adopted pursuant thereto shall govern and apply to all proceedings for judicial review of final administrative decisions of the board of trustees of the retirement system arising under this Section.

(2) The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. The venue for review under the Administrative Review Law shall be the same as is provided by law for judicial review of other administrative decisions of the retirement system.

(p) (1) Each retirement system may adopt any procedures or rules that it deems necessary or useful for the implementation of this Section.

(2) Each retirement system may by rule modify the model QILDRO form provided in subsection (n), except that no retirement system may change that form in a way that limits the choices provided to the alternate payee in subsections (n) or (n-5). Each retirement system may by rule ~~or~~ require that additional information be included in QILDROs presented to the system, as may be necessary to meet the needs of the retirement system.

(3) Each retirement system shall define its blank model QILDRO form and blank model QILDRO Calculation Court Order form as an original of the forms or a paper copy of the forms. Each retirement system shall, whenever possible, make the forms available on the internet in non-modifiable computer format (for example, Adobe Portable Document Format files) for printing purposes.

(4) If a retirement system in good faith implements an order under this Section that follows substantially the same form as the model order and the retirement system later discovers that the implemented order was not absolutely identical to the retirement system's model order, the retirement system's implementation shall not be a violation of this Section and the retirement system shall have no responsibility to compensate the member or the alternate payee for moneys that would have been paid or not paid had the order been identical to the model order.

(Source: P.A. 93-347, eff. 7-24-03.)

Section 99. Effective date. This Act takes effect on July 1, 2006."

#### AMENDMENT NO. 2 TO SENATE BILL 1446

AMENDMENT NO. 2. Amend Senate Bill 1446, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 3, line 32, by replacing "~~alternate~~" with "alternate"; and

on page 9, line 34, by replacing "30" with "45"; and

on page 12, line 9, by replacing "annuity" with "retirement"; and

on page 19, by replacing lines 13 through 14 with the following:

"the indicated amounts of any refund upon termination or any lump sum retirement benefit that becomes payable to the member."; and

on page 19, by replacing lines 32 and 33 with the following:

"(C) The alternate payee's share of the refund or lump sum retirement benefit under this Section V shall be paid when the member's refund or lump sum retirement benefit is paid."; and

on page 20, line 18, by replacing "benefit" with "refund"; and

on page 27, line 18, by deleting "monthly".

Under the rules, the foregoing **Senate Bill No. 1446**, with House Amendments numbered 1 and 2, 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. 2038

A bill for AN ACT concerning property.

[May 27, 2005]

Together with the following amendments which are 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. 2038

House Amendment No. 2 to SENATE BILL NO. 2038

Passed the House, as amended, May 27, 2005.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 2038**

AMENDMENT NO. 1. Amend Senate Bill 2038 by replacing everything after the enacting clause with the following:

"Section 5. "An Act to authorize the Department of Mental Health to convey certain State-owned lands in Kane County", approved August 10, 1965, as amended by "An Act to amend Section 3 of "An Act to authorize the Department of Mental Health to convey certain State-owned lands in Kane County", approved August 10, 1965", approved March 2, 1967, is amended by changing Section 3 as follows:

(Laws 1965, p. 2927, Sec. 3; Laws 1967, p. 28, Sec. 1)

Sec. 3. (a) Except as provided in subsection (b), the purchaser shall agree that the land described in Section 1 shall be used for public educational and recreational purposes, but may convey any part of that land to the board of a public junior college district which includes any part of Kane County in its territory at a purchase price computed on the basis of a price per acre which does not exceed that authorized by this Act for the conveyance to the City of Elgin. Such an agreement does not prevent the City of Elgin from selling or leasing, under the conditions and in the manner provided in Division 76 of Article 11 of the Illinois Municipal Code, any part of that land not so conveyed.

(b) The provisions of subsection (a) do not apply to the following described land, which is a part of the land described in Section 1:

THAT PART OF THE SOUTH HALF OF SECTION 21, TOWNSHIP 41 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 21; THENCE SOUTH 88 DEGREES 16 MINUTES 35 SECONDS WEST, ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 21, A DISTANCE OF 474.18 FEET; THENCE NORTH 58 DEGREES 14 MINUTES 37 SECONDS WEST, A DISTANCE OF 235.77 FEET; THENCE NORTH 32 DEGREES 44 MINUTES 49 SECONDS WEST, A DISTANCE OF 162.03 FEET; THENCE NORTH 09 DEGREES 02 MINUTES 18 SECONDS WEST, A DISTANCE OF 360.85 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 09 DEGREES 02 MINUTES 18 SECONDS EAST, A DISTANCE OF 360.85 FEET; THENCE SOUTH 32 DEGREES 44 MINUTES 49 SECONDS EAST, A DISTANCE OF 162.03 FEET; THENCE SOUTH 58 DEGREES 14 MINUTES 37 SECONDS EAST, A DISTANCE OF 74.33 FEET; THENCE SOUTH 37 DEGREES 35 MINUTES 46 SECONDS EAST, A DISTANCE OF 109.91 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 21; THENCE SOUTH 88 DEGREES 16 MINUTES 35 SECONDS WEST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 21 ALSO BEING THE SOUTH LINE OF PROPERTY PREVIOUSLY OWNED BY THE STATE OF ILLINOIS BY DOCUMENT NUMBER 498148, A DISTANCE OF 783.03 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 21; THENCE NORTH 00 DEGREES 56 MINUTES 00 SECONDS WEST, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 21 ALSO BEING THE MOST WESTERLY LINE OF PROPERTY PREVIOUSLY OWNED BY THE STATE OF ILLINOIS BY DOCUMENT NUMBER 498148, A DISTANCE OF 624.62 FEET TO THE INTERSECTION WITH A LINE THAT IS 30.00 FEET, AS MEASURED PERPENDICULAR, SOUTHERLY OF AND PARALLEL WITH THE NORTHERLY LINE OF PROPERTY PREVIOUSLY OWNED BY THE STATE OF ILLINOIS BY DOCUMENT NUMBER 498148; THENCE NORTH 88 DEGREES 01 MINUTES 35 SECONDS EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 518.58 FEET TO THE POINT OF BEGINNING. BEING SITUATED IN THE CITY OF ELGIN, KANE COUNTY, ILLINOIS AND CONTAINING 8.59 ACRES MORE OR LESS.

(Source: Laws 1965, p. 2927; Laws 1967, p. 28.)

(P.A. 81-910, Sec. 1-6 rep.)

[May 27, 2005]

Section 10. "An Act authorizing the Director of Mental Health and Developmental Disabilities to convey certain real property", approved September 22, 1979, Public Act 81-910, is amended by repealing Section 1-6.

Section 15. Upon the payment of the sum of \$1 to the State of Illinois, Department of Corrections, the Director of the Department of Corrections, on behalf of the State of Illinois, is authorized to execute and deliver to the Community Unit School District 303 a Quit Claim Deed to the following described real property, to wit:

THE EAST 1/2 OF THE SOUTHEAST QUARTER LYING SOUTHERLY OF THE SOUTHERLY LINE OF ILLINOIS

ROUTE 38 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 8 (EXCEPT PARTS LYING IN THE FOLLOWING TRACTS: PART CONVEYED TO CITY OF GENEVA BY DEED AS DOCUMENT NUMBER 2003K030617 RECORDED FEBRUARY 20, 2003 AND PART CONVEYED TO CITY OF ST. CHARLES BY DEED AS DOCUMENT NUMBER 2003K107154 RECORDED JUNE 27, 2003 AND PARTS CONVEYED TO ST. CHARLES PARK DISTRICT BY DEED DOCUMENT 2003K003045 AND DEED DOCUMENT 2003K003046 RECORDED JANUARY 7, 2003, PART CONVEYED TO CITY OF ST. CHARLES BY DEED DOCUMENT 93K095347, ALSO EXCEPT PART CONVEYED TO ILLINOIS DEPT. OF TRANSPORTATION BY DEED DOCUMENT 1690232 AND ALSO EXCEPT ANY PART LYING IN PECK ROAD) IN CITY OF ST. CHARLES, KANE COUNTY, ILLINOIS.

Section 20. The General Assembly finds as follows:

(1) Public Act 92-532 authorized the transfer of parcels of land from the Illinois Department of Corrections to the City of St. Charles.

(2) It was the understanding of the Illinois Department of Corrections and the City of St. Charles that the conveyance described in Section 10 of this Act would be included in Public Act 92-532.

(3) It has since been discovered that the conveyance described in Section 10 of this Act was not included in Public Act 92-532, and this Act is necessary to ensure that the conveyance be made so that the land may be used for a public purpose.

Section 25. The Director of the Illinois Department of Corrections is authorized to convey a permanent exclusive easement to the City of St. Charles, Illinois, lessees of the City of St. Charles, Illinois, and all public utility companies of any kind of operation under franchise agreements granting them easement rights from the City of St. Charles, Illinois, and their successors and assigns in, upon, across, over, under, and through the following described land in Kane County, Illinois:

Parcel 10: ILLINOIS DEPARTMENT OF CORRECTIONS

The Westerly Sixty Feet and the Northerly Ten Feet of that part of the Southeast Quarter of Section 31 Township 40 North, Range 8 East of the Third Principal Meridian, described as follows:

Beginning at the Northeast corner of Tract of Land conveyed to the City of St. Charles by Quit Claim Deed recorded November 30, 1993 as Document No. 93K095347 (Parcel 1) in the Kane County Records Office; thence Southerly along the East Line of said Tract, 749.89 feet; thence Southwesterly along the Southeast Line of said Tract which forms an angle of 210 degrees 30 minutes and 00 seconds with last described course (measured clockwise therefrom) 309.61 feet; thence Easterly along a line that forms an angle of 59 degrees 55 minutes and 57 seconds with the last described course (measured clockwise therefrom) 715.24 feet, to a point on the Southerly Extension of the West Line of Tract of Land conveyed to the Illinois Department of Transportation by document No. 1690232 in said Records Office, said point being 550.00 feet South of Southwest corner of said Tract; thence Northerly along said Southerly Extension and the West Line of said Tract, and which line forms an angle of 90 degrees 00 minutes and 00 seconds with the last described course (measured clockwise therefrom) 1050.00 feet, to the Northwest corner of said Illinois Department of Transportation Tract, being on the South Right of Way of Illinois State Route 38, (said South Right of Way Line being 60.00 feet normally distant South of the Centerline of Illinois State Route 38); thence westerly along said Right of Way line 566.70 feet, to the Point of Beginning, in St. Charles Township, Kane County, Illinois.

Section 90. The Director of the Illinois Department of Corrections shall obtain a certified copy of the portion of this Act containing the title, enacting clause, effective date, the appropriate Sections containing the land descriptions of the property listed in Sections 15 and 25 to be transferred or

[May 27, 2005]

otherwise affected under this Act after its effective date and, upon receipt of payment, if payment is required by the Section, shall record the certified document in the Recorder's Office in Kane County.

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

**AMENDMENT NO. 2 TO SENATE BILL 2038**

AMENDMENT NO. 2. Amend Senate Bill 2038, AS AMENDED, with reference to page and line numbers of House Amendment 1, on page 3, immediately below line 30, by inserting the following:

"The conveyance of land under this Section is subject to the condition that the land must be used or held by the Community Unit School District 303 for public purposes unless otherwise authorized by law. If at any time the condition is breached then the land shall revert back to the State of Illinois, Department of Corrections, by operation of law."

Under the rules, the foregoing **Senate Bill No. 2038**, with House Amendments numbered 1 and 2, 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 a bill of the following title, to-wit:

HOUSE BILL NO. 350

A bill for AN ACT concerning criminal law.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 350

I am further directed to inform the Senate that the House of Representatives has refused to concur with the Senate in the adoption of the following amendment:

Senate Amendment No. 6 to HOUSE BILL NO. 350

Action taken by the House, May 27, 2005.

MARK MAHONEY, Clerk of the House

Under the rules, the foregoing **House Bill No. 350**, with Senate Amendment No. 6, 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 refused to concur with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 1195

A bill for AN ACT concerning transportation.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 1195

Non-concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of the House

Under the rules, the foregoing **House Bill No. 1195**, with Senate Amendment No. 2, 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 amendments to a bill of the following title, to-wit:

HOUSE BILL NO. 2531

A bill for AN ACT concerning regulation.

[May 27, 2005]

Which amendments are as follows:

Senate Amendment No. 3 to HOUSE BILL NO. 2531

Senate Amendment No. 4 to HOUSE BILL NO. 2531

Senate Amendment No. 5 to HOUSE BILL NO. 2531

Senate Amendment No. 6 to HOUSE BILL NO. 2531

I am further directed to inform the Senate that the House of Representatives has refused to concur with the Senate in the adoption of the following amendment:

Senate Amendment No. 2 to HOUSE BILL NO. 2531

Action taken by the House, May 27, 2005.

MARK MAHONEY, Clerk of the House

Under the rules, the foregoing **House Bill No. 2531**, with Senate Amendment No. 2, 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 a bill of the following title, to-wit:

HOUSE BILL 595

A bill for AN ACT in relation to educational materials on hepatitis C for veterans.

Which amendment is as follows:

Senate Amendment No. 3 to HOUSE BILL NO. 595

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 596

A bill for AN ACT concerning criminal law.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 596

Senate Amendment No. 2 to HOUSE BILL NO. 596

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 612

A bill for AN ACT concerning State government.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 612

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

[May 27, 2005]

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 615

A bill for AN ACT concerning health.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 615

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 669

A bill for AN ACT concerning finance.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 669

Senate Amendment No. 3 to HOUSE BILL NO. 669

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 678

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 678

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 760

A bill for AN ACT in relation to funeral expenses.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 760

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 763

A bill for AN ACT concerning criminal law.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 763

[May 27, 2005]

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 783

A bill for AN ACT concerning child support.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 783

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 788

A bill for AN ACT concerning State government.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 788

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 864

A bill for AN ACT concerning criminal law.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 864

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 866

A bill for AN ACT concerning regulation.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 866

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

[May 27, 2005]

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 875

A bill for AN ACT concerning regulation.

Which amendment is as follows:

Senate Amendment No. 5 to HOUSE BILL NO. 875

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 909

A bill for AN ACT concerning counties.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 909

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of 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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 1058

A bill for AN ACT concerning business.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 1058

Concurred in by the House, May 27, 2005.

MARK MAHONEY, Clerk of the House

### JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bill 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 506

Motion to Concur in House Amendment 2 to Senate Bill 506

Motion to Concur in House Amendment 3 to Senate Bill 506

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

Motion to Recede from Senate Amendment 6 to House Bill 350

### SENATE BILL RECALLED

On motion of Senator J. Sullivan, **Senate Bill No. 799** was recalled from the order of third reading to the order of second reading.

Senator J. Sullivan offered the following amendment and moved its adoption:

[May 27, 2005]



**AMENDMENT NO. 1 TO SENATE BILL 799**

AMENDMENT NO. 1. Amend Senate Bill 799 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Section 7-132 as follows:  
(40 ILCS 5/7-132) (from Ch. 108 1/2, par. 7-132)

Sec. 7-132. Municipalities, instrumentalities and participating instrumentalities included and effective dates.

**(A) Municipalities and their instrumentalities.**

(a) The following described municipalities, but not including any with more than 1,000,000 inhabitants, and the instrumentalities thereof, shall be included within and be subject to this Article beginning upon the effective dates specified by the Board:

(1) Except as to the municipalities and instrumentalities thereof specifically excluded under this Article, every county shall be subject to this Article, and all cities, villages and incorporated towns having a population in excess of 5,000 inhabitants as determined by the last preceding decennial or subsequent federal census, shall be subject to this Article following publication of the census by the Bureau of the Census. Within 90 days after publication of the census, the Board shall notify any municipality that has become subject to this Article as a result of that census, and shall provide information to the corporate authorities of the municipality explaining the duties and consequences of participation. The notification shall also include a proposed date upon which participation by the municipality will commence.

However, for any city, village or incorporated town that attains a population over 5,000 inhabitants after having provided social security coverage for its employees under the Social Security Enabling Act, participation under this Article shall not be mandatory but may be elected in accordance with subparagraph (3) or (4) of this paragraph (a), whichever is applicable.

(2) School districts, other than those specifically excluded under this Article, shall be subject to this Article, without election, with respect to all employees thereof.

(3) Towns and all other bodies politic and corporate which are formed by vote of, or are subject to control by, the electors in towns and are located in towns which are not participating municipalities on the effective date of this Act, may become subject to this Article by election pursuant to Section 7-132.1.

(4) Any other municipality (together with its instrumentalities), other than those specifically excluded from participation and those described in paragraph (3) above, may elect to be included either by referendum under Section 7-134 or by the adoption of a resolution or ordinance by its governing body. A copy of such resolution or ordinance duly authenticated and certified by the clerk of the municipality or other appropriate official of its governing body shall constitute the required notice to the board of such action.

(b) A municipality that is about to begin participation shall submit to the Board an application to participate, in a form acceptable to the Board, not later than 90 days prior to the proposed effective date of participation. The Board shall act upon the application within 90 days, and if it finds that the application is in conformity with its requirements and the requirements of this Article, participation by the applicant shall commence on a date acceptable to the municipality and specified by the Board, but in no event more than one year from the date of application.

(c) A participating municipality which succeeds to the functions of a participating municipality which is dissolved or terminates its existence shall assume and be transferred the net accumulation balance in the municipality reserve and the municipality account receivable balance of the terminated municipality.

(d) In the case of a Veterans Assistance Commission whose employees were being treated by the Fund on January 1, 1990 as employees of the county served by the Commission, the Fund may continue to treat the employees of the Veterans Assistance Commission as county employees for the purposes of this Article, unless the Commission becomes a participating instrumentality in accordance with subsection (B) of this Section.

**(B) Participating instrumentalities.**

(a) The participating instrumentalities designated in paragraph (b) of this subsection shall be included within and be subject to this Article if:

(1) an application to participate, in a form acceptable to the Board and adopted by a two-thirds vote of the governing body, is presented to the Board not later than 90 days prior to the proposed effective date; and

[May 27, 2005]

(2) the Board finds that the application is in conformity with its requirements, that the applicant has reasonable expectation to continue as a political entity for a period of at least 10 years and has the prospective financial capacity to meet its current and future obligations to the Fund, and that the actuarial soundness of the Fund may be reasonably expected to be unimpaired by approval of participation by the applicant.

The Board shall notify the applicant of its findings within 90 days after receiving the application, and if the Board approves the application, participation by the applicant shall commence on the effective date specified by the Board.

(b) The following participating instrumentalities, so long as they meet the requirements of Section 7-108 and the area served by them or within their jurisdiction is not located entirely within a municipality having more than one million inhabitants, may be included hereunder:

- i. Township School District Trustees.
- ii. Multiple County and Consolidated Health Departments created under Division 5-25 of the Counties Code or its predecessor law.
- iii. Public Building Commissions created under the Public Building Commission Act, and located in counties of less than 1,000,000 inhabitants.
- iv. A multitype, consolidated or cooperative library system created under the Illinois Library System Act. Any library system created under the Illinois Library System Act that has one or more predecessors that participated in the Fund may participate in the Fund upon application. The Board shall establish procedures for implementing the transfer of rights and obligations from the predecessor system to the successor system.
- v. Regional Planning Commissions created under Division 5-14 of the Counties Code or its predecessor law.
- vi. Local Public Housing Authorities created under the Housing Authorities Act, located in counties of less than 1,000,000 inhabitants.
- vii. Illinois Municipal League.
- viii. Northeastern Illinois Metropolitan Area Planning Commission.
- ix. Southwestern Illinois Metropolitan Area Planning Commission.
- x. Illinois Association of Park Districts.
- xi. Illinois Supervisors, County Commissioners and Superintendents of Highways Association.
- xii. Tri-City Regional Port District.
- xiii. An association, or not-for-profit corporation, membership in which is authorized under Section 85-15 of the Township Code.
- xiv. Drainage Districts operating under the Illinois Drainage Code.
- xv. Local mass transit districts created under the Local Mass Transit District Act.
- xvi. Soil and water conservation districts created under the Soil and Water Conservation Districts Law.
- xvii. Commissions created to provide water supply or sewer services or both under Division 135 or Division 136 of Article 11 of the Illinois Municipal Code.
- xviii. Public water districts created under the Public Water District Act.
- xix. Veterans Assistance Commissions established under Section 9 of the Military Veterans Assistance Act that serve counties with a population of less than 1,000,000.
- xx. The governing body of an entity, other than a vocational education cooperative, created under an intergovernmental cooperative agreement established between participating municipalities under the Intergovernmental Cooperation Act, which by the terms of the agreement is the employer of the persons performing services under the agreement under the usual common law rules determining the employer-employee relationship. The governing body of such an intergovernmental cooperative entity established prior to July 1, 1988 may make participation retroactive to the effective date of the agreement and, if so, the effective date of participation shall be the date the required application is filed with the fund. If any such entity is unable to pay the required employer contributions to the fund, then the participating municipalities shall make payment of the required contributions and the payments shall be allocated as provided in the agreement or, if not so provided, equally among them.
- xxi. The Illinois Municipal Electric Agency.
- xxii. The Waukegan Port District.
- xxiii. The Fox Waterway Agency created under the Fox Waterway Agency Act.
- xxiv. The Illinois Municipal Gas Agency.
- xxv. The Kaskaskia Regional Port District.

[May 27, 2005]

xxvi. The Southwestern Illinois Development Authority.

xxvii. The Cairo Public Utility Company.

xxviii. The United Counties Council of Illinois. If the United Counties Council of Illinois becomes a participating instrumentality included within and subject to this Article, service with the Council under its previous name (the Urban Counties Council of Illinois) shall be deemed service with the same employer. The employer may elect to make any employee contributions for prior service on behalf of the employees.

(c) The governing boards of special education joint agreements created under Section 10-22.31 of the School Code without designation of an administrative district shall be included within and be subject to this Article as participating instrumentalities when the joint agreement becomes effective. However, the governing board of any such special education joint agreement in effect before September 5, 1975 shall not be subject to this Article unless the joint agreement is modified by the school districts to provide that the governing board is subject to this Article, except as otherwise provided by this Section.

The governing board of the Special Education District of Lake County shall become subject to this Article as a participating instrumentality on July 1, 1997. Notwithstanding subdivision (a)1 of Section 7-139, on the effective date of participation, employees of the governing board of the Special Education District of Lake County shall receive creditable service for their prior service with that employer, up to a maximum of 5 years, without any employee contribution. Employees may establish creditable service for the remainder of their prior service with that employer, if any, by applying in writing and paying an employee contribution in an amount determined by the Fund, based on the employee contribution rates in effect at the time of application for the creditable service and the employee's salary rate on the effective date of participation for that employer, plus interest at the effective rate from the date of the prior service to the date of payment. Application for this creditable service must be made before July 1, 1998; the payment may be made at any time while the employee is still in service. The employer may elect to make the required contribution on behalf of the employee.

The governing board of a special education joint agreement created under Section 10-22.31 of the School Code for which an administrative district has been designated, if there are employees of the cooperative educational entity who are not employees of the administrative district, may elect to participate in the Fund and be included within this Article as a participating instrumentality, subject to such application procedures and rules as the Board may prescribe.

The Boards of Control of cooperative or joint educational programs or projects created and administered under Section 3-15.14 of the School Code, whether or not the Boards act as their own administrative district, shall be included within and be subject to this Article as participating instrumentalities when the agreement establishing the cooperative or joint educational program or project becomes effective.

The governing board of a special education joint agreement entered into after June 30, 1984 and prior to September 17, 1985 which provides for representation on the governing board by less than all the participating districts shall be included within and subject to this Article as a participating instrumentality. Such participation shall be effective as of the date the joint agreement becomes effective.

The governing boards of educational service centers established under Section 2-3.62 of the School Code shall be included within and subject to this Article as participating instrumentalities. The governing boards of vocational education cooperative agreements created under the Intergovernmental Cooperation Act and approved by the State Board of Education shall be included within and be subject to this Article as participating instrumentalities. If any such governing boards or boards of control are unable to pay the required employer contributions to the fund, then the school districts served by such boards shall make payment of required contributions as provided in Section 7-172. The payments shall be allocated among the several school districts in proportion to the number of students in average daily attendance for the last full school year for each district in relation to the total number of students in average attendance for such period for all districts served. If such educational service centers, vocational education cooperatives or cooperative or joint educational programs or projects created and administered under Section 3-15.14 of the School Code are dissolved, the assets and obligations shall be distributed among the districts in the same proportions unless otherwise provided.

(d) The governing boards of special recreation joint agreements created under Section 8-10b of the Park District Code, operating without designation of an administrative district or an administrative municipality appointed to administer the program operating under the authority of such joint agreement shall be included within and be subject to this Article as participating instrumentalities when the joint agreement becomes effective. However, the governing board of any such special recreation joint agreement in effect before January 1, 1980 shall not be subject to this Article unless the joint agreement

is modified, by the districts and municipalities which are parties to the agreement, to provide that the governing board is subject to this Article.

If the Board returns any employer and employee contributions to any employer which erroneously submitted such contributions on behalf of a special recreation joint agreement, the Board shall include interest computed from the end of each year to the date of payment, not compounded, at the rate of 7% per annum.

(e) Each multi-township assessment district, the board of trustees of which has adopted this Article by ordinance prior to April 1, 1982, shall be a participating instrumentality included within and subject to this Article effective December 1, 1981. The contributions required under Section 7-172 shall be included in the budget prepared under and allocated in accordance with Section 2-30 of the Property Tax Code.

(f) Beginning January 1, 1992, each prospective participating municipality or participating instrumentality shall pay to the Fund the cost, as determined by the Board, of a study prepared by the Fund or its actuary, detailing the prospective costs of participation in the Fund to be expected by the municipality or instrumentality.

(Source: P.A. 92-424, eff. 8-17-01; 93-777, eff. 7-21-04.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended was ordered to a third reading.

#### READING OF BILL OF THE SENATE A THIRD TIME

On motion of Senator J. Sullivan, **Senate Bill No. 799**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

[May 27, 2005]

## SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 1185** was recalled from the order of third reading to the order of second reading.

Senator J. Jones offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 1185**

AMENDMENT NO. 1. Amend Senate Bill 1185 by replacing everything after the enacting clause with the following:

"Section 5. The State of Illinois owns the following described real estate, which is under the control of the Department of Corrections:

PARCEL I:

The East Half (E/2) of the Northwest Quarter (NW/4), and all that part of the Northeast Quarter (NE/4) lying West of the right-of-way of the C.C.C. & St. L. Railroad, formerly the Cairo, Vincennes & Chicago Railroad; all in Section 29, Township 3 South and Range 14 West of the Second Principal Meridian, containing 160.73, acres, more or less;

EXCEPT, so much of the above-described premises heretofore conveyed to the State of Illinois as shown by Quitclaim Deed and Warranty Deed, each dated December 4, 1964, and recorded in Deed Record 229, at pages 389 and 391, respectively, in the Office of the Recorder of White County, Illinois;

EXCEPT, also, so much thereof conveyed to Marathon Oil Company, as shown by Warranty Deed dated September 15, 1969, recorded in Deed Record 240, at page 102 of the Recorder's Office of White County, Illinois;

EXCEPT, also, so much thereof conveyed to Dersch Oil Company, Inc. as shown by Warranty Deed dated June 9, 1976, recorded in Deed Record 259 at pages 293-294, and by Warranty Deed dated January 5, 1977, recorded in Deed Record 261 at pages 56-57 of the Recorder's Office of White County, Illinois;

EXCEPT, also, the following described real estate: Part of the East Half (E/2) of the Northwest Quarter (NW/4) and of the Northeast Quarter (NE/4) of Section 29, Township 3 South, Range 14 West of the Second Principal Meridian, White County, Illinois, more particularly described as follows:

Commencing at an iron pin at the Northeast corner of Section 29, Township 3 South, Range 14 West of the Second Principal Meridian, White County, Illinois; thence North 89E 51' 26" West (all bearings are referenced to the Illinois State Plane Coordinate System East Zone Datum of 1983) a distance of 928.93 feet along the North line of Section 29 to the point of beginning on the existing West right-of-way line of State Bond Issue Route 1; thence North 89E 51' 26" West 68.97 feet along said North line; thence South 08E 06' 09" West 88.98 feet; thence South 01E 38' 58" West 100.11 feet; thence Southwesterly a distance of 546.59 feet along a curve concave to the Northwest and not tangent with the last described line to the existing West right-of-way line of State Bond Issue Route 1, said curve has a radius of 3,616.73 feet, a central angle of 08E 39' 33", and the chord of said curve bears South 18E 16' 52" West; thence North 22E 36' 39" East 393.47 feet along the existing West right-of-way line of State Bond Issue Route 1, said existing right-of-way line not being tangent with the last described curve; thence Northeasterly a distance of 359.39 feet along a tangential curve concave to the Northwest along said existing West right-of-way line, said curve having a radius of 1,808.34 feet, a central angle of 11E 23' 13", to the point of beginning, containing 0.42 acres, more or less, situated in the County of White, State of Illinois.

EXCEPT also, part of the East Half (E/2) of the Northwest Quarter (NW/4) and of the Northeast Quarter (NE/4) of Section 29, Township 3 South, Range 14 West of the Second Principal Meridian, White County, Illinois, more particularly described as follows:

Tract I: Beginning at a point on the existing West right-of-way line of State Bond Issue Route 1, said point being 60.00 feet radially distance westerly from the centerline of Federal Aid Primary Route 332 at Station 787+90.00; thence Northerly to a point 85.00 feet radially distant Westerly from said centerline at Station 788+70.00; thence Northeasterly to a point on said existing West right-of-way line, said point being 60.00 feet radially distant Westerly from said centerline at Station 789+35.00; thence Southerly along said existing West right-of-way line to the point of beginning and containing 0.04 acre, more or less.

Tract II: Beginning at a point on the existing West right-of-way line of State Bond Issue Route 1, said point being 60.00 feet radially distant Westerly from the centerline of Federal Aid Primary

[May 27, 2005]

Route 332 at Station 791+28.15; thence Northerly to a point 80.00 feet perpendicular distance Westerly from said centerline at Station 793+00.00; thence Northerly to a point 85.00 feet radially distant Westerly from said centerline at Station 795+44.34; thence Northerly to a point 90.00 feet radially distant Westerly from said centerline at Station 798+15.00; thence Northerly to a point 80.00 feet radially distant Westerly from said centerline at Station 801+00.00; thence Northerly to a point 80.00 feet radially distant Westerly from said centerline at Station 802+00.00; thence Southerly to a point 60.00 feet radially distant Westerly from said centerline at Station 801+00.00; thence Southerly along a curve 60.00 feet radially distant from and concentric with said centerline to a point 60.00 feet radially distant from said centerline at Station 795+44.34; thence Southerly to the point of beginning and containing 0.54 acre, more or less.

PARCEL II:

The West Half (W/2) of the West Half (W/2) of Section 29, Township 3 South, Range 14 West of the Second Principal Meridian, in White County, Illinois, EXCEPT the South 51 acres of the West Half (W/2) of the Southwest Quarter (SW/4) of said Section 29; ALSO EXCEPTING 9.1 acres in that part of the Northwest Quarter (NW/4) of the Southwest Quarter (SW/4) of said Section 29, conveyed to the State of Illinois by Deed dated November 17, 1964, recorded in Book 229 of Deeds, page 631 in the Office of the Recorder of White County, Illinois.

Section 10. The real estate described in Section 5 was conveyed to the State from the City of Grayville. The State no longer needs the property. Therefore, the Director of Corrections, on behalf of the State of Illinois and the Department of Corrections, must convey by quit claim deed all right, title, and interest of the State of Illinois and the Department of Corrections in and to the real estate described in Section 5 of this Act to the City of Grayville at no additional consideration.

Section 15. The Director of Corrections shall obtain a certified copy of this Act within 60 days after this Act's effective date and shall record the certified document in the Recorder's Office of White County, Illinois.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended was ordered to a third reading.

**READING OF BILL OF THE SENATE A THIRD TIME**

On motion of Senator Cullerton, **Senate Bill No. 1185**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Shadid
Bomke	Geo-Karis	Meeks	Sieben
Brady	Haine	Munoz	Silverstein
Burzynski	Halvorson	Pankau	Sullivan, D.
Clayborne	Harmon	Peterson	Sullivan, J.
Collins	Hendon	Petka	Syverson
Cronin	Hunter	Raoul	Trotter
Crotty	Jacobs	Rauschenberger	Viverito
Cullerton	Jones, J.	Righter	Watson

[May 27, 2005]

Dahl	Jones, W.	Risinger	Wilhelmi
del Valle	Lauzen	Ronen	Winkel
DeLeo	Lightford	Roskam	Wojeik
Demuzio	Link	Rutherford	Mr. President
Dillard	Luechtefeld	Sandoval	
Forby	Maloney	Schoenberg	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### HOUSE BILL RECALLED

On motion of Senator Martinez, **House Bill No. 227** was recalled from the order of third reading to the order of second reading.

Senator DeLeo offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 227

AMENDMENT NO. 1. Amend House Bill 227 on page 1, by replacing line 5 with the following: "Sections 8-152 and 14-104 and adding Section 8-152.1 as follows:

(40 ILCS 5/8-152) (from Ch. 108 1/2, par. 8-152)

Sec. 8-152. Widows or former wives not entitled to annuity. Except as provided in Section 8-152.1, the following widows or former wives of employees have no right to annuity from the fund:

(a) The widow, married subsequent to the effective date, of an employee who dies in service if she was not married to him before he attained age 65;

(b) The widow, married subsequent to the effective date, of an employee who withdraws from service whether or not he enters upon annuity, and who dies while out of service, if she was not his wife while he was in service and before he attained age 65;

(c) The widow of an employee with 10 or more years of service whose death occurs out of and after he has withdrawn from service, and who has received a refund of his contributions for annuity purposes;

(d) The widow of an employee with less than 10 years of service who dies out of service after he has withdrawn from service before he attained age 60;

(e) The former wife of an employee whose judgment of dissolution of marriage has been vacated or set aside after the employee's death, unless the proceedings to vacate or set aside the judgment were filed in court within 5 years after the entry thereof and within one year after the employee's death, and unless the board is made a party defendant to such proceedings.

(Source: P.A. 81-1536.)

(40 ILCS 5/8-152.1 new)

Sec. 8-152.1. Widow's annuity for widow married to member for at least 10 years. Notwithstanding Section 8-152 or any other provision of this Code to the contrary, if (1) a member has a spouse who would have qualified for a minimum annuity for widows under Section 8-150.1 at the time of the member's retirement, (2) the qualifying spouse dies, (3) the member subsequently remarries, and (4) the member does not receive a refund under Section 8-169, then the member's widow shall be entitled to a widow's annuity if (i) the member dies after May 1, 2004 and before November 1, 2004 and (ii) the widow was married to the member for at least the last 10 years prior to the member's death. A widow who elects to receive a widow's annuity under this Section is thereafter ineligible to receive any other survivor's benefit under this Article. A widow who is receiving any survivor's benefit under this Article is thereafter ineligible to receive a widow's annuity under this Section. If a widow who is receiving a widow's annuity under this Section remarries, then the benefits paid to that widow shall be terminated effective on the last day of the month in which the widow remarries. To establish credit under this Section, the widow must apply to the Fund on or before July 1, 2006."; and

on page 5, immediately below line 35, by inserting the following:

"Section 90. The State Mandates Act is amended by adding Section 8.29 as follows:

(30 ILCS 805/8.29 new)

Sec. 8.29. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the

[May 27, 2005]

State is required for the implementation of any mandate created by this amendatory Act of the 94th General Assembly."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Martinez, **House Bill No. 227**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays 1.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Shadid
Bomke	Geo-Karis	Meeks	Sieben
Brady	Haine	Munoz	Silverstein
Burzynski	Halvorson	Pankau	Sullivan, D.
Clayborne	Harmon	Peterson	Sullivan, J.
Collins	Hendon	Petka	Syverson
Cronin	Hunter	Radogno	Trotter
Crotty	Jacobs	Raoul	Viverito
Cullerton	Jones, J.	Righter	Watson
Dahl	Jones, W.	Risinger	Wilhelmi
del Valle	Lauzen	Ronen	Wojcik
DeLeo	Lightford	Roskam	Mr. President
Demuzio	Link	Rutherford	
Dillard	Luechtefeld	Sandoval	
Forby	Maloney	Schoenberg	

The following voted in the negative:

Rauschenberger

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Maloney, **House Bill No. 2062** was recalled from the order of third reading to the order of second reading.

Senator Maloney offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO HOUSE BILL 2062

AMENDMENT NO. 2. Amend House Bill 2062 by replacing everything after the enacting clause with the following:

"Section 5. The Nursing Home Care Act is amended by changing Sections 2-110 and 2-201.5 and by adding Sections 1-114.01, 2-216, 3-202.3, and 3-202.4 as follows:

(210 ILCS 45/1-114.01 new)

[May 27, 2005]



Sec. 1-114.01. Identified offender. "Identified offender" means a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense.

(210 ILCS 45/2-110) (from Ch. 111 1/2, par. 4152-110)

Sec. 2-110. (a) Any employee or agent of a public agency, any representative of a community legal services program or any other member of the general public shall be permitted access at reasonable hours to any individual resident of any facility, but only if there is neither a commercial purpose nor effect to such access and if the purpose is to do any of the following:

(1) Visit, talk with and make personal, social and legal services available to all residents;

(2) Inform residents of their rights and entitlements and their corresponding obligations, under federal and State laws, by means of educational materials and discussions in groups and with individual residents;

(3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or

(4) Engage in other methods of asserting, advising and representing residents so as to extend to them full enjoyment of their rights.

(a-5) If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release.

(b) All persons entering a facility under this Section shall promptly notify appropriate facility personnel of their presence. They shall, upon request, produce identification to establish their identity. No such person shall enter the immediate living area of any resident without first identifying himself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected. A resident may terminate at any time a visit by a person having access to the resident's living area under this Section.

(c) This Section shall not limit the power of the Department or other public agency otherwise permitted or required by law to enter and inspect a facility.

(d) Notwithstanding paragraph (a) of this Section, the administrator of a facility may refuse access to the facility to any person if the presence of that person in the facility would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the facility, or if the person seeks access to the facility for commercial purposes. Any person refused access to a facility may within 10 days request a hearing under Section 3-703. In that proceeding, the burden of proof as to the right of the facility to refuse access under this Section shall be on the facility.

(Source: P.A. 82-783.)

(210 ILCS 45/2-201.5)

Sec. 2-201.5. Screening prior to admission.

(a) All persons age 18 or older seeking admission to a nursing facility must be screened to determine the need for nursing facility services prior to being admitted, regardless of income, assets, or funding source. In addition, any person who seeks to become eligible for medical assistance from the Medical Assistance Program under the Illinois Public Aid Code to pay for long term care services while residing in a facility must be screened prior to receiving those benefits. Screening for nursing facility services shall be administered through procedures established by administrative rule. Screening may be done by agencies other than the Department as established by administrative rule. This Section applies on and after July 1, 1996.

(b) In addition to the screening required by subsection (a), identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of the Department's administrative rules adopted pursuant to Section 3-202.3.

(Source: P.A. 91-467, eff. 1-1-00.)

(210 ILCS 45/2-216 new)

Sec. 2-216. Notification of identified offenders. If identified offenders are residents of the licensed facility, the licensed facility shall notify every resident or resident's guardian in writing that such offenders are residents of the licensed facility. The licensed facility shall also provide notice to its employees and to visitors to the facility that identified offenders are residents.

(210 ILCS 45/3-202.3 new)

Sec. 3-202.3. Identified offenders as residents. No later than 30 days after the effective date of this amendatory Act of the 94th General Assembly, the Department shall file with the Illinois Secretary of

State's Office, pursuant to the Illinois Administrative Procedure Act, emergency rules regarding the provision of services to identified offenders. The emergency rules shall provide for, or include, but not be limited to the following:

(1) A process for the identification of identified offenders.

(2) A required risk assessment of identified offenders.

(3) A requirement that a licensed facility be required, within 10 days of the filing of the emergency rules, to compare its residents against the Illinois Department of Corrections and Illinois State Police registered sex offender databases.

(4) A requirement that the licensed facility notify the Department within 48 hours of determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases.

(5) The care planning of identified offenders, which shall include, but not be limited to, a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other facility residents.

(6) For offenders serving terms of probation for felony offenses, parole, or mandatory supervised release, the facility shall acknowledge the terms of release as imposed by the court or Illinois Prisoner Review Board.

(7) The discharge planning for identified offenders.

(210 ILCS 45/3-202.4 new)

Sec. 3-202.4. Feasibility of segregating identified offenders. The Department shall determine the feasibility of requiring identified offenders that seek admission to a licensed facility to be segregated from other residents. The Department shall report its findings to the General Assembly and the Office of the Governor not later than 6 months after the effective date of this amendatory Act of the 94th General Assembly.

Section 10. The Unified Code of Corrections is amended by changing Section 3-14-1 as follows:

(730 ILCS 5/3-14-1) (from Ch. 38, par. 1003-14-1)

Sec. 3-14-1. Release from the Institution.

(a) Upon release of a person on parole, mandatory release, final discharge or pardon the Department shall return all property held for him, provide him with suitable clothing and procure necessary transportation for him to his designated place of residence and employment. It may provide such person with a grant of money for travel and expenses which may be paid in installments. The amount of the money grant shall be determined by the Department.

The Department of Corrections may establish and maintain, in any institution it administers, revolving funds to be known as "Travel and Allowances Revolving Funds". These revolving funds shall be used for advancing travel and expense allowances to committed, paroled, and discharged prisoners. The moneys paid into such revolving funds shall be from appropriations to the Department for Committed, Paroled, and Discharged Prisoners.

(b) (Blank).

(c) Except as otherwise provided in this Code, the Department shall establish procedures to provide written notification of any release of any person who has been convicted of a felony to the State's Attorney and sheriff of the county from which the offender was committed, and the State's Attorney and sheriff of the county into which the offender is to be paroled or released. Except as otherwise provided in this Code, the Department shall establish procedures to provide written notification to the proper law enforcement agency for any municipality of any release of any person who has been convicted of a felony if the arrest of the offender or the commission of the offense took place in the municipality, if the offender is to be paroled or released into the municipality, or if the offender resided in the municipality at the time of the commission of the offense. If a person convicted of a felony who is in the custody of the Department of Corrections or on parole or mandatory supervised release informs the Department that he or she has resided, resides, or will reside at an address that is a housing facility owned, managed, operated, or leased by a public housing agency, the Department must send written notification of that information to the public housing agency that owns, manages, operates, or leases the housing facility. The written notification shall, when possible, be given at least 14 days before release of the person from custody, or as soon thereafter as possible.

(c-1) (Blank).

(c-5) If a person on parole or mandatory supervised release becomes a resident of a facility licensed or regulated by the Department of Public Health, the Illinois Department of Public Aid, or the Illinois Department of Human Services, the Department of Corrections shall provide copies of the following information to the appropriate licensing or regulating department and the licensed or regulated facility

where the person becomes a resident:

(1) The mittimus and any pre-sentence investigation reports.

(2) The social evaluation prepared pursuant to Section 3-8-2.

(3) Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2.

(4) Reports of disciplinary infractions and dispositions.

(5) Any parole plan, including orders issued by the Prisoner Review Board, and any violation reports and dispositions.

(6) The name and contact information for the assigned parole agent and parole supervisor.

This information shall be provided within 3 days of the person becoming a resident of the facility.

(c-10) If a person on parole or mandatory supervised release becomes a resident of a facility licensed or regulated by the Department of Public Health, the Illinois Department of Public Aid, or the Illinois Department of Human Services, the Department of Corrections shall provide written notification of such residence to the following:

(1) The Prisoner Review Board.

(2) The chief of police and sheriff in the municipality and county in which the licensed facility is located.

The notification shall be provided within 3 days of the person becoming a resident of the facility.

(d) Upon the release of a committed person on parole, mandatory supervised release, final discharge or pardon, the Department shall provide such person with information concerning programs and services of the Illinois Department of Public Health to ascertain whether such person has been exposed to the human immunodeficiency virus (HIV) or any identified causative agent of Acquired Immunodeficiency Syndrome (AIDS).

(e) Upon the release of a committed person on parole, mandatory supervised release, final discharge, or pardon, the Department shall provide the person who has met the criteria established by the Department with an identification card identifying the person as being on parole, mandatory supervised release, final discharge, or pardon, as the case may be. The Department, in consultation with the Office of the Secretary of State, shall prescribe the form of the identification card, which may be similar to the form of the standard Illinois Identification Card. The Department shall inform the committed person that he or she may present the identification card to the Office of the Secretary of State upon application for a standard Illinois Identification Card in accordance with the Illinois Identification Card Act. The Department shall require the committed person to pay a \$1 fee for the identification card.

For purposes of a committed person receiving an identification card issued by the Department under this subsection, the Department shall establish criteria that the committed person must meet before the card is issued. It is the sole responsibility of the committed person requesting the identification card issued by the Department to meet the established criteria. The person's failure to meet the criteria is sufficient reason to deny the committed person the identification card. An identification card issued by the Department under this subsection shall be valid for a period of time not to exceed 30 calendar days from the date the card is issued. The Department shall not be held civilly or criminally liable to anyone because of any act of any person utilizing a card issued by the Department under this subsection.

The Department shall adopt rules governing the issuance of identification cards to committed persons being released on parole, mandatory supervised release, final discharge, or pardon.  
(Source: P.A. 91-506, eff. 8-13-99; 91-695, eff. 4-13-00; 92-240, eff. 1-1-02.)

Section 15. The Probation and Probation Officers Act is amended by changing Section 12 as follows:  
(730 ILCS 110/12) (from Ch. 38, par. 204-4)

Sec. 12. The duties of probation officers shall be:

(1) To investigate as required by Section 5-3-1 of the "Unified Code of Corrections", approved July 26, 1972, as amended, the case of any person to be placed on probation. Full opportunity shall be afforded a probation officer to confer with the person under investigation when such person is in custody.

(2) To notify the court of any previous conviction for crime or previous probation of any defendant invoking the provisions of this Act.

(3) All reports and notifications required in this Act to be made by probation officers shall be in writing and shall be filed by the clerk in the respective cases.

(4) To preserve complete and accurate records of cases investigated, including a description of the person investigated, the action of the court with respect to his case and his probation, the subsequent history of such person, if he becomes a probationer, during the continuance of his probation, which records shall be open to inspection by any judge or by any probation officer pursuant to order of court, but shall not be a public record, and its contents shall not be divulged otherwise than as above provided,

[May 27, 2005]

except upon order of court.

(5) To take charge of and watch over all persons placed on probation under such regulations and for such terms as may be prescribed by the court, and giving to each probationer full instructions as to the terms of his release upon probation and requiring from him such periodical reports as shall keep the officer informed as to his conduct.

(6) To develop and operate programs of reasonable public or community service for any persons ordered by the court to perform public or community service, providing, however, that no probation officer or any employee of a probation office acting in the course of his official duties shall be liable for any tortious acts of any person performing public or community service except for wilful misconduct or gross negligence on the part of the probation officer or employee.

(7) When any person on probation removes from the county where his offense was committed, it shall be the duty of the officer under whose care he was placed to report the facts to the probation officer in the county to which the probationer has removed; and it shall thereupon become the duty of such probation officer to take charge of and watch over said probationer the same as if the case originated in that county; and for that purpose he shall have the same power and authority over said probationer as if he had been originally placed in said officer's charge; and such officer shall be required to report in writing every 6 months, or more frequently upon request the results of his supervision to the probation officer in whose charge the said probationer was originally placed by the court.

(8) To authorize travel permits to individuals under their supervision unless otherwise ordered by the court.

(9) To perform such other duties as are provided for in this act or by rules of court and such incidental duties as may be implied from those expressly required.

(10) To send written notification to a public housing agency if a person on probation for a felony who is under the supervision of the probation officer informs the probation officer that he or she has resided, resides, or will reside at an address that is a housing facility owned, managed, operated, or leased by that public housing agency.

(11) If a person on probation for a felony offense who is under the supervision of the probation officer becomes a resident of a facility licensed or regulated by the Department of Public Health, the Illinois Department of Public Aid, or Illinois Department of Human Services, the probation officer shall within 3 days of the person becoming a resident, notify the licensing or regulating Department and licensed or regulated facility and shall provide the licensed or regulated facility and licensing or regulating Department with copies of the following:

(a) pre-sentence investigation reports or social investigation reports;

(b) any applicable probation orders and corresponding compliance plans;

(c) the name and contact information for the assigned probation officer.

(Source: P.A. 91-506, eff. 8-13-99.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Maloney, **House Bill No. 2062**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein

[May 27, 2005]

Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

#### CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Crotty, **Senate Bill No. 122**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Crotty moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Meeks	Shadid
Bomke	Geo-Karis	Munoz	Sieben
Brady	Haine	Pankau	Silverstein
Burzynski	Halvorson	Peterson	Sullivan, D.
Clayborne	Harmon	Petka	Sullivan, J.
Collins	Hendon	Radogno	Syverson
Cronin	Hunter	Raoul	Trotter
Crotty	Jacobs	Rauschenberger	Viverito
Cullerton	Jones, J.	Righter	Watson
Dahl	Jones, W.	Risinger	Wilhelmi
del Valle	Lauzen	Ronen	Winkel
DeLeo	Lightford	Roskam	Wojcik
Demuzio	Link	Rutherford	Mr. President
Dillard	Luechtefeld	Sandoval	
Forby	Martinez	Schoenberg	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 122**.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Maloney asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 122**.

On motion of Senator Dillard, **Senate Bill No. 1234**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Dillard moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1234**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Cullerton, **Senate Bill No. 1251**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Cullerton moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1251**.

[May 27, 2005]

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Haine, **Senate Bill No. 1354**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Haine moved that the Senate concur with the House in the adoption of their amendments to said bill.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1354**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Harmon, **Senate Bill No. 1493**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Harmon moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik

[May 27, 2005]

Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1493**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Jacobs, **Senate Bill No. 1666**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Jacobs moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Meeks	Shadid
Bomke	Geo-Karis	Munoz	Sieben
Brady	Haine	Pankau	Silverstein
Burzynski	Halvorson	Peterson	Sullivan, D.
Clayborne	Harmon	Petka	Sullivan, J.
Collins	Hendon	Radogno	Syverson
Cronin	Hunter	Raoul	Trotter
Crotty	Jacobs	Rauschenberger	Viverito
Cullerton	Jones, J.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Wojcik
Demuzio	Luechtefeld	Rutherford	Mr. President
Dillard	Maloney	Sandoval	
Forby	Martinez	Schoenberg	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1666**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Cullerton, **Senate Bill No. 1883**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Cullerton moved that the Senate concur with the House in the adoption of their amendments to said bill.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Shadid
Bomke	Geo-Karis	Meeks	Sieben
Brady	Haine	Munoz	Silverstein
Burzynski	Halvorson	Pankau	Sullivan, D.
Clayborne	Harmon	Peterson	Sullivan, J.
Collins	Hendon	Petka	Syverson
Cronin	Hunter	Radogno	Trotter
Crotty	Jacobs	Raoul	Viverito

[May 27, 2005]



Cullerton	Jones, J.	Rauschenberger	Watson
Dahl	Jones, W.	Righter	Wilhelmi
del Valle	Lauzen	Risinger	Winkel
DeLeo	Lightford	Ronen	Wojcik
Demuzio	Link	Roskam	Mr. President
Dillard	Luechtefeld	Rutherford	
Forby	Maloney	Schoenberg	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1883**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Haine, **Senate Bill No. 1909**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Haine moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 58; Nays None; Present 1.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Shadid
Bomke	Geo-Karis	Meeks	Sieben
Brady	Haine	Munoz	Silverstein
Burzynski	Halvorson	Pankau	Sullivan, D.
Clayborne	Harmon	Peterson	Sullivan, J.
Collins	Hendon	Petka	Syverson
Cronin	Hunter	Radogno	Trotter
Crotty	Jacobs	Raoul	Viverito
Cullerton	Jones, J.	Rauschenberger	Watson
Dahl	Jones, W.	Righter	Wilhelmi
del Valle	Lauzen	Risinger	Winkel
DeLeo	Lightford	Ronen	Wojcik
Demuzio	Link	Roskam	Mr. President
Dillard	Luechtefeld	Rutherford	
Forby	Maloney	Schoenberg	

The following voted present:

Sandoval

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1909**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Raoul, **Senate Bill No. 1953**, with House Amendment No. 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Raoul moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

[May 27, 2005]

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 2 to **Senate Bill No. 1953**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Cullerton, **Senate Bill No. 2082**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Cullerton moved that the Senate concur with the House in the adoption of their amendment to said bill.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 2082**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator DeLeo, **Senate Bill No. 274**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator DeLeo moved that the Senate concur with the House in the adoption of their amendment to said bill.

[May 27, 2005]

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

Yeas 55; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Clayborne	Halvorson	Pankau	Silverstein
Collins	Harmon	Peterson	Sullivan, D.
Cronin	Hendon	Petka	Sullivan, J.
Crotty	Hunter	Radogno	Syverson
Cullerton	Jacobs	Rauschenberger	Trotter
Dahl	Jones, W.	Righter	Viverito
del Valle	Lauzen	Risinger	Watson
DeLeo	Lightford	Ronen	Wilhelmi
Demuzio	Link	Roskam	Winkel
Dillard	Luechtefeld	Rutherford	Wojcik
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 274**.

Ordered that the Secretary inform the House of Representatives thereof.

Senator J. Jones asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 274**.

Senator Raoul asked and obtained unanimous consent for the Journal to reflect his affirmative vote on **Senate Bill No. 274**.

On motion of Senator Trotter, **Senate Bill No. 662**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Trotter moved that the Senate non-concur with the House in the adoption of their amendment to said bill.

The motion prevailed.

And the Senate non-concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 662**.

Ordered that the Secretary inform the House of Representatives thereof.

#### CONSIDERATION OF SENATE AMENDMENTS TO HOUSE BILLS ON SECRETARY'S DESK

On motion of Senator J. Sullivan, **House Bill No. 601**, with Senate Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator J. Sullivan moved that the Senate recede from its Amendment No. 1 to **House Bill No. 601**.

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

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Shadid
Bomke	Geo-Karis	Meeks	Sieben
Brady	Haine	Munoz	Silverstein
Burzynski	Halvorson	Pankau	Sullivan, D.
Clayborne	Harmon	Petka	Sullivan, J.

[May 27, 2005]

Collins	Hendon	Radogno	Syverson
Cronin	Hunter	Raoul	Trotter
Crotty	Jacobs	Rauschenberger	Viverito
Cullerton	Jones, J.	Righter	Watson
Dahl	Jones, W.	Risinger	Wilhelmi
del Valle	Laufen	Ronen	Winkel
DeLeo	Lightford	Roskam	Wojcik
Demuzio	Link	Rutherford	Mr. President
Dillard	Luechtefeld	Sandoval	
Forby	Maloney	Schoenberg	

The motion prevailed.

And the Senate receded from their Amendment No. 1 to **House Bill No. 601**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator DeLeo, **House Bill No. 870**, with Senate Amendment No. 3 on the Secretary's Desk, was taken up for immediate consideration.

Senator DeLeo moved that the Senate recede from its Amendment No. 3 to **House Bill No. 870**.

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

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Laufen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate receded from their Amendment No. 3 to **House Bill No. 870**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Haine, **House Bill No. 1679**, with Senate Amendment No. 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Haine moved that the Senate recede from its Amendment No. 2 to **House Bill No. 1679**.

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

Yeas 57; Nays None; Present 1.

The following voted in the affirmative:

Althoff	Garrett	Munoz	Sieben
Bomke	Geo-Karis	Pankau	Silverstein
Brady	Haine	Peterson	Sullivan, D.
Burzynski	Halvorson	Petka	Sullivan, J.

[May 27, 2005]

Clayborne	Hendon	Radogno	Syverson
Collins	Hunter	Raoul	Trotter
Cronin	Jones, J.	Rauschenberger	Viverito
Crotty	Jones, W.	Righter	Watson
Cullerton	Lauzen	Risinger	Wilhelmi
Dahl	Lightford	Ronen	Winkel
del Valle	Link	Roskam	Wojcik
DeLeo	Luechtefeld	Rutherford	Mr. President
Demuzio	Maloney	Sandoval	
Dillard	Martinez	Schoenberg	
Forby	Meeks	Shadid	

The following voted present:

Harmon

The motion prevailed.

And the Senate recessed from their Amendment No. 2 to **House Bill No. 1679**.

Ordered that the Secretary inform the House of Representatives thereof.

#### LEGISLATIVE MEASURE FILED

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

Senate Amendment No. 1 to Senate Bill 665

#### 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 1832

Motion to Concur in House Amendments 1 and 2 to Senate Bill 1853

Motion to Concur in House Amendment 1 to Senate Bill 1912

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

Motion to Recess from Senate Amendment 2 to House Bill 2531

#### REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its May 27, 2005 meeting, reported the following Legislative Measure has been assigned to the indicated Standing Committee of the Senate:

Appropriations II: **Floor Amendment No. 1 to Senate Bill 665**.

#### CONSIDERATION OF RESOLUTION ON SECRETARY'S DESK

Senator del Valle moved that **Senate Resolution No. 61**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator del Valle moved that Senate Resolution No. 61 be adopted.

[May 27, 2005]

The motion prevailed.  
And the resolution was adopted.

At the hour of 7:07 o'clock p.m., Senator del Valle presiding.

### COMMITTEE MEETING ANNOUNCEMENT

Senator Schoenberg, Chairperson of the Committee on Appropriations II, announced that the Appropriations II Committee will meet Saturday, May 28, 2005, in Room 212 Capitol Building, at 11:00 o'clock a.m.

### HOUSE BILL RECALLED

On motion of Senator Halvorson, **House Bill No. 399** was recalled from the order of third reading to the order of second reading.

Floor Amendment No. 2 was postponed in the Committee on Health & Human Services.

Senator Halvorson offered the following amendment and moved its adoption:

#### AMENDMENT NO. 3 TO HOUSE BILL 399

AMENDMENT NO. 3. Amend House Bill 399, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Health Care Workplace Violence Prevention Act.

Section 5. Findings. The General Assembly finds as follows:

- (1) Violence is an escalating problem in many health care workplaces in this State and across the nation.
- (2) The actual incidence of workplace violence in health care workplaces, in particular, is likely to be greater than documented because of failure to report such incidents or failure to maintain records of incidents that are reported.
- (3) Patients, visitors, and health care employees should be assured a reasonably safe and secure environment in a health care workplace.
- (4) Many health care workplaces have undertaken efforts to ensure that patients, visitors, and employees are safe from violence, but additional personnel training and appropriate safeguards may be needed to prevent workplace violence and minimize the risk and dangers affecting people in connection with the delivery of health care.

Section 10. Definitions. In this Act:

"Department" means (i) the Department of Human Services, in the case of a health care workplace that is operated or regulated by the Department of Human Services, or (ii) the Department of Public Health, in the case of a health care workplace that is operated or regulated by the Department of Public Health.

"Director" means the Secretary of Human Services or the Director of Public Health, as appropriate.

"Employee" means any individual who is employed on a full-time, part-time, or contractual basis by a health care workplace.

"Health care workplace" means a mental health facility or developmental disability facility as defined in the Mental Health and Developmental Disabilities Code, other than a hospital or unit thereof licensed under the Hospital Licensing Act or operated under the University of Illinois Hospital Act. "Health care workplace" does not include, and shall not be construed to include, any office of a physician licensed to practice medicine in all its branches, an advanced practice nurse, or a physician assistant, regardless of the form of such office.

"Imminent danger" means a preliminary determination of immediate, threatened, or impending risk of physical injury as determined by the employee.

"Responsible agency" means the State agency that (i) licenses, certifies, registers, or otherwise regulates or exercises jurisdiction over a health care workplace or a health care workplace's activities or

[May 27, 2005]

(ii) contracts with a health care workplace for the delivery of health care services.

"Violence" or "violent act" means any act by a patient or resident that causes or threatens to cause an injury to another person.

#### Section 15. Workplace violence plan.

(a) By July 1, 2007 (in the case of a health care workplace participating in the pilot project under Section 35) or July 1, 2008 (in the case of health care workplaces not participating in the pilot project), every health care workplace must adopt and implement a plan to reasonably prevent and protect employees from violence at that setting. The plan must address security considerations related to the following items, as appropriate to the particular workplace, based on the hazards identified in the assessment required under subsection (b):

- (1) The physical attributes of the health care workplace.
- (2) Staffing, including security staffing.
- (3) Personnel policies.
- (4) First aid and emergency procedures.
- (5) The reporting of violent acts.
- (6) Employee education and training.

(b) Before adopting the plan required under subsection (a), a health care workplace must conduct a security and safety assessment to identify existing or potential hazards for violence and determine the appropriate preventive action to be taken. The assessment must include, but need not be limited to, a measure of the frequency of, and an identification of the causes for and consequences of, violent acts at the workplace during at least the preceding 5 years or for the years for which records are available.

(c) In adopting the plan required by subsection (a), a health care workplace may consider any guidelines on violence in the workplace or in health care workplaces issued by the Department of Public Health, the Department of Human Services, the federal Occupational Safety and Health Administration, Medicare, and health care workplace accrediting organizations.

(d) It is the intent of the General Assembly that any violence protection and prevention plan developed under this Act be appropriate to the setting in which it is to be implemented. To that end, the General Assembly recognizes that not all health care services are provided in a facility or other formal setting. Many health care services are provided in other, less formal settings. The General Assembly finds that it may be inappropriate and impractical for all health care workplaces to address workplace violence in the same manner. When enforcing this Act, the Department shall allow a health care workplace sufficient flexibility in recognition of the unique circumstances in which the health care workplace may deliver services.

(e) Promptly after adopting a plan under subsection (a), a health care workplace must file a copy of its plan with the Department. The Department shall then forward a copy of the plan to the appropriate responsible agency.

(f) A health care workplace must review its plan at least once every 3 years and must report each such review to the Department, together with any changes to the plan adopted by the health care workplace. If a health care workplace does not adopt any changes to its plan in response to such a review, it must report that fact to the Department. A health care workplace must promptly report to the Department all changes to the health care workplace's plan, regardless of whether those changes were adopted in response to a periodic review required under this subsection. The Department shall then forward a copy of the review report and changes, if any, to the appropriate responsible agency.

(g) A health care workplace that is required to submit written documentation of active safety and violence prevention plans to comply with national accreditation standards shall be deemed to be in compliance with subsections (a), (b), (c), and (f) of this Section when the health care workplace forwards a copy of that documentation to the Department.

Section 20. Violence prevention training. By July 1, 2006 (in the case of a health care workplace participating in the pilot project under Section 35) or July 1, 2009 (in the case of health care workplaces not participating in the pilot project), and on a regular basis thereafter, as set forth in the plan adopted under Section 15, a health care workplace must provide violence prevention training to all its affected employees as determined by the plan. For temporary employees, training must take into account unique circumstances. A health care workplace also shall provide periodic follow-up training for its employees as appropriate. The training may vary by the plan and may include, but need not be limited to, classes, videotapes, brochures, verbal training, or other verbal or written training that is determined to be appropriate under the plan. The training must address the following topics, as appropriate to the

particular health care workplace and to the duties and responsibilities of the particular employee being trained, based on the hazards identified in the assessment required under Section 15:

- (1) General safety procedures.
- (2) Personal safety procedures.
- (3) The violence escalation cycle.
- (4) Violence-predicting factors.
- (5) Obtaining patient history from a patient with a history of violent behavior.
- (6) Verbal and physical techniques to de-escalate and minimize violent behavior.
- (7) Strategies to avoid physical harm.
- (8) Restraining techniques, as permitted and governed by law.
- (9) Appropriate use of medications to reduce violent behavior.
- (10) Documenting and reporting incidents of violence.
- (11) The process whereby employees affected by a violent act may debrief or be calmed down and the tension of the situation may be reduced.
- (12) Any resources available to employees for coping with violence.
- (13) The workplace violence prevention plan adopted under Section 15.
- (14) The protection of confidentiality in accordance with the Health Insurance Portability and Accountability Act of 1996 and other related provisions of law.

Section 25. Record of violent acts. Beginning no later than July 1, 2007 (in the case of a health care workplace participating in the pilot project under Section 35) or July 1, 2008 (in the case of health care workplaces not participating in the pilot project), every health care workplace must keep a record of any violent act against an employee, a patient, or a visitor occurring at the workplace. At a minimum, the record must include the following:

- (1) The health care workplace's name and address.
- (2) The date, time, and specific location at the health care workplace where the violent act occurred.
- (3) The name, job title, department or ward assignment, and staff identification or other identifier of the victim, if the victim was an employee.
- (4) A description of the person against whom the violent act was committed as one of the following:
  - (A) A patient.
  - (B) A visitor.
  - (C) An employee.
  - (D) Other.
- (5) A description of the person committing the violent act as one of the following:
  - (A) A patient.
  - (B) A visitor.
  - (C) An employee.
  - (D) Other.
- (6) A description of the type of violent act as one of the following:
  - (A) A verbal or physical threat that presents imminent danger.
  - (B) A physical assault with major soreness, cuts, or large bruises.
  - (C) A physical assault with severe lacerations, a bone fracture, or a head injury.
  - (D) A physical assault with loss of limb or death.
  - (E) A violent act requiring employee response, in the course of which an employee is injured.
- (7) An identification of any body part injured.
- (8) A description of any weapon used.
- (9) The number of employees in the vicinity of the violent act when it occurred.
- (10) A description of actions taken by employees and the health care workplace in response to the violent act.

Section 30. Assistance in complying with Act. A health care workplace that needs assistance in complying with this Act may contact the federal Department of Labor for assistance. The Illinois departments of Human Services and Public Health shall collaborate with representatives of health care

[May 27, 2005]



workplaces to develop technical assistance and training seminars on developing and implementing a workplace violence plan as required under Section 15. Those departments shall coordinate their assistance to health care workplaces.

Section 35. Pilot project; task force.

(a) The Department of Human Services and the Department of Public Health shall initially implement this Act as a 2-year pilot project in which only the following health care workplaces shall participate:

- (1) The Chester Mental Health Center.
- (2) The Alton Mental Health Center.
- (3) The Douglas Singer Mental Health Center.
- (4) The Andrew McFarland Mental Health Center.
- (5) The Jacksonville Developmental Center.

Each health care workplace participating in the pilot project shall comply with this Act as provided in this Act.

(b) The Governor shall convene a 6-member task force consisting of the following: one member appointed by the President of the Senate; one member appointed by the Minority Leader of the Senate; one member appointed by the Speaker of House of Representatives; one member appointed by the Minority Leader of the House of Representatives; one representative from a statewide association representing licensed registered professional nurses; and one representative from the Department of Human Services. The task force shall submit a report to the Illinois General Assembly by January 1, 2008 that shall (i) evaluate the effectiveness of the health care workplace violence prevention pilot project in the facilities participating in the pilot project and (ii) make recommendations concerning the implementation of workplace violence prevention programs in all health care workplaces.

Section 40. Rules. The Department shall adopt rules to implement this Act.

Section 900. The Mental Health and Developmental Disabilities Administrative Act is amended by adding Section 72 as follows:

(20 ILCS 1705/72 new)

Sec. 72. Violent acts against employees of facilities under the Department's jurisdiction. Within 6 months after the effective date of this amendatory Act of the 94th General Assembly, the Department shall adopt rules prescribing the procedures for reporting, investigating, and responding to violent acts against employees of facilities under the Department's jurisdiction. As used in this Section, "violent acts" has the meaning ascribed to that term in the Health Care Workplace Violence Prevention Act.

Section 905. The Illinois State Auditing Act is amended by changing Section 3-2 as follows:

(30 ILCS 5/3-2) (from Ch. 15, par. 303-2)

Sec. 3-2. Mandatory and directed post audits. The Auditor General shall conduct a financial audit, a compliance audit, or other attestation engagement, as is appropriate to the agency's operations under generally accepted government auditing standards, of each State agency except the Auditor General or his office at least once during every biennium, except as is otherwise provided in regulations adopted under Section 3-8. The general direction and supervision of the financial audit program may be delegated only to an individual who is a Certified Public Accountant and a payroll employee of the Office of the Auditor General. In the conduct of financial audits, compliance audits, and other attestation engagements, the Auditor General may inquire into and report upon matters properly within the scope of a performance audit, provided that such inquiry shall be limited to matters arising during the ordinary course of the financial audit.

In any year the Auditor General shall conduct any special audits as may be necessary to form an opinion on the financial statements of this State, as prepared by the Comptroller, and to certify that this presentation is in accordance with generally accepted accounting principles for government.

Simultaneously with the biennial compliance audit of the Department of Human Services, the Auditor General shall conduct a program audit of each facility under the jurisdiction of that Department that is described in Section 4 of the Mental Health and Developmental Disabilities Administrative Act. The program audit shall include an examination of the records of each facility concerning (i) reports of suspected abuse or neglect of any patient or resident of the facility and (ii) reports of violent acts against facility staff by patients or residents. The Auditor General shall report the findings of the program audit to the Governor and the General Assembly, including findings concerning patterns or trends relating to (i) abuse or neglect of facility patients and residents or (ii) violent acts against facility staff by patients or residents. However, for any year for which the Inspector General submits a report to the Governor and

General Assembly as required under Section 6.7 of the Abused and Neglected Long Term Care Facility Residents Reporting Act, the Auditor General need not conduct the program audit otherwise required under this paragraph.

The Auditor General shall conduct a performance audit of a State agency when so directed by the Commission, or by either house of the General Assembly, in a resolution identifying the subject, parties and scope. Such a directing resolution may:

- (a) require the Auditor General to examine and report upon specific management efficiencies or cost effectiveness proposals specified therein;
- (b) in the case of a program audit, set forth specific program objectives, responsibilities or duties or may specify the program performance standards or program evaluation standards to be the basis of the program audit;
- (c) be directed at particular procedures or functions established by statute, by administrative regulation or by precedent; and
- (d) require the Auditor General to examine and report upon specific proposals relating to state programs specified in the resolution.

The Commission may by resolution clarify, further direct, or limit the scope of any audit directed by a resolution of the House or Senate, provided that any such action by the Commission must be consistent with the terms of the directing resolution.

(Source: P.A. 93-630, eff. 12-23-03.)

Section 910. The Community Living Facilities Licensing Act is amended by changing Section 11 as follows:

(210 ILCS 35/11) (from Ch. 111 1/2, par. 4191)

Sec. 11. Grounds for denial or revocation of a license. The Department may deny or begin proceedings to revoke a license if the applicant or licensee has been convicted of a felony or 2 or more misdemeanors involving moral turpitude, as shown by a certified copy of the court of conviction; if the Department determines after investigation that such person has not been sufficiently rehabilitated to warrant the public trust; or upon other satisfactory evidence that the moral character of the applicant or licensee is not reputable. In addition, the Department may deny or begin proceedings to revoke a license at any time if the licensee:

- (1) Submits false information either on Department licensure forms or during an inspection;
- (2) Refuses to allow an inspection to occur;
- (3) Violates this Act or rules and regulations promulgated under this Act;
- (4) Violates the rights of its residents;
- (5) Fails to submit or implement a plan of correction within the specified time period; or -
- (6) Fails to submit a workplace violence prevention plan in compliance with the Health Care

Workplace Violence Prevention Act.

(Source: P.A. 82-567.)

Section 915. The Community-Integrated Living Arrangements Licensure and Certification Act is amended by changing Section 6 as follows:

(210 ILCS 135/6) (from Ch. 91 1/2, par. 1706)

Sec. 6. (a) The Department shall deny an application for a license, or revoke or refuse to renew the license of a community mental health or developmental services agency, or refuse to issue a license to the holder of a temporary permit, if the Department determines that the applicant, agency or permit holder has not complied with a provision of this Act, the Mental Health and Developmental Disabilities Code, or applicable Department rules and regulations. Specific grounds for denial or revocation of a license, or refusal to renew a license or to issue a license to the holder of a temporary permit, shall include but not be limited to:

- (1) Submission of false information either on Department licensure forms or during an inspection;
- (2) Refusal to allow an inspection to occur;
- (3) Violation of this Act or rules and regulations promulgated under this Act;
- (4) Violation of the rights of a recipient; ~~or~~
- (5) Failure to submit or implement a plan of correction within the specified time period; or
- (6) Failure to submit a workplace violence prevention plan in compliance with the Health Care

Workplace Violence Prevention Act.

(b) If the Department determines that the operation of a community mental health or developmental services agency or one or more of the programs or placements certified by the agency under this Act jeopardizes the health, safety or welfare of the recipients served by the agency, the Department may

[May 27, 2005]

immediately revoke the agency's license and may direct the agency to withdraw recipients from any such program or placement.  
(Source: P.A. 85-1250.)

Section 999. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Halvorson, **House Bill No. 399**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Shadid
Bomke	Haine	Munoz	Sieben
Brady	Halvorson	Pankau	Silverstein
Burzynski	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Raoul	Trotter
Crotty	Jones, J.	Rauschenberger	Viverito
Cullerton	Jones, W.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

### RESOLUTIONS CONSENT CALENDAR

#### SENATE RESOLUTION 224

Offered by Senator Demuzio and all Senators:

Mourns the death of Mary Ellen Orr of Perry.

#### SENATE RESOLUTION 225

Offered by Senator Clayborne and all Senators:

Mourns the death of Dr. Roy W. Kenney, Jr., of Belleville.

#### SENATE RESOLUTION 226

Offered by Senator Dillard and all Senators:

Mourns the death of John Chonko of Downers Grove.

**SENATE RESOLUTION 227**

Offered by Senator Dillard and all Senators:  
Mourns the death of Roger Allen Anderson of Burr Ridge.

**SENATE RESOLUTION 228**

Offered by Senator Dillard and all Senators:  
Mourns the death of E. Lawrence "Larry" Young, Jr., of Wheaton.

**SENATE RESOLUTION 229**

Offered by Senator Haine and all Senators:  
Mourns the death of John E. DeMand of Bethalto.

**SENATE RESOLUTION 230**

Offered by Senator Haine and all Senators:  
Mourns the death of Helen M. DeMand of Wood River.

**SENATE RESOLUTION 231**

Offered by Senator Clayborne and all Senators:  
Mourns the death of Scott C. Stone of O'Fallon.

**SENATE RESOLUTION 232**

Offered by Senator Forby and all Senators:  
Mourns the death of Thelma Robertson of Marion.

**SENATE RESOLUTION 233**

Offered by Senator Forby and all Senators:  
Mourns the death of Dennis L. Gibbens of Carterville.

**SENATE RESOLUTION 234**

Offered by Senator Forby and all Senators:  
Mourns the death of Eric "Eek" James Hensgen of Carterville.

**SENATE RESOLUTION 235**

Offered by Senator Forby and all Senators:  
Mourns the death of Gladys L. Baker of Equality.

**SENATE RESOLUTION 236**

Offered by Senator Forby and all Senators:  
Mourns the death of Patricia "Pat" Dickerson of Harrisburg.

**SENATE RESOLUTION 237**

Offered by Senator Forby and all Senators:  
Mourns the death of Jonson Lee Janes of Carterville.

**SENATE RESOLUTION 238**

Offered by Senator Forby and all Senators:  
Mourns the death of Vivian Holland of Herrin.

**SENATE RESOLUTION 239**

Offered by Senator Forby and all Senators:  
Mourns the death of Ryan Daniel Falmier of Carterville.

**SENATE RESOLUTION 240**

Offered by Senator Forby and all Senators:  
Mourns the death of James "Jim" Hardway of Anna.

**SENATE RESOLUTION 241**

Offered by Senator Forby and all Senators:  
Mourns the death of Woodland H. "Woody" Cover of Marion.

**SENATE RESOLUTION 242**

Offered by Senator Forby and all Senators:  
Mourns the death of Juanita “Nanny” Bailey of Freeman Spur.

**SENATE RESOLUTION 243**

Offered by Senator Forby and all Senators:  
Mourns the death of Samuel M. “Jack” Swafford of Marion.

**SENATE RESOLUTION 244**

Offered by Senator Forby and all Senators:  
Mourns the death of Eulita Reeves of Dongola.

**SENATE RESOLUTION 245**

Offered by Senator Forby and all Senators:  
Mourns the death of Helen Franklin of Colp.

**SENATE RESOLUTION 246**

Offered by Senator Forby and all Senators:  
Mourns the death of Ed Anderson of Norris City.

**SENATE RESOLUTION 247**

Offered by Senator Forby and all Senators:  
Mourns the death of Frank D. Cluck of Carterville.

**SENATE RESOLUTION 248**

Offered by Senator Forby and all Senators:  
Mourns the death of Denzil R. Walker of Herrin.

**SENATE RESOLUTION 249**

Offered by Senator Forby and all Senators:  
Mourns the death of Anne Marie Salmo, formerly of Herrin.

**SENATE RESOLUTION 250**

Offered by Senator Forby and all Senators:  
Mourns the death of Pete Moschino of Coello.

**SENATE RESOLUTION 251**

Offered by Senator Forby and all Senators:  
Mourns the death of Ronald Myatt of West Frankfort.

**SENATE RESOLUTION 252**

Offered by Senator Haine and all Senators:  
Mourns the death of William Tobias “Bill” Perry of Wood River.

Senator del Valle moved the adoption of the foregoing resolutions.  
The motion prevailed.  
And the resolutions were adopted.

**PRESENTATION OF RESOLUTION**

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

**SENATE RESOLUTION NO. 253**

WHEREAS, The first Parent Appreciation Day occurred on the first Saturday of August of 2003; community leader Alonzo Stewart of Romeoville thought it would be nice for kids to, in some fashion,

[May 27, 2005]

thank their parents; in 2004, Parent Appreciation Day was moved to its permanent home on the second Saturday of August; and

WHEREAS, Parent Appreciation Day has become a staple in Romeoville, and the event and its organizer has received high praise from participants, business partners, and colleagues; and

WHEREAS, Recognizing a statewide Parent Appreciation Day would encourage communities to use their creativity, their natural resources (residents), and their commitment to a safe, pleasant place to live, work, and shop to craft their very own recognition event to appreciate parents and adults; and

WHEREAS, Youth, community groups, or schools can lead initiatives; the process of creating, designing, and implementing the event will foster growth, teamwork, and leadership among all involved; this will return exponential benefits to the community as civic awareness and feelings of ownership in the community's future increase; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we recognize the second Saturday of August as Parent Appreciation Day with activities in communities across the State; this will be a time for communities to join hands and hearts to pass the baton of appreciation to our new generations of young leaders.

#### **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 10 to Senate Bill 431

Motion to Concur in House Amendments 1 and 2 to Senate Bill 2038

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

Motion to Recede from Senate Amendment 2 to House Bill 2531

At the hour of 7:13 o'clock p.m., the Chair announced that the Senate stand adjourned until Saturday, May 28, 2005, at 12:00 o'clock noon.