SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FIFTH GENERAL ASSEMBLY

177TH LEGISLATIVE DAY

WEDNESDAY, NOVEMBER 19, 2008

12:18 O'CLOCK P.M.

SENATE
Daily Journal Index
177th Legislative Day

Action	Page(s)
Committee Meeting Announcements	9
Communication from the Minority Leader	4
Deadline Established	4
Introduction of Senate Bills No'd. 3076-3077	6
Joint Action Motion Filed	32, 33
Joint Action Motions Filed	8
Legislative Measure(s) Filed	5
Message from the President	3
Presentation of Senate Resolution No. 929	6
Presentation of Senate Resolutions No'd 924 - 928	5
Report from Rules Committee	7, 8
Report Received	3

Bill Number	Legislative Action	Page(s)
HB 2047	Posting Notice Waived	8
HB 4758	Posting Notice Waived	8
HB 5730	Posting Notice Waived	9
SB 2860	Concur in House Amendment(s)	6
SR 0929	Committee on Rules	6
HB 2047	Second Reading	34
HB 4119	Second Reading	34
HB 4249	Other proceedings	33
HB 4613	Second Reading	35
HB 4758	Second Reading	35
HB 4845	Second Reading	42
HB 4861	Second Reading	42
HB 5032	Second Reading	42
HB 5730	Second Reading	42

The Senate met pursuant to adjournment.
Senator Terry Link, Waukegan, Illinois, presiding.
Prayer by Bishop G.E. Livingston, Life Changers Church of Decatur, Decatur, Illinois.
Senator Maloney led the Senate in the Pledge of Allegiance.

The Journal of Thursday, November 13, 2008, 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 Friday, November 14, 2008, 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.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

Employment Opportunities Grant Program Report, submitted by the Department of Commerce and Economic Opportunity.

Annual Report on Public University Revenues and Expenditures: Fiscal Year 2008, submitted by the Illinois Board of Higher Education.

Illinois Thoroughbred Breeders and Owners Foundation 2007 Independent Auditor's Report, submitted by the Illinois Thoroughbred Breeders and Owners Foundation.

DHS Affirmative Action Plan, FY 2009, submitted by Department of Human Services.

Education Funding, The Funding of Elementary and Secondary Education, submitted by the Commission on Government Forecasting and Accountability.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

MESSAGES FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

November 19, 2008

Ms. Deborah Shipley
Secretary of the Senate
403 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Iris Martinez to resume her position on the Senate Executive Committee. This appointment is effective immediately.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

November 19, 2008

Ms. Deborah Shipley
Secretary of the Senate
403 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Donne Trotter to replace Senator Debbie Halvorson as a member of the Senate Executive Committee. This appointment is effective immediately.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

November 19, 2008

Ms. Deborah Shipley
Secretary of the Senate
401 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish January 13, 2009 as the Committee and Third Reading deadline for House Bills 2047, 4758, 5151, 5730, 5898 and Senate Bill 2241.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

COMMUNICATION FROM MINORITY LEADER

ILLINOIS STATE SENATE
FRANK C. WATSON
STATE SENATOR

51ST SENATE DISTRICT

August 13, 2008

Ms. Deborah Shipley
Secretary of the Senate
403 State House
Springfield, Illinois 62706

Dear Madam Secretary:

Pursuant to Rule 3-2, I hereby appoint Senator Risinger to temporarily replace Senator Frank Watson as a member of the Senate Executive Committee. This appointment is effective immediately.

Sincerely,
s/Frank Watson
Senate Republican Leader

cc: Senate President Emil Jones
Assistant Secretary of the Senate Scott Kaiser

LEGISLATIVE MEASURES FILED

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

Senate Committee Amendment No. 1 to House Bill 4613
Senate Committee Amendment No. 2 to House Bill 4758
Senate Committee Amendment No. 1 to House Bill 5032

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

Senate Floor Amendment No. 5 to House Bill 29
Senate Floor Amendment No. 4 to House Bill 2973
Senate Floor Amendment No. 5 to House Bill 2973
Senate Floor Amendment No. 1 to House Bill 4890
Senate Floor Amendment No. 2 to House Bill 5151
Senate Floor Amendment No. 3 to House Bill 5151

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 924
Offered by Senator Haine and all Senators:
Mourns the death of Ruth May (Coleman) Winters Unterbrink of Alton.

SENATE RESOLUTION NO. 925
Offered by Senator Koehler and all Senators:
Mourns the death of Anne Bohannon of East Peoria.

SENATE RESOLUTION NO. 926
Offered by Senator Forby and all Senators:
Mourns the death of Evelyn Taylor Page of Benton.

SENATE RESOLUTION NO. 927
Offered by Senator Forby and all Senators:

Mourns the death of Nina Dorchincez of Benton.

SENATE RESOLUTION NO. 928

Offered by Senator Forby and all Senators:
Mourns the death of Leonard G. “Spunky” Patton, Jr., of West Frankfort.

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

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

SENATE RESOLUTION NO. 929

WHEREAS, On November 13, 2008, the Chicago Transit Authority Board voted to increase the fares for riding Chicago Transit Authority buses and trains; and

WHEREAS, The Chicago Transit Board approved a 15 percent fare increase to take effect on January 1, 2009; and

WHEREAS, Under the 2009 fare increase, rail and bus fares will rise from $2 to $2.25 per ride; the fare hike will increase a one-way elevated train trip by 50 cents; and

WHEREAS, Chicago Transit Authority officials estimate that the fare hike will reduce the use of Chicago Transit Authority services by 17 million rides; and

WHEREAS, Chicago Transit Authority riders depend upon affordable public transportation to fulfill their transportation needs; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we urge the Chicago Transit Authority to repeal the 2009 fare increase and to make its Board members and executives available to appear before the appropriate Senate committee to explain its actions concerning fares; and be it further

RESOLVED, That suitable copies of this resolution be delivered to the Chicago Transit Authority and the Regional Transportation Authority.

INTRODUCTION OF BILLS

SENATE BILL NO. 3076. Introduced by Senator Althoff, a bill for AN ACT concerning appropriations.
The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 3077. Introduced by Senator Trotter, a bill for AN ACT concerning finance.
The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY’S DESK

On motion of Senator Hunter, **Senate Bill No. 2860**, with House Amendment No. 1 on the Secretary’s Desk, was taken up for immediate consideration.

Senator Hunter 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 48; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Link	Schoenberg
Bivins	Frerichs	Maloney	Silverstein
Bomke	Haine	Martinez	Steans
Bond	Harmon	Meeks	Sullivan
Clayborne	Hendon	Millner	Syverson
Collins	Holmes	Noland	Trotter
Crotty	Hultgren	Pankau	Viverito
Cullerton	Hunter	Peterson	Wilhelmi
Dahl	Jacobs	Radogno	Mr. President
DeLeo	Jones, J.	Raoul	
Delgado	Koehler	Righter	
Demuzio	Lauzen	Rutherford	
Dillard	Lightford	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 2860**, by a three-fifths vote.

Ordered that the Secretary inform the House of Representatives thereof.

REPORT FROM RULES COMMITTEE

Senator Hendon, Chairperson of the Committee on Rules, during its November 19, 2008 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Executive: **HOUSE BILLS 4758 and 5898**; **SENATE BILL 2241**.

Financial Institutions: **Senate Floor Amendment No. 4 to House Bill 2973**.

Judiciary Criminal Law: **Senate Committee Amendment No. 1 to House Bill 4613; Senate Committee Amendment No. 1 to House Bill 5032**.

Pensions and Investments: **HOUSE BILL 2047**.

Revenue: **HOUSE BILL 5730**.

Senator Hendon, Chairperson of the Committee on Rules, to which was referred **Senate Bills Numbered 2520 and 2558** on August 10, 2008, pursuant to Rule 3-9(b), reported that the Committee recommends that the bills be approved for consideration and returned to the calendar in their former position.

The report of the Committee was concurred in.

And **Senate Bills Numbered 2520 and 2558** were returned to the order of concurrence.

Senator Hendon, Chairperson of the Committee on Rules, to which was referred **House Bill No. 5151** on July 1, 2008, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **House Bill No. 5151** was returned to the order of third reading.

Senator Hendon, Chairperson of the Committee on Rules, to which was referred **House Bill No. 29** on December 3, 2007, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.
The report of the Committee was concurred in.
And **House Bill No. 29** was returned to the order of third reading.

Senator Hendon, Chairperson of the Committee on Rules, to which was referred **House Bill No. 4890** on July 1, 2008, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.
The report of the Committee was concurred in.
And **House Bill No. 4890** was returned to the order of third reading.

JOINT ACTION MOTIONS FILED

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

Motion to Concur in House Amendments 1, 3 and 4 to Senate Bill 2520
Motion to Concur in House Amendment 1 to Senate Bill 2558

REPORT FROM RULES COMMITTEE

Senator Hendon, Chairperson of the Committee on Rules, during its November 19, 2008 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Appropriations III: **Senate Floor Amendment No. 2 to House Bill 5151**.

Education: **Senate Floor Amendment No. 1 to House Bill 4890.**

Executive: **Senate Floor Amendment No. 5 to House Bill 29; Senate Committee Amendment No. 2 to House Bill 4758**.

Senator Hendon, Chairperson of the Committee on Rules, during its November 19, 2008 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Pensions and Investments: **Motion to Concur in House Amendments 1, 3 and 4 to Senate Bill 2520**

State Government and Veterans Affairs: **Motion to Concur in House Amendment 1 to Senate Bill 2558**

POSTING NOTICES WAIVED

Senator Sullivan moved to waive the six-day posting requirement on **House Bill No. 4758** so that the bill may be heard in the Committee on Agriculture and Conservation that is scheduled to meet November 19, 2008.
The motion prevailed.

Senator Raoul moved to waive the six-day posting requirement on **House Bill No. 2047** so that the bill may be heard in the Committee on Pensions and Investments that is scheduled to meet November 19, 2008.

The motion prevailed.

Senator Noland moved to waive the six-day posting requirement on **House Bill No. 5730** so that the bill may be heard in the Committee on Revenue that is scheduled to meet November 19, 2008.
The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committee to meet today:

Education at 1:00 o'clock p.m.
Licensed Activities at 1:00 o'clock p.m.
Judiciary Civil Law at 2:00 o'clock p.m. in Room 212.
Judiciary Criminal Law at 2:30 o'clock p.m. in Room 212.
Transportation at 2:30 o'clock p.m. in Room 400.
Pensions and Investments at 3:00 o'clock p.m. in Room 400.
Environment and Energy at 3:30 o'clock p.m. in Room 212.
Executive at 4:00 o'clock p.m. in Room 212.
Revenue at 4:00 o'clock p.m. in Room 400.
State Government at 4:00 o'clock p.m. in Room 409.
Appropriations III at 4:30 o'clock p.m. in Room 212.
Financial Institutions at 4:30 o'clock p.m. in Room 400.
Education again at 4:45 o'clock p.m. in Room 212.
Executive Appointments, Thursday, November 20, 2008, at 9:00 o'clock a.m. in Room 212.

Senator Risinger announced a Republican caucus to begin immediately upon recess.

At the hour of 1:25 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 6:40 o'clock p.m., the Senate resumed consideration of business.
Senator Link, presiding.

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. 620

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. 2 to SENATE BILL NO. 620
House Amendment No. 5 to SENATE BILL NO. 620
Passed the House, as amended, November 19, 2008.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 2 TO SENATE BILL 620

AMENDMENT NO. 2 . Amend Senate Bill 620 on page 1, by replacing lines 4 and 5 with the following:

"Section 5. The Public Utilities Act is amended by changing Sections 8-306 and 9-223 as follows:

(220 ILCS 5/8-306)

Sec. 8-306. Special provisions relating to water and sewer utilities.

(a) No later than 120 days after the effective date of this amendatory Act of the 94th General Assembly, the Commission shall prepare, make available to customers upon request, and post on its Internet web site information concerning the service obligations of water and sewer utilities and remedies that a customer may pursue for a violation of the customer's rights. The information shall specifically address the rights of a customer of a water or sewer utility in the following situations:

(1) The customer's water meter is replaced.

(2) The customer's bill increases by more than 50% within one billing period.

(3) The customer's water service is terminated.

(4) The customer wishes to complain after receiving a termination of service notice.

(5) The customer is unable to make payment on a billing statement.

(6) A rate is filed, including without limitation a surcharge or annual reconciliation filing, that will increase the amount billed to the customer.

(7) The customer is billed for services provided prior to the date covered by the billing statement.

(8) The customer is due to receive a credit.

Each billing statement issued by a water or sewer utility shall include an Internet web site address where the customer can view the information required under this subsection (a) and a telephone number that the customer may call to request a copy of the information.

(b) A water or sewer utility may discontinue service only after it has mailed or delivered by other means a written notice of discontinuance substantially in the form of Appendix A of 83 Ill. Adm. Code 280. The notice must include the Internet web site address where the customer can view the information required under subsection (a) and a telephone number that the customer may call to request a copy of the information. Any notice required to be delivered or mailed to a customer prior to discontinuance of service shall be delivered or mailed separately from any bill. Service shall not be discontinued until at least 5 days after delivery or 8 days after the mailing of this notice. Service shall not be discontinued and shall be restored if discontinued for the reason which is the subject of a dispute or complaint during the pendency of informal or formal complaint procedures of the Illinois Commerce Commission under 83 Ill. Adm. Code 280.160 or 280.170, where the customer has complied with those rules. Service shall not be discontinued and shall be restored if discontinued where a customer has established a deferred payment agreement pursuant to 83 Ill. Adm. Code 280.110 and has not defaulted on such agreement. Residential customers who are indebted to a utility for past due utility service shall have the opportunity to make arrangements with the utility to retire the debt by periodic payments, referred to as a deferred payment agreement, unless this customer has failed to make payment under such a plan during the past 12 months. The terms and conditions of a reasonable deferred payment agreement shall be determined by the utility after consideration of the following factors, based upon information available from current utility records or provided by the customer or applicant:

(1) size of the past due account;

(2) customer or applicant's ability to pay;

(3) customer or applicant's payment history;

(4) reason for the outstanding indebtedness; and

(5) any other relevant factors relating to the circumstances of the customer or applicant's service.

A residential customer shall pay a maximum of one-fourth of the amount past due and owing at the time of entering into the deferred payment agreement, and the water or sewer utility shall allow a minimum of 2 months from the date of the agreement and a maximum of 12 months for payment to be made under a deferred payment agreement. Late payment charges may be assessed against the amount owing that is the subject of a deferred payment agreement.

(c) A water or sewer utility shall provide notice as required by subsection (a) of Section 9-201 after the filing of each information sheet under a purchased water surcharge, purchased sewage treatment surcharge, or qualifying infrastructure plant surcharge. The utility also shall post notice of the filing in accordance with the requirements of 83 Ill. Adm. Code 255. Unless filed as part of a general rate increase, notice of the filing of a purchased water surcharge rider, purchased sewage treatment surcharge rider, or qualifying infrastructure plant surcharge rider also shall be given in the manner required by this subsection (c) for the filing of information sheets.

(d) Commission rules pertaining to formal and informal complaints against public utilities shall apply with full and equal force to water and sewer utilities and their customers, including provisions of 83 Ill.

Adm. Code 280.170, and the Commission shall respond to each complaint by providing the consumer with a copy of the utility's response to the complaint and a copy of the Commission's review of the complaint and its findings. The Commission shall also provide the consumer with all available options for recourse.

(e) Any refund shown on the billing statement of a customer of a water or sewer utility must be itemized and must state if the refund is an adjustment or credit.

(f) Water service for building construction purposes. At the request of any municipality or township within the service area of a public utility that provides water service to customers within the municipality or township, a public utility must (1) require all water service used for building construction purposes to be measured by meter and subject to approved rates and charges for metered water service and (2) prohibit the unauthorized use of water taken from hydrants or service lines installed at construction sites.

(g) Water meters.

(1) Periodic testing. Unless otherwise approved by the Commission, each service water meter shall be periodically inspected and tested in accordance with the schedule specified in 83 Ill. Adm. Code 600.340, or more frequently as the results may warrant, to insure that the meter accuracy is maintained within the limits set out in 83 Ill. Adm. Code 600.310.

(2) Meter tests requested by customer.

(A) Each utility furnishing metered water service shall, without charge, test the accuracy of any meter upon request by the customer served by such meter, provided that the meter in question has not been tested by the utility or by the Commission within 2 years previous to such request. The customer or his or her representatives shall have the privilege of witnessing the test at the option of the customer. A written report, giving the results of the test, shall be made to the customer.

(B) When a meter that has been in service less than 2 years since its last test is found to be accurate within the limits specified in 83 Ill. Adm. Code 600.310, the customer shall pay a fee to the utility not to exceed the amounts specified in 83 Ill. Adm. Code 600.350(b). Fees for testing meters not included in this Section or so located that the cost will be out of proportion to the fee specified will be determined by the Commission upon receipt of a complete description of the case.

(3) Commission referee tests. Upon written application to the Commission by any customer, a test will be made of the customer's meter by a representative of the Commission. For such a test, a fee as provided for in subsection (g)(2) shall accompany the application. If the meter is found to be registering more than 1.5% fast on the average when tested as prescribed in 83 Ill. Adm. Code 600.310, the utility shall refund to the customer the amount of the fee. The utility shall in no way disturb the meter after a customer has made an application for a referee test until authority to do so is given by the Commission or the customer in writing.

(h) Water and sewer utilities; low usage. Each public utility that provides water and sewer service must establish a unit sewer rate, subject to review by the Commission, that applies only to those customers who use less than 1,000 gallons of water in any billing period.

(i) Water and sewer utilities; separate meters. Each public utility that provides water and sewer service must offer separate rates for water and sewer service to any commercial or residential customer who uses separate meters to measure each of those services. In order for the separate rate to apply, a combination of meters must be used to measure the amount of water that reaches the sewer system and the amount of water that does not reach the sewer system.

(j) Each water or sewer public utility must disclose on each billing statement any amount billed that is for service provided prior to the date covered by the billing statement. The disclosure must include the dates for which the prior service is being billed. Each billing statement that includes an amount billed for service provided prior to the date covered by the billing statement must disclose the dates for which that amount is billed and must include a copy of the document created under subsection (a) and a statement of current Commission rules concerning unbilled or misbilled service.

(k) When the customer is due a refund resulting from payment of an overcharge, the utility shall credit the customer in the amount of overpayment with interest from the date of overpayment by the customer. The rate for interest shall be at the appropriate rate determined by the Commission under 83 Ill. Adm. Code 280.70.

(l) Water and sewer public utilities; subcontractors. The Commission shall adopt rules for water and sewer public utilities to provide notice to the customers of the proper kind of identification that a subcontractor must present to the customer, to prohibit a subcontractor from soliciting or receiving payment of any kind for any service provided by the water or sewer public utility or the subcontractor, and to establish sanctions for violations.

(m) Water and sewer public utilities; unaccounted-for water. By December 31, 2006, each water public utility shall file tariffs with the Commission to establish the maximum percentage of unaccounted-for water that would be considered in the determination of any rates or surcharges. The rates or surcharges approved for a water public utility shall not include charges for unaccounted-for water in excess of this maximum percentage without well-documented support and justification for the Commission to consider in any request to recover charges in excess of the tariffed maximum percentage.

(n) Rate increases; public forums. When any public utility providing water or sewer service proposes a general rate increase, in addition to other notice requirements, the water or sewer public utility must notify its customers of their right to request a public forum. A customer or group of customers must make written request to the Commission for a public forum and must also provide written notification of the request to the customer's municipal or, for unincorporated areas, township government. The Commission, at its discretion, may schedule the public forum. If it is determined that public forums are required for multiple municipalities or townships, the Commission shall schedule these public forums, in locations within approximately 45 minutes drive time of the municipalities or townships for which the public forums have been scheduled. The public utility must provide advance notice of 30 days for each public forum to the governing bodies of those units of local government affected by the increase. The day of each public forum shall be selected so as to encourage the greatest public participation. Each public forum will begin at 7:00 p.m. Reports and comments made during or as a result of each public forum must be made available to the hearing officials and reviewed when drafting a recommended or tentative decision, finding or order pursuant to Section 10-111 of this Act.

(o) A water or sewer utility that receives notice that a fire hydrant is broken shall be required to report the situation to the fire department or fire district within 2 hours of receiving notice, and shall be required to make repairs within 2 days. A water or sewer utility that fails to notify the fire department or fire district within 2 hours after receiving notice that a fire hydrant is broken shall be fined $500 per day to be paid to the fire department or fire district. The penalty may be waived if approved by the fire department or the fire district if a delay in the repair is unavoidable. A water or sewer utility must report the conditions of fire hydrants to the unit of local government on an annual basis.

(Source: P.A. 94-950, eff. 6-27-06.)".

AMENDMENT NO. 5 TO SENATE BILL 620

AMENDMENT NO. 5 . Amend Senate Bill 620, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Railroad Police Act is amended by changing Section 2 as follows:

(610 ILCS 80/2) (from Ch. 114, par. 98)

Sec. 2. Conductors of all railroad trains, and the captain or master of any boat carrying passengers within the jurisdiction of this state, is vested with police powers while on duty on their respective trains and boats, and may wear an appropriate badge indicative of such authority.

In the policing of its properties any registered rail carrier, as defined in Section 18c-7201 of the Illinois Vehicle Code, may provide for the appointment and maintenance of such police force as it may find necessary and practicable to aid and supplement the police forces of any municipality in the protection of its property and the protection of the persons and property of its passengers and employees, or otherwise in furtherance of the purposes for which such railroad was organized. While engaged in the conduct of their employment, the members of such railroad police force have and may exercise like police powers as those conferred upon any peace officer employed by a law enforcement agency of this State.

Any registered rail carrier that appoints and maintains a police force shall comply with the following requirements:

(1) Establish an internal policy that includes procedures to ensure objective oversight in addressing allegations of abuse of authority or other misconduct on the part of its police officers.

(2) Adopt appropriate policies and guidelines for employee investigations by police officers. These policies and guidelines shall provide for initiating employee investigations only under the following conditions:

(A) There is reason to believe criminal misconduct has occurred.

(B) In response to an employee accident.

(C) There is reason to believe that the interview of an employee could result in workplace violence.

(D) There is a legitimate concern for the personal safety of one or more employees.

These policies and guidelines shall provide for the right of an employee to request a

representative to be present during any interview concerning a non-criminal matter.

(3) File copies of the policies and guidelines adopted under paragraphs (1) and (2) with the Illinois Law Enforcement Training Standards Board, which shall make them available for public inspection. The Board shall review the policies and guidelines, and approve them if they comply with the Act.

(4) Appeal of a rail carrier's decision. A person adversely affected or aggrieved by a decision of a rail carrier's internal investigation under this Act may appeal the decision to the Illinois State Police. The appeal shall be filed no later than 90 days after the issuance of the decision. The State Police shall review the depth, completeness, and objectivity of the rail carrier's investigation, and may conduct its own investigation of the complaint. The State Police may uphold, overturn, or modify the rail carrier's decision by filing a report of its findings and recommendations with the Illinois Commerce Commission. Consistent with authority under Chapter 18C of the Illinois Vehicle Code and the Commission rules of practice, the Commission shall have the power to conduct evidentiary hearings, make findings, and issue and enforce orders, including sanctions under Section 18c-1704 of the Illinois Vehicle Code.

Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 94-846, eff. 1-1-07.)".

Under the rules, the foregoing **Senate Bill No. 620**, with House Amendments numbered 2 and 5, 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. 934

A bill for AN ACT concerning health.

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. 934

House Amendment No. 2 to SENATE BILL NO. 934

House Amendment No. 3 to SENATE BILL NO. 934

Passed the House, as amended, November 19, 2008.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 934

AMENDMENT NO. 1 . Amend Senate Bill 934 by replacing everything after the enacting clause with the following:

"Section 5. The State Employees Group Insurance Act of 1971 is amended by changing Section 10 as follows:

(5 ILCS 375/10) (from Ch. 127, par. 530)

Sec. 10. Payments by State; premiums.

(a) The State shall pay the cost of basic non-contributory group life insurance and, subject to member paid contributions set by the Department or required by this Section, the basic program of group health benefits on each eligible member, except a member, not otherwise covered by this Act, who has retired as a participating member under Article 2 of the Illinois Pension Code but is ineligible for the retirement annuity under Section 2-119 of the Illinois Pension Code, and part of each eligible member's and retired member's premiums for health insurance coverage for enrolled dependents as provided by Section 9. The State shall pay the cost of the basic program of group health benefits only after benefits are reduced by the amount of benefits covered by Medicare for all members and dependents who are eligible for benefits under Social Security or the Railroad Retirement system or who had sufficient Medicare-covered government employment, except that such reduction in benefits shall apply only to those members and dependents who (1) first become eligible for such Medicare coverage on or after July 1, 1992; or (2) are Medicare-eligible members or dependents of a local government unit which began

participation in the program on or after July 1, 1992; or (3) remain eligible for, but no longer receive Medicare coverage which they had been receiving on or after July 1, 1992. The Department may determine the aggregate level of the State's contribution on the basis of actual cost of medical services adjusted for age, sex or geographic or other demographic characteristics which affect the costs of such programs.

The cost of participation in the basic program of group health benefits for the dependent or survivor of a living or deceased retired employee who was formerly employed by the University of Illinois in the Cooperative Extension Service and would be an annuitant but for the fact that he or she was made ineligible to participate in the State Universities Retirement System by clause (4) of subsection (a) of Section 15-107 of the Illinois Pension Code shall not be greater than the cost of participation that would otherwise apply to that dependent or survivor if he or she were the dependent or survivor of an annuitant under the State Universities Retirement System.

(a-1) Beginning January 1, 1998, for each person who becomes a new SERS annuitant and participates in the basic program of group health benefits, the State shall contribute toward the cost of the annuitant's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of creditable service upon which the annuitant's retirement annuity is based, up to a maximum of 100% for an annuitant with 20 or more years of creditable service. The remainder of the cost of a new SERS annuitant's coverage under the basic program of group health benefits shall be the responsibility of the annuitant. In the case of a new SERS annuitant who has elected to receive an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code in lieu of an annuity, for the purposes of this subsection the annuitant shall be deemed to be receiving a retirement annuity based on the number of years of creditable service that the annuitant had established at the time of his or her termination of service under SERS.

(a-2) Beginning January 1, 1998, for each person who becomes a new SERS survivor and participates in the basic program of group health benefits, the State shall contribute toward the cost of the survivor's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of the deceased employee's or deceased annuitant's creditable service in the State Employees' Retirement System of Illinois on the date of death, up to a maximum of 100% for a survivor of an employee or annuitant with 20 or more years of creditable service. The remainder of the cost of the new SERS survivor's coverage under the basic program of group health benefits shall be the responsibility of the survivor. In the case of a new SERS survivor who was the dependent of an annuitant who elected to receive an alternative retirement cancellation payment under Section 14-108.5 of the Illinois Pension Code in lieu of an annuity, for the purposes of this subsection the deceased annuitant's creditable service shall be determined as of the date of termination of service rather than the date of death.

(a-3) Beginning January 1, 1998, for each person who becomes a new SURS annuitant and participates in the basic program of group health benefits, the State shall contribute toward the cost of the annuitant's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of creditable service upon which the annuitant's retirement annuity is based, up to a maximum of 100% for an annuitant with 20 or more years of creditable service. The remainder of the cost of a new SURS annuitant's coverage under the basic program of group health benefits shall be the responsibility of the annuitant.

(a-4) (Blank).

(a-5) Beginning January 1, 1998, for each person who becomes a new SURS survivor and participates in the basic program of group health benefits, the State shall contribute toward the cost of the survivor's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of the deceased employee's or deceased annuitant's creditable service in the State Universities Retirement System on the date of death, up to a maximum of 100% for a survivor of an employee or annuitant with 20 or more years of creditable service. The remainder of the cost of the new SURS survivor's coverage under the basic program of group health benefits shall be the responsibility of the survivor.

(a-6) Beginning July 1, 1998, for each person who becomes a new TRS State annuitant and participates in the basic program of group health benefits, the State shall contribute toward the cost of the annuitant's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of creditable service as a teacher as defined in paragraph (2), (3), or (5) of Section 16-106 of the Illinois Pension Code upon which the annuitant's retirement annuity is based, up to a maximum of 100%; except that the State contribution shall be 12.5% per year (rather than 5%) for each full year of creditable service as a regional superintendent or assistant regional superintendent of schools. The remainder of the cost of a new TRS State annuitant's coverage under the basic program of group health benefits shall be the responsibility of the annuitant.

(a-7) Beginning July 1, 1998, for each person who becomes a new TRS State survivor and participates in the basic program of group health benefits, the State shall contribute toward the cost of the survivor's coverage under the basic program of group health benefits an amount equal to 5% of that cost for each full year of the deceased employee's or deceased annuitant's creditable service as a teacher as defined in paragraph (2), (3), or (5) of Section 16-106 of the Illinois Pension Code on the date of death, up to a maximum of 100%; except that the State contribution shall be 12.5% per year (rather than 5%) for each full year of the deceased employee's or deceased annuitant's creditable service as a regional superintendent or assistant regional superintendent of schools. The remainder of the cost of the new TRS State survivor's coverage under the basic program of group health benefits shall be the responsibility of the survivor.

(a-8) A new SERS annuitant, new SERS survivor, new SURS annuitant, new SURS survivor, new TRS State annuitant, or new TRS State survivor may waive or terminate coverage in the program of group health benefits. Any such annuitant or survivor who has waived or terminated coverage may enroll or re-enroll in the program of group health benefits only during the annual benefit choice period, as determined by the Director; except that in the event of termination of coverage due to nonpayment of premiums, the annuitant or survivor may not re-enroll in the program.

(a-9) No later than May 1 of each calendar year, the Director of Central Management Services shall certify in writing to the Executive Secretary of the State Employees' Retirement System of Illinois the amounts of the Medicare supplement health care premiums and the amounts of the health care premiums for all other retirees who are not Medicare eligible.

A separate calculation of the premiums based upon the actual cost of each health care plan shall be so certified.

The Director of Central Management Services shall provide to the Executive Secretary of the State Employees' Retirement System of Illinois such information, statistics, and other data as he or she may require to review the premium amounts certified by the Director of Central Management Services.

The Department of Healthcare and Family Services, or any successor agency designated to procure healthcare contracts pursuant to this Act, is authorized to establish funds, separate accounts provided by any bank or banks as defined by the Illinois Banking Act, or separate accounts provided by any savings and loan association or associations as defined by the Illinois Savings and Loan Act of 1985 to be held by the Director, outside the State treasury, for the purpose of receiving the transfer of moneys from the Local Government Health Insurance Reserve Fund. The Department may promulgate rules further defining the methodology for the transfers. Any interest earned by moneys in the funds or accounts shall inure to the Local Government Health Insurance Reserve Fund. The transferred moneys, and interest accrued thereon, shall be used exclusively for transfers to administrative service organizations or their financial institutions for payments of claims to claimants and providers under the self-insurance health plan. The transferred moneys, and interest accrued thereon, shall not be used for any other purpose including, but not limited to, reimbursement of administration fees due the administrative service organization pursuant to its contract or contracts with the Department.

(b) State employees who become eligible for this program on or after January 1, 1980 in positions normally requiring actual performance of duty not less than 1/2 of a normal work period but not equal to that of a normal work period, shall be given the option of participating in the available program. If the employee elects coverage, the State shall contribute on behalf of such employee to the cost of the employee's benefit and any applicable dependent supplement, that sum which bears the same percentage as that percentage of time the employee regularly works when compared to normal work period.

(c) The basic non-contributory coverage from the basic program of group health benefits shall be continued for each employee not in pay status or on active service by reason of (1) leave of absence due to illness or injury, (2) authorized educational leave of absence or sabbatical leave, or (3) military leave with pay and benefits. This coverage shall continue until expiration of authorized leave and return to active service, but not to exceed 24 months for leaves under item (1) or (2). This 24-month limitation and the requirement of returning to active service shall not apply to persons receiving ordinary or accidental disability benefits or retirement benefits through the appropriate State retirement system or benefits under the Workers' Compensation or Occupational Disease Act.

(d) The basic group life insurance coverage shall continue, with full State contribution, where such person is (1) absent from active service by reason of disability arising from any cause other than self-inflicted, (2) on authorized educational leave of absence or sabbatical leave, or (3) on military leave with pay and benefits.

(e) Where the person is in non-pay status for a period in excess of 30 days or on leave of absence, other than by reason of disability, educational or sabbatical leave, or military leave with pay and benefits, such person may continue coverage only by making personal payment equal to the amount

normally contributed by the State on such person's behalf. Such payments and coverage may be continued: (1) until such time as the person returns to a status eligible for coverage at State expense, but not to exceed 24 months, (2) until such person's employment or annuitant status with the State is terminated, or (3) for a maximum period of 4 years for members on military leave with pay and benefits and military leave without pay and benefits (exclusive of any additional service imposed pursuant to law).

(f) The Department shall establish by rule the extent to which other employee benefits will continue for persons in non-pay status or who are not in active service.

(g) The State shall not pay the cost of the basic non-contributory group life insurance, program of health benefits and other employee benefits for members who are survivors as defined by paragraphs (1) and (2) of subsection (q) of Section 3 of this Act. The costs of benefits for these survivors shall be paid by the survivors or by the University of Illinois Cooperative Extension Service, or any combination thereof. However, the State shall pay the amount of the reduction in the cost of participation, if any, resulting from the amendment to subsection (a) made by this amendatory Act of the 91st General Assembly.

(h) Those persons occupying positions with any department as a result of emergency appointments pursuant to Section 8b.8 of the Personnel Code who are not considered employees under this Act shall be given the option of participating in the programs of group life insurance, health benefits and other employee benefits. Such persons electing coverage may participate only by making payment equal to the amount normally contributed by the State for similarly situated employees. Such amounts shall be determined by the Director. Such payments and coverage may be continued until such time as the person becomes an employee pursuant to this Act or such person's appointment is terminated.

(i) Any unit of local government within the State of Illinois may apply to the Director to have its employees, annuitants, and their dependents provided group health coverage under this Act on a non-insured basis. To participate, a unit of local government must agree to enroll all of its employees, who may select coverage under either the State group health benefits plan or a health maintenance organization that has contracted with the State to be available as a health care provider for employees as defined in this Act. A unit of local government must remit the entire cost of providing coverage under the State group health benefits plan or, for coverage under a health maintenance organization, an amount determined by the Director based on an analysis of the sex, age, geographic location, or other relevant demographic variables for its employees, except that the unit of local government shall not be required to enroll those of its employees who are covered spouses or dependents under this plan or another group policy or plan providing health benefits as long as (1) an appropriate official from the unit of local government attests that each employee not enrolled is a covered spouse or dependent under this plan or another group policy or plan, and (2) at least 85% of the employees are enrolled and the unit of local government remits the entire cost of providing coverage to those employees, except that a participating school district must have enrolled at least 85% of its full-time employees who have not waived coverage under the district's group health plan by participating in a component of the district's cafeteria plan. A participating school district is not required to enroll a full-time employee who has waived coverage under the district's health plan, provided that an appropriate official from the participating school district attests that the full-time employee has waived coverage by participating in a component of the district's cafeteria plan. For the purposes of this subsection, "participating school district" includes a unit of local government whose primary purpose is education as defined by the Department's rules.

Employees of a participating unit of local government who are not enrolled due to coverage under another group health policy or plan may enroll in the event of a qualifying change in status, special enrollment, special circumstance as defined by the Director, or during the annual Benefit Choice Period. A participating unit of local government may also elect to cover its annuitants. Dependent coverage shall be offered on an optional basis, with the costs paid by the unit of local government, its employees, or some combination of the two as determined by the unit of local government. The unit of local government shall be responsible for timely collection and transmission of dependent premiums.

The Director shall annually determine monthly rates of payment, subject to the following constraints:

(1) In the first year of coverage, the rates shall be equal to the amount normally charged to State employees for elected optional coverages or for enrolled dependents coverages or other contributory coverages, or contributed by the State for basic insurance coverages on behalf of its employees, adjusted for differences between State employees and employees of the local government in age, sex, geographic location or other relevant demographic variables, plus an amount sufficient to pay for the additional administrative costs of providing coverage to employees of the unit of local government and their dependents.

(2) In subsequent years, a further adjustment shall be made to reflect the actual prior

years' claims experience of the employees of the unit of local government.

In the case of coverage of local government employees under a health maintenance organization, the Director shall annually determine for each participating unit of local government the maximum monthly amount the unit may contribute toward that coverage, based on an analysis of (i) the age, sex, geographic location, and other relevant demographic variables of the unit's employees and (ii) the cost to cover those employees under the State group health benefits plan. The Director may similarly determine the maximum monthly amount each unit of local government may contribute toward coverage of its employees' dependents under a health maintenance organization.

Monthly payments by the unit of local government or its employees for group health benefits plan or health maintenance organization coverage shall be deposited in the Local Government Health Insurance Reserve Fund.

The Local Government Health Insurance Reserve Fund is hereby created as a nonappropriated trust fund to be held outside the State Treasury, with the State Treasurer as custodian. The Local Government Health Insurance Reserve Fund shall be a continuing fund not subject to fiscal year limitations. All revenues arising from the administration of the health benefits program established under this Section shall be deposited into the Local Government Health Insurance Reserve Fund. Any interest earned on moneys in the Local Government Health Insurance Reserve Fund shall be deposited into the Fund. All expenditures from this Fund shall be used for payments for health care benefits for local government and rehabilitation facility employees, annuitants, and dependents, and to reimburse the Department or its administrative service organization for all expenses incurred in the administration of benefits. No other State funds may be used for these purposes.

A local government employer's participation or desire to participate in a program created under this subsection shall not limit that employer's duty to bargain with the representative of any collective bargaining unit of its employees.

(j) Any rehabilitation facility within the State of Illinois may apply to the Director to have its employees, annuitants, and their eligible dependents provided group health coverage under this Act on a non-insured basis. To participate, a rehabilitation facility must agree to enroll all of its employees and remit the entire cost of providing such coverage for its employees, except that the rehabilitation facility shall not be required to enroll those of its employees who are covered spouses or dependents under this plan or another group policy or plan providing health benefits as long as (1) an appropriate official from the rehabilitation facility attests that each employee not enrolled is a covered spouse or dependent under this plan or another group policy or plan, and (2) at least 85% of the employees are enrolled and the rehabilitation facility remits the entire cost of providing coverage to those employees. Employees of a participating rehabilitation facility who are not enrolled due to coverage under another group health policy or plan may enroll in the event of a qualifying change in status, special enrollment, special circumstance as defined by the Director, or during the annual Benefit Choice Period. A participating rehabilitation facility may also elect to cover its annuitants. Dependent coverage shall be offered on an optional basis, with the costs paid by the rehabilitation facility, its employees, or some combination of the 2 as determined by the rehabilitation facility. The rehabilitation facility shall be responsible for timely collection and transmission of dependent premiums.

The Director shall annually determine quarterly rates of payment, subject to the following constraints:

(1) In the first year of coverage, the rates shall be equal to the amount normally charged to State employees for elected optional coverages or for enrolled dependents coverages or other contributory coverages on behalf of its employees, adjusted for differences between State employees and employees of the rehabilitation facility in age, sex, geographic location or other relevant demographic variables, plus an amount sufficient to pay for the additional administrative costs of providing coverage to employees of the rehabilitation facility and their dependents.

(2) In subsequent years, a further adjustment shall be made to reflect the actual prior years' claims experience of the employees of the rehabilitation facility.

Monthly payments by the rehabilitation facility or its employees for group health benefits shall be deposited in the Local Government Health Insurance Reserve Fund.

(k) Any domestic violence shelter or service within the State of Illinois may apply to the Director to have its employees, annuitants, and their dependents provided group health coverage under this Act on a non-insured basis. To participate, a domestic violence shelter or service must agree to enroll all of its employees and pay the entire cost of providing such coverage for its employees. A participating domestic violence shelter may also elect to cover its annuitants. Dependent coverage shall be offered on an optional basis, with employees, or some combination of the 2 as determined by the domestic violence shelter or service. The domestic violence shelter or service shall be responsible for timely collection and transmission of dependent premiums.

The Director shall annually determine rates of payment, subject to the following constraints:

(1) In the first year of coverage, the rates shall be equal to the amount normally charged to State employees for elected optional coverages or for enrolled dependents coverages or other contributory coverages on behalf of its employees, adjusted for differences between State employees and employees of the domestic violence shelter or service in age, sex, geographic location or other relevant demographic variables, plus an amount sufficient to pay for the additional administrative costs of providing coverage to employees of the domestic violence shelter or service and their dependents.

(2) In subsequent years, a further adjustment shall be made to reflect the actual prior years' claims experience of the employees of the domestic violence shelter or service.

Monthly payments by the domestic violence shelter or service or its employees for group health insurance shall be deposited in the Local Government Health Insurance Reserve Fund.

(l) A public community college or entity organized pursuant to the Public Community College Act may apply to the Director initially to have only annuitants not covered prior to July 1, 1992 by the district's health plan provided health coverage under this Act on a non-insured basis. The community college must execute a 2-year contract to participate in the Local Government Health Plan. Any annuitant may enroll in the event of a qualifying change in status, special enrollment, special circumstance as defined by the Director, or during the annual Benefit Choice Period.

The Director shall annually determine monthly rates of payment subject to the following constraints: for those community colleges with annuitants only enrolled, first year rates shall be equal to the average cost to cover claims for a State member adjusted for demographics, Medicare participation, and other factors; and in the second year, a further adjustment of rates shall be made to reflect the actual first year's claims experience of the covered annuitants.

(l-5) The provisions of subsection (l) become inoperative on July 1, 1999.

(m) The Director shall adopt any rules deemed necessary for implementation of this amendatory Act of 1989 (Public Act 86-978).

(n) Any child advocacy center within the State of Illinois may apply to the Director to have its employees, annuitants, and their dependents provided group health coverage under this Act on a non-insured basis. To participate, a child advocacy center must agree to enroll all of its employees and pay the entire cost of providing coverage for its employees. A participating child advocacy center may also elect to cover its annuitants. Dependent coverage shall be offered on an optional basis, with the costs paid by the child advocacy center, its employees, or some combination of the 2 as determined by the child advocacy center. The child advocacy center shall be responsible for timely collection and transmission of dependent premiums.

The Director shall annually determine rates of payment, subject to the following constraints:

(1) In the first year of coverage, the rates shall be equal to the amount normally charged to State employees for elected optional coverages or for enrolled dependents coverages or other contributory coverages on behalf of its employees, adjusted for differences between State employees and employees of the child advocacy center in age, sex, geographic location, or other relevant demographic variables, plus an amount sufficient to pay for the additional administrative costs of providing coverage to employees of the child advocacy center and their dependents.

(2) In subsequent years, a further adjustment shall be made to reflect the actual prior years' claims experience of the employees of the child advocacy center.

Monthly payments by the child advocacy center or its employees for group health insurance shall be deposited into the Local Government Health Insurance Reserve Fund.

(Source: P.A. 94-839, eff. 6-6-06; 94-860, eff. 6-16-06; 95-331, eff. 8-21-07; 95-632, eff. 9-25-07.)

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

AMENDMENT NO. 2 TO SENATE BILL 934

AMENDMENT NO. _2_. Amend Senate Bill 934 by replacing everything after the enacting clause with the following:

"Section 5. The State Employees Group Insurance Act of 1971 is amended by changing Section 6.11 as follows:

(5 ILCS 375/6.11)

Sec. 6.11. Required health benefits; Illinois Insurance Code requirements. The program of health benefits shall provide the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t of the Illinois Insurance Code. The program of health benefits

shall provide the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.2, 356z.4, 356z.6, 356z.9, ~~and~~ 356z.10 , and 356z.14 of the Illinois Insurance Code. The program of health benefits must comply with Section 155.37 of the Illinois Insurance Code.
(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

Section 10. The Counties Code is amended by changing Section 5-1069.3 as follows:
(55 ILCS 5/5-1069.3)
Sec. 5-1069.3. Required health benefits. If a county, including a home rule county, is a self-insurer for purposes of providing health insurance coverage for its employees, the coverage shall include coverage for the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.6, 356z.9, ~~and~~ 356z.10 , and 356z.14 of the Illinois Insurance Code. The requirement that health benefits be covered as provided in this Section is an exclusive power and function of the State and is a denial and limitation under Article VII, Section 6, subsection (h) of the Illinois Constitution. A home rule county to which this Section applies must comply with every provision of this Section.
(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

Section 15. The Illinois Municipal Code is amended by changing Section 10-4-2.3 as follows:
(65 ILCS 5/10-4-2.3)
Sec. 10-4-2.3. Required health benefits. If a municipality, including a home rule municipality, is a self-insurer for purposes of providing health insurance coverage for its employees, the coverage shall include coverage for the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.6, 356z.9, ~~and~~ 356z.10 , and 356z.14 of the Illinois Insurance Code. The requirement that health benefits be covered as provided in this is an exclusive power and function of the State and is a denial and limitation under Article VII, Section 6, subsection (h) of the Illinois Constitution. A home rule municipality to which this Section applies must comply with every provision of this Section.
(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

Section 20. The School Code is amended by changing Section 10-22.3f as follows:
(105 ILCS 5/10-22.3f)
Sec. 10-22.3f. Required health benefits. Insurance protection and benefits for employees shall provide the post-mastectomy care benefits required to be covered by a policy of accident and health insurance under Section 356t and the coverage required under Sections 356g.5, 356u, 356w, 356x, 356z.6, ~~and~~ 356z.9 , and 356z.14 of the Illinois Insurance Code.
(Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07; 95-876, eff. 8-21-08.)

Section 25. The Illinois Insurance Code is amended by adding Section 356z.14 as follows:
(215 ILCS 5/356z.14 new)
Sec. 356z.14. Autism spectrum disorders.
(a) A group or individual policy of accident and health insurance or managed care plan amended, delivered, issued, or renewed after the effective date of this amendatory Act of the 95th General Assembly must provide individuals under 21 years of age coverage for the diagnosis of autism spectrum disorders and for the treatment of autism spectrum disorders to the extent that the diagnosis and treatment of autism spectrum disorders are not already covered by the policy of accident and health insurance or managed care plan.
(b) Coverage provided under this Section shall be subject to a maximum benefit of $36,000 per year, but shall not be subject to any limits on the number of visits to a service provider. After December 30, 2009, the Director of the Division of Insurance shall, on an annual basis, adjust the maximum benefit for inflation using the Medical Care Component of the United States Department of Labor Consumer Price Index for All Urban Consumers. Payments made by an insurer on behalf of a covered individual for any care, treatment, intervention, service, or item, the provision of which was for the treatment of a health condition not diagnosed as an autism spectrum disorder, shall not be applied toward any maximum benefit established under this subsection.
(c) Coverage under this Section shall be subject to co-payment, deductible, and coinsurance provisions of a policy of accident and health insurance or managed care plan to the extent that other medical services covered by the policy of accident and health insurance or managed care plan are subject to these provisions.
(d) This Section shall not be construed as limiting benefits that are otherwise available to an individual

under a policy of accident and health insurance or managed care plan and benefits provided under this Section may not be subject to dollar limits, deductibles, copayments, or coinsurance provisions that are less favorable to the insured than the dollar limits, deductibles, or coinsurance provisions that apply to physical illness generally.

(e) An insurer may not deny or refuse to provide otherwise covered services, or refuse to renew, refuse to reissue, or otherwise terminate or restrict coverage under an individual contract to provide services to an individual because the individual or their dependent is diagnosed with an autism spectrum disorder or due to the individual utilizing benefits in this Section.

(f) Upon request of the reimbursing insurer, a provider of treatment for autism spectrum disorders shall furnish medical records, clinical notes, or other necessary data that substantiate that initial or continued medical treatment is medically necessary and is resulting in improved clinical status. When treatment is anticipated to require continued services to achieve demonstrable progress, the insurer may request a treatment plan consisting of diagnosis, proposed treatment by type, frequency, anticipated duration of treatment, the anticipated outcomes stated as goals, and the frequency by which the treatment plan will be updated.

(g) When making a determination of medical necessity for a treatment modality for autism spectrum disorders, an insurer must make the determination in a manner that is consistent with the manner used to make that determination with respect to other diseases or illnesses covered under the policy, including an appeals process. During the appeals process, any challenge to medical necessity must be viewed as reasonable only if the review includes a physician with expertise in the most current and effective treatment modalities for autism spectrum disorders.

(h) Coverage for medically necessary early intervention services must be delivered by certified early intervention specialists, as defined in 89 Ill. Admin. Code 500 and any subsequent amendments thereto.

(i) As used in this Section:

"Autism spectrum disorders" means pervasive developmental disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autism, Asperger's disorder, and pervasive developmental disorder not otherwise specified.

"Diagnosis of autism spectrum disorders" means one or more tests, evaluations, or assessments to diagnose whether an individual has autism spectrum disorder that is prescribed, performed, or ordered by (A) a physician licensed to practice medicine in all its branches or (B) a licensed clinical psychologist with expertise in diagnosing autism spectrum disorders.

"Medically necessary" means any care, treatment, intervention, service or item which will or is reasonably expected to do any of the following: (i) prevent the onset of an illness, condition, injury, disease or disability; (ii) reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury, disease or disability; or (iii) assist to achieve or maintain maximum functional activity in performing daily activities.

"Treatment for autism spectrum disorders" shall include the following care prescribed, provided, or ordered for an individual diagnosed with an autism spectrum disorder by (A) a physician licensed to practice medicine in all its branches or (B) a certified, registered, or licensed health care professional with expertise in treating effects of autism spectrum disorders when the care is determined to be medically necessary and ordered by a physician licensed to practice medicine in all its branches:

(1) Psychiatric care, meaning direct, consultative, or diagnostic services provided by a licensed psychiatrist.

(2) Psychological care, meaning direct or consultative services provided by a licensed psychologist.

(3) Habilitative or rehabilitative care, meaning professional, counseling, and guidance services and treatment programs, including applied behavior analysis, that are intended to develop, maintain, and restore the functioning of an individual. As used in this subsection (i), "applied behavior analysis" means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relations between environment and behavior.

(4) Therapeutic care, including behavioral speech, occupational, and physical therapies that provide treatment in the following areas: (i) self care and feeding, (ii) pragmatic, receptive, and expressive language, (iii) cognitive functioning, (iv) applied behavior analysis, intervention, and modification, (v) motor planning, and (vi) sensory processing.

(j) Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

Section 30. The Health Maintenance Organization Act is amended by changing Section 5-3 as follows:

(215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

Sec. 5-3. Insurance Code provisions.

(a) Health Maintenance Organizations shall be subject to the provisions of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.14, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

(b) For purposes of the Illinois Insurance Code, except for Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health Maintenance Organizations in the following categories are deemed to be "domestic companies":

(1) a corporation authorized under the Dental Service Plan Act or the Voluntary Health Services Plans Act;

(2) a corporation organized under the laws of this State; or

(3) a corporation organized under the laws of another state, 30% or more of the enrollees of which are residents of this State, except a corporation subject to substantially the same requirements in its state of organization as is a "domestic company" under Article VIII 1/2 of the Illinois Insurance Code.

(c) In considering the merger, consolidation, or other acquisition of control of a Health Maintenance Organization pursuant to Article VIII 1/2 of the Illinois Insurance Code,

(1) the Director shall give primary consideration to the continuation of benefits to enrollees and the financial conditions of the acquired Health Maintenance Organization after the merger, consolidation, or other acquisition of control takes effect;

(2)(i) the criteria specified in subsection (1)(b) of Section 131.8 of the Illinois Insurance Code shall not apply and (ii) the Director, in making his determination with respect to the merger, consolidation, or other acquisition of control, need not take into account the effect on competition of the merger, consolidation, or other acquisition of control;

(3) the Director shall have the power to require the following information:

(A) certification by an independent actuary of the adequacy of the reserves of the Health Maintenance Organization sought to be acquired;

(B) pro forma financial statements reflecting the combined balance sheets of the acquiring company and the Health Maintenance Organization sought to be acquired as of the end of the preceding year and as of a date 90 days prior to the acquisition, as well as pro forma financial statements reflecting projected combined operation for a period of 2 years;

(C) a pro forma business plan detailing an acquiring party's plans with respect to the operation of the Health Maintenance Organization sought to be acquired for a period of not less than 3 years; and

(D) such other information as the Director shall require.

(d) The provisions of Article VIII 1/2 of the Illinois Insurance Code and this Section 5-3 shall apply to the sale by any health maintenance organization of greater than 10% of its enrollee population (including without limitation the health maintenance organization's right, title, and interest in and to its health care certificates).

(e) In considering any management contract or service agreement subject to Section 141.1 of the Illinois Insurance Code, the Director (i) shall, in addition to the criteria specified in Section 141.2 of the Illinois Insurance Code, take into account the effect of the management contract or service agreement on the continuation of benefits to enrollees and the financial condition of the health maintenance organization to be managed or serviced, and (ii) need not take into account the effect of the management contract or service agreement on competition.

(f) Except for small employer groups as defined in the Small Employer Rating, Renewability and Portability Health Insurance Act and except for medicare supplement policies as defined in Section 363 of the Illinois Insurance Code, a Health Maintenance Organization may by contract agree with a group or other enrollment unit to effect refunds or charge additional premiums under the following terms and conditions:

(i) the amount of, and other terms and conditions with respect to, the refund or additional premium are set forth in the group or enrollment unit contract agreed in advance of the period for which a refund is to be paid or additional premium is to be charged (which period shall not be less than one year); and

(ii) the amount of the refund or additional premium shall not exceed 20% of the Health Maintenance Organization's profitable or unprofitable experience with respect to the group or other enrollment unit for the period (and, for purposes of a refund or additional premium, the profitable or unprofitable experience shall be calculated taking into account a pro rata share of the Health Maintenance Organization's administrative and marketing expenses, but shall not include any refund to be made or additional premium to be paid pursuant to this subsection (f)). The Health Maintenance Organization and the group or enrollment unit may agree that the profitable or unprofitable experience may be calculated taking into account the refund period and the immediately preceding 2 plan years.

The Health Maintenance Organization shall include a statement in the evidence of coverage issued to each enrollee describing the possibility of a refund or additional premium, and upon request of any group or enrollment unit, provide to the group or enrollment unit a description of the method used to calculate (1) the Health Maintenance Organization's profitable experience with respect to the group or enrollment unit and the resulting refund to the group or enrollment unit or (2) the Health Maintenance Organization's unprofitable experience with respect to the group or enrollment unit and the resulting additional premium to be paid by the group or enrollment unit.

In no event shall the Illinois Health Maintenance Organization Guaranty Association be liable to pay any contractual obligation of an insolvent organization to pay any refund authorized under this Section.
(Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

Section 35. The Voluntary Health Services Plans Act is amended by changing Section 10 as follows:

(215 ILCS 165/10) (from Ch. 32, par. 604)

Sec. 10. Application of Insurance Code provisions. Health services plan corporations and all persons interested therein or dealing therewith shall be subject to the provisions of Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c, 149, 155.37, 354, 355.2, 356g.5, 356r, 356t, 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.14, 364.01, 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of Section 367 of the Illinois Insurance Code.
(Source: P.A. 94-1076, eff. 12-29-06; 95-189, eff. 8-16-07; 95-331, eff. 8-21-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

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

AMENDMENT NO. 3 TO SENATE BILL 934

AMENDMENT NO. 3 . Amend Senate Bill 934, AS AMENDED, with reference to page and line numbers of House Amendment No. 2 as follows:

on page 8, line 22, by replacing "behavioral speech," with "behavioral, speech,".

Under the rules, the foregoing **Senate Bill No. 934**, 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. 1511

A bill for AN ACT concerning finance.

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. 1511
House Amendment No. 3 to SENATE BILL NO. 1511
Passed the House, as amended, November 19, 2008.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1511

AMENDMENT NO. 1 . Amend Senate Bill 1511 on page 3, by replacing lines 10 through 22 with

the following:

"Notwithstanding this or any other law, in order to promote business competition and the stability and growth of small businesses, the Capital Development Board may accept a surety bond guaranteed by the federal Small Business Administration for a public construction contract. In lieu of a surety bond, the Board may accept a deposit, in an amount at least equal to the contract price, of: cash, a letter of credit from a federally insured financial institution, debt obligations of the United States, or debt obligations backed by the full faith and credit of the State of Illinois. The Capital Development Board may adopt rules to implement this Section. For purposes of this Section, a small business is a construction business with annual sales and receipts of no more than $27,000,000.".

AMENDMENT NO. 3 TO SENATE BILL 1511

AMENDMENT NO. 3 . Amend Senate Bill 1511, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The General Obligation Bond Act is amended by changing Sections 2 and 7 as follows:

(30 ILCS 330/2) (from Ch. 127, par. 652)

Sec. 2. Authorization for Bonds. The State of Illinois is authorized to issue, sell and provide for the retirement of General Obligation Bonds of the State of Illinois for the categories and specific purposes expressed in Sections 2 through 8 of this Act, in the total amount of $27,693,149,369 $27,658,149,369.

The bonds authorized in this Section 2 and in Section 16 of this Act are herein called "Bonds".

Of the total amount of Bonds authorized in this Act, up to $2,200,000,000 in aggregate original principal amount may be issued and sold in accordance with the Baccalaureate Savings Act in the form of General Obligation College Savings Bonds.

Of the total amount of Bonds authorized in this Act, up to $300,000,000 in aggregate original principal amount may be issued and sold in accordance with the Retirement Savings Act in the form of General Obligation Retirement Savings Bonds.

Of the total amount of Bonds authorized in this Act, the additional $10,000,000,000 authorized by this amendatory Act of the 93rd General Assembly shall be used solely as provided in Section 7.2.

The issuance and sale of Bonds pursuant to the General Obligation Bond Act is an economical and efficient method of financing the long-term capital needs of the State. This Act will permit the issuance of a multi-purpose General Obligation Bond with uniform terms and features. This will not only lower the cost of registration but also reduce the overall cost of issuing debt by improving the marketability of Illinois General Obligation Bonds.

(Source: P.A. 92-13, eff. 6-22-01; 92-596, eff. 6-28-02; 92-598, eff. 6-28-02; 93-2, eff. 4-7-03; 93-839, eff. 7-30-04.)

(30 ILCS 330/7) (from Ch. 127, par. 657)

Sec. 7. Coal and Energy Development. The amount of $698,200,000 $663,200,000 is authorized to be used by the Department of Commerce and Economic Opportunity (formerly Department of Commerce and Community Affairs) for coal and energy development purposes, pursuant to Sections 2, 3 and 3.1 of the Illinois Coal and Energy Development Bond Act, for the purposes specified in Section 8.1 of the Energy Conservation and Coal Development Act, and for the purposes specified in Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois , and for the purpose of facility cost reports prepared pursuant to Section 1-75(d)(4) of the Illinois Power Agency Act. Of this amount:

(a) $115,000,000 is for the specific purposes of acquisition, development, construction, reconstruction, improvement, financing, architectural and technical planning and installation of capital facilities consisting of buildings, structures, durable equipment, and land for the purpose of capital development of coal resources within the State and for the purposes specified in Section 8.1 of the Energy Conservation and Coal Development Act;

(b) $35,000,000 is for the purposes specified in Section 8.1 of the Energy Conservation and Coal Development Act and making a grant to the owner of a generating station located in Illinois and having at least three coal-fired generating units with accredited summer capability greater than 500 megawatts each at such generating station as provided in Section 6 of that Bond Act;

(c) $13,200,000 is for research, development and demonstration of forms of energy other than that derived from coal, either on or off State property; and

(d) $500,000,000 is for the purpose of providing financial assistance to new electric generating facilities as provided in Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois; and .

(e) $35,000,000 is for the purpose of facility cost reports prepared pursuant to Section 1-75(d)(4) of

the Illinois Power Agency Act.
(Source: P.A. 94-793, eff. 5-19-06.)

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

Under the rules, the foregoing **Senate Bill No. 1511**, with House Amendments numbered 1 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. 1529

A bill for AN ACT concerning employment.
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. 1529
House Amendment No. 3 to SENATE BILL NO. 1529
Passed the House, as amended, November 19, 2008.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1529

AMENDMENT NO. 1 . Amend Senate Bill 1529 by replacing everything after the enacting clause with the following:

"Section 5. The Prevailing Wage Act is amended by changing Sections 2, 3, 4, 5, and 9 as follows:
(820 ILCS 130/2) (from Ch. 48, par. 39s-2)
Sec. 2. This Act applies to the wages of laborers, mechanics and other workers employed in any public works, as hereinafter defined, by any public body and to anyone under contracts for public works.
As used in this Act, unless the context indicates otherwise:
"Public works" means all fixed works constructed by any public body, other than work done directly by any public utility company, whether or not done under public supervision or direction, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects financed in whole or in part with bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of the Illinois Municipal Code), the Industrial Building Revenue Bond Act, the Illinois Finance Authority Act, the Illinois Sports Facilities Authority Act, or the Build Illinois Bond Act, and all projects financed in whole or in part with loans or other funds made available pursuant to the Build Illinois Act. "Public works" also includes all projects financed in whole or in part with funds from the Fund for Illinois' Future under Section 6z-47 of the State Finance Act, funds for school construction under Section 5 of the General Obligation Bond Act, funds authorized under Section 3 of the School Construction Bond Act, funds for school infrastructure under Section 6z-45 of the State Finance Act, and funds for transportation purposes under Section 4 of the General Obligation Bond Act. "Public works" also includes all projects financed in whole or in part with funds from the Department of Commerce and Economic Opportunity under the Illinois Renewable Fuels Development Program Act for which there is no project labor agreement. "Public works" also includes all projects at leased facility property used for airport purposes under Section 35 of the Local Government Facility Lease Act.
"Construction" means all work on public works involving laborers, workers or mechanics.
"Locality" means the county where the physical work upon public works is performed, except (1) that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work and (2) that, with respect to contracts for highway work with the Department of Transportation of this State, "locality" may at the discretion of the Secretary of the Department of Transportation be construed to include two or more adjacent counties from which workers may be accessible for work on such construction.
"Public body" means the State or any officer, board or commission of the State or any political subdivision or department thereof, or any institution supported in whole or in part by public funds, and

includes every county, city, town, village, township, school district, irrigation, utility, reclamation improvement or other district and every other political subdivision, district or municipality of the state whether such political subdivision, municipality or district operates under a special charter or not.

The terms "general prevailing rate of hourly wages", "general prevailing rate of wages" or "prevailing rate of wages" when used in this Act mean the hourly cash wages plus fringe benefits for training and apprenticeship programs approved by the U.S. Department of Labor, Bureau of Apprenticeship and Training, health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works.

"Aggregate materials" includes, but is not limited to, rock, gravel, sand, pebbles, dirt, soil, clay, bitumen, cultured/polymer, cement, concrete, asphalt, slag, grindings, and recycled materials.

(Source: P.A. 93-15, eff. 6-11-03; 93-16, eff. 1-1-04; 93-205, eff. 1-1-04; 94-750, eff. 5-9-06.)

(820 ILCS 130/3) (from Ch. 48, par. 39s-3)

Sec. 3. Not less than the general prevailing rate of hourly wages for work of a similar character on public works in the locality in which the work is performed, and not less than the general prevailing rate of hourly wages for legal holiday and overtime work, shall be paid to all laborers, workers and mechanics employed by or on behalf of any public body engaged in the construction of public works. Laborers ~~Only such laborers~~, workers and mechanics ~~as are~~ directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job shall be deemed to be employed upon public works. The site of the building or construction job shall also include a facility dedicated to the performance of the contract or project and located in such close proximity to the actual construction location that it would be reasonable to include them. Laborers, ~~and laborers,~~ workers and mechanics engaged in the transportation of aggregate and excavated materials and equipment operated to haul to or from the site ~~, but not including the transportation by the sellers and suppliers or the manufacture or processing of materials or equipment, in the execution of any contract or contracts for public works with any public body~~ shall also be deemed to be employed upon public works.

To determine the prevailing wage rate for a laborer, worker, or mechanic engaged in the transportation of aggregate or excavated materials or the operation of equipment to haul aggregate or excavated materials to or from the site of the building or construction job, the Department of Labor shall take into consideration the applicable prevailing wage rate and the Illinois Department of Transportation's current method of establishing equipment rates.

The transportation by the sellers and suppliers or the manufacture or processing of non-aggregate materials or equipment in the execution of any contract or contracts for public works with any public body shall not be deemed to be employment upon public works.

The wage for a tradesman performing maintenance is equivalent to that of a tradesman engaged in construction.

(Source: P.A. 93-15, eff. 6-11-03; 93-16, eff. 1-1-04.)

(820 ILCS 130/4) (from Ch. 48, par. 39s-4)

Sec. 4. (a) The public body awarding any contract for public work or otherwise undertaking any public works, shall ascertain the general prevailing rate of hourly wages in the locality in which the work is to be performed, for each craft or type of worker or mechanic needed to execute the contract, and where the public body performs the work without letting a contract therefor, shall ascertain the prevailing rate of wages on a per hour basis in the locality, and such public body shall specify in the resolution or ordinance and in the call for bids for the contract, that the general prevailing rate of wages in the locality for each craft or type of worker or mechanic needed to execute the contract or perform such work, also the general prevailing rate for legal holiday and overtime work, as ascertained by the public body or by the Department of Labor shall be paid for each craft or type of worker needed to execute the contract or to perform such work, and it shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him, and where the public body performs the work, upon the public body, to pay not less than the specified rates to all laborers, workers and mechanics employed by them in the execution of the contract or such work; provided, however, that if the public body desires that the Department of Labor ascertain the prevailing rate of wages, it shall notify the Department of Labor to ascertain the general prevailing rate of hourly wages for work under contract, or for work performed by a public body without letting a contract as required in the locality in which the work is to be performed, for each craft or type of worker or mechanic needed to execute the contract or project or work to be performed. Upon such notification the Department of Labor shall ascertain such general prevailing rate of wages, and certify the prevailing wage to such public body. The public body awarding the contract shall cause to be inserted in the project specifications and the contract a stipulation to the effect that not less than the prevailing rate of wages as found by the public body or Department of Labor or determined by the court on review shall be paid to all laborers, workers and

mechanics performing work under the contract.

(b) It shall also be mandatory upon the contractor to whom the contract is awarded to insert into each subcontract and into the project specifications for each subcontract a written stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract. It shall also be mandatory upon each subcontractor to cause to be inserted into each lower tiered subcontract and into the project specifications for each lower tiered subcontract a stipulation to the effect that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract. A contractor or subcontractor who fails to comply with this subsection (b) is in violation of this Act.

(c) It shall also require in all such contractor's bonds that the contractor include such provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract. All bid specifications shall list the specified rates to all laborers, workers and mechanics in the locality for each craft or type of worker or mechanic needed to execute the contract.

(d) If the Department of Labor revises the prevailing rate of hourly wages to be paid by the public body, the revised rate shall apply to such contract, and the public body shall be responsible to notify the contractor and each subcontractor, of the revised rate.

(e) ~~Two or more investigatory hearings under this Section on the issue of establishing a new prevailing wage classification for a particular craft or type of worker shall be consolidated in a single hearing before the Department. Such consolidation shall occur whether each separate investigatory hearing is conducted by a public body or the Department. The party requesting a consolidated investigatory hearing shall have the burden of establishing that there is no existing prevailing wage classification for the particular craft or type of worker in any of the localities under consideration.~~

It shall be mandatory upon the contractor or construction manager to whom a contract for public works is awarded to post, at a location on the project site of the public works that is easily accessible to the workers engaged on the project, the prevailing wage rates for each craft or type of worker or mechanic needed to execute the contract or project or work to be performed. A failure to post a prevailing wage rate as required by this Section is a violation of this Act.

(Source: P.A. 92-783, eff. 8-6-02; 93-15, eff. 6-11-03; 93-16, eff. 1-1-04; 93-38, eff. 6-1-04; revised 10-29-04.)

(820 ILCS 130/5) (from Ch. 48, par. 39s-5)

Sec. 5. Certified payroll.

(a) While participating on public works, the contractor and each subcontractor shall:

(1) make and keep, for a period of not less than 5 ~~3~~ years, records of all laborers, mechanics, and other workers employed by them on the project; the records shall include each worker's name, address, telephone number when available, social security number, classification or classifications, the hourly wages paid in each pay period, the number of hours worked each day, and the starting and ending times of work each day; and

(2) submit monthly, in person, by mail, or electronically a certified payroll to the public body in charge of the project. The certified payroll shall consist of a complete copy of the records identified in paragraph (1) of this subsection (a), but may exclude the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor which avers that: (i) such records are true and accurate; (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Act; and (iii) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class B misdemeanor. A general contractor is not prohibited from relying on the certification of a lower tier subcontractor, provided the general contractor does not knowingly rely upon a subcontractor's false certification. Any contractor or subcontractor subject to this Act who fails to submit a certified payroll or knowingly files a false certified payroll is in violation of this Act and guilty of a Class B misdemeanor. The public body in charge of the project shall keep the records submitted in accordance with this paragraph (2) of subsection (a) for a period of not less than 3 years. The records submitted in accordance with this paragraph (2) of subsection (a) shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. The public body shall accept any reasonable submissions by the contractor that meet the requirements of this Section.

(b) Upon 7 business days' notice, the contractor and each subcontractor shall make available for inspection the records identified in paragraph (1) of subsection (a) of this Section to the public body in charge of the project, its officers and agents, and to the Director of Labor and his deputies and agents. Upon 7 business days' notice, the contractor and each subcontractor shall make such records available at all reasonable hours at a location within this State.

(Source: P.A. 93-38, eff. 6-1-04; 94-515, eff. 8-10-05; 94-1023, eff. 7-12-06.)

(820 ILCS 130/9) (from Ch. 48, par. 39s-9)

Sec. 9. To effectuate the purpose and policy of this Act each public body shall, during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages as defined in this Act and publicly post or keep available for inspection by any interested party in the main office of such public body its determination of such prevailing rate of wage and shall promptly file, no later than July 15 of each year, a certified copy thereof in the office of the Secretary of State at Springfield and the office of the Illinois Department of Labor.

The Department of Labor shall during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages for each county in the State. If a public body does not investigate and ascertain the prevailing rate of wages during the month of June as required by the previous paragraph, then the prevailing rate of wages for that public body shall be the rate as determined by the Department under this paragraph for the county in which such public body is located.

Where the Department of Labor ascertains the prevailing rate of wages, it is the duty of the Department of Labor within 30 days after receiving a notice from the public body authorizing the proposed work, to conduct an investigation to ascertain the prevailing rate of wages as defined in this Act and such investigation shall be conducted in the locality in which the work is to be performed. The Department of Labor shall send a certified copy of its findings to the public body authorizing the work and keep a record of its findings available for inspection by any interested party in the office of the Department of Labor at Springfield.

The public body except for the Department of Transportation with respect to highway contracts shall within 30 days after filing with the Secretary of State, or the Department of Labor shall within 30 days after filing with such public body, publish in a newspaper of general circulation within the area that the determination is effective, a notice of its determination and shall promptly mail a copy of its determination to any employer, and to any association of employers and to any person or association of employees who have filed their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates.

At any time within 30 days after the Department of Labor has published on its official web site a prevailing wage schedule, any person affected thereby may object in writing to the determination or such part thereof as they may deem objectionable by filing a written notice with the public body or Department of Labor, whichever has made such determination, stating the specified grounds of the objection. It shall thereafter be the duty of the public body or Department of Labor to set a date for a hearing on the objection after giving written notice to the objectors at least 10 days before the date of the hearing and said notice shall state the time and place of such hearing. Such hearing by a public body shall be held within 45 days after the objection is filed, and shall not be postponed or reset for a later date except upon the consent, in writing, of all the objectors and the public body. If such hearing is not held by the public body within the time herein specified, the Department of Labor may, upon request of the objectors, conduct the hearing on behalf of the public body.

The public body or Department of Labor, whichever has made such determination, is authorized ~~in its discretion~~ to hear each timely filed written objection. Two or more hearings under this Section on the issue of establishing a new prevailing wage classification for a particular craft or type of worker shall be consolidated in a single hearing before the Department. Such consolidation shall occur whether each separate hearing is conducted by a public body or the Department. The party requesting a consolidated hearing shall have the burden of establishing that there is no existing prevailing wage classification for the particular craft or type of worker in any of the localities under consideration ~~filed separately or consolidate for hearing any one or more written objections filed with them~~. At such hearing the public body or Department of Labor shall introduce in evidence the investigation it instituted which formed the basis of its determination, and the public body or Department of Labor, or any interested objectors may thereafter introduce such evidence as is material to the issue. Thereafter, the public body or Department of Labor, must rule upon the written objection and make such final determination as it believes the evidence warrants, and promptly file a certified copy of its final determination with such public body and the Secretary of State, and serve a copy by personal service or registered mail on all parties to the proceedings. The final determination by the Department of Labor or a public body shall be rendered within 30 days after the conclusion of the hearing.

If proceedings to review judicially the final determination of the public body or Department of Labor are not instituted as hereafter provided, such determination shall be final and binding.

The provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final administrative decisions of any public body or the Department of Labor hereunder. The term

"administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

Appeals from all final orders and judgments entered by the court in review of the final administrative decision of the public body or Department of Labor, may be taken by any party to the action.

Any proceeding in any court affecting a determination of the Department of Labor or public body shall have priority in hearing and determination over all other civil proceedings pending in said court, except election contests.

In all reviews or appeals under this Act, it shall be the duty of the Attorney General to represent the Department of Labor, and defend its determination. The Attorney General shall not represent any public body, except the State, in any such review or appeal.
(Source: P.A. 93-38, eff. 6-1-04.)".

AMENDMENT NO. 3 TO SENATE BILL 1529

AMENDMENT NO. 3 . Amend Senate Bill 1529, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Section 13-50 as follows:
(105 ILCS 5/13-50 new)
Sec. 13-50. Contract cancellation; Macon-Piatt Regional Office of Education. All contracts between the Illinois Department of Corrections or the Illinois Department of Juvenile Justice and the Macon-Piatt Regional Office of Education to provide educational services for the Department of Corrections or the Department of Juvenile Justice shall be canceled in accordance with the terms of those contracts. Upon cancellation, each employee of the Macon-Piatt Regional Office of Education who had been providing educational services for the Department of Corrections or the Department of Juvenile Justice shall be offered certified employment status under the Personnel Code with the State of Illinois. To the extent that it is reasonably practicable, unless otherwise agreed to by the Department of Central Management Services and the collective bargaining representative, the position offered to each of these persons shall be at the same facility and shall consist of the same duties and hours as previously existed under the canceled contract or contracts.".

Under the rules, the foregoing **Senate Bill No. 1529**, with House Amendments numbered 1 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. 2452

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. 2452
Passed the House, as amended, November 19, 2008.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2452

AMENDMENT NO. 1 . Amend Senate Bill 2452 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by adding Sections 32-4e and 32-4f as follows:
(720 ILCS 5/32-4e new)
Sec. 32-4e. Interfering with the duties of a judicial officer.
(a) A person may not give or offer to give benefits, promises, pecuniary compensation, or any other form of compensation, either directly or indirectly, to a judicial officer or a member of the judicial officer's immediate family with the intent to:
(1) induce such judicial officer to do, or fail to do, any act in violation of the lawful execution of his or her official duties; or
(2) induce such judicial officer to commit or aid in the commission of any fraud, or to collude in,

allow, or make available the opportunity for the commission of any fraud on the State of Illinois.

(b) A person may not give or offer to give benefits, promises, pecuniary compensation, or any other form of compensation, either directly or indirectly, to court employees and staff with the intent to interfere with the administration of the judicial process.

(c) Sentence. A person who violates this Section commits a Class 2 felony.

(d) Definitions. For purposes of this Section:

"Judicial officer" means a justice, judge, associate judge, or magistrate of a court of the United States of America or the State of Illinois.

"Immediate family" means a judicial officer's spouse or children.

(720 ILCS 5/32-4f new)

Sec. 32-4f. Retaliating against a Judge by false claim, slander of title, or malicious recording of fictitious liens. A person who files or causes to be filed, in any public record or in any private record that is generally available to the public, any false lien or encumbrance against the real or personal property of a Supreme, Appellate, Circuit, or Associate Judge of the State of Illinois with knowledge that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, and with the intent of retaliating against that Judge for the performance or non-performance of an official judicial duty, is guilty of a violation of this Section. A person is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense.".

Under the rules, the foregoing **Senate Bill No. 2452**, 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. 2562

A bill for AN ACT concerning wildlife.

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. 2562

House Amendment No. 3 to SENATE BILL NO. 2562

Passed the House, as amended, November 19, 2008.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2562

AMENDMENT NO. 1. Amend Senate Bill 2562 on page 3, immediately below line 1, by inserting the following:

"(c) Notwithstanding any other rulemaking authority that may exist, neither the Governor nor any agency or agency head under the jurisdiction of the Governor has any authority to make or promulgate rules to implement or enforce the provisions of this amendatory Act of the 95th General Assembly. If, however, the Governor believes that rules are necessary to implement or enforce the provisions of this amendatory Act of the 95th General Assembly, the Governor may suggest rules to the General Assembly by filing them with the Clerk of the House and Secretary of the Senate and by requesting that the General Assembly authorize such rulemaking by law, enact those suggested rules into law, or take any other appropriate action in the General Assembly's discretion. Nothing contained in this amendatory Act of the 95th General Assembly shall be interpreted to grant rulemaking authority under any other Illinois statute where such authority is not otherwise explicitly given. For the purposes of this amendatory Act of the 95th General Assembly, "rules" is given the meaning contained in Section 1-70 of the Illinois Administrative Procedure Act, and "agency" and "agency head" are given the meanings contained in Sections 1-20 and 1-25 of the Illinois Administrative Procedure Act to the extent that such definitions apply to agencies or agency heads under the jurisdiction of the Governor.".

AMENDMENT NO. 3 TO SENATE BILL 2562

AMENDMENT NO. 3. Amend Senate Bill 2562, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Wildlife Code is amended by changing Section 1.13 as follows:
(520 ILCS 5/1.13) (from Ch. 61, par. 1.13)
Sec. 1.13. The Department is authorized to issue a "Public Hunting Grounds for Waterfowl" daily usage stamp at a fee not to exceed $10 for duck hunting areas, and not to exceed $15 for Canada goose hunting areas; and assess a daily "Public Hunting Grounds for Pheasants" fee ~~daily usage stamp~~ not to exceed $25 ($35 for non-residents) in 2008 and increasing by $5 every third year until the maximum fee is $50 ($60 for non-residents) ~~$15, such stamp to expire at the end of the day of issue~~. Each person shall obtain such a stamp from the Department to be attached to the permit ~~card~~ assigned to a person , or pay the daily fee to hunt pheasants, under the provisions of the rules and regulations made by the Department for the operation of State Public Hunting Grounds. Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

The Department is authorized to permit hunters to harvest both male and female hand reared pheasants released on such public hunting grounds.

The Department shall cause an administrative rule, setting forth the rules and regulations for the operation of Public Hunting Areas on lands and waters owned or leased by this State.
(Source: P.A. 87-126.)

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

Under the rules, the foregoing **Senate Bill No. 2562**, with House Amendments numbered 1 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. 2824

A bill for AN ACT concerning local government.
Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:
House Amendment No. 2 to SENATE BILL NO. 2824
Passed the House, as amended, November 19, 2008.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 2 TO SENATE BILL 2824

AMENDMENT NO. 2 . Amend Senate Bill 2824 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 7-14 as follows:
(105 ILCS 5/7-14) (from Ch. 122, par. 7-14)
Sec. 7-14. Bonded indebtedness-Tax rate.
(a) Except as provided in subsection (b), whenever the boundaries of any school district are changed by the annexation or detachment of territory, each such district as it exists on and after such action shall assume the bonded indebtedness, as well as financial obligations to the Capital Development Board pursuant to Section 35-15 (now repealed) of this Code, of all the territory included therein after such change. The tax rate for bonded indebtedness shall be determined in the manner provided in Section 19-7 of this Act, except the County Clerk shall annually extend taxes against all the taxable property situated in the county and contained in each such district as it exists after the action. Notwithstanding the provisions of this subsection, if the boundaries of a school district are changed by annexation or detachment of territory after June 30, 1987, and prior to September 15, 1987, and if the school district to which territory is being annexed has no outstanding bonded indebtedness on the date such annexation occurs, then the annexing school district shall not be liable for any bonded indebtedness of the district from which the territory is detached, and the school district from which the territory is detached shall

remain liable for all of its bonded indebtedness.

(b) Whenever a school district with bonded indebtedness has become dissolved under this Article and its territory annexed to another district, the annexing district or districts shall not, except by action pursuant to resolution of the school board of the annexing district prior to the effective date of the annexation, assume the bonded indebtedness of the dissolved district; nor, except by action pursuant to resolution of the school board of the dissolving district, shall the territory of the dissolved district assume the bonded indebtedness of the annexing district or districts. If the annexing district or districts do not assume the bonded indebtedness of the dissolved district, a tax rate for the bonded indebtedness shall be determined in the manner provided in Section 19-7, and the county clerk or clerks shall annually extend taxes for each outstanding bond issue against all the taxable property that was situated within the boundaries of the district as the boundaries existed at the time of the issuance of each bond issue regardless of whether the property is still contained in that same district at the time of the extension of the taxes by the county clerk or clerks.

(c) Notwithstanding the provisions of Section 19-18 of this Code, upon resolution of the school board, the county clerk must extend taxes to pay the principal of and interest on any bonds issued exclusively to refund any bonded indebtedness of the annexing school district against all of the taxable property that was situated within the boundaries of the annexing district as the boundaries existed at the time of the issuance of the bonded indebtedness being refunded and not against any of the taxable property in the dissolved school district, provided that (i) the net interest rate on the refunding bonds may not exceed the net interest rate on the refunded bonds, (ii) the final maturity date of the refunding bonds may not extend beyond the final maturity date of the refunded bonds, and (iii) the tax levy to pay the refunding bonds in any levy year may not exceed the tax levy that would have been required to pay the refunded bonds for that levy year. The provisions of this subsection (c) are applicable to school districts that were dissolved and their territory annexed to another school district pursuant to a referendum held in April of 2003. The provisions of this subsection (c), other than this sentence, are inoperative 2 years after the effective date of this amendatory Act of the 95th General Assembly.
(Source: P.A. 94-1105, eff. 6-1-07.)

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

Under the rules, the foregoing **Senate Bill No. 2824**, with House 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 refused to concur with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4249

A bill for AN ACT concerning regulation.
Which amendment is as follows:
Senate Amendment No. 2 to HOUSE BILL NO. 4249
Senate Amendment No. 3 to HOUSE BILL NO. 4249
Non-concurred in by the House, November 19, 2008.

MARK MAHONEY, Clerk of the House

Under the rules, the foregoing **House Bill No. 4249**, with Senate Amendments numbered 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 refused to concur with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4374

A bill for AN ACT concerning education.

Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4374
Non-concurred in by the House, November 19, 2008.

MARK MAHONEY, Clerk of the House

Under the rules, the foregoing **House Bill No. 4374**, with Senate 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, the Governor's specific recommendation for change notwithstanding, to-wit:

SENATE BILL 2636

A bill for AN ACT concerning property.
Passed the House, November 19, 2008, by a three-fifths vote.

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 acceptance of the Governor's specific recommendations for change, which is attached, to a bill of the following title, to-wit:

SENATE BILL 2718

A bill for AN ACT concerning criminal law.
Concurred in by the House, November 19, 2008.

MARK MAHONEY, Clerk of the House
<MSGEND>

SB2718AVM001

MOTION

I move to accept the specific recommendations of the Governor as to Senate Bill 2718 in manner and form as follows:

AMENDMENT TO SENATE BILL 2718
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend Senate Bill 2718 on page 2, below line 26, by inserting the following:

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

Date: _________________, 2008 ___________________________

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 Floor Amendment No. 1 to Senate Joint Resolution 109

JOINT ACTION MOTIONS FILED

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

Motion to Concur in House Amendments 1 and 3 to Senate Bill 1529

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 Amendments 2 and 3 to House Bill 4249

REPORTS FROM STANDING COMMITTEES

Senator Lightford, Chairperson of the Committee on Education, to which was referred **Senate Joint Resolution No. 109,** reported the same back with the recommendation that the resolution be adopted.
Under the rules, **Senate Joint Resolution No. 109** was placed on the Secretary's Desk.

Senator Lightford, Chairperson of the Committee on Education, to which was referred **Senate Resolution No. 923,** reported the same back with the recommendation that the resolution be adopted.
Under the rules, **Senate Resolution No. 923** was placed on the Secretary's Desk.

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

Senate Floor Amendment No. 1 to House Bill 4890

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

Senator Delgado, Chairperson of the Committee on Licensed Activities, to which was referred **House Bill No. 4845,** reported the same back with the recommendation that the bill do pass.
Under the rules, the bill was ordered to a second reading.

Senator Cullerton and Senator Dillard, Co-Chairpersons of the Committee on Judiciary Civil Law, to which was referred **House Bill No. 4119,** reported the same back with the recommendation that the bill do pass.
Under the rules, the bill was ordered to a second reading.

Senator Munoz, Chairperson of the Committee on Transportation, to which was referred **House Bill No. 4861,** reported the same back with the recommendation that the bill do pass.
Under the rules, the bill was ordered to a second reading.

Senator Wilhelmi, Chairperson of the Committee on Judiciary Criminal Law, to which was referred **House Bills Numbered 4613 and 5032,** reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.
Under the rules, the bills were ordered to a second reading.

Senator Raoul, Chairperson of the Committee on Pensions and Investments, to which was referred **House Bill No. 2047,** reported the same back with the recommendation that the bills do pass.
Under the rules, the bill was ordered to a second reading.

Senator Raoul, Chairperson of the Committee on Pensions and Investments, 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 Amendments 1, 3 and 4 to Senate Bill 2520

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

Senator Clayborne, Chairperson of the Committee on Environment and Energy, 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 Amendments 2, 4 and 5 to Senate Bill 1987

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 **House Bill No. 4758,** reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.

Under the rules, the bill was ordered to a second reading.

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 Floor Amendment No. 5 to House Bill 29

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

Senator Harmon, Chairperson of the Committee on Revenue, to which was referred **House Bill No. 5730,** reported the same back with the recommendation that the bill do pass.

Under the rules, the bill was ordered to a second reading.

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, 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 2558

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

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

Senate Floor Amendment No. 2 to House Bill 5151

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

At the hour of 6:46 o'clock p.m., Senator DeLeo, presiding.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Link, **House Bill No. 2047** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Frerichs, **House Bill No. 4119** was taken up, read by title a second time and ordered to a third reading.

At the hour of 6:48 o'clock p.m., Senator Link, presiding.

On motion of Senator Martinez, **House Bill No. 4613** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Judiciary Criminal Law, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 4613

AMENDMENT NO. 1 . Amend House Bill 4613 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Access to Religious Ministry Act of 2008.

Section 5. The County Jail Act is amended by adding Section 26 as follows:
(730 ILCS 125/26 new)
Sec. 26. Detainees in immigration custody; religious worker access to jails.

(a) Any county jail in the State of Illinois for which an intergovernmental agreement has been entered into with United States Immigration and Customs Enforcement (ICE) for detention of immigration-related detainees shall be required to provide to religious workers reasonable access to such jail. Such access shall be consistent with the safety, security, and the orderly operation of the facility.

(b) For purposes of this Section, "reasonable access" means the ability of the religious worker to enter the jail facility to be available to meet with immigration detainees who wish to consult with the religious worker regarding their spiritual needs. Such access shall be at times set by the sheriff or his or her designee. The facility shall provide advance notice to the immigration detainees of the times during which religious workers shall be available for consultation under this Section, and shall not limit the access of detainees to such religious workers without good cause. Consultations with religious workers under this Section shall not be counted against the visitation time or number of visits to which a detainee is otherwise entitled under the facility's visitation policies.

(c) The sheriff or his or her designee shall have the right to screen and approve individuals seeking access to immigration detainees at the facility under this Act.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.".

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

On motion of Senator Sullivan, **House Bill No. 4758** having been printed, was taken up and read by title a second time.

The following amendments were offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 4758

AMENDMENT NO. 1 . Amend House Bill 4758, by deleting line 10 on page 18 through line 5 on page 19; and

by deleting line 6 on page 20 through line 3 on page 21; and

by deleting line 19 on page 21 through line 17 on page 22; and

by deleting line 14 on page 31 through line 11 on page 32.

AMENDMENT NO. 2 TO HOUSE BILL 4758

AMENDMENT NO. 2 . Amend House Bill 4758, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Legislative intent. This amendatory Act of the 95th General Assembly, in part, re-enacts the provisions of Public Act 94-804 approved in 2006 and determined valid in 2008 by the Illinois Supreme Court. The General Assembly finds and declares such re-enactment to be the public policy of

the State for many of the same reasons previously stated in 2006, namely:

(1) that riverboat gaming continues to have a negative impact on horse racing causing severe declines in Illinois on-track wagering;

(2) that this decrease in wagering continues to negatively impact purses for Illinois racing, which continues to hurt the State's breeding industry;

(3) that the decline of the Illinois horse racing and breeding program, a $2.5 billion industry, would be reversed if this amendatory Act of the 95th General Assembly was enacted, by helping Illinois tracks to better compete with future purses offered by tracks in other states;

(4) that Illinois agriculture and other businesses that support and supply the horse racing industry, already a sector that employs over 37,000 Illinoisans, also stand to substantially benefit and would be much more likely to create additional jobs should Illinois horse racing once again become competitive with other states; and

(5) that prompt release and distribution of funds generated and paid under protest under Public Act 94-804 and funds generated under the provisions of this amendatory Act of the 95th General Assembly both to supplement prospective purses and improve, maintain, market, and otherwise operate racetracks and their backstretches, is urgently needed and shall greatly benefit Illinois horsemen racetracks, horse racing fans, and Illinois agriculture and related businesses that rely on the Illinois horse racing industry.

Section 5. The Illinois Horse Racing Act of 1975 is amended by adding Section 54.75 as follows:

(230 ILCS 5/54.75 new)

Sec. 54.75. Horse Racing Equity Trust Fund.

(a) There is created a Fund to be known as the Horse Racing Equity Trust Fund, which is a non-appropriated trust fund held separate and apart from State moneys. The Fund shall consist of moneys paid into it by owners licensees under the Riverboat Gambling Act for the purposes described in this Section. The Fund shall be administered by the Board. Moneys in the Fund shall be distributed as directed and certified by the Board in accordance with the provisions of subsection (b).

(b) The moneys deposited into the Fund, plus any accrued interest on those moneys, shall be distributed within 10 days after those moneys are deposited into the Fund as follows:

(1) Sixty percent of all moneys distributed under this subsection shall be distributed to organization licensees to be distributed at their race meetings as purses. Fifty-seven percent of the amount distributed under this paragraph (1) shall be distributed for thoroughbred race meetings and 43% shall be distributed for standardbred race meetings. Within each breed, moneys shall be allocated to each organization licensee's purse fund in accordance with the ratio between the purses generated for that breed by that licensee during the prior calendar year and the total purses generated throughout the State for that breed during the prior calendar year by licensees in the current calendar year.

(2) The remaining 40% of the moneys distributed under this subsection (b) shall be distributed as follows:

(A) 11% shall be distributed to any person (or its successors or assigns) who had operating control of a racetrack that conducted live racing in 2002 at a racetrack in a county with at least 230,000 inhabitants that borders the Mississippi River and is a licensee in the current year; and

(B) the remaining 89% shall be distributed pro rata according to the aggregate proportion of total handle from wagering on live races conducted in Illinois (irrespective of where the wagers are placed) for calendar years 2004 and 2005 to any person (or its successors or assigns) who (i) had majority operating control of a racing facility at which live racing was conducted in calendar year 2002, (ii) is a licensee in the current year, and (iii) is not eligible to receive moneys under subparagraph (A) of this paragraph (2).

The moneys received by an organization licensee under this paragraph (2) shall be used by each organization licensee to improve, maintain, market, and otherwise operate its racing facilities to conduct live racing, which shall include backstretch services and capital improvements related to live racing and the backstretch. Any organization licensees sharing common ownership may pool the moneys received and spent at all racing facilities commonly owned in order to meet these requirements.

If any person identified in this paragraph (2) becomes ineligible to receive moneys from the Fund, such amount shall be redistributed among the remaining persons in proportion to their percentages otherwise calculated.

(c) The Board shall monitor organization licensees to ensure that moneys paid to organization licensees under this Section are distributed by the organization licensees as provided in subsection (b).

Section 10. The Riverboat Gambling Act is amended by changing Sections 7 and 13 as follows:
(230 ILCS 10/7) (from Ch. 120, par. 2407)
Sec. 7. Owners Licenses.

(a) The Board shall issue owners licenses to persons, firms or corporations which apply for such licenses upon payment to the Board of the non-refundable license fee set by the Board, upon payment of a $25,000 license fee for the first year of operation and a $5,000 license fee for each succeeding year and upon a determination by the Board that the applicant is eligible for an owners license pursuant to this Act and the rules of the Board. From the effective date of this amendatory Act of the 95th General Assembly until (i) 3 years after the effective date of this amendatory Act of the 95th General Assembly, (ii) the date any organization licensee begins to operate a slot machine or video game of chance under the Illinois Horse Racing Act of 1975 or this Act, (iii) the date that payments begin under subsection (c-5) of Section 13 of the Act, or (iv) the wagering tax imposed under Section 13 of this Act is increased by law to reflect a tax rate that is at least as stringent or more stringent than the tax rate contained in subsection (a-3) of Section 13, whichever occurs first ~~For a period of 2 years beginning on the effective date of this amendatory Act of the 94th General Assembly~~, as a condition of licensure and as an alternative source of payment for those funds payable under subsection (c-5) of Section 13 of the Riverboat Gambling Act, any owners licensee that holds or receives its owners license on or after the effective date of this amendatory Act of the 94th General Assembly, other than an owners licensee operating a riverboat with adjusted gross receipts in calendar year 2004 of less than $200,000,000, must pay into the Horse Racing Equity Trust Fund, in addition to any other payments required under this Act, an amount equal to 3% of the adjusted gross receipts received by the owners licensee. The payments required under this Section shall be made by the owners licensee to the State Treasurer no later than 3:00 o'clock p.m. of the day after the day when the adjusted gross receipts were received by the owners licensee. A person, firm or corporation is ineligible to receive an owners license if:

(1) the person has been convicted of a felony under the laws of this State, any other state, or the United States;

(2) the person has been convicted of any violation of Article 28 of the Criminal Code of 1961, or substantially similar laws of any other jurisdiction;

(3) the person has submitted an application for a license under this Act which contains false information;

(4) the person is a member of the Board;

(5) a person defined in (1), (2), (3) or (4) is an officer, director or managerial employee of the firm or corporation;

(6) the firm or corporation employs a person defined in (1), (2), (3) or (4) who participates in the management or operation of gambling operations authorized under this Act;

(7) (blank); or

(8) a license of the person, firm or corporation issued under this Act, or a license to own or operate gambling facilities in any other jurisdiction, has been revoked.

The Board is expressly prohibited from making changes to the requirement that licensees make payment into the Horse Racing Equity Trust Fund without the express authority of the Illinois General Assembly and making any other rule to implement or interpret this amendatory Act of the 95th General Assembly. For the purposes of this paragraph, "rules" is given the meaning given to that term in Section 1-70 of the Illinois Administrative Procedure Act.

(b) In determining whether to grant an owners license to an applicant, the Board shall consider:

(1) the character, reputation, experience and financial integrity of the applicants and of any other or separate person that either:

(A) controls, directly or indirectly, such applicant, or

(B) is controlled, directly or indirectly, by such applicant or by a person which controls, directly or indirectly, such applicant;

(2) the facilities or proposed facilities for the conduct of riverboat gambling;

(3) the highest prospective total revenue to be derived by the State from the conduct of riverboat gambling;

(4) the extent to which the ownership of the applicant reflects the diversity of the State by including minority persons and females and the good faith affirmative action plan of each applicant to recruit, train and upgrade minority persons and females in all employment classifications;

(5) the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance;

(6) whether the applicant has adequate capitalization to provide and maintain, for the duration of a license, a riverboat;

(7) the extent to which the applicant exceeds or meets other standards for the issuance of an owners license which the Board may adopt by rule; and

(8) The amount of the applicant's license bid.

(c) Each owners license shall specify the place where riverboats shall operate and dock.

(d) Each applicant shall submit with his application, on forms provided by the Board, 2 sets of his fingerprints.

(e) The Board may issue up to 10 licenses authorizing the holders of such licenses to own riverboats. In the application for an owners license, the applicant shall state the dock at which the riverboat is based and the water on which the riverboat will be located. The Board shall issue 5 licenses to become effective not earlier than January 1, 1991. Three of such licenses shall authorize riverboat gambling on the Mississippi River, or, with approval by the municipality in which the riverboat was docked on August 7, 2003 and with Board approval, be authorized to relocate to a new location, in a municipality that (1) borders on the Mississippi River or is within 5 miles of the city limits of a municipality that borders on the Mississippi River and (2), on August 7, 2003, had a riverboat conducting riverboat gambling operations pursuant to a license issued under this Act; one of which shall authorize riverboat gambling from a home dock in the city of East St. Louis. One other license shall authorize riverboat gambling on the Illinois River south of Marshall County. The Board shall issue one additional license to become effective not earlier than March 1, 1992, which shall authorize riverboat gambling on the Des Plaines River in Will County. The Board may issue 4 additional licenses to become effective not earlier than March 1, 1992. In determining the water upon which riverboats will operate, the Board shall consider the economic benefit which riverboat gambling confers on the State, and shall seek to assure that all regions of the State share in the economic benefits of riverboat gambling.

In granting all licenses, the Board may give favorable consideration to economically depressed areas of the State, to applicants presenting plans which provide for significant economic development over a large geographic area, and to applicants who currently operate non-gambling riverboats in Illinois. The Board shall review all applications for owners licenses, and shall inform each applicant of the Board's decision. The Board may grant an owners license to an applicant that has not submitted the highest license bid, but if it does not select the highest bidder, the Board shall issue a written decision explaining why another applicant was selected and identifying the factors set forth in this Section that favored the winning bidder.

In addition to any other revocation powers granted to the Board under this Act, the Board may revoke the owners license of a licensee which fails to begin conducting gambling within 15 months of receipt of the Board's approval of the application if the Board determines that license revocation is in the best interests of the State.

(f) The first 10 owners licenses issued under this Act shall permit the holder to own up to 2 riverboats and equipment thereon for a period of 3 years after the effective date of the license. Holders of the first 10 owners licenses must pay the annual license fee for each of the 3 years during which they are authorized to own riverboats.

(g) Upon the termination, expiration, or revocation of each of the first 10 licenses, which shall be issued for a 3 year period, all licenses are renewable annually upon payment of the fee and a determination by the Board that the licensee continues to meet all of the requirements of this Act and the Board's rules. However, for licenses renewed on or after May 1, 1998, renewal shall be for a period of 4 years, unless the Board sets a shorter period.

(h) An owners license shall entitle the licensee to own up to 2 riverboats. A licensee shall limit the number of gambling participants to 1,200 for any such owners license. A licensee may operate both of its riverboats concurrently, provided that the total number of gambling participants on both riverboats does not exceed 1,200. Riverboats licensed to operate on the Mississippi River and the Illinois River south of Marshall County shall have an authorized capacity of at least 500 persons. Any other riverboat licensed under this Act shall have an authorized capacity of at least 400 persons.

(i) A licensed owner is authorized to apply to the Board for and, if approved therefor, to receive all licenses from the Board necessary for the operation of a riverboat, including a liquor license, a license to prepare and serve food for human consumption, and other necessary licenses. All use, occupation and excise taxes which apply to the sale of food and beverages in this State and all taxes imposed on the sale or use of tangible personal property apply to such sales aboard the riverboat.

(j) The Board may issue or re-issue a license authorizing a riverboat to dock in a municipality or approve a relocation under Section 11.2 only if, prior to the issuance or re-issuance of the license or approval, the governing body of the municipality in which the riverboat will dock has by a majority vote approved the docking of riverboats in the municipality. The Board may issue or re-issue a license authorizing a riverboat to dock in areas of a county outside any municipality or approve a relocation

under Section 11.2 only if, prior to the issuance or re-issuance of the license or approval, the governing body of the county has by a majority vote approved of the docking of riverboats within such areas.
(Source: P.A. 93-28, eff. 6-20-03; 93-453, eff. 8-7-03; 94-667, eff. 8-23-05; 94-804, eff. 5-26-06.)

(230 ILCS 10/13) (from Ch. 120, par. 2413)

Sec. 13. Wagering tax; rate; distribution.

(a) Until January 1, 1998, a tax is imposed on the adjusted gross receipts received from gambling games authorized under this Act at the rate of 20%.

(a-1) From January 1, 1998 until July 1, 2002, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

15% of annual adjusted gross receipts up to and including $25,000,000;

20% of annual adjusted gross receipts in excess of $25,000,000 but not exceeding $50,000,000;

25% of annual adjusted gross receipts in excess of $50,000,000 but not exceeding $75,000,000;

30% of annual adjusted gross receipts in excess of $75,000,000 but not exceeding $100,000,000;

35% of annual adjusted gross receipts in excess of $100,000,000.

(a-2) From July 1, 2002 until July 1, 2003, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

15% of annual adjusted gross receipts up to and including $25,000,000;

22.5% of annual adjusted gross receipts in excess of $25,000,000 but not exceeding $50,000,000;

27.5% of annual adjusted gross receipts in excess of $50,000,000 but not exceeding $75,000,000;

32.5% of annual adjusted gross receipts in excess of $75,000,000 but not exceeding $100,000,000;

37.5% of annual adjusted gross receipts in excess of $100,000,000 but not exceeding $150,000,000;

45% of annual adjusted gross receipts in excess of $150,000,000 but not exceeding $200,000,000;

50% of annual adjusted gross receipts in excess of $200,000,000.

(a-3) Beginning July 1, 2003, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

15% of annual adjusted gross receipts up to and including $25,000,000;

27.5% of annual adjusted gross receipts in excess of $25,000,000 but not exceeding $37,500,000;

32.5% of annual adjusted gross receipts in excess of $37,500,000 but not exceeding $50,000,000;

37.5% of annual adjusted gross receipts in excess of $50,000,000 but not exceeding $75,000,000;

45% of annual adjusted gross receipts in excess of $75,000,000 but not exceeding $100,000,000;

50% of annual adjusted gross receipts in excess of $100,000,000 but not exceeding $250,000,000;

70% of annual adjusted gross receipts in excess of $250,000,000.

An amount equal to the amount of wagering taxes collected under this subsection (a-3) that are in addition to the amount of wagering taxes that would have been collected if the wagering tax rates under subsection (a-2) were in effect shall be paid into the Common School Fund.

The privilege tax imposed under this subsection (a-3) shall no longer be imposed beginning on the earlier of (i) July 1, 2005; (ii) the first date after June 20, 2003 that riverboat gambling operations are conducted pursuant to a dormant license; or (iii) the first day that riverboat gambling operations are conducted under the authority of an owners license that is in addition to the 10 owners licenses initially authorized under this Act. For the purposes of this subsection (a-3), the term "dormant license" means an owners license that is authorized by this Act under which no riverboat gambling operations are being

conducted on June 20, 2003.

(a-4) Beginning on the first day on which the tax imposed under subsection (a-3) is no longer imposed, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

15% of annual adjusted gross receipts up to and including $25,000,000;

22.5% of annual adjusted gross receipts in excess of $25,000,000 but not exceeding $50,000,000;

27.5% of annual adjusted gross receipts in excess of $50,000,000 but not exceeding $75,000,000;

32.5% of annual adjusted gross receipts in excess of $75,000,000 but not exceeding $100,000,000;

37.5% of annual adjusted gross receipts in excess of $100,000,000 but not exceeding $150,000,000;

45% of annual adjusted gross receipts in excess of $150,000,000 but not exceeding $200,000,000;

50% of annual adjusted gross receipts in excess of $200,000,000.

(a-8) Riverboat gambling operations conducted by a licensed manager on behalf of the State are not subject to the tax imposed under this Section.

(a-10) The taxes imposed by this Section shall be paid by the licensed owner to the Board not later than 3:00 o'clock p.m. of the day after the day when the wagers were made.

(a-15) If the privilege tax imposed under subsection (a-3) is no longer imposed pursuant to item (i) of the last paragraph of subsection (a-3), then by June 15 of each year, each owners licensee, other than an owners licensee that admitted 1,000,000 persons or fewer in calendar year 2004, must, in addition to the payment of all amounts otherwise due under this Section, pay to the Board a reconciliation payment in the amount, if any, by which the licensed owner's base amount exceeds the amount of net privilege tax paid by the licensed owner to the Board in the then current State fiscal year. A licensed owner's net privilege tax obligation due for the balance of the State fiscal year shall be reduced up to the total of the amount paid by the licensed owner in its June 15 reconciliation payment. The obligation imposed by this subsection (a-15) is binding on any person, firm, corporation, or other entity that acquires an ownership interest in any such owners license. The obligation imposed under this subsection (a-15) terminates on the earliest of: (i) July 1, 2007, (ii) the first day after the effective date of this amendatory Act of the 94th General Assembly that riverboat gambling operations are conducted pursuant to a dormant license, (iii) the first day that riverboat gambling operations are conducted under the authority of an owners license that is in addition to the 10 owners licenses initially authorized under this Act, or (iv) the first day that a licensee under the Illinois Horse Racing Act of 1975 conducts gaming operations with slot machines or other electronic gaming devices. The Board must reduce the obligation imposed under this subsection (a-15) by an amount the Board deems reasonable for any of the following reasons: (A) an act or acts of God, (B) an act of bioterrorism or terrorism or a bioterrorism or terrorism threat that was investigated by a law enforcement agency, or (C) a condition beyond the control of the owners licensee that does not result from any act or omission by the owners licensee or any of its agents and that poses a hazardous threat to the health and safety of patrons. If an owners licensee pays an amount in excess of its liability under this Section, the Board shall apply the overpayment to future payments required under this Section.

For purposes of this subsection (a-15):

"Act of God" means an incident caused by the operation of an extraordinary force that cannot be foreseen, that cannot be avoided by the exercise of due care, and for which no person can be held liable.

"Base amount" means the following:

For a riverboat in Alton, $31,000,000.

For a riverboat in East Peoria, $43,000,000.

For the Empress riverboat in Joliet, $86,000,000.

For a riverboat in Metropolis, $45,000,000.

For the Harrah's riverboat in Joliet, $114,000,000.

For a riverboat in Aurora, $86,000,000.

For a riverboat in East St. Louis, $48,500,000.

For a riverboat in Elgin, $198,000,000.

"Dormant license" has the meaning ascribed to it in subsection (a-3).

"Net privilege tax" means all privilege taxes paid by a licensed owner to the Board under this Section,

less all payments made from the State Gaming Fund pursuant to subsection (b) of this Section.

The changes made to this subsection (a-15) by Public Act 94-839 are intended to restate and clarify the intent of Public Act 94-673 with respect to the amount of the payments required to be made under this subsection by an owners licensee to the Board.

(b) Until January 1, 1998, 25% of the tax revenue deposited in the State Gaming Fund under this Section shall be paid, subject to appropriation by the General Assembly, to the unit of local government which is designated as the home dock of the riverboat. Beginning January 1, 1998, from the tax revenue deposited in the State Gaming Fund under this Section, an amount equal to 5% of adjusted gross receipts generated by a riverboat shall be paid monthly, subject to appropriation by the General Assembly, to the unit of local government that is designated as the home dock of the riverboat. From the tax revenue deposited in the State Gaming Fund pursuant to riverboat gambling operations conducted by a licensed manager on behalf of the State, an amount equal to 5% of adjusted gross receipts generated pursuant to those riverboat gambling operations shall be paid monthly, subject to appropriation by the General Assembly, to the unit of local government that is designated as the home dock of the riverboat upon which those riverboat gambling operations are conducted.

(c) Appropriations, as approved by the General Assembly, may be made from the State Gaming Fund to the Department of Revenue and the Department of State Police for the administration and enforcement of this Act, or to the Department of Human Services for the administration of programs to treat problem gambling.

(c-5) Before May 26, 2006 (the effective date of Public Act 94-804) and beginning on the effective date of this amendatory Act of the 95th General Assembly, unless any organization licensee under the Illinois Horse Racing Act of 1975 begins to operate a slot machine or video game of chance under the Illinois Horse Racing Act of 1975 or this Act ~~2 years after May 26, 2006 (the effective date of Public Act 94-804)~~, after the payments required under subsections (b) and (c) have been made, an amount equal to 15% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid from the State Gaming Fund into the Horse Racing Equity Fund.

(c-10) Each year the General Assembly shall appropriate from the General Revenue Fund to the Education Assistance Fund an amount equal to the amount paid into the Horse Racing Equity Fund pursuant to subsection (c-5) in the prior calendar year.

(c-15) After the payments required under subsections (b), (c), and (c-5) have been made, an amount equal to 2% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid, subject to appropriation from the General Assembly, from the State Gaming Fund to each home rule county with a population of over 3,000,000 inhabitants for the purpose of enhancing the county's criminal justice system.

(c-20) Each year the General Assembly shall appropriate from the General Revenue Fund to the Education Assistance Fund an amount equal to the amount paid to each home rule county with a population of over 3,000,000 inhabitants pursuant to subsection (c-15) in the prior calendar year.

(c-25) After the payments required under subsections (b), (c), (c-5) and (c-15) have been made, an amount equal to 2% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid from the State Gaming Fund to Chicago State University.

(d) From time to time, the Board shall transfer the remainder of the funds generated by this Act into the Education Assistance Fund, created by Public Act 86-0018, of the State of Illinois.

(e) Nothing in this Act shall prohibit the unit of local government designated as the home dock of the riverboat from entering into agreements with other units of local government in this State or in other states to share its portion of the tax revenue.

(f) To the extent practicable, the Board shall administer and collect the wagering taxes imposed by this Section in a manner consistent with the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, and 10 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act.

(Source: P.A. 94-673, eff. 8-23-05; 94-804, eff. 5-26-06; 94-839, eff. 6-6-06; 95-331, eff. 8-21-07.)

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

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

On motion of Senator Maloney, **House Bill No. 4861** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Noland, **House Bill No. 5730** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Harmon, **House Bill No. 4845** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Raoul, **House Bill No. 5032** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Judiciary Criminal Law, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 5032

AMENDMENT NO. 1 . Amend House Bill 5032 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Illinois Torture Inquiry and Relief Commission Act.

Section 5. Definitions. As used in this Act:

(1) "Claim of torture" means a claim on behalf of a living person convicted of a felony in Illinois asserting that he was tortured into confessing to the crime for which the person was convicted and the tortured confession was used to obtain the conviction and for which there is some credible evidence related to allegations of torture committed by Commander Jon Burge or any officer under the supervision of Jon Burge.

(2) "Commission" means the Illinois Torture Inquiry and Relief Commission established by this Act.

(3) "Convicted person" means the person making a claim of torture under this Act.

(4) "Director" means the Director of the Illinois Torture Inquiry and Relief Commission.

(5) "Victim" means the victim of the crime, or if the victim of the crime is deceased, the next of kin of the victim, which shall be the parent, spouse, child, or sibling of the deceased victim.

Section 10. Purpose of Act. This Act establishes an extraordinary procedure to investigate and determine factual claims of torture related to allegations of torture that shall require an individual to voluntarily waive rights and privileges as described in this Act.

Section 15. Commission established.

(a) There is established the Illinois Torture Inquiry and Relief Commission. The Illinois Torture Inquiry and Relief Commission shall be an independent commission under the Illinois Human Rights Commission for administrative purposes.

(b) The Illinois Human Rights Commission shall provide administrative support to the Commission as needed. The Executive Director of the Illinois Human Rights Commission shall not reduce or modify the budget of the Commission or use funds appropriated to the Commission without the approval of the Commission.

Section 20. Membership; chair; meetings; quorum.

(a) The Commission shall consist of 8 voting members as follows:

(1) One shall be a retired Circuit Court Judge.

(2) One shall be a former prosecuting attorney.

(3) One shall be a law school professor.

(4) One shall be engaged in the practice of criminal defense law.

(5) Three shall be members of the public who are not attorneys and who are not officers or employees of the Judicial branch.

(6) One shall be a former public defender. The Commission shall be appointed as follows:

2 members appointed by the Governor;
2 members appointed by the President of the Senate;
One member appointed by the Minority Leader of the Senate;
2 members appointed by the Speaker of the House of Representatives; and
One member appointed by the Minority Leader of the House of Representatives.

After an appointee has served his or her first 3-year term, the subsequent appointment or reappointment may be by the initial appointing authority.

(a-1) The appointing authority shall also appoint alternate Commission members for the Commission members he or she has appointed to serve in the event of scheduling conflicts, conflicts of interest, disability, or other disqualification arising in a particular case. Where an alternate member is called upon to serve in a particular place, the alternate member shall vote in the place of, and otherwise exercise the same powers as, the member which he or she is replacing. The alternate member shall have the same qualifications for appointment as the original member. In making the appointments, the appointing authority shall make a good faith effort to appoint members with different perspectives of the justice system. The appointing authority shall also consider geographical location, gender, and racial diversity in making the appointments.

(b) The retired judge who is appointed as a member under subsection (a) shall serve as Chair of the Commission. The Commission shall have its initial meeting no later than one month after the appointment of a quorum of members of the Commission, at the call of the Chair. The Commission shall meet a minimum of once every 6 months and may also meet more often at the call of the Chair. The Commission shall meet at such time and place as designated by the Chair. Notice of the meetings shall be given at such time and manner as provided by the rules of the Commission. A majority of the voting members shall constitute a quorum. All Commission votes shall be by majority vote of the voting members appointed.

Section 25. Terms of members; compensation; expenses.

(a) Of the initial members, the appointments under clauses (a)(3) and (6) of Section 20 shall be for one-year terms, the appointments under clauses (a)(1), (2), and (4) of Section 20 shall be for 2-year terms, and the appointments under clause (a)(5) of Section 20 shall be for 3-year terms. Thereafter, all terms shall be for 3 years. Members of the Commission shall serve no more than 2 consecutive 3-year terms plus any initial term of less than 3 years. Unless provided otherwise by this Act, all terms of members shall begin on January 1 and end on December 31.

Members serving by virtue of elective or appointive office, may serve only so long as the office holders hold those respective offices. The Chief Judge of the Cook County Circuit Court may remove members for good cause shown. Vacancies occurring before the expiration of a term shall be filled in the manner provided for the members first appointed.

(b) The Commission members shall receive no salary for serving, but may be reimbursed for reasonable expenses incurred as a result of their duties as members of the Commission from funds appropriated by the General Assembly for that purpose, or from funds obtained from sources other than the General Assembly.

Section 30. Director and other staff. The Commission shall employ a Director. The Director shall be an attorney licensed to practice in Illinois at the time of appointment and at all times during service as Director. The Director shall assist the Commission in developing rules and standards for cases accepted for review, coordinate investigation of cases accepted for review, maintain records for all case investigations, prepare reports outlining Commission investigations and recommendations to the trial court, and apply for and accept on behalf of the Commission any funds that may become available from government grants, private gifts, donations, or bequests from any source.

Subject to the approval of the Chair, the Director shall employ such other staff and shall contract for services as is necessary to assist the Commission in the performance of its duties, and as funds permit.

The Commission may meet in an area provided by the Illinois Human Rights Commission, or any other State agency. The Illinois Human Rights Commission shall provide, directly or through any other State agency, office space for the Commission and the Commission staff.

Section 35. Duties. The Commission shall have the following duties and powers:

(1) To establish the criteria and screening process to be used to determine which cases shall be

accepted for review.

(2) To conduct inquiries into claims of torture with priority to be given to those cases in which the convicted person is currently incarcerated solely for the crime to Which he or she claims torture by Jon Burge or officers Under his command, or both.

(3) To coordinate the investigation of cases accepted for review.

(4) To maintain records for all case investigations.

(5) To prepare written reports outlining Commission investigations and recommendations to the trial court at the completion of each inquiry.

(6) To apply for and accept any funds that may become available for the Commission's work from government grants, private gifts, donations, or bequests from any source.

Section 40. Claims of torture; waiver of convicted person's procedural safeguards and privileges; formal inquiry; notification of the crime victim.

(a) A claim of torture may be referred to the Commission by any court, person, or agency. The Commission shall not consider a claim of torture if the convicted person is deceased. The determination of whether to grant a formal inquiry regarding any other claim of torture is in the discretion of the Commission. The Commission may informally screen and dismiss a case summarily at its discretion.

(b) No formal inquiry into a claim of torture shall be made by the Commission unless the Director or the Director's designee first obtains a signed agreement from the convicted person in which the convicted person waives his or her procedural safeguards and privileges including but not limited to the right against self-incrimination under the United States Constitution and the Constitution of the State of Illinois, agrees to cooperate with the Commission, and agrees to provide full disclosure regarding Inquiry requirements of the Commission. The waiver under this subsection does not apply to matters unrelated to a convicted person's claim of torture. The convicted person shall have the right to advice of counsel prior to the execution of the agreement and, if a formal inquiry is granted, throughout the formal inquiry. If counsel represents the convicted person, then the convicted person's counsel must be present at the signing of the agreement. If counsel does not represent the convicted person, the Commission Chair shall determine the convicted person's indigency status and, if appropriate, enter an order for the appointment of counsel for the purpose of advising on the agreement.

(c) If a formal inquiry regarding a claim of torture is granted, the Director shall use all due diligence to notify the victim in the case and explain the inquiry process. The Commission shall give the victim notice that the victim has the right to present his or her views and concerns throughout the Commission's investigation.

(d) The Commission may use any measure provided in the Code of Civil Procedure and the Code of Criminal Procedure of 1963 to obtain information necessary to its inquiry. The Commission may also do any of the following: issue subpoenas or other process to compel the attendance of witnesses and the production of evidence, administer oaths, petition the Circuit Court of Cook County or of the original jurisdiction for enforcement of process or for other relief, and prescribe its own rules of procedure. All challenges with regard to the Commission's authority or the Commission's access to evidence shall be heard by the Circuit Court of Cook County, including any in camera review.

(e) While performing duties for the Commission, the Director or the Director's designee may serve subpoenas or other process issued by the Commission throughout the State in the same manner and with the same effect as an officer authorized to serve process under the laws of this State.

(f) All State discovery and disclosure statutes in effect at the time of formal inquiry shall be enforceable as if the convicted person were currently being tried for the charge for which the convicted person is claiming torture.

(g) If, at any point during an inquiry, the convicted person refuses to comply with requests of the Commission or is otherwise deemed to be uncooperative by the Commission, the Commission shall discontinue the inquiry.

Section 45. Commission proceedings.

(a) At the completion of a formal inquiry, all relevant evidence shall be presented to the full Commission. As part of its proceedings, the Commission may conduct hearings. The determination as to whether to conduct hearings is solely in the discretion of the Commission. Any hearing held in accordance with this Section shall be a public hearing and shall be held subject to the Commission's rules of operation.

(b) The Director shall use all due diligence to notify the victim at least 30 days prior to any proceedings of the full Commission held in regard to the victim's case. The Commission shall notify the victim that the victim is permitted to attend proceedings otherwise closed to the public, subject to any

limitations imposed by this Act. If the victim plans to attend proceedings otherwise closed to the public, the victim shall notify the Commission at least 10 days in advance of the proceedings of his or her intent to attend. The Commission may close any portion of the proceedings to the victim, if the victim is to testify and the Commission determines that the victim's testimony would be materially affected if the victim hears other testimony at the proceeding.

(c) After hearing the evidence, the full Commission shall vote to establish further case disposition as provided by this subsection. All 8 voting members of the Commission shall participate in that vote.

If 5 or more of the 8 voting members of the Commission conclude by a preponderance of the evidence that there is sufficient evidence of torture to merit judicial review, the case shall be referred to the Chief Judge of the Circuit Court of Cook County by filing with the clerk of court the opinion of the Commission with supporting findings of fact, as well as the record in support of such opinion, with service on the State's Attorney in non-capital cases and service on both the State's Attorney and Attorney General in capital cases.

If less than 5 of the 8 voting members of the Commission conclude by a preponderance of the evidence that there is sufficient evidence of torture to merit judicial review, the Commission shall conclude there is insufficient evidence of torture to merit judicial review. The Commission shall document that opinion, along with supporting findings of fact, and file those documents and supporting materials with the court clerk in the circuit of original jurisdiction, with a copy to the State's Attorney and the chief judge.

The Director of the Commission shall use all due diligence to notify immediately the victim of the Commission's conclusion in a case.

(d) Evidence of criminal acts, professional misconduct, or other wrongdoing disclosed through formal inquiry or Commission proceedings shall be referred to the appropriate authority. Evidence favorable to the convicted person disclosed through formal inquiry or Commission proceedings shall be disclosed to the convicted person and the convicted person's counsel, if the convicted person has counsel. The Commission shall have the discretion to refer its findings together with the supporting record and evidence, to such other parties or entities as the Commission in its discretion shall deem appropriate.

(e) All proceedings of the Commission shall be recorded and transcribed as part of the record. All Commission member votes shall be recorded in the record. All records and proceedings of the Commission shall be confidential until the proceedings before the Commission are concluded and a final decision has been made by the Commission.

Section 50. Post-commission judicial review.

(a) If the Commission concludes there is sufficient evidence of torture to merit judicial review, the Chair of the Commission shall request the Chief Judge of the Circuit Court of Cook County for assignment to a trial judge for consideration. The court may receive proof by affidavits, depositions, oral testimony, or other evidence. In its discretion the court may order the petitioner brought before the court for the hearing. Notwithstanding the status of any other postconviction proceedings relating to the petitioner, if the court finds in favor of the petitioner, it shall enter an appropriate order with respect to the judgment or sentence in the former proceedings and such supplementary orders as to rearraignment, retrial, custody, bail or discharge, or for such relief as may be granted under a petition for a certificate of innocence, as may be necessary and proper.

(b) The State's Attorney, or the State's Attorney's designee, shall represent the State at the hearing before the assigned judge.

Section 55. No right to further review of decision by Commission; convicted person retains right to other postconviction relief.

(a) Unless otherwise authorized by this Act, the decisions of the Commission are final and are subject to review as final decisions under the provisions of the Administrative Review Law, and shall only be overturned if the court finds that they are against the manifest weight of the evidence.

(b) A claim of torture asserted through the Commission Shall not adversely affect the convicted person's rights to Other postconviction relief.

Section 60. Beginning January 1, 2010, and annually thereafter, the Illinois Torture Inquiry and Relief Commission shall report on its activities to the General Assembly and the Governor. The report may contain recommendations of any needed legislative changes related to the activities of the Commission. The report shall recommend the funding needed by the Commission, the State's Attorneys, and the Department of State Police in order to meet their responsibilities under this Act. Recommendations concerning the State's Attorneys or the Department of State Police shall only be made after consultations

with the Illinois State's Attorneys Association, the Department of State Police, and the Attorney General.

Section 65. The initial members of the Illinois Torture Inquiry and Relief Commission shall be appointed not later than 3 months after the effective date of this Act. No claims of torture may be filed with the Commission until a quorum of members have been appointed.

Section 70. This Act applies to claims of torture filed not later than 5 years after the effective date of this Act.

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

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

At the hour of 6:53 o'clock p.m., the Chair announced that the Senate stand adjourned until Thursday, November 20, 2008, at 10:00 o'clock a.m.