



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SEVENTH GENERAL ASSEMBLY

51ST LEGISLATIVE DAY

TUESDAY, MAY 24, 2011

12:18 O'CLOCK P.M.

SENATE
Daily Journal Index
51st Legislative Day

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The Senate met pursuant to adjournment.
Senator John M. Sullivan, Rushville, Illinois, presiding.
Prayer by Rabbi Barry Marks, Temple Israel, Springfield, Illinois.
Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Monday, May 23, 2011, be postponed, pending arrival of the printed Journal.
The motion prevailed.

REPORT RECEIVED

The Secretary placed before the Senate the following report:

Report Pursuant to Public Act 87-522 (Flex time), submitted by the Department of Transportation.

The foregoing report was ordered received and placed on file in the Secretary's Office.

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 2 to House Bill 230
Senate Floor Amendment No. 2 to House Bill 3027

REPORT FROM STANDING COMMITTEE

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred **Appointment Messages Numbered 103, 115, 116, 117, 118, 119, 120, 121, 122 and 123**, reported the same back with the recommendation that the Senate do advise and consent.

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

MESSAGE FROM THE PRESIDENT

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706
217-782-2728

May 24, 2011

Ms. Jillayne Rock
Secretary of the Senate
Room 401 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Susan Garrett to temporarily replace Senator David Koehler as a member of the Senate Redistricting Committee. This appointment will automatically expire upon adjournment of the Senate Redistricting Committee.

[May 24, 2011]

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 252

Offered by Senator Koehler and all Senators:
Mourns the death of Fred J. Haddad, Sr., of Hopedale.

SENATE RESOLUTION NO. 253

Offered by Senator E. Jones, III and all Senators:
Mourns the death of Blanche Spann Cohnen of Springfield.

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

Senator Frerichs offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 254

WHEREAS, Current contracts to administer Health Maintenance Organization (HMO) and Open Access Plan (OAP) benefits for the State Employees' Group Insurance Program are set to expire on June 30, 2011, and the Department of Healthcare and Family Services initiated a request-for-proposals process to select vendors to administer those benefit programs after the expiration of the current contracts; and

WHEREAS, Pursuant to this process, the Illinois Department of Healthcare and Family Services posted notice of intent to award contracts to 4 managed care organizations in order to provide HMO and OAP benefits to State employees, dependents, and retirees starting on July 1, 2011; and

WHEREAS, This notice is the subject of official protests questioning the procurement process used to select the potential vendors used to administer these health benefit programs; and

WHEREAS, The Illinois Procurement Code and administrative regulations provide a broad grant of authority to the State to cancel a solicitation (before or after the opening of bids) if it would be in the State's best interests to do so, and that authority may be exercised even though protests are under review; and

WHEREAS, Fundamental issues regarding access to, and the cost of, adequate health care appear to be inextricably intertwined with administrative and technical questions pertaining to procedural compliance with the Illinois Procurement Code and administrative rules; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we find that the circumstances surrounding these current procurements and their potential to cause adverse effects on the State and its citizens warrant a finding that it is in the best interests of the State to cancel the existing solicitations; and be it further

RESOLVED, That we urge the Governor and the Chief Procurement Officer to cancel those solicitations and to issue a new request for proposals in a timely manner in order to select an adequate

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network of administrators to provide access to health care for all State employees, retirees, and dependents; and be it further

RESOLVED, That a suitable copy of this resolution be presented to the Governor of the State of Illinois, the Director of Healthcare and Family Services, and the Chief Procurement Officer responsible for overseeing the HMO and OAP procurement.

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. 541

A bill for AN ACT concerning local government.

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

House Amendment No. 1 to SENATE BILL NO. 541

Passed the House, as amended, May 23, 2011.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 541

AMENDMENT NO. 1. Amend Senate Bill 541 by replacing everything after the enacting clause with the following:

"Section 5. The Counties Code is amended by adding Section 5-1133 as follows:

(55 ILCS 5/5-1133 new)

Sec. 5-1133. Counties of greater than 300,000 but less than 2,000,000; reporting of information.

A county board in a county with a population greater than 300,000 but less than 2,000,000 may by ordinance require any unit of local government or agency to which the county board chairman or county executive nominates and the county board confirms a majority of member appointments to provide the county with detailed information, including, but not limited to, the unit's or agency's finances, budget, contracts, employment, and ethics policies, in the manner and with the frequency specified by the ordinance. The ordinance may require the unit of local government or agency to immediately disclose to the county any internal or external findings of non-compliance with any law or regulation involving the unit of local government or agency and its personnel.

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

Under the rules, the foregoing **Senate Bill No. 541**, 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. 840

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. 840

Passed the House, as amended, May 23, 2011.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 840

AMENDMENT NO. 1. Amend Senate Bill 840 by replacing everything after the enacting clause

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with the following:

"Section 5. The Food Handling Regulation Enforcement Act is amended by adding Section 4 as follows:

(410 ILCS 625/4 new)

Sec. 4. Cottage food operation.

(a) For the purpose of this Section:

"Cottage food operation" means a person who produces or packages non-potentially hazardous food in a kitchen of that person's primary domestic residence for direct sale by the owner or a family member, stored in the residence where the food is made.

"Farmers' market" means a common facility or area where farmers gather to sell a variety of fresh fruits and vegetables and other locally produced farm and food products directly to consumers.

"Potentially hazardous food" means a food that is potentially hazardous according to the Federal Food and Drug Administration 2009 Food Code (FDA 2009 Food Code) or any subsequent amendments to the FDA 2009 Food Code. Potentially hazardous food (PHF) in general means a food that requires time and temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation. In accordance with the FDA 2009 Food Code, potentially hazardous food does not include a food item that because of its pH or Aw value, or interaction of Aw and pH values, is designated as a non-PHF/non-TCS food in Table A or B of the FDA 2009 Food Code's potentially hazardous food definition.

(b) Notwithstanding any other provision of law and except as provided in subsections (c) and (d) of this Section, neither the Department of Public Health nor the Department of Agriculture nor the health department of a unit of local government may regulate the service of food by a cottage food operation providing that all of the following conditions are met:

(1) The food is not a potentially hazardous baked good, jam, jelly, preserve, fruit butter, dry herb, dry herb blend, or dry tea blend and is intended for end-use only. The following provisions shall apply:

(A) The following jams, jellies and preserves are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants, or a combination of these fruits. Rhubarb, tomato, and pepper jellies or jams are not allowed. Any other jams, jellies, or preserves not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6.

(B) The following fruit butters are allowed: apple, apricot, grape, peach, plum, quince, and prune. Pumpkin butter, banana butter, and pear butter are not allowed. Fruit butters not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6.

(C) Baked goods, such as, but not limited to, breads, cookies, cakes, pies, and pastries are allowed. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants or a combination of these fruits. Fruit pies not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6. The following are potentially hazardous and prohibited from production and sale by a cottage food operation: pumpkin pie, sweet potato pie, cheesecake, custard pies, crème pies, and pastries with potentially hazardous fillings or toppings.

(2) The food is to be sold at a farmers' market.

(3) Gross receipts from the sale of food exempted under this Section do not exceed \$25,000 in a calendar year.

(4) The food packaging conforms to the labeling requirements of the Illinois Food, Drug and Cosmetic Act and includes the following information on the label of each of its products:

(A) the name and address of the cottage food operation;

(B) the common or usual name of the food product;

(C) all ingredients of the food product, including any colors, artificial flavors, and preservatives, listed in descending order by predominance of weight shown with common or usual names;

(D) the following phrase: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens.";

(E) the date the product was processed; and

(F) allergen labeling as specified in federal labeling requirements.

(5) The name and residence of the person preparing and selling products as a cottage food operation

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is registered with the health department of a unit of local government where the cottage food operation resides. No fees shall be charged for registration.

(6) The person preparing and selling products as a cottage food operation has a Department of Public Health approved Food Service Sanitation Management Certificate.

(7) At the point of sale a placard is displayed in a prominent location that states the following: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens."

(c) Notwithstanding the provisions of subsection (b) of this Section, if the Department of Public Health or the health department of a unit of local government has received a consumer complaint or has reason to believe that an imminent health hazard exists or that a cottage food operation's product has been found to be misbranded, adulterated, or not in compliance with the exception for cottage food operations pursuant to this Section, then it may invoke cessation of sales until it deems that the situation has been addressed to the satisfaction of the Department.

(d) Notwithstanding the provisions of subsection (b) of this Section, a State-certified local public health department may, upon providing a written statement to the Department of Public Health, regulate the service of food by a cottage food operation. The regulation by a State-certified local public health department may include all of the following requirements:

(1) That the cottage food operation (A) register with the State-certified local public health department, which may include a reasonable fee set by the State-certified local public health department notwithstanding paragraph (5) of subsection (b) of this Section and (B) agree in writing at the time of registration to grant access to the State-certified local public health department to conduct an inspection of the cottage food operation's primary domestic residence in the event of a consumer complaint or foodborne illness outbreak.

(2) That in the event of a consumer complaint or foodborne illness outbreak the State-certified local public health department is allowed to (A) inspect the premises of the cottage food operation in question and (B) set a reasonable fee for that inspection.

Section 10. The Sanitary Food Preparation Act is amended by changing Section 11 as follows:

(410 ILCS 650/11) (from Ch. 56 1/2, par. 77)

Sec. 11. Except as hereinafter provided and as provided in Section 4 of the Food Handling Regulation Enforcement Act, the Department of Public Health shall enforce this Act, and for that purpose it may at all times enter every such building, room, basement, inclosure or premises occupied or used or suspected of being occupied or used for the production, preparation or manufacture for sale, or the storage, sale, distribution or transportation of such food, to inspect the premises and all utensils, fixtures, furniture and machinery used as aforesaid; and if upon inspection any such food producing or distribution establishment, conveyance, or employer, employee, clerk, driver or other person is found to be violating any of the provisions of this Act, or if the production, preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employees and operatives, or to the character or quality of the food therein being produced, manufactured, packed, stored, sold, distributed or conveyed, the officer or inspector making the inspection or examination shall report such conditions and violations to the Department. The Department of Agriculture shall have exclusive jurisdiction for the enforcement of this Act insofar as it relates to establishments defined by Section 2.5 of "The Meat and Poultry Inspection Act", approved July 22, 1959, as heretofore or hereafter amended. The Department of Agriculture or Department of Public Health, as the case may be, shall thereupon issue a written order to the person, firm or corporation responsible for the violation or condition aforesaid to abate such condition or violation or to make such changes or improvements as may be necessary to abate them, within such reasonable time as may be required. Notice of the order may be served by delivering a copy thereof to the person, firm or corporation, or by sending a copy thereof by registered mail, and the receipt thereof through the post office shall be prima facie evidence that notice of the order has been received. Such person, firm or corporation may appear in person or by attorney before the Department of Agriculture or the Department of Public Health, as the case may be, within the time limited in the order, and shall be given an opportunity to be heard and to show why such order or instructions should not be obeyed. The hearing shall be under such rules and regulations as may be prescribed by the Department of Agriculture or the Department of Public Health, as the case may be. If after such hearing it appears that this Act has not been violated, the order shall be rescinded. If it appears that this Act is being violated, and that the person, firm or corporation notified is responsible therefor, the previous order shall be confirmed or amended, as the facts shall warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with the final order. If such person, firm or corporation is not

present or represented when such final order is made, notice thereof shall be given as above provided. On failure of the party or parties to comply with the first order of the Department of Agriculture or the Department of Public Health, as the case may be, within the time prescribed, when no hearing is demanded, or upon failure to comply with the final order within the time specified, the Department shall certify the facts to the State's Attorney of the county in which such violation occurred, and such State's Attorney shall proceed against the party or parties for the fines and penalties provided by this Act, and also for the abatement of the nuisance: Provided, that the proceedings herein prescribed for the abatement of nuisances as defined in this Act shall not in any manner relieve the violator from prosecution in the first instance for every such violation, nor from the penalties for such violation prescribed by Section 13.
(Source: P.A. 81-1509.)".

Under the rules, the foregoing **Senate Bill No. 840**, 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. 1234

A bill for AN ACT concerning civil liabilities.

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. 1234

Passed the House, as amended, May 23, 2011.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1234

AMENDMENT NO. 1. Amend Senate Bill 1234 by replacing everything after the enacting clause with the following:

"Section 5. The Mental Health and Developmental Disabilities Confidentiality Act is amended by adding Section 9.4 as follows:

(740 ILCS 110/9.4 new)

Sec. 9.4. Disclosure for treatment and coordination of care.

(a) For recipients in a program administered or operated by the Department of Healthcare and Family Services or the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities), records of a recipient may be disclosed without consent by county jails, insurance companies, integrated health systems, and State agencies, including the Department of Corrections, the Department of Children and Family Services, the Department of Healthcare and Family Services and the Department of Human Services, to hospitals, physicians, therapists, emergency medical personnel, and members of an interdisciplinary team treating a recipient for the purposes of treatment and coordination of care.

(b) An interdisciplinary team treating a recipient may disclose the recipient's records without the recipient's consent to other members of the team.

(c) The records that may be disclosed under this Section are services rendered, providers rendering the services, pharmaceuticals prescribed or dispensed, and diagnoses. All disclosures under this Section must be made in a manner consistent with existing federal and State laws and regulations, including the federal Health Insurance Portability and Accountability Act (HIPAA).

(d) For the purpose of this Section only:

"Integrated health system" means an organization with a system of care which incorporates physical and behavioral healthcare and includes care delivered in an inpatient and outpatient setting.

"Interdisciplinary team" means a group of persons, representing different clinical disciplines (medicine, nursing, social work, psychology, etc.) providing and coordinating the care and treatment for a person with mental illness. The group may be composed of individuals employed by one provider or multiple providers.

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

[May 24, 2011]

Under the rules, the foregoing **Senate Bill No. 1234**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 401

A bill for AN ACT concerning revenue.

SENATE BILL NO. 665

A bill for AN ACT concerning regulation.

SENATE BILL NO. 670

A bill for AN ACT concerning regulation.

SENATE BILL NO. 754

A bill for AN ACT concerning liquor.

SENATE BILL NO. 1043

A bill for AN ACT concerning criminal law.

Passed the House, May 23, 2011.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1073

A bill for AN ACT concerning civil law.

SENATE BILL NO. 1213

A bill for AN ACT concerning safety.

Passed the House, May 23, 2011.

MARK MAHONEY, Clerk of the House

JOINT ACTION MOTIONS FILED

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

Motion to Concur in House Amendment 1 to Senate Bill 541

Motion to Concur in House Amendment 1 to Senate Bill 840

Motion to Concur in House Amendment 1 to Senate Bill 1234

MOTION IN WRITING

Senator Muñoz submitted the following Motion in Writing:

Pursuant to Senate Rule 10-1(c), as the Chairman of the Executive Appointments Committee, I move to compile the following Appointment Messages to be acted on together by a single vote of the Senate:

AM 103 (Southwestern Illinois Development Authority)

AM's 115, 116, 117, 118, 119 (Workforce Investment Board)

AM 120 (Illinois State University Board of Trustees)

AM's 121, 122, 123 (Board of Higher Education)

Date: 24 May, 2011

[May 24, 2011]

s/Antonio Muñoz
 ASSISTANT MAJORITY LEADER ANTONIO MUÑOZ
 CHAIR, EXECUTIVE APPOINTMENTS COMMITTEE

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

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Koehler, **House Bill No. 242** having been printed, was taken up and read by title a second time.

Senator Koehler offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 242

AMENDMENT NO. 1. Amend House Bill 242 on page 13, immediately below line 19, by inserting the following:

"Section 10. The Township Code is amended by changing Section 85-10 as follows:
 (60 ILCS 1/85-10)

Sec. 85-10. Township corporate powers.

(a) Every township has the corporate capacity to exercise the powers granted to it, or necessarily implied, and no others. Every township has the powers specified in this Section.

(b) A township may sue and be sued.

(c) A township may acquire (by purchase, gift, or legacy) and hold property, both real and personal, for the use of its inhabitants and may sell and convey that property. A township may purchase any real estate or personal property for public purposes under contracts providing for payment in installments over a period of time of not more than 20 years in the case of real estate and not more than 10 years in the case of personal property. A township may finance the purchase of any real estate or personal property for public purpose under finance contracts providing for payment in installments over a period of time of not more than 20 years in the case of real estate and not more than 10 years in the case of personal property. A township may construct a township hall under contracts providing for payment over a period of time of not more than 20 ~~40~~ years. The interest on the unpaid balance shall not exceed that permitted in the Bond Authorization Act.

(d) A township may make all contracts necessary in the exercise of the township's powers.

(e) A township may expend or contract for the expenditure of any federal funds made available to the township by law for any purpose for which taxes imposed upon township property or property within the township may be expended.

(f) A township may acquire (singly or jointly with a municipality or municipalities) land or any interest in land located within its township limits. The township may acquire the land or interest by gift, purchase, or otherwise, but not by condemnation. A township may (singly or jointly) improve or arrange for the improvement of the land for industrial or commercial purposes and may donate and convey the land or interest in land so acquired and so improved to the Illinois Finance Authority.

(g) (Blank)

(h) It is the policy of this State that all powers granted either expressly or by necessary implication by this Code, any other Illinois statute, or the Illinois Constitution to townships may be exercised by those townships notwithstanding effects on competition. It is the intention of the General Assembly that the "State action exemption" to the application of federal antitrust statutes be fully available to townships to the extent their activities are authorized by law as stated in this Code.

(i) A township may receive funds under the federal Housing and Community Development Act of 1974 and may expend or contract for the expenditure of those funds and other township funds for the activities specified in Section 105 of that Act. The powers granted under this subsection (i) are in addition to powers otherwise possessed by a township and shall not be construed as a limitation of those other powers.

(j) A township may establish reasonable fees for recreation and instructional programs sponsored by the township.

(Source: P.A. 93-205, eff. 1-1-04; 93-743, eff. 7-15-04.)"

[May 24, 2011]

The motion prevailed.

And the amendment was adopted and ordered printed.

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

On motion of Senator Koehler, **House Bill No. 1576** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Local Government, adopted and ordered printed:

AMENDMENT NO. 1 TO HOUSE BILL 1576

AMENDMENT NO. 1. Amend House Bill 1576 as follows:

on page 7, immediately below line 18, by inserting the following:

"Notwithstanding any other provision of this subsection (a), this Section does not apply to a municipality with more than 1,000,000 inhabitants."; and

on page 10, lines 7 through 8, by deleting "(other than a municipality that has more than 1,000,000 inhabitants)"; and

on page 11, line 14, by deleting "having a population of less than 1,000,000"; and

on page 33, immediately below line 11, by inserting the following:

"(I) Applicability. This Section does not apply to a municipality with more than 1,000,000 inhabitants."; and

on page 40, immediately below line 14, by inserting the following:

"Notwithstanding any other provision of this subsection (a), this Section does not apply to a municipality with more than 1,000,000 inhabitants."; and

on page 43, lines 3 through 4, by deleting "(other than a municipality that has more than 1,000,000 inhabitants)"; and

on page 44, line 10, by deleting "having a population of less than 1,000,000"; and

on page 66, immediately below line 14, by inserting the following:

"(I) Applicability. This Section does not apply to a municipality with more than 1,000,000 inhabitants.";

Senate Floor Amendment No. 2 was withdrawn by the sponsor.

Senator Koehler offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO HOUSE BILL 1576

AMENDMENT NO. 3. Amend House Bill 1576 on page 7, line 8, by replacing "inconsistent with" with "less stringent than"; and

on page 8, by replacing lines 7 through 11 with the following:

"list. If the appointing authority has reason to conclude that the highest ranked person fails to meet the minimum standards for the position or if the appointing authority believes an alternate candidate would better serve the needs of the department, then the appointing authority has the right to pass over the highest ranked person and appoint either: (i) any person who has a ranking in the top 5% of the register of eligibles or (ii) any person who is among the top 5 highest ranked persons on the list of eligibles if the number of people who have a ranking in the top 5% of the register of eligibles is less than 5 people."; and

on page 10, line 4, after "Any", by inserting "municipality may charge a"; and

on page 10, line 5, by deleting "shall not exceed \$25"; and

on page 12, line 22, by replacing the comma with ";(i)"; and

on page 12, by replacing lines 25 through 26 with: "within the municipality, or (ii) on the municipality's Internet website. Additional"; and

on page 15, by replacing lines 6 through 19 with the following:

"(g) Scoring of examination components. Appointing authorities may create a preliminary eligibility register. A person shall be placed on the list based upon his or her passage of the written examination or the passage of the written examination and the physical ability component. Passage of the written examination means a score that is at or above the mean score for all applicants participating in the written test. The appointing authority may conduct the physical ability component and any subjective components subsequent to the posting of the preliminary eligibility register.

The examination components for an initial eligibility register shall be graded on a 100-point scale. A person's position on the list shall be determined by the following: (i) the person's score on the written examination, (ii) the person successfully passing the physical ability component, and (iii) the person's results on any subjective component as described in subsection (d).

In order to qualify for placement on the final"; and

on page 16, line 2, after "Section", by inserting "and who have passed the physical ability examination"; and

on page 16, line 5, by replacing "physical ability" with "subjective component"; and

on page 40, line 4, by replacing "inconsistent with" with "less stringent than"; and

on page 41, by replacing lines 3 through 7 with the following:

"list. If the appointing authority has reason to conclude that the highest ranked person fails to meet the minimum standards for the position or if the appointing authority believes an alternate candidate would better serve the needs of the department, then the appointing authority has the right to pass over the highest ranked person and appoint either: (i) any person who has a ranking in the top 5% of the register of eligibles or (ii) any person who is among the top 5 highest ranked persons on the list of eligibles if the number of people who have a ranking in the top 5% of the register of eligibles is less than 5 people."; and

on page 42, line 26, after "Any", by inserting "municipality may charge a"; and

on page 43, line 1, by deleting "shall not exceed \$25"; and

on page 45, line 18, by replacing the comma with ":(i)"; and

on page 45, by replacing lines 21 through 22 with "within the municipality, or (ii) on the municipality's Internet website. Additional"; and

on page 48, by replacing lines 2 through 15 with the following:

"(g) Scoring of examination components. Appointing authorities may create a preliminary eligibility register. A person shall be placed on the list based upon his or her passage of the written examination or the passage of the written examination and the physical ability component. Passage of the written examination means a score that is at or above the mean score for all applicants participating in the written test. The appointing authority may conduct the physical ability component and any subjective components subsequent to the posting of the preliminary eligibility register.

The examination components for an initial eligibility register shall be graded on a 100-point scale. A person's position on the list shall be determined by the following: (i) the person's score on the written examination, (ii) the person successfully passing the physical ability component, and (iii) the person's results on any subjective component as described in subsection (d).

In order to qualify for placement on the final"; and

on page 48, line 24, after "Section", by inserting "and who have passed the physical ability examination"; and

on page 49, line 1, by replacing "physical ability" with "subjective component"; and

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on page 68, line 18, by replacing "in the manner" with "in a no less stringent manner than the manner"; and

on page 69, by replacing lines 21 through 25 with the following:

"list. If the appointing authority has reason to conclude that the highest ranked person fails to meet the minimum standards for the position or if the appointing authority believes an alternate candidate would better serve the needs of the department, then the appointing authority has the right to pass over the highest ranked person and appoint either: (i) any person who has a ranking in the top 5% of the register of eligibles or (ii) any person who is among the top 5 highest ranked persons on the list of eligibles if the number of people who have a ranking in the top 5% of the register of eligibles is less than 5 people."; and

on page 71, line 19, after "Any", by inserting "fire protection district may charge a"; and

on page 71, line 20, by deleting "shall not exceed \$25"; and

on page 74, line 9, by replacing the comma with ": (i)"; and

on page 74, by replacing lines 12 through 13 with "district, or (ii) on the fire protection district's Internet website. Additional"; and

on page 76, by replacing lines 19 through 26 with the following:

"(g) Scoring of examination components. Appointing authorities may create a preliminary eligibility register. A person shall be placed on the list based upon his or her passage of the written examination or the passage of the written examination and the physical ability component. Passage of the written examination means a score that is at or above the mean score for all applicants participating in the written test. The appointing authority may conduct the physical ability component and any subjective components subsequent to the posting of the preliminary eligibility register.

The examination components for an initial eligibility register shall be graded on a 100-point scale. A person's position on the list shall be determined by the following: (i) the person's score on the written examination, (ii) the person successfully passing the physical ability component, and (iii) the person's results on any subjective component as described in subsection (d)."; and

on page 77, by replacing lines 1 through 6 with the following:

"In order to qualify for placement on the final"; and

on page 77, line 15, after "Section", by inserting "and who have passed the physical ability examination"; and

on page 77, line 18, by replacing "physical ability" with "subjective component".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

At the hour of 12:36 o'clock p.m., Senator Harmon, presiding.

On motion of Senator Wilhelmi, **House Bill No. 2555** having been printed, was taken up and read by title a second time.

Senate Committee Amendment No. 1 was held in the Committee on Assignments.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO HOUSE BILL 2555

AMENDMENT NO. 2. Amend House Bill 2555 on page 1, line 12, after the period, by inserting the following:

"The tow fee does not have to be collected by the towing company. If the vehicle is abandoned, then the towing company is not responsible for paying the tow fee to the county."

The motion prevailed.

And the amendment was adopted and ordered printed.

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

HOUSE BILL RECALLED

On motion of Senator Sandack, **House Bill No. 1056** was recalled from the order of third reading to the order of second reading.

Senator Sandack offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 1056

AMENDMENT NO. 1. Amend House Bill 1056 on page 1, by replacing lines 15 and 16 with the following:

"to cross examine witnesses and to present testimony and evidence, and any other".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Sandack, **House Bill No. 1056**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

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

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval
Bomke	Hunter	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Clayborne	Jacobs	McCarter	Silverstein
Collins, A.	Johnson, C.	Millner	Steans
Collins, J.	Johnson, T.	Mulroe	Sullivan
Crotty	Jones, E.	Muñoz	Syverson
Cultra	Jones, J.	Murphy	Trotter
Dillard	Koehler	Noland	Wilhelmi
Duffy	Kotowski	Pankau	Mr. President
Forby	LaHood	Radogno	
Frerichs	Landek	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

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

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

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On motion of Senator LaHood, **House Bill No. 1398**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

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

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Righter
Bivins	Holmes	Luechtefeld	Sandack
Bomke	Hunter	Maloney	Sandoval
Brady	Hutchinson	Martinez	Schmidt
Clayborne	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Jones, J.	Muñoz	Syverson
Dillard	Koehler	Murphy	Trotter
Duffy	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	
Haine	Lightford	Rezin	

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

Ordered that the Secretary inform the House of Representatives thereof.

HOUSE BILL RECALLED

On motion of Senator Koehler, **House Bill No. 1909** was recalled from the order of third reading to the order of second reading.

Senator Koehler offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO HOUSE BILL 1909

AMENDMENT NO. 2. Amend House Bill 1909 on page 2, by replacing line 3 with "violation is based on, the date, time, and location for the"; and

on page 2, line 4, after "owner", by inserting ", and that failure to correct the violation prior to the hearing date may result in a fine"; and

on page 2, line 15, after "more", by inserting "similar"; and

on page 2, line 16, after "code", by inserting "at the same location in a 36-month period".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Koehler, **House Bill No. 1909**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

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

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Clayborne	Hutchinson	Martinez	Schmidt
Collins, A.	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Jones, J.	Muñoz	Syverson
Dillard	Koehler	Murphy	Trotter
Duffy	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

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

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

On motion of Senator Wilhelmi, **House Bill No. 1929**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

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

YEAS 53; NAYS 4; Present 1.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Righter
Bivins	Holmes	Maloney	Sandack
Bomke	Hutchinson	Martinez	Sandoval
Brady	Johnson, C.	McCann	Schmidt
Clayborne	Johnson, T.	McCarter	Schoenberg
Crotty	Jones, E.	Meeks	Silverstein
Cultra	Jones, J.	Millner	Steans
Delgado	Koehler	Mulroe	Sullivan
Dillard	Kotowski	Muñoz	Syverson
Duffy	LaHood	Murphy	Wilhelmi
Forby	Landek	Noland	Mr. President
Frerichs	Lauzen	Pankau	
Garrett	Lightford	Radogno	
Haine	Link	Rezin	

The following voted in the negative:

Collins, A.	Hunter
Collins, J.	Raoul

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The following voted present:

Trotter

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

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

HOUSE BILL RECALLED

On motion of Senator Delgado, **House Bill No. 3005** was recalled from the order of third reading to the order of second reading.

Senator Delgado offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 3005

AMENDMENT NO. 1. Amend House Bill 3005 on page 5, by replacing lines 11 through 19 with the following:

"terminated in any manner provided by law. It does not include a person who has been or could be determined to be a parent under the Illinois Parentage Act of 1984, or similar parentage law in any other state, if that person has been convicted of or pled nolo contendere to a crime that resulted in the conception of the child under Section 11-1.20, 11-1.30, 11-1.40, 11-1.11, 12-13, 12-14, 12-14.1, subsection (a) or (b) (but not subsection (c)) of Section 11-1.50 or 12-15, or subsection (a), (b), (c), (e), or (f) (but not subsection (d)) of Section 11-1.60 or 12-16 of the Criminal Code of 1961 or similar statute in another jurisdiction unless upon motion of any party, other than the offender, to the juvenile court proceedings the court finds it is in the child's best interest to deem the offender a parent for purposes of the juvenile court proceedings."; and

on page 11, by replacing lines 18 through 24 with the following:

"Section 10. The Illinois Parentage Act of 1984 is amended by changing Section 6.5 as follows:
(750 ILCS 45/6.5)

(Text of Section before amendment by P.A. 96-1551)

Sec. 6.5. Custody or visitation by sex offender prohibited.

(a) This Section applies to a person who has been found to be the father of a child under this Act and who has been convicted of or who has pled guilty or nolo contendere to a violation of Section 11-1.20 (criminal sexual assault), Section 11-1.30 (aggravated criminal sexual assault), Section 11-1.40 (predatory criminal sexual assault of a child), Section 11-1.50 (criminal sexual abuse), Section 11-1.60 (aggravated criminal sexual abuse), Section 11-11 (sexual relations within families), Section 12-13 (criminal sexual assault), Section 12-14 (aggravated criminal sexual assault), Section 12-14.1 (predatory criminal sexual assault of a child), Section 12-15 (criminal sexual abuse), or Section 12-16 (aggravated criminal sexual abuse) of the Criminal Code of 1961, or a similar statute in another jurisdiction, for his conduct in fathering that child.

(b) A person described in subsection (a) shall not be entitled to custody of or visitation with that child without the consent of the child's mother or guardian. If the person described in subsection (a) is also the guardian of the child, he does not have the authority to consent to visitation or custody under this Section. If the mother of the child is a minor, and the person described in subsection (a) is also the father or guardian of the mother, then he does not have the authority to consent to custody or visitation.

(c) Notwithstanding any other provision of this Act, nothing in this Section shall be construed to relieve the father described in subsection (a) of any support and maintenance obligations to the child under this Act.

~~A person found to be the father of a child under this Act, and who has been convicted of or who has pled guilty to a violation of Section 11-11 (sexual relations within families), Section 12-13 (criminal sexual assault), Section 12-14 (aggravated criminal sexual assault), Section 12-14.1 (predatory criminal sexual assault of a child), Section 12-15 (criminal sexual abuse), or Section 12-16 (aggravated criminal sexual abuse) of the Criminal Code of 1961 for his conduct in fathering that child, shall not be entitled to custody of or visitation with that child without the consent of the mother or guardian, other than the~~

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~~father of the child who has been convicted of or pled guilty to one of the offenses listed in this Section, or, in cases where the mother is a minor, the guardian of the mother of the child. Notwithstanding any other provision of this Act, nothing in this Section shall be construed to relieve the father of any support and maintenance obligations to the child under this Act.~~

(Source: P.A. 94-928, eff. 6-26-06.)

(Text of Section after amendment by P.A. 96-1551)

Sec. 6.5. Custody or visitation by sex offender prohibited.

(a) This Section applies to a person who has been found to be the father of a child under this Act and who has been convicted of or who has pled guilty or nolo contendere to a violation of Section 11-1.20 (criminal sexual assault), Section 11-1.30 (aggravated criminal sexual assault), Section 11-1.40 (predatory criminal sexual assault of a child), Section 11-1.50 (criminal sexual abuse), Section 11-1.60 (aggravated criminal sexual abuse), Section 11-11 (sexual relations within families), Section 12-13 (criminal sexual assault), Section 12-14 (aggravated criminal sexual assault), Section 12-14.1 (predatory criminal sexual assault of a child), Section 12-15 (criminal sexual abuse), or Section 12-16 (aggravated criminal sexual abuse) of the Criminal Code of 1961, or a similar statute in another jurisdiction, for his conduct in fathering that child.

(b) A person described in subsection (a) shall not be entitled to custody of or visitation with that child without the consent of the child's mother or guardian. If the person described in subsection (a) is also the guardian of the child, he does not have the authority to consent to visitation or custody under this Section. If the mother of the child is a minor, and the person described in subsection (a) is also the father or guardian of the mother, then he does not have the authority to consent to custody or visits.

(c) Notwithstanding any other provision of this Act, nothing in this Section shall be construed to relieve the father described in subsection (a) of any support and maintenance obligations to the child under this Act.

~~A person found to be the father of a child under this Act, and who has been convicted of or who has pled guilty to a violation of Section 11-11 (sexual relations within families), Section 11-1.20 or 12-13 (criminal sexual assault), Section 11-1.30 or 12-14 (aggravated criminal sexual assault), Section 11-1.40 or 12-14.1 (predatory criminal sexual assault of a child), Section 11-1.50 or 12-15 (criminal sexual abuse), or Section 11-1.60 or 12-16 (aggravated criminal sexual abuse) of the Criminal Code of 1961 for his conduct in fathering that child, shall not be entitled to custody of or visitation with that child without the consent of the mother or guardian, other than the father of the child who has been convicted of or pled guilty to one of the offenses listed in this Section, or, in cases where the mother is a minor, the guardian of the mother of the child. Notwithstanding any other provision of this Act, nothing in this Section shall be construed to relieve the father of any support and maintenance obligations to the child under this Act.~~

(Source: P.A. 96-1551, eff. 7-1-11.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act."; and

on page 12 by deleting lines 1 through 21.

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Delgado, **House Bill No. 3005**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

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

YEAS 59; NAYS None.

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The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

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

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

On motion of Senator McCarter, **House Bill No. 3417**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

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

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

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

Ordered that the Secretary inform the House of Representatives thereof.

REPORT FROM STANDING COMMITTEE

[May 24, 2011]

Senator Muñoz, Chairperson of the Committee on Executive Appointments, moved that the Senate resolve itself into Executive Session to consider the report of that Committee relative to the appointment messages.

The motion prevailed.

EXECUTIVE SESSION

Pursuant to Motion in Writing filed earlier today, Senator Muñoz moved to compile the following Appointment Messages to be acted on together by a single vote of the Senate.

AM 103 (Southwestern Illinois Development Authority)
AM's 115, 116, 117, 118, 119 (Workforce Investment Board)
AM 120 (Illinois State University Board of Trustees)
AM's 121, 122, 123 (Board of Higher Education)

The motion prevailed.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred Appointment Message 103, 115, 116, 117, 118, 119, 120, 121, 122 and 123, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

Appointment Message No. 103

Title of Office: Member

Agency or Other Body: Southwestern Illinois Development Authority

Start Date: May 9, 2011

End Date: January 21, 2013

Name: Kevin C. Kaufhold

Residence: 21 Berrywood Dr., Belleville, IL 62226

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator James F. Clayborne, Jr.

Most Recent Holder of Office: Robert Hasley

Superseded Appointment Message: Appointment Message 98 of the 97th General Assembly

Appointment Message No. 115

Title of Office: Member

Agency or Other Body: Illinois Workforce Investment Board

Start Date: May 14, 2011

End Date: July 1, 2013

Name: Michael J. Williams

Residence: 1202 Kent Street, Rockford, IL 61102

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Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Dave Syverson

Most Recent Holder of Office: Blanche Shoup

Superseded Appointment Message: Not Applicable

Appointment Message No. 116

Title of Office: Member

Agency or Other Body: Illinois Workforce Investment Board

Start Date: May 14, 2011

End Date: July 1, 2013

Name: Shelley Stern Grach

Residence: 1306 North Sutton Place, Chicago, IL 60610

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator John J. Cullerton

Most Recent Holder of Office: Ron Whitley

Superseded Appointment Message: Not Applicable

Appointment Message No. 117

Title of Office: Member

Agency or Other Body: Illinois Workforce Investment Board

Start Date: May 14, 2011

End Date: July 1, 2013

Name: Elizabeth A. Dickson

Residence: 6418 28th Street, Berwyn, IL 60402

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Martin A. Sandoval

Most Recent Holder of Office: Lauren Sugarman

Superseded Appointment Message: Not Applicable

Appointment Message No. 118

Title of Office: Member

Agency or Other Body: Illinois Workforce Investment Board

Start Date: May 14, 2011

End Date: July 1, 2013

Name: Donald DeDobbelare

Residence: 32 Lake of the Hills, Orion, IL 61273

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Mike Jacobs

Most Recent Holder of Office: Chris Glynn

Superseded Appointment Message: Not Applicable

Appointment Message No. 119

Title of Office: Member

Agency or Other Body: Illinois Workforce Investment Board

Start Date: May 14, 2011

End Date: July 1, 2013

Name: John T. Coliton III

Residence: 13015 Silverleaf Court, Plainfield, IL 60585

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Linda Holmes

Most Recent Holder of Office: Michael A. Johl

Superseded Appointment Message: Not Applicable

Appointment Message No. 120

Title of Office: Member

Agency or Other Body: Board of Trustees of Illinois State University

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Start Date: May 14, 2011

End Date: January 16, 2017

Name: Michael P. McCuskey

Residence: 2310 Mullikin Drive, Champaign, IL 61822

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Shane Cultra

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Not Applicable

Appointment Message No. 121

Title of Office: Member

Agency or Other Body: Illinois Board of Higher Education

Start Date: May 14, 2011

End Date: January 31, 2015

Name: Allan Karnes

Residence: 187 Bonnie Brae Rd., Carbondale, IL 62901

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator David S. Luechtefeld

Most Recent Holder of Office: Santos Rivera

Superseded Appointment Message: Not Applicable

Appointment Message No. 122

Title of Office: Member

Agency or Other Body: Illinois Board of Higher Education

Start Date: May 14, 2011

End Date: January 31, 2013

Name: Frances G. Carroll, Ed.D.

Residence: 605 E. 33rd Place, Chicago, IL 60616

Annual Compensation: Expenses

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Per diem: Not Applicable

Nominee's Senator: Senator Kwame Raoul

Most Recent Holder of Office: Jay D. Bergman

Superseded Appointment Message: Not Applicable

Appointment Message No. 123

Title of Office: Member

Agency or Other Body: Illinois Board of Higher Education

Start Date: May 14, 2011

End Date: January 31, 2013

Name: Santos Rivera

Residence: 2828 N. Talman Ave., Unit O, Chicago, IL 60618

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Iris Y. Martinez

Most Recent Holder of Office: Lucy Sloan

Superseded Appointment Message: Not Applicable

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 54; NAYS None; Present 4.

The following voted in the affirmative:

Althoff	Haine	Link	Righter
Bivins	Harmon	Luechtefeld	Sandack
Bomke	Holmes	Maloney	Sandoval
Brady	Hunter	Martinez	Schmidt
Clayborne	Hutchinson	McCann	Schoenberg
Collins, A.	Johnson, C.	Meeks	Silverstein
Collins, J.	Johnson, T.	Millner	Steans
Crotty	Jones, E.	Mulroe	Sullivan
Cultra	Koehler	Muñoz	Syverson
Delgado	Kotowski	Murphy	Trotter
Dillard	LaHood	Noland	Wilhelmi
Forby	Landek	Pankau	Mr. President
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	

The following voted present:

Duffy McCarter

[May 24, 2011]

Jones, J.

Rezin

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

On motion of Senator Muñoz, the Executive Session arose and the Senate resumed consideration of business.

Senator Harmon, presiding.

SENATE BILL RECALLED

On motion of Senator Clayborne, **Senate Bill No. 400** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 1 was postponed in the Committee on Judiciary.

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 400

AMENDMENT NO. 2. Amend Senate Bill 400 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Section 15-185 as follows:

(35 ILCS 200/15-185)

Sec. 15-185. Exemption for leaseback property and qualified leased property.

(a) ~~Notwithstanding anything in this Code to the contrary, all property owned by a municipality or with a population of over 500,000 inhabitants, a unit of local government is exempt from real estate taxes and such exemption is not affected by any transaction in which, for the purpose of obtaining financing, the municipality or unit of local government leases or otherwise transfers the property whose jurisdiction includes territory located in whole or in part within a municipality with a population of over 500,000 inhabitants, or a municipality with home rule powers that is contiguous to a municipality with a population of over 500,000 inhabitants, shall remain exempt from taxation and any leasehold interest in that property shall not be subject to taxation under Section 9-195 if the property is directly or indirectly leased, sold, or otherwise transferred to another entity for which or for whom whose property is not exempt and immediately after the lease or transfer enters into thereafter is the subject of a leaseback or other agreement that directly or indirectly gives the municipality or unit of local government (i) a right to use, control, and possess the property or (ii) a right to require the other entity, or the other entity's designee or assignee, to use the property in the performance of services for the municipality or unit of local government. In the case of a conveyance of the property, the municipality or unit of local government must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the municipality or unit of local government.~~

If the property has been conveyed as described in this subsection, the property is no longer exempt under this Section as of the date when:

(1) the right of the municipality or unit of local government to use, control, and possess the property is terminated; or

(2) the municipality or unit of local government no longer has an option to purchase or otherwise acquire the property; and

(3) there is no provision for a reverter of the property to the municipality or unit of local government within the limitations period for reverters.

Pursuant to Sections 15-15 and 15-20 of this Code, the unit of local government shall notify the chief county assessment officer of any transaction under this subsection. The chief county assessment officer shall determine initial and continuing compliance with the requirements of this Section for the tax exemption. Failure to notify the chief county assessment officer of a transaction under this subsection or to otherwise comply with the requirements of Sections 15-15 and 15-20 of this Code shall, in the discretion of the chief county assessment officer, constitute cause to terminate the exemption, notwithstanding any other provision of this Code. Property shall no longer be exempt under this subsection as of the date when the right of the municipality or unit of local government to use, control, and possess the property or to require the performance of services is terminated and the municipality or unit of local government no longer has any option to purchase or otherwise reacquire the interest in the property which was transferred by the municipality or unit of local government.

(b) Notwithstanding anything in this Code to the contrary, all property owned by a

[May 24, 2011]

municipality with a population of over 500,000 inhabitants, a unit of local government whose jurisdiction includes territory located in whole or in part within a municipality with a population of over 500,000 inhabitants, or a municipality with home rule powers that is contiguous to a municipality with a population of over 500,000 inhabitants, shall remain exempt from taxation and any leasehold interest in that property is not subject to taxation under Section 9-195 if the property, including dedicated public property, is used by a municipality or other unit of local government for the purpose of an airport or parking or for waste disposal or processing and is leased for continued use for the same purpose to another entity whose property is not exempt.

For the purposes of this subsection (b), "airport" does not include any airport property, as defined under Section 10 of the O'Hare Modernization Act.

Any transaction described under this subsection must be undertaken in accordance with all appropriate federal laws and regulations.

(c) For purposes of this Section, "municipality" means a municipality as defined in Section 1-1-2 of the Illinois Municipal Code, and "unit of local government" means a unit of local government as defined in Article VII, Section 1 of the Constitution of the State of Illinois. The provisions of this Section supersede and control over any conflicting provisions of this Code.

(d) Notwithstanding anything in this Code to the contrary, (i) all property owned by an entity using the property in such a manner that it is not subject to real estate taxes pursuant to this Article 15 is exempt from real estate taxes, and such exemption is not affected by any transaction in which the entity, directly or indirectly, on or after the effective date of this amendatory Act of the 97th General Assembly, leases, sells, or otherwise transfers the property to another entity for which or whom property is not exempt, with or without a right to repurchase that property and immediately after the lease or transfer enters into a leaseback or other agreement that directly or indirectly gives the initial entity a right to use, control, and possess the property for purposes which would qualify the property for a non-homestead real estate tax exemption pursuant to this Article 15 by virtue of its use or (ii) where, on or after the effective date of this amendatory Act of the 97th General Assembly, an entity leases new or existing property from another for purposes that would be exempt under this Article 15, that property shall be exempt from real estate taxes for the term of the lease, or any extension thereof, without regard to the nature or character of ownership and shall be treated for purposes of this Article 15 as if the lessee were the owner of the property, as long as the property on which the leased improvements are or will be located is used for school, religious, or charitable purposes pursuant to that lease or any renewal thereof.

(e) Substantially all of the funds received from the conveyance of property subject to a leaseback agreement as described in subsection (d) of this Section must be used for capital improvement projects and related capital expenditures and all funds raised shall be used within the State of Illinois.

(f) To the extent allowable by law, all construction projects using the provisions of subsection (d) above shall be subject to the provisions of the Illinois Prevailing Wage Act for the initial construction of the improvements and all bidders for those projects shall comply with the provisions of Section 30-22 of the Illinois Procurement Code.

(g) Project labor agreements for the construction projects referenced in subsection (f) above shall be required.

(Source: P.A. 96-779, eff. 8-28-09.)

Section 97. Savings clause. If any provision of this Act or its application to any person or circumstance is held invalid by any Court of competent jurisdiction or any federal or State government agency having jurisdiction over the subject matter of this Act, the invalidity of that provision or application does not affect any other provisions or applications of this Act that can be given effect without the invalid provision or application which are severable under Section 1.31 of the Statute on Statutes.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 400

AMENDMENT NO. 3. Amend Senate Bill 400 by replacing everything after the enacting clause with the following:

[May 24, 2011]

"Section 5. The Property Tax Code is amended by changing Section 15-185 as follows:
(35 ILCS 200/15-185)

Sec. 15-185. Exemption for leaseback property and qualified leased property.

(a) Notwithstanding anything in this Code to the contrary, all property owned by a municipality with a population of over 500,000 inhabitants, a unit of local government whose jurisdiction includes territory located in whole or in part within a municipality with a population of over 500,000 inhabitants, or a municipality with home rule powers that is contiguous to a municipality with a population of over 500,000 inhabitants, shall remain exempt from taxation and any leasehold interest in that property shall not be subject to taxation under Section 9-195 if the property is directly or indirectly leased, sold, or otherwise transferred to another entity whose property is not exempt and immediately thereafter is the subject of a leaseback or other agreement that directly or indirectly gives the municipality or unit of local government (i) a right to use, control, and possess the property or (ii) a right to require the other entity, or the other entity's designee or assignee, to use the property in the performance of services for the municipality or unit of local government. Property shall no longer be exempt under this subsection as of the date when the right of the municipality or unit of local government to use, control, and possess the property or to require the performance of services is terminated and the municipality or unit of local government no longer has any option to purchase or otherwise reacquire the interest in the property which was transferred by the municipality or unit of local government.

(b) Notwithstanding anything in this Code to the contrary, all property owned by a municipality with a population of over 500,000 inhabitants, a unit of local government whose jurisdiction includes territory located in whole or in part within a municipality with a population of over 500,000 inhabitants, or a municipality with home rule powers that is contiguous to a municipality with a population of over 500,000 inhabitants, shall remain exempt from taxation and any leasehold interest in that property is not subject to taxation under Section 9-195 if the property, including dedicated public property, is used by a municipality or other unit of local government for the purpose of an airport or parking or for waste disposal or processing and is leased for continued use for the same purpose to another entity whose property is not exempt.

For the purposes of this subsection (b), "airport" does not include any airport property, as defined under Section 10 of the O'Hare Modernization Act.

Any transaction described under this subsection must be undertaken in accordance with all appropriate federal laws and regulations.

(c) For purposes of this Section, "municipality" means a municipality as defined in Section 1-1-2 of the Illinois Municipal Code, and "unit of local government" means a unit of local government as defined in Article VII, Section 1 of the Constitution of the State of Illinois. The provisions of this Section supersede and control over any conflicting provisions of this Code.

(d) Notwithstanding anything in this Code to the contrary, (i) all property owned by an entity using the property in such a manner that it is not subject to real estate taxes pursuant to this Article 15 is exempt from real estate taxes, and such exemption is not affected by any transaction in which the entity, directly or indirectly, on or after the effective date of this amendatory Act of the 97th General Assembly, leases, sells, or otherwise transfers the property to another entity for which or for whom property is not exempt, with or without a right to repurchase that property, and immediately after the lease or transfer enters into a leaseback or other agreement that directly or indirectly gives the initial entity a right to use, control, and possess the property for purposes that would qualify the property for a non-homestead real estate tax exemption pursuant to this Article 15 by virtue of its use or (ii) where, on or after the effective date of this amendatory Act of the 97th General Assembly, an entity leases new or existing property from another for purposes that would be exempt under this Article 15, that property shall be exempt from real estate taxes for the term of the lease, or any extension thereof, without regard to the nature or character of ownership and shall be treated for purposes of this Article 15 as if the lessee were the owner of the property, as long as the property on which the leased improvements are or will be located is used for school, religious, or charitable purposes pursuant to that lease or any renewal thereof.

(e) Substantially all of the funds received from the conveyance of property subject to a leaseback agreement as described in subsection (d) of this Section must be used for capital improvement projects and related capital expenditures and all funds raised shall be used within the State of Illinois.

(f) To the extent allowable by law, all construction projects using the provisions of subsection (d) above shall be subject to the provisions of the Illinois Prevailing Wage Act for the initial construction of the improvements and all bidders for those projects shall comply with the provisions of Section 30-22 of the Illinois Procurement Code.

(g) Project labor agreements for the construction projects referenced in subsection (f) above shall be

required.

(Source: P.A. 96-779, eff. 8-28-09.)

Section 97. Savings clause. If any provision of this Act or its application to any person or circumstance is held invalid by any Court of competent jurisdiction or any federal or State government agency having jurisdiction over the subject matter of this Act, the invalidity of that provision or application does not affect any other provisions or applications of this Act that can be given effect without the invalid provision or application which are severable under Section 1.31 of the Statute on Statutes.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 4 was held in the Committee on Assignments.

There being no further amendments, the foregoing Amendments numbered 2 and 3 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Clayborne, **Senate Bill No. 400**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 37; NAYS 17; Present 1.

The following voted in the affirmative:

Clayborne	Holmes	Link	Schoenberg
Collins, A.	Hunter	Maloney	Silverstein
Collins, J.	Johnson, T.	Martinez	Steans
Crotty	Jones, E.	Meeks	Sullivan
Delgado	Jones, J.	Mulroe	Syverson
Forby	Koehler	Muñoz	Trotter
Frerichs	Kotowski	Noland	Mr. President
Garrett	LaHood	Raoul	
Haine	Landek	Sandack	
Harmon	Lightford	Sandoval	

The following voted in the negative:

Althoff	Duffy	McCarter	Righter
Bivins	Johnson, C.	Millner	Schmidt
Brady	Lauzen	Murphy	
Cultra	Luechtefeld	Pankau	
Dillard	McCann	Radogno	

The following voted present:

Wilhelmi

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

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

[May 24, 2011]

On motion of Senator Haine, **Senate Bill No. 2255**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Luechtefeld	Righter
Bivins	Harmon	Maloney	Sandack
Bomke	Holmes	Martinez	Sandoval
Brady	Hunter	McCann	Schmidt
Clayborne	Hutchinson	McCarter	Schoenberg
Collins, A.	Johnson, C.	Meeks	Silverstein
Collins, J.	Johnson, T.	Millner	Steans
Crotty	Jones, E.	Mulroe	Sullivan
Cultra	Koehler	Muñoz	Syverson
Delgado	Kotowski	Murphy	Trotter
Dillard	LaHood	Noland	Wilhelmi
Duffy	Landek	Pankau	Mr. President
Forby	Lauzen	Radogno	
Frerichs	Lightford	Raoul	
Garrett	Link	Rezin	

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

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

SENATE BILL RECALLED

On motion of Senator Haine, **Senate Bill No. 675** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 675

AMENDMENT NO. 1. Amend Senate Bill 675 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Funeral or Burial Funds Act is amended by changing Sections 1a-1, 2, 3, and 3a-5 as follows:

(225 ILCS 45/1a-1)

Sec. 1a-1. Pre-need contracts.

(a) It shall be unlawful for any seller doing business within this State to accept sales proceeds from a purchaser, either directly or indirectly by any means, unless the seller enters into a pre-need contract with the purchaser which meets the following requirements:

(1) It states the name and address of the principal office of the seller and the parent company of the seller, if any.

(1.5) If funded by a trust, it clearly identifies the trustee's name and address and the primary state or federal regulator of the trustee as a corporate fiduciary.

(1.7) If funded by life insurance, it clearly identifies the life insurance provider and the primary regulator of the life insurance provider.

(2) It clearly identifies the provider's name and address, the purchaser, and the beneficiary, if other than the purchaser.

(2.5) If the provider has branch locations, the contract gives the purchaser the opportunity to identify the branch at which the funeral will be provided.

(3) It contains a complete description of the funeral merchandise and services to be

provided and the price of the merchandise and services, and it clearly discloses whether the price of the merchandise and services is guaranteed or not guaranteed as to price.

(A) Each guaranteed price contract shall contain the following statement in 12 point bold type:

THIS CONTRACT GUARANTEES THE BENEFICIARY THE SPECIFIC GOODS AND SERVICES CONTRACTED

FOR. NO ADDITIONAL CHARGES MAY BE REQUIRED. FOR DESIGNATED GOODS AND SERVICES, ADDITIONAL CHARGES MAY BE INCURRED FOR UNEXPECTED EXPENSES INCLUDING, BUT NOT LIMITED TO, CASH ADVANCES, SHIPPING OF REMAINS FROM A DISTANT PLACE, OR DESIGNATED HONORARIA ORDERED OR DIRECTED BY SURVIVORS.

(B) Except as provided in subparagraph (C) of this paragraph (3), each non-guaranteed price contract shall contain the following statement in 12 point bold type:

THIS CONTRACT DOES NOT GUARANTEE THE PRICE THE BENEFICIARY WILL PAY FOR ANY SPECIFIC

GOODS OR SERVICES. ANY FUNDS PAID UNDER THIS CONTRACT ARE ONLY A DEPOSIT TO BE APPLIED TOWARD THE FINAL PRICE OF THE GOODS OR SERVICES CONTRACTED FOR. ADDITIONAL CHARGES MAY BE REQUIRED.

(C) If a non-guaranteed price contract may subsequently become guaranteed, the contract shall clearly disclose the nature of the guarantee and the time, occurrence, or event upon which the contract shall become a guaranteed price contract.

(4) It provides that if the particular supplies and services specified in the pre-need contract are unavailable at the time of delivery, the provider shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship.

(5) It discloses any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services, or pre-need contract guarantees.

(6) Regardless of the method of funding the pre-need contract, the following must be disclosed:

(A) Whether the pre-need contract is to be funded by a trust, life insurance, or an annuity;

(B) The nature of the relationship among the person funding the pre-need contract, the provider, and the seller; and

(C) The impact on the pre-need contract of (i) any changes in the funding arrangement including but not limited to changes in the assignment, beneficiary designation, or use of the funds; (ii) any specific penalties to be incurred by the contract purchaser as a result of failure to make payments; (iii) penalties to be incurred or moneys or refunds to be received as a result of cancellations; and (iv) all relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the particular funding arrangement and the amount actually needed to pay for the funeral at-need.

(D) The method of changing the provider.

(b) All pre-need contracts are subject to the Federal Trade Commission Rule concerning the Cooling-Off Period for Door-to-Door Sales (16 CFR Part 429).

(c) No pre-need contract shall be sold in this State unless there is a provider for the services and personal property being sold. If the seller is not a provider, then the seller must have a binding agreement with a provider, and the identity of the provider and the nature of the agreement between the seller and the provider shall be disclosed in the pre-need contract at the time of the sale and before the receipt of any sales proceeds. The failure to disclose the identity of the provider, the nature of the agreement between the seller and the provider, or any changes thereto to the purchaser and beneficiary, or the failure to make the disclosures required in subdivision (a)(1), constitutes an intentional violation of this Act.

(d) All pre-need contracts must be in writing in at least 11 point type, numbered, and executed in duplicate. A signed copy of the pre-need contract must be provided to the purchaser at the time of entry into the pre-need contract. The Comptroller may by rule develop a model pre-need contract form that meets the requirements of this Act.

(e) The State Comptroller shall by rule develop a booklet for consumers in plain English describing the scope, application, and consumer protections of this Act. After the adoption of these rules, no pre-need contract shall be sold in this State unless (i) the seller distributes to the purchaser prior to the sale a booklet promulgated or approved for use by the State Comptroller; (ii) the seller explains to the

purchaser the terms of the pre-need contract prior to the purchaser signing; and (iii) the purchaser initials a statement in the contract confirming that the seller has explained the terms of the contract prior to the purchaser signing.

(f) All sales proceeds received in connection with a pre-need contract shall be deposited into a trust account as provided in Section 1b and Section 2 of this Act, or shall be used to purchase a life insurance policy or tax-deferred annuity as provided in Section 2a of this Act.

(g) No pre-need contract shall be sold in this State unless it is accompanied by a funding mechanism permitted under this Act, and unless the seller is licensed by the Comptroller as provided in Section 3 of this Act. Nothing in this Act is intended to relieve sellers of pre-need contracts from being licensed under any other Act required for their profession or business, and being subject to the rules promulgated to regulate their profession or business, including rules on solicitation and advertisement.

(h) Each pre-need contract entered into under this Section shall be registered on an online database maintained by the State Comptroller. Information to be included in the database shall include, but not be limited to, the name of licensee, purchaser, date of contract, amount of contract, and disposition of the funds. This information must be registered into the State Comptroller's online database within 45 days after the date of the pre-need contract.

(Source: P.A. 96-879, eff. 2-2-10.)

(225 ILCS 45/2) (from Ch. 111 1/2, par. 73.102)

Sec. 2. (a) If a purchaser selects a trust arrangement to fund the pre-need contract, all trust deposits as determined by Section 1b shall be made within 30 days of receipt.

(b) A trust established under this Act must be maintained with a corporate fiduciary as defined in Section 1-5.05 of the Corporate Fiduciary Act or with a foreign corporate fiduciary recognized by Article IV of the Corporate Fiduciary Act.

(c) Trust agreements and amendments to the trust agreements used to fund a pre-need contract shall be filed with the Comptroller.

(d) (Blank).

(e) A seller or provider shall furnish to the trustee and depository the name of each payor and the amount of payment on each such account for which deposit is being so made. Nothing shall prevent the trustee from commingling the deposits in any such trust fund for purposes of its management and the investment of its funds as provided in the Common Trust Fund Act. In addition, multiple trust funds maintained under this Act may be commingled or commingled with other funeral or burial related trust funds if all record keeping requirements imposed by law are met.

(f) (Blank).

(g) Upon no less than 30 days prior notice to the Comptroller, the seller may change the trustee of the fund. Failure to provide the Comptroller with timely prior notice is an intentional violation of this Act.

(h) A trustee shall at least annually furnish to each purchaser a statement containing: (1) the receipts, disbursements, and inventory of the trust, including an explanation of any fees or expenses charged by the trustee under Section 5 of this Act or otherwise, (2) an explanation of the purchaser's right to a refund, if any, under this Act, and (3) identifying the primary regulator of the trust as a corporate fiduciary under state or federal law.

(Source: P.A. 96-879, eff. 2-2-10.)

(225 ILCS 45/3) (from Ch. 111 1/2, par. 73.103)

Sec. 3. Licensing.

(a) No person, firm, partnership, association or corporation may act as seller without first securing from the State Comptroller a license to so act. Application for such license shall be in writing, signed by the applicant and duly verified on forms furnished by the Comptroller. Each application shall contain at least the following:

(1) The full name and address (both residence and place of business) of the applicant,

and every member, officer and director thereof if the applicant is a firm, partnership, association, or corporation, and of every shareholder holding more than 10% of the corporate stock if the applicant is a corporation;

(2) A statement of the applicant's assets and liabilities;

(3) The name and address of the applicant's principal place of business at which the books, accounts, and records shall be available for examination by the Comptroller as required by this Act;

(4) The names and addresses of the applicant's branch locations at which pre-need sales shall be conducted and which shall operate under the same license number as the applicant's principal place of business;

(5) For each individual listed under item (1) above, a detailed statement of the

individual's business experience for the 10 years immediately preceding the application; any present or prior connection between the individual and any other person engaged in pre-need sales; any felony or misdemeanor convictions for which fraud was an essential element; any charges or complaints lodged against the individual for which fraud was an essential element and which resulted in civil or criminal litigation; any failure of the individual to satisfy an enforceable judgment entered against him based upon fraud; and any other information requested by the Comptroller relating to past business practices of the individual. Since the information required by this item (5) may be confidential or contain proprietary information, this information shall not be available to other licensees or the general public and shall be used only for the lawful purposes of the Comptroller in enforcing this Act;

(6) The name of the trustee and, if applicable, the names of the advisors to the trustee, including a copy of the proposed trust agreement under which the trust funds are to be held as required by this Act; and

(7) Such other information as the Comptroller may reasonably require in order to determine the qualification of the applicant to be licensed under this Act.

(b) Applications for license shall be accompanied by a fidelity bond executed by the applicant and a surety company authorized to do business in this State or an irrevocable, unconditional letter of credit issued by a bank, credit union, or trust company authorized to do business in the State of Illinois, as approved by the State Comptroller, in such amount not exceeding \$10,000 as the Comptroller may require. If, after notice and an opportunity to be heard, it has been determined that a licensee has violated this Act within the past 5 calendar years, the Comptroller may require an additional bond or letter of credit from the licensee from time to time in amounts equal to one-tenth of such trust funds, which bond or letter of credit shall run to the Comptroller for the use and benefit of the beneficiaries of such trust funds.

The licensee shall keep accurate accounts, books and records in this State, at the principal place of business identified in the licensee's license application or as otherwise approved by the Comptroller in writing, of all transactions, copies of all pre-need contracts, trust agreements, and other agreements, dates and amounts of payments made and accepted thereon, the names and addresses of the contracting parties, the persons for whose benefit such funds are accepted, and the names of the depositaries of such funds. Each licensee shall maintain the documentation for a period of 3 years after the licensee has fulfilled his obligations under the pre-need contract. Additionally, for a period not to exceed 6 months after the performance of all terms in a pre-need sales contract, the licensee shall maintain copies of the contract at the licensee branch location where the contract was entered or at some other location agreed to by the Comptroller in writing. If an insurance policy or tax-deferred annuity is used to fund the pre-need contract, the licensee under this Act shall keep and maintain accurate accounts, books, and records in this State, at the principal place of business identified in the licensee's application or as otherwise approved by the Comptroller in writing, of all insurance policies and tax-deferred annuities used to fund the pre-need contract, the name and address of insured, annuitant, and initial beneficiary, and the name and address of the insurance company issuing the policy or annuity. If a life insurance policy or tax-deferred annuity is used to fund a pre-need contract, the licensee shall notify the insurance company of the name of each pre-need contract purchaser and the amount of each payment when the pre-need contract, insurance policy or annuity is purchased.

The licensee shall make reports to the Comptroller annually or at such other time as the Comptroller may require, on forms furnished by the Comptroller. The licensee shall file the annual report with the Comptroller within 75 days after the end of the licensee's fiscal year. The Comptroller shall for good cause shown grant an extension for the filing of the annual report upon the written request of the licensee. Such extension shall not exceed 60 days. If a licensee fails to submit an annual report to the Comptroller within the time specified in this Section, the Comptroller shall impose upon the licensee a penalty of \$5 per day for the first 15 days past due, \$10 per day for 16 through 30 days past due, \$15 per day for 31 through 45 days past due, and \$20 per day for the 46th day and every day thereafter ~~for each and every day~~ the licensee remains delinquent in submitting the annual report. The Comptroller may abate all or part of the ~~\$\$~~ daily penalty for good cause shown. Every application shall be accompanied by a check or money order in the amount of \$25 and every report shall be accompanied by a check or money order in the amount of \$10 payable to: Comptroller, State of Illinois.

The licensee shall make all required books and records pertaining to trust funds, insurance policies, or tax-deferred annuities available to the Comptroller for examination. The Comptroller, or a person designated by the Comptroller who is trained to perform such examinations, may at any time investigate the books, records and accounts of the licensee with respect to trust funds, insurance policies, or tax-deferred annuities and for that purpose may require the attendance of and examine under oath all persons whose testimony he may require. The licensee shall pay a fee for such examination in

accordance with a schedule established by the Comptroller. The fee shall not exceed the cost of such examination. For pre-need contracts funded by trust arrangements, the cost of an initial examination shall be borne by the licensee if it has \$10,000 or more in trust funds, otherwise, by the Comptroller. The charge made by the Comptroller for an examination shall be based upon the total amount of trust funds held by the licensee at the end of the calendar or fiscal year for which the report is required by this Act and shall be in accordance with the following schedule:

Less than \$10,000.....	no charge;
\$10,000 or more but less than \$50,000.....	\$10;
\$50,000 or more but less than \$100,000.....	\$40;
\$100,000 or more but less than \$250,000.....	\$80;
\$250,000 or more.....	\$100.

The Comptroller may order additional audits or examinations as he or she may deem necessary or advisable to ensure the safety and stability of the trust funds and to ensure compliance with this Act. These additional audits or examinations shall only be made after good cause is established by the Comptroller in the written order. The grounds for ordering these additional audits or examinations may include, but shall not be limited to:

- (1) material and unverified changes or fluctuations in trust balances or insurance or annuity policy amounts;
- (2) the licensee changing trustees more than twice in any 12-month period;
- (3) any withdrawals or attempted withdrawals from the trusts, insurance policies, or annuity contracts in violation of this Act; or
- (4) failure to maintain or produce documentation required by this Act for deposits into trust accounts, trust investment activities, or life insurance or annuity policies.

The licensee shall bear the full cost of that examination or audit, up to a maximum of \$20,000. The Comptroller may elect to pay for the examination or audit and receive reimbursement from the licensee. Payment of the costs of the examination or audit by a licensee shall be a condition of receiving, maintaining, or renewing a license under this Act. All moneys received by the Comptroller for examination or audit fees shall be maintained in a separate account to be known as the Comptroller's Administrative Fund. This Fund, subject to appropriation by the General Assembly, may be utilized by the Comptroller for enforcing this Act and other purposes that may be authorized by law.

For pre-need contracts funded by life insurance or a tax-deferred annuity, the cost of an examination shall be borne by the licensee. The fee schedule for such examination shall be established in rules promulgated by the Comptroller. In the event such investigation or other information received by the Comptroller discloses a substantial violation of the requirements of this Act, the Comptroller shall revoke the license of such person upon a hearing as provided in this Act. Such licensee may terminate all further responsibility for compliance with the requirements of this Act by voluntarily surrendering the license to the Comptroller, or in the event of its loss, furnishing the Comptroller with a sworn statement to that effect, which states the licensee's intention to discontinue acceptance of funds received under pre-need contracts. Such license or statement must be accompanied by an affidavit that said licensee has lawfully expended or refunded all funds received under pre-need contracts, and that the licensee will accept no additional sales proceeds. The Comptroller shall immediately cancel or revoke said license.

(Source: P.A. 96-879, eff. 2-2-10.)

(225 ILCS 45/3a-5)

Sec. 3a-5. License requirements.

(a) Every license issued by the Comptroller shall state the number of the license, the business name and address of the licensee's principal place of business, each branch location also operating under the license, and the licensee's parent company, if any. The license shall be conspicuously posted in each place of business operating under the license. The Comptroller may issue such additional licenses as may be necessary for licensee branch locations upon compliance with the provisions of this Act governing an original issuance of a license for each new license.

(b) Individual salespersons representing a licensee shall not be required to obtain licenses in their individual capacities, but must acknowledge, by affidavit, that they have been provided with a copy of and have read this Act. The licensee shall retain copies of the affidavits of its sellers for its records and shall make the affidavits available to the Comptroller for examination upon request.

(c) The licensee shall be responsible for the activities of any person representing the licensee in selling or offering a pre-need contract for sale.

(d) Any person not selling on behalf of a licensee shall obtain its own license.

(e) No license shall be transferable or assignable without the express written consent of the Comptroller. A transfer of more than 50% of the ownership of any business licensed hereunder shall be

deemed to be an attempted assignment of the license originally issued to the licensee for which consent of the Comptroller shall be required.

(f) Every license issued hereunder shall be renewed every 5 years for a renewal fee of \$100. The renewal fee shall be deposited into the Comptroller's Administrative Fund ~~remain in force until it has been suspended, surrendered, or revoked in accordance with this Act.~~ The Comptroller, upon the request of an interested person or on his own motion, may issue new licenses to a licensee whose license or licenses have been revoked, if no factor or condition then exists which would have warranted the Comptroller to originally refuse the issuance of such license.

(Source: P.A. 92-419, eff. 1-1-02.)

Section 10. The Cemetery Oversight Act is amended by changing Sections 15-15, 15-40, and 75-55 as follows:

(225 ILCS 411/15-15)

(Section scheduled to be repealed on January 1, 2021)

Sec. 15-15. Care funds; deposits; investments.

(a) Whenever a cemetery authority accepts care funds, either in connection with the sale or giving away at an imputed value of an interment right, entombment right, or inurnment right, or in pursuance of a contract, or whenever, as a condition precedent to the purchase or acceptance of an interment right, entombment right, or inurnment right, such cemetery authority shall establish a care fund or deposit the funds in an already existing care fund.

(b) The cemetery authority shall execute and deliver to the person from whom it received the care funds an instrument in writing that shall specifically state: (i) the nature and extent of the care to be furnished and (ii) that such care shall be furnished only in so far as net income derived from the amount deposited in trust will permit (the income from the amount so deposited, less necessary expenditures of administering the trust, shall be deemed the net income).

(c) The setting-aside and deposit of care funds shall be made by such cemetery authority no later than 30 days after the close of the month in which the cemetery authority gave away for an imputed value or received the final payment on the purchase price of interment rights, entombment rights, or inurnment rights, or received the final payment for the general or special care of a lot, grave, crypt, or niche or of a family mausoleum, memorial, marker, or monument, and such amounts shall be held by the trustee of the care funds of such cemetery authority in trust and in perpetuity for the specific purposes stated in the written instrument described in subsection (b). For all care funds received by a cemetery authority, except for care funds received by a cemetery authority pursuant to a specific gift, grant, contribution, payment, legacy, or contract that are subject to investment restrictions more restrictive than the investment provisions set forth in this Act, and except for care funds otherwise subject to a trust agreement executed by a person or persons responsible for transferring the specific gift, grant, contribution, payment, or legacy to the cemetery authority that contains investment restrictions more restrictive than the investment provisions set forth in this Act, the cemetery authority may, without the necessity of having to obtain prior approval from any court in this State, designate a new trustee in accordance with this Act and invest the care funds in accordance with this Section, notwithstanding any contrary limitation contained in the trust agreement.

(d) Any cemetery authority engaged in selling or giving away at an imputed value interment rights, entombment rights, or inurnment rights, in conjunction with the selling or giving away at an imputed value any other merchandise or services not covered by this Act, shall be prohibited from increasing the sales price or imputed value of those items not requiring a care fund deposit under this Act with the purpose of allocating a lesser sales price or imputed value to items that require a care fund deposit.

(e) If any sale that requires a deposit to a cemetery authority's care fund is made by a cemetery authority on an installment basis, and the installment contract is factored, discounted, or sold to a third party, then the cemetery authority shall deposit the amount due to the care fund within 30 days after the close of the month in which the installment contract was factored, discounted, or sold. If, subsequent to such deposit, the purchaser defaults on the contract such that no care fund deposit on that contract would have been required, then the cemetery authority may apply the amount deposited as a credit against future required deposits.

(f) The trust authorized by this Section shall be a single purpose trust fund. In the event of the cemetery authority's bankruptcy, insolvency, or assignment for the benefit of creditors, or an adverse judgment, the trust funds shall not be available to any creditor as assets of the cemetery authority or to pay any expenses of any bankruptcy or similar proceeding, but shall be retained intact to provide for the future maintenance of the cemetery. Except in an action by the Department to revoke a license issued pursuant to this Act and for creation of a receivership as provided in this Act, the trust shall not be

subject to judgment, execution, garnishment, attachment, or other seizure by process in bankruptcy or otherwise, nor to sale, pledge, mortgage, or other alienation, and shall not be assignable except as approved by the ~~Comptroller Department~~.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/15-40)

(Section scheduled to be repealed on January 1, 2021)

Sec. 15-40. Trust examinations and audits.

(a) The ~~Comptroller Department~~ shall examine at least annually every licensee who holds \$250,000 or more in its care funds. For that purpose, the ~~Comptroller Department~~ shall have free access to the office and places of business and to such records of all licensees and of all trustees of the care funds of all licensees as shall relate to the acceptance, use, and investment of care funds. The ~~Comptroller Department~~ may require the attendance of and examine under oath all persons whose testimony may be required relative to such business. In such cases the ~~Comptroller Department~~, or any qualified representative of the ~~Comptroller Department~~ whom the ~~Comptroller Department~~ may designate, may administer oaths to all such persons called as witnesses, and the ~~Comptroller Department~~, or any such qualified representative of the ~~Comptroller Department~~, may conduct such examinations. The cost of an initial examination shall be determined by rule.

(b) The ~~Comptroller Department~~ may order additional audits or examinations as it may deem necessary or advisable to ensure the safety and stability of the trust funds and to ensure compliance with this Act. These additional audits or examinations shall only be made after good cause is established by the ~~Comptroller Department~~ in the written order. The grounds for ordering these additional audits or examinations may include, but shall not be limited to:

- (1) material and unverified changes or fluctuations in trust balances;
- (2) the licensee changing trustees more than twice in any 12-month period;
- (3) any withdrawals or attempted withdrawals from the trusts in violation of this Act; or
- (4) failure to maintain or produce documentation required by this Act.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-55)

(Section scheduled to be repealed on January 1, 2021)

Sec. 75-55. Transition.

(a) Within 60 days after the effective date of this Act, the Comptroller shall provide the Department copies of records in the Comptroller's possession pertaining to the Cemetery Care Act and the Crematory Regulation Act that are necessary for the Department's immediate responsibilities under this Act. All other records pertaining to the Cemetery Care Act with the exception of records pertaining to care funds and the Crematory Regulation Act shall be transferred to the Department by March 1, 2012. In the case of records that pertain both to the administration of the Cemetery Care Act or the Crematory Regulation Act and to a function retained by the Comptroller, the Comptroller, in consultation with the Department, shall determine, within 60 days after the repeal of the Cemetery Care Act, whether the records shall be transferred, copied, or left with the Comptroller, until this determination has been made the transfer shall not occur.

(b) ~~(Blank). A person licensed under one of the Acts listed in subsection (a) of this Section or regulated under the Cemetery Association Act shall continue to comply with the provisions of those Acts until such time as the person is licensed under this Act or those Acts are repealed or the amendatory changes made by this amendatory Act of the 96th General Assembly take effect, as the case may be, whichever is earlier.~~

(c) To support the costs that may be associated with implementing and maintaining a licensure and regulatory process for the licensure and regulation of cemetery authorities, cemetery managers, customer service employees, and cemetery workers, all cemetery authorities not maintaining a full exemption or partial exemption shall pay a one-time fee of \$20 to the Department plus an additional charge of \$1 per burial unit per year within the cemetery. The Department may establish forms for the collection of the fee established under this subsection and shall deposit such fee into the Cemetery Oversight Licensing and Disciplinary Fund. The Department may begin to collect the aforementioned fee after the effective date of this Act. In addition, the Department may establish rules for the collection process, which may include, but shall not be limited to, dates, forms, enforcement, or other procedures necessary for the effective collection, deposit, and overall process regarding this Section.

(d) Any cemetery authority that fails to pay to the Department the required fee or submits the incorrect amount shall be subject to the penalties provided for in Section 25-110 of this Act.

(e) Except as otherwise specifically provided, all fees, fines, penalties, or other moneys

received or collected pursuant to this Act shall be deposited in the Cemetery Oversight Licensing and Disciplinary Fund.

~~(f) (Blank). All proportionate funds held in the Comptroller's Administrative Fund related to unexpended moneys collected under the Cemetery Care Act and the Crematory Regulation Act shall be transferred to the Cemetery Oversight Licensing and Disciplinary Fund within 60 days after the effective date of the repeal of the Cemetery Care Act.~~

~~(g) (Blank). Personnel employed by the Comptroller on February 29, 2012, to perform the duties pertaining to the administration of the Cemetery Care Act and the Crematory Regulation Act, are transferred to the Department on March 1, 2012.~~

~~The rights of State employees, the State, and its agencies under the Comptroller Merit Employment Code and applicable collective bargaining agreements and retirement plans are not affected under this Act, except that all positions transferred to the Department shall be subject to the Personnel Code effective March 1, 2012.~~

~~All transferred employees who are members of collective bargaining units shall retain their seniority, continuous service, salary, and accrued benefits. During the pendency of the existing collective bargaining agreement, the rights provided for under that agreement shall not be abridged.~~

~~The Department shall continue to honor during their pendency all bargaining agreements in effect at the time of the transfer and to recognize all collective bargaining representatives for the employees who perform or will perform functions transferred by this Act. For all purposes with respect to the management of the existing agreement and the negotiation and management of any successor agreements, the Department shall be deemed the employer of employees who perform or will perform functions transferred to the Department by this Act.~~

~~(Source: P.A. 96-863, eff. 3-1-10.)~~

Section 15. The Illinois Pre-Need Cemetery Sales Act is amended by changing Sections 6, 8, 14, 15, and 20 as follows:

(815 ILCS 390/6) (from Ch. 21, par. 206)

Sec. 6. License application.

(a) An application for a license shall be made in writing to the Comptroller on forms prescribed by him or her, signed by the applicant under oath verified by a notary public, and accompanied by a non-returnable ~~\$125~~ ~~\$25~~ application fee, ~~\$100 of which shall be deposited into the Comptroller's Administrative Fund.~~ The Comptroller may prescribe abbreviated application forms for persons holding a license under the Cemetery Care Act. Applications (except abbreviated applications) must include at least the following information:

(1) The full name and address, both residence and business, of the applicant if the applicant is an individual; of every member if applicant is a partnership; of every member of the Board of Directors if applicant is an association; and of every officer, director and shareholder holding more than 10% of the corporate stock if applicant is a corporation;

(2) A detailed statement of applicant's assets and liabilities;

(2.1) The name and address of the applicant's principal place of business at which the books, accounts, and records are available for examination by the Comptroller as required by this Act;

(2.2) The name and address of the applicant's branch locations at which pre-need sales will be conducted and which will operate under the same license number as the applicant's principal place of business;

(3) For each individual listed under (1) above, a detailed statement of the individual's business experience for the 10 years immediately preceding the application; any present or prior connection between the individual and any other person engaged in pre-need sales; any felony or misdemeanor convictions for which fraud was an essential element; any charges or complaints lodged against the individual for which fraud was an essential element and which resulted in civil or criminal litigation; any failure of the individual to satisfy an enforceable judgment entered against him or her based upon fraud; and any other information requested by the Comptroller relating to the past business practices of the individual. Since the information required by this paragraph may be confidential or contain proprietary information, this information shall not be available to other licensees or the general public and shall be used only for the lawful purposes of the Comptroller in enforcing this Act;

(4) The name of the trustee and, if applicable, the names of the advisors to the trustee, including a copy of the proposed trust agreement under which the trust funds are to be held as required by this Act;

(5) Where applicable, the name of the corporate surety company providing the performance bond for the construction of undeveloped spaces and a copy of the bond; and

(6) Such other information as the Comptroller may reasonably require in order to determine the qualification of the applicant to be licensed under this Act.

(b) Applications for license shall be accompanied by a fidelity bond executed by the applicant and a security company authorized to do business in this State in such amount, not exceeding \$10,000, as the Comptroller may require. The Comptroller may require additional bond from time to time in amounts equal to one-tenth of such trust funds but not to exceed \$100,000, which bond shall run to the Comptroller for the use and benefit of the beneficiaries of such trust funds. Such licensee may by written permit of the Comptroller be authorized to operate without additional bond, except such fidelity bond as may be required by the Comptroller for the protection of the licensee against loss by default by any of its employees engaged in the handling of trust funds.

(c) Any application not acted upon within 90 days may be deemed denied.

(Source: P.A. 92-419, eff. 1-1-02.)

(815 ILCS 390/8) (from Ch. 21, par. 208)

Sec. 8. (a) Every license issued by the Comptroller shall state the number of the license, the business name and address of the licensee's principal place of business, each branch location also operating under the license, and the licensee's parent company, if any. The license shall be conspicuously posted in each place of business operating under the license. The Comptroller may issue additional licenses as may be necessary for license branch locations upon compliance with the provisions of this Act governing an original issuance of a license for each new license.

(b) Individual salespersons representing a licensee shall not be required to obtain licenses in their individual capacities but must acknowledge, by affidavit, that they have been provided a copy of and have read this Act. The licensee must retain copies of the affidavits of its salespersons for its records and must make the affidavits available to the Comptroller for examination upon request.

(c) The licensee shall be responsible for the activities of any person representing the licensee in selling or offering a pre-need contract for sale.

(d) Any person not selling on behalf of a licensee shall be required to obtain his or her own license.

(e) Any person engaged in pre-need sales, as defined herein, prior to the effective date of this Act may continue operations until the application for license under this Act is denied; provided that such person shall make application for a license within 60 days of the date that application forms are made available by the Comptroller.

(f) No license shall be transferable or assignable without the express written consent of the Comptroller. A transfer of more than 50% of the ownership of any business licensed hereunder shall be deemed to be an attempted assignment of the license originally issued to the licensee for which consent of the Comptroller shall be required.

(g) Every license issued hereunder shall be renewed every 5 years for a fee of \$100. The renewal fee shall be deposited into the Comptroller's Administrative Fund. The remain in force until the same has been suspended, surrendered or revoked in accordance with this Act, but the Comptroller, upon the request of an interested person or on his own motion, may issue new licenses to a licensee whose license or licenses have been revoked, if no factor or condition then exists which would have warranted the Comptroller in refusing originally the issuance of such license.

(Source: P.A. 92-419, eff. 1-1-02.)

(815 ILCS 390/14) (from Ch. 21, par. 214)

Sec. 14. Contract required.

(a) It is unlawful for any person doing business within this State to accept sales proceeds, either directly or indirectly, by any means unless the seller enters into a pre-need sales contract with the purchaser which meets the following requirements:

(1) A written sales contract shall be executed in at least 11 point type in duplicate for each pre-need sale made by a licensee, and a signed copy given to the purchaser. Each completed contract shall be numbered and shall contain: (i) the name and address of the purchaser, the principal office of the licensee, and the parent company of the licensee; (ii) the name of the person, if known, who is to receive the cemetery merchandise, cemetery services or the completed interment, entombment or inurnment spaces under the contract; and (iii) specific identification of such merchandise, services or spaces to be provided, if a specific space or spaces are contracted for, and the price of the merchandise, services, or space or spaces.

(2) In addition, such contracts must contain a provision in distinguishing typeface as follows:

"Notwithstanding anything in this contract to the contrary, you are afforded certain specific rights of cancellation and refund under the Illinois Pre-Need Cemetery Sales Act, enacted by the 84th General Assembly of the State of Illinois".

(3) All pre-need sales contracts shall be sold on a guaranteed price basis. At the time of performance of the service or delivery of the merchandise, the seller shall be prohibited from assessing the purchaser or his heirs or assigns or duly authorized representative any additional charges for the specific merchandise and services listed on the pre-need sales contract.

(4) Each contract shall clearly disclose that the price of the merchandise or services is guaranteed and shall contain the following statement in 12 point bold type:

"THIS CONTRACT GUARANTEES THE BENEFICIARY THE SPECIFIC GOODS, SERVICES, INTERMENT SPACES, ENTOMBMENT SPACES, AND INURNMENT SPACES CONTRACTED FOR. NO ADDITIONAL CHARGES MAY BE REQUIRED FOR DESIGNATED GOODS, SERVICES, AND SPACES. ADDITIONAL CHARGES MAY BE INCURRED FOR UNEXPECTED EXPENSES."

(5) The pre-need sales contract shall provide that if the particular cemetery services, cemetery merchandise, or spaces specified in the pre-need contract are unavailable at the time of delivery, the seller shall be required to furnish services, merchandise, and spaces similar in style and at least equal in quality of material and workmanship.

(6) The pre-need contract shall also disclose any specific penalties to be incurred by the purchaser as a result of failure to make payments; and penalties to be incurred or moneys or refunds to be received as a result of cancellation of the contract.

(7) The pre-need contract shall disclose the nature of the relationship between the provider and the seller.

(8) Each pre-need contract that authorizes the delivery of cemetery merchandise to a licensed and bonded warehouse shall provide that prior to or upon delivery of the merchandise to the warehouse the title to the merchandise and a warehouse receipt shall be delivered to the purchaser or beneficiary. The pre-need contract shall contain the following statement in 12 point bold type: **"THIS CONTRACT AUTHORIZES THE DELIVERY OF MERCHANDISE TO A LICENSED AND BONDED WAREHOUSE FOR STORAGE OF THE MERCHANDISE UNTIL THE MERCHANDISE IS NEEDED BY THE BENEFICIARY. DELIVERY OF THE MERCHANDISE IN THIS MANNER MAY PRECLUDE REFUND OF SALE PROCEEDS THAT ARE ATTRIBUTABLE TO THE DELIVERED MERCHANDISE."**

The purchaser shall initial the statement at the time of entry into the pre-need contract.

(9) Each pre-need contract that authorizes the placement of cemetery merchandise at the site of its ultimate use prior to the time that the merchandise is needed by the beneficiary shall contain the following statement in 12 point bold type:

"THIS CONTRACT AUTHORIZES THE PLACEMENT OF MERCHANDISE AT THE SITE OF ITS ULTIMATE USE PRIOR TO THE TIME THAT THE MERCHANDISE IS NEEDED BY THE BENEFICIARY. DELIVERY OF THE MERCHANDISE IN THIS MANNER MAY PRECLUDE REFUND OF SALE PROCEEDS THAT ARE ATTRIBUTABLE TO THE DELIVERED MERCHANDISE."

The purchaser shall initial the statement at the time of entry into the pre-need contract.

(10) Each pre-need contract that is funded by a trust shall clearly identify the trustee's name and address and the primary state or federal regulator of the trustee as a corporate fiduciary.

(b) Every pre-need sales contract must be in writing. The Comptroller may by rule develop a model pre-need sales contract form that meets the requirements of this Act.

(c) To the extent the Rule is applicable, every pre-need sales contract is subject to the Federal Trade Commission Rule concerning the Cooling-Off Period for Door-to-Door Sales (16 CFR Part 429).

(d) No pre-need sales contract may be entered into in this State unless there is a provider for the cemetery merchandise, cemetery services, and undeveloped interment, inurnment, and entombment spaces being sold. If the seller is not the provider, then the seller must have a binding agreement with a provider, and the identity of the provider and the nature of the agreement between the seller and the provider must be disclosed in the pre-need sales contract at the time of sale and before the receipt of any sale proceeds. The failure to disclose the identity of the provider, the nature of the agreement between the seller and the provider, or any changes thereto to the purchaser and beneficiary, or the failure to make the disclosures required by this Section constitutes an intentional violation of this Act.

(e) No pre-need contract may be entered into in this State unless it is accompanied by a funding mechanism permitted under this Act and unless the seller is licensed by the Comptroller as provided in

this Act. Nothing in this Act is intended to relieve providers or sellers of pre-need contracts from being licensed under any other Act required for their profession or business or from being subject to the rules promulgated to regulate their profession or business, including rules on solicitation and advertisement.

(f) No pre-need contract may be entered into in this State unless the seller explains to the purchaser the terms of the pre-need contract prior to the purchaser signing and the purchaser initials a statement in the contract confirming that the seller has explained the terms of the contract prior to the purchaser signing.

(g) The State Comptroller shall develop a booklet for consumers in plain English describing the scope, application, and consumer protections of this Act. After the booklet is developed, no pre-need contract may be sold in this State unless the seller distributes to the purchaser prior to the sale a booklet developed or approved for use by the State Comptroller.

(h) Each pre-need contract entered into under this Section shall be registered on an online database maintained by the State Comptroller. Information to be included in the database shall include, but not be limited to, the name of licensee, purchaser, date of contract, amount of contract, and disposition of the funds. This information must be registered into the State Comptroller's online database within 45 days after the date of the pre-need contract.

(Source: P.A. 96-879, eff. 2-2-10.)

(815 ILCS 390/15) (from Ch. 21, par. 215)

Sec. 15. (a) Whenever a seller receives anything of value under a pre-need sales contract, the person receiving such value shall deposit 50% of all proceeds received into one or more trust funds maintained pursuant to this Section, except that, in the case of proceeds received for the purchase of outer burial containers, 85% of the proceeds shall be deposited into one or more trust funds. Such deposits shall be made until the amount deposited in trust equals 50% of the sales price of the cemetery merchandise, cemetery services and undeveloped spaces included in such contract, except that, in the case of deposits for outer burial containers, deposits shall be made until the amount deposited in trust equals 85% of the sales price. In the event an installment contract is factored, discounted or sold to a third party, the seller shall deposit an amount equal to 50% of the sales price of the installment contract, except that, for the portion of the contract attributable to the sale of outer burial containers, the seller shall deposit an amount equal to 85% of the sales price. Proceeds required to be deposited in trust which are attributable to cemetery merchandise and cemetery services shall be held in a "Cemetery Merchandise Trust Fund". Proceeds required to be deposited in trust which are attributable to the sale of undeveloped interment, entombment or inurnment spaces shall be held in a "Pre-construction Trust Fund". If merchandise is delivered for storage in a bonded warehouse, as authorized herein, and payment of transportation or other charges totaling more than \$20 will be required in order to secure delivery to the site of ultimate use, upon such delivery to the warehouse the seller shall deposit to the trust fund the full amount of the actual or estimated transportation charge. Transportation charges which have been prepaid by the seller shall not be deposited to trust funds maintained pursuant to this Section. As used in this Section, "all proceeds" means the entire amount paid by a purchaser in connection with a pre-need sales contract, including finance charges and Cemetery Care Act contributions, but excluding sales taxes and credit life insurance premiums.

(b) The seller shall act as trustee of all amounts received for cemetery merchandise, services, or undeveloped spaces until those amounts have been deposited into the trust fund. All trust deposits required by this Act shall be made within 30 days following the end of the month of receipt. The seller must retain a corporate fiduciary as an independent trustee for any amount of trust funds. Upon 30 days' prior written notice from the seller to the Comptroller, the seller may change the trustee of the trust fund. Failure to provide the Comptroller with timely prior notice is an intentional violation of this Act.

(c) A trust established under this Act must be maintained with a corporate fiduciary as defined in Section 1-5.05 of the Corporate Fiduciary Act or with a foreign corporate fiduciary recognized by Article IV of the Corporate Fiduciary Act.

(d) Funds deposited in the trust account shall be identified in the records of the seller by the name of the purchaser. Nothing shall prevent the trustee from commingling the deposits in any such trust fund for purposes of the management thereof and the investment of funds therein as provided in the "Common Trust Fund Act", approved June 24, 1949, as amended. In addition, multiple trust funds maintained pursuant to this Act may be commingled or commingled with other funeral or burial related trust funds, provided that all record keeping requirements imposed by or pursuant to law are met.

(e) In lieu of a pre-construction trust fund, a seller of undeveloped interment, entombment or inurnment spaces may obtain and file with the Comptroller a performance bond in an amount at least equal to 50% of the sales price of the undeveloped spaces or the estimated cost of completing construction, whichever is greater. The bond shall be conditioned on the satisfactory construction and

completion of the undeveloped spaces as required in Section 19 of this Act.

Each bond obtained under this Section shall have as surety thereon a corporate surety company incorporated under the laws of the United States, or a State, the District of Columbia or a territory or possession of the United States. Each such corporate surety company must be authorized to provide performance bonds as required by this Section, have paid-up capital of at least \$250,000 in cash or its equivalent and be able to carry out its contracts. Each pre-need seller must provide to the Comptroller, for each corporate surety company such seller utilizes, a statement of assets and liabilities of the corporate surety company sworn to by the president and secretary of the corporation by January 1 of each year.

The Comptroller shall prohibit pre-need sellers from doing new business with a corporate surety company if the company is insolvent or is in violation of this Section. In addition the Comptroller may direct a pre-need seller to reinstate a pre-construction trust fund upon the Comptroller's determination that the corporate surety company no longer is sufficient security.

All performance bonds issued pursuant to this Section must be irrevocable during the statutory term for completing construction specified in Section 19 of this Act, unless terminated sooner by the completion of construction.

(f) Whenever any pre-need contract shall be entered into and include 1) items of cemetery merchandise and cemetery services, and 2) rights to interment, inurnment or entombment in completed spaces without allocation of the gross sale price among the items sold, the application of payments received under the contract shall be allocated, first to the right to interment, inurnment or entombment, second to items of cemetery merchandise and cemetery services, unless some other allocation is clearly provided in the contract.

(g) Any person engaging in pre-need sales who enters into a combination sale which involves the sale of items covered by a trust or performance bond requirement and any item not covered by any trust or bond requirement, shall be prohibited from increasing the gross sales price of those items not requiring trust with the purpose of allocating a lesser gross sales price to items which require a trust deposit or a performance bond.

(Source: P.A. 96-879, eff. 2-2-10.)

(815 ILCS 390/20) (from Ch. 21, par. 220)

Sec. 20. Records.

(a) Each licensee must keep accurate accounts, books and records in this State at the principal place of business identified in the licensee's license application or as otherwise approved by the Comptroller in writing of all transactions, copies of agreements, dates and amounts of payments made or received, the names and addresses of the contracting parties, the names and addresses of persons for whose benefit funds are received, if known, and the names of the trust depositories. Additionally, for a period not to exceed 6 months after the performance of all terms in a pre-need sales contract, the licensee shall maintain copies of each pre-need contract at the licensee branch location where the contract was entered or at some other location agreed to by the Comptroller in writing.

(b) Each licensee must maintain such records for a period of 3 years after the licensee shall have fulfilled his or her obligation under the pre-need contract or 3 years after any stored merchandise shall have been provided to the purchaser or beneficiary, whichever is later.

(c) Each licensee shall submit reports to the Comptroller annually, under oath, on forms furnished by the Comptroller. The annual report shall contain, but shall not be limited to, the following:

- (1) An accounting of the principal deposit and additions of principal during the fiscal year.
- (2) An accounting of any withdrawal of principal or earnings.
- (3) An accounting at the end of each fiscal year, of the total amount of principal and earnings held.

(d) The annual report shall be filed by the licensee with the Comptroller within 75 days after the end of the licensee's fiscal year. An extension of up to 60 days may be granted by the Comptroller, upon a showing of need by the licensee. Any other reports shall be in the form furnished or specified by the Comptroller. If a licensee fails to submit an annual report to the Comptroller within the time specified in this Section, the Comptroller shall impose upon the licensee a penalty of \$5 per day for the first 15 days past due, \$10 per day for 16 through 30 days past due, \$15 per day for 31 through 45 days past due, and \$20 per day for the 46th day and every day thereafter ~~for each and every day~~ the licensee remains delinquent in submitting the annual report. The Comptroller may abate all or part of the \$5 daily penalty for good cause shown. Each report shall be accompanied by a check or money order in the amount of \$10 payable to: Comptroller, State of Illinois.

(e) On and after the effective date of this amendatory Act of the 91st General Assembly, a licensee

may report all required information concerning the sale of outer burial containers on the licensee's annual report required to be filed under this Act and shall not be required to report that information under the Illinois Funeral or Burial Funds Act, as long as the information is reported under this Act. (Source: P.A. 91-7, eff. 1-1-00; 92-419, eff. 1-1-02.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 675**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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

YEAS 41; NAYS 14.

The following voted in the affirmative:

Althoff	Harmon	Martinez	Schmidt
Bomke	Holmes	McCann	Schoenberg
Clayborne	Hunter	Meeks	Silverstein
Collins, J.	Hutchinson	Millner	Steans
Crotty	Jones, E.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Trotter
Dillard	Landek	Noland	Wilhelmi
Forby	Lightford	Pankau	Mr. President
Frerichs	Link	Raoul	
Garrett	Luechtefeld	Sandack	
Haine	Maloney	Sandoval	

The following voted in the negative:

Bivins	Johnson, C.	McCarter	Righter
Brady	Johnson, T.	Murphy	Syverson
Cultra	LaHood	Radogno	
Duffy	Laufen	Rezin	

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

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

READING BILL FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Martinez, **House Bill No. 1241** was taken up, read by title a second time and ordered to a third reading.

At the hour of 1:49 o'clock p.m., the Chair announced that the Senate stand at ease.

AT EASE

[May 24, 2011]

At the hour of 1:58 o'clock p.m. the Senate resumed consideration of business.
 Senator Harmon, presiding.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2011 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Criminal Law: Senate Floor Amendment No. 4 to House Bill 263; Senate Floor Amendment No. 1 to House Bill 1253; Senate Floor Amendment No. 2 to House Bill 1253; Senate Floor Amendment No. 2 to House Bill 2193; Senate Committee Amendment No. 1 to House Bill 3390.

Education: Senate Floor Amendment No. 3 to House Bill 3022.

Environment: Senate Floor Amendment No. 2 to House Bill 3371.

Executive: Senate Floor Amendment No. 2 to House Bill 1293; Senate Floor Amendment No. 2 to House Bill 1444; Senate Floor Amendment No. 3 to House Bill 1530; Senate Committee Amendment No. 1 to House Bill 3039; Senate Floor Amendment No. 1 to House Bill 3184; Senate Floor Amendment No. 2 to House Bill 3384.

Higher Education: Senate Floor Amendment No. 2 to House Bill 1079.

Human Services: Senate Committee Amendment No. 1 to House Bill 3635.

Insurance: Senate Floor Amendment No. 2 to House Bill 224; Senate Floor Amendment No. 3 to House Bill 224; Senate Committee Amendment No. 1 to House Bill 1577.

Judiciary: Senate Floor Amendment No. 2 to Senate Bill 1044.

Licensed Activities: Senate Floor Amendment No. 1 to House Bill 2023.

Public Health: Senate Committee Amendment No. 2 to House Bill 143; Senate Committee Amendment No. 1 to House Bill 1534; Senate Floor Amendment No. 2 to House Bill 3027.

Revenue: Senate Floor Amendment No. 1 to House Bill 212; Senate Floor Amendment No. 1 to House Bill 1883; Senate Floor Amendment No. 2 to House Bill 1883.

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2011 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

**Executive: Motion to Concur in House Amendment 1 to Senate Bill 152
 Motion to Concur in House Amendment 1 to Senate Bill 1357
 Motion to Concur in House Amendment 1 to Senate Bill 1553
 Motion to Concur in House Amendment 1 to Senate Bill 1708
 Motion to Concur in House Amendment 1 to Senate Bill 1761
 Motion to Concur in House Amendments 1 and 2 to Senate Bill 1821
 Motion to Concur in House Amendment 1 to Senate Bill 1972**

State Government and Veterans Affairs:

**Motion to Concur in House Amendments 1 and 2 to Senate Bill 170
 Motion to Concur in House Amendment 1 to Senate Bill 1240
 Motion to Concur in House Amendment 2 to Senate Bill 1352**

[May 24, 2011]

Motion to Concur in House Amendment 1 to Senate Bill 1602
Motion to Concur in House Amendment 1 to Senate Bill 1637
Motion to Concur in House Amendment 1 to Senate Bill 1804
Motion to Concur in House Amendments 1 and 2 to Senate Bill 2042

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committee to meet at 3:00 o'clock p.m.:

Agriculture and Conservation in Room 409

The Chair announced the following committee to meet at 3:20 o'clock p.m.:

Higher Education in Room 409

The Chair announced the following committee to meet at 3:40 o'clock p.m.:

Education in Room 409

The Chair announced the following committee to meet at 4:00 o'clock p.m.:

Environment in Room 400

The Chair announced the following committee to meet at 4:20 o'clock p.m.:

Labor in Room 212

The Chair announced the following committee to meet at 4:40 o'clock p.m.:

Insurance in Room 400

The Chair announced the following committee to meet May 25, 2011, at 10:01 o'clock a.m.:

Public Health in Room 212

The Chair announced the following committees to meet May 25, 2011, at 10:31 o'clock a.m.:

Human Services in Room 212
Judiciary in Room 400

The Chair announced the following committee to meet May 25, 2011, at 10:51 o'clock a.m.:

Transportation in Room 400

The Chair announced the following committee to meet May 25, 2011, at 11:12 o'clock a.m.:

Criminal Law in Room 212

[May 24, 2011]

The Chair announced the following committee to meet May 25, 2011, at 11:46 o'clock a.m.:

Revenue in Room 400

The Chair announced the following committee to meet May 25, 2011, at 11:47 o'clock a.m.:

Executive in Room 212

The Chair announced the following committee to meet May 25, 2011, at 12:16 o'clock p.m.:

State Government and Veterans Affairs in Room 409

MESSAGES FROM THE PRESIDENT

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706
217-782-2728

May 24, 2011

Ms. Jillayne Rock
Secretary of the Senate
Room 401 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Heather Steans to temporarily replace Senator Michael Jacobs as a member of the Senate Insurance Committee. This appointment will automatically expire upon adjournment of the Senate Insurance Committee.

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706
217-782-2728

May 24, 2011

Ms. Jillayne Rock
Secretary of the Senate
Room 401 State House
Springfield, IL 62706

Dear Madam Secretary:

[May 24, 2011]

Pursuant to Rule 3-2(c), I hereby appoint Senator David Koehler to temporarily replace Senator Gary Forby as a member of the Senate Insurance Committee. This appointment will automatically expire upon adjournment of the Senate Insurance Committee.

Sincerely,
s/John J. Cullerton
John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 1 to House Bill 2934
Senate Floor Amendment No. 3 to House Bill 3027

At the hour of 2:03 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 7:09 o'clock p.m., the Senate resumed consideration of business.
Senator Harmon, presiding.

REPORTS FROM STANDING COMMITTEES

Senator Frerichs, Chairperson of the Committee on Agriculture and Conservation, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to House Bill 2804

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

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

Senate Amendment No. 2 to House Bill 1079

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

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

Senate Amendment No. 2 to House Bill 78
Senate Amendment No. 3 to House Bill 78
Senate Amendment No. 3 to House Bill 3022

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

[May 24, 2011]

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

Senate Amendment No. 2 to House Bill 3371

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

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

Senate Amendment No. 1 to House Bill 3237

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

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

Senate Amendment No. 3 to House Bill 224

Senate Amendment No. 2 to House Bill 2249

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

PRESENTATION OF RESOLUTION

Senator Hunter offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 255

WHEREAS, The Illinois Disproportionate Justice Impact Study Commission was created in October of 2008 by Public Act 95-995, in response to evidence of disproportionately high rates of drug-related arrests, sentences, and incarceration among minority communities in Illinois; and

WHEREAS, The Illinois Disproportionate Justice Impact Study Commission was charged to study the nature and extent of the harm caused to minority communities through the practical application of State drug laws; and

WHEREAS, The Illinois Disproportionate Justice Impact Study Commission was directed to offer recommendations to address the disproportionate impact that even seemingly neutral laws can have on minority communities; and

WHEREAS, The Illinois Disproportionate Justice Impact Study Commission conducted original research with data provided by the Illinois State Police and the Office of the Clerk of Cook County, reviewed Illinois' drug laws, and reviewed academic and professional literature on the consequences of high rates of incarceration; and

WHEREAS, The Illinois Disproportionate Justice Impact Study Commission held public hearings in Chicago, Joliet and East St. Louis, Illinois, in 2010, receiving the opinions and recommendations of citizens from all walks of life, including elected officials, researchers, service providers, policy experts, and formerly incarcerated persons; and

WHEREAS, Based on the research it conducted and the information it received, the Illinois Disproportionate Justice Impact Study Commission issued its Final Report to the General Assembly in December, 2010, containing the Commission's recommendations intended to increase fairness and

[May 24, 2011]

equality in the dispensation of justice relative to drug-related offenses and to mitigate the impact of disproportionate involvement in the criminal justice system among minority communities; and

WHEREAS, The Illinois Disproportionate Justice Impact Study Commission made, as its Recommendation 3, the recommendation that Illinois should review its "drug-free zone laws", including the accomplishment of their intended purpose together with their potential unintended consequences; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that there is created a Drug-Free Zone Laws Task Force; and be it further

RESOLVED, That the Task Force shall have 8 voting members who shall serve without compensation and shall be appointed as follows:

- (1) 2 members of the Senate, appointed by the President of the Senate, one of whom shall be chosen by the President of the Senate to serve as the Chairperson;
- (2) 2 members of the public, appointed by the President of the Senate;
- (3) 2 members of the Senate, appointed by the Senate Minority Leader; and
- (4) 2 members of the public, appointed by the Senate Minority Leader; and be it further

RESOLVED, That all actions of the Task Force require the affirmative vote of at least 5 voting members; and be it further

RESOLVED, That the following persons shall serve without compensation as ex-officio, non-voting members of the Task Force:

- (1) the Director of the Illinois Department of Corrections, or his or her designee;
- (2) the Director of the Illinois Department of State Police, or his or her designee; and
- (3) the Executive Director of the Illinois Criminal Justice Information Authority, or his or her designee; and be it further

RESOLVED, That the Center for Excellence in Criminal Justice at the Great Lakes Addiction Technology Transfer Center at Jane Addams College of Social Work at the University of Illinois at Chicago shall provide staff and administrative support services to the Task Force; and be it further

RESOLVED, That the Task Force shall hold one or more public hearings, at which public testimony shall be heard, regarding the practical impact of Illinois' "drug-free zone laws", specifically Section 407 of the Illinois Controlled Substances Act; and be it further

RESOLVED, That the Task Force shall review existing and new research evaluating:

- (1) the actual effectiveness of Section 407 of the Illinois Controlled Substances Act with its stated intent of shielding children from drug sales; and
- (2) the actual and potential unintended consequences of Section 407 of the Illinois Controlled Substances Act beyond its stated intent; and be it further

RESOLVED, That based on the testimony received and the research reviewed, the Task Force shall recommend specific amendments to Section 407 of the Illinois Controlled Substances Act to preserve its protective intent while mitigating its disproportionate impact on minority communities; and be it further

RESOLVED, That the Task Force shall report its findings and recommendations to the Governor and the General Assembly in a final report which shall be filed on or before January 1, 2013.

Senator Steans offered the following Senate Joint Resolution, which was referred to the Committee on Assignments:

SENATE JOINT RESOLUTION NO. 35

[May 24, 2011]

WHEREAS, The State of Illinois is the largest insurer in the State, covering one in every four citizens; and

WHEREAS, Enrollment under the Department of Healthcare and Family Services' Medical Programs currently totals approximately 2.9 million each month; and

WHEREAS, The Medicaid program in Illinois has an immense impact, both in terms of taxpayer dollars and in terms of the effect it has on citizens across the State, and thus must be the continued effort of reform; and

WHEREAS, The General Assembly must stay engaged in public healthcare issues and be prepared to make legislative and administrative recommendations; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there is created the General Assembly's Advisory Committee on Medicaid, consisting of 12 members, appointed as follows: 3 members of the Senate majority caucus, appointed by the President of the Senate; 3 members of the Senate minority caucus, appointed by the Senate Minority Leader; 3 members of the House majority caucus, appointed by the Speaker of the House of Representatives; and 3 members of the House minority caucus, appointed by the House Minority Leader; and be it further

RESOLVED, That the Advisory Committee shall designate 2 committee members to serve as co-chairs, one Democratic member and one Republican member; and be it further

RESOLVED, That the Advisory Committee shall study public healthcare and make legislative and administrative recommendations with respect to the following issues:

- (1) the progress of all aspects of Public Act 96-1501, the Medicaid reform package, including the development and implementation of care coordination plans;
- (2) the development and implementation of new hospital rate methodology;
- (3) the development and implementation of new nursing home rate methodology;
- (4) the analysis of and planning for expansion of Medicaid for populations as may be required by the federal government;
- (5) the consideration of federal funding opportunities for demonstration projects, state plan amendments, and waivers under the federal Affordable Care Act;
- (6) the progress of long-term care rebalancing, including unified budgeting; and
- (7) the progress of technology enhancements to implement Medicaid reform and any applicable federal mandates; and be it further

RESOLVED, That members of the Advisory Committee shall serve without compensation and the Department of Healthcare and Family Services shall provide administrative and other support to the Advisory Committee; and be it further

RESOLVED, That the Advisory Committee will meet at the call of the chair, but will meet a minimum of 4 times per year; and be it further

RESOLVED, That the Advisory Committee shall share its legislative and administrative recommendations with the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives, as warranted; and be it further

RESOLVED, That a suitable copy of this resolution be presented to the Director of the Department of Healthcare and Family Services.

MESSAGES FROM THE HOUSE

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

[May 24, 2011]

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. 1035

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. 2 to SENATE BILL NO. 1035

Passed the House, as amended, May 24, 2011.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 2 TO SENATE BILL 1035

AMENDMENT NO. 2. Amend Senate Bill 1035 on page 1, line 15, by inserting "11-6.6," after "11-6.5"; and

on page 1, line 17, by inserting "11-25, 11-26," after "11-23"; and

on page 1, line 19, by inserting after "offenses" the following:
"when the victim is under 18 years of age".

Under the rules, the foregoing **Senate Bill No. 1035**, 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 concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1270

A bill for AN ACT concerning finance.

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

House Amendment No. 1 to SENATE BILL NO. 1270

House Amendment No. 2 to SENATE BILL NO. 1270

Passed the House, as amended, May 24, 2011.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1270

AMENDMENT NO. 1. Amend Senate Bill 1270 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Procurement Code is amended by changing Section 45-57 as follows:
(30 ILCS 500/45-57)

Sec. 45-57. ~~Veterans~~ ~~Disabled veterans~~.

(a) ~~Set-aside goal~~. It is the goal of the State to promote and encourage the continued economic development of ~~small~~ businesses owned and controlled by qualified ~~service-disabled~~ veterans and that qualified ~~service-disabled~~ ~~service-disabled~~ veteran-owned ~~small~~ businesses (referred to as ~~SDVOB~~ ~~SDVOB~~ and ~~veteran-owned small businesses~~ (referred to as ~~VOSB~~)) participate in the State's procurement process as both prime ~~contractors~~ and subcontractors. ~~Not less than 3% of the total dollar amount of State contracts, as defined by the Director of Central Management Services, shall be established as a goal to be awarded to SDVOB and VOSB. A Task Force shall be established, appointed by the Directors or Secretaries of, and made up of representatives of, the Illinois Department of Veterans' Affairs, the Illinois Department of Transportation, the Department of Central Management Services, the Business Enterprise Program, and the Business Enterprise Council. The Department of Central Management Services shall provide administrative support to the Task Force. The purpose of this Task Force shall be to determine the appropriate percentage goal for award each fiscal year of the State's total expenditures for contracts awarded under this Code to SDVOB. That portion of a contract under which the contractor subcontracts with a SDVOB or VOSB SDVOB may be counted toward the goal of this subsection. The Department of Central Management Services shall adopt rules to implement~~

[May 24, 2011]

compliance with this subsection by all State agencies. In making that determination the Task Force shall consult with statewide veterans' service organizations and the business community, including businesses owned by qualified disabled veterans. The Task Force shall submit its report to the General Assembly concerning its recommendations regarding the appropriate percentage goal for award each fiscal year of the State's total expenditures for contracts awarded under this Code to qualified service disabled veterans no later than 90 days after the effective date of this amendatory Act of the 96th General Assembly.

(b) Fiscal year reports. ~~By~~ ~~Once the appropriate goal is established, then~~ by each September 1, each chief procurement officer shall report to the Department of Central Management Services on all of the following for the immediately preceding fiscal year, and by each October 1 the Department of Central Management Services shall compile and report that information to the General Assembly:

(1) The total number of VOSB, and the number of SDVOSB, ~~SDVOB~~ who submitted bids ~~a bid~~ for contracts ~~a contract~~ under this Code.

(2) The total number of VOSB, and the number of SDVOSB, ~~SDVOB~~ who entered into contracts with the State under this Code and the total value of those contracts.

(c) Yearly review and recommendations. Each year, each chief procurement officer shall review the progress of all State agencies under its jurisdiction in meeting the goal described in subsection (a), with input from statewide veterans' service organizations and from the business community, including businesses owned by qualified ~~disabled~~ veterans, and shall make recommendations to be included in the Department of Central Management Services' report to the General Assembly regarding continuation, increases, or decreases of the percentage goal. The recommendations shall be based upon the number of businesses that are owned by qualified ~~disabled~~ veterans and on the continued need to encourage and promote businesses owned by qualified ~~disabled~~ veterans.

(d) Governor's recommendations. To assist the State in reaching the goal described in subsection (a), the Governor shall recommend to the General Assembly changes in programs to assist businesses owned by qualified ~~disabled~~ veterans.

(e) Definitions. As used in this Section:

"Armed forces of the United States" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or service in active duty as defined under 38 U.S.C. Section 101. Service in the Merchant Marine that constitutes active duty under Section 401 of federal Public Act 95-202 shall also be considered service in the armed forces for purposes of this Section.

"Business" means a business that has average annual gross sales over the 3 most recent calendar years of less than \$31,000,000 as evidenced by the federal income tax returns of the business.

"Certification" means a determination made by the Illinois Department of Veterans' Affairs and the Department of Central Management Services that a business entity is a qualified service-disabled veteran-owned small business or a qualified veteran-owned small business for whatever purpose. A SDVOSB or VOSB owned and controlled by females, minorities, or persons with disabilities, as those terms are defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, shall select and designate whether that business is to be certified as a "female-owned business", "minority-owned business", or "business owned by a person with a disability", as defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, or as a qualified SDVOSB or qualified VOSB under this Section.

"Control" means the exclusive, ultimate, majority, or sole control of the business, including but not limited to capital investment and all other financial matters, property, acquisitions, contract negotiations, legal matters, officer-director-employee selection and comprehensive hiring, operation responsibilities, cost-control matters, income and dividend matters, financial transactions, and rights of other shareholders or joint partners. Control shall be real, substantial, and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as major decisions in matters of policy, management, and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business, and control shall not include simple majority or absentee ownership.

"Qualified ~~service-disabled~~ ~~service-disabled~~ veteran" means a veteran who has been found to have 10% or more ~~a~~ service-connected disability by the United States Department of Veterans Affairs or the United States Department of Defense.

"Qualified service-disabled veteran-owned small business" or "SDVOSB" means a small business (i)

that is at least 51% owned by one or more qualified service-disabled veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified service-disabled veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Department of Central Management Services.

"Qualified veteran-owned small business" or "VOSB" means a small business (i) that is at least 51% owned by one or more qualified veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Department of Central Management Services.

"Qualified disabled veteran owned business" means a business entity that is at least 51% owned by one or more qualified disabled veterans, or in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified disabled veterans; and the management and daily business operations of which are controlled by one or more of the qualified disabled veterans who own it.

"Service-connected disability" means a disability incurred in the line of duty in the active military, naval, or air service as described in 38 U.S.C. 101(16).

"Small business" means a business that has annual gross sales of less than \$75,000,000 as evidenced by the federal income tax return of the business. A firm with gross sales in excess of this cap may apply to the Department of Central Management Services for certification for a particular contract if the firm can demonstrate that the contract would have significant impact on SDVOSB or VOSB as suppliers or subcontractors or in employment of veterans or service-disabled veterans.

"State agency" has the same meaning as in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

"Time of hostilities with a foreign country" means any period of time in the past, present, or future during which a declaration of war by the United States Congress has been or is in effect or during which an emergency condition has been or is in effect that is recognized by the issuance of a Presidential proclamation or a Presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to Presidential executive order.

"Veteran" means a person who (i) has been a member of the armed forces of the United States or, while a citizen of the United States, was a member of the armed forces of allies of the United States in time of hostilities with a foreign country and (ii) has served under one or more of the following conditions: (a) the veteran served a total of at least 6 months; (b) the veteran served for the duration of hostilities regardless of the length of the engagement; (c) the veteran was discharged on the basis of hardship; or (d) the veteran was released from active duty because of a service connected disability and was discharged under honorable conditions, served in the active military, naval, or air service and who was discharged or released from his or her service under conditions other than dishonorable.

(f) Certification program. The Illinois Department of Veterans' Affairs and the Department of Central Management

Services ~~Business Enterprise Program~~ shall work together to devise a certification procedure to assure that businesses taking advantage of this Section ~~Act~~ are legitimately classified as qualified service-disabled ~~service disabled~~ veteran-owned small businesses or qualified veteran-owned small businesses.

(g) Penalties.

(1) Administrative penalties. The Department of Central Management Services shall suspend any person who commits a violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 1961 relating to this Section from bidding on, or participating as a contractor, subcontractor, or supplier in, any State contract or project for a period of not less than 3 years, and, if the person is certified as a service-disabled veteran-owned small business or a veteran-owned small business, then the Department shall revoke the business's certification for a period of not less than 3 years. An additional or subsequent violation shall extend the periods of suspension and revocation for a period of not less than 5 years. The suspension and revocation shall apply to the principals of the business and any subsequent business formed or financed by, or affiliated with, those principals.

(2) Reports of violations. Each State agency shall report any alleged violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 1961 relating to this Section to the Department of Central Management Services. The Department of Central Management Services shall subsequently report all such alleged violations to the Attorney General, who shall determine whether to bring a civil action against any person for the violation.

(3) List of suspended persons. The Department of Central Management Services shall monitor the status of all reported violations of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 1961 relating to this Section and shall maintain and make available to all State agencies a

central listing of all persons that committed violations resulting in suspension.

(4) Use of suspended persons. During the period of a person's suspension under paragraph (1) of this subsection, a State agency shall not enter into any contract with that person or with any contractor using the services of that person as a subcontractor.

(5) Duty to check list. Each State agency shall check the central listing provided by the Department of Central Management Services under paragraph (3) of this subsection to verify that a person being awarded a contract by that State agency, or to be used as a subcontractor or supplier on a contract being awarded by that State agency, is not under suspension pursuant to paragraph (1) of this subsection.

(Source: P.A. 96-96, eff. 1-1-10.)

Section 10. The Criminal Code of 1961 is amended by changing Sections 17-10.3, 33E-2, and 33E-6 as follows:

(720 ILCS 5/17-10.3)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 17-10.3. Deception relating to certification of disadvantaged business enterprises.

(a) Fraudulently obtaining or retaining certification. A person who, in the course of business, fraudulently obtains or retains certification as a minority owned business, ~~or~~ female owned business, ~~or~~ service-disabled veteran-owned small business, or veteran-owned small business commits a Class 2 felony.

(b) Willfully making a false statement. A person who, in the course of business, willfully makes a false statement whether by affidavit, report or other representation, to an official or employee of a State agency or the Minority and Female Business Enterprise Council for the purpose of influencing the certification or denial of certification of any business entity as a minority owned business, ~~or~~ female owned business, ~~or~~ service-disabled veteran-owned small business, or veteran-owned small business commits a Class 2 felony.

(c) Willfully obstructing or impeding an official or employee of any agency in his or her investigation. Any person who, in the course of business, willfully obstructs or impedes an official or employee of any State agency or the Minority and Female Business Enterprise Council who is investigating the qualifications of a business entity which has requested certification as a minority owned business, ~~or~~ a female owned business, ~~or~~ service-disabled veteran-owned small business, or veteran-owned small business commits a Class 2 felony.

(d) Fraudulently obtaining public moneys reserved for disadvantaged business enterprises. Any person who, in the course of business, fraudulently obtains public moneys reserved for, or allocated or available to, minority owned businesses, ~~or~~ female owned businesses, ~~or~~ service-disabled veteran-owned small businesses, or veteran-owned small businesses commits a Class 2 felony.

(e) Definitions. As used in this Article, "minority owned business", "female owned business", "State agency" with respect to minority owned businesses and female owned businesses, and "certification" with respect to minority owned businesses and female owned businesses shall have the meanings ascribed to them in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. As used in this Article, "service-disabled veteran-owned small business", "veteran-owned small business", "State agency" with respect to service-disabled veteran-owned small businesses and veteran-owned small businesses, and "certification" with respect to service-disabled veteran-owned small businesses and veteran-owned small businesses have the same meanings as in Section 45-57 of the Illinois Procurement Code.

(Source: P.A. 96-1551, eff. 7-1-11.)

(720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

Sec. 33E-2. Definitions. In this Act:

(a) "Public contract" means any contract for goods, services or construction let to any person with or without bid by any unit of State or local government.

(b) "Unit of State or local government" means the State, any unit of state government or agency thereof, any county or municipal government or committee or agency thereof, or any other entity which is funded by or expends tax dollars or the proceeds of publicly guaranteed bonds.

(c) "Change order" means a change in a contract term other than as specifically provided for in the contract which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion.

(d) "Person" means any individual, firm, partnership, corporation, joint venture or other entity, but does not include a unit of State or local government.

(e) "Person employed by any unit of State or local government" means any employee of a unit of State or local government and any person defined in subsection (d) who is authorized by such unit of State or

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local government to act on its behalf in relation to any public contract.

(f) "Sheltered market" has the meaning ascribed to it in Section 8b of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act; except that, with respect to State contracts set aside for award to service-disabled veteran-owned small businesses and veteran-owned small businesses pursuant to Section 45-57 of the Illinois Procurement Code, "sheltered market" means procurements pursuant to that Section.

(g) "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

(h) "Prime contractor" means any person who has entered into a public contract.

(i) "Prime contractor employee" means any officer, partner, employee, or agent of a prime contractor.

(i-5) "Stringing" means knowingly structuring a contract or job order to avoid the contract or job order being subject to competitive bidding requirements.

(j) "Subcontract" means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining goods or services of any kind under a prime contract.

(k) "Subcontractor" (1) means any person, other than the prime contractor, who offers to furnish or furnishes any goods or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and (2) includes any person who offers to furnish or furnishes goods or services to the prime contractor or a higher tier subcontractor.

(l) "Subcontractor employee" means any officer, partner, employee, or agent of a subcontractor.
(Source: P.A. 92-16, eff. 6-28-01.)

(720 ILCS 5/33E-6) (from Ch. 38, par. 33E-6)

Sec. 33E-6. Interference with contract submission and award by public official. (a) Any person who is an official of or employed by any unit of State or local government who knowingly conveys, either directly or indirectly, outside of the publicly available official invitation to bid, pre-bid conference, solicitation for contracts procedure or such procedure used in any sheltered market procurement adopted pursuant to law or ordinance by that unit of government, to any person any information concerning the specifications for such contract or the identity of any particular potential subcontractors, when inclusion of such information concerning the specifications or contractors in the bid or offer would influence the likelihood of acceptance of such bid or offer, commits a Class 4 felony. It shall not constitute a violation of this subsection to convey information intended to clarify plans or specifications regarding a public contract where such disclosure of information is also made generally available to the public.

(b) Any person who is an official of or employed by any unit of State or local government who, either directly or indirectly, knowingly informs a bidder or offeror that the bid or offer will be accepted or executed only if specified individuals are included as subcontractors commits a Class 3 felony.

(c) It shall not constitute a violation of subsection (a) of this Section where any person who is an official of or employed by any unit of State or local government follows procedures established (i) by federal, State or local minority or female owned business enterprise programs or (ii) pursuant to Section 45-57 of the Illinois Procurement Code.

(d) Any bidder or offeror who is the recipient of communications from the unit of government which he reasonably believes to be proscribed by subsections (a) or (b), and fails to inform either the Attorney General or the State's Attorney for the county in which the unit of government is located, commits a Class A misdemeanor.

(e) Any public official who knowingly awards a contract based on criteria which were not publicly disseminated via the invitation to bid, when such invitation to bid is required by law or ordinance, the pre-bid conference, or any solicitation for contracts procedure or such procedure used in any sheltered market procurement procedure adopted pursuant to statute or ordinance, commits a Class 3 felony.

(f) It shall not constitute a violation of subsection (a) for any person who is an official of or employed by any unit of State or local government to provide to any person a copy of the transcript or other summary of any pre-bid conference where such transcript or summary is also made generally available to the public.

(Source: P.A. 86-150.)

Section 99. Effective date. This Act takes effect July 1, 2011."

AMENDMENT NO. 2 TO SENATE BILL 1270

AMENDMENT NO. 2. Amend Senate Bill 1270, AS AMENDED, with reference to page and

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line numbers of House Amendment No. 1, on page 3, line 6, by replacing "October" with "March
~~October~~".

Under the rules, the foregoing **Senate Bill No. 1270**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1364

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. 1364

Passed the House, as amended, May 24, 2011.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 2 TO SENATE BILL 1364

AMENDMENT NO. 2. Amend Senate Bill 1364 by replacing everything after the enacting clause with the following:

"Section 5. The Public Officer Prohibited Activities Act is amended by changing Section 3 as follows: (50 ILCS 105/3) (from Ch. 102, par. 3)

Sec. 3. Prohibited interest in contracts.

(a) No person holding any office, either by election or appointment under the laws or Constitution of this State, may be in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote. No such officer may represent, either as agent or otherwise, any person, association, trust, or corporation, with respect to any application or bid for any contract or work in regard to which such officer may be called upon to vote. Nor may any such officer take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation hereof is void. This Section shall not apply to any person serving on an advisory panel or commission, ~~or~~ to any director serving on a hospital district board as provided under subsection (a-5) of Section 13 of the Hospital District Law or to any person serving as both a contractual employee and as a member of a public hospital board as provided under Article 11 of the Illinois Municipal Code in a municipality with a population between 13,000 and 16,000 that is located in a county with a population between 50,000 and 70,000.

(b) However, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor, subject to the following provisions under either paragraph (1) or (2):

(1) If:

A. the contract is with a person, firm, partnership, association, corporation, or cooperative association in which such interested member of the governing body of the municipality has less than a 7 1/2% share in the ownership; and

B. such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and

C. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum; and

D. such contract is approved by a majority vote of those members presently holding office; and

E. the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds \$1500, or awarded without bidding if the amount of the contract is less than \$1500; and

F. the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed \$25,000.

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(2) If:

A. the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

B. the amount of the contract does not exceed \$2,000; and

C. the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed \$4,000; and

D. such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and

E. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

(b-5) In addition to the above exemptions, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:

A. the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a 1% share in the ownership; and

B. the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

C. such interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and

D. such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

(c) A contract for the procurement of public utility services by a public entity with a public utility company is not barred by this Section by one or more members of the governing body of the public entity being an officer or employee of the public utility company or holding an ownership interest of no more than 7 1/2% in the public utility company, or holding an ownership interest of any size if the public entity is a municipality with a population of less than 7,500 and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body of the public entity having such an interest shall be deemed not to have a prohibited interest under this Section.

(d) Notwithstanding any other provision of this Section or any other law to the contrary, until January 1, 1994, a member of the city council of a municipality with a population under 20,000 may purchase real estate from the municipality, at a price of not less than 100% of the value of the real estate as determined by a written MAI certified appraisal or by a written certified appraisal of a State certified or licensed real estate appraiser, if the purchase is approved by a unanimous vote of the city council members then holding office (except for the member desiring to purchase the real estate, who shall not vote on the question).

(e) For the purposes of this Section only, a municipal officer shall not be deemed interested if the officer is an employee of a company or owns or holds an interest of 1% or less in the municipal officer's individual name in a company, or both, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market, provided the interested member: (i) publicly discloses the fact that he or she is an employee or holds an interest of 1% or less in a company before deliberation of the proposed award of the contract; (ii) refrains from evaluating, recommending, approving, deliberating, or otherwise participating in negotiation, approval, or both, of the contract, work, or business; (iii) abstains from voting on the award of the contract though he or she shall be considered present for purposes of establishing a quorum; and (iv) the contract is approved by a majority vote of those members currently holding office.

A municipal officer shall not be deemed interested if the officer owns or holds an interest of 1% or less, not in the officer's individual name but through a mutual fund or exchange-traded fund, in a company, that company is involved in the transaction of business with the municipality, and that company's stock is traded on a nationally recognized securities market.

(f) Under either of the following circumstances, a municipal officer may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or business of the municipality:

(1) If the municipal officer is appointed by the governing body of the municipality to represent the interests of the municipality on a not-for-profit corporation's board, then the municipal officer may actively vote on matters involving either that board or the municipality, at any time, so long as the membership on the not-for-profit board is not a paid position, except that the municipal officer may be reimbursed by the non-for-profit board for expenses incurred as the result of membership on the non-for-profit board.

(2) If the municipal officer is not appointed to the governing body of a not-for-profit

corporation by the governing body of the municipality, then the municipal officer may continue to serve; however, the municipal officer shall abstain from voting on any proposition before the municipal governing body directly involving the not-for-profit corporation and, for those matters, shall not be counted as present for the purposes of a quorum of the municipal governing body. (Source: P.A. 96-277, eff. 1-1-10; 96-1058, eff. 7-14-10)."

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

Under the rules, the foregoing **Senate Bill No. 1364**, 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 concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1386

A bill for AN ACT concerning revenue.

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

House Amendment No. 1 to SENATE BILL NO. 1386

Passed the House, as amended, May 24, 2011.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1386

AMENDMENT NO. 1. Amend Senate Bill 1386 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Section 20-175 as follows:
(35 ILCS 200/20-175)

Sec. 20-175. Refund for erroneous assessments or overpayments.

(a) If any property is twice assessed for the same year, or assessed before it becomes taxable, and the erroneously assessed taxes have been paid either at sale or otherwise, or have been overpaid by the same claimant or by different claimants, the County Collector, upon being satisfied of the facts in the case, shall refund the taxes to the proper claimant. When the County Collector is unable to determine the proper claimant, the circuit court, on petition of the person paying the taxes, or his or her agent, and being satisfied of the facts in the case, shall direct the county collector to refund the taxes and deduct the amount thereof, pro rata, from the moneys due to taxing bodies which received the taxes erroneously paid, or their legal successors. Pleadings in connection with the petition provided for in this Section shall conform to that prescribed in the Civil Practice Law. Appeals may be taken from the judgment of the circuit court, either by the county collector or by the petitioner, as in other civil cases. A claim for refund shall not be allowed unless a petition is filed within 5 years from the date the right to a refund arose. If a certificate of error results in the allowance of a homestead exemption not previously allowed, the county collector shall pay the taxpayer interest on the amount of taxes paid that are attributable to the amount of the additional allowance, at the rate of 6% per year. To cover the cost of interest, the county collector shall proportionately reduce the distribution of taxes collected for each taxing district in which the property is situated.

(b) Notwithstanding any other provision of law, in Cook County a claim for refund under this Section is also allowed if the application therefor is filed between September 1, 2011 and September 1, 2012 and the right to a refund arose more than 5 years prior to the date the application is filed but not earlier than January 1, 2000. The Cook County Treasurer, upon being satisfied of the facts in the case, shall refund the taxes to the proper claimant and shall proportionately reduce the distribution of taxes collected for each taxing district in which the property is situated. Refunds under this subsection shall be paid in the order in which the claims are received. The Cook County Treasurer shall not accept a claim for refund under this subsection before September 1, 2011. For the purposes of this subsection, the Cook County Treasurer shall accept a claim for refund by mail or in person. In no event shall a refund be paid under this subsection if the issuance of that refund would cause the aggregate total of taxes and interest refunded for all claims under this subsection to exceed \$350,000. The Cook County Treasurer shall notify the public of the provisions of this subsection on the Treasurer's website. A home rule unit may

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not regulate claims for refunds in a manner that is inconsistent with this Act. This Section is a limitation of home rule powers under subsection (i) of Section 6 of Article VII of the Illinois Constitution.
(Source: P.A. 83-121; 85-468; 88-455.)

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

Under the rules, the foregoing **Senate Bill No. 1386**, 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. 1578

A bill for AN ACT concerning education.

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

House Amendment No. 1 to SENATE BILL NO. 1578

House Amendment No. 2 to SENATE BILL NO. 1578

Passed the House, as amended, May 24, 2011.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1578

AMENDMENT NO. 1. Amend Senate Bill 1578 as follows:

on page 1, line 15, by replacing "conferences" with "conferences,"; and

on page 2, line 18, after "4 days," by inserting "2 days may be used as a teacher's and educational support personnel workshop, when approved by the regional superintendent, up to"; and

on page 2, line 19, by replacing "and" with "or and"; and

on page 2, line 20, after "10-22.18d.", by inserting "Educational support personnel may be exempt from a workshop if (i) the workshop is not relevant to the work they do and (ii) the workshop is not related to the health and safety of students.".

AMENDMENT NO. 2 TO SENATE BILL 1578

AMENDMENT NO. 2. Amend Senate Bill 1578, AS AMENDED, as follows:

in Section 5, Sec. 3-11, the paragraph beginning "In counties of less", the sentence beginning "Educational", by deleting "(i)"; and

in Section 5, Sec. 3-11, the paragraph beginning "In counties of less", the sentence beginning "Educational", by deleting "and (ii) the workshop is not related to the health and safety of students"; and

in Section 5, Sec. 3-11, the paragraph beginning "In counties of 2,000,000", the sentence beginning "Educational", by deleting "(i)"; and

in Section 5, Sec. 3-11, the paragraph beginning "In counties of 2,000,000", the sentence beginning "Educational", by deleting "and (ii) the workshop is not related to the health and safety of students".

Under the rules, the foregoing **Senate Bill No. 1578**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

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SENATE BILL NO. 1623

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. 1623

Passed the House, as amended, May 24, 2011.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1623

AMENDMENT NO. 1. Amend Senate Bill 1623 as follows:

on page 4, immediately below line 13, by inserting the following:

"(c) Study of housing and residential services. By no later than October 1, 2011, the Department shall conduct a statewide study to assess the existing types of community-based housing and residential services currently being provided to individuals with mental illnesses in Illinois. This study shall include State-funded and federally-funded housing and residential services. The results of this study shall be used to inform the rulemaking process outlined in subsection (b)."

Under the rules, the foregoing **Senate Bill No. 1623**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

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

SENATE BILL NO. 1253

A bill for AN ACT concerning local government.

SENATE BILL NO. 1644

A bill for AN ACT concerning transportation.

SENATE BILL NO. 1766

A bill for AN ACT concerning civil law.

Passed the House, May 24, 2011.

MARK MAHONEY, Clerk of the House

JOINT ACTION MOTIONS FILED

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

Motion to Concur in House Amendment 1 to Senate Bill 90

Motion to Concur in House Amendment 2 to Senate Bill 1035

Motion to Concur in House Amendment 1 to Senate Bill 1584

Motion to Concur in House Amendment 1 to Senate Bill 1740

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 1 to House Bill 1197

Senate Floor Amendment No. 2 to House Bill 3184

At the hour of 7:12 o'clock p.m., the Chair announced that the Senate stand at ease.

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AT EASE

At the hour of 7:16 o'clock p.m. the Senate resumed consideration of business.
 Senator Harmon, presiding.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2011 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Education: **Senate Floor Amendment No. 1 to House Bill 1197.**

Executive: **Senate Committee Amendment No. 1 to House Bill 2934.**

Public Health: **Senate Floor Amendment No. 3 to House Bill 3027.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 24, 2011 meeting, reported the following Senate Resolution has been assigned to the indicated Standing Committee of the Senate:

Human Services: **Senate Joint Resolution No. 35.**

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committee to meet May 25, 2011, at 10:02 o'clock a.m.:

Public Health in Room 212

The Chair announced the following committee to meet May 25, 2011, at 10:50 o'clock a.m.:

Education in Room 409

The Chair announced the following committee to meet May 25, 2011, at 11:31 o'clock a.m.:

Commerce in Room 409

The Chair announced the following committee to meet May 25, 2011, at 11:45 o'clock a.m.:

Licensed Activities in Room 409

At the hour of 7:17 o'clock p.m., the Chair announced the Senate stand adjourned until Wednesday, May 25, 2011, at 1:00 o'clock p.m.