SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FIFTH GENERAL ASSEMBLY

36TH LEGISLATIVE DAY

TUESDAY, MAY 8, 2007

12:28 O'CLOCK P.M.

NO. 36
[May 8, 2007]

SENATE
Daily Journal Index
36th Legislative Day

The Senate met pursuant to adjournment.
Senator Iris Y. Martinez, Chicago, Illinois, presiding.
Prayer by Reverend Paul Sims, Gethsemane Baptist Church, Newport News, Virginia.
Senator Maloney led the Senate in the Pledge of Allegiance.

The Journal of Thursday, May 3, 2007, was being read when on motion of Senator Hunter, further reading of same was dispensed with, and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

Chicago Public Schools Legislative 265 Bi-Annual Report, submitted by the Public Building Commission of Chicago.

Illinois State Building Energy Expense Study FY06 and Projected FY07-09, submitted by the Department of Commerce and Economic Opportunity.

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

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 1 to Senate Bill 767

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

Senate Committee Amendment No. 1 to House Bill 118
Senate Committee Amendment No. 1 to House Bill 121
Senate Committee Amendment No. 1 to House Bill 174
Senate Committee Amendment No. 1 to House Bill 202
Senate Committee Amendment No. 1 to House Bill 374
Senate Committee Amendment No. 1 to House Bill 573
Senate Committee Amendment No. 1 to House Bill 734
Senate Committee Amendment No. 1 to House Bill 820
Senate Committee Amendment No. 1 to House Bill 822
Senate Committee Amendment No. 1 to House Bill 855
Senate Committee Amendment No. 1 to House Bill 981
Senate Committee Amendment No. 1 to House Bill 982
Senate Committee Amendment No. 1 to House Bill 1030
Senate Committee Amendment No. 1 to House Bill 1072
Senate Committee Amendment No. 1 to House Bill 1116
Senate Committee Amendment No. 1 to House Bill 1301
Senate Committee Amendment No. 1 to House Bill 1403
Senate Committee Amendment No. 1 to House Bill 1455
Senate Committee Amendment No. 1 to House Bill 1499
Senate Committee Amendment No. 1 to House Bill 1960
Senate Committee Amendment No. 1 to House Bill 3374
Senate Committee Amendment No. 1 to Senate Bill 3393
Senate Committee Amendment No. 1 to House Bill 3412
Senate Committee Amendment No. 1 to House Bill 3597

Senate Committee Amendment No. 1 to House Bill 3614
Senate Committee Amendment No. 1 to House Bill 3729

MESSAGES FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 8, 2007

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

Dear Madam Secretary:

Pursuant to Rule 3-5(c), I hereby appoint Senator Rickey Hendon to resume his position on the Senate Rules Committee. This appointment is effective immediately.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 8, 2007

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

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Terry Link to temporarily replace Senator James Clayborne as a member of the Senate Environment & Energy Committee. This appointment is effective immediately.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 8, 2007

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

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Debbie Halvorson to temporarily replace Senator Deanna Demuzio as a member of the Senate Agriculture & Conservation Committee. This appointment is effective immediately.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 8, 2007

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

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Terry Link to temporarily replace Senator David Koehler as a member of the Senate Transportation Committee. This appointment is effective immediately.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 8, 2007

Ms. Deborah Shipley

Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator John Sullivan to temporarily replace Senator David Koehler as a member of the Senate Local Government Committee. This appointment is effective immediately.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 8, 2007

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

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator James Clayborne to temporarily replace Senator Ira Silverstein as a member of the Senate Judiciary-Criminal Law Committee. This appointment is effective immediately.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 8, 2007

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

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Debbie Halvorson to temporarily replace Senator Ira Silverstein as a member of the Senate Judiciary-Civil Law Committee. This appointment is effective immediately.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 8, 2007

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

Dear Madam Secretary:

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

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 171

Offered by Senator Watson and all Senators:
Mourns the death of U.S. Army Private Cole Spencer of Gays.

SENATE JOINT RESOLUTION NO. 51

Offered by Senators DeLeo – Harmon – Kotowski and all Senators:
Mourns the death of Mayor Donald E. Stephens of Rosemont.

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

Senators Watson - Rutherford and all Republican Senators offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 167

WHEREAS, Governor Rod Blagojevich is proposing the largest tax increase in the history of Illinois; and

WHEREAS, Governor Rod Blagojevich wants to raise $8 billion by imposing a new Gross Receipts Tax upon all businesses within Illinois; and

WHEREAS, The Governor would impose the Gross Receipts Tax at a rate of 0.85% on goods and 1.95% on services; and

WHEREAS, Only five U.S. states currently impose a Gross Receipts Tax, each of which is lower than the Governor's proposed rates; and

WHEREAS, Three of these five states impose the gross receipts tax as a substitute for an income tax or sales tax, rather than in addition to these two other taxes; and

WHEREAS, The Tax Foundation, an independent, nonpartisan tax research group that has been evaluating tax policy since 1937, warns that the Gross Receipts Tax is poor tax policy which leads to harmful tax pyramiding and damages the performance of state and local economies; and

WHEREAS, The proposed tax would fall most harshly upon start-ups, struggling firms, and low-profit-margin businesses; and

WHEREAS, Illinois is currently ranked by Forbes Magazine as the 44th worst state in the nation in which to conduct business and Illinois ranks 43rd out of the 50 states in job growth over the last four years, trailing all of our neighboring states; and

WHEREAS, Agriculture, Illinois' primary industry, will be devastated by the pyramiding effect as seed, fertilizers, farm chemicals, equipment and machinery, and elevator services will all be taxed, and the full burden will be borne by the farmer; and

WHEREAS, This stealth tax will be woven throughout the fabric of our economy, increasing prices for consumers on all types of goods and services including healthcare, utilities, and gasoline; and

WHEREAS, The new $8 billion tax burden imposed under the Governor's plan represents $600 each year for every man, woman and child in Illinois; and

WHEREAS, That increased tax burden equates to $2,400 for every family of four, or an additional tax burden of almost $200 per month; and

WHEREAS, the Joint Hearing of the Senate Education and Revenue Committees attracted more than 500 witnesses in opposition to the proposed Gross Receipts Tax, representing a wide spectrum of the business community; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we oppose the Gross Receipts Tax proposed by the Governor of Illinois; and be it further

RESOLVED, That a copy of this resolution be presented to the Governor of the State of Illinois.

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

SENATE RESOLUTION NO. 168

WHEREAS, The Centers for Disease Control has reported that one in 150 children born today will be diagnosed with an autism spectrum disorder; and

WHEREAS, The Illinois State Board of Education has reported that today there are more than twice as many children in Illinois diagnosed with autism as there were only five years ago; and

WHEREAS, It is estimated that only one of every ten children with autism receives the level and type of services recommended by the National Research Council in 2001; and

WHEREAS, Families of children with autism bear an enormous financial burden of providing needed services and healthcare; and

WHEREAS, Not-for-profit entities such as the Autism Society of Illinois promote through advocacy, public awareness, education, and research, lifelong access and opportunities for persons within the autism spectrum disorder and their families in order that they may be fully included, participating members of their communities; and

WHEREAS, Public entities such as the Illinois Autism Training and Technical Assistance Project and private entities like Giant Steps of Illinois provide educational and therapeutic services to enable children with autism to achieve their maximum potential and strive to improve a child's ability to interact, communicate, and develop academic and daily life skills; these groups work cooperatively with local school districts to reintegrate students with autism into their home school on a full-time or part-time basis based on the individual needs of the student; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we name the month of April 2007 as Autism Awareness Month in the State of Illinois, and we recognize and commend the parents and caregivers of children and adults with autism for their sacrifice and dedication in providing for the special needs of children with autism and for absorbing significant financial costs for specialized education and support services; and be it further

RESOLVED, That we support the following goals: increasing State and federal funding for home and community based services; Medicaid waiver programs that families can direct so that their loved ones with autism can receive appropriate intervention, treatment, and support; expanding direct supports and services for individuals with autism across their life span so that they may have choices and individualized supports, services, and living arrangements; promoting the use of best practices in public schools; promoting understanding and acceptance of the special needs of people with autism and their families; promoting the full inclusion of persons with autism in our communities; and increasing federal and private funding for research to learn the root causes of autism and to explore potential biomedical treatments for autism; and be it further

RESOLVED, That suitable copies of this resolution be presented to the Autism Society of Illinois, the Illinois Autism Training and Technical Assistance Project and Giant Steps of Illinois.

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

SENATE RESOLUTION NO. 169

WHEREAS, Developmental disabilities are defined as those disabilities caused by intellectual or cognitive disability, autism, cerebral palsy, epilepsy, or any other condition which results in impairment similar to that of intellectual disability (formerly known as mental retardation), which originates before the age of 18 and is expected to continue indefinitely; and

WHEREAS, Approximately 1.8 percent of the U.S. population is afflicted with a developmental disability and one in 150 children will be diagnosed with autism; and

WHEREAS, Every individual with a developmental disability has the right to live with dignity, to achieve their highest potential, and to be included in our communities; and

WHEREAS, The Autism Society of Illinois, The ARC of Illinois, and the Family Support Network, are not-for-profit organizations dedicated to the purpose of supporting individuals with developmental disabilities; and

WHEREAS, The mission of the Autism Society of Illinois is to promote through advocacy, public awareness, education, and research, lifelong access and opportunities for persons within the autism spectrum disorder and their families in order that they may be fully included, participating members of their communities; and

WHEREAS, The mission of the Arc of Illinois is to empower persons with disabilities to achieve full participation in community life through informed choices; and

WHEREAS, The mission of the Family Support Network is to unify individuals with disabilities and their families to advocate for funding, services, and community resources that strengthen and support the individual and the family directly by responding to their individual needs and empowering them to live in their own homes; the Family Support Network further seeks to ensure the continuation of all individual supports throughout the life span of the individual; and

WHEREAS, Hundreds of persons with developmental disabilities and their families will convene in the Illinois State Capitol on May 16, 2007, to show their support for legislation, funding, and policies that support individuals with developmental disabilities, including autism, and that promote self-determination and inclusion in our communities; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we do hereby proclaim May 16, 2007, as Developmental Disability and Autism Family Day at the Illinois State Capitol; and be it further

RESOLVED, That a suitable copy of this resolution be presented to the Illinois Autism Society, The Arc of Illinois, and the Family Support Network as an expression of our esteem.

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

SENATE RESOLUTION NO. 170

WHEREAS, Chicago Area Project was established in 1934 as a model for juvenile delinquency prevention and youth and community services; and

WHEREAS, The effectiveness of the Chicago Area Project model has been recognized by the State of Illinois and replicated in many communities throughout the State; and

WHEREAS, Community services and after-school programs operated by community-based organizations provide opportunities and experiences for our youth that have a positive impact on their development; and

WHEREAS, Chicago Area Project and the Illinois Council of Area Projects are sponsoring Youth Democracy Day on May 10, 2007; and

WHEREAS, Youth Democracy Day celebrates the skills, talents, and potential of our youth and encourages their knowledge of, and involvement in, the democratic process; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FIFTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we congratulate Chicago Area Project and the Illinois Council of Area Projects for sponsoring Youth Democracy Day on May 10, 2007, and encourage the youth of our State to learn about and participate in the democratic process.

MESSAGE 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 passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 495

A bill for AN ACT concerning local government.

HOUSE BILL NO. 1447

A bill for AN ACT concerning State government.

HOUSE BILL NO. 1627

A bill for AN ACT concerning public employee benefits.

HOUSE BILL NO. 1871

A bill for AN ACT concerning regulation.

HOUSE BILL NO. 3361

A bill for AN ACT concerning education.

Passed the House, May 3, 2007.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 495, 1447, 1627, 1871 and 3361** were taken up, ordered printed and placed on first reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 773, sponsored by Senator Halvorson, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 827, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1246, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1263, sponsored by Senator Demuzio, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1335, sponsored by Senator Delgado, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1447, sponsored by Senator Harmon, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1605, sponsored by Senator Clayborne, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1784, sponsored by Senator Demuzio, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1823, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 1871, sponsored by Senator Harmon, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2002, sponsored by Senator Crotty, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2071, sponsored by Senator Dillard, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2306, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2758, sponsored by Senator Munoz, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 2820, sponsored by Senator Sullivan, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 3014, sponsored by Senator Harmon, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 3135, sponsored by Senator Sieben, was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 3361, sponsored by Senator Lightford, was taken up, read by title a first time and referred to the Committee on Rules.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Ronen, **Senate Bill No. 243**, 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 51; Nays 2.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Ronen
Clayborne	Haine	Maloney	Rutherford
Collins	Halvorson	Martinez	Sandoval
Cronin	Harmon	Meeks	Sieben
Crotty	Hendon	Millner	Sullivan
Cullerton	Holmes	Munoz	Syverson
Dahl	Hultgren	Noland	Trotter
DeLeo	Hunter	Pankau	Viverito
Delgado	Jacobs	Peterson	Wilhelmi
Demuzio	Jones, J.	Radogno	Mr. President
Dillard	Kotowski	Raoul	

The following voted in the negative:

Burzynski
Watson

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.

On motion of Senator Halvorson, **Senate Bill No. 280**, 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 55; Nays None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Righter
Bomke	Frerichs	Link	Risinger
Bond	Garrett	Luechtefeld	Ronen
Burzynski	Haine	Maloney	Rutherford
Clayborne	Halvorson	Martinez	Sandoval
Collins	Harmon	Meeks	Sieben
Cronin	Hendon	Millner	Sullivan
Crotty	Holmes	Munoz	Syverson
Cullerton	Hultgren	Murphy	Trotter
Dahl	Hunter	Noland	Viverito
DeLeo	Jacobs	Pankau	Watson
Delgado	Jones, J.	Peterson	Wilhelmi
Demuzio	Kotowski	Radogno	Mr. President
Dillard	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 therein.

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 2 to Senate Bill 1
Senate Floor Amendment No. 2 to Senate Bill 5

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

Senate Committee Amendment No. 1 to House Bill 140
Senate Committee Amendment No. 2 to House Bill 351
Senate Committee Amendment No. 2 to House Bill 1423
Senate Committee Amendment No. 1 to House Bill 1717
Senate Committee Amendment No. 1 to House Bill 1911
Senate Committee Amendment No. 1 to House Bill 3672

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

Senate Floor Amendment No. 1 to House Bill 811

REPORT FROM RULES COMMITTEE

Senator Halvorson, Chairperson of the Committee on Rules, during its May 8, 2007 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Agriculture and Conservation: **Senate Committee Amendment No. 1 to House Bill 822; Senate Committee Amendment No. 1 to House Bill 3614**.

Environment and Energy: **Senate Floor Amendment No. 1 to Senate Bill 661**; **Senate Committee Amendment No. 1 to House Bill 351**.

Executive: **Senate Floor Amendment No. 1 to Senate Bill 1; Senate Floor Amendment No. 2 to Senate Bill 1**.

Human Services: **Senate Committee Amendment No. 1 to House Bill 202; Senate Committee Amendment No. 1 to House Bill 734; Senate Committee Amendment No. 1 to House Bill 982; Senate Committee Amendment No. 1 to House Bill 1301**.

Judiciary Civil Law: **Senate Committee Amendment No. 1 to House Bill 619; Senate Committee Amendment No. 1 to House Bill 3393**.

Judiciary Criminal Law: **Senate Committee Amendment No. 1 to House Bill 174; Senate Committee Amendment No. 2 to House Bill 722; Senate Committee Amendment No. 1 to House Bill 855**.

Local Government: **Senate Committee Amendment No. 1 to House Bill 140**.

Public Health: **Senate Floor Amendment No. 1 to Senate Bill 5; Senate Floor Amendment No. 2 to Senate Bill 5; Senate Committee Amendment No. 1 to House Bill 981; Senate Committee Amendment No. 1 to House Bill 1072; Senate Committee Amendment No. 1 to House Bill 1256; Senate Committee Amendment No. 1 to House Bill 1279**.

Revenue: **Motion to Concur in House Amendment 1 to Senate Bill 1395**.

State Government and Veterans Affairs: **Senate Floor Amendment No. 1 to Senate Bill 767**.

Transportation: **Senate Committee Amendment No. 1 to House Bill 1116; Senate Committee Amendment No. 1 to House Bill 1491; Senate Committee Amendment No. 1 to House Bill 1499; Senate Committee Amendment No. 1 to House Bill 3412**.

COMMITTEE MEETING ANNOUNCEMENTS

Senator Hendon, Member of the Committee on Executive, announced that the Executive Committee will meet today in Room 212, at 2:05 o'clock p.m.

The Chair announced that all committees scheduled to meet this afternoon will be meeting one and one-half hour later than originally posted.

Senator Garrett, Chairperson of the Committee on Public Health, announced that the Public Health Committee will meet today in Room 400, at 2:30 o'clock p.m.

Senator Jacobs, Chairperson of the Committee on Housing and Community Affairs, announced that the Housing and Community Affairs Committee will meet today in Room 409, at 4:00 o'clock p.m.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Sullivan, **Senate Bill No. 310**, 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 56; Nays None.

The following voted in the affirmative:

Althoff	Forby	Link	Ronen
Bomke	Frerichs	Luechtefeld	Rutherford
Bond	Garrett	Maloney	Sandoval
Brady	Haine	Martinez	Sieben
Burzynski	Halvorson	Meeks	Sullivan
Clayborne	Harmon	Millner	Syverson
Collins	Hendon	Munoz	Trotter
Cronin	Holmes	Murphy	Viverito
Crotty	Hultgren	Noland	Watson
Cullerton	Hunter	Pankau	Wilhelmi
Dahl	Jacobs	Peterson	Mr. President
DeLeo	Jones, J.	Radogno	
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	
Dillard	Lightford	Risinger	

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 Maloney, **Senate Bill No. 314** was recalled from the order of third reading to the order of second reading.

Senator Maloney offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 314

AMENDMENT NO. 2. Amend Senate Bill 314 on page 1, lines 12 and 14, by replacing "shall" each time it appears with "may".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Maloney, **Senate Bill No. 314**, 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 56; Nays None.

The following voted in the affirmative:

Althoff	Forby	Link	Ronen
Bomke	Frerichs	Luechtefeld	Rutherford
Bond	Garrett	Maloney	Sandoval
Brady	Haine	Martinez	Sieben
Burzynski	Halvorson	Meeks	Sullivan
Clayborne	Harmon	Millner	Syverson
Collins	Hendon	Munoz	Trotter

Cronin	Holmes	Murphy	Viverito
Crotty	Hultgren	Noland	Watson
Cullerton	Hunter	Pankau	Wilhelmi
Dahl	Jacobs	Peterson	Mr. President
DeLeo	Jones, J.	Radogno	
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	
Dillard	Lightford	Risinger	

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.

On motion of Senator Frerichs, **Senate Bill No. 395**, 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 55; Nays None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Righter
Bomke	Frerichs	Link	Risinger
Bond	Garrett	Luechtefeld	Ronen
Brady	Haine	Maloney	Rutherford
Burzynski	Halvorson	Martinez	Sandoval
Clayborne	Harmon	Meeks	Sieben
Collins	Hendon	Millner	Sullivan
Cronin	Holmes	Munoz	Syverson
Cullerton	Hultgren	Murphy	Trotter
Dahl	Hunter	Noland	Viverito
DeLeo	Jacobs	Pankau	Watson
Delgado	Jones, J.	Peterson	Wilhelmi
Demuzio	Kotowski	Radogno	Mr. President
Dillard	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 therein.

SENATE BILL RECALLED

On motion of Senator Frerichs, **Senate Bill No. 439** 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 Local Government.

Senator Frerichs offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 439

AMENDMENT NO. 2. Amend Senate Bill 439 by replacing everything after the enacting clause with the following:

"Section 5. The Election Code is amended by changing Section 16-5.01 as follows:

(10 ILCS 5/16-5.01) (from Ch. 46, par. 16-5.01)

Sec. 16-5.01. (a) The election authority shall, at least 60 days prior to the date of any general election

at which federal officers are elected and 45 days prior to any other regular election, have a sufficient number of ballots printed so that such ballots will be available for mailing 60 days prior to the date of the election to persons who have filed application for a ballot under the provisions of Article 20 of this Act.

(b) If at any general election at which federal offices are elected the election authority is unable to comply with the provisions of subsection (a), the election authority shall mail to each such person, in lieu of the ballot, a Special Write-in Absentee Voter's Blank Ballot. The Special Write-in Absentee Voter's Blank Ballot shall be used only at general elections at which federal officers are elected and shall be prepared by the election authority in substantially the following form:

Special Write-in Absentee Voter's Blank Ballot

(To vote for a person, write the title of the office and his or her name on the lines provided. Place to the left of and opposite the title of office a square and place a cross (X) in the square.)

Title of Office Name of Candidate

( )
( )
( )
( )
( )
( )

The election authority shall send with the Special Write-in Absentee Voter's Blank Ballot a list of all referenda for which the voter is qualified to vote and all candidates for whom nomination papers have been filed and for whom the voter is qualified to vote. The voter shall be entitled to write in the name of any candidate seeking election and any referenda for which he or she is entitled to vote.

On the back or outside of the ballot, so as to appear when folded, shall be printed the words "Official Ballot", the date of the election and a facsimile of the signature of the election authority who has caused the ballot to be printed.

The provisions of Article 20, insofar as they may be applicable to the Special Write-in Absentee Voter's Blank Ballot, shall be applicable herein.

(c) Notwithstanding any provision of this Code or other law to the contrary, the governing body of a municipality may adopt, upon submission of a written statement by the municipality's election authority attesting to the administrative ability of the election authority to administer an election using a ranked ballot to the municipality's governing body, an ordinance requiring, and that municipality's election authority shall prepare, a ranked absentee ballot for municipal and township office candidates to be voted on in the consolidated election. This ranked ballot shall be for use only by a qualified voter who either is a member of the United States military or will be outside of the United States on the consolidated primary election day and the consolidated election day. The ranked ballot shall contain a list of the titles of all municipal and township offices potentially contested at both the consolidated primary election and the consolidated election and the candidates for each office and shall permit the elector to vote in the consolidated election by indicating his or her order of preference for each candidate for each office. To indicate his or her order of preference for each candidate for each office, the voter shall put the number one next to the name of the candidate who is the voter's first choice, the number 2 for his or her second choice, and so forth so that, in consecutive numerical order, a number indicating the voter's preference is written by the voter next to each candidate's name on the ranked ballot. The voter shall not be required to indicate his or her preference for more than one candidate on the ranked ballot. The voter may not cast a write-in vote using the ranked ballot for the consolidated election. The election authority shall, if using the ranked absentee ballot authorized by this subsection, also prepare instructions for use of the ranked ballot. The ranked ballot for the consolidated election shall be mailed to the voter at the same time that the ballot for the consolidated primary election is mailed to the voter and the election authority shall accept the completed ranked ballot for the consolidated election when the authority accepts the completed ballot for the consolidated primary election.

The voter shall also be sent an absentee ballot for the consolidated election for those races that are not related to the results of the consolidated primary election as soon as the consolidated election ballot is certified.

The State Board of Elections shall adopt rules for election authorities for the implementation of this subsection, including but not limited to the application for and counting of ranked ballots.

(Source: P.A. 86-875.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Frerichs, **Senate Bill No. 439**, 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 56; Nays None.

The following voted in the affirmative:

Althoff	Forby	Link	Ronen
Bomke	Frerichs	Luechtefeld	Rutherford
Bond	Garrett	Maloney	Sandoval
Brady	Haine	Martinez	Sieben
Burzynski	Halvorson	Meeks	Sullivan
Clayborne	Harmon	Millner	Syverson
Collins	Hendon	Munoz	Trotter
Cronin	Holmes	Murphy	Viverito
Crotty	Hultgren	Noland	Watson
Cullerton	Hunter	Pankau	Wilhelmi
Dahl	Jacobs	Peterson	Mr. President
DeLeo	Jones, J.	Radogno	
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	
Dillard	Lightford	Risinger	

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. 484** 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. 2 TO SENATE BILL 484

AMENDMENT NO. 2. Amend Senate Bill 484, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by changing Section 143.17a as follows:

(215 ILCS 5/143.17a) (from Ch. 73, par. 755.17a)

Sec. 143.17a. Notice of intention not to renew.

(a) A company intending to nonrenew any policy of insurance to which Section 143.11 applies, except for those defined in subsections (a), (b), (c), and (h) of Section 143.13, must mail written notice to the named insured at least 60 days prior to the expiration date of the current policy. In all notices of intention not to renew any policy of insurance, as defined in Section 143.11, the company shall provide a specific explanation of the reasons for nonrenewal. A company may not extend the current policy period for purposes of providing notice of its intention not to renew required under this subsection (a). ~~a. No company shall fail to renew any policy of insurance, to which Section 143.11 applies, except for those defined in subsections (a), (b), (c), and (h) of Section 143.13, unless it shall send by mail to the named insured at least 60 days advance notice of its intention not to renew. The company shall maintain proof~~

~~of mailing of such notice on one of the following forms: a recognized U.S. Post Office form or a form acceptable to the U.S. Post Office or other commercial mail delivery service. An exact and unaltered copy of such notice shall also be sent to the insured's broker, if known, or the agent of record and to the mortgagee or lien holder at the last mailing address known by the company. However, where cancellation is for nonpayment of premium, the notice of cancellation must be mailed at least 10 days before the effective date of the cancellation.~~

(b) A company intending to renew any policy of insurance to which Section 143.11 applies, except for those defined in subsections (a), (b), (c), and (h) of Section 143.13, with an increase in premium of 30% or more or with changes in deductibles or coverage that materially alter the policy must mail or deliver to the named insured written notice of such increase or change in deductible or coverage at least 60 days prior to the renewal or anniversary date. If a company has failed to provide notice of intention to renew required under this subsection (b) at least 60 days prior to the renewal or anniversary date, but does so no less than 31 days prior to the renewal or anniversary date, the company may extend the current policy at the current terms and conditions for the period of time needed to equal the 60 day time period required to provide notice of intention to renew by this subsection (b). The increase in premium shall be the renewal premium based on the known exposure as of the date of the quotation compared to the premium as of the last day of coverage for the current year's policy, annualized. The premium on the renewal policy may be subsequently amended to reflect any change in exposure or reinsurance costs not considered in the quotation. ~~b. This Section does not apply if the company has manifested its willingness to renew directly to the named insured. Provided, however, that no company may increase the renewal premium on any policy of insurance to which Section 143.11 applies, except for those defined in subsections (a), (b), (c), and (h) of Section 143.13, by 30% or more, nor impose changes in deductibles or coverage that materially alter the policy, unless the company shall have mailed or delivered to the named insured written notice of such increase or change in deductible or coverage at least 60 days prior to the renewal or anniversary date. The increase in premium shall be the renewal premium based on the known exposure as of the date of the quotation compared to the premium as of the last day of coverage for the current year's policy, annualized. The premium on the renewal policy may be subsequently amended to reflect any change in exposure or reinsurance costs not considered in the quotation. An exact and unaltered copy of such notice shall also be sent to the insured's broker, if known, or the agent of record. If an insurer fails to provide the notice required by this subsection, then the company must extend the current policy under the same terms, conditions, and premium to allow 60 days notice of renewal and provide the actual renewal premium quotation and any change in coverage or deductible on the policy. Proof of mailing or proof of receipt may be proven by a sworn affidavit by the insurer as to the usual and customary business practices of mailing notice pursuant to this Section or may be proven consistent with Illinois Supreme Court Rule 236.~~

(c) A company that has failed to provide notice of intention to nonrenew under subsection (a) of this Section and has failed to provide notice of intention to renew as prescribed under subsection (b) of this Section must renew the expiring policy under the same terms and conditions for an additional year or until the effective date of any similar insurance is procured by the insured, whichever is earlier. The company may increase the renewal premium. However, such increase must be less than 30% of the expiring term's premium and notice of such increase must be delivered to the named insured on or before the date of expiration of the current policy period. ~~c. Should a company fail to comply with the non renewal notice requirements of subsection a., the policy shall be extended for an additional year or until the effective date of any similar insurance procured by the insured, whichever is less, on the same terms and conditions as the policy sought to be terminated, unless the insurer has manifested its intention to renew at a different premium that represents an increase not exceeding 30%.~~

(d) Under subsection (a), the company shall maintain proof of mailing of the notice of intention not to renew to the named insured on one of the following forms: a recognized U.S. Post Office form or a form acceptable to the U.S. Post Office or other commercial mail delivery service. Under subsections (b) and (c), proof of mailing or proof of receipt of the notice of intention to renew to the named insured may be proven by a sworn affidavit by the company as to the usual and customary business practices of mailing notice pursuant to this Section or may be proven consistent with Illinois Supreme Court Rule 236. For all notice requirements under this Section, an exact and unaltered copy of the notice to the named insured shall also be sent to the named insured's producer, if known, or the producer of record. For notices of intention to not renew, an exact and unaltered copy of the notice to the named insured shall also be sent to the mortgagee or lien holder at the last mailing address known by the company. ~~d. Renewal of a policy does not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.~~

(e) Renewal of a policy does not constitute a waiver or estoppel with respect to grounds for

cancellation that existed before the effective date of such renewal. ~~e. In all notices of intention not to renew any policy of insurance, as defined in Section 143.11 the company shall provide a specific explanation of the reasons for nonrenewal.~~

(f) For purposes of this Section, the named insured's producer, if known, or the producer of record and the mortgagee or lien holder may opt to accept notification electronically. ~~f. For purposes of this Section, the insured's broker, if known, or the agent of record and the mortgagee or lien holder may opt to accept notification electronically.~~

(Source: P.A. 93-477, eff. 8-8-03; 93-713, eff. 1-1-05.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

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

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 484**, 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 54; Nays None; Present 1.

The following voted in the affirmative:

Althoff	Forby	Lightford	Righter
Bond	Frerichs	Link	Risinger
Brady	Garrett	Luechtefeld	Ronen
Burzynski	Haine	Maloney	Rutherford
Clayborne	Halvorson	Martinez	Sandoval
Collins	Harmon	Meeks	Sieben
Cronin	Hendon	Millner	Sullivan
Crotty	Holmes	Munoz	Syverson
Cullerton	Hultgren	Murphy	Trotter
Dahl	Hunter	Noland	Viverito
DeLeo	Jacobs	Pankau	Watson
Delgado	Jones, J.	Peterson	Wilhelmi
Demuzio	Kotowski	Radogno	
Dillard	Lauzen	Raoul	

The following voted present:

Bomke

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 Link, **Senate Bill No. 509** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 509

AMENDMENT NO. 2. Amend Senate Bill 509, AS AMENDED, by replacing everything after

the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Wholesale Licensure and Prescription Medication Integrity Act.

Section 5. Definitions. In this Act:

"Authentication" means to affirmatively verify, before any wholesale distribution of a prescription drug occurs, that each transaction listed on the pedigree has occurred.

"Authorized distributor of record" means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between a wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in Section 1504 of the Internal Revenue Code, complies with either of the following:

(1) the wholesale distributor has a written agreement currently in effect with the manufacturer evidencing the ongoing relationship; or

(2) the wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

"Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of the drugs to a group of chain pharmacies that have the same common ownership and control. Notwithstanding any other provision of this Act, a chain pharmacy warehouse shall be considered part of the normal distribution channel.

"Co-licensed partner or product" means an instance where 2 or more parties have the right to engage in the manufacturing or marketing of a prescription drug, consistent with the FDA's implementation of the Prescription Drug Marketing Act.

"Department" means the Department of Financial and Professional Regulation.

"Drop shipment" means the sale of a prescription drug to a wholesale distributor by the manufacturer of the prescription drug, or that manufacturer's co-licensed product partner, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, whereby the wholesale distributor or chain pharmacy warehouse takes title but not physical possession of such prescription drug and the wholesale distributor invoices the pharmacy, chain pharmacy warehouse, or other person authorized by law to dispense or administer such drug to a patient and the pharmacy, chain pharmacy warehouse or other authorized person receives delivery of the prescription drug directly from the manufacturer, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor.

"Facility" means a facility of a wholesale distributor where prescription drugs are stored, handled, repackaged, or offered for sale.

"FDA" means the United States Food and Drug Administration.

"Manufacturer" means a person licensed or approved by the FDA to engage in the manufacture of drugs or devices, consistent with the definition of "manufacturer" set forth in the FDA's regulations and guidances implementing the Prescription Drug Marketing Act.

"Manufacturer's exclusive distributor" means anyone who contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug. A manufacturer's exclusive distributor must be licensed as a wholesale distributor under this Act and, in order to be considered part of the normal distribution channel, must also be an authorized distributor of record.

"Normal distribution channel" means a chain of custody for a prescription drug that goes, directly or by drop shipment, from (i) a manufacturer of the prescription drug, (ii) that manufacturer to that manufacturer's co-licensed partner, (iii) that manufacturer to that manufacturer's third-party logistics provider, or (iv) that manufacturer to that manufacturer's exclusive distributor to:

(1) a pharmacy or to other designated persons authorized by law to dispense or administer the drug to a patient;

(2) a wholesale distributor to a pharmacy or other designated persons authorized by law to dispense or administer the drug to a patient;

(3) a wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer the drug; or

(4) a chain pharmacy warehouse to the chain pharmacy warehouse's intracompany pharmacy or other designated persons authorized by law to dispense or administer the drug.

"Pedigree" means a document or electronic file containing information that records each

wholesale distribution of any given prescription drug.

"Prescription drug" means any drug, including any biological product (except for blood and blood components intended for transfusion or biological products that are also medical devices), required by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and bulk drug substances subject to Section 503(b) of the federal Food, Drug and Cosmetic Act.

"Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist responsible for dispensing product to a patient.

"Third party logistics provider" means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition. A third party logistics provider must be licensed as a wholesale distributor under this Act and, in order to be considered part of the normal distribution channel, must also be an authorized distributor of record.

"Wholesale distributor" means anyone engaged in the wholesale distribution of prescription drugs, including without limitation manufacturers; repackagers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses; manufacturer's exclusive distributors; and authorized distributors of record; drug wholesalers or distributors; independent wholesale drug traders; specialty wholesale distributors; third party logistics providers; and retail pharmacies that conduct wholesale distribution; and chain pharmacy warehouses that conduct wholesale distribution. In order to be considered part of the normal distribution channel, a wholesale distributor must also be an authorized distributor of record.

"Wholesale distribution" means the distribution of prescription drugs to persons other than a consumer or patient, but does not include any of the following:

(1) Intracompany sales of prescription drugs, meaning (i) any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity or (ii) any transaction or transfer between co-licensees of a co-licensed product.

(2) The sale, purchase, distribution, trade, or transfer of a prescription drug or offer to sell, purchase, distribute, trade, or transfer a prescription drug for emergency medical reasons.

(3) The distribution of prescription drug samples by manufacturers' representatives.

(4) Drug returns, when conducted by a hospital, health care entity, or charitable institution in accordance with federal regulation.

(5) The sale of minimal quantities of prescription drugs by retail pharmacies to licensed practitioners for office use.

(6) The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription.

(7) The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets.

(8) The sale, purchase, distribution, trade, or transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record when the manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply the prescription drug and the supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel.

(9) The delivery of or the offer to deliver a prescription drug by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs when the common carrier does not store, warehouse, or take legal ownership of the prescription drug.

(10) The sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to the original manufacturer or to a third party returns processor.

Section 10. Licensure required.

(a) Every resident wholesale distributor who engages in the wholesale distribution of prescription drugs must be licensed by the Department, and every non-resident wholesale distributor must be licensed in this State if it ships prescription drugs into this State, in accordance with this Act, before engaging in wholesale distributions of wholesale prescription drugs. The Department shall exempt manufacturers

distributing their own FDA-approved drugs and devices from the requirements of this Section, to the extent not required by federal law or regulation, unless particular requirements are deemed necessary and appropriate following rulemaking.

(b) The Department shall require without limitation all of the following information from each applicant for licensure under this Act:

(1) The name, full business address, and telephone number of the licensee.

(2) All trade or business names used by the licensee.

(3) Addresses, telephone numbers, and the names of contact persons for all facilities used by the licensee for the storage, handling, and distribution of prescription drugs.

(4) The type of ownership or operation, such as a partnership, corporation, or sole proprietorship.

(5) The name of the owner or operator of the wholesale distributor, including:

(A) if a person, the name of the person;

(B) if a partnership, the name of each partner and the name of the partnership;

(C) if a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the state of incorporation; and

(D) if a sole proprietorship, the full name of the sole proprietor and the name of the business entity.

(6) A list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs.

(7) The name of the designated representative for the wholesale distributor, together with the personal information statement and fingerprints, as required under subsection (c) of this Section.

(8) Any additional information required by the Department.

(c) Each wholesale distributor must designate an individual representative who shall serve as the contact person for the Department. This representative must provide the Department with all of the following information:

(1) The person's places of residence for the past 7 years.

(2) The person's date and place of birth.

(3) The person's occupations, positions of employment, and offices held during the past 7 years and the principal business and address of any business, corporation, or other organization in which each such office of the person was held or in which each such occupation or position of employment was carried on.

(4) Information concerning whether the person has been, during the past 7 years, the subject of any proceeding for the revocation of any license or any criminal violation and, if so, the nature of the proceeding and the disposition of the proceeding.

(5) Information concerning whether, during the past 7 years, the person has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or State law regulating the possession, control, or distribution of prescription drugs or criminal violations, together with details concerning any such event.

(6) A description of any involvement by the person with any business, including any investments, other than the ownership of stock in a publicly traded company or mutual fund, during the past 7 years, which manufactured, administered, prescribed, distributed, or stored pharmaceutical products and any lawsuits in which such businesses were named as a party.

(7) A description of any misdemeanor or felony criminal offense of which the person, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the person pled guilty or nolo contendere. If the person indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal of that criminal offense, the applicant must, within 15 days after the disposition of the appeal, submit to the Department a copy of the final written order of disposition.

(8) A photograph of the person taken within the previous 180 days.

The designated representative must also submit his or her fingerprints to the Department to be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed, in a manner prescribed by the Department and must receive and complete continuing training in applicable federal and State laws governing the wholesale distribution of prescription drugs.

(d) Any information required to be submitted to the Department under subsections (b) and (c) of this Section shall be provided under oath.

(e) The Department may not issue a wholesale distributor license to an applicant,

unless the Department first:

(1) conducts a physical inspection of the facility at the address provided by the applicant as required under item (1) of subsection (b) of this Section; and

(2) determines that the designated representative meets each of the following qualifications:

(A) He or she is at least 21 years of age.

(B) He or she has been employed full-time for at least 3 years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and recordkeeping relating to, prescription drugs.

(C) He or she is employed by the applicant full time in a managerial level position.

(D) He or she is actively involved in and aware of the actual daily operation of the wholesale distributor.

(E) He or she is physically present at the facility of the applicant during regular business hours, except when the absence of the designated representative is authorized, including without limitation sick leave and vacation leave.

(F) He or she is serving in the capacity of a designated representative for only one applicant at a time, except where more than one licensed wholesale distributor is co-located in the same facility and such wholesale distributors are members of an affiliated group, as defined in Section 1504 of the Internal Revenue Code.

(G) He or she does not have any convictions under any federal, State, or local laws relating to wholesale or retail prescription drug distribution or distribution of controlled substances.

(H) He or she does not have any felony convictions under federal, State, or local laws.

(f) If a wholesale distributor distributes prescription drugs from more than one facility, the wholesale distributor shall obtain a license for each facility.

(g) The information provided under this Section may not be disclosed to any person or entity other than the Department or another government entity in need of such information for licensing or monitoring purposes.

Section 15. License renewal.

In accordance with each license renewal, the Department shall send to each licensee a form setting forth the information that the licensee provided to the Department in the licensee's original application for licensure under Section 10 of this Act. Within 30 days after receiving the form, the wholesale distributor must identify and state under oath to the Department any and all changes or corrections to the information originally submitted to the Department. The Department may suspend or revoke the license of a licensee if the Department determines that the licensee no longer qualifies for the license originally issued under this Act.

Section 20. Bond required.

The Department shall require every wholesale distributor applying for licensure under this Act to submit a bond of at least $100,000 or another equivalent means of security acceptable to the Department, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to a fund established by the Department. Chain pharmacy warehouses that are not engaged in wholesale distribution are exempt from the bond requirement of this Section. The purpose of the bond is to secure payment of any fines or penalties imposed by the Department and any fees and costs incurred by the Department regarding that license, which are authorized under State law and which the licensee fails to pay 30 days after the fines, penalties, or costs become final. The Department may make a claim against the bond or security until one year after the licensee's license ceases to be valid. A single bond may suffice to cover all facilities operated by an applicant in this State.

The Department shall establish a fund, separate from its other accounts, in which to deposit the wholesale distributor bonds required under this Section.

Section 25. Restrictions on transactions.

(a) A licensee shall receive prescription drug returns or exchanges from a pharmacy or chain pharmacy warehouse pursuant to the terms and conditions of the agreement between the wholesale distributor and the pharmacy or chain pharmacy warehouse. Returns of expired, damaged, recalled, or otherwise non-saleable pharmaceutical products shall be distributed by the receiving wholesale distributor only to either the original manufacturer or a third party returns processor, and such returns or exchanges, including any redistribution by a receiving wholesaler, shall not be subject to the pedigree requirements of Section 30 of this Act, so long as they are exempt from the pedigree requirement of the FDA's currently applicable Prescription Drug Marketing Act guidance. Both licensees under this Act and pharmacies shall be accountable for administering their returns process and ensuring that the aspects of this operation are secure and do not permit the entry of adulterated and counterfeit product.

(b) A manufacturer or wholesale distributor licensed under this Act may furnish prescription drugs only to a person licensed by the appropriate state licensing authorities. Before furnishing prescription drugs to a person not known to the manufacturer or wholesale distributor, the manufacturer or wholesale distributor must affirmatively verify that the person is legally authorized to receive the prescription drugs by contacting the appropriate state licensing authorities.

(c) Prescription drugs furnished by a manufacturer or wholesale distributor licensed under this Act may be delivered only to the premises listed on the license, provided that the manufacturer or wholesale distributor may furnish prescription drugs to an authorized person or agent of that person at the premises of the manufacturer or wholesale distributor if:

(1) the identity and authorization of the recipient is properly established; and

(2) this method of receipt is employed only to meet the immediate needs of a particular patient of the authorized person.

(d) Prescription drugs may be furnished to a hospital pharmacy receiving area, provided that a pharmacist or authorized receiving personnel signs, at the time of delivery, a receipt showing the type and quantity of the prescription drug received. Any discrepancy between the receipt and the type and quantity of the prescription drug actually received shall be reported to the delivering manufacturer or wholesale distributor by the next business day after the delivery to the pharmacy receiving area.

(e) A manufacturer or wholesale distributor licensed under this Act may not accept payment for, or allow the use of, a person or entity's credit to establish an account for the purchase of prescription drugs from any person other than the owner of record, the chief executive officer, or the chief financial officer listed on the license of a person or entity legally authorized to receive the prescription drugs. Any account established for the purchase of prescription drugs must bear the name of the licensee. This subsection (e) shall not be construed to prohibit a pharmacy or chain pharmacy warehouse from receiving prescription drugs if payment for the prescription drugs is processed through the pharmacy's or chain pharmacy warehouse's contractual drug manufacturer or wholesale distributor.

Section 30. Pedigree.

(a) Each person who is engaged in the wholesale distribution of prescription drugs, including repackagers, but excluding the original manufacturer of the finished form of the prescription drug, that leave or have ever left the normal distribution channel shall, before each wholesale distribution of the drug, provide a pedigree to the person who receives the drug.

A retail pharmacy or chain pharmacy warehouse must comply with the requirements of this Section only if the pharmacy or chain pharmacy warehouse engages in the wholesale distribution of prescription drugs.

The State Board of Pharmacy shall determine by July 1, 2009, a targeted implementation date for electronic track and trace technology. This determination shall be based on consultation with manufacturers, distributors, and pharmacies responsible for the sale and distribution of prescription drug products in this State. After consultation with interested stakeholders and prior to the implementation of the track and trace technology, the State Board of Pharmacy shall deem that the technology is universally available across the entire prescription pharmaceutical supply chain. The implementation date for the mandated electronic track and trace technology shall be no sooner than July 1, 2010 and may be extended by the State Board of Pharmacy in one year increments if it appears that the technology is not universally available across the entire prescription pharmaceutical supply chain.

(b) Each person who is engaged in the wholesale distribution of a prescription drug, including repackagers, but excluding the original manufacturer of the finished form of the prescription

drug, who is provided a pedigree for a prescription drug and attempts to further distribute that prescription drug, must affirmatively verify before any distribution of a prescription drug occurs that each transaction listed on the pedigree has occurred.

(c) The pedigree must include all necessary identifying information concerning each sale in the chain of distribution of the product from the manufacturer or the manufacturer's third party logistics provider, co-licensed product partner, or exclusive distributor through acquisition and sale by any wholesale distributor or repackager, until final sale to a pharmacy or other person dispensing or administering the drug. This necessary chain of distribution information shall include, without limitation all of the following:

(1) The name, address, telephone number and, if available, the e-mail address of each owner of the prescription drug and each wholesale distributor of the prescription drug.

(2) The name and address of each location from which the product was shipped, if different from the owner's.

(3) Transaction dates.

(4) Certification that each recipient has authenticated the pedigree.

(d) The pedigree must also include without limitation all of the following information concerning the prescription drug:

(1) The name and national drug code number of the prescription drug.

(2) The dosage form and strength of the prescription drug.

(3) The size of the container.

(4) The number of containers.

(5) The lot number of the prescription drug.

(6) The name of the manufacturer of the finished dosage form.

(e) Each pedigree or electronic file shall be maintained by the purchaser and the wholesale distributor for at least 3 years from the date of sale or transfer and made available for inspection or use within 5 business days upon a request of the Department.

(f) The Department shall adopt rules and prescribe a form relating to the requirements of this Section no later than 90 days after the effective date of this Act.

Section 35. Prohibited acts. It is unlawful for a person to perform or cause the performance of or aid and abet any of the following acts:

(1) Failure to obtain a license in accordance with this Act or operating without a valid license when a license is required by this Act.

(2) If the requirements of subsection (a) of Section 25 are applicable and are not met, the purchasing or otherwise receiving of a prescription drug from a pharmacy.

(3) If licensure is required pursuant to subsection (b) of Section 25 of this Act, the sale, distribution, or transfer of a prescription drug to a person that is not authorized under the law of the jurisdiction in which the person receives the prescription drug to receive the prescription drug.

(4) Failure to deliver prescription drugs to specified premises, as required by subsection (c) of Section 25 of this Act.

(5) Accepting payment or credit for the sale of prescription drugs in violation of subsection (e) of Section 25 of this Act.

(6) Failure to maintain or provide pedigrees as required by this Act;

(7) Failure to obtain, pass, or authenticate a pedigree as required by this Act.

(8) Providing the Department or any federal official with false or fraudulent records or making false or fraudulent statements regarding any matter within the provisions of this Act.

(9) Obtaining or attempting to obtain a prescription drug by fraud, deceit, or misrepresentation or engaging in misrepresentation or fraud in the distribution of a prescription drug.

(10) The manufacture, repacking, sale, transfer, delivery, holding, or offering for sale of any prescription drug that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or that has otherwise been rendered unfit for distribution.

(11) The adulteration, misbranding, or counterfeiting of any prescription drug.

(12) The receipt of any prescription drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected of being counterfeit and the delivery or proffered delivery of such drug for pay or otherwise.

(13) The alteration, mutilation, destruction, obliteration, or removal of the

whole or any part of the labeling of a prescription drug or the commission of any other act with respect to a prescription drug that results in the prescription drug being misbranded.

The acts prohibited in this Section do not include the obtaining or the attempt to obtain a prescription drug for the sole purpose of testing the prescription drug for authenticity performed by a prescription drug manufacturer or the agent of a prescription drug manufacturer.

Section 40. Enforcement; order to cease distribution of a drug.

(a) The Department shall issue an order requiring the appropriate person, including the distributors or retailers of a drug, to immediately cease distribution of the drug within this State, if the Department finds that there is a reasonable probability that:

(1) a wholesale distributor has (i) violated a provision in this Act or (ii) falsified a pedigree or sold, distributed, transferred, manufactured, repackaged, handled, or held a counterfeit prescription drug intended for human use;

(2) the prescription drug at issue, as a result of a violation in paragraph (1) of this subsection (a), could cause serious, adverse health consequences or death; and

(3) other procedures would result in unreasonable delay.

(b) An order issued under this Section shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order. If, after providing an opportunity for a hearing, the Department determines that inadequate grounds exist to support the actions required by the order, the Department shall vacate the order.

Section 45. Penalties.

(a) Any person who engages in the wholesale distribution of prescription drugs in violation of this Act may be fined not more than $10,000.

(b) Any person who engages in the wholesale distribution of prescription drugs in violation of this Act and does so in a grossly negligent manner may be imprisoned for not more than 15 years, fined not more than $50,000, or both.

(c) Any person who knowingly engages in the wholesale distribution of prescription drugs in violation of this Act may be imprisoned for any term of years, fined not more than $500,000, or both.

Section 90. The Regulatory Sunset Act is amended by adding Section 4.28 as follows:

(5 ILCS 80/4.28 new)

Sec. 4.28. Act repealed on January 1, 2018. The following Act is repealed on January 1, 2018:

The Wholesale Licensure and Prescription Medication Integrity Act.

Section 95. The Pharmacy Practice Act of 1987 is amended by changing Section 10 as follows:

(225 ILCS 85/10) (from Ch. 111, par. 4130)

(Section scheduled to be repealed on January 1, 2008)

Sec. 10. State Board of Pharmacy. There is created in the Department the State Board of Pharmacy. It shall consist of 9 members, 7 of whom shall be licensed pharmacists. Each of those 7 members must be a licensed pharmacist in good standing in this State, a graduate of an accredited college of pharmacy or hold a Bachelor of Science degree in Pharmacy and have at least 5 years' practical experience in the practice of pharmacy subsequent to the date of his licensure as a licensed pharmacist in the State of Illinois. There shall be 2 public members, who shall be voting members, who shall not be licensed pharmacists in this State or any other state.

Each member shall be appointed by the Governor.

The terms of all members serving as of March 31, 1999 shall expire on that date. The Governor shall appoint 3 persons to serve one-year terms, 3 persons to serve 3-year terms, and 3 persons to serve 5-year terms to begin April 1, 1999. Otherwise, members shall be appointed to 5 year terms. No member shall be eligible to serve more than 12 consecutive years.

In making the appointment of members on the Board, the Governor shall give due consideration to recommendations by the members of the profession of pharmacy and by pharmaceutical organizations therein. The Governor shall notify the pharmaceutical organizations promptly of any vacancy of members on the Board and in appointing members shall give consideration to individuals engaged in all types and settings of pharmacy practice.

The Governor may remove any member of the Board for misconduct, incapacity or neglect of duty

and he shall be the sole judge of the sufficiency of the cause for removal.

Every person appointed a member of the Board shall take and subscribe the constitutional oath of office and file it with the Secretary of State. Each member of the Board shall be reimbursed for such actual and legitimate expenses as he may incur in going to and from the place of meeting and remaining thereat during sessions of the Board. In addition, each member of the Board shall receive a per diem payment in an amount determined from time to time by the Director for attendance at meetings of the Board and conducting other official business of the Board.

The Board shall hold quarterly meetings and an annual meeting in January of each year and such other meetings at such times and places and upon such notice as the Board may determine and as its business may require. Five members of the Board shall constitute a quorum for the transaction of business. The Director shall appoint a pharmacy coordinator, who shall be someone other than a member of the Board. The pharmacy coordinator shall be a registered pharmacist in good standing in this State, shall be a graduate of an accredited college of pharmacy, or hold at a minimum a Bachelor of Science degree in Pharmacy and shall have at least 5 years' experience in the practice of pharmacy immediately prior to his appointment. The pharmacy coordinator shall be the executive administrator and the chief enforcement officer of the Pharmacy Practice Act of 1987.

The Board shall exercise the rights, powers and duties which have been vested in the Board under this Act, and any other duties conferred upon the Board by law, including those set forth in Section 30 of the Wholesale Licensure and Prescription Medication Integrity Act.

The Director shall, in conformity with the Personnel Code, employ not less than 7 pharmacy investigators and 2 pharmacy supervisors. Each pharmacy investigator and each supervisor shall be a registered pharmacist in good standing in this State, and shall be a graduate of an accredited college of pharmacy and have at least 5 years of experience in the practice of pharmacy. The Department shall also employ at least one attorney who is a pharmacist to prosecute violations of this Act and its rules. The Department may, in conformity with the Personnel Code, employ such clerical and other employees as are necessary to carry out the duties of the Board.

The duly authorized pharmacy investigators of the Department shall have the right to enter and inspect during business hours any pharmacy or any other place in the State of Illinois holding itself out to be a pharmacy where medicines or drugs or drug products or proprietary medicines are sold, offered for sale, exposed for sale, or kept for sale. The pharmacy investigators shall be the only Department investigators authorized to inspect, investigate, and monitor probation compliance of pharmacists, pharmacies, and pharmacy technicians.

(Source: P.A. 91-827, eff. 6-13-00; 92-651, eff. 7-11-02; 92-880, eff. 1-1-04.)

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. 3 was held in the Committee on Rules.

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

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 509**, 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 56; Nays None.

The following voted in the affirmative:

Althoff	Forby	Link	Ronen
Bomke	Frerichs	Luechtefeld	Rutherford
Bond	Garrett	Maloney	Sandoval
Brady	Haine	Martinez	Sieben
Burzynski	Halvorson	Meeks	Sullivan

Clayborne	Harmon	Millner	Syverson
Collins	Hendon	Munoz	Trotter
Cronin	Holmes	Murphy	Viverito
Crotty	Hultgren	Noland	Watson
Cullerton	Hunter	Pankau	Wilhelmi
Dahl	Jacobs	Peterson	Mr. President
DeLeo	Jones, J.	Radogno	
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	
Dillard	Lightford	Risinger	

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.

On motion of Senator Frerichs, **Senate Bill No. 393**, 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 56; Nays None.

The following voted in the affirmative:

Althoff	Forby	Link	Ronen
Bomke	Frerichs	Luechtefeld	Rutherford
Bond	Garrett	Maloney	Sandoval
Brady	Haine	Martinez	Sieben
Burzynski	Halvorson	Meeks	Sullivan
Clayborne	Harmon	Millner	Syverson
Collins	Hendon	Munoz	Trotter
Cronin	Holmes	Murphy	Viverito
Crotty	Hultgren	Noland	Watson
Cullerton	Hunter	Pankau	Wilhelmi
Dahl	Jacobs	Peterson	Mr. President
DeLeo	Jones, J.	Radogno	
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	
Dillard	Lightford	Risinger	

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.

On motion of Senator Frerichs, **Senate Bill No. 394**, 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 55; Nays 1.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Raoul
Bomke	Forby	Lightford	Righter

Bond	Frerichs	Link	Risinger
Brady	Garrett	Luechtefeld	Ronen
Burzynski	Haine	Maloney	Rutherford
Clayborne	Halvorson	Martinez	Sieben
Collins	Harmon	Meeks	Sullivan
Cronin	Hendon	Millner	Syverson
Crotty	Holmes	Munoz	Trotter
Cullerton	Hultgren	Murphy	Viverito
Dahl	Hunter	Noland	Watson
DeLeo	Jacobs	Pankau	Wilhelmi
Delgado	Jones, J.	Peterson	Mr. President
Demuzio	Kotowski	Radogno	

The following voted in the negative:

Sandoval

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

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

SENATE BILL RECALLED

On motion of Senator Delgado, **Senate Bill No. 544** was recalled from the order of third reading to the order of second reading.

Senator Delgado offered the following amendment:

AMENDMENT NO. 2 TO SENATE BILL 544

AMENDMENT NO. _2_. Amend Senate Bill 544, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 2, lines 7 and 8, by replacing "a family member" with "an adult ~~a~~ family member"; and

on page 2, lines 25 and 26, by replacing "a T.D.D. number for the hearing impaired" with "a TTY number for persons who are deaf or hard of hearing ~~T.D.D. number for the hearing impaired~~"; and

on page 4, by replacing lines 7 through 10 with the following:
"language according to the Interpreters for the Deaf Act and a list of the languages of the population of the geographical area served by the facility.".

Senator Delgado moved the foregoing amendment be ordered to lie on the table.

The motion prevailed, and the amendment was tabled.

Senator Delgado offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 544

AMENDMENT NO. _3_. Amend Senate Bill 544, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 2, lines 25 and 26, by replacing "a T.D.D. number for the hearing impaired" with "a TTY number for persons who are deaf or hard of hearing ~~T.D.D. number for the hearing impaired~~"; and

on page 4, by replacing lines 7 through 10 with the following:
"language according to the Interpreters for the Deaf Act and a list of the languages of the population of the geographical area served by the facility.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was 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 Delgado, **Senate Bill No. 544**, 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 52; Nays None.

The following voted in the affirmative:

Bomke	Garrett	Luechtefeld	Rutherford
Bond	Haine	Maloney	Sandoval
Brady	Halvorson	Martinez	Sieben
Clayborne	Harmon	Meeks	Sullivan
Collins	Hendon	Millner	Syverson
Cronin	Holmes	Munoz	Trotter
Crotty	Hultgren	Murphy	Viverito
Cullerton	Hunter	Noland	Watson
Dahl	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, J.	Peterson	Mr. President
Delgado	Kotowski	Radogno	
Demuzio	Lauzen	Raoul	
Forby	Lightford	Righter	
Frerichs	Link	Ronen	

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 Wilhelmi, **Senate Bill No. 697** was recalled from the order of third reading to the order of second reading.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 697

AMENDMENT NO. 3 . Amend Senate Bill 697 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Section 11-20.1A and by adding Section 11-20.3 as follows:

(720 ILCS 5/11-20.1A) (from Ch. 38, par. 11-20.1A)

Sec. 11-20.1A. Forfeitures.

(a) A person who commits the offense of keeping a place of juvenile prostitution, exploitation of a child, or child pornography under Section 11-17.1, 11-19.2, ~~or~~ 11-20.1 , or 11-20.3 of this Code shall forfeit to the State of Illinois:

(1) Any profits or proceeds and any interest or property he or she has acquired or maintained in violation of Section 11-17.1, 11-19.2, ~~or~~ 11-20.1 , or 11-20.3 of this Code that the sentencing court determines, after a forfeiture hearing, to have been acquired or maintained as a result of keeping a place of juvenile prostitution, exploitation of a child, ~~or~~ child pornography , or aggravated child pornography.

(2) Any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that he or she has established, operated, controlled, or conducted in violation of Section 11-17.1, 11-19.2, ~~or~~ 11-20.1 , or 11-20.3 of this Code

that the sentencing court determines, after a forfeiture hearing, to have been acquired or maintained as a result of keeping a place of juvenile prostitution, exploitation of a child, ~~or~~ child pornography , or aggravated child pornography.

(3) Any computer that contains a depiction of child pornography in any encoded or decoded format in violation of Section 11-20.1 of this Code. For purposes of this paragraph (3), "computer" has the meaning ascribed to it in Section 16D-2 of this Code.

(b) (1) The court shall, upon petition by the Attorney General or State's Attorney at any time following sentencing, conduct a hearing to determine whether any property or property interest is subject to forfeiture under this Section. At the forfeiture hearing the people shall have the burden of establishing, by a preponderance of the evidence, that property or property interests are subject to forfeiture under this Section.

(2) In any action brought by the People of the State of Illinois under this Section, wherein any restraining order, injunction or prohibition or any other action in connection with any property or interest subject to forfeiture under this Section is sought, the circuit court presiding over the trial of the person or persons charged with keeping a place of juvenile prostitution, exploitation of a child or child pornography shall first determine whether there is probable cause to believe that the person or persons so charged have committed the offense of keeping a place of juvenile prostitution, exploitation of a child or child pornography and whether the property or interest is subject to forfeiture pursuant to this Section. In order to make such a determination, prior to entering any such order, the court shall conduct a hearing without a jury, wherein the People shall establish that there is: (i) probable cause that the person or persons so charged have committed the offense of keeping a place of juvenile prostitution, exploitation of a child or child pornography and (ii) probable cause that any property or interest may be subject to forfeiture pursuant to this Section. Such hearing may be conducted simultaneously with a preliminary hearing, if the prosecution is commenced by information or complaint, or by motion of the People, at any stage in the proceedings. The court may accept a finding of probable cause at a preliminary hearing following the filing of an information charging the offense of keeping a place of juvenile prostitution, exploitation of a child or child pornography or the return of an indictment by a grand jury charging the offense of keeping a place of juvenile prostitution, exploitation of a child or child pornography as sufficient evidence of probable cause as provided in item (i) above. Upon such a finding, the circuit court shall enter such restraining order, injunction or prohibition, or shall take such other action in connection with any such property or other interest subject to forfeiture, as is necessary to insure that such property is not removed from the jurisdiction of the court, concealed, destroyed or otherwise disposed of by the owner of that property or interest prior to a forfeiture hearing under this Section. The Attorney General or State's Attorney shall file a certified copy of such restraining order, injunction or other prohibition with the recorder of deeds or registrar of titles of each county where any such property of the defendant may be located. No such injunction, restraining order or other prohibition shall affect the rights of any bona fide purchaser, mortgagee, judgment creditor or other lienholder arising prior to the date of such filing. The court may, at any time, upon verified petition by the defendant or an innocent owner or innocent bona fide third party lienholder who neither had knowledge of, nor consented to, the illegal act or omission, conduct a hearing to release all or portions of any such property or interest which the court previously determined to be subject to forfeiture or subject to any restraining order, injunction, or prohibition or other action. The court may release such property to the defendant or innocent owner or innocent bona fide third party lienholder who neither had knowledge of, nor consented to, the illegal act or omission for good cause shown and within the sound discretion of the court.

A forfeiture under this Section may be commenced by the Attorney General or a State's Attorney.

(3) Upon conviction of a person of keeping a place of juvenile prostitution, exploitation of a child or child pornography, the court shall authorize the Attorney General to seize all property or other interest declared forfeited under this Section upon such terms and conditions as the court shall deem proper.

(4) The Attorney General is authorized to sell all property forfeited and seized pursuant to this Section, unless such property is required by law to be destroyed or is harmful to the public, and, after the deduction of all requisite expenses of administration and sale, shall distribute the proceeds of such sale, along with any moneys forfeited or seized, in accordance with subsection (c) of this Section.

(c) All monies forfeited and the sale proceeds of all other property forfeited and seized under this Section shall be distributed as follows:

(1) One-half shall be divided equally among all State agencies and units of local

government whose officers or employees conducted the investigation which resulted in the forfeiture; and

(2) One-half shall be deposited in the Violent Crime Victims Assistance Fund.

(Source: P.A. 91-229, eff. 1-1-00; 92-175, eff. 1-1-02.)

(720 ILCS 5/11-20.3 new)

Sec. 11-20.3. Aggravated child pornography.

(a) A person commits the offense of aggravated child pornography who:

(1) films, videotapes, photographs, or otherwise depicts or portrays by means of any similar visual medium or reproduction or depicts by computer any child whom he or she knows or reasonably should know to be under the age of 13 years where such child is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child and the sex organs of another person or animal; or

(iii) actually or by simulation engaged in any act of masturbation; or

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person; or

(2) with the knowledge of the nature or content thereof, reproduces, disseminates, offers to disseminate, exhibits or possesses with intent to disseminate any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(3) with knowledge of the subject matter or theme thereof, produces any stage play, live performance, film, videotape or other similar visual portrayal or depiction by computer which includes a child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(4) solicits, uses, persuades, induces, entices, or coerces any child whom he or she knows or reasonably should know to be under the age of 13 to appear in any stage play, live presentation, film, videotape, photograph or other similar visual reproduction or depiction by computer in which the child or severely or profoundly mentally retarded person is or will be depicted, actually or by simulation, in any act, pose or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(5) is a parent, step-parent, legal guardian or other person having care or custody of a child whom the person knows or reasonably should know to be under the age of 13 and who knowingly permits, induces, promotes, or arranges for such child to appear in any stage play, live performance, film, videotape, photograph or other similar visual presentation, portrayal or simulation or depiction by computer of any act or activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(6) with knowledge of the nature or content thereof, possesses any film, videotape, photograph or other similar visual reproduction or depiction by computer of any child whom the person knows or reasonably should know to be under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) of paragraph (1) of this subsection; or

(7) solicits, or knowingly uses, persuades, induces, entices, or coerces a person to provide a child under the age of 13 to appear in any videotape, photograph, film, stage play, live presentation, or other similar visual reproduction or depiction by computer in which the child will be depicted, actually or by simulation, in any act, pose, or setting described in subparagraphs (i) through (vii) of paragraph (1) of this subsection.

(b)(1) It shall be an affirmative defense to a charge of aggravated child pornography that the defendant reasonably believed, under all of the circumstances, that the child was 13 years of age or older, but only where, prior to the act or acts giving rise to a prosecution under this Section, he or she took some

affirmative action or made a bonafide inquiry designed to ascertain whether the child was 13 years of age or older and his or her reliance upon the information so obtained was clearly reasonable.

(2) The charge of aggravated child pornography shall not apply to the performance of official duties by law enforcement or prosecuting officers or persons employed by law enforcement or prosecuting agencies, court personnel or attorneys, nor to bonafide treatment or professional education programs conducted by licensed physicians, psychologists or social workers.

(3) If the defendant possessed more than 3 of the same film, videotape or visual reproduction or depiction by computer in which aggravated child pornography is depicted, then the trier of fact may infer that the defendant possessed such materials with the intent to disseminate them.

(4) The charge of aggravated child pornography does not apply to a person who does not voluntarily possess a film, videotape, or visual reproduction or depiction by computer in which aggravated child pornography is depicted. Possession is voluntary if the defendant knowingly procures or receives a film, videotape, or visual reproduction or depiction for a sufficient time to be able to terminate his or her possession.

(c) Sentence: (1) A person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is guilty of a Class X felony with a mandatory minimum fine of $2,000 and a maximum fine of $100,000.

(2) A person who commits a violation of paragraph (6) of subsection (a) is guilty of a Class 2 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

(3) A person who commits a violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class X Felony for which the person shall be sentenced to a term of imprisonment of not less than 9 years with a mandatory minimum fine of $2,000 and a maximum fine of $100,000.

(4) A person who commits a violation of paragraph (6) of subsection (a) where the defendant has previously been convicted under the laws of this State or any other state of the offense of child pornography, aggravated child pornography, aggravated criminal sexual abuse, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or any of the offenses formerly known as rape, deviate sexual assault, indecent liberties with a child, or aggravated indecent liberties with a child where the victim was under the age of 18 years or an offense that is substantially equivalent to those offenses, is guilty of a Class 1 felony with a mandatory minimum fine of $1000 and a maximum fine of $100,000.

(d) If a person is convicted of a second or subsequent violation of this Section within 10 years of a prior conviction, the court shall order a presentence psychiatric examination of the person. The examiner shall report to the court whether treatment of the person is necessary.

(e) Any film, videotape, photograph or other similar visual reproduction or depiction by computer which includes a child under the age of 13 engaged in any activity described in subparagraphs (i) through (vii) or paragraph (1) of subsection (a), and any material or equipment used or intended for use in photographing, filming, printing, producing, reproducing, manufacturing, projecting, exhibiting, depiction by computer, or disseminating such material shall be seized and forfeited in the manner, method and procedure provided by Section 36-1 of this Code for the seizure and forfeiture of vessels, vehicles and aircraft.

(e-5) Upon the conclusion of a case brought under this Section, the court shall seal all evidence depicting a victim or witness that is sexually explicit. The evidence may be unsealed and viewed, on a motion of the party seeking to unseal and view the evidence, only for good cause shown and in the discretion of the court. The motion must expressly set forth the purpose for viewing the material. The State's attorney and the victim, if possible, shall be provided reasonable notice of the hearing on the motion to unseal the evidence. Any person entitled to notice of a hearing under this subsection (e-5) may object to the motion.

(f) Definitions. For the purposes of this Section:

(1) "Disseminate" means (i) to sell, distribute, exchange or transfer possession, whether with or without consideration or (ii) to make a depiction by computer available for distribution or downloading through the facilities of any telecommunications network or through any other means of transferring computer programs or data to a computer.

(2) "Produce" means to direct, promote, advertise, publish, manufacture, issue, present or show.

(3) "Reproduce" means to make a duplication or copy.

(4) "Depict by computer" means to generate or create, or cause to be created or generated, a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(5) "Depiction by computer" means a computer program or data that, after being processed by a computer either alone or in conjunction with one or more computer programs, results in a visual depiction on a computer monitor, screen, or display.

(6) "Computer", "computer program", and "data" have the meanings ascribed to them in Section 16D-2 of this Code.

(7) For the purposes of this Section, "child" means a person, either in part, or in total, under the age of 13, regardless of the method by which the film, videotape, photograph, or other similar visual medium or reproduction or depiction by computer is created, adopted, or modified to appear as such.

(8) "Sexual penetration" and "sexual conduct" have the meanings ascribed to them in Section 12-12 of this Code.

(g) When a charge of aggravated child pornography is brought, the age of the child is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the age in question. The trier of fact can rely on its own everyday observations and common experiences in making this determination.

Section 10. The Unified Code of Corrections is amended by changing Section 5-5-3 as follows:

(730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

Sec. 5-5-3. Disposition.

(a) Except as provided in Section 11-501 of the Illinois Vehicle Code, every person convicted of an offense shall be sentenced as provided in this Section.

(b) The following options shall be appropriate dispositions, alone or in combination, for all felonies and misdemeanors other than those identified in subsection (c) of this Section:

(1) A period of probation.

(2) A term of periodic imprisonment.

(3) A term of conditional discharge.

(4) A term of imprisonment.

(5) An order directing the offender to clean up and repair the damage, if the offender was convicted under paragraph (h) of Section 21-1 of the Criminal Code of 1961 (now repealed).

(6) A fine.

(7) An order directing the offender to make restitution to the victim under Section 5-5-6 of this Code.

(8) A sentence of participation in a county impact incarceration program under Section 5-8-1.2 of this Code.

(9) A term of imprisonment in combination with a term of probation when the offender has been admitted into a drug court program under Section 20 of the Drug Court Treatment Act.

Neither a fine nor restitution shall be the sole disposition for a felony and either or both may be imposed only in conjunction with another disposition.

(c) (1) When a defendant is found guilty of first degree murder the State may either seek a sentence of imprisonment under Section 5-8-1 of this Code, or where appropriate seek a sentence of death under Section 9-1 of the Criminal Code of 1961.

(2) A period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for the following offenses. The court shall sentence the offender to not less than the minimum term of imprisonment set forth in this Code for the following offenses, and may order a fine or restitution or both in conjunction with such term of imprisonment:

(A) First degree murder where the death penalty is not imposed.

(B) Attempted first degree murder.

(C) A Class X felony.

(D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(1) or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin or cocaine or an analog thereof.

(E) A violation of Section 5.1 or 9 of the Cannabis Control Act.

(F) A Class 2 or greater felony if the offender had been convicted of a Class 2 or greater felony within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of the Criminal Code of 1961 for which imprisonment is prescribed in those Sections.

(G) Residential burglary, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(H) Criminal sexual assault.

(I) Aggravated battery of a senior citizen.

(J) A forcible felony if the offense was related to the activities of an organized gang.

Before July 1, 1994, for the purposes of this paragraph, "organized gang" means an association of 5 or more persons, with an established hierarchy, that encourages members of the association to perpetrate crimes or provides support to the members of the association who do commit crimes.

Beginning July 1, 1994, for the purposes of this paragraph, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(K) Vehicular hijacking.

(L) A second or subsequent conviction for the offense of hate crime when the underlying offense upon which the hate crime is based is felony aggravated assault or felony mob action.

(M) A second or subsequent conviction for the offense of institutional vandalism if the damage to the property exceeds $300.

(N) A Class 3 felony violation of paragraph (1) of subsection (a) of Section 2 of the Firearm Owners Identification Card Act.

(O) A violation of Section 12-6.1 of the Criminal Code of 1961.

(P) A violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961.

(Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.

(R) A violation of Section 24-3A of the Criminal Code of 1961.

(S) (Blank).

(T) A second or subsequent violation of the Methamphetamine Control and Community Protection Act.

(U) A violation of paragraph (4) of subsection (c) of Section 11-20.3 of the Criminal Code of 1961.

(3) (Blank).

(4) A minimum term of imprisonment of not less than 10 consecutive days or 30 days of community service shall be imposed for a violation of paragraph (c) of Section 6-303 of the Illinois Vehicle Code.

(4.1) (Blank).

(4.2) Except as provided in paragraph (4.3) of this subsection (c), a minimum of 100 hours of community service shall be imposed for a second violation of Section 6-303 of the Illinois Vehicle Code.

(4.3) A minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a second violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.4) Except as provided in paragraph (4.5) and paragraph (4.6) of this subsection (c), a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a third or subsequent violation of Section 6-303 of the Illinois Vehicle Code.

(4.5) A minimum term of imprisonment of 30 days shall be imposed for a third violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.6) A minimum term of imprisonment of 180 days shall be imposed for a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(5) The court may sentence an offender convicted of a business offense or a petty offense or a corporation or unincorporated association convicted of any offense to:

(A) a period of conditional discharge;

(B) a fine;

(C) make restitution to the victim under Section 5-5-6 of this Code.

(5.1) In addition to any penalties imposed under paragraph (5) of this subsection (c), and except as provided in paragraph (5.2) or (5.3), a person convicted of violating subsection (c) of

Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 90 days but not more than one year, if the violation resulted in damage to the property of another person.

(5.2) In addition to any penalties imposed under paragraph (5) of this subsection (c), and except as provided in paragraph (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 180 days but not more than 2 years, if the violation resulted in injury to another person.

(5.3) In addition to any penalties imposed under paragraph (5) of this subsection (c), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 2 years, if the violation resulted in the death of another person.

(5.4) In addition to any penalties imposed under paragraph (5) of this subsection (c), a person convicted of violating Section 3-707 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 3 months and until he or she has paid a reinstatement fee of $100.

(5.5) In addition to any penalties imposed under paragraph (5) of this subsection (c), a person convicted of violating Section 3-707 of the Illinois Vehicle Code during a period in which his or her driver's license, permit, or privileges were suspended for a previous violation of that Section shall have his or her driver's license, permit, or privileges suspended for an additional 6 months after the expiration of the original 3-month suspension and until he or she has paid a reinstatement fee of $100.

(6) In no case shall an offender be eligible for a disposition of probation or conditional discharge for a Class 1 felony committed while he was serving a term of probation or conditional discharge for a felony.

(7) When a defendant is adjudged a habitual criminal under Article 33B of the Criminal Code of 1961, the court shall sentence the defendant to a term of natural life imprisonment.

(8) When a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 felony, after having twice been convicted in any state or federal court of an offense that contains the same elements as an offense now classified in Illinois as a Class 2 or greater Class felony and such charges are separately brought and tried and arise out of different series of acts, such defendant shall be sentenced as a Class X offender. This paragraph shall not apply unless (1) the first felony was committed after the effective date of this amendatory Act of 1977; and (2) the second felony was committed after conviction on the first; and (3) the third felony was committed after conviction on the second. A person sentenced as a Class X offender under this paragraph is not eligible to apply for treatment as a condition of probation as provided by Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(9) A defendant convicted of a second or subsequent offense of ritualized abuse of a child may be sentenced to a term of natural life imprisonment.

(10) (Blank).

(11) The court shall impose a minimum fine of $1,000 for a first offense and $2,000 for a second or subsequent offense upon a person convicted of or placed on supervision for battery when the individual harmed was a sports official or coach at any level of competition and the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the athletic facility at which the sports official or coach was an active participant of the athletic contest held at the athletic facility. For the purposes of this paragraph (11), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; "athletic facility" means an indoor or outdoor playing field or recreational area where sports activities are conducted; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the sporting event.

(12) A person may not receive a disposition of court supervision for a violation of Section 5-16 of the Boat Registration and Safety Act if that person has previously received a disposition of court supervision for a violation of that Section.

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on appeal or on collateral attack due to

the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

(e) In cases where prosecution for aggravated criminal sexual abuse under Section 12-16 of the Criminal Code of 1961 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:

(1) the court finds (A) or (B) or both are appropriate:

(A) the defendant is willing to undergo a court approved counseling program for a minimum duration of 2 years; or

(B) the defendant is willing to participate in a court approved plan including but not limited to the defendant's:

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

(iv) restitution for harm done to the victim; and

(v) compliance with any other measures that the court may deem appropriate; and

(2) the court orders the defendant to pay for the victim's counseling services, to the extent that the court finds, after considering the defendant's income and assets, that the defendant is financially capable of paying for such services, if the victim was under 18 years of age at the time the offense was committed and requires counseling as a result of the offense.

Probation may be revoked or modified pursuant to Section 5-6-4; except where the court determines at the hearing that the defendant violated a condition of his or her probation restricting contact with the victim or other family members or commits another offense with the victim or other family members, the court shall revoke the defendant's probation and impose a term of imprisonment.

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section 12-12 of the Criminal Code of 1961.

(f) This Article shall not deprive a court in other proceedings to order a forfeiture of property, to suspend or cancel a license, to remove a person from office, or to impose any other civil penalty.

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(g-5) When an inmate is tested for an airborne communicable disease, as determined by the Illinois Department of Public Health including but not limited to tuberculosis, the results of the test shall be personally delivered by the warden or his or her designee in a sealed envelope to the judge of the court in which the inmate must appear for the judge's inspection in camera if requested by the judge. Acting in accordance with the best interests of those in the courtroom, the judge shall have the discretion to determine what if any precautions need to be taken to prevent transmission of the disease in the

courtroom.

(h) Whenever a defendant is convicted of an offense under Section 1 or 2 of the Hypodermic Syringes and Needles Act, the defendant shall undergo medical testing to determine whether the defendant has been exposed to human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of a positive test showing an infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(i) All fines and penalties imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substance Act, or Section 70 of the Methamphetamine Control and Community Protection Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) A court may not impose a sentence or disposition for a felony or misdemeanor that requires the defendant to be implanted or injected with or to use any form of birth control.

(l) (A) Except as provided in paragraph (C) of subsection (l), whenever a defendant, who is an alien as defined by the Immigration and Nationality Act, is convicted of any felony or misdemeanor offense, the court after sentencing the defendant may, upon motion of the State's Attorney, hold sentence in abeyance and remand the defendant to the custody of the Attorney General of the United States or his or her designated agent to be deported when:

(1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and

(2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

Otherwise, the defendant shall be sentenced as provided in this Chapter V.

(B) If the defendant has already been sentenced for a felony or misdemeanor offense, or has been placed on probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act, the court may, upon motion of the State's Attorney to suspend the sentence imposed, commit the defendant to the custody of the Attorney General of the United States or his or her designated agent when:

(1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and

(2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

(C) This subsection (l) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.

(D) Upon motion of the State's Attorney, if a defendant sentenced under this Section returns to the jurisdiction of the United States, the defendant shall be recommitted to the custody of the county from which he or she was sentenced. Thereafter, the defendant shall be brought before the sentencing court, which may impose any sentence that was available under Section 5-5-3 at the time of initial sentencing. In addition, the defendant shall not be eligible for additional good conduct credit for meritorious service as provided under Section 3-6-6.

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, in which the property damage exceeds $300 and the property damaged is a school building, shall be ordered to perform community service that may include cleanup, removal, or painting over the defacement.

(n) The court may sentence a person convicted of a violation of Section 12-19, 12-21, or 16-1.3 of the Criminal Code of 1961 (i) to an impact incarceration program if the person is otherwise eligible for that program under Section 5-8-1.1, (ii) to community service, or (iii) if the person is an addict or alcoholic, as defined in the Alcoholism and Other Drug Abuse and Dependency Act, to a substance or alcohol abuse program licensed under that Act.

(o) Whenever a person is convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act, the defendant's driver's license or permit shall be subject to renewal on an annual basis in accordance with the provisions of license renewal established by the Secretary of State.

(Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169, eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546, eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800, eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556, eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07; revised 8-28-06.)

Section 15. The Sex Offender Registration Act is amended by changing Section 2 as follows:

(730 ILCS 150/2) (from Ch. 38, par. 222)

Sec. 2. Definitions.

(A) As used in this Article, "sex offender" means any person who is:

(1) charged pursuant to Illinois law, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, with a sex offense set forth in subsection (B) of this Section or the attempt to commit an included sex offense, and:

(a) is convicted of such offense or an attempt to commit such offense; or

(b) is found not guilty by reason of insanity of such offense or an attempt to commit such offense; or

(c) is found not guilty by reason of insanity pursuant to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or an attempt to commit such offense; or

(d) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged

commission or attempted commission of such offense; or

(e) is found not guilty by reason of insanity following a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(c) of the Code of Criminal Procedure of 1963 of such offense or of the attempted commission of such offense; or

(f) is the subject of a finding not resulting in an acquittal at a hearing conducted pursuant to a federal, Uniform Code of Military Justice, sister state, or foreign country law substantially similar to Section 104-25(a) of the Code of Criminal Procedure of 1963 for the alleged violation or attempted commission of such offense; or

(2) certified as a sexually dangerous person pursuant to the Illinois Sexually Dangerous Persons Act, or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(3) subject to the provisions of Section 2 of the Interstate Agreements on Sexually Dangerous Persons Act; or

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(5) adjudicated a juvenile delinquent as the result of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law, or found guilty under Article V of the Juvenile Court Act of 1987 of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses specified in item (B), (C), or (C-5) of this Section or a violation of any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this Article as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this Article.

For purposes of this Section, "convicted" shall have the same meaning as "adjudicated". For the purposes of this Article, a person who is defined as a sex offender as a result of being adjudicated a juvenile delinquent under paragraph (5) of this subsection (A) upon attaining 17 years of age shall be considered as having committed the sex offense on or after the sex offender's 17th birthday. Registration of juveniles upon attaining 17 years of age shall not extend the original registration of 10 years from the date of conviction.

(B) As used in this Article, "sex offense" means:

(1) A violation of any of the following Sections of the Criminal Code of 1961:

11-20.1 (child pornography),
11-20.3 (aggravated child pornography),
11-6 (indecent solicitation of a child),
11-9.1 (sexual exploitation of a child),
11-9.2 (custodial sexual misconduct),
11-9.5 (sexual misconduct with a person with a disability),
11-15.1 (soliciting for a juvenile prostitute),
11-18.1 (patronizing a juvenile prostitute),
11-17.1 (keeping a place of juvenile prostitution),
11-19.1 (juvenile pimping),
11-19.2 (exploitation of a child),
12-13 (criminal sexual assault),
12-14 (aggravated criminal sexual assault),
12-14.1 (predatory criminal sexual assault of a child),
12-15 (criminal sexual abuse),
12-16 (aggravated criminal sexual abuse),
12-33 (ritualized abuse of a child).
An attempt to commit any of these offenses.

(1.5) A violation of any of the following Sections of the Criminal Code of 1961, when the victim is a person under 18 years of age, the defendant is not a parent of the victim, the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act, and the offense was committed on or after January 1, 1996:

10-1 (kidnapping),

10-2 (aggravated kidnapping),
10-3 (unlawful restraint),
10-3.1 (aggravated unlawful restraint).

(1.6) First degree murder under Section 9-1 of the Criminal Code of 1961, when the victim was a person under 18 years of age and the defendant was at least 17 years of age at the time of the commission of the offense, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.7) (Blank).

(1.8) A violation or attempted violation of Section 11-11 (sexual relations within families) of the Criminal Code of 1961, and the offense was committed on or after June 1, 1997.

(1.9) Child abduction under paragraph (10) of subsection (b) of Section 10-5 of the Criminal Code of 1961 committed by luring or attempting to lure a child under the age of 16 into a motor vehicle, building, house trailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose and the offense was committed on or after January 1, 1998, provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act.

(1.10) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after July 1, 1999:

10-4 (forcible detention, if the victim is under 18 years of age), provided the offense was sexually motivated as defined in Section 10 of the Sex Offender Management Board Act,
11-6.5 (indecent solicitation of an adult),
11-15 (soliciting for a prostitute, if the victim is under 18 years of age),
11-16 (pandering, if the victim is under 18 years of age),
11-18 (patronizing a prostitute, if the victim is under 18 years of age),
11-19 (pimping, if the victim is under 18 years of age).

(1.11) A violation or attempted violation of any of the following Sections of the Criminal Code of 1961 when the offense was committed on or after August 22, 2002:

11-9 (public indecency for a third or subsequent conviction).

(1.12) A violation or attempted violation of Section 5.1 of the Wrongs to Children Act (permitting sexual abuse) when the offense was committed on or after August 22, 2002.

(2) A violation of any former law of this State substantially equivalent to any offense listed in subsection (B) of this Section.

(C) A conviction for an offense of federal law, Uniform Code of Military Justice, or the law of another state or a foreign country that is substantially equivalent to any offense listed in subsections (B), (C), and (E) of this Section shall constitute a conviction for the purpose of this Article. A finding or adjudication as a sexually dangerous person or a sexually violent person under any federal law, Uniform Code of Military Justice, or the law of another state or foreign country that is substantially equivalent to the Sexually Dangerous Persons Act or the Sexually Violent Persons Commitment Act shall constitute an adjudication for the purposes of this Article.

(C-5) A person at least 17 years of age at the time of the commission of the offense who is convicted of first degree murder under Section 9-1 of the Criminal Code of 1961, against a person under 18 years of age, shall be required to register for natural life. A conviction for an offense of federal, Uniform Code of Military Justice, sister state, or foreign country law that is substantially equivalent to any offense listed in subsection (C-5) of this Section shall constitute a conviction for the purpose of this Article. This subsection (C-5) applies to a person who committed the offense before June 1, 1996 only if the person is incarcerated in an Illinois Department of Corrections facility on August 20, 2004 (the effective date of Public Act 93-977).

(D) As used in this Article, "law enforcement agency having jurisdiction" means the Chief of Police in each of the municipalities in which the sex offender expects to reside, work, or attend school (1) upon his or her discharge, parole or release or (2) during the service of his or her sentence of probation or conditional discharge, or the Sheriff of the county, in the event no Police Chief exists or if the offender intends to reside, work, or attend school in an unincorporated area. "Law enforcement agency having jurisdiction" includes the location where out-of-state students attend school and where out-of-state employees are employed or are otherwise required to register.

(D-1) As used in this Article, "supervising officer" means the assigned Illinois Department of Corrections parole agent or county probation officer.

(E) As used in this Article, "sexual predator" means any person who, after July 1, 1999, is:

(1) Convicted for an offense of federal, Uniform Code of Military Justice, sister

state, or foreign country law that is substantially equivalent to any offense listed in subsection (E) of this Section shall constitute a conviction for the purpose of this Article. Convicted of a violation or attempted violation of any of the following Sections of the Criminal Code of 1961, if the conviction occurred after July 1, 1999:

11-17.1 (keeping a place of juvenile prostitution),
11-19.1 (juvenile pimping),
11-19.2 (exploitation of a child),
11-20.1 (child pornography),
12-13 (criminal sexual assault),
12-14 (aggravated criminal sexual assault),
12-14.1 (predatory criminal sexual assault of a child),
12-16 (aggravated criminal sexual abuse),
12-33 (ritualized abuse of a child); or

(2) (blank); or

(3) certified as a sexually dangerous person pursuant to the Sexually Dangerous Persons Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(4) found to be a sexually violent person pursuant to the Sexually Violent Persons Commitment Act or any substantially similar federal, Uniform Code of Military Justice, sister state, or foreign country law; or

(5) convicted of a second or subsequent offense which requires registration pursuant to this Act. The conviction for the second or subsequent offense must have occurred after July 1, 1999. For purposes of this paragraph (5), "convicted" shall include a conviction under any substantially similar Illinois, federal, Uniform Code of Military Justice, sister state, or foreign country law.

(F) As used in this Article, "out-of-state student" means any sex offender, as defined in this Section, or sexual predator who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher learning.

(G) As used in this Article, "out-of-state employee" means any sex offender, as defined in this Section, or sexual predator who works in Illinois, regardless of whether the individual receives payment for services performed, for a period of time of 10 or more days or for an aggregate period of time of 30 or more days during any calendar year. Persons who operate motor vehicles in the State accrue one day of employment time for any portion of a day spent in Illinois.

(H) As used in this Article, "school" means any public or private educational institution, including, but not limited to, any elementary or secondary school, trade or professional institution, or institution of higher education.

(I) As used in this Article, "fixed residence" means any and all places that a sex offender resides for an aggregate period of time of 5 or more days in a calendar year.

(Source: P.A. 93-977, eff. 8-20-04; 93-979, eff. 8-20-04; 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 94-945, eff. 6-27-06; 94-1053, eff. 7-24-06; revised 8-3-06.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was 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 Wilhelmi, **Senate Bill No. 697**, 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	Forby	Link	Ronen

Bomke	Frerichs	Luechtefeld	Rutherford
Bond	Garrett	Maloney	Sandoval
Brady	Haine	Martinez	Schoenberg
Burzynski	Halvorson	Meeks	Sieben
Clayborne	Harmon	Millner	Sullivan
Collins	Hendon	Munoz	Syverson
Cronin	Holmes	Murphy	Trotter
Crotty	Hultgren	Noland	Viverito
Cullerton	Hunter	Pankau	Watson
Dahl	Jacobs	Peterson	Wilhelmi
DeLeo	Jones, J.	Radogno	Mr. President
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	
Dillard	Lightford	Risinger	

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.

On motion of Senator Hultgren, **Senate Bill No. 710**, 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	Forby	Link	Ronen
Bomke	Frerichs	Luechtefeld	Rutherford
Bond	Garrett	Maloney	Sandoval
Brady	Haine	Martinez	Schoenberg
Burzynski	Halvorson	Meeks	Sieben
Clayborne	Harmon	Millner	Sullivan
Collins	Hendon	Munoz	Syverson
Cronin	Holmes	Murphy	Trotter
Crotty	Hultgren	Noland	Viverito
Cullerton	Hunter	Pankau	Watson
Dahl	Jacobs	Peterson	Wilhelmi
DeLeo	Jones, J.	Radogno	Mr. President
Delgado	Kotowski	Raoul	
Demuzio	Lauzen	Righter	
Dillard	Lightford	Risinger	

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 Crotty, **Senate Bill No. 764** was recalled from the order of third reading to the order of second reading.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 764

AMENDMENT NO. 3. Amend Senate Bill 764 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Lottery Law is amended by changing Sections 2 and 20 and by adding Section 21.7 as follows:

(20 ILCS 1605/2) (from Ch. 120, par. 1152)

Sec. 2. This Act is enacted to implement and establish within the State a lottery to be operated by the State, the entire net proceeds of which are to be used for the support of the State's Common School Fund, except as provided in Sections 21.2, ~~and~~ 21.5 , ~~and~~ 21.6 , and 21.7.

(Source: P.A. 94-120, eff. 7-6-05; 94-585, eff. 8-15-05; revised 8-23-05.)

(20 ILCS 1605/20) (from Ch. 120, par. 1170)

Sec. 20. State Lottery Fund.

(a) There is created in the State Treasury a special fund to be known as the "State Lottery Fund". Such fund shall consist of all revenues received from (1) the sale of lottery tickets or shares, (net of commissions, fees representing those expenses that are directly proportionate to the sale of tickets or shares at the agent location, and prizes of less than $600 which have been validly paid at the agent level), (2) application fees, and (3) all other sources including moneys credited or transferred thereto from any other fund or source pursuant to law. Interest earnings of the State Lottery Fund shall be credited to the Common School Fund.

(b) The receipt and distribution of moneys under Section 21.5 of this Act shall be in accordance with Section 21.5.

(c) ~~(b)~~ The receipt and distribution of moneys under Section 21.6 of this Act shall be in accordance with Section 21.6.

(d) The receipt and distribution of moneys under Section 21.7 of this Act shall be in accordance with Section 21.7.

(Source: P.A. 94-120, eff. 7-6-05; 94-585, eff. 8-15-05; revised 8-19-05.)

(20 ILCS 1605/21.7 new)

Sec. 21.7. Scratch-out Multiple Sclerosis scratch-off game.

(a) The Department shall offer a special instant scratch-off game for the benefit of research pertaining to multiple sclerosis. The game shall commence on July 1, 2008 or as soon thereafter, in the discretion of the Director, as is reasonably practical. The operation of the game shall be governed by this Act and any rules adopted by the Department. If any provision of this Section is inconsistent with any other provision of this Act, then this Section governs.

(b) The Multiple Sclerosis Research Fund is created as a special fund in the State treasury. The net revenue from the scratch-out multiple sclerosis scratch-off game created under this Section shall be deposited into the Fund for appropriation by the General Assembly to organizations in Illinois conducting research pertaining to multiple sclerosis.

Moneys received for the purposes of this Section, including, without limitation, net revenue from the special instant scratch-off game and from gifts, grants, and awards from any public or private entity, must be deposited into the Fund. Any interest earned on moneys in the Fund must be deposited into the Fund.

For purposes of this Section, the term "research" includes, without limitation, expenditures to develop and advance the understanding, techniques, and modalities effective for maintaining function, mobility, and strength through preventive physical therapy or other treatments and to develop and advance the repair of myelin, neuron, and axon damage caused by an acquired demyelinating disease of the central nervous system and the restoration of function, including but not limited to, nervous system repair or neuroregeneration.

The grant funds may not be used for institutional, organizational, or community-based overhead costs, indirect costs, or levies.

For purposes of this subsection, "net revenue" means the total amount for which tickets have been sold less the sum of the amount paid out in the prizes and the actual administrative expenses of the Department solely related to the scratch-off game under this Section.

(c) During the time that tickets are sold for the scratch-out multiple sclerosis scratch-off game, the Department shall not unreasonably diminish the efforts devoted to marketing any other instant scratch-off lottery game.

(d) The Department may adopt any rules necessary to implement and administer the provisions of this Section.

Section 10. The State Finance Act is amended by adding Section 5.675 as follows:

(30 ILCS 105/5.675 new)
Sec. 5.675. The Multiple Sclerosis Research Fund.

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

The motion prevailed.
And the amendment was adopted and ordered printed.
Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 764

AMENDMENT NO. 4. Amend Senate Bill 764, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 3, as follows:

on page 3, by replacing lines 11 and 12 with the following:
"by the General Assembly to the Department of Public Health for the purpose of making grants to organizations in Illinois that conduct research pertaining to the repair of damage caused by an acquired demyelinating disease of the central nervous system.".

The motion prevailed.
And the amendment was adopted and ordered printed.
There being no further amendments, the foregoing Amendments numbered 3 and 4 were 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 Crotty, **Senate Bill No. 764**, 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 40; Nays 14.

The following voted in the affirmative:

Althoff	Forby	Lightford	Sandoval
Bond	Frerichs	Link	Schoenberg
Clayborne	Garrett	Maloney	Sullivan
Collins	Haine	Martinez	Trotter
Cronin	Halvorson	Meeks	Viverito
Crotty	Harmon	Millner	Wilhelmi
Cullerton	Hendon	Munoz	Mr. President
Dahl	Holmes	Murphy	
DeLeo	Hunter	Noland	
Delgado	Jacobs	Raoul	
Demuzio	Kotowski	Ronen	

The following voted in the negative:

Brady	Luechtefeld	Righter	Syverson
Burzynski	Pankau	Risinger	Watson
Hultgren	Peterson	Rutherford	
Lauzen	Radogno	Sieben	

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 Crotty, **Senate Bill No. 765** was recalled from the order of third reading to the order of second reading.

Senator Crotty offered the following amendment and moved its adoption:

AMENDMENT NO. 6 TO SENATE BILL 765

AMENDMENT NO. 6. Amend Senate Bill 765, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Disabilities Services Act of 2003 is amended by adding a heading to Article 1 immediately before Section 1 of the Act, by adding a heading to Article 2 immediately before Section 5 of the Act, by adding Article 3 and a heading to Article 99 immediately before Section 90 of the Act as follows:

(20 ILCS 2407/Art. 1 heading new)

ARTICLE 1. SHORT TITLE

(20 ILCS 2407/Art. 2 heading new)

ARTICLE 2. DISABILITIES SERVICES ACT of 2003

(20 ILCS 2407/Art. 3 heading new)

ARTICLE 3. OLMSTEAD IMPLEMENTATION ACT

(20 ILCS 2407/51 new)

Sec. 51. Legislative intent. It is the intent of the General Assembly to promote the civil rights of persons with disabilities by providing community-based services for persons with disabilities when such services are determined appropriate and desired by the affected persons, as required by Title II of the Americans with Disabilities Act under the United States Supreme Court's decision in Olmstead v. L.C., 527 U.S. 581 (1999). In accordance with Section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171), the purpose of this Act is: (i) to eliminate barriers or mechanisms, whether in State law, the State Medicaid plan, the State budget, or otherwise, that prevent or restrict the flexible use of public funds to enable individuals with disabilities to receive support for appropriate and necessary long-term services in settings of their choice; (ii) to increase the use of home and community-based long-term care services, rather than institutions or long-term care facilities; (iii) to increase the ability of the State Medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institution or a long-term care facility to a community setting; and (iv) to ensure that procedures are in place that are at least comparable to those required under the qualified home and community based program to provide quality assurance for eligible individuals receiving Medicaid home and community-based long-term care services and to provide for continuous quality improvement in such services. More specifically, this Article amends the Disabilities Services Act of 2003 (notwithstanding Section 30 of the Act) and the Illinois Act on the Aging to mandate the creation of a flexible system of financing for long-term services and supports in Illinois that would allow available Medicaid funds to be spent on home and community-based services when an individual residing in an institution or long-term care facility moves to the most appropriate and preferred community-based setting of his or her choice.

(20 ILCS 2407/52 new)

Sec. 52. Applicability; definitions. In accordance with section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171), as used in this Article:

"Home and community-based long-term care services". The term "home and community-based long-term care services" means, with respect to a State Medicaid program, a service aid, or benefit, home and community-based services, including but not limited to home health and personal care services, that are provided to a person with a disability, and are voluntarily accepted, as part of his or her long-term care that: (i) is provided under the State's qualified home and community based program or that could be provided under such a program but is otherwise provided under the Medicaid program; (ii) is delivered in a qualified residence; and (iii) is necessary for the person with a disability to live in the community.

"Case manager". The term "case manager" has the meaning as defined in the Illinois Act on the Aging.

"Departments". The term "Departments" means for the purposes of this Act, the Department of

Human Services, the Department on Aging, Department of Children and Family Services, Department of Healthcare and Family Services and Department of Public Health, unless otherwise noted.

"Eligible Individual". The term "eligible individual" means a person in Illinois who (i) has resided, for a period of not less than 6 months, in a long-term care facility; (ii) is receiving Medicaid benefits for long-term care services furnished by that long-term care facility; (iii) with respect to whom a determination has been made that, but for the provision of home and community-based long-term care services, the individual would continue to require the level of care provided in a long-term care facility; (iv) who is deemed appropriate by the inter-disciplinary team or case managers for home or community-based long-term care services; and (v) who wants to transfer from a long-term care facility to a qualified residence. For the purposes of this Act, "eligible individual" does not include a person with a disability receiving acute care mental health treatment in a State-operated mental health center for less than 30 consecutive days in a one-year period, or a person committed to a State-operated mental health forensic program, or developmental center forensic program.

"Long-term care facility". The term "long-term care facility", for the purposes of this Article, means a skilled nursing or intermediate long-term care facility subject to licensure by the Department of Public Health under the Nursing Home Care Act, an intermediate care facility for the developmentally disabled (ICF-DDs), an institution for mental diseases, child care institutions licensed by the Department of Children and Family Services, any community living facility as defined in the Community Living Facilities Licensing Act (210 ILCS 35), any community residential alternative as defined in the Community Residential Alternatives Licensing Act (405 ILCS 30), any Supportive Living Facility as provided in the Public Aid Code (305 ILCS 5/5-5.01a), and a State-operated developmental center or mental health center, whether publicly or privately owned.

"Interdisciplinary team" means a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker, other professionals, and the individual. In facilities serving individuals with developmental disabilities, at least one member of the team shall be a qualified mental retardation professional. The interdisciplinary team includes the individual, the individual's guardian, the individual's authorized representative, the individual's primary service providers, including staff most familiar with the individual's needs. The individual or his or her guardian may also invite other individuals to meet with the interdisciplinary team and participate in the process of identifying the individual's strengths and needs.

"Qualified residence". The term "qualified residence" means, with respect to an eligible individual: (i) a home owned or leased by the individual or the individual's authorized representative (as defined by P.L. 109-171); (ii) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and (iii) a residence, in a community-based residential setting, as defined by administrative rule.

"Self-directed services". The term "self-directed services" means, with respect to home and community-based long-term care services for an eligible individual, those services for the individual that are planned and purchased under the direction and control of the individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State Medicaid program consistent with the following requirements:

(a) Assessment: there is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

(b) Individual service care or treatment plan: based on the assessment, there is developed jointly with such individual or the individual's authorized representative, a plan for such services for the individual that is approved by the State and that (i) specifies those services, if any, that the individual or the individual's authorized representative would be responsible for directing; (ii) identifies the methods by which the individual or the individual's authorized representative or an agency designated by an individual or representative will select, manage, and dismiss providers of such services.

"Public Funds" means any funds appropriated by the General Assembly to the Department of Human Services, the Department on Aging, the Department of Children and Family Services, or the Department of Healthcare and Family Services, for settings and services as defined in this Article.

(20 ILCS 2407/53 new)

Sec. 53. Allocation of public funds.

(a) Any eligible individual, as defined in Section 52, has the right to have public funds available to pay for his or her home and community-based long-term care services in a qualified residence when such individual moves from a long-term care facility to the most appropriate and preferred community-based setting of his or her choice. The amount of public funds available shall be funded in accordance with the

individual service, care, or treatment plan and shall be the greater of (A) the funding that would be available to the individual through the applicable State-operated home and community based waiver program as determined by administrative rule or statute, or (B)(i) an amount no greater than the licensure category of the facility in which the individual received care reduced by the average capital component of the overall facility rate and (ii) further qualified by the weighted average rate by geographic area grouping that a facility of the same licensure category would receive in the area of the individual's qualified residence.

(b) In accordance with Sections 15(2) and 20(b)(2) of this Act, all eligible individuals under this Act shall have an individual service, care, or treatment plan that is reviewed by the interdisciplinary team or case managers at least annually that is consistent with the requirements under subparts (A) and (B) of item 8 of subsection (b) of the Deficit Reduction Act of 2005 (P.L. 109-171), and that includes an individualized budget that identifies the dollar value of the services consistent with the requirements under subsection (b)(8)(C) of section 6071 and supports under the control and direction of the individual or the individual's authorized representative. The service, care, or treatment plan must contain assurances that each eligible individual has been provided the opportunity to make an informed choice regarding their right under subsection (a).

(c) In accordance with any Disabilities Services Plan or plan update under this Act and section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171) and the Older Adult Services Act, the Departments, in consultation with organizations comprised of or representing people with disabilities or people aged 60 or older and providers of Medicaid acute and long-term care services, shall develop appropriate fiscal payment mechanisms and methodologies, by December 1, 2008, that effectively support choice and eliminate any legal, budgetary, or other barriers to flexibility in the availability of Medicaid funds to pay for long-term care services for individuals in the appropriate home and community-based long-term care settings of their choice, including costs to transition from a long-term care facility to a qualified residence. With respect to the individualized budgets described in subsection (b), the fiscal payment mechanisms and methodologies must: (i) describe the method for calculating the dollar values in such budgets based on reliable costs and service utilization; (ii) define a process for making adjustments in such dollar values to reflect changes in individual assessments and service, care, or treatment plans; and (iii) provide a procedure to evaluate expenditures under such budgets.

(d) In addition to Section 4.4 of the Community Services Act of 2004 (P.A. 094-0498), to the extent that savings are realized, those moneys must be deposited into the Olmstead Implementation Fund, created as a special fund in the State treasury, and the Older Adult Services Fund, created as a special fund in the State treasury, with the allocation between these 2 funds based on a formula determined by the Departments by administrative rule, and shall be used to expand the availability, quality, or stability of home and community-based long-term care services and supports for persons with disabilities including, but not limited to the following: in-home consumer/family supports; integrated, accessible, and affordable housing options and home modifications.

(e) The allocation of public funds for home and community-based long-term care services shall not have the effect of: (i) diminishing or reducing the quality of services available to residents of long-term care facilities; (ii) forcing any residents of long-term care facilities to involuntarily accept home and community-based long-term care services, or causing any residents of long-term care facilities to be involuntarily transferred or discharged; (iii) causing reductions in long-term care facility reimbursement rates in effect as of July 1, 2008; (iv) causing any delay of long-term care facility payments; or (v) diminishing access to a full array of long-term care options. If an eligible individual moves to a qualified residence and determines it is not the appropriate or preferred setting, they remain entitled to return to a long-term care facility under Title XIX of the Social Security Act (42 U.S.C §1396a(a)(10)(A), §1396d(a)(15), §1396a(a)(1) at the established rate for that facility.

(f) Funding for eligible individuals under this Act shall remain available to the eligible individual, in accordance with the individual service or treatment plan, as long as he or she remains eligible for services in a long-term care facility and prefers home and community-based long-term care services.

(20 ILCS 2407/54 new)

Sec. 54. Quality assurance and quality improvement.

(a) In accordance with subsection (c) (11) of section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171), the Departments shall develop a plan for quality assurance and quality improvement for home and community-based long-term care services under the State Medicaid program, including a regulatory plan to assure the health and welfare of eligible individuals under this Act.

(b) This plan shall require the Departments to apply for any available federal strategic planning and implementation funding to carry out the intent of this legislation, and to seek any appropriate Federal Medicaid waivers to maximize Federal financial participation.

(20 ILCS 2407/55 new)

Sec. 55. Dissemination of information; reports.

(a) The State shall ensure that all eligible individuals are informed of their right to receive home and community-based long-term care services under this Act. The Departments shall work together with organizations comprised of, or representing people with disabilities or people aged 60 or older and providers of Medicaid acute and long-term care services, to ensure that persons with disabilities and their families, guardians, and advocates are informed of their rights under this Act in a manner that is easily understandable and accessible to people with disabilities. The Departments shall ensure that multiple methods of dissemination are employed and shall make concerted efforts to inform people currently in long-term care facilities, including at their individual team or program meetings. The Department of Public Health shall ensure that, as a condition of licensing and certification, all long-term care facilities covered under this Act shall inform all residents annually of their opportunities to choose home and community alternatives under this Act. Additionally, the Department shall require each long-term care facility to post in a prominent location a notice containing information on rights and services available under this Act. Notices posted shall comply with the accessibility standards of the Americans with Disabilities Act.

(b) On or before April 1 of each year, in conjunction with their annual reports, the Departments shall report to the Governor and the General Assembly on the implementation of this Act and include, at a minimum, the following data; (i) a description of the fiscal payment mechanisms and methodologies developed under this Act that effectively support choice; (ii) an accounting of the savings realized under this Act and the ways in which these savings were spent; (iii) information concerning the dollar amounts of State Medicaid expenditures for fiscal years 2009 and 2010, for long-term care services and the percentage of such expenditures that were for an institution or long-term care services or were for home and community-based long-term care services; (iv) a description of the Departments' efforts to inform all eligible individuals of their rights under this Act; (v) the number of eligible individuals referred or identified under this Act in the previous fiscal year, the number of eligible individuals who applied to transfer to home and community-based long-term care services in the previous fiscal year, and the number of eligible individuals who, in fact, transferred from a long-term care facility to a qualified residence in the previous fiscal year; (vi) documentation that the Departments have met the requirements under Section 5 to assure the health and welfare of eligible individuals receiving home and community-based long-term care services; and (vii) any obstacles the Departments confronted in assisting residents of long-term care facilities to make the transition to a qualified residence, and the Departments' recommendations for removing those obstacles. This report must be made available to the general public, including via the Departments' websites.

(20 ILCS 2407/56 new)

Sec. 56. Effect on existing rights.

(a) This Article does not alter or affect the manner in which persons with disabilities are determined eligible or appropriate for home and community-based long-term care services, except to the extent the determinations are based on the availability of community services.

(b) This Article shall not be read to limit in any way the rights of people with disabilities under the U.S. Constitution, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Social Security Act, or any other federal or State law.

(20 ILCS 2407/57 new)

Sec. 57. Rules. The Departments shall adopt any rules necessary for the implementation and administration of this Act within 6 months of the effective date of this Act.

(20 ILCS 2407/58 new)

Sec. 58. Service provider cost reporting and accountability. The Departments shall adopt any rules necessary for the implementation of service provider cost reporting to ensure accountability under this Act within 6 months of the effective date of this Act.

(20 ILCS 2407/Art. 99 heading new)

ARTICLE 99. AMENDATORY PROVISIONS; EFFECTIVE DATE

Section 90. The State Finance Act is amended by adding Sections 5.675 and 5.676 as follows:

(30 ILCS 105/5.675 new)

Sec. 5.675. The Olmstead Implementation Fund.

(30 ILCS 105/5.676 new)

Sec. 5.676. The Older Adult Services Fund.

Section 99. Effective date. This Act takes effect July 1, 2008.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 6 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 Crotty, **Senate Bill No. 765**, 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 56; Nays None.

The following voted in the affirmative:

Althoff	Forby	Link	Rutherford
Bomke	Frerichs	Maloney	Sandoval
Bond	Garrett	Martinez	Schoenberg
Brady	Haine	Meeks	Sieben
Burzynski	Halvorson	Millner	Sullivan
Clayborne	Harmon	Munoz	Syverson
Collins	Hendon	Murphy	Trotter
Cronin	Holmes	Noland	Viverito
Crotty	Hultgren	Pankau	Watson
Cullerton	Hunter	Peterson	Wilhelmi
Dahl	Jacobs	Radogno	Mr. President
DeLeo	Jones, J.	Raoul	
Delgado	Kotowski	Righter	
Demuzio	Lauzen	Risinger	
Dillard	Lightford	Ronen	

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.

At the hour of 2:04 o'clock p.m., the Chair announced that the Senate stand adjourned until Wednesday, May 9, 2007, at 11:00 o'clock a.m..