



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FOURTH GENERAL ASSEMBLY

18TH LEGISLATIVE DAY

TUESDAY, MARCH 8, 2005

12:17 O'CLOCK P.M.

SENATE
Daily Journal Index
18th Legislative Day

Action	Page(s)
Committee Meeting Announcement	20, 21
Legislative Measure(s) Filed	4
Message from the President	21
Presentation of Senate Resolutions No'd 103-108	5
Report from Rules Committee	8

Bill Number	Legislative Action	Page(s)
SB 0003	Second Reading	9
SB 0017	Second Reading	9
SB 0054	Second Reading	9
SB 0074	Third Reading	21
SB 0087	Second Reading	9
SB 0088	Second Reading	14
SB 0090	Second Reading	14
SB 0099	Third Reading	22
SB 0103	Second Reading	17
SB 0123	Third Reading	22
SB 0127	Second Reading	17
SB 0133	Third Reading	23
SB 0143	Second Reading	18
SB 0162	Second Reading	18
SB 0169	Third Reading	23
SB 0173	Third Reading	24
SB 0182	Second Reading	19
SB 0190	Second Reading	19
SB 0200	Second Reading	19
SB 0272	Second Reading	19
SB 0277	Second Reading	19
SB 0331	Second Reading	19
SB 0357	Second Reading	19
SB 0410	Second Reading	19
SB 0411	Second Reading	19
SB 0463	Second Reading	19
SB 0468	Second Reading	19
SB 0478	Second Reading	19
SB 0514	Second Reading	20
SB 0562	Second Reading	20
SB 0580	Second Reading	20
SB 0610	Second Reading	20
SB 0615	Second Reading	20
SB 0892	Second Reading	20
HB 0029	First Reading	7
HB 0114	First Reading	7
HB 0165	First Reading	7
HB 0312	First Reading	7
HB 0339	First Reading	7
HB 0350	First Reading	7
HB 0384	First Reading	7
HB 0394	First Reading	7
HB 0451	First Reading	7

[March 8, 2005]

HB 0472	First Reading.....	7
HB 0474	First Reading.....	7
HB 0582	First Reading.....	7
HB 0583	First Reading.....	7
HB 0602	First Reading.....	7
HB 0617	First Reading.....	8
HB 0700	First Reading.....	8
HB 0701	First Reading.....	8
HB 0731	First Reading.....	8
HB 0741	First Reading.....	8
HB 0880	First Reading.....	8
HB 0942	First Reading.....	8

The Senate met pursuant to adjournment.

Senator James DeLeo, Chicago, Illinois presiding.

Prayer by Reverend John Jungil Park, Korean United Presbyterian Church, Springfield, Illinois.

Senator Maloney led the Senate in the Pledge of Allegiance.

The Journal of Thursday, March 3, 2005, was being read when on motion of Senator Hunter further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

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. 1 to Senate Bill 94
 Senate Floor Amendment No. 2 to Senate Bill 95
 Senate Floor Amendment No. 1 to Senate Bill 158
 Senate Floor Amendment No. 3 to Senate Bill 162
 Senate Floor Amendment No. 1 to Senate Bill 273
 Senate Floor Amendment No. 1 to Senate Bill 316
 Senate Floor Amendment No. 1 to Senate Bill 474
 Senate Floor Amendment No. 1 to Senate Bill 489
 Senate Floor Amendment No. 1 to Senate Bill 534

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

Senate Committee Amendment No. 1 to Senate Bill 66
 Senate Committee Amendment No. 1 to Senate Bill 77
 Senate Committee Amendment No. 2 to Senate Bill 91
 Senate Committee Amendment No. 1 to Senate Bill 107
 Senate Committee Amendment No. 2 to Senate Bill 107
 Senate Committee Amendment No. 1 to Senate Bill 130
 Senate Committee Amendment No. 1 to Senate Bill 167
 Senate Committee Amendment No. 1 to Senate Bill 212
 Senate Committee Amendment No. 1 to Senate Bill 216
 Senate Committee Amendment No. 1 to Senate Bill 219
 Senate Committee Amendment No. 1 to Senate Bill 300
 Senate Committee Amendment No. 1 to Senate Bill 342
 Senate Committee Amendment No. 1 to Senate Bill 350
 Senate Committee Amendment No. 1 to Senate Bill 421
 Senate Committee Amendment No. 1 to Senate Bill 482
 Senate Committee Amendment No. 2 to Senate Bill 482
 Senate Committee Amendment No. 1 to Senate Bill 495
 Senate Committee Amendment No. 1 to Senate Bill 508
 Senate Committee Amendment No. 1 to Senate Bill 518
 Senate Committee Amendment No. 1 to Senate Bill 526
 Senate Committee Amendment No. 1 to Senate Bill 532
 Senate Committee Amendment No. 1 to Senate Bill 559
 Senate Committee Amendment No. 1 to Senate Bill 581
 Senate Committee Amendment No. 1 to Senate Bill 629
 Senate Committee Amendment No. 1 to Senate Bill 761
 Senate Committee Amendment No. 1 to Senate Bill 849
 Senate Committee Amendment No. 1 to Senate Bill 1233
 Senate Committee Amendment No. 1 to Senate Bill 1235
 Senate Committee Amendment No. 1 to Senate Bill 1294
 Senate Committee Amendment No. 1 to Senate Bill 1431

[March 8, 2005]

Senate Committee Amendment No. 1 to Senate Bill 1444
 Senate Committee Amendment No. 1 to Senate Bill 1453
 Senate Committee Amendment No. 1 to Senate Bill 1456
 Senate Committee Amendment No. 1 to Senate Bill 1658
 Senate Committee Amendment No. 1 to Senate Bill 1699
 Senate Committee Amendment No. 1 to Senate Bill 1703
 Senate Committee Amendment No. 1 to Senate Bill 1705
 Senate Committee Amendment No. 1 to Senate Bill 1792
 Senate Committee Amendment No. 1 to Senate Bill 1838
 Senate Committee Amendment No. 1 to Senate Bill 1882
 Senate Committee Amendment No. 1 to Senate Bill 1911
 Senate Committee Amendment No. 1 to Senate Bill 1948
 Senate Committee Amendment No. 1 to Senate Bill 1967
 Senate Committee Amendment No. 1 to Senate Bill 2015
 Senate Committee Amendment No. 1 to Senate Bill 2032
 Senate Committee Amendment No. 1 to Senate Bill 2066
 Senate Committee Amendment No. 1 to Senate Bill 2087
 Senate Committee Amendment No. 2 to Senate Bill 2087
 Senate Committee Amendment No. 1 to Senate Bill 2089

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 103

Offered by Senator Haine and all Senators:
 Mourns the death of Charles L. Freeman of Godfrey.

SENATE RESOLUTION 104

Offered by Senator Risinger and all Senators:
 Mourns the death of Howard B. Baldwin of Kewanee.

SENATE RESOLUTION 105

Offered by Senator Risinger and all Senators:
 Mourns the death of Arthur W. Dixon of Galesburg.

SENATE RESOLUTION 106

Offered by Senator Clayborne and all Senators:
 Mourns the death of Dr. Mildred Louise Sammons of East St. Louis.

SENATE RESOLUTION 107

Offered by Senators Viverito – E. Jones and all Senators:
 Mourns the death of James A. Craig of Blue Island.

SENATE RESOLUTION 108

Offered by Senator Haine and all Senators:
 Mourns the death of Rolla John Mottaz formerly of Alton.

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

MESSAGES FROM THE HOUSE

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

Mr. President -- I am directed to inform the Senate that the House of Representatives has 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. 165

[March 8, 2005]

A bill for AN ACT concerning public employee benefits.
HOUSE BILL NO. 173

A bill for AN ACT concerning families.
HOUSE BILL NO. 188

A bill for AN ACT concerning employment.
HOUSE BILL NO. 339

A bill for AN ACT concerning jurors.
HOUSE BILL NO. 350

A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 384

A bill for AN ACT concerning education.
HOUSE BILL NO. 451

A bill for AN ACT concerning business.
HOUSE BILL NO. 472

A bill for AN ACT concerning ethanol.
HOUSE BILL NO. 474

A bill for AN ACT concerning environmental safety.
HOUSE BILL NO. 594

A bill for AN ACT concerning volunteer emergency workers.
Passed the House, March 3, 2005.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 165, 173, 188, 339, 350, 384, 451, 472, 474 and 594** were taken up, ordered printed and placed on first reading.

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. 596

A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 602

A bill for AN ACT concerning advertising.
HOUSE BILL NO. 615

A bill for AN ACT concerning health.
HOUSE BILL NO. 692

A bill for AN ACT concerning motor fuel theft.
HOUSE BILL NO. 700

A bill for AN ACT concerning regulation.
HOUSE BILL NO. 701

A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 731

A bill for AN ACT concerning government.
HOUSE BILL NO. 741

A bill for AN ACT concerning public employee benefits.
HOUSE BILL NO. 760

A bill for AN ACT in relation to funeral expenses.
HOUSE BILL NO. 766

A bill for AN ACT concerning civil law.
Passed the House, March 3, 2005.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 596, 602, 615, 692, 700, 701, 731, 741, 760 and 766** were taken up, ordered printed and placed on first reading.

[March 8, 2005]

A message from the House by
 Mr. Mahoney, Clerk:
 Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:
 SENATE JOINT RESOLUTION NO. 29
 Concurred in by the House, March 3, 2005.

MARK MAHONEY, Clerk of the House

EXCUSED FROM ATTENDANCE

On motion of Senator Halvorson, Senator Silverstein was excused from attendance due to illness.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 29, sponsored by Senator Cullerton was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 114, sponsored by Senator Cullerton was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 165, sponsored by Senator Lightford was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 312, sponsored by Senator Collins was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 339, sponsored by Senator Cullerton was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 350, sponsored by Senator Collins was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 384, sponsored by Senator Lightford was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 394, sponsored by Senator Cullerton was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 451, sponsored by Senator Maloney was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 472, sponsored by Senator Righter was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 474, sponsored by Senator Righter was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 582, sponsored by Senator Cullerton was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 583, sponsored by Senator Rutherford was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 602, sponsored by Senator Righter was taken up, read by title a first time and referred to the Committee on Rules.

[March 8, 2005]

House Bill No. 617, sponsored by Senator Cullerton was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 700, sponsored by Senator Crotty was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 701, sponsored by Senator Rutherford was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 731, sponsored by Senator Righter was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 741, sponsored by Senator Righter was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 942, sponsored by Senator J. Sullivan was taken up, read by title a first time and referred to the Committee on Rules.

House Bill No. 880, sponsored by Senator Wilhelmi was taken up, read by title a first time and referred to the Committee on Rules.

EXCUSED FROM ATTENDANCE

On motion of Senator Burzynski, Senator Dillard was excused from attendance due to official business, but he will return for committees in the afternoon.

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its March 8, 2005 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Agriculture & Conservation: **Senate Committee Amendment No. 1 to Senate Bill 342; Senate Committee Amendment No. 1 to Senate Bill 490; Senate Committee Amendment No. 1 to Senate Bill 1066.**

Commerce & Economic Development: **Senate Committee Amendment No. 1 to Senate Bill 1442; Senate Committee Amendment No. 1 to Senate Bill 1699.**

Education: **Senate Committee Amendment No. 1 to Senate Bill 212.**

Environment & Energy: **Senate Committee Amendment No. 1 to Senate Bill 761; Senate Committee Amendment No. 1 to Senate Bill 1700; Senate Committee Amendment No. 1 to Senate Bill 1703; Senate Committee Amendment No. 1 to Senate Bill 1705.**

Executive: **Senate Committee Amendment No. 1 to Senate Bill 1479.**

Financial Institutions: **Senate Committee Amendment No. 1 to Senate Bill 278; Senate Committee Amendment No. 1 to Senate Bill 536.**

Housing & Community Affairs: **Senate Committee Amendment No. 2 to Senate Bill 91; Senate Committee Amendment No. 1 to Senate Bill 101; Senate Committee Amendment No. 1 to Senate Bill 167; Senate Committee Amendment No. 1 to Senate Bill 320; Senate Committee Amendment No. 1 to Senate Bill 526.**

Insurance: **Senate Committee Amendment No. 1 to Senate Bill 505; Senate Committee Amendment No. 1 to Senate Bill 1618.**

Judiciary: **Senate Committee Amendments numbered 1 and 2 to Senate Bill 107; Senate Committee Amendment No. 2 to Senate Bill 245; Senate Committee Amendment No. 1 to Senate Bill 326; Senate Committee Amendment No. 1 to Senate Bill 530; Senate Committee Amendment No. 1 to Senate Bill 581; Senate Committee Amendment No. 2 to Senate Bill 658; Senate Committee Amendment No. 1 to Senate Bill 849; Senate Committee Amendment No. 1 to Senate**

[March 8, 2005]

Bill 1456; Senate Committee Amendment No. 1 to Senate Bill 1846; Senate Committee Amendment No. 1 to Senate Bill 1930; Senate Committee Amendment No. 1 to Senate Bill 2074.

Labor: Senate Committee Amendment No. 1 to Senate Bill 77; Senate Committee Amendment No. 1 to Senate Bill 2066.

Licensed Activities: Senate Committee Amendments numbered 1 and 2 to Senate Bill 482; Senate Committee Amendment No. 1 to Senate Bill 1431.

Local Government: Senate Floor Amendment No. 3 to Senate Bill 171; Senate Committee Amendment No. 1 to Senate Bill 495; Senate Committee Amendment No. 1 to Senate Bill 1444; Senate Committee Amendment No. 1 to Senate Bill 1882; Senate Committee Amendment No. 1 to Senate Bill 1948; Senate Committee Amendments numbered 1 and 2 to Senate Bill 2087; Senate Committee Amendment No. 1 to Senate Bill 2089.

Revenue: Senate Committee Amendment No. 1 to Senate Bill 1294.

Transportation: Senate Committee Amendment No. 1 to Senate Bill 66; Senate Committee Amendment No. 1 to Senate Bill 216; Senate Committee Amendment No. 1 to Senate Bill 300; Senate Committee Amendment No. 1 to Senate Bill 508; Senate Committee Amendment No. 1 to Senate Bill 1235.

Senator Viverito, Chairperson of the Committee on Rules, during its March 8, 2005 meeting, reported the following Senate Resolution has been assigned to the indicated Standing Committee of the Senate:

Executive: **Senate Resolution No. 102.**

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator E. Jones, **Senate Bill No. 3** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Forby, **Senate Bill No. 17** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Peterson, **Senate Bill No. 54** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 54

AMENDMENT NO. 1. Amend Senate Bill 54 on page 1, by replacing lines 4 through 15 with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 12-215 and 15-101 as follows:"; and

on page 1, by deleting line 31; and

on page 2, by deleting lines 1 through 3.

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

On motion of Senator Garrett, **Senate Bill No. 87** having been printed, was taken up, read by title a second time.

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

[March 8, 2005]

AMENDMENT NO. 1 TO SENATE BILL 87

AMENDMENT NO. 1. Amend Senate Bill 87 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 14-8.02 as follows:

(105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

Sec. 14-8.02. Identification, Evaluation and Placement of Children.

(a) The State Board of Education shall make rules under which local school boards shall determine the eligibility of children to receive special education. Such rules shall ensure that a free appropriate public education be available to all children with disabilities as defined in Section 14-1.02. The State Board of Education shall require local school districts to administer non-discriminatory procedures or tests to limited English proficiency students coming from homes in which a language other than English is used to determine their eligibility to receive special education. The placement of low English proficiency students in special education programs and facilities shall be made in accordance with the test results reflecting the student's linguistic, cultural and special education needs. For purposes of determining the eligibility of children of the State Board of Education shall include in the rules definitions of "case study", "staff conference", "individualized educational program", and "qualified specialist" appropriate to each category of children with disabilities as defined in this Article. For purposes of determining the eligibility of children from homes in which a language other than English is used, the State Board of Education, no later than September 1, 1993, shall include in the rules definitions for "qualified bilingual specialists" and "linguistically and culturally appropriate individualized educational programs". In this Section, "parent" includes a foster parent.

(b) No child shall be eligible for special education facilities except with a carefully completed case study fully reviewed by professional personnel in a multidisciplinary staff conference and only upon the recommendation of qualified specialists or a qualified bilingual specialist, if available. At the conclusion of the multidisciplinary staff conference, the parent or guardian of the child shall be given a copy of the multidisciplinary conference summary report and recommendations, which includes options considered, and be informed of their right to obtain an independent educational evaluation if they disagree with the evaluation findings conducted or obtained by the school district. If the school district's evaluation is shown to be inappropriate, the school district shall reimburse the parent for the cost of the independent evaluation. The State Board of Education shall, with advice from the State Advisory Council on Education of Children with Disabilities on the inclusion of specific independent educational evaluators, prepare a list of suggested independent educational evaluators. The State Board of Education shall include on the list clinical psychologists licensed pursuant to the Clinical Psychologist Licensing Act. Such psychologists shall not be paid fees in excess of the amount that would be received by a school psychologist for performing the same services. The State Board of Education shall supply school districts with such list and make the list available to parents at their request. School districts shall make the list available to parents at the time they are informed of their right to obtain an independent educational evaluation. However, the school district may initiate an impartial due process hearing under this Section within 5 days of any written parent or guardian request for an independent educational evaluation to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has a right to an independent educational evaluation, but not at public expense. An independent educational evaluation at public expense must be completed within 30 days of a parent or guardian written request unless the school district initiates an impartial due process hearing or the parent or guardian or school district offers reasonable grounds to show that such 30 day time period should be extended. If the due process hearing decision indicates that the parent or guardian is entitled to an independent educational evaluation, it must be completed within 30 days of the decision unless the parent or guardian or the school district offers reasonable grounds to show that such 30 day period should be extended. If a parent disagrees with the summary report or recommendations of the multidisciplinary conference or the findings of any educational evaluation which results therefrom, the school district shall not proceed with a placement based upon such evaluation and the child shall remain in his or her regular classroom setting. No child shall be eligible for admission to a special class for the educable mentally disabled or for the trainable mentally disabled except with a psychological evaluation and recommendation by a school psychologist. Consent shall be obtained from the parent or guardian of a child before any evaluation is conducted. If consent is not given by the parent or guardian or if the parent or guardian disagrees with the findings of the evaluation, then the school district may initiate an impartial due process hearing under this Section. The school district may evaluate the child if that is the decision resulting from the impartial due process hearing and the decision is not appealed or if the

[March 8, 2005]

decision is affirmed on appeal. The determination of eligibility shall be made within 60 school days from the date of referral by school authorities for evaluation by the district or date of application for admittance by the parent or guardian of the child. In those instances when students are referred for evaluation with fewer than 60 pupil attendance days left in the school year, the eligibility determination shall be made prior to the first day of the following school year. After a child has been determined to be eligible for a special education class, such child must be placed in the appropriate program pursuant to the individualized educational program by or no later than the beginning of the next school semester. The appropriate program pursuant to the individualized educational program of students whose native tongue is a language other than English shall reflect the special education, cultural and linguistic needs. No later than September 1, 1993, the State Board of Education shall establish standards for the development, implementation and monitoring of appropriate bilingual special individualized educational programs. The State Board of Education shall further incorporate appropriate monitoring procedures to verify implementation of these standards. The district shall indicate to the parent or guardian and the State Board of Education the nature of the services the child will receive for the regular school term while waiting placement in the appropriate special education class.

If the child is deaf, hard of hearing, blind, or visually impaired and he or she might be eligible to receive services from the Illinois School for the Deaf or the Illinois School for the Visually Impaired, the school district shall notify the parents or guardian, in writing, of the existence of these schools and the services they provide and shall make a reasonable effort to inform the parents or guardian of the existence of other local schools that provide similar services and the services that these other schools provide. This notification shall include without limitation information on school services, school admissions criteria, and school contact information.

If the student may be eligible to participate in the Home-Based Support Services Program for Mentally Disabled Adults authorized under the Developmental Disability and Mental Disability Services Act upon becoming an adult, the student's individualized education program shall include plans for (i) determining the student's eligibility for those home-based services, (ii) enrolling the student in the program of home-based services, and (iii) developing a plan for the student's most effective use of the home-based services after the student becomes an adult and no longer receives special educational services under this Article. The plans developed under this paragraph shall include specific actions to be taken by specified individuals, agencies, or officials.

(c) In the development of the individualized education program for a student who is functionally blind, it shall be presumed that proficiency in Braille reading and writing is essential for the student's satisfactory educational progress. For purposes of this subsection, the State Board of Education shall determine the criteria for a student to be classified as functionally blind. Students who are not currently identified as functionally blind who are also entitled to Braille instruction include: (i) those whose vision loss is so severe that they are unable to read and write at a level comparable to their peers solely through the use of vision, and (ii) those who show evidence of progressive vision loss that may result in functional blindness. Each student who is functionally blind shall be entitled to Braille reading and writing instruction that is sufficient to enable the student to communicate with the same level of proficiency as other students of comparable ability. Instruction should be provided to the extent that the student is physically and cognitively able to use Braille. Braille instruction may be used in combination with other special education services appropriate to the student's educational needs. The assessment of each student who is functionally blind for the purpose of developing the student's individualized education program shall include documentation of the student's strengths and weaknesses in Braille skills. Each person assisting in the development of the individualized education program for a student who is functionally blind shall receive information describing the benefits of Braille instruction. The individualized education program for each student who is functionally blind shall specify the appropriate learning medium or media based on the assessment report.

(d) To the maximum extent appropriate, the placement shall provide the child with the opportunity to be educated with children who are not disabled; provided that children with disabilities who are recommended to be placed into regular education classrooms are provided with supplementary services to assist the children with disabilities to benefit from the regular classroom instruction and are included on the teacher's regular education class register. Subject to the limitation of the preceding sentence, placement in special classes, separate schools or other removal of the disabled child from the regular educational environment shall occur only when the nature of the severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. The placement of limited English proficiency students with disabilities shall be in non-restrictive environments which provide for integration with non-disabled peers in bilingual classrooms. By January 1993 and annually thereafter, school districts shall report data on students from

non-English speaking backgrounds receiving special education and related services in public and private facilities as prescribed in Section 2-3.30. If there is a disagreement between parties involved regarding the special education placement of any child, either in-state or out-of-state, the placement is subject to impartial due process procedures described in Article 10 of the Rules and Regulations to Govern the Administration and Operation of Special Education.

(e) No child who comes from a home in which a language other than English is the principal language used may be assigned to any class or program under this Article until he has been given, in the principal language used by the child and used in his home, tests reasonably related to his cultural environment. All testing and evaluation materials and procedures utilized for evaluation and placement shall not be linguistically, racially or culturally discriminatory.

(f) Nothing in this Article shall be construed to require any child to undergo any physical examination or medical treatment whose parents or guardian object thereto on the grounds that such examination or treatment conflicts with his religious beliefs.

(g) School boards or their designee shall provide to the parents or guardian of a child prior written notice of any decision (a) proposing to initiate or change, or (b) refusing to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to their child, and the reasons therefor. Such written notification shall also inform the parent or guardian of the opportunity to present complaints with respect to any matter relating to the educational placement of the student, or the provision of a free appropriate public education and to have an impartial due process hearing on the complaint. The notice shall inform the parents or guardian in the parents' or guardian's native language, unless it is clearly not feasible to do so, of their rights and all procedures available pursuant to this Act and federal law 94-142; it shall be the responsibility of the State Superintendent to develop uniform notices setting forth the procedures available under this Act and federal law 94-142 to be used by all school boards. The notice shall also inform the parents or guardian of the availability upon request of a list of free or low-cost legal and other relevant services available locally to assist parents or guardians in initiating an impartial due process hearing. Any parent or guardian who is deaf, or does not normally communicate using spoken English, who participates in a meeting with a representative of a local educational agency for the purposes of developing an individualized educational program shall be entitled to the services of an interpreter.

(h) A Level I due process hearing, hereinafter referred as the hearing, shall be conducted upon the request of the parents or guardian or local school board by an impartial hearing officer appointed as follows: If the request is made through the local school district, within 5 school days of receipt of the request, the local school district shall forward the request to the State Superintendent. Within 5 days after receiving this request of hearing, the State Board of Education shall provide a list of 5 prospective, impartial hearing officers. The State Board of Education, by rule or regulation, shall establish criteria for determining which persons can be included on such a list of prospective hearing officers. No one on the list may be a resident of the school district. No more than 2 of the 5 prospective hearing officers shall be gainfully employed by or administratively connected with any school district, or any joint agreement or cooperative program in which school districts participate. In addition, no more than 2 of the 5 prospective hearing officers shall be gainfully employed by or administratively connected with private providers of special education services. The State Board of Education shall actively recruit applicants for hearing officer positions. The board and the parents or guardian or their legal representatives within 5 days shall alternately strike one name from the list until only one name remains. The parents or guardian shall have the right to proceed first with the striking. The per diem allowance for the hearing officer shall be established and paid by the State Board of Education. The hearing shall be closed to the public except that the parents or guardian may require that the hearing be public. The hearing officer shall not be an employee of the school district, an employee in any joint agreement or cooperative program in which the district participates, or any other agency or organization that is directly involved in the diagnosis, education or care of the student or the State Board of Education. All impartial hearing officers shall be adequately trained in federal and state law, rules and regulations and case law regarding special education. The State Board of Education shall use resources from within and outside the agency for the purposes of conducting this training. The impartial hearing officer shall have the authority to require additional information or evidence where he or she deems it necessary to make a complete record and may order an independent evaluation of the child, the cost of said evaluation to be paid by the local school district. Such hearing shall not be considered adversary in nature, but shall be directed toward bringing out all facts necessary for the impartial hearing officer to render an informed decision. The State Board of Education shall, with the advice and approval of the Advisory Council on Education of Children with Disabilities, promulgate rules and regulations to establish the qualifications of the hearing officers and the rules and procedure for such hearings. The school district shall present evidence that the

[March 8, 2005]

special education needs of the child have been appropriately identified and that the special education program and related services proposed to meet the needs of the child are adequate, appropriate and available. Any party to the hearing shall have the right to: (a) be represented by counsel and be accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities at the party's own expense; (b) present evidence and confront and cross-examine witnesses; (c) prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 days before the hearing; (d) obtain a written or electronic verbatim record of the hearing; (e) obtain written findings of fact and a written decision. The student shall be allowed to attend the hearing unless the hearing officer finds that attendance is not in the child's best interest or detrimental to the child. The hearing officer shall specify in the findings the reasons for denying attendance by the student. The hearing officer, or the State Superintendent in connection with State level hearings, may subpoena and compel the attendance of witnesses and the production of evidence reasonably necessary to the resolution of the hearing. The subpoena may be issued upon request of any party. The State Board of Education and the school board shall share equally the costs of providing a written or electronic record of the proceedings. Such record shall be transcribed and transmitted to the State Superintendent no later than 10 days after receipt of notice of appeal. The hearing officer shall render a decision and shall submit a copy of the findings of fact and decision to the parent or guardian and to the local school board within 10 school days after the conclusion of the hearing. The hearing officer may continue the hearing in order to obtain additional information, and, at the conclusion of the hearing, shall issue a decision based on the record which specifies the special education and related services which shall be provided to the child in accordance with the child's needs. The hearing officer's decision shall be binding upon the local school board and the parent unless such decision is appealed pursuant to the provisions of this Section.

(i) Any party aggrieved by the decision may appeal the hearing officer's decision to the State Board of Education and shall serve copies of the notice of such appeal on the State Superintendent and on all other parties. The review referred to in this Section shall be known as the Level II review. The State Board of Education shall provide a list of 5 prospective, impartial reviewing officers. No reviewing officer shall be an employee of the State Board of Education or gainfully employed by or administratively connected with the school district, joint agreement or cooperative program which is a party to this review. Each person on the list shall be accredited by a national arbitration organization. The per diem allowance for the review officers shall be paid by the State Board of Education and may not exceed \$250. All reviewing officers on the list provided by the State Board of Education shall be trained in federal and state law, rules and regulations and case law regarding special education. The State Board of Education shall use resources from within and outside the agency for the purposes of conducting this training. No one on the list may be a resident of the school district. The board and the parents or guardian or other legal representatives within 5 days shall alternately strike one name from the list until only one name remains. The parents or guardian shall have the right to proceed first with the striking. The reviewing officer so selected shall conduct an impartial review of the Level I hearing and may issue subpoenas requiring the attendance of witnesses at such review. The parties to the appeal shall be afforded the opportunity to present oral argument and additional evidence at the review. Upon completion of the review the reviewing officer shall render a decision and shall provide a copy of the decision to all parties.

(j) No later than 30 days after receipt of notice of appeal, a final decision shall be reached and a copy mailed to each of the parties. A reviewing officer may grant specific extensions of time beyond the 30-day deadline at the request of either party. If a Level II hearing is convened the final decision of a Level II hearing officer shall occur no more than 30 days following receipt of a notice of appeal, unless an extension of time is granted by the hearing officer at the request of either party. The State Board of Education shall establish rules and regulations delineating the standards to be used in determining whether the reviewing officer shall grant such extensions. Each hearing and each review involving oral argument must be conducted at a time and place which are reasonably convenient to the parents and the child involved.

(k) Any party aggrieved by the decision of the reviewing officer, including the parent or guardian, shall have the right to bring a civil action with respect to the complaint presented pursuant to this Section, which action may be brought in any circuit court of competent jurisdiction within 120 days after a copy of the decision is mailed to the party as provided in subsection (j). The civil action provided above shall not be exclusive of any rights or causes of action otherwise available. The commencement of a civil action under subsection (k) of this Section shall operate as a supersedeas. In any action brought under this Section the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the

evidence shall grant such relief as the court determines is appropriate. In any instance where a school district willfully disregards applicable regulations or statutes regarding a child covered by this Article, and which disregard has been detrimental to the child, the school district shall be liable for any reasonable attorney's fees incurred by the parent or guardian in connection with proceedings under this Section.

(l) During the pendency of any proceedings conducted pursuant to this Section, unless the State Superintendent of Education, or the school district and the parents or guardian otherwise agree, the student shall remain in the then current educational placement of such student, or if applying for initial admission to the school district, shall, with the consent of the parents or guardian, be placed in the school district program until all such proceedings have been completed. The costs for any special education and related services or placement incurred following 60 school days after the initial request for evaluation shall be borne by the school district if such services or placement are in accordance with the final determination as to the special education and related services or placement which must be provided to the child, provided however that in said 60 day period there have been no delays caused by the child's parent or guardian.

(m) Whenever (i) the parents or guardian of a child of the type described in Section 14-1.02 are not known or are unavailable or (ii) the child is a ward of the State residing in a residential facility, a person shall be assigned to serve as surrogate parent for the child in matters relating to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child. Surrogate parents shall be assigned by the State Superintendent of Education. The State Board of Education shall promulgate rules and regulations establishing qualifications of such persons and their responsibilities and the procedures to be followed in making such assignments. Such surrogate parents shall not be employees of the school district, an agency created by joint agreement under Section 10-22.31, an agency involved in the education or care of the student, or the State Board of Education. For a child who is a ward of the State residing in a residential facility, the surrogate parent may be an employee of a nonpublic agency that provides only non-educational care. Services of any person assigned as surrogate parent shall terminate if the parent or guardian becomes available unless otherwise requested by the parents or guardian. The assignment of a person as surrogate parent at no time supersedes, terminates, or suspends the parents' or guardian's legal authority relative to the child. Any person participating in good faith as surrogate parent on behalf of the child before school officials or a hearing officer shall have immunity from civil or criminal liability that otherwise might result by reason of such participation, except in cases of willful and wanton misconduct.

(n) At all stages of the hearing the hearing officer shall require that interpreters be made available by the local school district for persons who are deaf or for persons whose normally spoken language is other than English.

(o) Whenever a person refuses to comply with any subpoena issued under this Section, the circuit court of the county in which such hearing is pending, on application of the State Superintendent of Education or the party who requested issuance of the subpoena may compel obedience by attachment proceedings as for contempt, as in a case of disobedience of the requirements of a subpoena from such court for refusal to testify therein.

(Source: P.A. 93-282, eff. 7-22-03.)

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

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

On motion of Senator Hunter, **Senate Bill No. 88** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Clayborne, **Senate Bill No. 90** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Environment & Energy, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 90

AMENDMENT NO. 1. Amend Senate Bill 90 by replacing everything after the enacting clause

[March 8, 2005]

with the following:

"Section 5. The Public Utilities Act is amended by changing Section 9-220 as follows:
(220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

Sec. 9-220. Rate changes based on changes in fuel costs.

(a) Notwithstanding the provisions of Section 9-201, the Commission may authorize the increase or decrease of rates and charges based upon changes in the cost of fuel used in the generation or production of electric power, changes in the cost of purchased power, or changes in the cost of purchased gas through the application of fuel adjustment clauses or purchased gas adjustment clauses. The Commission may also authorize the increase or decrease of rates and charges based upon expenditures or revenues resulting from the purchase or sale of emission allowances created under the federal Clean Air Act Amendments of 1990, through such fuel adjustment clauses, as a cost of fuel. For the purposes of this paragraph, cost of fuel used in the generation or production of electric power shall include the amount of any fees paid by the utility for the implementation and operation of a process for the desulfurization of the flue gas when burning high sulfur coal at any location within the State of Illinois irrespective of the attainment status designation of such location; but shall not include transportation costs of coal (i) except to the extent that for contracts entered into on and after the effective date of this amendatory Act of 1997, the cost of the coal, including transportation costs, constitutes the lowest cost for adequate and reliable fuel supply reasonably available to the public utility in comparison to the cost, including transportation costs, of other adequate and reliable sources of fuel supply reasonably available to the public utility, or (ii) except as otherwise provided in the next 3 sentences of this paragraph. Such costs of fuel shall, when requested by a utility or at the conclusion of the utility's next general electric rate proceeding, whichever shall first occur, include transportation costs of coal purchased under existing coal purchase contracts. For purposes of this paragraph "existing coal purchase contracts" means contracts for the purchase of coal in effect on the effective date of this amendatory Act of 1991, as such contracts may thereafter be amended, but only to the extent that any such amendment does not increase the aggregate quantity of coal to be purchased under such contract. Nothing herein shall authorize an electric utility to recover through its fuel adjustment clause any amounts of transportation costs of coal that were included in the revenue requirement used to set base rates in its most recent general rate proceeding. Cost shall be based upon uniformly applied accounting principles. Annually, the Commission shall initiate public hearings to determine whether the clauses reflect actual costs of fuel, gas, power, or coal transportation purchased to determine whether such purchases were prudent, and to reconcile any amounts collected with the actual costs of fuel, power, gas, or coal transportation prudently purchased. In each such proceeding, the burden of proof shall be upon the utility to establish the prudence of its cost of fuel, power, gas, or coal transportation purchases and costs. The Commission shall issue its final order in each such annual proceeding for an electric utility by December 31 of the year immediately following the year to which the proceeding pertains, provided, that the Commission shall issue its final order with respect to such annual proceeding for the years 1996 and earlier by December 31, 1998.

(b) A public utility providing electric service, other than a public utility described in subsections (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that eliminate the public utility's fuel adjustment clause and adjust the public utility's base rate tariffs by the amount necessary for the base fuel component of the base rates to recover the public utility's average fuel and power supply costs per kilowatt-hour for the 2 most recent years for which the Commission has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified, the proposed tariff sheets within 60 days after the date of the public utility's filing. The Commission may modify the public utility's proposed tariff sheets only to the extent the Commission finds necessary to achieve conformance to the requirements of this subsection (b). During the 5 years following the date of the Commission's order, but in any event no earlier than January 1, 2007, a public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement of a fuel adjustment clause.

(c) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection

[March 8, 2005]

(g) of this Section, a public utility providing electric service, other than a public utility described in subsection (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that establish the rate per kilowatt-hour to be applied pursuant to the public utility's fuel adjustment clause at the average value for such rate during the preceding 24 months, provided that such average rate results in a credit to customers' bills, without making any revisions to the public utility's base rate tariffs. The proposed tariff sheets shall establish the fuel adjustment rate for a specific time period of at least 3 years but not more than 5 years, provided that the terms and conditions for any reinstatement earlier than 5 years shall be set forth in the proposed tariff sheets and subject to modification or approval by the Commission. The Commission shall review and shall by order approve the proposed tariff sheets if it finds that the requirements of this subsection are met. The Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for the period that the factor established pursuant to this subsection is in effect.

(d) A public utility providing electric service, or a public utility providing gas service may file with the Commission proposed tariff sheets that eliminate the public utility's fuel or purchased gas adjustment clause and adjust the public utility's base rate tariffs to provide for recovery of power supply costs or gas supply costs that would have been recovered through such clause; provided, that the provisions of this subsection (d) shall not be available to a public utility described in subsections (e) or (f) of this Section to eliminate its fuel adjustment clause. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified in the Commission's order, the proposed tariff sheets within 240 days after the date of the public utility's filing. The Commission's order shall approve rates and charges that the Commission, based on information in the public utility's filing or on the record if a hearing is held by the Commission, finds will recover the reasonable, prudent and necessary jurisdictional power supply costs or gas supply costs incurred or to be incurred by the public utility during a 12 month period found by the Commission to be appropriate for these purposes, provided, that such period shall be either (i) a 12 month historical period occurring during the 15 months ending on the date of the public utility's filing, or (ii) a 12 month future period ending no later than 15 months following the date of the public utility's filing. The public utility shall include with its tariff filing information showing both (1) its actual jurisdictional power supply costs or gas supply costs for a 12 month historical period conforming to (i) above and (2) its projected jurisdictional power supply costs or gas supply costs for a future 12 month period conforming to (ii) above. If the Commission's order requires modifications in the tariff sheets filed by the public utility, the public utility shall have 7 days following the date of the order to notify the Commission whether the public utility will implement the modified tariffs or elect to continue its fuel or purchased gas adjustment clause in force as though no order had been entered. The Commission's order shall provide for any reconciliation of power supply costs or gas supply costs, as the case may be, and associated revenues through the date that the public utility's fuel or purchased gas adjustment clause is eliminated. During the 5 years following the date of the Commission's order, a public utility whose fuel or purchased gas adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement or adoption of a fuel or purchased gas adjustment clause. Nothing in this subsection (d) shall be construed as limiting the Commission's authority to eliminate a public utility's fuel adjustment clause or purchased gas adjustment clause in accordance with any other applicable provisions of this Act.

(e) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause without adjusting its base rates, and such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months; provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant

to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(f) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 500,000 customers but fewer than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause and adjust its base rates by the amount necessary for the base fuel component of the base rates to recover 91% of the public utility's average fuel and power supply costs for the 2 most recent years for which the Commission, as of January 1, 1997, has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years, provided, that such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months. Provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(g) The Commission shall have authority to promulgate rules and regulations to carry out the provisions of this Section.

(h) Any gas utility may enter into a long-term supply contract with any company for synthetic natural gas produced from coal through the gasification process. The cost for the synthetic natural gas is reasonable and prudent and recoverable through the purchased gas adjustment clause if: (i) the only coal used in the gasification process has high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content; (ii) at the time the contract is entered into the price per million Btu does not exceed \$5 in 2004 dollars, adjusted annually based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics (or a suitable Consumer Price Index calculation if this Consumer Price Index is not available) for the previous calendar year; provided that the price per million Btu shall not exceed \$5.50 at any time during the contract; (iii) the utility's aggregate long-term supply contracts for the purchase of synthetic natural gas produced from coal through the gasification process does not exceed 25% of the annual system supply requirements of the utility at the time the contract is entered into; and (iv) the contract is entered into before January 1, 2015 and terminates before January 1, 2036.

(i) If a gas utility or an affiliate of a gas utility has an ownership interest in any entity that produces or sells synthetic natural gas, Article VII of this Act shall apply.

(Source: P.A. 92-537, eff. 6-6-02.)

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

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

On motion of Senator Link, **Senate Bill No. 103** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Radogno, **Senate Bill No. 127** having been printed, was taken up, read by title a second time and ordered to a third reading.

[March 8, 2005]

On motion of Senator Ronen, **Senate Bill No. 143** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Hunter, **Senate Bill No. 162** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 162

AMENDMENT NO. 1. Amend Senate Bill 162 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by adding Section 2-3.137 as follows:

(105 ILCS 5/2-3.137 new)

Sec. 2-3.137. School wellness policies; taskforce.

(a) The State Board of Education shall establish a State goal that all school districts have a wellness policy that is consistent with recommendations of the Centers for Disease Control and Prevention (CDC), which recommendations include the following:

- (1) nutrition guidelines for all foods sold on school campus during the school day;
- (2) setting school goals for nutrition education and physical activity;
- (3) establishing local community participation in creating local wellness policies; and
- (4) creating a plan for measuring implementation of these wellness policies.

The Department of Public Health and State Board of Education shall form an interagency working group to publish model wellness policies and recommendations. Sample policies shall be based on CDC recommendations for nutrition and physical activity. The State Board of Education shall distribute the model wellness policies to all school districts before June 1, 2006.

(b) There is created the School Wellness Policy Taskforce, consisting of one member representing each of the following entities: the State Board of Education, the Department of Public Health, the Department of Human Services, the Illinois School Food Service Association, the Illinois School Health Association, the Illinois Association of School Nurses, the Illinois Dietetic Association, the Illinois Association of School Administrators, the Illinois Association of School Boards, the Illinois Association of Regional Superintendents of Schools, the Illinois PTA, the American Heart Association, the Illinois State Dental Society, the American Cancer Society, the Healthy Schools Campaign, the Illinois Association for Health, Physical Education, Recreation and Dance, the Consortium to Lower Obesity in Chicago Children, and the Illinois Chapter of the American Academy of Pediatrics; and one at-large member with a doctorate in nutrition. Each member of the taskforce shall be appointed by the head of the entity that the member represents, except that the at-large member shall be appointed by the State Board of Education.

Members of the taskforce shall serve without compensation. The taskforce shall meet at the call of the State Board of Education. The taskforce shall report its identification of barriers to implementing school wellness policies and its recommendations to reduce those barriers to the General Assembly and the Governor on or before January 1, 2006. The taskforce shall report its recommendations on statewide school nutrition standards to the General Assembly and the Governor on or before January 1, 2007. The taskforce shall report its evaluation of the effectiveness of school wellness policies to the General Assembly and the Governor on or before January 1, 2008. The evaluation shall review a sample size of 5 to 10 school districts. Reports shall be made to the General Assembly by filing copies of each report as provided in Section 3.1 of the General Assembly Organization Act. Upon the filing of the last report, the taskforce is dissolved.

(c) The State Board of Education may adopt any rules necessary to implement this Section.

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

Floor Amendment No. 2 was held in the Committee on Rules.

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

On motion of Senator Link, **Senate Bill No. 182** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 190** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Trotter, **Senate Bill No. 200** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Lightford, **Senate Bill No. 272** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 277** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator E. Jones, **Senate Bill No. 331** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Clayborne, **Senate Bill No. 357** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 357

AMENDMENT NO. 1. Amend Senate Bill 357 on page 1, immediately below line 14, by inserting the following:

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

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

On motion of Senator Forby, **Senate Bill No. 410** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Forby, **Senate Bill No. 411** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Maloney, **Senate Bill No. 463** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 468** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Cullerton, **Senate Bill No. 478** having been printed, was taken up, read by title a second time.

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

AMENDMENT NO. 1 TO SENATE BILL 478

AMENDMENT NO. 1. Amend Senate Bill 478 on page 3, line 23, after "team", by inserting "or the WNBA professional women's basketball team".

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

On motion of Senator Clayborne, **Senate Bill No. 514** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Haine, **Senate Bill No. 562** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Forby, **Senate Bill No. 580** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Link, **Senate Bill No. 610** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Forby, **Senate Bill No. 615** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator J. Sullivan, **Senate Bill No. 892** having been printed, was taken up, read by title a second time and ordered to a third reading.

COMMITTEE MEETING ANNOUNCEMENTS

Senator Crotty, Chairperson of the Committee on Local Government, announced that the Local Government Committee will meet Tuesday, March 8, 2005 in Room A-1, at 1:00 o'clock p.m.

Senator Trotter, Chairperson of the Committee on Appropriations I, announced that the Appropriations I Committee will meet Wednesday, March 8, 2006 in Room 212, at 4:00 o'clock p.m.

Senator Lightford, Chairperson of the Committee on Education, announced that the Education Committee will meet Tuesday, March 8, 2005 in Room 212, at 1:00 o'clock p.m.

Senator Haine, Chairperson of the Committee on Insurance, announced that the Insurance Committee will meet Tuesday, March 8, 2005 in Room 400, at 1:00 o'clock p.m.

Senator Munoz, Chairperson of the Committee on Transportation, announced that the Transportation Committee will meet Tuesday, March 8, 2005 in Room 400, at 2:30 o'clock p.m.

Senator J. Sullivan, Chairperson of the Committee on Agriculture & Conservation, announced that the Agriculture & Conservation Committee will meet Wednesday, March 9, 2005 in Room A-1, at 9:00 o'clock a.m.

Senator Ronen, Chairperson of the Committee on Health & Human Services, announced that the Health & Human Services Committee will meet Wednesday, March 9, 2005 in Room 400, at 9:00 o'clock a.m.

[March 8, 2005]

Senator Sandoval, Chairperson of the Committee on Commerce & Economic Development, announced that the Commerce & Economic Development Committee will meet Wednesday, March 9, 2005 in Room A-1, at 8:00 o'clock a.m.

Senator Clayborne, Chairperson of the Committee on Environment & Energy, announced that the Environment & Energy Committee will meet Tuesday, March 8, 2005 in Room 212, at 9:00 o'clock a.m.

Senator Martinez, Vice-Chairperson of the Committee on Housing & Community Affairs, announced that the Housing & Community Affairs Committee will meet Tuesday, March 8, 2005 in Room A-1, at 2:30 o'clock p.m.

Senator Martinez, Chairperson of the Committee on Pensions & Investments, announced that the Pensions & Investments Committee will meet Tuesday, March 8, 2005 in Room 400, at 4:00 o'clock p.m.

Senator Raoul, Member of the Committee on Judiciary, announced that the Judiciary Committee will meet Tuesday, March 8, 2005 in Room 212, at 2:30 o'clock a.m.

MESSAGE FROM THE PRESIDENT

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

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

March 8, 2005

Ms. Linda Hawker
Secretary of the Senate
Room 403, State Capitol
Springfield, Illinois 62706

Dear Madam Secretary:

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

Very truly yours,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson
House Speaker Michael J. Madigan
House Minority Leader Tom Cross

READING OF BILLS OF THE SENATE A THIRD TIME

On motion of Senator Harmon, **Senate Bill No. 74**, 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 53; Nays None.

The following voted in the affirmative:

[March 8, 2005]

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

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

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

On motion of Senator Bomke, **Senate Bill No. 99**, 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 53; Nays None.

The following voted in the affirmative:

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

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

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

On motion of Senator Sieben, **Senate Bill No. 123**, 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:

[March 8, 2005]

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

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

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

On motion of Senator Demuzio, **Senate Bill No. 133**, 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	Haine	Munoz	Sieben
Bomke	Halvorson	Pankau	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Syverson
Clayborne	Hunter	Radogno	Trotter
Collins	Jacobs	Raoul	Viverito
Crotty	Jones, J.	Rauschenberger	Watson
Cullerton	Jones, W.	Righter	Wilhelmi
Dahl	Lauzen	Risinger	Winkel
del Valle	Lightford	Ronen	Wojcik
DeLeo	Link	Roskam	Mr. President
Demuzio	Luechtefeld	Rutherford	
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	
Geo-Karis	Meeks	Shadid	

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

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

On motion of Senator Link, **Senate Bill No. 169**, 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:

[March 8, 2005]

Yeas 55; Nays None.

The following voted in the affirmative:

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

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

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

On motion of Senator Link, **Senate Bill No. 173**, 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	Haine	Munoz	Sieben
Bomke	Halvorson	Pankau	Sullivan, D.
Brady	Harmon	Peterson	Sullivan, J.
Burzynski	Hendon	Petka	Syverson
Clayborne	Hunter	Radogno	Trotter
Collins	Jacobs	Raoul	Viverito
Crotty	Jones, J.	Rauschenberger	Watson
Cullerton	Jones, W.	Righter	Wilhelmi
Dahl	Lauzen	Risinger	Winkel
del Valle	Lightford	Ronen	Wojcik
DeLeo	Link	Roskam	Mr. President
Demuzio	Luechtefeld	Rutherford	
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	
Geo-Karis	Meeks	Shadid	

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

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

At the hour of 1:05 o'clock p.m., the Chair announced that the Senate stand adjourned until Wednesday, March 9, 2005, at 12:00 o'clock noon.

[March 8, 2005]