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The following is a general overview of the legislative activity occurring during the Illinois General Assembly's 2002 regular session. Reports also include detailed information about legislative activities of direct interest to each client.

CLIENT REPORT FOR 2002 END OF SESSION

The Illinois General Assembly concluded its 2002 spring session late Sunday evening, June 2, 2002. Immediately thereafter, as following the adjournment of any regular session, Illinois governmental attention shifted to the Governor's Office, which will begin acting on the bills that passed the General Assembly this session. The General Assembly will reconvene for seven days during November and December, in what is generally categorized as "veto session;" at that time, the General Assembly will act on the Governor's vetoes and amendatory vetoes, and will likely also address a limited number of new substantive bills.

The General Assembly also reconvened in special session, pursuant to a gubernatorial proclamation issued just eight days following adjournment of the regular session, to consider the Governor's line-item vetoes and line-item reductions of the FY 2003 budget, contained in SB 2393 (Rauschenberger/Hannig). The Governor felt it important to secure immediate certainty that the bulk of his cuts would be legislatively

sustained, and avoid the prospect of either a trial court temporarily enjoining facility closures or other cuts pending the November veto session, when line-item vetoes and reduction vetoes would ordinarily be considered, or an unexpected degree of mid-fiscal-year overrides, necessitating some emergency revenue-enhancing or borrowing measures. A more detailed discussion of this two-day special session, which adjourned *sine die* late Tuesday evening, June 11, appears below.

On a statistical note, the 2002 regular session was relatively limited in terms of the number of bills introduced and passed. Specifically, there were just 3,562 bills introduced (2,665 House Bills and 897 Senate Bills), and only 348 measures were passed by the General Assembly (consisting of 200 House Bills and 148 Senate Bills). For some perspective, during the two-year cycle that has so far comprised the 92nd General Assembly, legislators introduced 6,295 House Bills and 2,422 Senate Bills. A typical regular session brings well over 6,000 bill introductions.

This end-of-session report highlights legislative activities from the now-concluded 2002 regular session that may be of *general interest*, as well as such activities that are of *specific interest*, to you.

I. GENERAL OVERVIEW OF SESSION

The 2002 spring session officially convened on January 9, 2002, and adjourned on June 2, 2002. The 2002 spring session concluded more than two weeks after the scheduled adjournment date of May 17, and entered its first "overtime" session since 1991 by failing to end before midnight on May 31. Under the Illinois Constitution, to become effective prior to June 1 of the next calendar year, a bill must pass before June 1 of the previous year unless it is passed by a three-fifths majority of both chambers (*i.e.,* 71 votes in the House and 36 votes in the Senate)[*]. The Republicans control the Senate by a 32-27 margin, and the Democrats control the House by a 61-57 margin. Since the General Assembly did not pass the budget before the deadline of May 31, the minority caucuses – House Republicans and Senate Democrats – had an effective veto over the budget, since the budget obviously must become effective this year. The Governor and the four legislative leaders continued to work over the weekend to find a budget deal that would work. The delay in adjournment was due entirely to the difficult and lengthy budget negotiations on the Fiscal Year 2003 ("FY '03") budget – the one issue that dominated debate within the General Assembly this year.

[*] Note that, until 1995, the three-fifths "trigger date" was July 1st; during the fall 1994 election, Illinois voters approved a state constitutional amendment to move the "trigger date" back one month to June 1st.

A. THE BUDGET

The General Assembly passed a final budget package for FY '03 of approximately $54 billion in spending (a $491 million decrease from the FY '02 budget) just prior to adjourning on June 2. As explained below, the Governor cut $502 million from this spending plan by way of line-item vetoes and line-item reductions to SB 2393 (Rauschenberg/Hannig), the budget bill.

The FY '03 budget process began in earnest last August when legislators and staff from the appropriations committees were invited to a retreat with the Governor's Bureau of the Budget to begin planning for the upcoming fiscal year. At that time, there were early indications that the estimates for incoming revenue in FY '02 would be below expectations. No one expected the massive budget difficulties that would be felt by state and local governments nationwide following the events of September 11 and due to a more generalized slow-down in the economy. Illinois was just one of many states facing a glaring problem – revenue forecasts on which the FY '02 budget were predicated were much higher than the revenue being received by the State.

In November, when the legislature returned to Springfield for the fall veto session, the State had already pushed its payment cycle back and had depleted its entire Rainy Day Fund – a State Treasury fund held in reserve during strong economic times to help operate State government during low-growth periods. During the veto session, Governor Ryan asked the General Assembly for help in passing legislation that would cut the FY '02 budget and restore some fiscal health to government operations. The legislature failed to act, and Governor Ryan felt forced to make unilateral cuts in all State agency budgets, slash Medicaid reimbursement rates, and announce a furlough day program of unpaid leave time for State employees to save the State money (a full discussion of the budget process during the veto session can be found in our 2001 Veto Session End-of-Session Report that was forwarded to you at that time and which is available on our website at www.smorrill.com under "Client Reports").

When the General Assembly reconvened in January, it was obvious that the budget would be the most important item to be addressed by the legislature this spring. By the time the Governor introduced his proposed FY '03 budget in February, revenue growth had continued to lag disturbingly behind the forecasted estimates. The Governor's proposed $52.833 billion budget contained numerous cuts in spending. Among the notable cuts were:

- A three percent across-the-board cut of state agency budgets.
- Reducing the state's workforce by nearly 3,800 positions through an early retirement program and layoffs.

- Closing the Vienna Correctional Center and the Valley View Youth Center, and delaying the opening of the new maximum-security prison at Thompson.
- Closing the Zeller Mental Health Center in Peoria and the developmental disability unit at the Singer Mental Health and Developmental Center in Rockford.
- Cuts in Medicaid funding to hospitals, nursing homes, doctors, dentists and pharmacies.

From the start of the spring session, the FY '03 budgetary process was embroiled in bitter dispute. Legislators disagreed with the Governor's cuts and were upset at the prospect of having to reduce spending in an election year. The Governor was forced to make difficult decisions without legislative help during both the 2002 regular session and the 2001 veto session. As the spring session wore on, revenue forecasts grew worse. For the first time in 50 years, the State of Illinois experienced a decrease in overall state revenues from the previous year. By late May, budget negotiations had produced no compromise and it became clear that projected revenues were declining at an even more alarming rate, appearing to leave a $1.35 billion hole in the current budget. Each of the four legislative caucuses confronted this budgetary problem with the realization that any solution would be unpopular – the legislature would have to increase taxes, make programmatic cuts, or do a combination thereof in a redistricting election year. The Senate Republicans put forth perhaps the most comprehensive plan to fill the $1.35 billion hole by calling for increases of so-called "sin" taxes on cigarettes and riverboat gambling and cuts totaling $650 million. Senate Democrats proposed filling the budget hole by securitizing revenue that Illinois expects to receive under the Tobacco Settlement Agreement. Under that proposal, the state would sell a portion of its future tobacco settlement revenue for cash up front at a discounted rate. House Democrats and Republicans called for a budget plan, but were not highly specific in their recommendations on how to close the budget hole. Among the revenue enhancements discussed with some seriousness were:

- An increase in taxes on riverboat gaming.
- Elimination of the 1.75% discount retailers currently receive once accrued sales exceed $1,000,000.
- Removal of the so-called "single-sales factor" for figuring income tax on business and returning to the pre-1999 apportionment system using property, payroll and sales factors.
- Elimination of the income tax exemption for manufacturing and assembling machinery equipment.
- Decoupling the state's inheritance tax from the federal estate tax (which is being phased out as part of the recent federal tax reform legislation).
- Increases in "sin" taxes, such as those on alcohol and tobacco.
- A tax on brokered natural gas.
- Tripling of the state real estate transfer tax (from 50¢ to $1.50 per $500 of equity).

With the budget stalemate forcing the legislature to go past May 17, its scheduled adjournment date, and threatening to keep it in session past the May 31 deadline, Governor Ryan called the General Assembly into an unprecedented Memorial Day session to propose a new budget. The Governor's proposed "Memorial Day budget" cut an additional $260 million from his February budget proposal, including:

- Restoring $165 million in state funds to provide healthcare for the poor.
- Keeping the Vienna Correctional Center open, but closing the Sheridan Correctional Center, eliminating a number of boot camp programs, closing adult transition centers, laying off more than 400 sergeants at the Department of Corrections and privatizing food service operations at state prisons.
- Restoring $75 million in cuts to the developmentally disabled and mental health services.
- Eliminating fifth year scholarships for undergraduate students receiving Monetary Award Program ("MAP") grants.
- Closing 11 local health centers, reducing TANF grants, and closing other Department of Human Services facilities.
- Reducing operational costs at many state agencies.
- Reducing anti-smoking programs.

To pay for the spending included in this new budget, the Governor proposed the following revenue enhancements:

- Tripling the real estate transfer tax from 50¢ per $500 to $1.50 per $500 to raise $120 million.
- A 50¢ per pack increase in the cigarette tax, estimated to raise $285 million.
- An increase in the riverboat casino tax, estimated to raise $185 million.
- A "decoupling" of the state from the corporate tax incentives in the federal economic stimulus package, estimated to raise $240 million.
- A state retention of local governments' share of the photo processing tax, estimated to raise $26 million.
- A short-term borrowing plan of up to $1 billion, to pay the current backlog in state bills.

Following introduction of the Governor's new budget, the Senate considered the bill in committee and on the full floor, while the House met as a "Committee of the Whole" to hear testimony from State agency directors on May 28 and 29. In the meantime, the Governor and legislative leaders continued to meet; these negotiations were often less than congenial. The real estate transfer tax increase elicited strong opposition, particularly from real estate interest groups and the Senate Republican caucus. The Senate Democrats continued to push for a $2.0 billion plan to securitize future tobacco settlement revenue. The Senate Republicans opposed this source of revenue, reasoning that it would result in too high a "discount" and endanger the state's bond rating, and that it is bad public policy to engage in long-term borrowing to pay for

short-term operations. The short-term borrowing provision, as proposed by the Governor, would have required the agreement of Comptroller Dan Hynes and Treasurer Judy Barr Topinka, neither of whom agreed with the plan. Additionally, none of the legislators were pleased with the cuts made in the Governor's budget. To pay for the wide range of programs, some legislators and Governor's office insiders floated proposals to increase the income tax by one-half of a percent, from 3.5% to 4%. That increase alone would raise an estimated $1.4 billion.

Finally, on the evening of May 30, the leaders appeared to have come to a tentative budget agreement. The apparent agreement added $260 million in spending and proposed the following revenue enhancements: borrowing approximately $500 million on future tobacco settlement proceeds; not funding the Rainy Day fund for a year; increasing the cigarette tax by $.40 per pack; decoupling the federal tax breaks; and increasing top gaming tax rates from 35% to 50%. This apparent agreement was short-lived. Senate President Philip, stating he never agreed to the securitization plan, did not present the plan to the Senate for a vote. Believing that Philip had reneged on an agreement, Senate Democrats did not vote on any of the other revenue enhancement bills (*i.e.,* cigarette tax, riverboat tax, and budget implementation bill) presented on May 31. With the Senate in disarray and the midnight passage deadline approaching without a full revenue package passing to the House, the House adjourned around 11:00 p.m., sending the legislature into overtime.

The leaders, members and Governor's staff spent long hours over the weekend forging yet another budget agreement, which finally passed both houses late Sunday night. The agreement includes:

Revenue Enhancers

- Increasing the cigarette tax by 40¢ per pack, generating $230 million in revenue.
- Decoupling tax breaks from the federal economic stimulus package, saving the State approximately $250 million.
- Increasing the riverboat tax from 35% to 50%, generating $135 million in revenue.
- Authorizing the permissive borrowing of up to $750 million to pay for day-to-day operations, using cigarette tax revenue to pay off the bonds.
- Approving an early retirement plan for State employees, saving the state $64.5 million this year and an estimated $184 million in future years and reducing the number of expected layoffs.

Cuts

- Laying off all Department of Corrections sergeants, reducing the budget by $27.6 million.
- Closing 11 local offices of the Department of Human Services, saving $12.6 million.

- Eliminating the Department of Public Health's youth tobacco prevention initiative, saving $11 million.
- Reducing grants to non-profit groups and local health departments for smoking prevention, saving $12 million.

Spending

- $100 million for legislative projects, equaling $20 million for each of the four legislative caucuses to use for their own projects and $20 million for the Governor to dole out.
- $35.3 million for Lincoln Developmental Center.
- $33 million in education spending for aid to schools for specific programs.
- $25.6 million to keep the Vienna Correctional Center open, $29 million to keep the Sheridan Correctional Center open, and $18 million to keep the Zeller Mental Health Center in Peoria open, all of which had been targeted for closure.
- $9 million for the Illinois Council on Food and Agricultural Research, $2 million more than the Governor proposed.
- $4.8 million to continue the Greene County boot camp operated by Corrections.
- 5% increase in the basic welfare payments to families, $7.2 million.
- 2% cost-of-living increase to providers of serves for the developmentally disabled and mentally ill, totaling $28 million.
- Restoration of monetary award program grants for fifth-year college students at a cost of $35 million, which were cut under Ryan's revised budget.
- Borrowing $1 billion to speed up the state's bill payment schedule, costing $15 million in interest.
- Restoration of half of Ryan's Medicaid cuts to hospitals, nursing homes, and pharmacies, costing $330 million.

The legislature rejected a proposal to auction off an unused riverboat casino license that could have generated between $500 and $900 million. However, Senate and House members agreed to give the Governor the option to borrow against future proceeds from the national tobacco settlement, generating up to $750 million. The plan would be to deposit these funds equally into the State's Rainy Day fund and into a year-end checkbook reserve. Bonds would be issued to collect the money.

Despite the success late Sunday night in passing an agreed budget, there was concern that all would not end well with the FY '03 budget. Some argued that the budget was only "Constitutionally" balanced and that the revenue enhancements would not meet the spending needs. Additionally, on the Monday following adjournment, the Illinois Economic and Fiscal Commission reported an additional revenue shortfall of $200 million in May, while predicting at least a $100 million shortfall in June. With these expected revenue deficits and the additional $260 million in additional spending, some feared that the Governor would be forced to make drastic cuts to the budget.

On Friday, June 7, those fears were realized as Governor Ryan issued a proclamation calling the legislature back to Springfield for a special session to begin Monday, June 10 at 2:00 p.m. The purpose of the special session was to consider a serious of line-item and total veto cuts that the Governor would be making to the FY '03 budget bill as passed by both houses (SB 2393 (Rauschenberger/Hannig)). Those cuts would be outlined by the Governor in his veto message to be filed when the legislature returned on June 10. The Governor felt it important to secure immediate certainty that the bulk of his cuts would be legislatively sustained, and avoid the prospect of either a trial court temporarily enjoining facility closures or other cuts pending the November veto session, when line-item vetoes and reduction vetoes would ordinarily be considered, or an unexpected degree of mid-fiscal-year overrides, necessitating some emergency revenue-enhancing or borrowing measures.

When the legislature returned on Monday, they found that the Governor had made $502 million in vetoed appropriations and line-item reductions to the FY' 03 budget. Those cuts included:

- Reinstating closure of the Sheridan Correctional Center (saving $28.5 million), closing the Hanna City Work Camp ($5.8 million), reducing appropriations to the Greene County Boot Camp program by $4.8 million, closing the Rushville ($5.7 million) and Valley View Youth Centers ($12.4 million), and eliminating a $25 lump sum appropriation in the Department of Corrections budget to avoid privatization of prison commissary service.

- Eliminating most of the funding for the Lincoln Developmental Center (approximately $35 million) and drastically reducing funding for the Zeller Mental Health Center ($18 million).

- Cutting $28 million in cost-of-living increases for health care providers treating the mentally ill.

- Cutting by one percent appropriations for child care, child welfare, foster homes, adoption services, addiction treatment services, as well as other larger human service funds.

- Paring one percent from the personnel budgets of the Department of Revenue tax enforcement division, the Secretary of State's office and the Illinois State Police.

- Reducing by $30 million Medicaid payments for nursing homes and $30 million in pharmacy payments.

- Cutting $7.7 million from the state employee health insurance program, $2 million from the Council on Food and Agricultural Research, $4.3 million for emergency disaster relief, and $3 million in grants for AIDS prevention, outreach and treatment among minority populations.

- Eliminating the help line to explain the new SeniorCare pharmaceutical program ($2 million) and the remainder of the funding for the Main Street Program ($1 million).

- Reducing funding for elementary and secondary education by $101 million, including cuts of: $41.5 million in categorical grants, $31.2 million in general state aid, $6.2 million in early childhood education block grants, $6.9 million to promote scientific literacy, $1.6 million in operations from the State Board of Education, $804,000 in reading improvement block grants, and $657,000 in hold harmless funding.

- Paring by over $111 million higher education appropriations, including: $20 million for MAP grants for fifth year undergraduates, $15 million in MAP grants for four-year undergraduates, $49.6 million in funding for public universities, $14.8 million for the Illinois Community College Board and $2.5 million for the Illinois Math and Science Academy.

The Governor warned in his veto message that borrowing against the receipt of future resources (referring to the $750 million in bonding authority given to him by the legislature for use in paying FY '03 operational expenses) was not sound fiscal policy and was not an acceptable part of an overall budget solution. He warned that should the legislature choose to override his cuts, and if revenues continued to decline, he would have no choice but to recall the legislature into a second special session later this summer to consider revenue increases to fund the additional spending the legislature would authorize through any override actions.

In cutting the FY '03 budget, the Governor used his Constitutional authority in connection with appropriations bills to make item-vetoes and reduction vetoes. An item-veto, which eliminates an entire line-item, requires a 3/5 majority of both houses to override. A reduction veto, which reduces the amount in a line-item, requires a simple majority of both houses to override. Vetoed measures are sent to the originating house for legislative action, while non-vetoed measures become law immediately.

As the house of origin, the Senate was the first to consider the line-item and reduction vetoes to SB 2393. Each vetoed item, 234 in all, was considered one-by-one. Any item the Senate voted to override was then sent to the House for a vote. Any item that failed to achieve enough votes needed to override the veto would become law in 15 calendar days. Any item overridden by vote of both houses would become law immediately, the veto of the Governor notwithstanding.

Both the Senate and the House convened at 2 p.m. on Monday, with the House holding a "Committee of the Whole" on Monday and Tuesday to hear testimony from the Governor's office and the directors of the affected state agencies on the cuts made by the Governor. The Senate held an Appropriations Committee hearing until late Monday

night to hear testimony from the Governor's office and state agency directors as well as concerned citizens. On Tuesday, the Senate, spending over eight straight hours on the floor, progressed one-by-one through the Governor's vetoes, debating and voting on each measure. In total, the Senate, led by the Senate Republican caucus which voted almost exclusively to sustain the Governor's cuts, restored only $52.65 million of the Governor's $507 million in cuts. The House concurred with the Senate and also voted to override the $52.65 million in cuts the Senate had sent over.

In restoring 22 of the 234 line-item cuts, the General Assembly restored:

- $46.8 million in elementary and secondary education funding, including restorations to general state aid.
- $5.8 million in funding for public universities.
- $2 million for the line to explain the new SeniorCare pharmaceutical program.
- $495,000 in personal services for the Secretary of State's office.

Only one other item was eligible for consideration during the special session – a total veto of HB 3714 (Hannig/Hawkinson) which prohibited the Department of Corrections from privatizing commissary services in prisons. While the House voted 90-21-0 to override the Governor's veto of HB 3714, the Senate sustained the veto when the override vote in that chamber failed with only 33 of the 36 "yes" votes needed for an override. The Governor's office estimates that privatization of commissary service in the State's prisons will save approximately $25 million.

With action taken on all the vetoed measures, both the Senate and House adjourned the special session *sine die* late on Tuesday, June 12, concluding the two-day special session. Upon conclusion of the special session, Governor Ryan commended lawmakers for sustaining the tough cuts that were necessary in light of the worst fiscal crisis the State has faced in almost 50 years. The Governor acknowledged that with the legislature approving his cuts, the State should have sufficient revenue to operate during FY '03; however, the State may have to resort to short-term borrowing to ease the current cash flow problems.

B. MEASURES THAT PASSED

While legislative activity was clearly reduced this year, the General Assembly did pass several pieces of important legislation. Some of the more notable examples include:

- Legislation to provide: (*i*) re-employment and benefit-related employment for Illinois National Guard members; and (*ii*) civil relief benefits to Illinois citizens serving on active duty through the armed services or Illinois National Guard**,** equal to those available under federal law.

- Legislation creating the Restricted Call Registry Act to provide for a no-call list for residential telephone subscribers who do not wish to receive telephone solicitation calls. The bill prohibits Illinois entities from making solicitations to those on the list and provides regulatory oversight and a complaint mechanism through the Illinois Commerce Commission ("ICC"). The Governor vetoed a similar, yet less comprehensive, bill last year because it included too many exemptions for entities wishing to perform telephone solicitations.

- Legislation to make some minor reforms to Tax Increment Finance ("TIF") districts to provide that under given circumstances housing impact studies need not be performed and municipalities need not adopt feasibility studies. The bill also extends the life of specified TIF districts.

- Legislation to create the "Emergency Evacuation Plan for People with Disabilities Act," providing that building owners of certain buildings 80 feet and higher must establish and maintain an emergency evacuation plan for disabled occupants of the building.

- Legislation allowing for an early retirement program for state workers, downstate teachers, the City of Chicago, and Cook County.

- Legislation requiring members of the clergy to report cases of child abuse.

- Language to reorganize the Brownfields Site Restoration Program, a state loan and grant program to clean up abandoned, unused or underused industrial and commercial properties.

- Legislation that extends certain provisions of the Illinois Electric Deregulation law passed in 1997. The bill changes the end date of the definition of the "Mandatory Transition Period" under the Customer Choice and Rate Relief Law of 1997 ("Customer Choice Act") from January 1, 2005 to January 1, 2007, extending the bundled rate freeze provision in Section 16-111(a) of the Customer Choice Act. Additionally, the legislation extends the earnings cap provision and the fuel adjustment clause. Pursuant to Section 16-111(e) of the Public Utilities Act, electric utilities are required to make certain annual filings with the ICC in order to allow the ICC staff to calculate whether the utility's earnings level results in customers being entitled to any refunds. Under the Customer Choice Act, electric utilities were allowed to file tariffs that eliminated their fuel adjustment clauses ("FAC") and roll those costs into bundled rates. Under Section 9-220(b), any electric utility that eliminated their FAC could not seek to reinstate the FAC

until January 1, 2005, which coincided with the end of the mandatory transition period. Edison, Illinois Power, and Ameren all filed tariffs that eliminate their FACs. The legislation links the dates in the earnings cap provision and the FAC with the extension of the mandatory transition period from January 1, 2005 to January 1, 2007. On a related topic, legislation was also passed mandating the ICC to prepare a report on municipal aggregation of electric customers. This topic, along with discussion on Provider of Last Resort ("POLR"), will be the subject of summer hearings initiated by Representative Phil Novak (D-Bradley) and the Illinois House Electric Deregulation Committee.

- The General Assembly passed Attorney General Jim Ryan's anti-terrorism initiative, HB 2058. The bill defines terrorism and provides penalties for crimes of terrorism, soliciting or providing material support for terrorist activity, making a terrorist threat, falsely making a terrorist threat, and hindering prosecution of terrorism. The bill establishes law enforcement tools to investigate terrorism, including: statewide grand jury deliberations; expanded eavesdropping authority; and expedited warrant procedures. It also allows the imposition of the death penalty for murders resulting from an act of terrorism. HB 2058 further provides for restitution for damages caused by acts of terrorism, and for forfeiture of assets used to facilitate terrorism, and it requires persons convicted of terrorism-related offenses to submit DNA samples for inclusion in the statewide DNA database. Finally, the bill denies a firearm owner's identification card to most aliens admitted to the United States under non-immigration visas, and enhances the penalty for attempting to bring a weapon onto an aircraft. Although the bill passed the General Assembly overwhelmingly – 49-2-2 in the Senate and 110-3-4 in the House – its ultimate fate is in question. A similar bill passed during the fall 2001 veto session, but was amendatorily vetoed by Governor Ryan to eliminate the death penalty provision. A main aspect of the recommendations of the Governor's task force on the death penalty is to drastically reduce the crimes that are eligible for imposing the death penalty. At this time, Governor Ryan appears ready to veto, or at least amendatorily veto, any measure that would expand the use of the death penalty.

- While the General Assembly failed to pass a comprehensive ethics or election reform proposal, legislation initiated by the Senate Republicans, and which passed both legislative chambers, bans employees of state and local governments from seeking or accepting political contributions from anyone they regulate or over whose activities they have authority. The legislation also clarifies that, under the Illinois Gift Ban Act, "nominal value" is less than $100. On a related note, the Illinois Supreme Court this spring upheld the Illinois Gift Ban Act, which had faced a challenge questioning its constitutionality (the ruling concluded that the plaintiffs lacked standing, and did not directly address the merits of the constitutional challenge). Passed in 1998, the State Gift Ban Act bans personal use of campaign money, toughened disclosure of contributions and prohibits gifts of more than a "nominal value" to public employees. All M&A clients received a

detailed briefing on this comprehensive ethics package following the 1998 regular session.

- Legislation that prohibits insurers from canceling, refusing to issue, or refusing to renew policies where claims were made within the preceding 60 months due to hate crimes.

- Language that specifically prohibits the privatization of prison food services within the Illinois correctional system. The Governor immediately vetoed this legislation, and that veto was promptly sustained in the two-day special session that was convened just eight days following adjournment of the regular session.

- Legislation that provides for the collection and compilation of a DNA database of all felony offenders in Illinois by the Illinois State Police.

C. MEASURES THAT DID NOT PASS

- The General Assembly did not approve the so-called "Bank One Exemption," which would allow Bank One to assess pre-payment penalties and fees in excess of 3% on home-equity loans with interest rates over 8%. Bank One has been pushing for this change since last fall in connection with its plan to consolidate its state banking charters in Illinois. Currently, Bank One's charter is located in Ohio, which allows this practice. As no other financial institution was allowed such an exemption, the measure faced fierce resistance from other financial institutions who believed this concept created an unlevel playing field, as well as from consumer groups who believe the current law is crucial for protecting consumers. Despite hiring a plethora of lobbyists in Springfield, and even joining the Illinois Manufacturers Association to gain its support, Bank One was unsuccessful in passing their exemption. Proposals to expand the scope of Bank One's legislation to include other financial institutions, and thus eliminate the opposition of these groups, did not pan out.

- The General Assembly failed to pass a new school aid formula. Because it represents a regional battle for educational dollars, the school aid formula is certainly one of the most contentious issues the General Assembly faces. The bipartisan Illinois Education Funding Advisory Board ("IEFAB") has in the past recommended that the state increase its share of total elementary and secondary school funding and reduce reliance on local property taxes, but has deferred its recommendation to the legislature this year until after adjournment. A comprehensive report by IEFAB on school funding is expected on January 1, 2003.

- The General Assembly failed to pass any comprehensive ethics or election reform legislation. While ethics reform was a hot topic among legislators and candidates for office in this redistricting election year, no major reform legislation passed even one chamber of the General Assembly. Additionally, no election reform measures moved this spring. In fact, the General Assembly passed only two Election Code items – one to correct an anomaly which allowed some election jurisdictions to have one less day to register voters than others, and a second to establish the terms of office for Senate districts over the next decade (Senators have two four-year terms and one two-year term in the ten-year period).

- The General Assembly failed to pass legislation to restructure or "reform" the state's toll highway system. The Illinois State Toll Highway Authority ("ISTHA") announced plans early in the spring to raise tolls as much as 35¢ for a standard 40¢ toll. The increase in tolls, along with a second toll hike to follow in 2012, would be used to pay for $5.5 billion in capital and infrastructure improvements. State legislators and the Governor opposed the plan and ISTHA has announced that it will not proceed with the toll hike in its current form. A plan by the Civic Federation to phase-in toll increases, to address the issuance of ISTHA debt, and to provide for an audit of the tollway was not addressed. The General Assembly did pass Senate Joint Resolution 72, calling for the State Auditor General to undertake a management audit of ISTHA to determine whether the Authority is managing or using its resources, including toll and investment-generated revenue, personnel, property, equipment, and space, in an economical and efficient manner.

- The General Assembly failed to pass Governor Ryan's proposal to consolidate all state bonding authorities into one agency. The plan never came to a vote in either chamber. The Governor moved forward with an Executive Order that combined many of the smaller bonding agencies, leaving the large bonding agencies such as the Illinois Development Finance Authority and Illinois Housing Development Authority, among others, untouched.

- The General Assembly did not pass legislation that would include "sexual orientation" as an unlawful basis for discrimination under the Illinois Human Rights Act.

- Legislators failed to pass legislation to address the procedure for re-allocation of gaming licenses revoked or ceded back to the State.

- A measure aimed at providing "Fairness in Health Care Services Contracting Law" did not pass the legislature this spring. This legislation would have regulated the contract provisions between health care providers and insurance companies and administrators.

- The General Assembly failed to agree on a new program to provide prescription drugs to seniors at more affordable prices.

- The General Assembly failed to pass legislation, introduced late in the session by Governor Ryan, implementing the recommendations suggested by the Governor's Commission on Capital Punishment. Among the capital punishment reforms in the legislation were: barring the execution of the mentally retarded; mandating that natural life is given as a sentencing option to juries; reducing death penalty eligibility factors from 20 to 5; and barring the death penalty when a conviction is based solely on the testimony of jailhouse informants. Summer hearings on this initiative are expected.

- Legislation that prohibits solicitation calls to cell phones failed to pass this spring.

II. THE PRIMARY ELECTION

Every ten years, state legislative and congressional districts are redrawn to reflect changes in population and to ensure that districts remain equal in population. Following the redistricting process, every constitutional officer position, congressional seat and state legislative seat is up for election. For that reason, this year's primary election, held on Tuesday, March 19, was particularly competitive. The following is a brief recap of the state primary results.

A. Governor and Lieutenant Governor

The Governor's race saw heavily contested primaries for both Democrats and Republicans. In the Republican primary, Attorney General Jim Ryan received 45% of the vote, defeating State Senator Patrick O'Malley (27%) and Lieutenant Governor Corinne Wood (27%). In the Democratic primary, Congressman Rod Blagojevich (37%) defeated former Chicago Public Schools CEO Paul Vallas (34%) and former Illinois Attorney General Roland Burris (29%). The Republican and Democratic candidates have each emerged from fiercely contested primaries, with no clear front-runner in the general election. The November race for the Governor's mansion promises to be just as competitive as the primary.

In the Lieutenant Governor's race, former Illinois Treasurer Pat Quinn defeated Joyce Washington and Michael Kelleher and will be Blagojevich's running mate in the fall. State Senator Carl Hawkinson, Jim Ryan's chosen running mate, defeated State

Representative William O'Connor, Jack McInerney and Charles Owens to capture the Republican nod. Under the Illinois Constitution, Governor and Lt. Governor candidates run on a single ticket in the general election.

B. Attorney General

In what were the most intense Attorney General primary races in recent memory, State Senator Lisa Madigan defeated Justice Department official and former U.S. Attorney John Schmidt 58% to 42% to earn the Democratic nomination. DuPage County State's Attorney Joe Birkett defeated lawyer Bob Coleman 64% to 36% to win the Republican nomination.

C. United States Senate

In a three-way race for the Republican U.S. Senate nomination, State Representative Jim Durkin defeated well-funded opponents James Oberwies, owner of Oberweis Dairy, and Chicago attorney John Cox. Durkin, who received 46% of the vote to 31% for Oberwies and 23% for Cox, will face Democrat incumbent Senator Richard J. "Dick" Durbin in the fall. Republican Senator Peter G. Fitzgerald is not up for re-election until 2004.

D. Congressional and State House Races

In Appendix A, we provide a list of the candidates running this November in the 13 Congressional seats, 59 State Senate seats and 118 State Representative seats.

III. GOVERNOR'S ACTION ON BILLS

Under the Illinois Constitution, the General Assembly has 30 days in which to present a bill to the Governor after final passage. The Governor has 60 days after receipt of a bill in which to act – inaction beyond the 60-day period results in the bill automatically becoming law.

Typically, the Governor assigns a "bill review team" to analyze any measure that reaches his desk. The review team usually consists of one representative from each of the following areas of the Governor's office: Legislative Affairs, Bureau of the Budget, Policy Staff, Press Staff and Legal Office. Affected administrative agencies typically are also represented.

IV. VETO SESSION

The 2002 veto session has been scheduled for November 7 (a perfunctory session day when veto messages are simply read into the House and Senate records); November 19, 20, and 21 (when vetoed and amendatorily vetoed House Bills are considered in the House and vetoed Senate Bills are considered in the Senate); and December 3, 4, and 5 (when vetoes overridden, or accepted in the case of an amendatory veto in the original chamber, are considered in the other chamber).

There are three types of vetoes in Illinois: (a) total vetoes, where the Governor disapproves a bill in its entirety; (b) amendatory vetoes, where the Governor makes changes to the bill that, in turn, must be approved by the General Assembly; and (c) line-item or reduction vetoes, where the Governor disapproves or reduces certain line items in an appropriation bill, with the non-vetoes portions taking effect as law without further action by the General Assembly.

The General Assembly may override a veto by a three-fifths vote in each chamber, or it simply may kill a substantive bill by refusing to pass any motion on the veto. Regarding amendatory vetoes, the legislature may accept them by way of a majority vote in each chamber. Finally a line item reduction veto takes affect if not "restored" by the General Assembly. Unlike other vetoes, the General Assembly may restore a line-item reduction by a simple majority in both chambers.

With the November election being completed prior to the 2002 fall veto session, and new constitutional officers and a new General Assembly set to be sworn in, this veto session is certain to be active.

Prior to the inauguration of the next legislature, and the convening of what will be the 93rd General Assembly, there is sure to be one or two final legislative days of the current 92nd General Assembly; this could be an active legislative period.