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The following is a general overview of the legislative activity occurring during the Illinois General Assembly's 2004 regular session. Reports also include detailed information about legislative activities of direct interest to each client.

CLIENT REPORT FOR 2004 END OF SESSION

The Illinois General Assembly concluded its 2004 spring session on Saturday, July 24, 2004, nearly two full months after the constitutional adjournment deadline of May 31.

Due to the historic overtime session (no overtime session in at least the past half-century has been as long, or gone as late in the calendar year), the Governor's office has already acted upon a large number of bills passed by the General Assembly. With the passage of the budget and adjournment of the legislature, most governmental attention will shift to the Governor's Office, which will continue acting on the bills that passed the General Assembly this session. The General Assembly will reconvene for six days during November, 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 also address a number of substantive bills, including the capital spending portion of the Fiscal Year 2005 ("FY05") state budget.

In our end of session report for the 2003 spring legislative session, we called the 2003 spring session unique. That adjective also does well in describing the 2004 spring session. This session holds the record for longest overtime session, was dominated by massive budget difficulties and was marked with differences of opinion between the Governor, Speaker of the House and Senate President. The session was punctuated by often-acrimonious interplay between the Governor and the General Assembly.

On a statistical note, the 2004 regular session displayed a high volume of activity. There were 4,798 bills introduced (3,499 House Bills and 1,299 Senate Bills). A total of

414 measures were passed by the General Assembly this year, down 285 bills from the 2003 spring session.

This end-of-session report highlights legislative activities from the now-concluded 2004 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 2004 spring session officially convened on January 14, 2004 and adjourned on Saturday, July 24. The 2004 spring session concluded an astounding 64 days after the scheduled adjournment date of May 21, and 54 days after the constitutional adjournment deadline of 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 (71 votes in the House and 36 votes in the Senate). The Democrats control the Senate by a 33-26 margin, and the House by a 66-52 margin. With the General Assembly not passing the budget, and many other substantive issues, before the deadline of May 31, the minority caucuses – House Republicans and Senate Republicans – gained an effective veto over the budget (and many of the unresolved substantive issues), since the legislature cannot adjourn without passing a budget for the fiscal year that began on July 1.

A. THE BUDGET

The Illinois General Assembly passed a final budget package for FY05 of approximately $45.5 billion. The Governor and General Assembly deferred $10-12 billion in capital appropriation spending, including a new school construction program and numerous public health, public safety and transportation projects, until the fall veto session in November. It is very rare for the capital appropriations budget not to be passed as part of the overall state spending plan.

In many ways, the FY05 budget process began immediately upon conclusion of the passage of the FY04 budget on May 31, 2003. Following passage of the FY04 budget, the Governor line item vetoed, and outright vetoed, a number of appropriations measures. While some of that funding was restored during the fall veto session, acrimony remained. Some members of the General Assembly, including House Speaker Michael Madigan, believed the Governor had broken commitments made during the FY04 budget process.

Additionally, it became clear early in the FY04 fiscal year that revenue projections for the fiscal year would fall short, while some human service-related spending levels would be higher than expected. After experiencing what many called "the worst fiscal crisis in state history" during the 2003 spring session, things looked to be getting worse rather than better for the current (FY04) and upcoming (FY05) budget years.

The haggling over FY05 budget priorities began the first week of the spring session when on January 15, the Governor gave his State of the State Address, using the speech to outline his substantive priorities for the next year, and to call vehemently for a new Department of Education to replace many of the responsibilities of the Illinois State Board of Education ("ISBE").

The Governor's Address – a one and half hour speech given before a joint session of the General Assembly – recounted successes from his first year in office. The vast majority of the Address, however, was dedicated to the Governor's proposal to transfer all administrative functions from ISBE to a new State Department of Education under the Governor's jurisdiction (of note, ISBE is a constitutionally-created entity established by Illinois' 1970 Constitution).

In addition to transferring ISBE's administrative authority and streamlining the bureaucracy, the Governor proposed a number of new programs on January 15 – many of which would need funding through the FY05 budget. Those programs included:

- Providing free books for all Illinois children from birth until age 5.
- Reviving *Project Success* to link families to various state services helpful for their children to succeed in school.
- Placing reading specialists in failing Illinois elementary schools.
- Requiring 40 hours of community service for high school students to graduate.
- Banning junk food and soda from school vending machines.
- Requiring schools with 40% of the student population eligible for free or reduced lunches to also offer breakfast.
- Studying different routes for teacher certification.
- Creating a Professional Teacher Standards Board to administer the certification of teachers and other school personnel.

- Requiring all K-8 teachers with a standard or master certificate to complete 50% of their certificate renewal requirements by taking courses in reading strategies at universities or by participating in various professional development opportunities.

- Creating the Illinois Tech Prep Program to prepare students who are not planning to attend a four-year university for vocational careers.

- Increase funding for the Early Childhood Block Grant program.

- Creating the GRAD program to aid in dropout prevention.

Almost one month later, on February 18, the Governor presented his budget to the General Assembly in another joint session of that body. Absent from his address was the capital portion of the budget. The Governor had requested, and the General Assembly approved, legislation allowing him to postpone introduction of his state capital budget until late March.

Illinois' budget process is driven by the Governor's proposed budget, the framework of which the Governor and the General Assembly typically use to craft a final budget deal. The Governor's proposed Fiscal Year 2005 budget represented approximately $43.5 billion in operating expenses and took into account an approximate $1.7 billion FY05 budget deficit (by the conclusion of the session the deficit would be estimated at $2.3 billion).

During his speech, the Governor proposed balancing the budget by reducing operational costs by $840 million and by adding $945 million in new revenue. The Governor's Office of Management and Budget also projected an increase in the base tax growth rate of $280 million. The Governor, in his proposed budget, held firm on his campaign commitment not to increase the state income or sales taxes.

The Governor proposed the following items in his Budget Address:

- An increase in spending on K-12 education by $400 million.

- Changing the way in which Monetary Award Program ("MAP") grants are awarded by limiting grant amounts and using the savings to create an additional 1,000 grants for students.

- Adding 400 state police officers to the streets by reducing officer headcount at desk jobs and funding two new trooper classes, while providing funding to eliminate an existing DNA case backlog and to purchase 425 new police cars.

- Increasing parole agents, supervisors and caseworkers under the Governor's Operation Spotlight program and expanding the drug rehabilitation facility at Sheridan.

- Expanding the FamilyCare initiative by $66 million; increasing funding for the developmentally disabled by $76 million; providing $47.5 million to allow home care for 200 developmentally disabled persons; and allowing for a wage increase for personal assistants helping the developmentally disabled.

- Boosting funding for HIV and AIDS prevention and maximizing federal Medicaid funds.

- Requiring social service providers to competitively bid for contracts and to allow greater reimbursement by the federal government.

The Governor's FY05 budget called for generating $223 million by closing business income tax loopholes, netting $98 million through closure of other business loopholes, and earning an additional $80 million through "tax adjustments." Among his proposals were:

- Taxing all corporate income as business income ($29 million).

- Eliminating foreign tax havens for businesses ($40 million).

- Ending the exemption to unitary reporting by domestic subsidiary companies ($21 million).

- Eliminating accelerated depreciation for corporations ($74 million).

- Limiting the farm chemicals tax exemption to farms that produce less than $1 million in profits annually ($27 million).

- Collecting sales tax on additional licenses for software packages bought by companies ($64 million).

- Eliminating a tax exemption for luxury watercraft ($7 million).

- Imposing a 75-cent state tax on taxi rides to and from O'Hare and Midway Airports ($6 million).

The Governor also called for a number of changes to streamline government and save additional dollars. Those changes are:

- Merging the Department of Professional Regulation, Department of Financial Institutions, Office of Banks and Real Estate, Department of Insurance and the Comprehensive Health Insurance Plan into the new Department of Financial and Professional Regulation for a savings of approximately $15.3 million.

- Merging: the Department of Agricultures Land Division into the Department of Natural Resources; the Circuit Breaker program and Low Energy Assistance Program into the Department of Public Aid; the Medical District into the Illinois Finance Authority; Child Health Insurance Program into the Department of Revenue; the Illinois Building Commission into the Capital Development Board; the ICC Railroad Commission into IDOT; and the CMS and ICC police forces into the Illinois State Police.

- Consolidating the press offices of nearly 25 different state agencies and boards into one, saving $1 million.

- Reducing state employee headcount by targeting a new early retirement initiative at 2,000 non-frontline positions and titles (saving $25 million) and by not filling 2,000 vacant positions.

- Reorganization of the Illinois State Police through an early retirement initiative, moving desk officers to frontline positions and reducing administrative staffing saving $10 million.

- Closing Vandalia Correctional Center (and moving the inmates to a new facility in Lawrence) and the Illinois Youth Center in St. Charles (and moving the detainees to Kewanee) saving $50 million.

On March 23rd, the Governor proposed his capital appropriation budget for FY05. His proposed $10.1 billion capital budget re-appropriated $6.9 billion for continuing projects and appropriated $3.2 billion in new projects. Items of note included:

- An acceleration of $200 million of the $500 million dedicated in FY05 for the Governor's Opportunity Returns road construction program, aimed at generating 4,800 jobs in FY05.

- $500 million for the State's school construction program and $50 million in maintenance grants. Chicago Public Schools would receive $100 million, with downstate schools receiving $400 million.

- $12 million, along with a 75-percent federal match, for a State Emergency Operations Center; $2.5 million to design a new state-of-the-art Illinois State Police Forensic Science Laboratory to cost $19.5 million and to be

located in Metro East; and funding for a 200-bed specialized unit at Sheridan Correctional Center to provide vocational education and job preparedness training for inmates who have completed 12 months of drug treatment.

- $10.4 million in capital improvement and maintenance funds for the State Fairgrounds in Springfield and DuQuoin and $5.4 million to complete a horse barn addition on the Springfield fairgrounds.

- $10 million to the Conservation Reserve Enhancement Program to help restore erodible lands along the Illinois River; $7.9 million to the Conservation 2000 program; and $6.7 million to restore Lake Michigan between Montrose and Irving Park Road.

- $28.7 million in new capital projects for the Illinois Department of Human Services at ten state-operated facilities.

- $19 million in state funds, and a $95 million federal match, for the existing revolving loan program to upgrade and expand wastewater and drinking water facilities.

- Sale of state property including the Illinois Toll Highway Authority administrative building, land surrounding the Elgin Mental Health Center and a sell and leaseback deal for the James R. Thompson Center in Chicago.

Following introduction of the Governor's full budget, the General Assembly's Appropriation committees began hearings on the substance of the proposed budget. Those committees, however, were frustrated by the lack of details on many of the Governor's proposals. Despite presenting his budget to the General Assembly, the Governor did not offer concrete details or draft legislative language for many of his revenue enhancement or other proposals.

By mid-April, it became clear that a difference in philosophy existed between some in the General Assembly and the Governor on how to address the FY05 budget. On April 12, Speaker Madigan opined that he believed the FY04 budget was only a "band-aid" and expressed his concerns that the Governor's FY05 budget was more of the same. He raised concerns regarding the amount of borrowing in the budget and questioned whether the budget proposed by Blagojevich would fix the structural deficit. At the same time, Madigan offered concerns on the Governor's top legislative priority – creating a new Department of Education and on the Governor's proposal to shutter a prison in Vandalia – a concern shared by Senate Minority Leader Frank Watson, who has the Vandalia prison in his district. Also at this time, pressure was mounting to offer some solution to a crisis in medical malpractice insurance where insurance carriers and doctors

alike were fleeing the state. All of these issues would later become enmeshed in the discussions on the FY05 budget.

Only days later, more bad news enveloped the slow-moving budget discussions between the Governor and the General Assembly. The legislature's budget arm – the Economic and Fiscal Commission – reported that the fee increases instituted as part of the revenue plan for the FY04 budget were not bringing in as much as anticipated. The Commission estimated that only $344 million would be collected, leaving a gap in the FY04 budget of an additional $77 million.

Later in the same week, the Illinois Taxpayers Federation began advocating for a temporary increase in the state's income tax, arguing that an increase in that tax would do less harm than the $1.4 billion in business fee and tax increases implemented in the FY04 budget and proposed in the FY05 budget. Throughout the session, legislators were becoming aware of problems being caused by a number of the revenue changes made to balance the FY04 budget, including increased fees on truckers, an elimination of tax exemptions for printing presses and manufacturing equipment, and new environmental impact fees. The Governor maintained his pledge not to increase the income tax and continued to support the revenue changes made for the FY04 budget.

Early in May, with budget negotiations still at their starting point, gaming once again became the focus of attention in Springfield. In the spring 2003 session, a major gaming package was agreed to by key members of the General Assembly and numerous gaming-related interests, however, the Governor announced on the day the agreement was reached that he would not support any expansion of gaming, killing that proposal for the year.

With budget talks going nowhere, gaming again dominated discussion, spurred by comments made by Chicago Mayor Richard M. Daley who announced plans for the City to seek ownership of a land-based casino. Both concepts – municipal ownership and a land based casino – would be new to Illinois gaming and generated much disagreement between legislators and interest groups. The Mayor believed his proposed casino would generate between $600-700 million for the state and $250-300 million for local governments.

Despite attempts to come to an agreement on a massive gaming package that would have added slots at horse racing facilities, added three new casinos and given Chicago ownership of a land-based casino, no agreement could be reached. The plan was never far from the surface due to its potential to generate revenue in the $2+ billion range – a boon to legislators looking at the difficult task of raising some taxes and fees while cutting state services.

The budget process took a small step forward on May 12 when the Governor, Speaker Madigan and Senate President Emil Jones were able to come to an agreement on a way to reform the State Board of Education to allow the Governor more direct

management power over public schools, while keeping the current ISBE infrastructure intact. While not directly related to the budget talks, this verbal agreement cleared one substantive hurdle standing in the way of continuing budget talks (of particular note, this agreement continued to remain one of the ancillary issues being debated by the four legislative leaders and the Governor in the overtime budget talks, with final passage of the ISBE reform bill not taking place until the final day of the legislative session).

As the session entered it's final scheduled week of session, little progress had been made on the budget. The Speaker began pushing a "no growth" budget – with the support of Republicans in both chambers, while the Senate President pushed for the more robust budget sought by the Governor. The Speaker, feeling his ideas were not being considered, stopped attending budget meetings with the Governor. More bad budget news had also been delivered, with leaders learning that the presently dormant 10th riverboat license would not be available for re-issuance due to issues in federal court (creating an additional $450 million hole in the budget) and finding that the state's 2002 early retirement program was costing $380 million more than expected.

Shortly thereafter, the Governor threatened the layoff of 6,000 state workers as a means to balance the budget. The House had recently failed to pass some of the Governor's key revenue enhancements – many of them considered harmful to Illinois business. Blagojevich indicated that the 6,000 layoffs would save the state approximately $300 million. The state employees union – AFSCME – and other interest groups argued that the layoffs would severely restrict state services and cause numerous problems. Meanwhile, the Speaker began moving legislation to curtail the Governor's borrowing authority – which had been expanded the previous legislative session.

By the constitutional adjournment deadline of May 21, no deal had been reached. The Governor backed away from his threat to layoff 6,000 workers and was now embracing a plan by Senate President Emil Jones to tap $1.7 billion from 200 state dedicated funds and to attempt to sell more state property (in the spring 2003 session, the General Assembly had given the Governor the authority to sell the state's Chicago office building, the James R. Thompson Center, and the Illinois State Tollway headquarters building in Downers Grove). The Speaker objected to this revenue plan, while the Senate President proceeded to pass legislation to the House to increase fees and taxes on business by almost $300 million – the proposal was certain not to pass the House, which had killed another version of this language earlier in May.

No agreement was reached on May 21. In the days that followed, little progress was made. Speaker Madigan continued to advocate for a no- or low-growth budget, while President Jones and the Governor were dug in on the Governor's proposed spending levels.

On May 28, there seemed to be a hint of optimism that Madigan and Jones could agree on a compromise budget and send a veto-proof budget to the Governor without his input. Senator Jones also continued to work on a major gaming bill which still lacked the

support of Senate Republicans who did not want the City of Chicago to own a casino. As the legislature stayed in session throughout the Memorial Day weekend, a proposal to expand the sales tax to non-carbonated beverages was floated. While the proposal would have brought in an estimated $68 million, no consensus could be reached.

The constitutional adjournment deadline of May 31 arrived with no budget. At the conclusion of a long and acrimonious day, the Senate had passed a budget plan similar to the Governor's proposed budget to the House and the House had passed a low-growth budget to the Senate. Neither chamber acted upon the other's proposal. The midnight deadline came and went with no additional progress on the budget.

On June 2, legislators were sent home while the Appropriation Committee chairmen and the four leaders and the Governor continued to meet. While some ideas began to emerge, such as a proposed 2.25 percent across the board cut in state agency appropriations, little progress was being made. If anything, the sides seemed to be getting further and further apart.

On June 3, another budget blow was felt. Upon reviewing the Governor's plan to mortgage the State of Illinois Center in Chicago, the Attorney General issued an opinion that the proposed deal was unconstitutional – adding an additional $216 million to the budget hole.

On June 9, the House and Senate re-convened for committee and floor action to address three substantive issues. First was legislation that provided for short-term borrowing to allow the State to be eligible for an expanded federal Medicaid match and to reduce the payment cycle for Medicaid vendors. Second, the legislature passed legislation amending the filing date for national political parties to get a candidates name on the ballot – a necessity due to a late Republican National Convention this year. Last, the legislature considered a supplemental appropriations bill that would have provided funds for various state agencies. In a sign of the partisan differences that continued, Republicans did not support the measure in the Senate and that legislation failed to meet the 3/5 majority and did not pass. The legislature then adjourned. The budget talks continued among the leaders.

Over the next two weeks, little progress was made. As a result, on Wednesday, June 23, Governor Blagojevich announced that he would be calling the General Assembly into special session beginning on Thursday, June 24 for work on the budget. The new fiscal year was set to begin on July 1 and no budget deal was imminent.

Upon convening the special session, Speaker Madigan convened the House and almost immediately adjourned the special session, indicating on the floor that the House had done its work in passing a budget and explaining that the leaders were still meeting to find an agreed FY05 budget plan. The Governor immediately called a second special session for the next day. After seven days of special sessions, and no budget agreement, a stopgap budget was passed. On July 1, the first day of the new fiscal year, the House and

Senate passed a one-month "core services" budget designed to keep state government operating at its most basic level for the month of July.

Despite passage of the one-month core services budget, the Governor continued to call the General Assembly into special session, with the members having no work to accomplish on the floor. Members of both chambers were frustrated and tired, many commuting back and forth from Springfield due to in-district, job and family commitments.

By the 4th of July, some budget progress had been made. The four leaders and the Governor stood approximately $480 million apart in their discussions on an agreed FY05 budget. Additionally, they continued to work on a series of approximately 30 ancillary substantive issues that the legislative caucuses and Governor had tied to the budget deal. Those issues included items such as medical malpractice reform, limiting state debt, limiting administrative charge backs on quasi independent state agencies and funds, a $250,000 death benefit for survivors of soldiers killed in Iraq and Afghanistan, destruction of records from gun owner background checks, tougher oversight over state employee health insurance issues and reconstitution of the Illinois Health Facilities Planning Board.

The month of July continued to be an acrimonious and contentious period in the capital. Legislators were kept in Springfield – called in for 17 special sessions, a new record for the state – as progress was incremental between the Governor and the four legislative leaders. On numerous occasions it seemed as if a deal might be reached, but each time a relapsed occurred. Finally, early in the week of July 19, the seeds for a deal were planted. Legislators were allowed to go home for two days and called back into session for committee hearings and votes on Friday and Saturday July 23 and 24th. In the end, it took only a few hours on Friday and a long day on the floor Saturday for the longest overtime session in at least the past half-century to end.

The Governor and the four legislative leaders agreed to a $45.5 billion FY05 budget plan – a plan which excludes $10-12 billion in capital appropriations, which has been put off until the veto session in the fall. The FY05 budget seeks to close an estimated $2.3 billion deficit and increases spending in targeted areas. Below please find a summary of the final FY05 budget:

<u>The Revenue Plan</u>

- Eliminating "corporate loopholes," including: taxing all corporate income as business income ($30 million); mandating compliance with federal tax shelter enforcement ($100 million); enforcement of offshore tax haven tax laws ($15 million); and eliminating an exemption for private watercraft ($6 million).

- Reducing all state agency budgets by $1.3 billion (excluding education and health care) through 4 percent across the board cuts.

- Switch to a fee-for-service model for human service providers, allowing the state to leverage an additional $60 million in federal funds, and mandating competitive proposals for social service providers.

- Consolidating the Department of Professional Regulation, Department of Financial Institutions, Office of Banks and Real Estate, Department of Insurance and the Comprehensive Health Insurance Plan into the new Department of Financial and Professional Regulation for a savings of $15 million.

- Merging the Circuit Breaker program into the Department on Aging and the Low-Income Energy Assistance Program into the Department of Public Aid, Child Health Insurance Program into the Department of Revenue and the Illinois Building Commission into the Capital Development Board and consolidating the press offices of nearly 25 different state agencies and boards into one, at an estimated savings of $1 million.

- Reducing state employee headcount by beginning a new non-pension inducing severance plan for employees to leave the State Employee Retirement System ("SERS") by allowing up to 3,000 people, on a first-come, first-serve basis, to receive lump-sum payments from SERS. If less than 3,000 people participate, the state will offer a lump-sum payout of one week's salary for each year of work. The plan is estimated to save $81 million.

- Reorganizing and consolidating the Illinois State Police and consolidating CMS Police into the Illinois State Police to save approximately $11 million.

- Increasing the fee for a state ID card from $4 to $20 and the fee for license reinstatement following a DUI conviction from $100 to $500 (and to $1,000 for subsequent offenses).

- Transferring $260 million from dedicated state funds and charging administrative fees on those funds of $225 million.

Additional and Restored Funding

- An increase of $389 million for elementary and secondary education, including: $230 million for General State Aid (an increase in per pupil spending of $154); $30 million for Early Childhood Education allowing an

additional 8,000 kids to attend preschool; $95 million more for mandated programs such as special education and student transportation; $12 million for Average Daily Attendance Grants; $10 million for Fast Growth Districts; $10 million more in transitional assistance; and $2 million more for bilingual education.

- Allows an additional 1,000 students to receive college scholarships through the MAP program.

- Increased spending on health care, including: $600 million to allow all current Medicaid patients to keep their coverage and to expand KidCare to cover an additional 20,000 children and 56,000 adults; increasing prescription drug coverage for senior citizens by $100 million; $40.1 million in funding for community services for the developmentally disabled; $3 million to make AIDS medications available to more HIV clients and $2 million to improve AIDS outreach to minority populations; increased spending for child care; and increased spending for cervical cancer screenings.

- Provides an additional $3.3 million to train new forensic scientists to eliminate a DNA case backlog and increase the amount of DNA samples that can be processed annually. Additionally, the budget funds new cadet classes and officer transfers to put 500 new state police officers on the street while increasing the number of parole officers under Operation Spotlight and fully-funding the Sheridan drug rehabilitation facility.

- Reinstating the tax credit on the purchase of manufacturing equipment and printing presses (both repealed as part of the FY04 budget).

- Maintaining the Open Space Land Acquisition and Development Program ("OSLAD").

- Restoring $25 million for state tourism grants.

- Keeping open prisons in Pontiac and Vandalia as well as the youth center in St. Charles.

In an interesting side-note to the FY05 budget agreement, legislative leaders required the Governor to sign a serious of "memorandums of understanding" in which the Governor agreed to fulfill certain commitments made as part of the FY05 budget deal – a deal which included a host of non-budgetary issues. A number of the non-budgetary issues that passed are discussed in the section below.

B. MEASURES THAT PASSED

The second year of a two-year General Assembly has been traditionally reserved for emergency and appropriations matters. This year, however, a broad ranges of issues were considered, with a number of noteworthy items passing. Those include:

- An initiative pushed since last fall by City of Chicago Mayor Daley and Cook County Assessor Houlihan to provide property tax breaks to those homeowners whose assessments increase more than 7% per year, as well as other targeted property tax assistance to homeowners and seniors. The legislation will shift the property tax burden to other homeowners and businesses.

- Legislation granting the Joint Committee on Administrative Rules ("JCAR") more authority to block rulemakings by executive branch state agencies.

- An update to the massive ethics reform package passed last year. Among other items, the legislation: updates the definition of "political" to exclude activities in furtherance of a person's governmental or public service functions; specifies that the prohibition against the use of State funds is for items promoting executive branch constitutional officers and General Assembly members not in furtherance of a person's official State duties or governmental and public service functions; and provides that a commissioner of an ethics commission is not an employee for purposes of the State Employees Article of the Illinois Pension Code unless the person elects to participate. Additional legislation was passed prohibiting contingency fees on executive and administrative actions. Previously contingency fees were prohibited only for legislative lobbying activities.

- Legislation introduced on June 29 as a result of controversy with the Illinois Health Facilities Planning Board ("IHFPB") possibly awarding approval for building of hospitals for political reasons. That legislation terminates the terms of the existing IHFPB members, reduces the number of members on the Board from 9 to 5, mandates certain professional criteria for eligibility to serve on the Board, allows for consumers to intervene in the IHFPB process, and makes other changes.

- Special grants, as part of the agreed education budget package, for school districts in high growth areas.

- An omnibus education package which: (*i*) continues the Teacher Retirement Insurance Program and the program's current state subsidies; (*ii*) provides that instructional expenditures of school districts shall be included in the State Board of Education's report to the Governor and General Assembly concerning the condition of schools; (*iii*) makes numerous changes and reforms to the teacher certification program in the State; and (*iv)* provides that school districts must be

allowed to choose the architect and engineer for their school construction projects, allowing that no project may be disapproved by the State Board of Education or the Capital Development Board solely due to a school district's selection of an architect or engineer.

- A prohibition on insurers from canceling or non-renewing an individual based upon that individual's participation in a qualified cancer trial.

- A requirement that Internet service providers ("ISP") who provide service to Illinois consumers for home and personal use for a one-year term that is automatically renewed for another one-year term give the consumer a secure method at the ISP's web site that the consumer may use to cancel the service.

- The creation of the Older Adult Services Act, the purpose of which is to promote a transformation of Illinois' comprehensive system of older adult services from funding a primarily facility-based service delivery system to primarily a home-based and community-based system, taking into account the continuing need for 24-hour skilled nursing care and congregate housing with services.

- Legislation to reinstate the rolling stock exemption and phase down certain tax increases for trucking firms.

- New language allowing certain graduate students to be eligible for collective bargaining at higher education institutions.

- The establishment of the Health Care Justice Act which provides that the State of Illinois shall implement a health care plan that provides access to a full range of preventive, acute, and long-term health care services and which establishes the Bipartisan Health Care Reform Commission which will hold public hearings and report to the Governor and the General Assembly.

- A prohibition on the executive branch from using interagency or intergovernmental agreements to change employee health care or benefit contracts and new language requiring the submittal of information to the Procurement Policy Board detailing the Governor's office negotiations on contracts.

- Compromise legislation between the Governor and the General Assembly in regards to reform of the Illinois State Board of Education ("ISBE"). Rather than almost fully dismembering the Board and creating a new Department of Education as the Governor proposed in his State of the State Address, a more modest restructuring bill was agreed to and passed. Among other items, that legislation: terminates the terms of the current ISBE Board members and allows the Governor to appoint a new board; allows the Governor to remove a Board member at his discretion for incompetence, neglect of duty, or malfeasance in office; allows for a new State Superintendent to be appointed at the beginning of

each new Governor's term; allows local boards of education to work with the state to create an education purchasing program (the Governor had requested a mandated centralized purchasing system); and requires ISBE to develop and maintain a five-year strategic plan.

- A series of reforms of state bonding and state debt, including removal of authority granted last spring allowing salaries to be paid out of non-appropriated funds, a cap on bond spending (including interest and principal payments) at 7% of all General Revenue Fund and Road Fund expenditures, a prohibition on balloon payments and new reporting requirements on the Office of Management and Budget regarding bonding costs.

- Removal of authority granted last spring allowing the Governor's budget director the authority to order the Comptroller and the Treasurer to transfer certain state funds, as well as removal of authority for the Governor to sell off or enter into lease-purchase agreements on public buildings, like the Thompson Center in Chicago. A lease agreement arranged by the Governor's office for the Thompson Center was declared unconstitutional by the Attorney General in May.

- Legislation which supersedes the provisions of the Governor's Executive Order 2004-6 to require Senate confirmation for the appointment of the Directors of the Department of Financial and Professional Regulation. Executive Order 2004-6 merges the Department of Professional Regulation, Department of Insurance, Department of Financial Institutions, Office of Banks and Real Estate and Comprehensive Health Insurance Plan into the Department of Financial and Professional Regulation.

- Legislation establishing restrictions on the sale of targeted methamphetamine manufacturing chemicals and allowing for counties and municipalities to regulate the sale of targeted methamphetamine manufacturing chemicals and targeted packages in a manner that is not more or less restrictive than the legislation passed by the State.

- New language for the Illinois Human Rights Act providing that the Attorney General ("AG") may commence a civil action in the name of the People of the State of Illinois as a patriae to enforce the Act, providing the AG first conducts a preliminary investigation to determine whether there is reasonable cause to believe that a person or groups of persons is engaged in a pattern and practice of discrimination declared unlawful by the Act and whether the dispute can be resolved without litigation.

C. MEASURES THAT DID NOT PASS

While many noteworthy measures passed, a number of other important items were considered, but did not pass both houses. Those include:

- Medical malpractice reform. Perhaps the single-most talked about issue that failed to advance. Competing proposals in both the House and Senate were considered in May and the issue was a priority during the budget talks. Until the final day of session, the Senate Republicans were still discussing withholding votes on the budget package until a medical malpractice reform measure was passed.

- Comprehensive legislation providing for the sealing of certain felony arrest and conviction records at the Department of State Police, the arresting authority, and the clerk of the circuit court.

- A much-discussed expansion of legal gaming in Illinois that would have allowed for a land-based casino owned by the City of Chicago, three new riverboat licenses for Rockford, Waukegan and Calumet City, and allowed for slot machines at horse racetracks.

- 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. An additional $389 million in funding was provided to elementary and secondary school districts, and the per-pupil foundation level increased $154 per pupil; however, no comprehensive reform was enacted.

- Legislation that would include "sexual orientation" as an unlawful basis for discrimination under the Illinois Human Rights Act did not advance.

- Legislation to reinstate the Structural Work Act, repealed in 1995, was not successful.

- A comprehensive plan to regulate wetlands in Illinois previously under the protection of the United States Army Corp of Engineers.

- Authority to allow any local governments "quick-take" eminent domain authority.

- Language creating the Illinois Consumer Choice of Benefits Health Insurance Plan Act to provide that insurers and employers may offer policies of accident and health insurance that do not provide state-mandated health benefits.

- Changes to the Workers Compensation system in Illinois. A bill agreed to by the Illinois Manufacturers Association, Illinois State Chamber of Commerce,

National Federation of Independent Businesses, Illinois Trial Lawyers Association and AFL-CIO failed to advance after Republicans in the Senate on May 31 made it clear they would not vote for the measure – which would need a 3/5 majority to pass after May 31.

- Legislation to terminate the terms of the current Illinois Gaming Board members and allow appointment of new members.

- Additional funding for the School Construction Grant and School Maintenance Grant programs. Those issues are expected to be taken up as part of the capital appropriations budget in the fall veto session.

II. 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, Office of Management and Budget, Policy Staff, Press Staff and Legal Office. Affected administrative agencies typically are also represented.

III. VETO SESSION

The 2004 veto session has been scheduled for November 5 (a perfunctory session day when veto messages are simply read into the House and Senate records); November 8, 9, and 10 (when vetoed and amendatorily vetoed House Bills are considered in the House and vetoed and amendatorily vetoed Senate Bills are considered in the Senate); and November 16, 17, and 18 (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-vetoed portions taking effect as law without further action by the General Assembly.

The General Assembly may override a total or amendatory veto by a three-fifths vote in each chamber, or it simply may kill the vetoed bill by refusing to pass any motion on the veto. Amendatory vetoes may be accepted by a majority vote in each chamber. A line item reduction veto takes effect 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 a number of substantive issues left unresolved, the pending consideration of the capital appropriations portion of the FY05 state budget, and with the fall election cycle being completed prior to the start of the session, the fall 2004 veto session is certain to be among the most active in recent memory.

IV. CONCLUSION

It has been our privilege to serve you in Springfield this past session, and we hope the foregoing is useful in summarizing the 2004 legislative activities of interest. Should you have any questions or concerns, or if you require copies of bills or other legislative materials, please do not hesitate to call.

Very truly yours,

MORRILL AND ASSOCIATES, P.C.