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SENATE RESOLUTION

WHEREAS, The General Assembly considered and passed unanimously House Bill 2449 as amended (Public Act 094-0318); and

WHEREAS, House Bill 2449 prohibited the railroads operating within Illinois from denying medical treatment to or interfering with the medical treatment of injured railroad workers; and

WHEREAS, The bill as introduced in the House of Representatives would have made a violation of the proposed Act a business offense; House Bill 2449 would have also conferred enforcement authority upon the State's Attorney in whose county the offense allegedly occurred; and

WHEREAS, The railroads in the State represented by the Illinois Railroad Association strongly opposed the bill as introduced and passed by the House of Representatives; when the House Bill was filed with the Secretary of the Senate, the Railroad Association offered an amendment in the Senate which, among other things, deleted the House language and substituted language that conferred exclusive enforcement authority for any violations of the Act upon the Illinois Commerce Commission, the Commission having an historic regulatory jurisdiction over Illinois railroads; in addition, the amendment supported by the railroads deleted language as to a business offense and substituted language conferring authority upon the Illinois Commerce Commission to levy fines within the Commission's discretion; and

WHEREAS, The railroads' stated to the Senate sponsors and supporters that, in consideration of the adoption of the Senate amendment, the railroads would not oppose the legislation or the public policy that was the gist of the legislation; the

1 Senate sponsors and co-sponsors, by reasonable inference,
2 moreover, assumed that the railroads would not challenge the
3 legality of this legislation upon its passage and enactment
4 into law, especially prior to a pattern of enforcement being
5 developed by the Illinois Commerce Commission; and

6 WHEREAS, The railroads, on March 14, 2006, filed in the
7 United States District Court for the Central District of
8 Illinois, Springfield Division, in the case of BNSF Railway
9 Company, et al., v. Charles E. Box, et al., Case No.
10 3:06-CV-03052, a complaint for a declaratory judgment that
11 Public Act 94-0318 is preempted by federal regulations; and

12 WHEREAS, The Illinois General Assembly finds that the
13 recent legal action of the railroads in the State regarding
14 this legislation is a breach of faith with the General
15 Assembly; therefore, be it

16 RESOLVED, BY THE SENATE OF THE NINETY-FOURTH GENERAL
17 ASSEMBLY OF THE STATE OF ILLINOIS, that we respectfully request
18 the United States District Court for the Central District of
19 Illinois, Springfield Division, to find that the plaintiff
20 railroads within the State of Illinois, in the case of BNSF
21 Railway Company, et al., v. Charles E. Box, et al., Case No.
22 3:06-CV-03052, are estopped from challenging the legality of
23 Public Act 94-0318; and be it further

24 RESOLVED, That suitable copies of this resolution be
25 delivered to Honorable Jeanne E. Scott, United States District
26 Judge, and Honorable Byron G. Cudmore, United States Magistrate
27 Judge, of the United States District Court for the Central
28 District of Illinois, Springfield Division.