

STATE OF ILLINOIS  
89TH GENERAL ASSEMBLY  
HOUSE OF REPRESENTATIVES  
TRANSCRIPTION DEBATE

149th Legislative Day

January 6, 1997

Clerk McLennand: "The hour of 9:00 having arrived, the House Perfunctory Session will be in order. We will be led in prayer by the Clerk."

Clerk McLennand: "Dear Lord bless this House of Representatives and all who serve and work here, on behalf of the people of the great State of Illinois. We will now be led in the Pledge of Allegiance by Lee Crawford."

Lee Crawford: - et al: "I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

Clerk McLennand: "Introductions of Resolutions. House Resolution #161 offered by Representative Santiago. House Resolution #162 offered by Representative Mautino, these were referred to the Rules Committee."

Clerk McLennand: "The House Perfunctory Session will stand at ease."

Clerk McLennand: "The House Perfunctory Session will be in order. And the House Perfunctory Session stands adjourned."

Speaker Daniels: "The House will come to order the Members will please be in their chairs. Those not entitled to the floor will please retire to the gallery. The Chaplain for the day is Lee Authur Crawford, assistant Pastor at the Victory Temple Church in Springfield. Lee is the head Democratic Page for the House of Representatives. Guests in the gallery may wish to rise for the invocation. Pastor Crawford."

Pastor Crawford: "Let every head be bowed, every eye be closed. Precious Lord and Savior we come before You with a sincere heart, and in the spirit of thanksgiving. For Your divine word says that in all things to give thanks. So we as a Body give You thanks for life, health and strength, for

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food, shelter and clothing, for guidance, comfort and love.

And most of all Father, we thank You for Your Son. Amen."

Speaker Daniels: "Thank you Pastor Crawford. We will be led in the Pledge of Allegiance by Representative Mulligan."

Mulligan: " - et al: "I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

Speaker Daniels: "Roll Call for attendance. Mr. Clerk, the Lady from Cook is recognized for any excused absences on the Democratic side of the aisle."

Currie: "Thank you, Speaker. Please let the record show that Representative Martinez is excused because of illness. Representative Julie Curry is excused because she has a brand new nine pound plus baby named Evan. And maybe I could take this moment to introduce a new colleague, Representative John Fritchey, replaces Rod Blagojevich in the 33rd district. John was sworn in last week. This is his first day with us and he will be sworn in again as a Member of the 90th General Assembly come Wednesday."

Speaker Daniels: "Representative Cross wanted to know if Representative Curry will be here on Wednesday. Representative Currie."

Currie: "We are assured that she will be here. And we just hope she brings the baby as well."

Speaker Daniels: "That would be fine. Representative Cross is recognized on the Republican side of the aisle for any excused absences."

Cross: "We're all here, Mr. Speaker. Thank you."

Speaker Daniels: "The record will so reflect. Mr. Clerk take the record. There are 115 Members answering the Roll and a quorum is present, and the House will now come to order.

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Committee Reports."

Clerk McLennand: "Committee Report from Representative Churchill, Chairman from the Committee on Rules to which the following joint action motions were referred: Action taken on January 6, 1997, reported the same back 'do approve for consideration'. To the Order of Second Reading, Senate Bill 675. And to the Order of Concurrence, House Bill 2963. Committee notice. Rules Committee will meet at 1:30 p.m. in the Majority Leader's Office. The Rules Committee will meet at 1:30 p.m. in the Majority Leader's Office."

Speaker Daniels: "Mr. Clerk, on page 2 of the Calendar under Senate Bills Third Reading, appears Senate Bill 522. Read the Bill, Mr. Clerk."

Clerk McLennand: "Senate Bill #522, a Bill for an Act in relation to adoptions. Third Reading of this Senate Bill."

Speaker Daniels: "Representative Lindner."

Lindner: "Thank you, Mr. Speaker. Senate Bill 522 has been worked on by a number of groups all summer. It does three things. It amends the Children and Family Services Act to bring the case plans in with the federal guidelines for...that case plans must provide for the utilization of reasonable family preservation services. It amends the Juvenile Court Act to call for an expedited termination procedure in cases of abandonment and in cases of an egregious nature whereby a petition for termination can be filed at the adjudicatory hearing stage, although the same higher standard of evidence would have to be met. And it amends the Adoption Act to provide for the specific consent to a specific person for the purposes of termination of parental rights and adoption. This is supported by the Bar Associations, by the Illinois Foster Parents' Associations, DCFS, the Inspector General's Office, a number of private

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agencies, and worked on by Chief Justice of the Cook County Juvenile Protections Service, Judge ' Nancy Salyers'."

Speaker Daniels: "Is there any discussion? Representative Lang, the Gentleman from Cook."

Lang: "Thank you. First, Mr. Speaker, a point of order. Don't you think it' even a little bit more chaotic in here than usual and could we quiet the chamber down? Please, Sir."

Speaker Daniels: "Ladies and Gentlemen. Ladies and Gentlemen of the House. Members of the Democrat side of the aisle, Representative Lang would like you to pay attention. Representative Lang, I got a whole caucus here in front of you if you can to talk to them, I'll be happy to...Representative Lang."

Lang: "Thank you. May I have my time back now please, Sir?"

Speaker Daniels: "Absolutely. We wouldn't want to take that away from you."

Lang: "Thank you very much. Will the Sponsor yield?"

Speaker Daniels: "She indicates she will."

Lang: "Representative, because of the noise I didn't hear everything you said but I know this is a Bill you've been working on for some time. You said you have agreement with substantially all of the interest groups that were involved. Would that include all the Bar Associations?"

Speaker Daniels: "Representative Lindner."

Lindner: "Yes, it is my understanding it is supported by the Illinois State Bar Association and the Chicago Bar is neutral."

Speaker Daniels: "Representative Lang."

Lang: "Now, as you know, Representative Dart and Flowers, neither of whom are here at the moment, have been working very hard on these kinds of issues. Have they seen the final product and are they in agreement?"

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Speaker Daniels: "Representative Lindner."

Lindner: "They have seen the final product. Representative Dart supports the Bill. He voted for it in committee. Representative Flowers does not."

Speaker Daniels: "Representative Lang."

Lang: "And could you tell why Representative Flowers is opposed to this legislation?"

Speaker Daniels: "Representative Lindner."

Lindner: "No, I can't. I think that would be up to Representative Flowers."

Speaker Daniels: "Representative Lang."

Lang: "Well, you must have some idea what her objections are to the Bill. Maybe you could tell us just so we'd be enlightened as to what her problems might be with the legislation."

Speaker Daniels: "Representative Lindner, if you know."

Lindner: "Let me have a minute to look at my notes that I made with Representative Flowers. Yes, my notes don't reflect what Representative Flowers was upset about but I did speak with her afterwards. I explained the Juvenile Court Act to her. I showed her the sections of the statute and I think there were some things about which she was mistaken in committee."

Speaker Daniels: "Representative Lang."

Lang: "One moment, Mr. Speaker."

Speaker Daniels: "Representative Lang."

Lang: "Well, thank you. I would like to yield the balance of my time to Representative Dart."

Speaker Daniels: "Representative Dart."

Dart: "Thank you. Would the Sponsor yield?"

Speaker Daniels: "She indicates she will."

Dart: "Representative, can you give me an idea of the number of

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people, long time no see, the number of cases this is going to affect?"

Speaker Daniels: "Representative Lindner."

Lindner: "I think it does affect a small percentage of the cases from the testimony that was given in committee. I believe DCFS said less than 5% of the cases. But I do assume that if State's Attorneys now have this privilege of filing a petition early, that there will be more cases filed."

Speaker Daniels: "Representative Dart."

Dart: "Okay. I supported this Bill in committee and I will continue to support it but I guess my concern is in general this Body has had a way of trying to do some quick fixes on Bills and then ignore the problems. We have 55, 60 thousand kids right now in substitute care in Illinois which is probably one of the largest in the country which is obscene. And this Bill, as I say, will take a very small dent out of things but there is nobody here that should delude themselves that we are in any way approaching the problem that we have with children. My major concern with this Bill though is that it's targeted to a very small percentage of the most serious cases. Is that correct?"

Speaker Daniels: "Representative Lindner."

Lindner: "That's my understanding. Yes, we are trying to reach the most serious and most egregious cases. That's in the termination proceedings that are in the Bill but, of course, that's not what the entire Bill is about."

Speaker Daniels: "Representative Dart."

Dart: "Now, in the most egregious cases we will then speed up those cases and have the terminations occur quickest. Correct?"

Speaker Daniels: "Representative Lindner."

Lindner: "It will allow the State's Attorney to file a petition

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for termination at the adjudicatory hearing stage and if the standard of clear and convincing evidence is met at that stage, yes, then it would speed up terminations."

Speaker Daniels: "Representative Dart."

Dart: "Well, then I guess I come back to my concern is this, is if we're talking about the most serious cases, in those cases I know that what occurs in those cases is that the State's Attorney will proceed with a criminal case and much like the Joey Wallace case. The State's Attorney will not want you to or allow you to proceed in a termination proceeding because you will put all of his witnesses on paper. And you will screw up potentially a criminal court case of murder, of a death penalty case. How is it that we...on one hand we say that we're going to use the most serious cases but, practically speaking, the most serious cases we can't use this in because the State's Attorney will not be proceeding with those cases for fear of jeopardizing the criminal case."

Speaker Daniels: "Representative Lindner."

Lindner: "Well, I don't know that. That would be up to the specific State's Attorney and it is my understanding that they are already filing these petitions in downstate Illinois and have been for quite some time and that the system has been working."

Speaker Daniels: "Representative Flowers. Ladies and Gentlemen. Ladies and Gentlemen, would you please give Representative Flowers your attention? Representative Flowers."

Flowers: "Thank you, Mr. Speaker. I'm sorry. I'm out of breath, Mr. Speaker, I ran over here when I heard this Bill. Would you please explain to me again what does Senate Bill 522 does?"

Speaker Daniels: "Ladies and Gentlemen. Ladies and Gentlemen,

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would you please give the attention to Representative Flowers and Representative Lindner? Representative Lindner."

Lindner: "Yes, again, Representative Flowers, the Bill does three things. It amends the Children and Family Services Act to say that a case plan shall provide for the utilization of reasonable family preservation services and brings it in line with the federal guidelines. It amends the Juvenile Court Act to provide for an expedited termination procedure at...in cases of an egregious nature and of abandonment and it also amends the Adoption Act to provide for a specific consent for a parent to consent to a specified person for the adoption of that child."

Speaker Daniels: "Representative Flowers."

Flowers: "Representative Lindner, right now if a parent wanted to give up the rights of their children, are they allowed to do that now, as we speak just by merely going into court along with DCFS? Can they do that now? Would you just please answer 'yes' or 'no' because my time is limited?"

Speaker Daniels: "Representative Lindner."

Lindner: "I'm not sure I understood the question. Are you..."

Speaker Daniels: "Representative Flowers."

Flowers: "The question is, if a parent wanted to give up their parental right, could they not go into court without this legislation to do so?"

Speaker Daniels: "Representative Lindner."

Lindner: "Yes, they could sign a surrender and give up their parental rights."

Speaker Daniels: "Representative Flowers."

Flowers: "Representative Lindner, when you talk about expeditiously terminating the rights of parents, who would make that decision and what guidelines would be set forth?"



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Speaker Daniels: "Representative Lindner."

Lindner: "It would be the same person who makes the decision now.

It would be the State's Attorney making the decision whether or not to file an expedited petition and then it would be the court after hearing all of the evidence, that would make the decision whether to grant that petition. The evidentiary standard, which is a higher standard of clear and convincing evidence would still have to be met, so that has not changed."

Speaker Daniels: "Representative Flowers."

Flowers: "Mr. Speaker, Ladies and Gentlemen, to the Bill. This is a horrible Bill. This Bill would give the Department of Children and Family Services, who already have 59 thousand children lingering in the system and they say that's not enough. So what they want to do before they set forth and move these children on for adoption, we need some more children. So therefore we are going to expeditiously terminate parents' rights. We have 102 counties in the State of Illinois, and yet we will have however many case workers there are in those counties. Those will be the people making the decision. You said it was the state's attorney's office but it will be the State's Attorney's Office, the Public Defender's Office, the guardian ad litem's office and whoever else may be involved. DCFS is in a total wreck as we speak. It is broken, it needs to be fixed. We need not be in no hurry to put more children in the system that is broken. We would do better to deal with the 59 thousand children that we have lingering as we speak. We would do better by going forth, finding foster parents, finding parents who want to become guardians of these children and making that so, so we could move these children out of the system. But what you have, if a DCFS

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case worker happens not to like a parent, you can make that parent's life a nightmare. That worker will be able to arbitrarily, on their own will, go forth and say your rights as a parent will be terminated. Right now DCFS does not control its own waters nor its own borders. We need to do something about that. This is not a good Bill for the children..."

Speaker Daniels: "Will you please bring your remarks to a close?"

Flowers: "Thank you, Mr. Speaker. This is not a good Bill, Representative, for the children of the State of Illinois. It benefits them none. If there is such an egregious case before that case, the parent right is terminated, that parent must have due process. That parent has every right for its day in court. What you're doing is very harmful for children and I would be most appreciative if we could defeat Senate Bill 522. Thank you."

Speaker Daniels: "Representative Dart."

Dart: "Thank you, Mr. Speaker. Will the Sponsor yield? I've only got about two minutes from Representative Lang's time the last time."

Speaker Daniels: "She indicates she will."

Dart: "Representative, I just wanted to ask a couple more questions here and then I'm going to be finished. As far as the consent provisions, are there not already consent provisions on the books now that are utilized in some of the courts?"

Speaker Daniels: "Representative Lindner."

Lindner: "Yes, I believe there are."

Speaker Daniels: "Representative Dart."

Dart: "So then the purpose of that provision would be to statutorily put it on there I guess for all the counties then...my point is this, we're not breaking any new ground

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here. This is something that they are already doing. Can you explain to us why it is we're putting it in statute until now?"

Speaker Daniels: "Representative Lindner."

Lindner: "Yes, this is a specific consent, for instance, in a situation where a child has been in foster care for a long time, but the parent does not want to give up the parental rights, but there is going to be a petition filed, that parent instead could say, 'Well, I know this foster parent, I know this foster parent is going to take good care of my child.' And give a specific consent to that foster parent or in some cases this would be also to a relative. There still has to be a petition filed by the person who is going to adopt and then if that petition is not filed within a certain length of time, then there is no adoption and the parent has to be notified."

Speaker Daniels: "Representative Dart."

Dart: "My understanding is that there already is specific consent so is this just statutorily reaffirming that and putting it in statute for the entire state, though?"

Speaker Daniels: "Representative Lindner."

Lindner: "I believe they are general consents now, not specific."

Speaker Daniels: "Representative Dart."

Dart: "My understanding there are specific consents now, as well. Could you explain to the Body though and I know the answer to this but I want basically for the intent here. There was a concern originally brought up that here we are allowing the bad person, the person who abused their kid to decide where this baby's going to go. Which stands logic and reason on its head. Can you explain to us the provisions in this Bill that prohibit that from happening so that we don't have abusive parents saying where they are

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going to send their kids, but we have situations where there is a safeguard here?"

Speaker Daniels: "Excuse me, Ladies and Gentlemen of the House. Representative Lindner."

Lindner: "Yes, on page 28 of the Bill, Representative, there are a number of criteria that would have to happen before this consent could take place. The child would have to be in the physical custody of that person for at least one year and then there are other things enumerated in the statute and also, as always, this would have to be approved by DCFS."

Speaker Daniels: "Representative Dart."

Dart: "And the court will also affirm this as well, so, that we have no fear that we're going to have an abusive parent shipping the kid off to an abusive relative, correct?"

Speaker Daniels: "Representative Lindner."

Lindner: "That's correct. It would have to be approved by the court and the adoption proceedings, just like any other adoption proceeding."

Speaker Daniels: "Representative Dart."

Dart: "Thank you. To the Bill. As I mentioned before, I have agreed to support this Bill. It has some flaws to it. There are some good things it's going to do here. It's...as I've mentioned before, I truly want the Body to keep in perspective, this will only affect a very small percentage of the cases. We have a lot more work to do in this area and it is something where for the termination provisions they are going to be using only the most extreme cases. It's my opinion, and based on experience as well, that due to criminal cases that are going to be pending at the same time, the most extreme cases are the ones that will not be proceeding quickly because the State's Attorney

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is going to stand in the way of those saying he does not want to jeopardize his criminal case. So there is a real question here of how many cases we're really going to impact at all. I agree with the theory behind this, though, as far in the extraordinary cases to get right to them, right away and get those kids on to a new life. So, as I say, let's not lose track of it. We have a long way to go here."

Speaker Daniels: "There being no further discussion, Representative Lindner to close."

Lindner: "Yes, thank you. I would ask support for this Bill. I think rather than adding children to the system, this Bill is certainly trying to address the worst cases of abuse and neglect and certainly we have learned that crime begins in the home and domestic violence is a main indicator of people who will be in trouble later, so I think this Bill will help that. Also the VH Decree Supplemental Order has just been entered. The focus is on not to have children lingering for a long time in foster care. This Bill also addresses that and I ask for your support."

Speaker Daniels: "The Lady, Representative Lindner, has moved that the House do adopt Senate Bill 522. All those in favor will signify by voting 'aye'; opposed by voting 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the Record. On this question there are 99 'ayes', 11 voting 'no', 3 voting 'present'. This Bill having received a Constitutional Majority, is hereby declared passed." Rules Committee announcement, Mr. Clerk."

Clerk McLennand: "Rules Committee will meet immediately in the Majority Leader's Office. Rules Committee will meet immediately in the Majority Leader's Office."

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Speaker Daniels: "Supplemental Calendar announcement."

Clerk McLennand: "Supplemental Calendar #1 has been distributed.

Speaker Daniels: "The Lady from Cook, Representative Currie, for an announcement."

Currie: "Thank you Speaker. Please let the attendance record reflect the fact that in new information provided suggests that Representative Lopez is to be excused today."

Speaker Daniels: "The Record will so reflect. Mr. Clerk, on page 3 of the Calendar appears Conference Committee Reports House Bill 2918. Representative Myers."

Myers: "Thank you, Mr. Speaker. Ladies and Gentlemen House Bill 2918 and the Conference Committee Report will allow the Pollution Control Board to re-adopt, or effectively extend its Emergency Livestock Waste Management rules that it adopted on October 31, 1996, until such time as the permanent rules are adopted in May of 1997. The reason for this Bill is that the current law limits the duration of any emergency rules to 150 days or five months. Current law also prohibits any state agency, including the Pollution Control Board, from readopting the same emergency rule any time during a two year period. The Livestock Management Facilities Act passed during last spring gave the Department of Agriculture six months to develop and propose, and propose to the Pollution Control Board, permanent rules to implement the new law. The department proposed those rules on November 21, 1996. The Pollution Control Board now has six months, or until May 21, 1997 to hold hearings around the state on the department's proposal, and in fact, have a schedule for those hearings and make whatever changes to the rules it feels are necessary. The 150 day limit on the emergency rule is adopted by the PCB by the end of October, means that the

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emergency rules would expire at the end of March leaving almost one and a half month period before the permanent rules are in place. House Bill 2918 will assure that this cannot happen. And the Bill will assure that the emergency rules will remain in place until mid-May of 1997 when the permanent rules are finalized for the construction and operation of large livestock confinements. I'd be glad to answer any questions."

Speaker Daniels: "For what purpose does the Gentleman from Champaign arise? Representative Johnson."

Johnson, Tim.: "Yes, Mr. Speaker, would the record reflect that on the previous Bill, I would have voted 'no' had my switch been functioning?"

Speaker Daniels: "The record will so reflect. The Gentleman from Cook, Representative Lang."

Lang: "Thank you. Will the Sponsor yield?"

Speaker Daniels: "He indicates he will."

Lang: "Representative, again it's real noisy in here and for some reason I can't find my notes on this Conference Committee Report. This no longer has anything to do with horse racing, is that correct?"

Speaker Daniels: "Representative Myers."

Myers: "That is correct."

Speaker Daniels: "Representative Lang."

Lang: "And tell us what powers the Pollution Control Board will have if this Conference Committee Report becomes law."

Speaker Daniels: "Representative Myers."

Myers: "The only powers the Pollution Control Board will have will be to re-adopt the current existing emergency rules."

Speaker Daniels: "Representative Lang."

Lang: "Were there any opponents to this proposal?"

Speaker Daniels: "Representative Myers."

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Myers: "None that I'm aware of, Representative."

Speaker Daniels: "Representative Lang."

Lang: "So is this your method of getting out from under this debate on the mega farms? We're just going to extend this for a period of time and then begin to debate anew at some later date?"

Speaker Daniels: "Representative Myers."

Myers: "Representative, I don't think the debate will begin anew. I think the debate will be an ongoing continuing to debate as to relevancy of certain provisions within the Bill. This is specific to the emergency rules, subsequent to the enactment of the permanent rules. So I think that this is a step in addressing one provision within the law and that is the rules process in continuing to proceed forward to make sure that all comply with the law."

Speaker Daniels: "Representative Lang."

Lang: "Well, so we're filling a gap here then. Is that correct, until the final, formal rules are adopted?"

Speaker Daniels: "Representative Myers."

Myers: "That is correct. The one and a half month time frame, where there would be absolutely no rules in existence at all."

Speaker Daniels: "Representative Lang."

Lang: "And, all of the competing parties in the debate on this issue are in concurrence with this approach, because they're then willing to just fight it out in the formal rule-making process. Is that correct?"

Speaker Daniels: "Representative Myers."

Myers: "The competing parties as you would have it, have thought it out to a certain extent. First, in the deliberation of the legislation. Second, in the proposed emergency rules that were enacted, then now in the proposed permanent



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rules. A hearing schedule has been set by the Pollution Control Board, a series of five hearings and those parties, as you so described, will be participating in that hearing process as well."

Speaker Daniels: "Representative Lang."

Lang: "Thank you."

Speaker Daniels: "Further discussion? Being no further discussion, Representative Myers to close."

Myers: "I'd ask for an 'aye' vote. This is a very important piece that provides a continuation of the rules so that there is no misunderstanding that anybody can come into the State of Illinois and build a large confinement without being subjected to rules and regulations."

Speaker Daniels: "Representative Myers moves for the passage of Conference Committee Report #1 to House Bill #2918. All those in favor will signify by voting 'aye', opposed by voting 'no'. The voting is open. This is final action. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question there are 112 'ayes', 2 voting 'yes' (sic - 'no'), 0 voting 'present'. The House does adopt the First Conference Committee Report to House Bill 2918. This Bill having received a Constitutional Majority, is hereby declared passed. Mr. Clerk, on page 3 of the Calendar appears Senate Bill 729, on the Order of Second Reading. Read the Bill, Mr. Clerk."

Clerk McLennand: "Senate Bill #729 has been read a Second time, previously. Committee Amendment #1 was referred to Rules, Committee Amendment #2, 3, 4, and 5 were adopted. Floor Amendments #6 and 8 were referred to Rules. Floor Amendment #7, offered by Representative Kubik, has been 'approved for consideration'."

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Speaker Daniels: "Representative Kubik, on Floor Amendment #7."

Kubik: "Wait one minute, Mr. Speaker."

Speaker Daniels: "Representative Kubik."

Kubik: "Mr. Speaker, could we take this out of the record from one moment? I think there is some confusion about the Amendments."

Speaker Daniels: "Representative Kubik."

Kubik: "Mr. Speaker, I...as I indicated earlier, I think there's some confusion about the Amendments. My understanding is that we are to adopt Amendment #9 and Amendment #10."

Speaker Daniels: "Do you have Amendment #7 in front of you, Sir? What's your pleasure?"

Kubik: "I would withdraw that Amendment."

Speaker Daniels: "Amendment #7 is withdrawn. Further Amendments?"

Clerk McLennand: "Floor Amendment #9, offered by Representative Kubik is 'approved for consideration'. Floor Amendment #8 has been referred to Rules and Floor Amendment #9, offered by Representative Kubik has been 'approved for consideration'."

Speaker Daniels: "Representative Kubik, are you prepared, Sir? Representative Kubik on Amendment #9."

Kubik: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. By way of explanation what I would like to tell the Membership is that on this particular Bill we need to adopt two Amendments. We need to adopt Amendment #9 and Amendment #10. And what I would ask is that we adopt both Amendments and then I would explain the Bill as it is supposed to be. So that the Members understand by adopting Amendment #10, we remove all the objection to the underlying Bill and we have a complete agreement and so I would ask that we adopt Amendment #9 and then #10 and then

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I would explain the Bill."

Speaker Daniels: "Representative, is there any objection to that?"

There being no objection, the Gentlemen moves the adoption of Amendment #9. All in favor, signify by saying 'aye'; opposed 'nay'. The 'ayes' have it and Amendment #9 is adopted. And further Amendments?"

Clerk McLennand: "Floor Amendment #10, offered by Representative Kubik, has been 'approved for consideration'."

Speaker Daniels: "Representative Kubik moves for the adoption of Floor Amendment #10. All those in favor signify by saying 'aye'; opposed 'nay'. The 'ayes' have it. Amendment #10 is adopted. Further Amendments?"

Clerk McLennand: "No further Amendments."

Speaker Daniels: "Any Motions or..."

Clerk McLennand: "State Mandates, Fiscal Note and a Fiscal Note have been filed on the Bill as amended by Amendment #10."

Speaker Daniels: "Third Reading. Mr. Clerk, on the Order of Third Reading appears Senate Bill 729. Read the Bill."

Clerk McLennand: "Senate Bill #729, a Bill for an Act that amends the Illinois Income Tax Act. Third Reading of this Senate Bill."

Speaker Daniels: "Now Representative Kubik. Ladies and Gentlemen of the House. Representative Kubik on Senate Bill 729."

Kubik: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. This Bill is an agreed Bill. It has had a very long a torturous process but ultimately it is agreed between the Department of Revenue, the Illinois Retail Merchants, and the Illinois Taxpayers' Federation. The Bill clarifies the definition of a financial organization under the Income Tax Act. Due to the unique way in which financial organizations earn their income relative to other taxpayers, the original 1969 Income Tax Act treated them

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differently than other taxpayers. What this Bill does is to define a sales finance company and credit card banks in the manner that taxpayers understood those terms to mean before these doubts arose. The Bill takes the definition of a sales finance company that appeared in the regulations that the Illinois Department of Revenue withdrew with some clarification that the department does now does not oppose. This Bill, deals specifically, more clearly than before, authorizes that...it regulates credit card companies issuers so that they are not treated differently from traditional banks that issue credit cards. The clarification will remove doubt for all future years and will resolve all matters currently in dispute between taxpayers and the department with respect to these two types of financial organization. This has been a very complicated discussion between the Department of Revenue and the Illinois Federation of Taxpayers, and the Illinois Retail Merchants. But the bottom line on all of this is, by adopting Amendment #10, which you have done, we have taken the...this is now virtually a revenue neutral issue. There is little or no fiscal impact on this Bill and it is agreed to by the Department of Revenue, the Retail Merchants, and the Illinois Taxpayers' Federation. I would be happy to try to respond to any questions you might have and would urge your support of this Legislation."

Speaker Daniels: "Representative Dart."

Dart: "Thank you. Will the Sponsor yield?"

Speaker Daniels: "He indicates he will."

Dart: "Representative, what is the position of the Department of Revenue in regards to this Bill?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative Dart, as you know we had a discussion in

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Revenue Committee regarding this. The Department is now neutral on this issue. They worked with the Retail Merchants in crafting Amendment 9 and 10 in order to make sure that this was a...that the fiscal impact of this Bill would be minimal or no fiscal impact."

Speaker Daniels: "Representative Dart."

Dart: "Initially, they came back with estimates of revenue loss of \$240 or \$250 million, I believe. Has there been substantive changes to remedy that so there is no longer revenue loss on..."

Speaker Daniels: "Representative Kubik."

Kubik: "The number that you are speaking of, Representative Dart, were due to the fact that the Bill, as was originally introduced, would have been retroactive. By adopting Amendment #10, we have taken the retroactivity out of the Bill and therefore we don't have...that's why the Department now agrees and there is, as I indicated earlier, little to no fiscal impact."

Speaker Daniels: "Representative Dart."

Dart: "So with the retroactivity pulled out of the Bill, that was the only thing that was going to have any fiscal cost whatsoever so that the Department of Revenue is neutral now because there is no longer a fiscal cost and that was the only source of it by changing the retroactivity?"

Speaker Daniels: "Representative Kubik."

Kubik: "Retroactivity was probably their major concern. As you may know, Representative, the meat of the Bill, the underlying Bill, is basically a Department rule which was the state of the rule up until approximately a year ago. They changed the rule. What this Bill essentially does is codifies the previous rule into law."

Speaker Daniels: "Representative Dart."

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Dart: "And finally then, the Department of Revenue is neutral on this Bill and the bankers and the retail merchants, I know they've put long hours into this. All parties concerned, in that regards, are in agreement with this Bill and its form with all the Amendments on it and the Department of Revenue is totally neutral on the Bill. Is that correct?"

Speaker Daniels: "Representative Kubik."

Kubik: "That is correct."

Speaker Daniels: "Representative Dart, no further questions. Further discussion? Representative Black."

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Daniels: "He indicates he will."

Black: "Representative Kubik, I know we're very close and I could go over there and ask you the question but that's just going to add to the general level of noise in the chamber. In the underlying Bill, we talked about high impact industry, et cetera, et cetera. I assume that your Amendment becomes the Bill and all of that is out. Correct?"

Speaker Daniels: "Representative Kubik."

Kubik: "Everything that was in the Bill previously, has been removed. The only provisions that are currently in the Bill are the provisions that Representative Dart and I have had this dialogue about."

Speaker Daniels: "Representative Black."

Black: "So that includes some of the protections on the taxpayer regarding the 90 day cycle and then some technical cleanup. That's all this Bill is at the present time. Correct?"

Speaker Daniels: "Representative Kubik."

Kubik: "The 60 day cleanup and the financial organization language is in the Bill. That's what remains in the

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Legislation."

Speaker Daniels: "Representative Black."

Black: "Thank you very much, Mr. Speaker, and thank you, Representative Kubik."

Speaker Daniels: "Representative Lang."

Lang: "Thank you. Will the Sponsor yield?"

Speaker Daniels: "He indicates he will."

Lang: "Thank you. Representative, good morning, afternoon. You were talking to Representative Dart about how much this will cost and you seemed to say that it wouldn't cost anything. As I understand it, this is designed to be a tax break for some people. If it's a tax break for some people, how can it not cost anything?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative Lang, I think if you...If the noise level wasn't as high as it is now in the chamber, you would have heard that my statement was that it would have little or minimal impact, revenue impact. I don't say that it doesn't have any impact. I said it would be minimal or little revenue impact."

Speaker Daniels: "Representative Lang."

Lang: "Well, if it has minimum impact, then why are we doing it in the first place? This is the Illinois General Assembly. It's the House of Representatives. I think it's a big deal what we do here. So, if it's going to have no impact, why are we doing it in the first place?"

Speaker Daniels: "Representative Kubik."

Kubik: "Sometimes we do little things. Sometimes we do big things. This is one of those issues which, as you may know, is a very technical issue. It affects a small group of companies in the financial institution area, so it's not a wide, wide ranging Bill. It only affects a certain

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number of companies that are in this sort of dilemma. I might point out, Representative, that the provisions of this Bill were department rule for a number of years. They changed last year, briefly, and what we're simply doing is codifying how the old rules were in effect."

Speaker Daniels: "Representative Lang."

Lang: "Can you give me an example of the kind of company, in this small group that you're talking about, that would benefit from this?"

Speaker Daniels: "Representative Kubik."

Kubik: "Representative, these would be financial institutions, for example as you may know, there are credit card companies or banks that really don't take deposits but act as credit card institutions and so as a result they are defined as financial institutions, yet they don't take deposits, so the way that they derive their income is a little bit different than a bank would be. That is one type of organization that would be affected under this Bill."

Speaker Daniels: "Representative Lang."

Lang: "Was there a hearing on this Bill in Committee or the final Amendment that you put on?"

Speaker Daniels: "Representative Kubik."

Kubik: "We had a hearing in the Revenue Committee. I might point out, we had a very extensive hearing. Many of the issues that you're talking about were raised in that hearing. The agreement was, Representative, and I might point out at that time, the Department was opposed. The agreement at that time was that we...if we adopted both Amendments, including #9 and #10, and that we would not bring this Bill forward unless there was agreement on both sides on this issue. One of the major concerns by the Department of



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Revenue, was the concern regarding revenue. Because of Amendment #10, we have taken away that major concern on their behalf. So this Bill was given a great deal of consideration in the Revenue Committee. There were numerous groups and the Department testified at length about it and, as I pointed out earlier, it's rather a complicated Bill but I think if you speak with some of the Members of the Revenue Committee on your side of the aisle, we agreed that we would move this forward only if there was agreement by all parties and that is what we have in this case."

Speaker Daniels: "Representative Lang."

Lang: "Other than the Department of Revenue, did anybody else testify in opposition to the proposal?"

Speaker Daniels: "Representative Kubik."

Kubik: "No, nobody that I know."

Speaker Daniels: "Representative Lang."

Lang: "Thank you."

Speaker Daniels: "Representative Kubik to close."

Kubik: "I would move for the passage of Senate Bill 729. Thank you, Mr. Speaker."

Speaker Daniels: "Representative Kubik now moves that the House adopt Senate Bill 729. All those in favor, signify by voting 'aye'; opposed by voting 'no'. The voting is open. This is final action. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question there are 113 'ayes' 0 voting 'no' 0 voting 'present'. This Bill having received a Constitutional Majority, is hereby declared passed. Committee Reports, Mr. Clerk."

Clerk McLennand: "Committee Report from Representative Churchill, Chairman for the Committee on Rules to which the following

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Joint Action Motions were referred: Action taken on January 6, 1997, reported same back 'do approve for consideration' to the Order of Concurrence, House 444 and to the Order of Nonconcurrence Senate Bill 100."

Speaker Daniels: "Mr. Clerk for an announcement."

Clerk McLennand: "Committee announcements. The following committees will meet immediately upon recess: Executive Committee in Room 118, and Agriculture and Conservation Committee in Room 114. One hour following Recess, Transportation Motor Vehicles will meet in room C-1. Again immediately upon recess Executive Committee in 118, Agriculture and Conservation will meet in Room 114. On hour after recess Transportation Motor vehicles will meet in room C-1."

Speaker Daniels: "Representative Lyons, for what purpose do you rise Sir?"

Lyons: "Speaker I would like the record to reflect that I voted 'yes'. I pushed the 'yes' button but it did not reflect on the board on the last Bill."

Speaker Daniels: "The Record will so reflect, Representative Lyons. Supplemental Calendar announcements."

Clerk McLennand: "Supplemental Calendar #2 is being distributed."

Speaker Daniels: "Mr. Clerk on Supplemental Calendar #2 appears, under the Order of Nonconcurrence, Senate Bill 100. Representative Brady for a Motion. Representative Brady has moved that the House refuse to recede from House Amendment #1 to Senate Bill 100. All those in favor say 'aye'; opposed 'nay'. In the opinion of the Chair the 'ayes' have it and the House does refuse to recede from House Amendment #1 to Senate Bill 100. And the House requests that a Conference Committee be appointed. Mr. Clerk on the Order of Supplemental Calendar #2 appears

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House Bill 444 under the Order of Concurrence. Representative Wirsing has moved to nonconcur on Senate Amendment #1 to House Bill 444. All those in favor say 'aye'; opposed 'nay'. In the opinion of the Chair the 'ayes' have it. And the House does Nonconcur in Senate Amendment #1 to House Bill 444. Mr. Clerk Committee Announcements."

Clerk McLennand: "The following committees will meet at 2:15: Executive Committee in Room 118, Agriculture and Conservation in Room 114, and at 3:00 Transportation Motor Vehicles will meet in Room C-1."

Clerk McLennand: "Ladies and Gentlemen of the House, you've heard the Committee Announcements and the meeting rooms and the times. The House will now stand in recess until the hour of 4:30 p.m."

Clerk McLennand: "Also at 3:00 those committees that were previously scheduled Appropriations for General Services and Environment and Energy will be meeting at 3:00 as well."

Speaker Johnson, Tim: The House will come to Order. The House will come to Order. Representative Johnson in the Chair. The House will come to Order and all unauthorized personnel please remove yourselves forthwith from the House floor. Can I have the attention of the Body? We're ready to proceed with the business of the House. And again all unauthorized personnel please remove yourselves now from the House floor so we can conduct our business, now as in now. Committee Reports, Mr. Clerk."

Clerk McLennand: "Committee Report from Representative Noland, Chairman for the Committee on Agriculture and Conservation, to which the following Joint Action Motions were referred: Action taken on January 6, 1997. Reported the same back

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'do approve for consideration', Motion to concur on Senate Amendment #1 to House Bill 2963. Committee Report from Representative Wait, Chairman for the Committee on Transportation, to which the following Joint Action Motions were referred: Action taken on January 6, 1997. Reported the same back 'do approve for consideration' Floor Amendment #3 to Senate Bill 157. And Committee Report from Representative Stephens, Chairman for the Committee on Executive to which the following Joint Action Motions were referred: Action taken on January 6, 1997. Reported the same back 'do approve for consideration' Floor Amendment #2 to Senate Bill 675."

Speaker Johnson, Tim: "Nothing further from the Clerk. The House will proceed to House Calendar Supplemental #1, under the Order of Concurrence appears House Bill 2963. And on that Bill the Chair recognizes the Gentleman from McDonough, Representative Rich Myers. I'm sorry the Gentleman from Will, Representative Larry Wennlund. Representative Wennlund."

Wennlund: "Thank you Mr. Speaker. I move to concur on Senate Amendment #1 to House Bill 2963. The Senate Amendment becomes the Bill. What it does is it provides for a growing industry in Illinois and that is where landowners want to go into the business of becoming an outfitter. And currently they cannot make reservations in advance because they don't know whether they will be able to get permits under the current lottery system. What the Bill does is, it provides a mechanism whereby they can apply to the department early for a permit, to reserve a permit for each one that they have coming. And those reservation of permits will only apply to the permits that are in excess of those issued in the lottery. So, it only applies in

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counties where there are unused permits. And, for instance, if Brown county had an extra 6 or 7 hundred permits, it would apply to 20% of those extra permits that outfitters could reserve for the next deer season. And it only applies in counties where there are excess permits. Some counties there are not. So, it provides for continuation by Illinois hunters to hunt on Illinois land. But the growing industry and the growing trend in the deer hunting field, is for landowners to use the land as outfitters..."

Speaker Johnson, Tim: "Please give the Gentleman your attention. Proceed."

Wennlund: "As an outfitter to reserve permits for the next season so they know they can make reservations. It helps tourism in Illinois, brings in additional business in the way of hotels, motels, meals, gas and the like. And will enable the department to get a handle on this and regulate it by being able to require that the outfitter to belong to an association that requires the minimum professional standards and codes of conduct that the department requires, hunter safety and to make sure the consumers don't get ripped off when they take somebody's deposit down and can't produce the permits. It allows them to reserve them in advance. As many of you know I'm an avid deer hunter. I think this is in the best interest of deer hunters in Illinois, and landowners who will have the ability to make advance reservations. I'd be happy to answer any questions Mr. Speaker."

Speaker Johnson, Tim: "On the Motion of the Bill, the Chair recognizes the Gentleman from Rock Island, Representative Brunsvold, proceed."

Brunsvold: "Thank you, Mr. Speaker. Will the Gentleman yield?"

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Speaker Johnson, Tim: "He indicates he will."

Brunsvold: "Representative Wennlund, I'm a Cosponsor of this Bill, but to be informative to the rest of the Members, do you feel that any Illinois deer hunter is going to go without a permit, Representative, because of this Bill?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "Absolutely not. All Illinois hunters will get their permits. And it's only about 20% of the excess in any particular county left over from the prior quota that will be available for these outfitters."

Speaker Johnson, Tim: "Representative Brunsvold."

Brunsvold: "So, to clarify that point again, this is only the extra permits left in counties that have a lot of deer and there are a lot of permits available. What happens if they fill up in a year? Do they close down the outfitters?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "That's correct."

Speaker Johnson, Tim: "Representative Brunsvold."

Brunsvold: "Many states have outfitters. Do we have any provisions, as you had mentioned in your last statement, do we have a lot of regulations addressing the outfitters in this state?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "That's exactly the reason for the legislation, Representative, because Illinois currently does not regulate them or make provision for them in any fashion."

Speaker Johnson, Tim: "Representative Brunsvold, further questions?"

Brunsvold: "To the Bill, Mr. Speaker, I stand in support of this Bill, only because I feel that we, as a state, must provide some sort of service like this and regulate the outfitters. We have a lot of guides in Southern Illinois during goose

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season, and pretty much keep track of things like that. Also we have a lot of extra permits available in some counties that can be used for this purpose. I don't think Representative Wennlund or myself or anybody else here that supports sport hunting would want to deny a permit to any Illinois resident. And that's not what we're doing here. Every Illinois resident that applies for a permit, and there are permits available in that county, will get that permit. So, with that understanding I would stand in support of this Bill and ask for the passage of House Bill 2963."

Speaker Johnson, Tim: "The Chair recognizes the Gentleman from Effingham, Representative Hartke."

Hartke: "Thank you very much, Mr. Speaker. To the Bill. I don't stand in opposition to the concept that maybe Mr. Wennlund is trying to promote here, or maybe I do. My concern is that we're setting up a process to, in the future, only allow elitist's to use land. Land in Illinois is now enjoyed by many hunters, and so forth, throughout the State of Illinois, resident as well as nonresident. My fear is that in the very near future, we're going to have landowners leasing their land to the outfitter. And before long, we will have a 70, 80, maybe 90% of the viable, best hunting acres in Illinois under contract to the outfitters. Right now the concept is, that only in those counties where there is an excess of deer permits and other permits that are available and only 20% of those would be available to the outfitters, and that's fine, today. But let's take a county that is a good deer hunting county, let's say like Crawford County, and all of a sudden we find that 70, 80% of the available private land is now in the hands of the outfitters, and only maybe 10 or 20% of that land is

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available for the general public to hunt land on, with permission of the farmers. Then we find out that, well why would you want to hunt in Crawford County because 98% of the permits now have been given to individuals who can find no place to hunt, so they don't hunt. The only place they're allowed to hunt how is on the outfitters special land that is set aside just for those individuals. Well, here we find out if you want to hunt on those land you have to have, I guess, a permit from the outfitter or a reservation with the outfitters to hunt on that land. Well, of course, there will be some great hunting on those lands for those individuals. But like was testified in committee, Mr. Wennlund said that many of these 'outfitters' charge up to, 2-3 maybe even \$4 thousand per hunt for five days to hunt a trophy buck, and so forth, on those lands. Well that's fine, except now we're finding out that if this goes to what he hopes to be, possibly all the land will be in those hands. And only the elitists, those that can afford the 4, \$3-4thousand can buy one of these permits and have a reservation available that they can use the land. So, I don't think it's a good idea. What we're doing is guaranteeing a deer permit and a reservation for those individuals that can afford this expensive hunt, so to speak. They are paying for the right to use people's land. Well, rightfully so, if you're a wealthy enough individual, a corporate individual, well what about the average Joe, who right now can apply for a permit, he knows that 70-80% of the land is still available for him to hunt and he can go out and he can get his possible trophy buck or deer or goose or turkey or whatever you like. I stand in opposition to the principle of the thing, because I think we're setting up a process to where,



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not unlike in the past where you could be arrested for hunting on the king's land, hunting deer on the king's land. I think we're returning to that process and we're not for the average hunter to be able to go out and find a place to hunt without paying an arm and a leg to do it. So I stand in opposition to this piece of legislation, just on the principle of the thing. I think we're guaranteeing the outfitters a guaranteed income. I'm not sure that this legislation shouldn't have a couple other Amendments on it to protect the individual hunter who now applies for those licenses, and that the land will be available. Thank you very much."

Speaker Johnson, Tim: "The Lady from Cook, Representative Mulligan, proceed."

Mulligan: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Johnson, Tim: "He indicates he will."

Mulligan: "Representative Wennlund, I'm not quite sure, maybe I wasn't paying close attention, but if someone purchases one of these permits would they be hunting on a specified piece of land that's supervised in some way?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "The permits are for a particular county. The outfitter would pay \$200 to reserve a permit for a particular county. And if it's an out-of-stater, the out-of-stater has to buy a \$100 license to hunt a deer within a particular county, the county that his outfitter reserved a permit in. And, see currently, people are leasing land now. I lease land for deer hunting. As a matter of fact, right down near Representative Tenhouse's property. And that's happening, that's a growing trend. What this does is it puts some control on the Department of Natural Resources to control and manage the deer herd size

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to make sure that they take an adequate number of does in addition to the trophy bucks so that the herd is managed properly, to make sure that they're a safe operation, make sure the consumer is safe and doesn't get ripped off, to make sure that an association polices the hunter conduct and safety. And it gives the department a handle...and they have to report the deer taken pursuant to the permits and the reservations. It's happening now and it's not being regulated. This puts some regulation in effect and it helps the Department of Natural Resources manage the deer herd population in Illinois, which is currently growing at the rate of about 3% a year. A few years ago before it was being intensely managed, it was growing at the rate of about 36% a year. The number of deer, let me give you one example, the number of deer/automobile accidents, in Pike County alone, are more than one a day, every day of the year, more than one a day. There was almost 4 hundred last year, deer/automobile or vehicle collisions, just in Pike County Illinois. So that the deer herd needs management and this will give the department the opportunity to do it with this new growing trend."

Speaker Johnson, Tim: "Representative Mulligan."

Mulligan: "Well the reason I ask is, my family are deer hunters but they hunt on my father-in-law's property in Wisconsin, which is a farm. The problems they have, because it's friends and family that come up and can be on the farm, the trouble they have is from outsiders wanting to come in in a regulated area where they know where all the hunters are. So, I'm wondering how this would work in a county in Illinois if there is excess permits in that county. Would it be only public land, or a land that the outfitter has contracted with for the hunt for those people to come in?"

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I'm just curious as to where people that might be coming in, would be allowed to roam in that county in order to hunt?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "Most of the time it's the farmer who becomes the outfitter, the owner of the land. And, basically he uses income from acting as an outfitter to pay his real estate taxes on the farm and it also helps him manage the deer herd on the property. In addition, the other thing I forgot to mention was is this also requires them to carry liability insurance, which they're currently not carrying, in the event of an accident or something like that. But, no they have to either lease the land or own it. In most instances they own the land and this gives them an opportunity to make some additional money off the land, particularly the nonproductive portion, the woods and those that are not tillable."

Speaker Johnson, Tim: "Representative Mulligan, further questions?"

Mulligan: "That just answers my questions. Thank you."

Speaker Johnson, Tim: "The Gentleman from Bureau, Representative Mautino."

Mautino: "Thank you. Will the Sponsor yield?"

Speaker Johnson, Tim: "He indicates he will yield?"

Mautino: "Representative, the outfitters, do we have a registry of outfitters throughout the State of Illinois?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "No, not at this time. That is what this Bill will address. We currently don't know who they are. We know they're operating in Illinois, we just don't know who they are. In most instances they're landowners or leasees, like me."

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Speaker Johnson, Tim: "Representative Mautino."

Mautino: "Then are we going...are they going to be required to register or something so that we know that they are out there?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "The answer to the question is, yes. If they participate in this program and want to reserve some permits and make application to do that, then they must be registered and be a member of an association that is accredited by the department."

Speaker Johnson, Tim: "Representative Mautino."

Mautino: "How then is the department going to, and I was in committee and we talked about this a little bit, how is the department going to choose which outfitter then would be eligible to get these permits?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "If an outfitter belongs to an association that meets the department's requirements, its reporting requirements, its liability insurance coverage, and hunter safety and hunter ethics requirements and fits the category of compliance with those, then they will be issued the reservations. Now a lot of the fine details will be done by administrative rule and that will have to be handled by JCAR."

Speaker Johnson, Tim: "Further questions, Representative Mautino?"

Mautino: "Could a single landowner become his own association?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "Yes, he can. My landlord could become his own association that I lease the land from and he would be the outfitter."

Speaker Johnson, Tim: "Representative Mautino."

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Mautino: "I believe in committee, Mr. Versteeg mentioned some rules of operations that the outfitter would have to go along with, calling maybe or hunting the does on the property, controlling the population. Is that correct?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "Yes, that's correct. Deer management is one of them requiring the outfitter to take a percentage of the total take with does, so they can control and manage the herd in Illinois and keep track of it and track it. And require them to carry liability insurance and require them to report the kill, require them to follow the department's guidelines on hunter safety. It will give the department a better handle on managing the deer population in Illinois. It will also give the consumers some protection to know that these outfitters are indeed complying with the department's guidelines."

Speaker Johnson, Tim: "Representative Mautino."

Mautino: "So in doing that, these permits then, for example, if they're buying an extra permit which is unused, would it then be in that situation be a doe only? Possibly?"

Speaker Johnson, Tim: "Representative Wennlund. Representative Wennlund."

Wennlund: "There will be combination of permits that they would have to get. Some will be an combination of either sex, and then some doe only."

Speaker Johnson, Tim: "Representative Mautino."

Mautino: "Okay, so it wouldn't be the...in order to control the population, you wouldn't be giving out more of the antlerless only?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "Well that's correct. The way it currently works in Illinois is, when I apply for my permits I get a doe and

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one either sex. So the department knows that I've got a doe only permit and if I fill it they know, when that tag is checked in at the check station, they know how many does are killed, they know how many either sexes are killed. So, it gives the department an opportunity, when the permits are issued, not when the reservations are being made now. When the permits are issued the department then has a handle on controlling the deer population and controlling the amount of doe, for instance, that are taken in a given county."

Speaker Johnson, Tim: "Representative Mautino. Further questions, Representative Mautino? Your time is drawing to a close."

Mautino: "Just to the Bill. I know...I understand what the department is trying to do here, I believe but there's going to be some technical problems. Who issues the permits, and is it going to be up to the director himself, if anyone can be an association? So I think you've got some problems where we might be helping out certain individuals more than others. I think I'd recommend a 'no'."

Speaker Johnson, Tim: "The Gentleman from Adams, Representative Tenhouse."

Tenhouse: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. I rise in support of Senate Amendment #1 to House Bill 2963. I think we need to probably get a little back to where we were when Representative Wennlund first started talking about this Bill. First of all, we're not going to be, and I should point out before we start that I represent Adams and Pike Counties. Pike is number one and Adams is number two as far as the whitetail deer kill in the State of Illinois. So it is a big issue back home, but outfitters have started to predominate. But I also want

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mention that, the fact is, the way that Representative Wennlund has crafted this Bill, areas like ours where there is a large demand as far as outfitters are concerned, would not be able to access this as long as there...unless there are unused permits within our counties. And, certainly Pike county which is number one in deer kill, year after year, would not have any permits available for this next year. I think people have to understand that. I think this is a good Bill, it's well crafted. We're protecting the rights of the current hunters so that we're not really selling them out to the outfitters. But on the other hand, we're also providing an opportunity for this industry as it continues to grow and it is becoming a big issue, and it's a major income source for a lot of folks in my area. I congratulate Representative Wennlund on his efforts, and certainly urge all the Members on both sides of the aisle to support House Bill 2963."

Speaker Johnson, Tim: "The Chair recognizes the Gentleman from Washington, Representative Deering, proceed."

Deering: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Johnson, Tim: "He indicates he will."

Deering: "Representative, I think we've got a little discrepancy here. My seatmate, Representative Mautino, asked you a question that, 'Can you yourself become a outfitter, or an association?' You said, I believe I'm correct in saying that your answer was, 'Yes I can. I can become my own association.' Now in committee the Gentleman from the department testified that the department will only recognize certain associations, or one association in the state. Now how, if I'm going to be my own association as you answered, you know, how are we going to decide what associations the department is going to recognize to allow

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these outfitters to operate?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "The department will recognize any association in Illinois that complies with the department regulations and rules regarding this matter. Those that, that in fact carry liability insurance for the protection of the consumer and the deer hunter, those that follow the reporting requirements, amount of kills, number of doe, number of bucks, and those that have the hunter safety and hunter ethics that are required of the department. Those...if they meet those requirements, and some additional ones that may be adopted by administrative rules or will be adopted by administrative rule, they will be entitled to be recognized by the department as an association in compliance with the department's rules and regulations."

Speaker Johnson, Tim: "Representative Deering."

Deering: "Can the fee, the \$200 fee in this Bill, can that be increased by rule, or would we have to increase that by legislation?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "The \$200 fee would have to be increased by legislation, Representative."

Speaker Johnson, Tim: "Representative Deering."

Deering: "Can we have any control over what the department puts in the ad. rules, as far as how they're going to monitor this. I mean, once this Bill gets out of here, if the Governor signs it, it goes to JCAR, it goes to ad. rules, you know as well as I do, the department can put anything in there they want and craft this legislation to really be discriminatory. Can we have the word from the department that that will not be the case?"



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Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "Absolutely, Jeff Versteeg, from the department from the DNR is here and absolutely. And as you know, Mr. Versteeg is a wildlife biologist for the department, and very concerned about the deer population and managing it, controlling it. And the goal is here, is just to put some structure into place where there is none. And there is none at today's date. And the department will be happy to share with you any proposed rules and regulations and we can rely on JCAR, which is as you know it is bipartisan. And they absolutely will not do that."

Speaker Johnson, Tim: "Representative Deering."

Deering: "Thank you. No further questions."

Speaker Johnson, Tim: "The Chair recognizes the Gentleman from Coles, Representative Weaver."

Weaver: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Johnson, Tim: "Indicates he will."

Weaver: "Excuse me Larry if you've already answered this, but I've heard so many conflicting things here. I need to get very simple clarification. Will this Bill disadvantage the individual hunter?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "Absolutely not. Mike, I'll tell you I'm a very avid deer hunter as you know. And I would never do anything like that to my fellow deer hunters, not at all. This will help, in fact, put in place some regulations on a practice that is going on now without any regulation whatsoever."

Speaker Johnson, Tim: "Representative Weaver."

Weaver: "Will this encourage corporate hunting over individual hunter's rights?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "Not at all. Not at all. Illinois, first of all, all

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of the available permits based on the quota system that the department currently has will go to Illinois hunters first. And it's only the excess, only about 20% of the excess of the unused permits that come out of the lottery that will be available for reservation by a landowner, for instance who may be part of an association like the Illinois Association of Hunting Preserves. And it's only those excess, so it will not infringe upon any rights of Illinois hunters. And if Illinois hunters, they're first come first serve, and if there's none available there will be no reservations to any association."

Speaker Johnson, Tim: "Representative Weaver."

Weaver: "Could we characterize this Bill then, that it intends to establish standards to regulate an industry that already exists without regulation?"

Speaker Johnson, Tim: "Representative Wennlund."

Wennlund: "Absolutely."

Speaker Johnson, Tim: "Representative Weaver."

Weaver: "Sounds like a good Bill to me. I appreciate your answers, and I intend to support the Bill."

Speaker Johnson, Tim: "Any further discussion? Seeing or hearing none, the Chair recognizes the Gentleman from Will, Representative Wennlund to close."

Wennlund: "Thank you, Mr. Speaker. Representative Weaver's last question was a very valid one. And what this Bill does..."

Speaker Johnson, Tim: "Give the Gentleman your attention as he closes on this Bill that we've discussed for some time. Representative Wennlund."

Wennlund: "Representative Weaver's question was an absolutely appropriate one. The practice is currently going on in Illinois. This gives the department a chance to better manage the deer herd, protect the consumer who may be

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coming from within Illinois, or from out-of-state, and the moneys for the permit, for instance the \$200 reservation fee plus the \$100 out-of-state license fee will go into the Fish and Wildlife Fund that the department uses to improve and increase the habitat for, not only fish but for all kinds of wildlife, wild turkey. It will benefit all Illinois citizens and help manage the growing deer herd in Illinois. And I ask for your 'aye' vote."

Speaker Johnson, Tim: "The question is, 'Shall the House concur with Senate Amendment #1 to House Bill 2963?' Those in favor signify by voting 'aye' those opposed by voting 'no'. The voting is open. This is final action. Have all voted who wish? Somebody vote Representative Lang 'aye' at his request. Have all voted who wish? Have all voted who wish? Mr. Clerk, take the Record. On this question there are 96 voting 'yes'; 13 voting 'no' and 5 voting 'present'.

The House does concur with Senate Amendment #1 to House Bill 2963. This Bill having received a Constitutional Majority, is hereby declared passed. Introductions to Resolutions, Mr. Clerk."

Clerk McLennand: "House Resolution #163 offered by Representative Novak. This Resolution is referred to the Rules Committee."

Speaker Johnson, Tim: "Committee announcements, Mr. Clerk."

Clerk McLennand: "Rules Committee will meet at 6:15 p.m. in the Majority Leader's Office. Rules Committee will meet at 6:15 p.m. in the Majority Leader's Office."

Speaker Johnson, Tim: "Messages from the Senate, Mr. Clerk."

Clerk McLennand: "Messages from the Senate from Jim Harry, Secretary of the Senate. Mr. Speaker, I'm directed to inform the House of Representatives that the Senate has refused to concur with the House in the adoption of House

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Amendments #1 and 4 to Senate Bill #326. Action taken by the Senate on January 6, 1997. Also directed to inform the House that the Senate has refused to concur with the House and the adoption of House Amendments #1 and 3 to Senate Bill 761. Action taken by the Senate on January 6. Also directed to inform the House of Representatives that the Senate has concurred with the House of Representatives and the passage of House Bill 2595 together with Senate Amendment #1 to House Bill 2595. Passed the Senate as amended, January 6, 1997. Further messages, directed to inform the House of Representatives that the Senate has refused to concur with the House in the adoption of House Amendment #1 and 4 to Senate Bill 326. These Bills were referred to the Rules Committee."

Speaker Johnson, Tim: "Committee Reports."

Clerk McLennand: "Committee Reports from Representative Churchill, Chairman for the Committee on Rules to which the following Joint Action Motions were referred: Action taken on January 6, 1997. Reported the same back 'do approve for consideration'. To the House floor, Floor Amendment #4 to Senate Bill 157."

Speaker Johnson, Tim: "The House will come to Order. Members be in their chairs. On the regular calendar on page 2 under the Order of Senate Bill Second Reading appears Senate Bill 157. And on that the Gentleman from McDonough, Representative Myers, after the Clerk reads the Bill. Read the Bill, Mr. Clerk."

Clerk McLennand: "Senate Bill #157. Bill's been read a second time previously. Committee Amendment #1 was adopted. Floor Amendment #2, offered by Representative Myers was approved for consideration."

Speaker Johnson, Tim: "Representative Myers."

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Myers: "Withdraw Senate Amendment #2."

Speaker Johnson, Tim: "Senate Amendment #2 is withdrawn. Further Amendments, Mr. Clerk."

Clerk McLennand: "Floor Amendment #3 offered by Representative Myers is approved for consideration."

Speaker Johnson, Tim: "Representative Myers."

Myers: "Please withdraw Senate Amendment, or House Amendment #3."

Speaker Johnson, Tim: "House Amendment #3 is withdrawn. Further Amendments."

Clerk McLennand: "Floor Amendment #4 offered by Representative Myers is approved for consideration."

Speaker Johnson, Tim: "On the Amendment the Gentleman from McDonough, Representative Myers."

Myers: "Thank you, Mr. Speaker. Floor Amendment #4 provides, or has three provisions in it. The first provision, which is probably the most important provision, is that it allows Illinois Department of Transportation to solicit requests for proposals for rail passenger service, or in other words, typically called Amtrak service. It allows them to enter into negotiate with and enter into contracts with equipment, to lease the equipment and to for a provider to provide the rail transportation service. It also provides for a permanent nontransferable trailer plate or semitrailer plate, rather than having each trailer register every five years. It also makes changes in the fee structure, and that proposal is revenue-neutral, agreed upon by the transportation industry and the Secretary of State's office. It also provides a provision which clarifies that emergency vehicles, when responding to a emergency call, may proceed past a rail crossing after slowing down or making a necessary stop and looking to make sure that it is safe to cross the rail tracks and will not

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face the mandatory \$150 fine if they proceed on."

Speaker Johnson, Tim: "On the Amendment the Chair recognizes the Gentleman from Clinton, Representative Granberg."

Granberg: "Thank you. Will the Gentleman yield?"

Speaker Johnson, Tim: "He indicates he will."

Granberg: "Representative Myers, I just have a couple questions I think, for the information for the Members. Now this would allow IDOT to negotiate with private rail carriers. Is this legislation directed for Metra, that Metra will could have the ability to take over the Amtrak rail service or to provide those services to Amtrak?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "Representative, the provision is not directed at Metra. Certainly Metra could be one of those providers that could submit a request, or submit a proposal to provide that service. It would be aimed at anybody that provides rail passenger service, which could include the existing rail companies, for instance Burlington Northern, or Southern Pacific, or any other rail provider that wanted to get into that area. It would also allow private rail passenger services to bid on a project."

Speaker Johnson, Tim: "Further questions, Representative Granberg?"

Granberg: "Is there anything in the legislation, Representative, that would actually require another carrier, or the owner of property to lease or to allow Amtrak or someone else to use those properties?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "I'm not certain I understand your question, Representative."

Speaker Johnson, Tim: "Representative Granberg."

Granberg: "So, hypothetically, if Metra or some other provider,

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if they wanted to use someone's existing lines, would that company be forced to allow Metra to use that line? Say the Burlington Northern, on the rail line outside of the Metra area, Metra would then be allowed to provide the passenger service. Would Burlington Northern be required to allow Metra to use their facilities, to use their services?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "No, they would have to work out their own trackage agreement, much like Amtrak does today, with each existing rail line."

Speaker Johnson, Tim: "Representative Granberg."

Granberg: "So that private, that private carrier, that private company like Burlington Northern, they could negotiate with Metra, they would negotiate. There's nothing in the legislation that would require them to provide them those services, because they might have a contract with someone else and it would give Amtrak or Metra priority in the use of those rail services?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "That is correct."

Speaker Johnson, Tim: "Representative Granberg."

Granberg: "Question of the Chair, or the Parliamentarian, Mr. Speaker."

Speaker Johnson, Tim: "State your inquiry."

Granberg: "I was informed that the Amendment is not on the computer. Some of our Members are looking for the Amendment."

Speaker Johnson, Tim: "You are correct. I've been informed by the Clerk that your point is correct and should be on the system within a matter of five minutes and with your indulgence we'll proceed accordingly. You are correct. Do you wish us to wait, Representative?"

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Granberg: "I didn't understand, Mr. Speaker. Is the Amendment going to be taken out of the record for a moment, or are you going to put it on the computer for our Members?"

Speaker Johnson, Tim: "We're going to put it on the computer for your Members. It will be a matter of three to five minutes before that is completed."

Granberg: "Alright. Then let's, if we can continue the questions. I just want to allow time for our Members to review the legislation. Something we might not have the opportunity to do with the judicial remap or any of the other areas. Representative Myers..."

Speaker Johnson, Tim: "To the Amendment, Sir."

Granberg: "To the Amendment, Representative Myers. So Metra, hypothetically, Metra comes down, and there is an existing line that comes down to the Peotone area. Is there any intent, or is there anything in this Bill that would allow for that service to be granted, to be extended to Peotone for the use of a third airport?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "There is no intention for that, whatsoever. This legislation and the current negotiations are basically along the three lines that are already in existence in the state. Those lines being Chicago to Quincy, Chicago to St. Louis, and Chicago to Carbondale."

Speaker Johnson, Tim: "Representative Granberg, your time is coming to a close. Proceed."

Granberg: "Thank you. Representative, there was an Amendment offered in committee on this very Bill that would have clarified that, that would have stated that there would be nothing in this legislation that would allow or permit these uses for a third airport at Peotone and you were not in favor of that Amendment. Why is that?"



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Speaker Johnson, Tim: "Representative Myers, in hasty conclusion, please Sir. Grant the questioner and the Sponsor one more minute. Proceed with your answer, Representative Myers."

Myers: "The Bill was out of order in committee."

Speaker Johnson, Tim: "Representative Granberg, further inquiry?"

Granberg: "The Amendment dealt with this very issue and this stated that nothing in this Bill would be used for a third airport at Peotone. So would you be amenable to putting that Amendment on?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "I believe it was ruled by the Chairman that it was out of order because there was nothing in the current language that would even suggest that that was a possibility. So they saw no reason to add that to the Bill, or to the Amendment."

Speaker Johnson, Tim: "Representative Granberg."

Granberg: "So for the record, Representative Myers, nothing in this Bill, there is no intent on behalf of the Department of Transportation to extend this line, the Metra line or any other existing line to provide services for a proposed third airport at Peotone?"

Speaker Johnson, Tim: "Representative Myers, do you want to disconclude?"

Myers: "Representative, at the current time there is nothing that would prohibit Metra from doing that on their own if they so choose. So the Bill does not address that in any way. The current language does not address that in any way. They still have that authority if that's what they want to do on their own."

Speaker Johnson, Tim: "The Gentleman from Cook, Representative Lang."

Lang: "Thank you. Will the Sponsor yield?"

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Speaker Johnson, Tim: "He indicates he will."

Lang: "Thank you. Representative, it will probably come as no surprise to you that I wasn't entirely feeling that the answer that you gave Representative Granberg was complete. So I understand that you said that there's no present intent by IDOT to use this for Peotone, et cetera. But will you state on the record that they are not planning to use it for that?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "Yes, they are not planning to use that for that reason."

Speaker Johnson, Tim: "Representative Lang."

Lang: "And for purposes of legislative intent, will you state that you do not want it used for that?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "For the purposes of legislative intent, the lines that we are talking about specifically are the Chicago to Quincy, Chicago to St. Louis, and Chicago to Carbondale."

Speaker Johnson, Tim: "Representative Lang."

Lang: "And it is your intention that those be the only lines that are addressed by this Amendment. Is that correct?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "Yes, that is correct."

Speaker Johnson, Tim: "Representative Lang."

Lang: "Thank you very much."

Speaker Johnson, Tim: "The Chair recognizes the Gentleman from Vermilion, Representative Black."

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Johnson, Tim: "He indicates that he will."

Black: "Representative, will you state for purposes of legislative intent that you have absolutely no intention to use this Bill to build a downtown trolley system in the

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City of Chicago?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "Yes."

Speaker Johnson, Tim: "Representative Black."

Black: "Will you state for purposes of legislative intent that this Bill will not be used to remove the CTA line from downtown Chicago to O'Hare Airport, owned by the City of Chicago?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "Yes."

Speaker Johnson, Tim: "Representative Black."

Black: "Will you state for purposes of legislative intent that you have no desire nor intention to use this Bill to remove the CTA line from downtown Chicago to Midway Airport?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "Yes."

Speaker Johnson, Tim: "Representative Black."

Black: "Will you state for purposes of legislative intent that you have no reason, no intent to use this in any way to build a rapid transit line to Meigs Field?"

Speaker Johnson, Tim: "Representative Myers."

Myers: "Yes."

Speaker Johnson, Tim: "Representative Black, further questions?"

Black: "Well thank you very much, Mr. Speaker and Representative Myers. I think we've covered every red herring that we can possibly cover on this Bill the legislative intent. Although, I would like to put an Amendment on here about Chicago parking tickets, but I'll find another Bill for that. Now if there's anymore red herrings on the Bill let's get to them in a hurry."

Speaker Johnson, Tim: "Thank you, Sir."

Clerk McLennand: "Members should run an update on their Chasey

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system at this point. House Amendment #4 to Senate Bill 157 is available on the system."

Speaker Johnson, Tim: "I'm pleased to report to the chamber that Amendment #4, Floor Amendment #4, is and has been for two or three minutes on the system. The Chair recognizes the Gentleman from McDonough, Representative Myers, to close."

Myers: "Thank you, Mr. Speaker. There should be no opposition to this Bill. On the trailer plate provision that's been agreed to by the trucking industry and the Secretary of State, so there's no opposition there. The IDOT proposal has been agreed to by all parties concerned. And the emergency vehicle provision is one that has also seen no opposition. I urge an 'aye' vote."

Speaker Johnson, Tim: "The Gentleman has moved for the adoption of Amendment #4 to Senate Bill 157. Those in favor say 'aye'; those opposed 'no'. In the opinion of the Chair the 'ayes' have it. And the Amendment is adopted. Further Amendments, Mr. Clerk?"

Clerk McLennand: "No further Amendments."

Speaker Johnson, Tim: "Third Reading. Mr. Clerk on the Order of Senate Bills Third Reading appears Senate Bill 157. Mr. Clerk, read the Bill."

Clerk McLennand: "Senate Bill #157. A Bill for an Act that amends the Illinois Vehicle Code. Third Reading of this Senate Bill."

Speaker Johnson, Tim: "On the Bill the Gentleman from McDonough, Representative Myers."

Myers: "Nothing has changed since we debated the Floor Amendment. So again I urge adoption."

Speaker Johnson, Tim: "Seeing or hearing no discussion, the Gentleman from McDonough has moved for the passage of Senate Bill 157. Those in favor vote 'aye'; those opposed

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vote 'no'. The voting is open. This is final action. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this Bill there are 111 voting 'yes', 2 voting 'no'. This Bill having received a Constitutional Majority, is hereby declared passed. Mr. Clerk, Supplemental Calendar announcements."

Clerk McLennand: "Supplemental Calendar #3 is being distributed."

Speaker Johnson, Tim: "Mr. Clerk, on the Order of House Calendar, Supplemental #3 there nonconcurrency, appears Senate Bill 326. And on that the Gentleman from Cook, Representative Kubik is recognized for purposes of a Motion."

Kubik: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. I would move to refuse to recede from House Amendment #1 and 4 to Senate Bill 326."

Speaker Johnson, Tim: "Representative Kubik's moved that the House refuse to recede from House Amendments #1 and 4 to Senate Bill 326. Those in favor say 'aye'; those opposed say 'nay'. In the opinion of the Chair the 'ayes' have it. And the House does refuse to recede from House Amendments #1 and 4 to Senate Bill 326. The House requests that a Conference Committee be appointed. Mr. Clerk, page two of the regular Calendar on the Order of Senate Bills Third Reading appears Senate Bill 1036. Mr. Clerk, read the Bill. Will you give the Gentleman your attention?"

Clerk McLennand: "Senate Bill #1036. A Bill for an Act that amends the Criminal Code of 1961, Third Reading of this Senate Bill."

Speaker Johnson, Tim: "Prior to proceeding on the Bill, this is a Bill that has been widely debated, if we could give the Gentleman from DuPage your attention, it would be appreciated. Now on the Bill. On Senate Bill 1036, the

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Chair recognizes the Gentleman from DuPage, Representative Roskam. Please give the Gentleman your attention."

Roskam: "Thank you, Mr. Speaker, Ladies and Gentleman of the House. It's here at last. We're finally able to talk about Senate Bill 1036 and the underlying provisions of that Bill and we're finally able to dispel the red herring arguments that have floated about this Bill for the past eight, 10, 12 weeks. Currently, as you know, obscenity is not protected speech under the Illinois Constitution or under the U.S. Constitution. The U.S. Supreme Court, in its Miller Decision, in the 1970's said, 'Don't use the First Amendment to hide obscenity.' And they used a very clear definition that's three parts to it. The first, is that the material has to appeal only to a prurient interest. The second is that it describes in a demeaning fashion, sexual activity, and so forth. I wrote that all down for you so I didn't have go through it on the House Floor, but it's all written down on the blue sheet that I distributed. The third part of the obscenity test, is that it has no redeeming scientific, social, literary, or artistic value. That's the current standard and that test, under the law today, is applied according to an adult contemporary community standard. That's the buzz phrase that we're concerned about in Senate Bill 1036. And that, in my opinion, is the nature of the debate about this Bill tonight. Now, why is this important? Here's what happens. There's a current jury instruction that says, the Illinois pattern jury instruction, that tells a jury at the closing of a case that they have to use, not the standard of the county in which the offense occurred, like we do for every other criminal case, but that in the instance of obscenity, they have to use a different standard. They have to use a

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standard of a reasonable person throughout the entire State of Illinois. I would submit to you that that's a bad idea. The Illinois Supreme Court has written that the General Assembly is free to come up with a tighter geographic standard if we choose to do that. And what Senate Bill 1036 does, is it puts Illinois into the mainstream. Right now we're one of only 19 states across the country that imposes this state-wide standard on juries. Most states don't do that to their juries. In fact, there's 10 states that specifically use county as the standard. There's an other 14 states that don't define community at all. So, I would argue that that's an even tighter standard. So there's 24 states that are currently using this standard or an even a narrower geographic one. The states have been listed for you as well on the blue sheet. I'm sure we will have plenty of opportunities to talk about them. What this Bill does is it says, 'Look, Ladies and Gentlemen of the jury, you come from the community. You come from the county in which this offense occurs. You know what the standard is in your county. You know how to evaluate prurient interest, sexual activity, and so forth. Whether it has any redeeming value under the statute. You know what you should do.' But you know what we do right now? We tell the 12 jurors, 'No, you're not smart enough. You've got to have a fictional thirteenth person sitting with you in the jury box.' And here's how the closing argument goes for the defense lawyers who are working on behalf of the lowest of the low as it relates to obscenity. We're not talking about naked people sitting on a beach. We're talking about the most shameful depictions imaginable. And here's how the closing argument goes, 'Ladies and Gentlemen of the jury, you took a solemn oath as jurors. You

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remember when you were first sworn in as jurors, and the judge told you about this case and the oath that you took was to uphold the law? Well, the law in Illinois is that if it's good in any part of the entire state, then it's got to be good in your county and you have to accept it. And I've brought in material, Ladies and Gentlemen, you remember the evidence earlier on. I brought in evidence that showed where this same depiction was available in this area and that area, and that area. Therefore, you have no choice pursuant to the oath that you took but to come back with a not guilty verdict.' Well, I'm not here to tell you that there always are not guilty verdicts. There are some good outcomes occasionally. But there are reasons the DuPage County States Attorney, the Sangamon County States Attorney, the Champaign County State's Attorney, the president of the State's Attorneys' Association have come out in favor of this Bill because it is a crime-fighting tool. Now, in my four short years in politics I've seen a lot of red herring arguments out there and I have to commend the well-organized opponents of this Bill. They've done a masterful job because it's an old trick to create a fictional straw man argument and then attack the straw man and act as if that's the actual Bill. Honest to goodness, when we heard in the Judiciary Committee the testimony from one of the opponents of the Bill, it went something like this, they said, 'You are not going to be able to deliver Chicago Tribunes into the collar counties because of the lingerie ads.' And my response was, 'Well, you know, it's amazing. New Jersey has this statute and the New York Times is doing a swift business there. There's no problem. Massachusetts has this statute. The Boston Globe is doing a swift business there. There was a piece of literature



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that was put out by one of the opponents of the Bill that said, 'You're not going to be able to watch cable TV.' They specifically cited HBO, Cinemax, and Showtime, ABC, NBC, CBS. I'm surprised they didn't put Barney on there. They said, 'You're not going to be able to watch these things, even though 24 states have this standard today.' We also heard flawed testimony, in my view, that the Bill was unconstitutional. I've cited two Supreme Court cases since the mid-seventies that make it very clear that this is not protected speech and specifically, states have the ability to narrow the geographic focus of the community standard. Perhaps the biggest red herring I've heard is that somehow this will empower county boards or local units of government to promulgate a standard. I got a letter from a owner of a movie theater in my district and it was obvious that it was put together by his association and so forth. And he said, 'Well, Representative, this is going to just close us down. There's no way we're going to be able to show movies and make any money and we employ all these people and so forth.' And I called him up. I got him on the phone. I said, 'Mr. Johnson, I'm Peter Roskam. I'm here to tell you about this Bill and why I'm the Sponsor of it and why I think it's a good Bill.' We spent 15 minutes on the phone together. He said, 'You know, Representative, this is a very different Bill than the Bill that I came to understand.' I'm not here to tell you, Ladies and Gentlemen, that he came out in favor of the Bill. He didn't, but he said, 'I'm going to call my association and ask them the questions that you put to me today.' But he said, 'I'll tell you this, I'm a lot more comfortable with the Bill now that I've had a chance to talk to you about it.' This will not empower county boards

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or local units of government to promulgate any standard. This won't say, 'You have to come up with this list of videos and this is appropriate in our area.' It does nothing of the kind and the people that are making that representation to you are either lying or they're foolish or they haven't done their homework. And I hope it is the latter, that they haven't done their homework."

Speaker Johnson, Tim: "On the Bill, the Chair recognizes the lady from Cook, Representative Currie. Proceed."

Currie: "Thank you, Speaker and Members of the House. I rise in opposition to this Bill. I'm sure the Sponsor is well-intentioned but the very idea that we are not one state, that we are not able to access HBO, SHO, and C-Span from Cairo to Rockford I think makes a mockery of the notion of uniformity. He earlier suggested that we treat crimes differently community by community, but of course we don't. Child molestation is a crime if it happens in Chicago. It's the same crime if it happens in Danville, it's the same crime when it happens in Peoria. I think one community standard is adequate and I do not believe that if this Bill passes it will turn out that state's attorneys are, in fact, going to find themselves more successful in prosecuting those items they deem obscene. I think jurors wherever they are, are going to respond to a notion of community that is not so parochial, so narrow as to define itself by the community boundary. But I do think this, the mere fact that we are proposing 102 separate standards for judges and juries to consider as they deal with a criminal prosecution in their court. That very fact will have a substantially chilling effect on those people who would publish, who would as libraries serve to distribute, who would create movies, who would create books and magazines

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for Illinois citizens. Those publishers, those libraries would have every reason to be very concerned that somehow our guess that there would be more successful prosecutions is right that I would think that we will have a least common denominator approach to materials that will be available to Illinois citizens. I heard, not only from the motion picture industry and the television industry on this Bill, I heard from librarians, librarians even at theological seminaries, theological seminaries, Speaker and Members of this House, who ask me, 'Please, please vote 'no' on Senate Bill 1036.' When the theological seminaries say, 'This is going to make our life difficult.' I think we have to take seriously the opposition from those who do not wish to find themselves criminally liable for distributing, for lending, for loaning materials that today are quite legit. The point of this is not to stop what's going on in our society, the point of this Bill is to provide a chilling effect on those who produce and distribute materials that today adult Illinoisans wish to view and wish to read. That's the only purpose behind this Bill. Censorship by any other name is censorship. The only legitimate vote on Senate Bill 1036 is 'no'."

Speaker Johnson, Tim: "The Chair recognizes the Lady from Cook, Representative Mulligan."

Mulligan: "Thank you, Mr. Speaker. I rise in opposition to this Bill, also. I think a lot has been said about this Bill that would lead us to believe or to lead people in our communities to believe that if you vote against this Bill you're against family values. I certainly don't see that being the case. Quite frankly, I don't see a need for this Bill as I think we have been quite successful in being able to prosecute or do what we need to do against people that

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we feel are inappropriate. On the other hand if we pass this Bill, will we then suddenly have librarians who can't keep books on shelves, sex education programs in the schools being challenged as far as their material goes? Why are we creating this big smoke screen of something that's not there and that we're challenging unless it really is to create censorship? My local communities were able by passing ordinances to remove massage parlors, do what they needed to do and take care of what they needed to do in their local community quite handily with the current laws in Illinois. Also, Representative Roskam would lead you to believe that Illinois is one of only 19 states that have this standard, when actually Illinois is one of a majority of 41 states that have a standard. In other words make it acceptable. And I think that what we are looking at here is a smoke screen over a Bill to rally people and make them fearful over what we're doing here in Illinois. And the bottom line is that much of this discussion would make it appear that the people from Cook County have some kind of a standard that does not equate to family values as other people across this state do. I think that's entirely wrong. I think we're all certainly worried about what's happening and what our people are seeing, but I don't see having a Bill, what will the next Bill be? That we are going to pillory librarians or burn witches? I think that this is not a good Bill. I don't think it speaks to the best interest of the people of Illinois and I don't want to see my library board who can barely pass a referendum to have to spend their money on lawyers to defend suits because somebody in our community feels that a book they have on the shelf is inappropriate. I think this is a poor use of money and I think it is a law that is totally

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unnecessary and put out there just to frighten people about what is going on in Illinois and I would urge a 'no' vote."

Speaker Johnson, Tim: "The Chair recognizes the lady from Cook, Representative Schakowsky. Proceed."

Schakowsky: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. I rise in opposition to Senate Bill 1036 and I feel offended really by the Sponsor's characterization of opponents as raising red herrings. It seems to me that the fundamental question here is the First Amendment, is one of the most precious rights of Americans and is hardly a red herring to be concerned about the First Amendment. And to raise the issue, are we talking about censorship? I don't think there's any doubt that we are. Prosecutors now have, in their hands, sufficient tools to go after criminally obscene materials. The Sponsor acknowledges that there is such a thing and we have a state in which we can, and laws that permit us to judge those things that are criminally obscene and to get them away from our kids. The effort here is to say that certain books that my child may be able to read in Cook County will not be available on the shelves to children in other counties. That we're now going to, as the Tribune says, engage in book burning. They call this Bill the 'Book Burning Bill in Saints' Clothing' and they say that it should not be passed by this or any other General Assembly. There is no point in passing this legislation. What we need to do is to stand firm in the protection of the First Amendment. The right of people to make decisions about what they read and the right of juries to decide what is criminally obscene using a statewide standard. I urge a 'no' vote."

Speaker Johnson, Tim: "The Chair Recognizes the Gentleman from Madison, Representative Stephens. Proceed."

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Stephens: "Thank you, Mr. Speaker. Just to stand in defense of the Bill. It seems ludicrous that you would accept a state standard for obscenity but you would reject a county standard for obscenity. I believe that the issue is resolved as simple as that. You either like the current law which deals with the public acceptance of material in the state or you would care to follow the more common sense dictates of Representative Roskam's Bill. I think the Bill is eminently good in that sense. It makes good sense. It is good law and all these horror stories are way, way off base. I urge an 'aye' vote."

Speaker Johnson, Tim: "The Chair recognizes the Lady from Cook, Representative Monique Davis. Proceed."

Davis: "Thank you, Mr. Speaker. I rise in opposition to the Bill. Basically because it would disturb the reciprocity agreement between many libraries. Libraries exchange reading material. Of course the Sponsor states that those pieces of material that have literary value would not be restricted from being transferred from one county to another. But the question would have to be asked, who would determine the literary value of a book being sent or shipped from one county to another? This Bill would truly create a great deal of havoc in the reading community. We feel that to have one state standard makes it much easier for businesses to abide by the law. And not only that, we must consider the mobility of people. People move from county to county. Do their moral values change when they leave one county and move to another or do their moral values remain the same? In the State of Illinois we hope they would stay the same. I urge a 'no' vote."

Speaker Johnson, Tim: "The Chair recognizes the Gentleman from Cook, Representative Kubik. Proceed."

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Kubik: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Sometimes the most profound thoughts of government become the most controversial. Our founding fathers created a mechanism which was that we believe in free speech in this country and sometimes because that's such a simple concept, it becomes a most controversial concept. I believe that the issue is freedom of speech here. Now the Sponsor would argue otherwise but what we're saying here really is, who determines what this material is? Do we say, the largest number of people should decide or do we say the smallest number of people decide? And that is the chilling effect of this Bill. That is what's going to determine the lawsuits. If you think that this isn't a litigation nightmare, you haven't lived until we start litigating these issues. I happen to believe that I am a human being who is empowered with a brain that can decide what I want to read, what I want to watch, what I want to do, and what I don't want to do. I don't want the government to decide. I don't want the smallest number of people to decide that I can't read that, or I can't see that, or I shouldn't do that. And I am not standing up here and defending pornographers because those people are the lowest scum of the earth. But I am saying that when you go out and try to shrink the number of people who make decisions, you don't stop pornographers. You stop everything else. You stop the free flow of information. You stop the freedom of speech. I think the Sponsor is well-intended and I know he has worked very hard on this issue but I think once in a while we have Bills that come before us that are so fundamental, that are really what we're about whether we should stand up and say we are for free speech or whether we should start the road down to

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darkness which is, that the government will decide and the smallest number of people will decide what's important and what isn't important. I happen to have a lot of faith, a lot of faith in the largest number of people. I happen to believe that you don't fight this sort of thing by telling the government to make those decisions. You fight it through economic decision. People say, 'No, I'm not going to read that,' or, 'My kids aren't going to read that.' That's what family values are all about. That's what makes the difference in this society. Ladies and Gentlemen, this is a tough vote for many of us but I ask you to consider and I would...I know Representative Roskam and I would not agree that this is going to stop...that we are destroying everything here, but this is the start. This is when we begin. This is the start of a movement to let the smallest number of people decide what's important, what we ought to read, what we ought to see. Consider that. I urge a 'no' vote."

Speaker Johnson, Tim: "The Chair recognizes the Gentleman from Cook, Representative Lang."

Lang: "Thank you, Ladies and Gentlemen of the House. I rise in strong opposition to this Bill. The previous speaker, Representative Kubik, hit it right on the button. You cannot let the smallest number decide, but beyond that let's take a look at some more aspects of this Bill. I find it curious that the Sponsor of this Bill voted for a dramatic Tort Reform Bill last year and in that Bill he had some trouble allowing juries to decide awards in personal injury cases. Now it's okay for juries in 102 counties under this Bill to decide what's obscene but juries apparently are not sufficiently knowledgeable to determine what awards should be given in personal injury cases.



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Another curious aspect of this Bill punishes everybody in the pipeline but not always the right person. So if a 17-year-old clerk works at a Seven-Eleven and somebody buys a magazine and that 17-year-old clerk sells that magazine and that magazine has been determined to be obscene in that county, it's not the owner of the Seven-Eleven that goes down the tubes, but that 17-year-old clerk apparently under this Bill is under an obligation to read and look through every periodical, every magazine, everything that can be read within that Seven-Eleven and then compare it to some list that probably is supposed to exist somewhere to determine whether he should sell that magazine or not sell that magazine. And if the person in that Seven-Eleven sells that magazine and it's on the list of obscene material, well then that's a misdemeanor. And a second violation, I guess, is a felony and we're going to send that 17-year-old clerk to jail for selling that magazine. But the owner of that Seven-Eleven doesn't go to jail. The clerk, who is only selling what their employer put on the shelves of that Seven-Eleven, is going to go to jail under this Bill. In addition, the Sponsor wishes the counties one by one to determine what's obscene but the Sponsor forgets that if the very first court ruling in a case on a particular magazine goes against him, if something we would all think is obscene, is determined by a particular jury in a particular county to not be obscene then a precedent will have been set declaring that obscene material okay. And then you will never have the opportunity to turn that around. What the Sponsor wants to do here is lead us to situation where we now have 102 separate standards. Should we have 102 separate standards for workers compensation awards in the counties? Should we have 102 separate

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standards for teachers' certification in the counties? Should we have 102 separate standards for environmental controls in the counties? Should we have 102 separate standards for drivers' license revocation in the counties? I don't think so. I don't think so, but if we pass this Bill, we're saying that all issues in the State of Illinois are open to 102 different interpretations by 102 different counties. I don't think we should be about that business. For those of you, particularly on the other side of the aisle, who are concerned about the actions of lawyers in our society, you start passing 102 different standards for everything we do in Illinois and you'll be opening up a Pandora's Box for work for lawyers that you don't want to open up. Let me tell you. If you're concerned about the First Amendment, the issues of freedom of speech, freedom of religion, freedom of association and all the other things, this is a very dangerous Bill. Because once you decide that you're going to impinge on the rights of freedom of speech, the rest follow. Just like the rest follow in terms of issues 102 different standards on everything else. Once you violate the Constitution by jumping all over freedom of speech, by determining from Springfield, Illinois, in essence, what is or is not going to be pornographic in each county, then you can let each county determine what associations people can have. And you can let each county determine what religions people can have or not have. This is very, very dangerous legislation. It's legislation you should not be about passing simply because you're worried that somebody's going to say you're soft on pornography. No one here is soft on pornography. That is ridiculous. This cries out for a 'no' vote."

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Speaker Johnson, Tim: "The Chair recognizes the Gentleman from Logan, Representative John Turner."

Turner, J.: "Thank you, Mr. Speaker, Ladies and Gentlemen. I rise in support of this measure. Let me begin by saying I'm surprised and indeed somewhat amused by the number of lobbyists who have signed on in opposition to this Anti-crime Bill. It's not something we see very often. As a general rule we have some spirited debate here in the House on an anticrime measure but lo and behold when the Bill comes up for a vote there's 110 or 115 green votes that come up on the board and I doubt that that's going to happen today. I know that some of my colleagues from time to time on both sides of the aisle might warn us about taking votes and about what the political spin might be. Well I certainly have never found the arguments where I'm warned against...on how to vote whether I vote for something or against something to be very persuasive so, I have no warnings for any of my colleagues. I am also not smart enough to tell you what your political spin in your own particular district might be. Instead, what I'd like to do is challenge everyone on the House Floor tonight to consider this Bill, consider what it does and forget about the lobbyists for a moment. Forget about the lobbyists whether they are for the Bill or against the Bill and think about what this Bill actually does. Now I've had the privilege and opportunity on dozens and dozens and yes dozens of occasions to stand before a jury in the State of Illinois and tell that jury that I represented the people of the State of Illinois as the prosecutor. And I can tell you that I have done murder cases and I've done Class X Felony cases, I, II, III, and IV Felony cases, not just filed those cases but taken them to the jury. And I can

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tell you that sometime during my opening statement and always during my closing statement I will tell that jury that they are the conscience of the community and I can also tell you that I have never seen a prosecutor yet who does not do the same thing. Let me also suggest to you, that before being the State's Attorney, I was the public defender for three and a half years and also tried many cases to a jury. Not one time when I did that did I ever submit an instruction that any crime that I was defending should have a statewide standard when you determine the definition of that particular crime. Of the dozens of cases that I prosecuted, not one time ever did I ever tell a jury that the judge was going to instruct them that indeed it should be a statewide standard as they applied the definitions of that particular crime that we were prosecuting. Let me go on to say in all of those cases, not once have I ever seen a prosecutor, not once did I ever do it, not once did I ever do it, not once have I ever seen a defense attorney and not once did I ever see a judge submit an instruction to a jury that they were to apply a statewide standard. Well, you may have guessed by now, I didn't see any obscenity cases done. I didn't prosecute any, and I didn't defend any because obscenity for some reason and the dissemination thereof is treated differently than every single other crime that I'm aware of in the Criminal Code. So I'm not quite sure why we are here today arguing about the ramifications of statewide verses countywide when we do use the statewide. One of my colleagues a minute ago accused the Sponsor of being inconsistent with his particular vote on Tort Reform and I don't think that is very fair. Indeed, if you go to a jury in Cook County versus perhaps my home county of Logan with

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the same set of facts as to what the injury is worth, it may be worth \$1 million bucks in Cook County and it may be worth a \$100 thousand in Logan County. It is indeed a countywide standard upon which crimes are prosecuted and it is the community conscience that we rely upon. When you go to a closing argument, you always suggest to the jury you are the conscience of the community. You do that whether you are prosecuting or defending and when you say conscience of the community except for obscenity, you mean the county in which the jury is impaneled. If you're from Cook County, why are your Cook County jurors who come from their homes, who come from work, why are they not good enough to decide what the definition is without looking downstate? Why are they not good enough on obscenity but good enough for every single other crime in the Criminal Code? Now I know that the argument is that the First Amendment is in question here and I've heard those arguments and I have a hard time believing that anyone is accepting that by passing this Bill the derogation of the First Amendment will have been completed and we no longer will have any free speech in the State of Illinois. Let me suggest to you that the states of Massachusetts and New Jersey do have this standard and many other states have it as well and I happen to believe that although I have never lived there, that the people in Massachusetts think that they still have First Amendments rights..."

Speaker Johnson, Tim: "The Chair recognizes the Gentleman from DuPage, Representative Johnson, Tom Johnson."

Johnson, Tom: "Thank you, Mr. Speaker and Members of the House. I too rise in very strong support of this piece of legislation. The arguments that have been made on all sides of this issue are arguments truly spoken from the

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heart and obviously there are some differences of opinion. I want to submit, number one, that there is one standard of obscenity. I think we're getting bogged down a little bit in standards here. There is one standard for obscenity and it is a nationwide standard that has been adopted by the U.S. Supreme Court. Now Peter Roskam did not want to read that standard but I think that it is important that we recognize this is the standard. It appeals to the prurient interest. It depicts in a patently offensive way ultimate sexual acts sadomasochistic sexual acts, whether normal or perverted, actual or simulated or masturbation, excretory functions or lewd exhibition of the genitals and taken as a whole, this all lacks serious literary, artistic, political and scientific value. That, Ladies and Gentleman, is the standard for obscenity. What we are talking about here, is the community's right to judge whether that standard has been violated or not violated. With all due respect to some of my colleagues who have said that we do not want the smallest number to decide this. You know, I agree with that but I believe that the law as it currently is written, statewide, permits really the smallest number to decide my community's standard as to whether or not this nationwide standard has been violated. Because it permits, in the defense of this case, for the defense to bring in the most liberal interpretation of this issue by 12 individuals found somewhere in this state. So quite the reverse has occurred here, that the smallest number have decided already for my county what is obscene or not. I believe that that is up to my community. You know we are hearing hue and cry all over this state and nation today about what is occurring out in the public media in terms of the internet, movies, violence, sex, etcetera, etcetera. If

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we're not willing to at least look ourselves in the face and say, 'You know to the extent possible, we are going to do what it takes to curb some of this.' And, yes, I agree. Maybe a library who, in fact, is permitting the sort of things to take place in the library, those three issues combined, you know I would say that maybe the library should take a second look at what it's permitting when it is inviting my children into it. And so I believe that the real issue here is give my community the right to raise its children. My community being a county which is 1 million people or close to it. And so the standard is there. It is a case now of who is deciding whether that standard has been violated or not. And I believe that our counties who we ask our jurors to sit and listen to the facts are very capable of doing that. And so I support this effort and congratulate Representative Roskam for bringing it to our attention."

Speaker Johnson, Tim: "The Chair recognizes the Gentleman from Kane, Representative Hoeft. Proceed."

Hoeft: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Johnson, Tim: "He indicates that he will."

Hoeft: "For matter of legislative intent, I'm hearing two different things spoken here. I'm hearing the standards are by county and the standards are by community. Does this Bill recognize political lines defined for the intent of this Bill?"

Speaker Johnson, Tim: "Representative Roskam."

Roskam: "Representative, for purposes of legislative intent, the phrase that we're trying to narrow in on is, 'contemporary adult community standards'. The issue is that third word, 'community'. What does 'community mean'? Under this Bill, 'community' means the county in which the offense occurs,

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the county from whom the jury pool is drawn."

Speaker Johnson, Tim: "Further questions, Representative Hoeft?"

Hoeft: "So the community is defined as the pool from which the jurors are polled."

Speaker Johnson, Tim: "Representative Roskam."

Roskam: "Yes, Representative, the exact language in the Bill is, 'Any material or performance is obscene if the average person applying contemporary adult community standards in the county in which the material is sold, etcetera'."

Speaker Johnson, Tim: "Further questions, Representative?"

Hoeft: "Thank you, Mr. Speaker."

Speaker Johnson, Tim: "The Chair recognizes the Gentleman from Cook, Representative Dart."

Dart: "Will the Sponsor yield for questions?"

Speaker Johnson, Tim: "He indicates he will. Proceed."

Dart: "Representative, how many other criminal statutes do we have that are done on a county standard?"

Speaker Johnson, Tim: "Representative Roskam."

Roskam: "Representative, Representative Turner went through that I think in his dissertation about the statutory scheme. I would rely on his remarks."

Speaker Johnson, Tim: "Representative Dart."

Dart: "Well, I guess my question was more to the...are there any other criminal statutes that we have in the book in which people are supposed to judge by a countywide standard? This is a criminal charge, a criminal offense like all the rest of the criminal statutes we have in the book. Are there any other ones that are on a countywide basis?"

Speaker Johnson, Tim: "Representative Roskam."

Roskam: "They all are, Representative, because no other jury in any other crime is specifically told you have to impose a statewide standard. Jurors are drawn, as you know, from



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the political boundaries of a county, so that is naturally what happens. In other words, Representative, what doesn't happen is in a spousal abuse case the situation isn't such that they're told, 'Well, you know what? Don't think about what is abuse down here and up here and over here. Think about what is abuse throughout the entire state.' That's not what happens. What does happen is that the county standard is only...or the statewide standard is only used in this instance."

Speaker Johnson, Tim: "Further questions? Representative Dart."

Dart: "Thank you. Who will prosecute these cases?"

Speaker Johnson, Tim: "Representative Roskam."

Roskam: "State's attorneys."

Speaker Johnson, Tim: "Representative Dart."

Dart: "What was the position of the States's Attorneys' Association?"

Speaker Johnson, Tim: "Representative Roskam."

Roskam: "Representative, the president of the State's Attorneys' Association supports the Bill, the Champaign County State's Attorney supports the Bill, the DuPage County State's Attorney supports the Bill, and the Sangamon County State's Attorney supports the Bill along with a number of other counties that I'm looking at here and I don't want to waste your precious time. Let me just say this, the State's Attorneys' Association themselves made a political decision, it was described to me, not to get involved in this particular statute."

Speaker Johnson, Tim: "Representative Dart."

Dart" "Thank you. I've learned my lesson, Mr. Speaker, I'm going to keep speaking on the Bill but I won't ask any more questions because I'll probably get one more out. I was hoping to get an intelligent debate here, but I was

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mistaken. The state's attorneys are the prosecutors here. The people who prosecute these, their very association is taking no position on it. The ones in charge of enforcing this law have taken no position on this. There is no other criminal statute out there presently that says you are to judge on a countywide statute, aucontraire, Representative, that does not exist. The reality is that we are setting a very confusing statute here. We're setting up something where the appeals are going to be limitless. They're going to be going on and on. No one will be able to serve a sentence here because the appeals are going to be on forever and ever. I, too, have tried a lot of cases to juries and never once have I heard a judge, a state's attorney, anybody refer to the county standard while we were prosecuting a case. They don't do it, they don't do it. I dare say it's because it's reversible error is why we don't do it. So to say we don't talk about statewide standards. We don't talk about county standards. So let's talk apples and apples and not try to really confuse things here. I am speaking as a prosecutor here, an ex-prosecutor, who finds what we're trying to do here, though well-meaning to be very confusing. It's going to end up leading to situations where the same video tape which is fine in one county, across the street it's not. Mom and Pop, under the present existing statute right now could lose their building, could lose their entire livelihood if they relied on the fact that Blockbuster sent them videos that were okay where Blockbuster distributed them from but not in the county they're in now. They could lose all of it under the existing statute. It is setting up something horribly, horribly confusing and I dare say it is something similar. When it came to Tort Reform, we had

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no problem saying, 'Jurors, you're too stupid. We're going to put caps on how much you can award.' You're putting another 13th person in the box there, you're going to do it here. This is confusing, it's going to increase appeals. We have zoning laws right now that work. Use the free market. If a county doesn't like this stuff no one is going to buy it. If a county doesn't like this stuff, their library board is going to get booted if they put it in the libraries. It's something where the existing laws will cover it. We're going to lead to confusion here and we shouldn't have that. That's why I, as they say well-meaning as it is, it's going to be confusing and it's not going to end up doing what you want here. And we'd ask for a verification if it receives a..."

Speaker Johnson, Tim: "Your request is acknowledged. The Chair recognizes the Gentleman from Grundy, Representative Spangler."

Spangler: "Thank you, Mr. Chairman, Ladies and Gentlemen of the House. I would like to take this opportunity to tell you a true story. I come from an area in Illinois, Morris, Illinois. Morris, Illinois is a very picturesque community. I'm certain many of you have been through there before. It has very high standards. Their football team has always been great, up near the top. They've got a beautiful river frontage on one end of town that was named after one of the Governor's of Illinois, Governor Stratton, who lived in Morris. This is a gorgeous community by any set of standards. It's got a vital and alive downtown. Now, let's back up a little bit. We also have an interstate on the other side of town that's called Interstate 80 and right there in great big huge letters or letter, is a great big red X on a yellow background and

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this building is called Truckers' Video. Now the first thing that you're going to see and the impression that you're going to get of a community is what you see when you come off that interstate and you see Truckers' Video. Let me tell you something about Truckers' Video. Has that been into court? Has the state's attorney tried a number of times to get them shut down? Absolutely. Has the police department been involved and tried and has the city council? Yes they have. What's wrong with this picture? Let me describe this facility for you if I may. First of all, you go inside and there are all kinds of different sexual paraphernalia and equipment or toys for some that use those devices. There are booths that are lined up and when the police officers go in to check those, they use the back end of their flashlight because of some of the excretions that are left on the drapes and the curtains there in the booths where they watch these videos. They have the grossest of grossest of smut that you have ever wanted to see in your entire life and, Ladies and Gentlemen, it's in my community in Morris, Illinois. Now, why do we have such a problem with this?"

Speaker Johnson, Tim: "Please give the Gentleman your attention as you have the other speakers. Proceed, Representative."

Spangler: "Thank you, Mr. Speaker. Because when this wound its way through the courts, what they ended doing, was they took from all across the State of Illinois in what we would in turn would call maybe red-light districts in some areas which nobody is proud of having those, I don't care where you're from but yet they exist. And they came into court with this material and everything else and said, 'Look at here, this is what the state statute and this is what the state standard is on obscenity so why should the people

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around the Morris area in Grundy County want to get rid of this nice retail establishment called Truckers' Video?' Ladies and Gentlemen, this Bill is needed. I heard one of the other speakers, debaters, earlier say, 'You know it's easier to have a statewide standard.' And you know what, a law it is. It's easier but morality is not easy, Ladies and Gentlemen. There's temptations everywhere and as long as we allow those to be out there, now who do you think uses Truckers' Video? Do you think it's the community people? No way. It's people coming in off those intestates and everything else. And right next to it you have a Holiday Inn and you have a Comfort Inn where families stay and they have to drive on this frontage road right past Truckers' Video. Ladies and Gentlemen, I would submit to you, if for no other reason, this is the reason we need to have a Bill such as this that finally gives some teeth to the courts so they can go after this kind of nonsense that is destroying our society from the inside out. Thank you very much."

Speaker Johnson, Tim: "The Chair recognizes the Gentleman from Winnebago, Representative Scott. Proceed."

Scott: "Thank you, Mr. Speaker. I find this to be another in the series of Bills that are searching for a problem to address. With all due respect to the previous speaker, I live in the second largest city in the state which for a long time had an adult book store, for a long time had an outdoor movie theater which showed pornographic movies, and you know how they got rid of them? They got rid of them by prosecuting them. And the very state's attorney who is listed as being the president of the association who comes from my county, he got rid of those two establishments by prosecuting them under the very law that now, suddenly

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isn't any good anymore. It worked in Winnebago County. Perhaps the problem lies not so much with not being able to prosecute it but with the actual prosecution itself of these particular institutions. It happened in the second largest city in the state, it can happen all over the state. And I can't believe that if 12 people in Morris weren't as disgusted as you were with that particular establishment that it wouldn't have gone down the same way as well. The Association of State's Attorneys is not backing this Bill, the Association of Police Chiefs is not backing this Bill, although individuals do. That ought to tell us something. I disagree a little bit in part with one of the earlier speakers that said, 'Don't look at the lobbyists.' Well in a case like this maybe we should. These are the people who are charged with enforcing these laws, with prosecuting these very laws. If they don't think it's necessary to make this change, I have a hard time believing that we need to make this change ourselves. Think about the myriad legal issues that we've got involved here. The Bill talks about advertising, sales, distribution. That could happen for the same tape, the same show, the same movie, the one showing that occurs could happen under this Bill in 25 or 30 different counties, not different acts of selling different tapes. The exact same showing of the same movie or the sale of one magazine or the distribution of one magazine that's advertised in several counties. So the same act that's let go in one place can now get prosecuted separately. If you don't think this is a full employment act for lawyers, which I used to think you guys were against. You know last year, for the last couple years, you've just created a brand new full employment act for all the attorneys that

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you hurt through Tort Reform a couple years ago. It just gave them a nice in back into the system. Think about changes of venue. How about that one? How about the adult book store in Rockford, which created such great attention or the movie theater in Rockford which created such great attention? It would have been a perfect case for a change of venue. Where do you go? Where do you get the jury from? Think about all the different legal issues you have created here with this Bill that if people are prosecuting cases correctly, like the state's attorney in Winnebago County who likes this Bill prosecutes his cases correctly, gets convictions and gets the places moved out of the community. It's a Bill that's absolutely not necessary for the purposes and I'm with Representative Kubik and the other people that spoke. Nobody's supporting pornography here. Nobody's supporting this stuff. But there are ways to deal with it through the law the way it's written right now, through the zoning laws, the way they're written right now. The community standards play a great deal in convincing the city council not to allow zoning for a particular place or to use the tool that they have available to them and zone only in certain areas. The tool is there on behalf of communities. Market force is the best which you guys also used to be in favor of as I recall from the last couple years. Now suddenly the market forces aren't any good either. If the market in Grundy County or in a different county says these materials shouldn't be there or in Winnebago. It won't, because it's not anymore. If you go to try to buy this material in Winnebago County, it's not there anymore. It's been moved out by prosecution through the very law that now we're saying is inadequate. I don't believe it. I don't think any of us should believe

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it and it leads me to think that perhaps there's something else a little bit deeper behind this Bill. For all of those reasons, in addition to the wonderful reasons cited by Representative Kubik, we should be very careful about treading very heavily on the First Amendment. We should be very careful about the chilling effect on libraries and bookstores. And if you ever looked at a list of books that were banned or of movies that were banned for one reason or another all over this state you'd be shocked, banned by one community or another and again it is the smallest number that is deciding that. It is not necessary. The laws are there that are in place right now that allow people to move these facilities out and I would strongly suggest a 'no' vote on this Bill."

Speaker Johnson, Tim: "The Bill, the Chair recognizes the Gentleman from Coles, Representative Weaver."

Weaver: "Thank you, Mr. Speaker. I move the previous question."

Speaker Johnson, Tim: "The Gentleman has moved the previous question. Those in favor signify by saying 'aye', those opposed by saying 'no'. In the opinion of the Chair, the 'ayes' have it. The previous question is moved. Representative Roskam to close."

Roskam: "Well, I want to thank all of my colleagues. I think we've had a good debate on a Bill that is close to the hearts of many people, close to the hearts of proponents and opponents as well. Let me speak briefly on four points. Number one, this is not a constitutional issue. This issue has been decided in 1974 by the United States Supreme Court and let me quote Chief Justice Warren Burger. He said this, 'To equate the free and robust exchange of ideas in political debate with commercial exploitation of obscene material demeans the grand conception of the First



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Amendment and its high purposes in the historical struggle for freedom.' Simply put, we're not talking about protected speech. It has not had the chilling effect in the arguable 24 states that this standard is currently in place. For those of you who believe in the free market as I do, one of the things you could do if you're completely wedded to that idea, is to introduce the repeal of the obscenity statute because once you argue that it's only the free market that should make those decisions then you're saying the government has no role. Well, I believe, not in no government, I believe in limited government. You know that maddening feeling when a criminal who is obviously guilty as sin, gets off on a technicality and yet there is some great constitutional principle that has restrained the law from allowing that defendant to go to jail and so forth and we say, 'Well, you know, that's the cost of doing business, that's the cost of living in this constitutional system and we're willing to pay the price.' Well, here's an example where the courts have taken the handcuffs off of us and they've told us that we can take the handcuffs off of jurors. All we have to do is pass this Bill to create the ability on the part of juries to use a standard, by county, in the offense in which the incident occurred. In my view this Bill is really about one thing. You know for the past two years everybody in this Chamber, on a good faith basis, everybody on the other side of the aisle, everybody here in Springfield has been concerned about sexual predators. You know it was brought up earlier, 'Well, let's let the free market make decisions.' You know some of the types of people that are going into these places and getting all revved up, and getting all charged up? You know who they are? They're the very types of

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people, friends, that we are trying to keep track of in this state, that we pass Bill after Bill in attempt to keep track of these people because they are sexual predators. Well, this I say to you, let's not roll over and play dead.

Let's say that if you're going to go into one of these places that is spilling this material out, that fails this three part standard, and you come out with your eyes down and you get into a car and you start driving around, don't drive around my county, don't drive around my neighborhood because we're not interested. We've got juries that are going to shut you down. Please vote 'aye'."

Speaker Johnson, Tim: "The Gentleman from DuPage, Representative Roskam has moved the passage of Senate Bill 1036. Those in favor, vote 'aye', those opposed vote 'no'. The voting is open. This is final action. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question there are 52 voting 'yes', 49 voting 'no', and 6 voting 'present'. Representative Roskam, do you request postponed consideration?"

Roskam: "Yes."

Speaker Johnson, Tim: "Your request is granted. The Bill will be on the order of postpone consideration. Could I have some order in the chamber until we conclude our business? Thank you."

Clerk McLennand: "Rules Committee will meet at 8:15 p.m. in the Majority Leader's office. Rules Committee will meet at 8:15 p.m. in the Majority Leader's office."

Speaker Johnson, Tim: "The Chair would like to acknowledge the presence of the Treasurer of the State of Illinois, former Member, Judy Baar Topinka. Former Representative and Treasurer Topinka, welcome to Springfield, and the floor of

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the General Assembly. We're pleased to have you with us. Messages from the Senate, Mr. Clerk."

Clerk McLennand: "Message from the Senate by Jim Harry, Secretary of the Senate. 'Mr. Speaker, I'm directed to inform the House of Representatives that the Senate has refused to recede for their Amendment #1 to House Bill 2735. And I'm further directed to inform the House of Representatives that the Senate requests a first committee of conferees (sic - Conference Committee) of conference to consist of five Members from each House to consider the differences of the two Houses in regard to the Amendments to the Bill. And that the committee on committees of the Senate is appointed as such Members of their Party of the Senate to following Senators Bomke, Dudyetz and Klemm. Action taken by the Senate January 6, 1997.' Committee announcements. The following committees will meet tomorrow morning: The Executive Committee will meet at 8:00 a.m. in Room 114; Judiciary and Civil Law Committee will meet at 9:00 a.m. in Room 118; Transportation and Motor Vehicles Committee will meet at 9:00 a.m. in Room C-1; in addition at 8:00 a.m. the Rules Committee will meet in the Majority Leader's office; and all Members should be advised that there will be additional committee postings for 9:00 a.m. or later following the Rules Committee meeting. The following committees will meet tomorrow morning: Executive at 8:00 a.m. in Room 114; Judiciary Civil Law at 9:00 a.m. in Room 118; Transportation and Motor Vehicles at 9:00 a.m. in room C-1; Rules Committee will meet at 8:00 a.m. in the Majority Leader's office; and other committees will be posted following the Rules Committee meeting."

Speaker Johnson, Tim: "Representative Ryder now moves that the House stand adjourned until Tuesday, January 7, 1997 at the

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hour of 10:00 a.m. Those in favor say 'aye', those opposed say 'nay'. In the opinion of the Chair the 'ayes' have it. And allowing for perfunctory time for the Clerk, the House now stands adjourned until Tuesday, January 7, 1997 at the hour of 10:00 a.m."

Clerk McLennand: "The House Perfunctory Session will be in order. The House Perfunctory Session will be in order. And the House Perfunctory Session will stand at ease."

Clerk McLennand: "Attention the House Perfunctory Session will be in order. The House Perfunctory Session for the 149th Legislative Day will be in recess until the hour of 9:00 a.m. on Tuesday, January 7, 1997."

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