

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES
TRANSCRIPTION DEBATE

99th Legislative Day

February 24, 2000

Speaker Hannig: "House will be in order. Will the Members please be in their seats. The House will be in order, will the Members please be in their seats. We will be led today in prayer by Pastor Paul Bacon with the Trinity Lutheran Church in New Lenox. Pastor Bacon is the guest of Representative Kosel. Guests in the gallery may wish to rise and join us for the invocation and the Pledge of Allegiance."

Pastor Bacon: "Good morning on this beautiful spring day. I think the sun's shining, isn't it? Okay. Let us bow our heads in prayer. Our Heavenly Father, as the House meets today, we ask that You be with each and every one of the Members of this House so that as they carry out their elective duties for the good of the people of this state, they may do so with the wisdom that only You can give. Enable them also to be able to act with complete integrity in the votes that they make and the statements that they make here on the floor, so that they might not compromise what You have granted to them as their Creator. May they be the best of what You have called them to be in this situation, so that this House may do those things which are pleasing to You and for the good of all the people of this state. We ask all of this in Your name. Amen."

Speaker Hannig: "And Representative Giles, will you lead us in the Pledge?"

Giles - 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 Hannig: "Roll Call for Attendance. Representative Poe, for excused absences."

Poe: "Mr. Speaker, let the record show that Representative Brent

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Hassert is excused today."

Speaker Hannig: "Representative Currie."

Currie: "Thank you, Speaker. Please let the record show that Representative Stroger is excused today."

Speaker Hannig: "Mr. Clerk, take the record. There are 114 Members answering the roll call. A quorum is present. Any... Mr. Clerk, Committee Reports."

Clerk Rossi: "Representative Erwin, Chairperson from the Committee on Higher Education to which the following measures were referred, action taken on February 24, 2000, reported the same back with the following recommendation: 'do pass as amended Short Debate' House Bill 4703; 'be adopted' House Resolution 569; 'recommend be adopted' Floor Amendment #1 to House Bill 3576 and Floor Amendment #4 to House Bill 3831. Representative Skip Saviano, Chairperson from the Committee on Registration and Regulation to which the following measures were referred, action taken on February 24, 2000, reported the same back with the following recommendations: 'do pass Short Debate' Senate Bill 239. Representative Howard Kenner, Chairperson from the Committee on State Government Administration to which the following measures were referred, action taken on February 24, 2000, reported the same back with the following recommendations: 'recommends be adopted' Floor Amendment #1 to House Bill 3911. Representative Coy Pugh, Chairperson from the Committee on Revenue to which the following measures were referred, action taken on February 24, 2000, reported the same back with the following recommendations: 'do pass as amended Short Debate' House Bill 4370. Representative Gash, Chairperson from the Committee on Judiciary II-Criminal Law, to which the following measure was referred, action taken on February

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24, 2000, reported the same back with the following recommendation: 'recommends be adopted' Floor Amendment #3 to House Bill 3113."

Speaker Hannig: "Clerk, would you read the Agreed Resolutions?"

Clerk Bolin: "Agreed Resolutions: House Resolution 523, offered by Representative Daniels. House Resolution 567, offered by Representative Scully. House Resolution 568, offered by Representative Feigenholtz. House Resolution 570, offered by Representative Hoffman. House Resolution 571, offered by Representative McGuire. House Resolution 572, offered by Representative Krause. House Resolution 573, offered by Representative Garrett. House Bill 574, offered by Representative Black. House Resolution 575, offered by Representative Howard. House Resolution 577, offered by Representative Morrow. House Resolution 579, offered by Representative Lopez. House Resolution 581, offered by Representative Leitch. House Resolution 582, offered by Representative Gash. House Resolution 583, offered by Representative Stephens. House Resolution 586, offered by Representative Hannig. House Resolution 587, offered by Representative Morrow. House Resolution 588, offered by Representative Delgado. House Resolution 589, offered by Representative Scott. House Resolution 590, offered by Representative Hamos. House Resolution 591, offered by Representative Cowlshaw. House Resolution 592, offered by Representative Granberg. House Resolution 593, offered by Representative Ryder. House Resolution 595, offered by Representative Stephens. House Resolution 596, offered by Representative Stephens. House Resolution 597, offered by Representative O'Connor. House Resolution 598, offered by Representative Bellock. House Resolution 600, offered by Representative Giglio. House Resolution 601, offered by

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Representative Fritchey. House Resolution 602, offered by Representative Wirsing. House Resolution 603, offered by Representative Dart. House Resolution 604, offered by Representative Hoffman. House Resolution 605, offered by Representative John Jones. And House Resolution 606, offered by Representative Black."

Speaker Hannig: "And now, Representative Black moves for the adoptions of the Agreed Resolutions. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it and the Agreed Resolutions are adopted. Mr. Clerk, would you read House Bill 2374 for Representative Boland. Read the Bill, Mr. Clerk. Excuse me, out of the record. House Bill 2997, Representative McCarthy. Mr. Clerk, would you read the Bill."

Clerk Bolin: "House Bill 2997, a Bill for an Act to amend the Code of Civil Procedure. Second Reading of this House Bill. Amendment #1 was adopted in committee. No Floor Amendments. No Motions filed."

Speaker Hannig: "Third Reading. Representative Moore, for what reason do you rise?"

Moore, A.: "Thank you, Mr. Speaker. I just wanted everyone in the chamber to know that today is Suzy Bassi's birthday as evidenced by the balloons there and there will be cake down in the front of the chamber soon. So we should all go by and wish her a happy birthday."

Speaker Hannig: "Happy birthday. Representative Younge, on House Bill 3966. Representative Younge, would you like us to read the Bill? Representative Wyvetter Younge? Out of the record? Okay, out of the record. Representative Boland on 4632, would you like us to read that Bill? Yes, Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 4632, the Bill has been read a second

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time, previously. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Hannig: "Third Reading. Representative Beaubien on House Bill 3113. Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 3113, a Bill for an Act concerning evidence. Second Reading of this House Bill. Amendment #1 was adopted in committee."

Speaker Hannig: "Representative, could we take this out of the record for a moment? Okay, out of the record. And Representative Mitchell, for what reason do you rise?"

Mitchell, B.: "Mr. Speaker, I rise on a point of personal privilege."

Speaker Hannig: "Yes, state your point."

Mitchell, B.: "I would like to introduce to the Illinois House, James Frively, from Central A&M in my district. He's doing a documentary today on the Illinois House. Let's give him a big House welcome."

Speaker Hannig: "Mr. Clerk, let's return to House Bill 3966 for Representative Younge."

Clerk Bolin: "House Bill 3966, a Bill for an Act concerning a performing arts school. Second Reading of this House Bill. Amendment #1 was adopted in Committee. No Floor Amendments. No Motions filed."

Speaker Hannig: "Third Reading. Representative Monique Davis, we have House Bill 3911 and you have an Amendment. Would you like us to read that Bill? Mr. Clerk, would you read the Bill."

Clerk Bolin: "House Bill 3911, a Bill for an Act in relation to criminal statistics and law enforcement. Second Reading of this House Bill. No Committee Amendments. Floor Amendment #1, offered by Representative Monique Davis, has been approved for consideration."

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Speaker Hannig: "Representative Davis."

Davis, M.: "Mr. Speaker, Floor Amendment #1 was adopted in committee today, or recommended for adoption. And what the Amendment does is, merely asks that the State Police compile statistics on citations. We removed all of the other police authorities from this particular Bill and only the State Police are on. And it just asks that they do two things, and that is to record the race of the driver, or whatever they perceive the race to be and also whether a search took place. That's all."

Speaker Hannig: "The Lady has moved for that adoption of the Amendment. Is there any discussion? The Gentleman from Vermilion, Representative Black."

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

Speaker Hannig: "She indicates she will."

Black: "Representative, first of all, let me thank you for the Amendment. I know you had talked about it in committee and you said you would amend it. We're very grateful for you for doing that. The Amendment creates a traffic stop statistical study and as part of that study the officer would have to indicate the race of the motorist. And my question is, and excuse me, because I'm serious in the question. I thought when years ago that information was eliminated from the Uniform Traffic Code that it could be construed as a violation of someone's rights to be asked or be asked to say I'm... what if the officer says 'Well, are you hispanic, latino, black...'"

Davis, M.: "No, no, no... No, we're hoping that the department will establish a policy or procedure. The police officer is not to ask the individual anything in reference to race. He is simply to write down what he perceives that person to

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be..."

Black: "Okay, so..."

Davis, M.: "...but he is not to have a discussion with him, and Representative Black, a number of states are doing this without legislation and then a number of states are doing it with legislation."

Black: "Okay. So, the motorist will not have to respond to a question, because it... in the heat of the stop or nervousness of the stop, my immediate reaction would be to an officer saying, 'And by the way, what race are you?' I'm afraid my reaction would be, 'That's none of your business.'"

Davis, M.: "There's absolutely nothing in the Bill, Representative, that requires him to ask that question."

Black: "Okay, fine. All right, thank you very much."

Davis, M.: "Thank you, Sir."

Speaker Hannig: "Representative Stephens."

Stephens: "Inquiry of the Chair."

Speaker Hannig: "State your inquiry."

Stephens: "Was a fiscal note filed on this Bill as amended?"

Speaker Hannig: "Mr. Clerk, is there... well, first of all Representative, we haven't amended it yet. We will now move it to Third, unless all of the notes are appropriately filed, Representative."

Davis, M.: "And may... Representative Stephens, there, there's..."

Stephens: "I believe the Lady is out of order, Mr. Speaker."

Davis, M.: "Representative, there is absolutely no reason..."

Stephens: "Mr. Speaker, the Lady the is out of order."

Speaker Hannig: "Representative, let's answer one question at a time."

Davis, M.: "Okay."

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Speaker Hannig: "Representative Stephens, we are in the process of trying to adopt an Amendment, after that if the notes are filed, we'll move the Bill to Third, if they're not, we won't. Does that answer your question?"

Stephens: "Yes, it does. I retract my question."

Speaker Hannig: "Okay, is there any other discussion? Then the question is, 'Shall the Amendment be adopted?' All in favor say 'aye'; opposed 'nay'. The 'ayes' have it, and the Amendment is adopted. Any further Amendments? Mr. Clerk, are there any further Amendments?"

Clerk Rossi: "No further Amendments. A fiscal note has been requested on the Bill, and the note has not been filed."

Speaker Hannig: "Okay, and so the Bill will remain on the Order of Second Reading. Representative Erwin on House Bill 3576. Mr. Clerk, would you read the... would you read the Bill?"

Clerk Rossi: "House Bill 3576, a Bill for an Act amending the Illinois Financial Assistance Act for Nonpublic Institutions of Higher Learning. Second Reading of this House Bill. No Committee Amendments. Floor Amendment #1, offered by Representative Erwin, has been approved for consideration."

Speaker Hannig: "The Lady from Cook, Representative Erwin."

Erwin: "Thank you, Speaker. Amendment #1 will increase the minority graduate incentive program from a current cap of \$10 thousand that has not been increased in more than 10 years, to \$15 thousand limit per grant. This is a very worthy program that provides a stipend to African-American and Hispanic graduate students so that they can get a PhD and become faculty in our fine universities. And I urge your support."

Speaker Hannig: "Is there any discussion? The question is,

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'Shall the Amendment be adopted?' All in favor say 'aye'; opposed 'nay'. The 'ayes' have it, and the Amendment is adopted. Any further Amendments?"

Clerk Rossi: "No further Amendments, but a fiscal note has been requested on the Bill, and the note has not been filed."

Speaker Hannig: "Okay, so the Bill will be held, Representative Erwin, the Bill will held on Second Reading pending a note. Mr. Clerk, could you read House Bill 3831 for us?"

Clerk Rossi: "House Bill 3831, a Bill for an Act concerning higher education scholarships. Second Reading of this House Bill. Amendments 1, 2, and 3 have been adopted to the Bill. No Motions have been filed. Floor Amendment #4, offered by Representative Erwin, has been approved for consideration."

Speaker Hannig: "Representative Erwin."

Erwin: "Thank you, Speaker. Amendment #4 makes this merit-based scholarship program consistent with the state's current merit-based program. And I would urge your support."

Speaker Hannig: "Is there any discussion? The Gentleman from Vermilion, Representative Black."

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

Speaker Hannig: "Yes, she indicates she will."

Black: "Representative, basically, I am very supportive of anything that would grant more access to higher education, but I've been watching this Bill for some time. What kind of coordination will exist with this Amendment if the student has applied for and received a Pell grant, if the student has applied and received work-study assistance? And it would not be beyond the realm of possibility that the student applied for and was granted a General Assembly tuition waiver. At what point is there a coordination in

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this Amendment so that somebody might... one person may get so much financial aid out of this Amendment that it won't even, couldn't even be used unless it could be returned to him or her in a cash grant, whereas another student may be severely short in grants or work study and really, I don't think would be denied, but would have to scrimp and really go on a tight budget to get there. I'm really worried about a coordination of the various programs. I thought the Amendment would address that, I don't think that it does."

Erwin: "Representative Black, that's a very good question. And I'm going to answer one part of it, and I'll let the lead Sponsor, Representative Lou Lang, answer the rest of it. We... as you know, we do have a current, although not very generous, merit-based scholarship."

Black: "Yes."

Erwin: "We do, as you point out, have a somewhat much more generous, actually, needs-based scholarship program."

Black: "Correct."

Erwin: "Amendment #4 simply tries to make this new merit-based if it were ever to become law, we would never have, I don't think, two merit-based scholarship programs. So at some point, since Representative Lang's Bill is much more expansive than the state's current merit-based, it would be duplicative. So Amendment #4 mirrors the language in the current merit-based so that that piece would be the same."

Black: "Okay."

Erwin: "Now, to your other question, which I think that we did deal with originally on this Bill in committee, if the Speaker will permit, I think Representative Lang is better versed at responding."

Black: "Okay, fine. Thank you."

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Speaker Hannig: "Representative Lang."

Lang: "Thank you, Mr. Speaker. Representative Black, I'm not sure I understood the other part of your question. So, run it by me."

Black: "I thought the Amendment would address... the only concern I've had as this Bill has moved through the process is that we make sure we some kind of coordination of benefits in either the Amendment or the underlying Bill. It would be possible, in fact many times in my district a merit scholar would also qualify for a need-based scholarship at the highest level. Then there are other scholarships that local generally, that may be awarded to this individual and it's not impossible because those Legislators who participate in the General Assembly tuition waiver may not know of the others. My fear is that we could have, not often, but I think even a dozen cases would be too many, of a student going to school, quite frankly, with so much aid that they would literally be going for free while other students are out there still scrimping and getting by."

Lang: "We don't expect that to happen. We would expect ISAC to coordinate all these programs..."

Black: "Okay."

Lang: "And indeed the Bill... a previous Amendment that added to the Bill states affirmatively that every student must apply for every other grant available to them, whether it be a Pell grant, or any local scholarship program that they could possibly be qualified for, so that we can reduce the State's involvement in this even further. So, the goal here, is to coordinate all of it and to ensure that students get whatever aid they can elsewhere before they access the state money."

Black: "Okay. Well, I think that's the most important part. You

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know, it's just what you and I face in coordinating Social Security benefits with a pension. And the Federal Government addressed that some years ago. They weren't about to give you and I maximum Social Security benefits when we were covered also under an established, qualifying pension plan, and while some don't like that, I can understand why they did it. As long as there's some kind of coordination of benefits, then, fine. Because, I have many students in my district... in fact, my own son years ago was a merit scholar and all he received for that was a letter of congratulations, because we've never funded the program. And so, I think if that's where you're headed, I certainly have no problem with that."

Lang: "Thank you."

Black: "Thank you."

Speaker Hannig: "Is there any further discussion? And the question is, 'Shall the Amendment be adopted?' All in favor say 'aye'; opposed 'nay'. The 'ayes' have it, and the Amendment is adopted. Any further Amendments?"

Clerk Rossi: "No further Amendments, but a fiscal note has been requested on the Bill, as amended, by House Amendment #4, and that note has not been filed."

Speaker Hannig: "Okay, so the Bill will be held on the Order of Second Reading. Mr. Clerk, would you read House Bill 4047 for us, please?"

Clerk Rossi: "House Bill 4047, a Bill for an Act amending the Elder Abuse and Neglect Act. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Hannig: "Third Reading. Announcements, Mr. Clerk."

Clerk Rossi: "The Rules Committee will meet immediately in the Speaker's Conference Room."

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Speaker Hannig: "Mr. Clerk, what is the status of House Bill 4181?"

Clerk Rossi: "House Bill 4181 is on the Order of House Bills-Third Reading."

Speaker Hannig: "Please return that to the Order of Second Reading at the request of the Sponsor. On the Order of House Bills-Third Reading, House Bill 260, Representative Giglio. No, out of the record. Representative Crotty on House Bill 2985. Mr. Clerk, would you read the Bill?"

Clerk Rossi: "House Bill 2985, a Bill for an Act amending the School Code. Third Reading of this House Bill."

Speaker Hannig: "Representative Crotty."

Crotty: "Thank you, Mr. Chairman (sic-Mr. Speaker). House Bill 2985 continues the reading block grants that are existing today for K-6 and continuing that from 7-12. Those dollars are going to be appropriated by the State Board of Education and will not cut into the existing program from K-6th grade. This is an Agreed Bill. I've worked on it with the Superintendent, Max McGee. I also have met with Designs for Change, they are also for the Bill, and there is no opposition. And I ask for a favorable vote. If there are questions I'd be more than happy to answer those."

Speaker Hannig: "And on that question, Representative Cross is recognized."

Cross: "Will the Sponsor yield?"

Speaker Hannig: "She indicates she will."

Cross: "Inquiry of the Chair. Just for clarification, aren't we... we are on Third Reading on this Bill?"

Speaker Hannig: "This is the Order of Third Reading, yes, Representative."

Cross: "Can we have that little bell go off, just so everyone

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knows? We just wanted to make sure that the bell was working."

Speaker Hannig: "All aboard."

Cross: "All aboard... I hope... well, I don't know. Will the Sponsor yield?"

Speaker Hannig: "Yes, she indicates she will."

Cross: "Representative, there were, if I'm not mistaken a couple of Amendments on this Bill. Were there two Amendments adopted? Were they adopted in committee? Do you know, or were they on the floor?"

Crotty: "One was in committee, one is on the floor."

Cross: "All right. Did Amendment #2, which I believe is the Floor Amendment, become the Bill?"

Crotty: "It's the Bill."

Cross: "Was there... were there any opponents to the Bill in committee?"

Crotty: "I'm sorry, Tom, could you... could you ask that question again?"

Cross: "Were there any opponents to this Bill?"

Crotty: "At first there was with the State Board of Ed and then I met with Max McGee and we worked all that out. So, at this time we're all in favor of the Bill."

Cross: "One of the questions I... my understanding one of the reasons perhaps that the state board's opposed to it, although I'm not sure, is that this Bill will have a fiscal impact of approximately \$70 billion (Sic-million) dollars?"

Crotty: "At this point, the way it's been amended, there is no actual amount. It will be the amount that will be appropriated through the General Assembly, along with whatever the State Board of Ed and Max McGee wants to put into this program. But my understanding is that it's a program that the superintendent realizes is necessary as we

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institute testing, et cetera. It's real important that the kids are able to read those tests. And after we worked on this Bill and I brought it back to the Elementary and Secondary Education, all Members of that committee asked to cosponsor this Bill."

Cross: "My understanding is we currently provide this for K-6 and you want to double this or you want to go from K-12 altogether. The state board's fiscal note shows it would be an increase of approximately 70 million. I'm not quarreling right now or questioning the merits of the program, I'm questioning the cost, if you have something to suggest that the \$70 million, is inaccurate?"

Crotty: "Well, in the last... on the second Amendment we also had a fiscal note out and it's... I've got the fiscal note back here and it says, 'Implementation of this program is subject to specific appropriations for such purpose. Therefore, the fiscal impact will be limited to any amount that the General Assembly may appropriate for this initiative.' And although we already have the amount of money for kids from K-6, hopefully, when we put that kind of money into the program we will have kids that will not need to be served in 7-12. So, that's why this fiscal note is more correct."

Cross: "You know, Representative, I apologize. I didn't hear a single thing you said. And I'm... I know you are trying to provide an answer because this obviously is a very important Bill. It's on Third Reading, we heard the ding, ding, ding. But, I can't hear a thing you're saying over there, and I think given the importance of this Bill I would have liked to have heard your answer."

Crotty: "Tom, you're looking at the fiscal note on the nonamended, the Amendment 1 in the previous Bill as it was

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written. I have another one, that the fiscal impact is on the Bill that we're hearing today. It reads, 'Implementation of this program is subject to specific appropriations for such purpose. Therefore, the fiscal impact will be limited to any amount that the General Assembly may appropriate for this initiative.'

Cross: "All right."

Crotty: "And as I stated where you possibly did not hear me. The amount of money... do you want me?"

Cross: "No, no. Here's my..."

Crotty: "The amount of money..."

Cross: "Go ahead, I apologize."

Crotty: "The amount of money that's in the program from K-6, all of us want that program to work. So, when the kids are in 7-12, if they get to seventh grade, perhaps a lot of them do not need this continuation, with the help in reading. So, it's an amount of money that the State Board of Ed will definitely look at to see how many students would be coming in to the program in seventh and appropriate accordingly."

Cross: "All right, thank you."

Crotty: "You're welcome. Thank you."

Speaker Hannig: "Representative Mitchell, Jerry Mitchell."

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

Speaker Hannig: "She indicates she will."

Mitchell, J.: "Representative Crotty, what you have done with this Bill, primarily, is to put a vehicle in place that if and when we do have money that can be appropriated, we have a block grant that's similar to the K-6 program without actually interrupting the flow of funds into the K-6 program that has really shown to be very beneficial to students across the State of Illinois. Ladies and Gentlemen, this grant is based upon numbers. It's like a

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categorical grant. It's funded according to the number of students in your district. So, this certainly is one that the suburbs do well, because of their increasing enrollment. The block grant that this Bill begins covers 7-12 that is not covered by K-6 in an area where there may be places in the state that need additional help with reading improvement. Because of the success of the K-6 reading improvement grant, which by the way is used quite frankly to lower class size in the elementary, is there in case we in our wisdom determine that reading is still a priority 7-12. This Representative has used one of her Bills to put in place the vehicle that will be needed in case we can fund that with the additional funds for education. I think it's a good idea, and I think it's one that everyone should support. Thank you, Representative."

Crotty: "Thank you."

Speaker Hannig: "Representative Crotty to close."

Crotty: "I would just ask for a favorable vote for all the kids through 7-12 that we want to help them to succeed in reading and consequently, succeed in many other aspects for their future. Reading is so important. Thank you."

Speaker Hannig: "The question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. 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 115 voting 'yes', and 0 voting 'no'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Clerk, would you read the Committee Reports?"

Clerk Rossi: "Committee Reports. Representative Barbara Flynn Currie, Chairperson from the Committee on Rules, to which the following measures were referred, action taken on

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February 24, 2000, reported the same back with the following recommendations: 'to the floor for consideration' Floor Amendment #2 to House Bill 2958, Floor Amendment #3 to House Bill 3287, Floor Amendment #2 to House Bill 3500, Floor Amendment #1 to House Bill 3881, Floor Amendment #2 to House Bill 3926, Floor Amendment #2 to House Bill 3979, Floor Amendment #2 to House Bill 3995, Floor Amendment #2 to House Bill 4017, Floor Amendment #1 to House Bill 4176, Floor Amendment #2 to House Bill 4349, Floor Amendment #2 to House Bill 4651, and Floor Amendment #2 to House Joint Resolution #2... House Joint Resolution #47."

Speaker Hannig: "Now, Mr. Clerk, on the Order of Second Readings, would you read House Bill 2958 for Representative Garrett? No, out of the record."

Clerk Rossi: "House Bill..."

Speaker Hannig: "Mr. Clerk, out of the record. Would you read House Bill 3287 for Representative Scott?"

Clerk Rossi: "House Bill 3287, the Bill has been read a second time, previously. Amendments 1 and 2 have been adopted to the Bill. No Motions have been filed. Floor Amendment #3, offered by Representative Scott, has been approved for consideration."

Speaker Hannig: "Representative Scott."

Scott: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Floor Amendment 3 came as a result of a question that was asked by Representative Black when we were adopting Floor Amendment 1 a couple of days ago. He had asked a question about the intent of this, was it to apply statewide? And that was the intent of it, but some language actually put that in doubt. So we have made this technical change to reflect what we thought we were doing in the first place, which is to make this statewide. And I

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appreciate Representative Black pointing that out to me the other day."

Speaker Hannig: "The Gentleman has moved for the adoption of the Amendment. Is there any discussion? Representative Durkin."

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

Speaker Hannig: "He indicates he'll yield."

Durkin: "All right, Doug, I'm looking in our file and it shows that there's been opposition from the realtors and the home builders. Could you just briefly articulate to me what their opposition and why they have problems with your Bill?"

Scott: "Well, their opposition to the Bill, I'm not sure if the... Representative Parke just indicated to me, he thought that the Amendment made it worse for them. I talked to them yesterday. They want some clarification on what the Amendment was. They don't like the Bill in the first place. They've got two main objections to the Bill. One is, they say DCCA can already do it. I'm not sure about that. I don't really think that that is possible, but even if it is, we've spelled out some more parameters under which DCCA then could operate this program, that even if they can already do it, we've at least given them some clarification. The second argument that they've reached, is they don't like the idea of us putting parameters on how those dollars get spent, what are the things that local governments need to look at if they're gonna use this planning money. But I don't know, that seems like a fairly reasonable for us to be able to put some parameters on money we're spending. So, those are the two main arguments. I think I've articulated them as they presented them in committee."

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Durkin: "I appreciate your consideration. Thank you."

Scott: "Thanks, Jim."

Speaker Hannig: "All in favor of the Amendment say 'aye'; opposed 'nay'. The 'ayes' have it. And the Amendment is adopted. Any further Amendments?"

Clerk Rossi: "No further Amendments."

Speaker Hannig: "Third Reading. Mr. Clerk, read House Bill 3500."

Clerk Rossi: "House Bill 3500, a Bill for an Act amending the Public Community College Act. Second Reading of this House Bill. Amendment #1 was adopted in committee. No Motions have been filed. Floor Amendment #2, offered by Representative Younge, has been approved for consideration."

Speaker Hannig: "Representative Younge."

Younge: "Thank you, Mr. Speaker. Amendment #2 is a technical Amendment repealing this law as of the 1st of July, 2001."

Speaker Hannig: "Is there any discussion? The question is, 'Shall the Amendment be adopted?' All in favor say 'aye'; opposed 'nay'. The 'ayes' have it. And the Amendment is adopted. Any further Amendments?"

Clerk Rossi: "No further Amendments."

Speaker Hannig: "Third Reading. Mr. Clerk, read House Bill 3881."

Clerk Rossi: "House Bill 3831... 3831."

Speaker Hannig: "No, excuse me, 3881, Mr. Clerk."

Clerk Rossi: "House Bill 3881, the Bill has been read a second time, previously. No Committee Amendments. Floor Amendment #1, offered by Representative Kosel, has been approved for consideration."

Speaker Hannig: "Representative Kosel."

Kosel: "Thank you, Mr. Speaker. I would move for the adoption of

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Floor Amendment #1 to House Bill 3881. If there's any questions... the Amendment literally does a technical change to the Bill and offers no significant difference from the original legislation."

Speaker Hannig: "Is there any discussion? There being none, the question is, 'Shall the Amendment be adopted?' All in favor say 'aye'; opposed 'nay'. The 'ayes' have it. And the Amendment is adopted. Any further Amendments?"

Clerk Rossi: "No further Amendments."

Speaker Hannig: "Third Reading. Mr. Clerk, read House Bill 3926."

Clerk Rossi: "House Bill 3926, a Bill for an Act amending the Home Repair and Remodeling Act. Second Reading of this House Bill. Amendment #1 was adopted in committee. No Motions have been filed. Floor Amendment #2, offered by Representative Osmond, has been approved for consideration."

Speaker Hannig: "Representative Osmond."

Osmond: "Thank you, Mr. Speaker. This Amendment deletes one word in the Bill and it's a redundant word. The Attorney General's office picked it up and asked that we delete the one word. It no way changes the intent of the Bill."

Speaker Hannig: "The Gentleman has moved for the adoption of the Amendment. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it. The Amendment is adopted. Any further Amendments?"

Clerk Rossi: "No further Amendments."

Speaker Hannig: "Third Reading. Mr. Clerk, read House Bill 3979."

Clerk Rossi: "House Bill 3979 has been read a second time, previously. Amendment #1 was adopted in committee. No Motions have been filed. Floor Amendment #2, offered by

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Representative Leitch, has been approved for consideration."

Speaker Hannig: "Representative Leitch."

Leitch: "Thank you very much, Mr. Speaker. Amendment #2 is a simple technical Amendment that lawyers recommended at the last minute. And I'd ask it be adopted."

Speaker Hannig: "The Gentleman has moved for the adoption of the Amendment. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it. And the Amendment is adopted. Any further Amendments?"

Clerk Rossi: "No further Amendments."

Speaker Hannig: "Third Reading. Mr. Clerk, read House Bill 3995."

Clerk Rossi: "House Bill 3995 has been read a second time, previously. Amendment #1 was adopted in committee. No Motions have been filed. Floor Amendment #2, offered by Representative Beaubien, has been approved for consideration."

Speaker Hannig: "Representative Beaubien."

Beaubien: "Thank you, Mr. Speaker. This Bill adds a provision in order for there to be a violation, the distributor has to know or have reason to know that he or she has violated the terms of the Act. It's a technical change and I urge the floor adopt the Amendment."

Speaker Hannig: "The Gentleman has moved for the adoption of the Amendment. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it. And the Amendment is adopted. Any further Amendments?"

Clerk Rossi: "No further Amendments."

Speaker Hannig: "Third Reading. Mr. Clerk, read House Bill 4017 for Representative Giles."

Clerk Rossi: "House Bill 4017, a Bill for an Act amending the

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Criminal Code of 1961. Second Reading of this House Bill. Amendment #1 was adopted in committee. No Motions have been filed. Floor Amendment #2, offered by Representative Giles, has been approved for consideration."

Speaker Hannig: "Representative Giles."

Giles: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. Bear with me, I don't have a chart in front of me, but Amendment #2 is simply a technical Amendment. It deletes the word 'during'. That was a recommendation by Representative Durkin in the Jud-II Committee and is simply a technical Amendment to address some concerns from the committee."

Speaker Hannig: "And on that question, the Gentleman from Kendall, Representative Cross."

Cross: "Will the Sponsor yield?"

Speaker Hannig: "He indicates he will."

Cross: "Representative, the concern here I, at least I believe or maybe you can answer some questions for us, is by eliminating the word 'during' you would allow someone to raise this, I guess defense, for lack of a better word, at any time? Is that correct?"

Giles: "Representative, I believe, your colleague on the other aisle, Representative Durkin, suggests in committee, that if the word 'during' was deleted then the language would be sufficient. The word, I guess, he did not want where any individual can actually... right, they did not want to bring up a particular instance during the trial. They wanted to make it posttrial or pretrial, I believe."

Cross: "Calvin, I didn't hear that... the end of that. If you could repeat that."

Giles: "Representative Cross, repeat your question. I'm sorry."

Cross: "I guess, one of the concerns is and I think I'm asking

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the right question here, Calvin, is that two or three years after a trial could you claim that the defendant was mentally retarded and as a result you could... my concern is and maybe I'm missing the... reading it incorrectly, but my concern is you could raise this argument or defense at anytime even after a trial. And I don't know that we want to... if... and I don't know if that's the intention you want... that's what you want to do."

Giles: "I think what the Amendment did was to... Representative, can you hear me? I think what the Amendment did was we did not want to raise the issue that during the actual trial that the defense can say that this individual is mentally retarded. And so, I think that has to be established at the beginning of the trial, the posttrial... pretrial, I mean."

Cross: "So, is there an end point on... after the trial? How long do you have to allege that someone's mentally retarded to avoid the death penalty?"

Giles: "Representative Cross, I think the issue here is that we are establishing an individual mentally retarded. That individual will not receive the death penalty. We established that before trial. And the Amendment deals with to delete so that that argument cannot be during the trial. Now, posttrial the language in the Bill does not address that an individual cannot bring the argument of mental retardation."

Cross: "Well, Cal... "

Giles: "But I think the issue has been established at the beginning of trial."

Cross: "All right, I'm tryin' to... All right. Well, it says 'the issue of the defendant's mental retardation may be raised by the defense, the state, or the court at any

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appropriate time before a trial is entered or before', then you delete the word 'during', or 'after trial'. So you could raise this issue of mental retardation five years after the trial or three years after the trial, if I'm reading this correctly. And I... is that your intention?"

Giles: "Well, Representative, I think what this Amendment is trying to do is actually during the trial we do not want the the defense to establish during the trial and to confuse the juror or the whole process... disrupt the whole process that an individual is mentally retarded, during the trial. And I think that's simply what this Amendment is addressing. After, and I know your question is after the trial, but this Amendment doesn't deal with that and I believe that you can, after the trial, establish that after the decision has been made, after the trial."

Cross: "So, there's a finding of guilty and someone wants to imple... the court or... decides the death penalty's appropriate. Mechanically, let me know what's gonna happen with respect to this allegation or defense, for lack of a better term, that someone's mentally retarded. I... my... and Calvin, my fear is that... and I understand what the underlying Bill's trying to do and I'm not quarreling with that. My concern is that this will open the door, the way this is drafted perhaps, for anybody that's found guilty and sentenced to the death penalty, regardless of whether or not there's a defense of mental retardation, that they'll do it four, five, six, seven, eight years down the road and I don't... then we're just asking for appeals after appeals after appeals."

Giles: "But Representative, and I understand your concern, but I think the clarity is is that we're not dealing with most individuals. These individuals are tested prior to trial

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that they are mentally retarded. I think, if the... I believe the language says that they must be tested before the age of 18. These individuals are tested and declared that they are mentally retarded or there is mental retardation."

Cross: "Well, maybe we can spend a little more time on Third Reading, Calvin, and maybe we can read it some more. I'm just concerned... I can understand your raising it before trial or at the time of trial, but I think after trial you're asking for a whole host of problems. And maybe we can look at it in more detail later on, 'cause I know it's just on Second Reading so, thank you."

Speaker Hannig: "All in favor of the Amendment, say 'aye'; opposed 'nay'. The 'ayes' have it. And the Amendment is adopted. Any further Amendments?"

Clerk Rossi: "No further Amendments, but a fiscal note has been requested on the Bill, as amended. And that note has not been filed."

Speaker Hannig: "Okay and so the Bill will remain on the Order of Second Reading. Mr. Clerk, would you read House Bill 4176?"

Clerk Rossi: "House Bill 4176, a Bill for an Act concerning prescription drug information cards. Second Reading of this House Bill. No Committee Amendments. Floor Amendment #1, offered by Representative Hultgren, has been approved for consideration."

Speaker Hannig: "Representative Hultgren."

Hultgren: "I'd actually like to pull this out of the record, if I could just for a few minutes."

Speaker Hannig: "Okay, we'll take this out of the record at the request of the Sponsor. Mr. Clerk, would you read House Bill 4651 for Representative Acevedo?"

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Clerk Rossi: "House Bill 4651 has been read a second time, previously. Amendment #1 was adopted in committee. No Motions have been filed. Floor Amendment #2, offered by Representative Acevedo, has been approved for consideration."

Speaker Hannig: "Out of the record. Excuse me, Representative Acevedo, this is the Amendment that the Rules Committee just sent out to the floor. Would you like to adopt it? Representative Acevedo."

Acevedo: "Mr. Speaker, Amendment #3, all it does is changing the wording for... that adds 'or the county'."

Speaker Hannig: "The Gentleman has moved for the adoption of the Amendment. And on that question, Representative Cross is recognized."

Cross: "Thank you, Mr. Speaker. Are we... we're having a little trouble following, we've heard 2, we've heard 3 and then I'm having trouble, I'm not sure I understand the... I don't know if that's off the scroll or out of a genie's bottle or what, but I can't read the last two lines of the board. Could you interpret that for me? Maybe if Tony could tell us what that says, the last two lines. Who are those Sponsors, Tony?"

Speaker Hannig: "Representative Cross, the Clerk indicates that the only way that they could purge that from the system at this point would be to shut down the whole system for a while. So..."

Cross: "If that's what it's gonna take, but I cannot... I don't even know the names of those people on the last two lines, but in all seriousness are we on Amendment 2 or 3?"

Speaker Hannig: "Mr. Clerk, which Amendment are we on?"

Clerk Rossi: "Amendment #2."

Speaker Hannig: "This is an Amendment that just came out of the

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Rules Committee."

Cross: "So that is Amendment #3?"

Speaker Hannig: "Number 2."

Cross: "I'm not trying to be... I am trying to be serious because I thought you mentioned #3."

Acevedo: "Mr. Speaker, inquiry of the Clerk. Can I have the LRB number?"

Speaker Hannig: "Mr. Clerk, you wanna read the LRB number for everyone?"

Cross: "Will Representative Franks' billion dollar drug plan cover glasses, prescription glasses to read those last two lines? I just can't read that still."

Speaker Hannig: "Representative Acevedo, why don't we take this out of the record 'til we can all get on the same page? Then we'll come back to it. Okay. So, this Bill'll be out of the record at the request of the Sponsor. Mr. Clerk, would you read House Joint Resolution 47? Okay, is Representative Poe available? No? Okay, out of the record. Representative Black, for what reason do you rise? Okay. Mr. Clerk, I believe we've sorted out the Acevedo problem, so could we return to House Bill 4651?"

Clerk Bolin: "House Bill 4651, the Bill has been read a second time, previously today. Floor Amendment #2, offered by Representative Acevedo, has been approved for consideration."

Speaker Hannig: "Representative Acevedo."

Acevedo: "Yes, Mr. Speaker. Previously, I had mentioned Amendment #3. It was a misprint. It is Amendment #2."

Speaker Hannig: "Okay."

Acevedo: "The Amendment, all it is, is a technical change by inserting on line 24 the words 'or the county'."

Speaker Hannig: "Is there any discussion? And on that,

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Representative Black."

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

Speaker Hannig: "He indicates he will."

Black: "I assume then, in Amendment #2, it's your intent to let the City of Chicago garnishee wages as well as the County of Cook to garnishee wages that may be owed to them, correct?"

Acevedo: "Yes."

Black: "Did this... I'll deal with that on Third Reading. So, the Amendment simply clarifies that the County of Cook, as well as the City of Chicago, can garnishee wages and this is the point I don't understand of the Amendment, only if you are employed by a governmental entity, or if you're employed by anybody?"

Acevedo: "It's city employees or county employees."

Black: "All right, so it would be an employee covered only by or excuse me, an employee employed by the City of Chicago or the County of Cook, or any of its entities under that umbrella. Correct?"

Acevedo: "Exactly, exactly."

Black: "All right. And it does not apply if the resident of the county or the city is employed by the County of Will County?"

Acevedo: "That doesn't... that does not apply."

Black: "This doesn't reach out to him or her, right?"

Acevedo: "Right, it doesn't apply to them."

Black: "Okay, and I'll... I'd like to get into the genesis of the Bill with you, but that'll be on Third Reading. I appreciate your indulgence."

Speaker Hannig: "The Gentleman from Cook, Representative Parke, on the Amendment."

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

Speaker Hannig: "He indicates he will."

Parke: "We had this in committee and it passed out on a partisan roll call, because the Water Reclamation District opposes this Amendment. Because what I believe you're doing is requiring the Water Reclamation District to garnish the wages of City of Chicago employees that... and have them have to collect it, is that true? Have the Water Reclamation District collect and garnish the wages of those employees that live in the City of Chicago and Cook County?"

Acevedo: "Mr. Speaker... Can you repeat the question? I really can't hear you, Representative."

Parke: "It is... did the Water Reclamation District of Chicago oppose this Bill?"

Acevedo: "Yes, they did."

Parke: "They did? And the reason that their representative stated in committee was that you're requiring the Water Reclamation District to collect the garnished wages of City of Chicago, and Cook County employee... people that live in the City of Chicago and Cook County. And that they're not, they don't have the staff or the apparatus to pick up that many people. Is that what your understanding of their opposition to this Amendment was?"

Acevedo: "I believe that's what he said in committee."

Parke: "Well, thank you. Mr. Speaker, to the Bill."

Speaker Hannig: "To the Amendment."

Parke: "To the Amendment, thank you. This, on the face of it, sounds like it's a good idea. But what we're doing is that we're taking one political entity and saying that another political entity is supposed to do their work. That could mean just simply paperwork of collecting, but they may have

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to do some legal work. Now, the representative of the Illinois... the Chicago Water Reclamation District said they're not in the position to pick up that many people. Now, currently, that if a retail store wanted to have wages garnished because of nonpayment, they could do that, and that apparatus is already in place. But now we're requiring a second apparatus to be implemented in the Water Reclamation District to do this. It is my opinion, Ladies and Gentlemen of the House, especially those Members that live in Cook County, that you're going to require Cook County taxpayers to pick up the expenses related to the City of Chicago employees, 'cause the Water Reclamation District serves Cook County. This is a bad public precedent. The City of Chicago ought to do their own work. They ought not by law come down here and say, 'Well, we're now gonna require another entity of government to pick up the expenses for their employees.' This is just not... we've argued this in committee. It passed on a partisan roll call. I still have serious reservations. If you live in Cook County, you ought to have the same reservations. At least one of the Democratic Members of the committee expressed concern with the total process. And I would hope that that those people that are concerned like I am would say 'no' to this Amendment. Mr. Chairman (sic-Mr. Speaker), I guess I will ask for a roll call on this Amendment. I don't think that this is a good idea and that we ought to oppose this based on the precedent that is being established."

Speaker Hannig: "Representative Acevedo to close."

Acevedo: "I ask for an 'aye' vote, Mr. Speaker."

Speaker Hannig: "Okay, so the question is, 'Shall the Amendment be adopted?' All in favor vote 'aye'; opposed 'nay'. The

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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 78 voting 'yes', and 32 voting 'no'. And the Amendment is adopted. Any further Amendments?"

Clerk Bolin: "No further Amendments. A fiscal note and a state mandates note have been requested on the Bill as amended and those notes have not yet been filed."

Speaker Hannig: "Okay, so the Bill will remain on the Order of Second Reading. Mr. Clerk, read House Bill 4176."

Clerk Bolin: "House Bill 4176, a Bill for an Act concerning prescription drug information cards. Second Reading of this House Bill. No Committee Amendments. Floor Amendment #1, offered by Representative Hultgren, has been approved for consideration."

Speaker Hannig: "Representative Hultgren."

Hultgren: "Thank you, Mr. Speaker, Members of the House. Amendment #1 provides that the card... these are issues that were discussed in committee when the Bill was presented in committee. And we've got a couple of Amendments cleaning this up. First, it provides that the card shall be in the most recent adopted, approved in the underlying Bill was, by the National Council of Prescription Drug Programs. It also provides that the card shall include conditional or situational fields as defined by the Pharmacy ID Card Implementation Guide or successor document. The original language also states that the card shall conform to the most recent pharmacy information card or technology information guide produced by this NCPDP. It also changes data to data elements. It also amends the underlying provision in relation to when this Act applies. It provides that for the purpose of this Act a renewal of a

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health benefit plan is deemed to occur on the anniversary date of the contract in the plan. And it also amends the underlying enforcement provisions to provide that the Department of Insurance may adopt rules necessary to implement the Department's responsibility under this Act. And finally, it provides for an effective date of January 1, 2001, to allow for all those affected to have plenty of time to make these changes."

Speaker Hannig: "All in favor of the Amendment say 'aye'; opposed 'nay'. The 'ayes' have it, and the Amendment is adopted. Any further Amendments?"

Clerk Bolin: "No further Amendments."

Speaker Hannig: "Third Reading. Mr. Clerk, what is the status of House Bill 4047?"

Clerk Bolin: "House Bill 4047 is on the Order of House Bills-Third Reading."

Speaker Hannig: "Please take that out of the record for the moment. Mr. Clerk, what is the status of House Bill 4070?"

Clerk Bolin: "House Bill 4070, a Bill for an Act to amend the Illinois Public Aid Code. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Hannig: "Third Reading. Mr. Clerk, would you read House Bill 4537?"

Clerk Bolin: "House Bill 4537, a Bill for an Act to amend the Criminal Code of 1961. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Hannig: "Third Reading. And now, on the Order of Third Readings, House Bill 3037. Representative Hartke. Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 3037, a Bill for an Act to amend the

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Motor Vehicle Franchise Act. Third Reading of this House Bill."

Speaker Hannig: "Representative Hartke."

Hartke: "Thank you very much, Mr. Speaker, Members of the House. House Bill 3037 changes the Franchise Acts to allow car dealerships to establish or move their dealerships to different location within certain distances. This piece of legislation is... I don't know of any opposition to this piece of legislation. The Illinois Car Manufacturer's Association, the Illinois Chicago Automobile Trade Association supports the Bill as well as the Illinois Manufacturer's Association. I'd be happy to answer any questions."

Speaker Hannig: "The Gentleman has moved for passage of the Bill, is there any discussion? There being none, the question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. 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 115 voting 'yes'; and 0 voting 'no'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Representative Klingler in the chamber? Yes, Representative Klingler, we're going to read... Mr. Clerk, would you read House Bill 3981?"

Clerk Bolin: "House Bill 3981, a Bill for an Act to create the Higher Education for Real Opportunities Act. Third Reading of this House Bill."

Speaker Hannig: "Representative Klingler."

Klingler: "Thank you, Mr. Speaker. House Bill 3981 creates the Higher Education for Real Opportunities Pilot Program. The purpose of this program is to improve the ability of low-income adults who are supporting minor children to

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acquire through post-secondary education the skills necessary to qualify for higher paying job opportunities. The program shall provide grants to support the pursuit of post-secondary education by low-income adults who are supporting minor children. The program shall be administered by the Illinois Student Assistance Commission through the financial aid offices of participating institutions of post-secondary education. It shall operate... this pilot project shall operate in three locations, one which would be in Chicago, and then two other locations to be determined by the commission. And I would ask your support for this program. This Bill was brought to me by several groups, including the Work, Welfare and Families. And as they work with people that were moving from TANF from the welfare rolls onto the work rolls, they found that the group of people that had the most trouble in attaining higher education were those who were working and had young children at home. And this was targeted as a pilot project to help those students who want to have higher education but also have young children. And I would urge your support."

Speaker Hannig: "Is there any discussion? Then the question is... okay, excuse me, Representative Erwin, the Lady from Cook."

Erwin: "Thank you, Speaker. I just rise in strong support of this Bill. It was considered by the Higher Education Committee and was approved with a unanimous vote."

Speaker Hannig: "Very good. So, now, the question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. 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 115 voting 'yes',

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and 0 voting 'no'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Clerk, read House Bill 3840, for Representative Barbara Currie."

Clerk Rossi: "House Bill 3840, a Bill for an Act amending the School Code. Third Reading of this House Bill."

Speaker Hannig: "The Lady from Cook, Representative Currie."

Currie: "Thank you, Speaker, and Members of the House. This is cleanup legislation for a Bill we adopted last year that clarifies procedures for arbitration in the event that local school councils choose not to retain principals whose reviews were well received or chooses to renew principals who did not receive quality reviews from the local school council or from the general superintendent. Specifically, the Bill provides who shall have the burden of proof if there is an arbitration and it also clarifies that criminal background checks apply to people who are elected to local school councils, as well as to those who are appointed. There are several other technical changes in the Bill. I'd be happy to answer questions if you have any, and I'd appreciate your support for passage of House Bill 3840."

Speaker Hannig: "The Lady has moved for passage of this Bill, is there any discussion? The Gentleman from Vermilion, Representative Black."

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

Speaker Hannig: "She indicates she will."

Black: "Majority Leader Currie, I hold you in the greatest respect, and I'd just like to ask you one, simple question. In your opinion, that carries great validity on this chamber's floor, is the Chicago School Reform Act working?"

Currie: "And this Bill will help it work even more effectively."

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Black: "I'm so happy to hear that. Because as you'll recall, it was a Republican initiative and I... that will be one of my most proud achievements, is that we helped to bring reform to the Chicago Public School System. And in all seriousness, it is working, and I think even Bill Bennett, who at one time referred to the Chicago School System as the worst urban school district in the country has subsequently visited that beautiful city on the lake, and said you are... the Chicago School System now is a beacon of hope for large urban school districts. So, I'm glad to stand with you in support of this Bill and I'm glad I was here when one of our initiatives on this side of the aisle, which I think you supported, brought some badly needed reform to the Chicago School System. And I commend all of those in Chicago and the Mayor for making it work. And it's good to stand with you on good government Bills like this."

Speaker Hannig: "Any further discussion? Representative Currie to close."

Currie: "Representative Black did an excellent job of closing for me. I appreciate your 'aye' votes."

Speaker Hannig: "The question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. 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 112 voting 'yes', and 0 voting 'no'. And this Bill having received a Constitutional Majority, is hereby declared passed. Representative Turner, are you ready on 4116? Mr. Clerk, out of the record. Representative Lang, on 3236. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 3236, a Bill for an Act in relation to defendants found not guilty by reason of insanity. Third

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Reading of this House Bill."

Speaker Hannig: "Representative Lang."

Lang: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. As I think you all know, I chair the House Mental Health and Patient Abuse Committee. This committee's worked in a very close and bipartisan way to deal with the mental health delivery system in the State of Illinois and I think we've proposed some excellent legislation. But while we're in the process of trying to figure out how to make life better for the mentally ill, the Office of Mental Health determined that they would release Dr. Lee Robin from the Elgin State Mental Hospital, gentleman who had killed two family members in a violent way and was declared not guilty by reason of insanity. We had some questions about that release because the Cook County State's Attorneys Office was objecting to it and we had a hearing about it, a very extensive hearing. We heard from family members of the deceased. We heard from advocates. We heard from the department. We heard from the State's Attorney. And it was apparent to all of the committee Members that there were not enough hoops to jump through before these... call them NGRI defendants... were released. For instance, in the case of Dr. Robin, there was no guarantee that he'd have a job, no guarantee that he had family support, no guarantee that he had a place to live. In fact, the department wanted him to self-medicate and visit a center twice a month to make sure he was taking his medication. Many on the committee felt that that self-medication and the lack of assurances that he had a support system were dangerous, not only to himself, but to the community to which he wished to move. Mr. Robin wanted to move back to the Northwest suburbs where he had lived. And if,

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certainly, the committee believes strongly in the treatment he was receiving, but we did not believe the community would be safe, based on the current state of the law which requires not enough hoops to jump through for the protection of the community. This Bill is a compilation of the testimony we heard from experts, comments from the department. This is a Bill that will create a system that will make communities safer when those who have been found not guilty by reason of insanity, but have done a terrible act, are released into our communities. It received bipartisan support in committee and as I recall, there were no opponents registered to the Bill. And so I would strongly recommend your support."

Speaker Hannig: "And on that question, Representative Durkin is recognized."

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

Speaker Hannig: "He indicates he will."

Durkin: "Representative, I just want to go through a few things in your Bill. Specifically, on page 8 of the Amendment about the court order about to insure that psychotropic medication is administered. Is there anything in this Bill which is going to... how do we make sure how... what's... what's the assurance that this individual is gonna take the medication if it just states that... how's the court gonna enforce that this person's gonna take medication if they are conditionally discharged? Other than just an order stating, you need to take this three days a week. What is gonna be the... how do ya... how do ya make sure that's gonna happen?"

Lang: "Well, this was one of our difficulties in committee, Representative. There are those on the committee that would say that if a person needs medication to keep them

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from being violent, then we should do more than test them every two weeks. We should, in fact, either test them every day or require that that individual take their medication in front of a representative of the Office of Mental Health everyday, so that the people of the State of Illinois knew that person was taking their medication. That was something we debated. It was also something that we felt as a committee was a little unwieldy. So we tried to settle with the help of advocates and the help of the Office of Mental Health on language that would insure that if a court found that an individual was not taking their medication as appropriate, that the court could rescind the order and send the person back to the state mental institution."

Durkin: "My concern is that, you know, you can lead a horse to water, but you can't make him drink. And I... unless we have some type of mechanism which requires this person to take this medicine, in the presence of another individual, I think we're gonna have problems with the Lee Robins' who are gonna go out there in which we, just on blind faith, expecting him to take medication as ordered by the court on a daily or every other day."

Lang: "Representative, if the Senate were to add that as an Amendment to this Bill, I would be moving to concur. I don't think that's a bad way to go. I was among those that said I believe in this medication, but I also think we need to have a system that insures that he take it. This Bill takes a step in that direction. It doesn't go all the way there. But this Bill, for this issue that you're raising, is far better than the current law."

Durkin: "Okay. So you would agree that if we are successful today that... that something that would... you'd work with

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the Senate, perhaps and maybe or I can ... "

Lang: "I... I... "

Durkin: "... propose language to you... we... we can work on that. 'Cause, I think, that that would be important for the Bill to insure that these individuals, who we are putting back out under this conditional program, are gonna be following through and not just looking at a piece of paper and, you know, we expecting them to... to be taking the medication."

Lang: "I share your concern and the Members of the Mental Health Committee share your concern, however, there was not unanimity of opinion on the committee as to a daily review of somebody's medications. I could sign off on that, but not everyone on the committee would. I think it should be looked at further and if the Senate would add that and the language was agreeable, I certainly would sign off on it."

Durkin: "Good. I think, we both agree. 'Cause we're talking about individuals, first of all, that these are not voluntary committees. These are people who were... have committed crimes. They committed a serious crime and we don't know that there is... "

Lang: "No, they have not committed crimes, Representative, they've committed violent acts. They've been committed of no cri... or convicted of no crime."

Durkin: "Well, they committed an act. A cr... a act, which is defined as a crime under our statutes, but that's... we won't have to get in that. Just kind of curious about this notification portion. Is it DMH who has to notify the local law enforcement of this person who is now gonna be a conditional discharged person from DMH? Is that what your Bill does?"

Lang: "Let me find that provision of the Amendment."

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Durkin: "I think, on the Amendment I'm looking at page 12. It's the last page."

Lang: "The current language of the law requires the Clerk of the Court to do the current notifications and the Clerk of the Court would continue to do the notifications to the expanded group of people."

Durkin: "Okay. So when there is a... person is, now, gonna be conditionally discharged, the Department of Human Services would have to notify the Clerk of the Court and the Clerk of the Court would have to notify the area where this person is going to reside, the law enforcement agency in that area. Is that what..."

Lang: "Well, currently, when there's a discharge order, that order now goes to the Clerk of the Court. That's the current law. What this Bill does is expand the group of people that are supposed to get notice once that order is received by the clerk."

Durkin: "When it goes to that local law enforcement agency, is this information which is strictly gonna be kept behind the desk with the law enforcement community or can a person go in and ask for this information, a person off the street, as we do with the sex offender registration information? Are we gonna allow individuals to get access to this... to know that a person who has been conditionally discharged, they were, for whatever reason, they were placed in mental health because they were involved in crime. Will this be a scenario which they'll be able to get access?"

Lang: "In the original version of this Bill, I created an Internet database for people to access. I have come to learn that that's not the way to go. What we've done in this Bill is give law enforcement the information in local communities, the community in which the act was committed,

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the community to which the person is moving, could be the same community, could be different communities, for appropriate law enforcement purposes, which is the language in the Bill. If law enforcement felt, in a given community, that given groups of people needed this information, the Bill anticipate that law enforcement will do with the information what they feel is appropriate. We did not want to tie law enforcement's hands."

Durkin: "But we're not limiting the law enforcement agencies to distribute their, perhaps, allow, you know, this information if someone comes in requesting a list of the individuals in my community who were released, conditionally discharged, from the Department of Mental Health. We're not prohibiting them from doing that, correct? We're just saying we're allowing them to do whatever they feel's best for the community?"

Lang: "We believe, on the Mental Health Committee, as you do on the committees you serve, in local control. We're providing the law enforcement the tools within each community in Illinois, that this would affect, to make the decisions on what to do with the information."

Durkin: "You know, I got to give you credit, Lou. You sound more and more like a Republican everyday."

Lang: "Thank you so much. I appreciate it."

Durkin: "I really think you... you've gone... you really come a longway these few years. Just one last question. I had a Bill come up two days ago in which, I believe, yourself and somebody else said that my Bill in which it would require the individual to move forward, we're gonna stigmatize that individual because they, perhaps, would in some people's eyes, never be able to be released from custody. How does this differ if we're gonna allow... if we're requiring that

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these individuals have to be... their presence has to be brought to the attention of the law enforcement individuals? How does that differ with stigmatization? Don't you think that's a stigma, also, which you're placing on these guys?"

Lang: "No. No, I don't. The original Bill I proposed was the stigmatization and that's why I took away that Internet database. This Bill does not do that. Under the current law, we have a strange anomaly. It says that if an NGRI releasee goes to a community of less than 25,000 people, that community is notified. But if he or she goes to a community of more than 25,000 people, they're not notified. That makes no sense in the law and that's really what we're doing here. We're fixing that anomaly."

Durkin: "Well, you know, a stigma's a stigma. I think, we both have a different definition of it, but I tell you what, if I was living in an apartment complex and I found out that Lee Robin was going to be placed in that apartment complex or somewhere in that town, I think I'd like to be able to have that information if I went to the law enforcement community to know if this guy's gonna be within a... next door or if he's gonna be downstairs. And hopefully, that we won't have a situation where, you know, there are... these guys are gonna commit these crimes. They're gonna act back... when they go back into the community, they're gonna act out again, but I think that, perhaps, more information is better. I think you've done a good job with your Bill and I plan on supporting it, today."

Lang: "Thank you. And whatever job I've done has been supported by my Mental Health Committee which has done a fabulous job."

Speaker Hannig: "Representative Bellock."

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Bellock: "I just wanted to stand in strong support of the Bill. And I agree with Representative Durkin and Representative Lang that we would like to work further on this regarding the medications, because most mental health experts say if people who are released from mental health facilities can carry on their medication, we could reduce the recidivism rate by over 50%. This is a specific category of people, the NGRIs, but we agree with that issue and we would look forward to working with Representative Lang and the Senate on that issue. Thank you."

Speaker Hannig: "Representative Eileen Lyons."

Lyons, E.: "Thank you, Mr. Speaker. I also rise in strong support of this legislation. This took a lot of work and I have to commend Representative Lang for his efforts on this Bill. You know, up until now there have... discharge plans that are in rule, but not in statute. And what this Bill will do will provide that in statute, so that the procedure that now takes place is not as weak as it is. Right now, when someone that gets a conditional release and they are released, the clock starts ticking on that five-year period and this extends that period of time no matter how many times they go in and out. This extends that period of time and I think, it is an assurance for our community for those people who might be a danger to it. And again, I ask for an 'aye' vote. I think Representative Lang has done great work on this and it has been a pleasure to work with the committee on this particular issue. Thank you."

Speaker Hannig: "Representative Lang to close."

Lang: "I would simply ask for an 'aye' vote."

Speaker Hannig: "The question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. The voting is open. Have all voted who wish? Have all voted who wish? Have all

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voted who wish? Mr. Clerk, take the record. On this question, there are 114 voting 'yes' and 0 voting 'no'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Representative Bassi, are you ready on House Bill 4022? Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 4022, a Bill for an Act amending the Civil Administrative Code of Illinois. Third Reading of this House Bill."

Speaker Hannig: "Representative Bassi."

Bassi: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I bring to you House Bill 4022, which is an initiative coming from the Office of the Lieutenant Governor. And it transfers the duties from the Lieutenant Governor's Office to DCCA for the Keep Illinois Beautiful Program, was agreed to by both organizations, passed out of committee with no opposition and there is none that I know of and I stand ready to answer questions."

Speaker Hannig: "Is there discussion? There being none, the question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. 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 113 voting 'yes', and 0 voting 'no'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Representative Fowler, you ready on House Bill 3901? Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 3901, a Bill for an Act concerning Illinois Correctional Employees Memorial license plates. Third Reading of this House Bill."

Speaker Hannig: "Representative Fowler."

Fowler: "Thank you, Mr. Chairman (sic-Speaker). Yes, House Bill 3901 is a Bill to create the Correctional Employee Memorial

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Fund. This fund would be established by the special fee assessed on a license plate issued by the Secretary of State's Office. The fee on this plate is similar to other special plates. This memorial, when money was available, would be erected here on the grounds of the State Capitol. We have a number of correctional employees injured every year in the line of their duty, and since 1922, we have had 25 correctional employees who have given their life in the pursuit of their occupation. I feel that it's only fitting that we establish this memorial to honor those who go in harm's way daily to help keep the citizens of Illinois safe. I'd be happy to try to answer any questions on this Bill."

Speaker Hannig: "And on the Bill, Representative Black."

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

Speaker Hannig: "He indicates he will."

Black: "Representative, who will these plates be marketed to? Employees of the Department of Corrections?"

Fowler: "Representative Black, the plates could be purchased as the Bill is written, by anybody. But primarily, it would appeal to those employees of the Department of Corrections."

Black: "Okay. Do you have a design concept of the plate? What will be on the plate? A pair of handcuffs, a jail cell door? What will the design be of the plate?"

Fowler: "That design would be handled by the Secretary of State's Office."

Black: "Okay. All right."

Fowler: "And they are neutral on this piece of legislation."

Black: "Your legislation carries all of the extra fees required by any special plate, correct? Now, if my memory serves

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me, we've changed the law a little bit, I don't know, two or three years ago, because the State Police came in, time escapes me, two, three, four years ago, with the... with a... plea isn't the right word. But I think they were trying to get our attention in that we have created so many special plates, that the State Trooper, as well as other law enforcement entities, are having great difficulty trying to figure out what plate they're looking at, so I... they've taken... they've not taken any position on this... on your Bill that I'm aware of, but I think they are concerned about the proliferation of plates. Now, would... How many of these plates have to be ordered before the Secretary of State will issue them?"

Fowler: "There's no estimate on that, Representative Black."

Black: "So if... if a hundred people wanted these plates, will the Secretary actually commission the manufacture of 100 plates, or is there a base figure?"

Fowler: "There is no base figure on that."

Black: "See, I thought there was. I thought we had changed that some time ago, that if you didn't create a certain demand, that the plate wouldn't be issued. So, obviously, I'm mistaken, then."

Fowler: "Okay, I... let me correct myself on that. I thought you meant in this certain piece of legislation here. If there is a base figure established by SOS, I'm not aware of that."

Black: "Oh... Okay."

Speaker Hannig: "Is there any further discussion? Representative Fowler to close. Excuse me. I'm sorry, Representative Black."

Black: "I'm sorry, Mr. Speaker. Representative, I wanted to check with staff, you may check with your staff or... Our

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staff indicates that the Secretary of State would have to receive 10,000 requests before he or she, in the future, would manufacture the plate. Is that correct or are we under the wrong impression here?"

Fowler: "The gentleman from SOS just informed me that it would require 850, Representative Black."

Black: "Eight hundred and fifty plates."

Fowler: "That's correct."

Black: "Okay. And then each time they are registered, the extra fee would still be required, correct?"

Fowler: "That is correct."

Black: "Okay. This is a silly question, but does your Bill require... Well, I don't think we can. Your Bill can't mandate what colors the plate will be or design that will be on it, correct?"

Fowler: "No, Sir, that would be up to the Secretary of State."

Black: "All right."

Fowler: "Says in the Bill, 'design and color of the plate is wholly within the discretion of the Secretary'."

Black: "Okay. Mr. Speaker, could I consult with staff just one more time?"

Speaker Hannig: "Yes, that's fine."

Black: "Mr. Speaker, I appreciate your indulgence. As we were talking with staff and the representative from the Secretary of State's Office, and I believe we have all of our questions answered. I thank the indulgence of the Chair and also thank the indulgence of the Sponsor."

Speaker Hannig: "Thank you, Representative. Representative John Jones."

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

Speaker Hannig: "He indicates he will."

Jones, J.: "Representative Fowler, one question I have... or

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concern of your Bill is, is this actually gonna designate that if a correctional officer has this plate on his vehicle, that it actually designates that he is a correctional officer? Because, you know, we try to keep that... you know, their phone numbers unlisted and the like, so that every Tom, Dick, and Harry doesn't know exactly where they live, you know. That's my concern with the Bill. Is this actually gonna designate that this is a correctional officer and..."

Fowler: "Representative Jones, in the Bill, it does not say that a noncorrectional employee can order those plates. So, I don't know if that answers your question or not, but it would be a pretty good indication that he was a correctional employee, if he, indeed, had that plate on his vehicle."

Jones, J.: "So, there's nothing in the Bill that actually designates that it is a correctional officer that's using this vehicle?"

Fowler: "Other than it just says it's the Illinois Correctional Employee's Memorial license plates."

Jones, J.: "Okay, thank you."

Speaker Hannig: "Representative Skinner. Representative Skinner, you're up."

Skinner: "Would Representative Fowler yield for a question or two?"

Speaker Hannig: "He indicates he will."

Skinner: "Representative Fowler, it's my understanding that correctional officers' home addresses are not available from the Department of Central Management Services as are the addresses of all other state employees. Is that correct?"

Fowler: "Well, Representative Skinner, I spent 28 years as a

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member of the Illinois State Police, and my phone number was in the book during that 28 years."

Skinner: "Well, it's my understanding that correctional officers do not want their identity known. And so, I'm wondering why you think there will be a market. I mean, lots of correctional officers live in the Chicago Metropolitan Area. They live in the same neighborhoods that the gangbangers live in. Do think these folks are gonna buy a license plate and make themselves a target as they're driving home from the prison?"

Fowler: "Well, there's nothing in the Bill that compels them to purchase that plate, it would be a personal decision. If they made the decision to put that plate on their vehicle, it would indicate to me that they were willing to make that known that they were a correctional employee."

Skinner: "Has the correctional officers' union endorsed this Bill?"

Fowler: "Yes, they have."

Skinner: "And I'm sure they're the reasons that we don't make their home addresses public, so, that's an interesting discontinuity. Thank you."

Speaker Hannig: "Representative Fowler to close."

Fowler: "Thank you, Mr. Chairman (sic-Speaker). I think this is a good Bill. I think these people are entitled to this recognition, and I would ask for an 'aye' vote on this."

Speaker Hannig: "The question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. 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 112 voting 'yes', and 3 voting 'no'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Representative Lindner, are you

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ready on 4161? Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 4161, a Bill for an Act to amend the Nursing Education Scholarship Law. Third Reading of this House Bill."

Speaker Hannig: "The Lady from Kane, Representative Lindner."

Lindner: "Thank you, Mr. Speaker. This Bill amends the Nursing Education Scholarship Law. We have a great shortage of nurses in Illinois. These are mainly technical changes to this law to clean up the law and put time limits by which nurses will do work in Illinois to pay back their scholarship money. So, I'd appreciate an 'aye' vote."

Speaker Hannig: "Is there any discussion? There being none, the question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. 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 115 voting 'yes', and 0 voting 'no'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Representative Giglio, are you ready on 3106? No. Out of the record. Representative Silva, on 3117. Representative Silva. Representative Silva. Representative Sonia Silva, on 3117. Out of the record. Representative Black, on 4352. Representative Black, are you ready on 4352? Out of the record. Yes, Representative Black."

Black: "Mr. Speaker, let me rise to a point of personal privilege. I'm not fussing about the rules. I, like the Speaker, think that sometimes this place is an absolute zoo, and there are too many people on the floor, but the reason I can't call that Bill, is there is a very technical question that only the IDOT liaison can answer, but I can't get the IDOT liaison on the floor. And I can't take the

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Bill file out to the rotunda. So, he is in the process of getting a floor pass, and when we can get Mr. Davidson in on the floor to clarify a technical point, I would hope we'd come back to the Bill, and I would appreciate your indulgence in that."

Speaker Hannig: "Yes. Representative Tom Johnson. Representative Johnson, are you ready on 4093? Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 4093, a Bill for an Act concerning higher education. Third Reading of this House Bill."

Johnson, Tom: "Yes, Mr. Speaker and Members of the House. This Bill, basically, would give graduating seniors in our public high schools, those who graduate in the top 5% of their graduating classes, automatic admissions into our state university system. This Bill really emanates from different Bills and different laws that have been enacted in several other states that really go to the heart of giving our kids incentive to do well in their high schools, graduate in the top 5%, and with that at least, get them automatic admissions in the state university system. The Bill provides so that just because they all have automatic admissions into the state university system, that they do not all end up having automatic admission into just one of our fine universities. The breakdown would be that each university would be required to take its pro rata share of those applicants each year based on the previous year's attendance records. So, I think that this is a very good Bill. It's a modest step, and it's a step going forward that enables each of our seniors, if they make it into the top 5%, to at least make sure that they have a right to attend one of our fine universities. It's got unanimous support in the Higher Education Committee, and I

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respectfully request your support for it here."

Speaker Hannig: "And on that question, Representative Black."

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield for just two quick questions?"

Speaker Hannig: "He indicates he will."

Black: "Representative, you touched on the one question I have. I just need clarification. I assume there's language in the Bill that would say when this Bill goes into effect, what if 96% of those who qualify decide to go to the University of Illinois, rather than any of the other fine schools? Is there something..."

Johnson, Tom: "That's right."

Black: "... that would prevent..."

Johnson, Tom: "As I explained to you, that is broken down so that there are roughly, in the public schools system, about 5700 kids..."

Black: "Okay."

Johnson, Tom: "... that would qualify for this. Now, obviously, they wouldn't all end up going in to our universities. But what it would require is, that the university system establish a method by which each university would be required to accept a pro rata share of those..."

Black: "Okay."

Johnson, Tom: "... 5700, based upon the number of openings they had in the previous year. And so, that is taken care of so..."

Black: "Okay, and..."

Johnson, Tom: "... that we don't just..."

Black: "Okay, and the other... the only other question I have, just for my own edification is, they would still have to go through the application process, so the university can plan accordingly..."

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Johnson, Tom: "That's right."

Black: " ... for those students who will be entering in the fall?
I mean, these people can't just show up and... the first
day of August and say, 'You know, I've decided that this is
where I'm gonna go.'"

Johnson, Tom: "No, it doesn't change any..."

Black: "Okay. Fine."

Johnson, Tom: " ... of the application processes."

Black: "Fine. Thank you very much."

Speaker Hannig: "Representative Erwin."

Erwin: "Hi, Speaker. I just stand in support of this Bill. I
think that it is a good effort in reaching some students
who we otherwise may not be reaching to encourage them to
stay in-state as well as pursue an undergraduate education.
So, I would urge your support."

Speaker Hannig: "Representative Mulligan."

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

Speaker Hannig: "He indicates he will yield."

Mulligan: "Representative, in the past this has been a problem, I
think, for young people in my area. If you're in the top
5% in a class with maybe 200, and you're in the top 5% in a
class at a high school that maybe has 800, yet your grade
average may be better in the top 10% than it is in the top
5%, or you're going to a school where they have a weighted
grade for accelerated classes. How does that impact those
kids that fall below the top 5% but are academically more
sound than someone that's in the top 5% from a different
school?"

Johnson, Tom: "Rosemary, it really does not impact it. It,
basically, just says that the top 5%, and the Bill says the
graduating class has to be in excess of ten individuals.
But it just says that in the top 5%, whether it's in those

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large schools, small schools, inner-city schools, suburban schools, that if you achieve that top 5%, you will get into the state university system. Now, you still have to go through the application requirements. We did not change anything in the law that says, look, some schools are just not producing topnotch people that maybe they can't even survive, even if they were in the top 5%. Our system already provides for remediation at the university level for these types of individuals. It does not change any of that. That is still available to everybody, in fact, can be required by the universities. But, it does... and I'll tell you the genesis of this, because I think it's a wave of the future and I think it makes sense. The genesis of this really started in the State of Texas. And, as you know, in the State of Texas, there was a court decision that knocked out affirmative action and quotas. And that is starting to go across the United States, as you well know. What Texas did here about 4 years ago, was implement a program that the top 10% of every graduating class would have automatic admissions into the state university system. What they discovered is, and it's not solely attributable to the law, but they believe that the bulk of it is. They now have more minorities attending the state universities there than they had under the affirmative action and quota systems. Only now, the kids are there, and they're looked upon, they achieved something. And you know, I think it's important that as we raise standards in all of our schools and the emphasis on standards, that listen, if the kids do achieve and we want them to try to make it into that top 5%, there is going to be some payback to them for that. And this is a very modest step. It's a beginning and it give us time to see whether this sort of thing will work in

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Illinois without flooding the state universities, et cetera, and it gives us an opening here to begin this process and see if it works."

Mulligan: "My only concern would be that we monitor what happens to the students that are right below that from large schools who actually have the academic skills to be there, but may have a place taken from that school because we're letting everybody in in the top 5%, so that it's a problem for a student that's in a very competitive school."

Johnson, Tom: "I agree. And that's why it's starting off very modestly here. You know, as far as I know, there's no objection by the... objections raised by the university system on this, and I think it's worth attempting and let's see how it goes, and then go from there."

Speaker Hannig: "Representative Monique Davis.

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

Speaker Hannig: "He indicates he will."

Davis, M.: "Representative, what happens... Now, according to your Bill, these students will not be required to take the SAT or the ACT. Now what happens if they choose in a year or two years, to go to a college out-of-state or another college in-state, that does require these exams?"

Johnson, Tom: "Well, Monique, as I explained in committee, there's nothing that prohibits kids from taking SAT and ACT, and I don't have the stats on this, and perhaps I should have gotten them. But my guess is, that most of the kids who are in the top 5% of their classes, are taking those and will continue to take 'em. However, you're right. Under this Bill, it would not be necessary that they take those. Now, as far as transferred to other schools, say they get into one of our universities the first year and then they want to go to another school in

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Illinois that might require SATs, it's my understanding in talking to all the higher ed people, that once you have completed a year or semester, the emphasis then is on what you have done in terms of the transfer records as opposed to SAT, ACTs. Because you're transferring in then, not as a beginning freshman. You've shown whether you're going to succeed or not succeed."

Davis, M.: "Well, according to our analysis, on this side of the aisle, it states that Illinois State University supports the concept, but they're very, very concerned about the exemption of ACT and SAT testing. That same report comes from Southern Illinois University. They're supportive of the concept, but they're very concerned about the exemption of the ACT and SAT. Now, we know Tom, that young people will very happily opt out of any test. Now, I have great fear that some young people will be harmed by not taking these tests. Is there any way that you can add an Amendment that they do take the test? I mean, because it is so unfair to a young person who is not mature enough to realize his values may change in a year or two, and he'll say, 'Well, gee, now I want to go even to Harvard, but they want an SAT or an ACT score, and I don't have one to produce.' Now, this test is not like that law school admissions test, where you can take it anytime in life. This is a test in which they want high school people to take these exams so they can compare them to other high school people across the country. And I think we really harm them and we limit their options. Is there any way, Tom, we could ask over in the Senate that they remove that exemption?"

Johnson, Tom: "You know, I'm open to any suggestions on this, and I have been, and in fact, the state universities, I've

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talked to them even when I've drafted this, and it was based on them that we drafted the language in terms of percentages and so on. The SAT, SA thing... ACT thing, honestly, was not even raised to me by any of the universities. If that's a problem, listen, I have no problems working on this in the Senate. You know, I want this thing to move forward because I think it's good. The other thing that I think that we have to keep in mind is, you know, we're looking at exit exams for our high school students, and in fact, I heard recently they were even thinking of using ACT as an exit exam. Now, that's..."

Davis, M.: "Puttin' part of it in there, in the..."

Johnson, Tom: "... we won't get into all of that..."

Davis, M.: "They want... yeah, they want..."

Johnson, Tom: "... because there's serious problems there..."

Davis, M.: "Put part of the ACT..."

Johnson, Tom: "Right."

Davis, M.: "... in the Prairie State 2000."

Johnson, Tom: "Right, the Prairie State."

Davis, M.: "Which is another dumb idea."

Johnson, Tom: "Right. Now, the other thing is, in the application process, I believe the University of Illinois even has a provision that they can test students and ask them to come in in the summer before they begin in the fall for example, to determine levels and whether remediation is needed. We are not changing any of that. So, the universities still have an opportunity in terms of their own application standards..."

Davis, M.: "All..."

Johnson, Tom: "... to deal with."

Davis, M.: "All I'm asking..."

Johnson, Tom: "So, yeah, I'm open to it."

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Davis, M.: "The reason I'm asking is, Tom..."

Johnson, Tom: "Right."

Davis, M.: "... some kids will even have real high scores, they'll be in the top 5%, they'll get to college and goof off. So, the appearance will be, this is a kid who really didn't have any ability, but if he has that score to show, he can tell that he really is capable of doing certain levels of work."

Johnson, Tom: "I agree."

Davis, M.: "So, I would urge you to..."

Johnson, Tom: "We want them to succeed."

Davis, M.: "... to remove that exemption."

Johnson, Tom: "Right, we want them to succeed."

Davis, M.: "... and then I'll support your Bill. Thank you."

Johnson, Tom: "Okay."

Speaker Hannig: "Representative Mitchell. Jerry Mitchell."

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

Speaker Hannig: "He indicates he will."

Mitchell, J.: "Representative Johnson, you and I have discussed this issue previously, and I too, have some concerns about the possibility of 5% in district 'A' being lower than 10% in district 'B', and possibly the ACT, SAT, may be a determining factor that could be factored in down the road. But I also understand why you're not doing this. Certainly, if the state board has their way, all students graduating from high school will take the ACT as part of the Prairie State Achievement Exam. They're telling me right now that it answers all of those standards that were written for high school graduation. You know that will remain to be seen. However, one other area that I have, is again... Last year, we had a very minor Bill that involved a Student Assistance Commission for homeschoolers again,

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and allowed them on a percentage basis to vie for some of these scholarships. And I know your Bill, at this point, is in its infancy, is more or less a test or a pilot to see if it can be an incentive for kids to work harder and move on to college. But down the road, would you consider an Amendment, maybe after we have a couple of years of data, to working with me to get something that would allow homeschoolers to vie in this same arena? It's difficult to do because they don't have a percentage rank."

Johnson, Tom: "Certainly, Jerry. You know, it's my intention here in talking to my colleagues, you know, I think this thing really merits a beginning, and that's why, you know, I put the Bill in here initially here at 5% in Illinois. Because I do think there's a lot of questions that will need to be answered and I think that this is a beginning and obviously, I'm sure this will change as the years move forward. Hopefully, at some point you know, it'll maybe move up to 10%. And maybe hopefully someday, we'll put additional incentives in for our kids to reach the top 10% of their classes. You know, I can see the day coming that people want to see this thing amended that, you know, we're gonna make sure that those people have the scholarships. This doesn't go to that. This is just a beginning point in which we reward and encourage our kids to do well at that high school level and give them something for doing so."

Mitchell, J.: "And I don't want to make it look like it's a disincentive or penalty to anyone. One of the things that we try to do is to make sure that when we put a incentive program in, that it is looked at as an incentive for all the kids, because they're the ones that are going to benefit from this entire thing. So Tom, I think you've got a good beginning and I certainly rise in support of your

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initiative. Thank you, Mr. Speaker."

Speaker Hannig: "Representative Delgado."

Delgado: "Thank you, Mr. Speaker and Members of the House. To the Bill. We pass a lot of legislation around here that sometimes we obviously have no guarantees. But is a very... I want to commend the Sponsor in his vision, and attempting to find innovative ways to assist students and assure them the opportunity to go to universities as many do very well in oral exams and possibly may not do as well in written. It doesn't mean they're not intelligent, but the overall concept of this Bill, is what I believe the Sponsor is bringing forward so that we can continue this debate and evolve a piece of legislation that will assist our students in our great state in providing the best possible citizen we have out there. So, to the Sponsor, Tom, I commend you, and I know it's a vision, and we've talked about this, and although there's some concerns, I also know there's no guarantees. So, as long as we can sit down and keep working with it. Obviously, I'm up as a Sponsor and a fellow Member of the committee, we want to say, let's get a strong 'aye' vote on this."

Speaker Hannig: "Representative Wirsing."

Wirsing: "Thank you, Mr. Speaker. I just wanted to stand in full support of the Sponsor's intention here. As he has indicated, he's talked with several Members trying to work this idea through in the legislative process though, so, that it does have great value in the ultimate end. As the Sponsor's indicated, I want to emphasis that, that he's cautiously moving into this issue so that if there are some things that need to be addressed, it's not gonna be a major problem to do that. I think it's simply just saying that here in Illinois, we ought to be recognizing... start to

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recognize those top academic high school students, and at the same time, creating a program that encourages them to stay here in Illinois. Illinois is one of the largest exporter of its high school graduates to other realms of higher education outside of the state. This is a program, this is something that I've supported as the Sponsor came up with the concept and the idea. Stand in strong support of it, and once again, from... I thought it was thoroughly discussed in committee, and which even increases my support for this Bill."

Speaker Hannig: "Representative Silva."

Silva: "Will the Sponsor yield?"

Speaker Hannig: "He indicates he will yield."

Silva: "Representative, one of the things that I wanted to ask you, what is defined as in 'approved school'?"

Johnson, Tom: "Excuse me? What was that question?"

Silva: "What is defined as in 'approved high school'?"

Johnson, Tom: "This would take in all public and private schools in the state that graduate high school classes with more than ten individuals."

Silva: "So, for example, are schools that are on probation, are they approved schools?"

Johnson, Tom: "Yes."

Silva: "What about the schools where reading levels fall below grade level?"

Johnson, Tom: "Yes. These would be all high schools that graduate seniors, seniors who graduate in the top 5% of their class."

Silva: "So, this would include public schools, private schools, religious schools..."

Johnson, Tom: "That's correct. That's correct. It would be between five and seven thousand students in the State of

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Illinois, would qualify under this program if you factored in all of the private, parochial, et cetera. It would be between five and seven thousand. Now, it's my understanding that what you're really looking at there is maybe about 50% of those students will actually end up going to our state universities because a lot of people who graduate in the top 5%, unfortunately, don't stay in Illinois. They go to other schools. So, again, it's a modest beginning here. And again, does not rule out the remediation at each of these state universities and it says to our kids, you get in that top 5%, you are at least gonna have a seat in one of our public-supported state universities."

Silva: "What about the... Now, the measure of 5%, is that a measure within the school itself or..."

Johnson, Tom: "Yes."

Silva: "How..."

Johnson, Tom: "Yes. Each school graduates... if you graduate in the top 5% of your school, of your graduating senior class, you would fall under this provision."

Silva: "Then let me... Let's just assume that there's a school where the reading scores are well below grade level. That high school may be on probation, and if we make the assumption that a good portion of the population of those students are reading below grade level, how are we going to ensure that that 5% can, indeed, compete in college? Are we going to require them to do what?"

Johnson, Tom: "Well, that's a sad state of affairs in terms of our public schools when this sort of thing occurs. But, as you know, we've been working very, very hard in this state in terms of trying to increase those standards. Now, it appears to me that... you know, anyone who graduates from one of our schools, at least in the top 5%, is at least..."

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even within the context of a bad school situation, has achieved a level that 95% of those students didn't. Now, within each of our state universities, we have programs under... currently under the affirmative action and so on, that we take a lot of kids that, quite honestly, are not at the level that perhaps somebody graduating out of New Trier or wherever. But, we want those kids in our state universities, and in fact, we have programs to assist these kids so that they can succeed. This Bill does not change any of that. Those programs are all still there. The help is still there, and it's a very modest beginning to make sure that there is some benefits for our kids of achieving a high level in terms of their own schools."

Silva: "In your response, you were primarily talking about minority students, 'cause you talked about affirmative action. But what about nonminority kids, what's gonna be there for those top 5%?"

Johnson, Tom: "It's the same thing. You know, as I got into this and I looked at the application requirements at the state universities, almost all our state universities require our kids... First of all, the state university analyzes where the school came from, what quality the school is. We would like you to come in and take some tests so that we can place, and so that we can get you assistance. That has nothing to do, quite honestly, with whether you are a minority or not. They can do that with any of our kids, and they do that. And that does not change."

Silva: "I guess the last question I had, is this also an effort on your part to try to help access minorities to universities?"

Johnson, Tom: "It certainly is. And, in fact, that is a primary motivation and that was the result of what had occurred in

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Texas and across the nation now, where..."

Silva: "Okay. I'm glad you brought up..."

Johnson, Tom: "... many affirmative actions."

Silva: "... the State of Texas."

Johnson, Tom: "Well, I said that earlier. In fact, because it was the State of Texas that first... the affirmative action programs were declared unconstitutional. And this was a very innovative way, quite honestly, of making sure that minority students had access, and their results is that they even had more minority students than under the old affirmative action."

Silva: "Well, I guess, you know, one of the comments I wanted to make about the State of Texas, is the demographics are very different in the State of Texas. In fact, it has one of the largest majorities of minorities. So, what may work in Texas, I'm concerned may not work in the State of Illinois."

Johnson, Tom: "Well, again, you know, I guess we never know what works or doesn't work until we're willing to try, and I think this is an honorable effort to try and to get it in place. And you know, obviously, if it doesn't work, we'll be back here in two or three years or you or other people will, and we'll make sure we have something that does. But I think this makes a great deal of sense and from everything I've heard, this is a real positive approach. It's win/win for everybody."

Silva: "Thank you."

Speaker Hannig: "Representative Johnson to close."

Johnson, Tom: "I would just ask for your affirmative vote."

Speaker Hannig: "The question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. The voting is open. Have all voted who wish? Have all voted who wish? Have all

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voted who wish? Mr. Clerk, take the record. On this question, there are 115 voting 'yes', and 0 voting 'no'. And this Bill, having received a Constitutional Majority, is hereby declared passed. The Gentleman from Vermilion, Representative Black, for what reason do you rise?"

Black: "Thank you very much, Mr. Speaker, a point of personal privilege."

Speaker Hannig: "State your point."

Black: "I would like the Members of the House to welcome with us an outstanding gentleman who is with us on the floor today, the Honorable Jim Ryan, Attorney General of the State of Illinois."

Speaker Hannig: "Welcome. Representative McCarthy, are you ready on 3420? Out of the record. Representative Coulson, on House Bill 4021. Mr. Clerk, would you read the Bill."

Clerk Rossi: "House Bill 4021, a Bill for an Act creating the Great START program. Third Reading of this House Bill."

Speaker Hannig: "Representative Coulson."

Coulson: "Thank you, Mr. Chairman (sic-Speaker). The purpose of this Bill is to improve child care quality, by reducing turnover and encouraging continuing education of child care, teachers, directors, and day care home providers. I can answer any questions."

Speaker Hannig: "The Lady has moved for passage of the Bill. Is there any discussion? Representative Skinner."

Skinner: "Would the Representative yield?"

Speaker Hannig: "Yes, she indicates she'll yield."

Skinner: "Is there any subsidy for people who are putting their children in day care homes or is it only people who are putting their kids in day care centers?"

Coulson: "I'm sorry, I could not hear you."

Skinner: "Are there any subsidies for people putting their

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children in day care homes as opposed to the larger and more professionalized day care centers?"

Coulson: "It should cover... let me just find the area here, day care homes and day care centers."

Skinner: "And does this include faith-based institutions as well as 'crassly' commercial ones?"

Coulson: "It should cover all of them. The Bill actually sets up a task force to help develop all the specific rules and regulations on it."

Skinner: "Is there any income limit? Are we going to be subsidizing folks in Northfield?"

Coulson: "We are not subsidizing anyone. We are trying to prevent turnover of day care workers because of their low wages. And the... and that's what the Bill does, and it's modeled after a North Carolina Bill, where they've actually decreased child care staff turnover by as much as 75%."

Skinner: "So, can I ask you if we are not subsidizing anyone, I assume this does not cost any money?"

Coulson: "There is a cost that the Department of Human Services believes can come out of their quality enhancement money at this time. It also does require an appropriation in the Bill. If we... if the department chooses to do this."

Skinner: "Representative..."

Coulson: "Again, it's not a subsidy to children or their parents. It is a wage enhancement for those people who are working in child care, so that we can make sure that children continuity of care as they would if they were able to be at home."

Skinner: "So, it's a subsidy of day care workers? Not day care parents?"

Coulson: "It's a wage enhancement to day care workers."

Skinner: "Am I incorrect in defining wage enhancement as a

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subsidy?"

Coulson: "I... I guess I have... it depends on your definition of 'subsidy'. I do not view it as a subsidy."

Skinner: "A subsidy is our giving something to somebody that they do not have in order to encourage them to do something. Using that definition..."

Coulson: "That's your definition."

Skinner: "This would be a subsidy, right?"

Coulson: "A gift is the same thing."

Skinner: "So, this is a program to create a series of gifts to day care workers?"

Coulson: "Of... enhancements to day care workers, yes, in a sense. That because they have stayed more than six months, in a job, in a very low-paying job, and done hard work, that they should be encouraged to stay longer."

Skinner: "And what's..."

Coulson: "It also provides for an enhancement to their wages if they continue their education."

Skinner: "And what is the subsidy, after six months?"

Coulson: "That is to be set by this task force. There's no amount in the Bill."

Skinner: "Well, could it be five dollars an hour?"

Coulson: "I think that would be probably excessive. It depends on the appropriation and what our task force decides. The point of it is to try to keep their wages market competitive so that people don't go from a very trying child care job into some other job, like a McDonald's job, just because it pays better."

Skinner: "Well, we just raised the salaries... the minimum salaries of home health care workers I believe. Would you assume that whatever salary we're paying them would be competitive to a day care worker's salary?"

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Coulson: "I would... I would think it'd depend on where you are in the state."

Skinner: "Well, what about your district?"

Coulson: "In my district, it's very difficult to employ day care workers, as well as home care providers, because of the low wages."

Skinner: "Thank you, Representative."

Speaker Hannig: "Representative Coulson to close."

Coulson: "There's a staffing crisis in Illinois of day care/child care programs. They can't offer compensation that attracts and retrains qualified staff. The most important time in a child's life in promoting language, intellectual physical and social skills, are those early years. I would appreciate your support of this vote. It is a excellent Bill for children in the State of Illinois."

Speaker Hannig: "The question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. 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 114 voting 'yes', and 0 voting 'no'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Representative O'Connor, for what reason do you rise?"

O'Connor: "Mr. Speaker, on a point of personal privilege."

Speaker Hannig: "State your point."

O'Connor: "Mr. Speaker, I'd like to direct the Members of the House to the rear of the chamber, where we are being visited by a truly unique and remarkable group of young women. They are the 1999 Brookfield junior girls fast pitch softball team. They have distinguished themselves in a remarkable way. They are the Illinois State Champions. They are the champions of the Midwestern region. And they

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placed 4th in the world in this last year. Please help me greet them and welcome them."

Speaker Hannig: "Welcome to Springfield. Representative Bugielski. The Gentleman in the chamber? His light is on? Well, turn it off. Representative Hoffman, are you ready on 4300? Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 4300, a Bill for an Act in relation to child custody. Third Reading of this House Bill."

Speaker Hannig: "Representative Hoffman."

Hoffman: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. House Bill 4300 is an initiative of the courts in St. Clair County, Illinois. Essentially, what it would do is, it provides a neutral site exchange locations for parties involved in child custody procedures. As you know, many times, because of these domestic relations problems... what'll happen is, there may be orders of protection or other types of problems between custodial parents and noncustodial parents. Still, the noncustodial parents will have a right to visitation. There's always a problem as to where that right can be exercised, if indeed, there are some type of domestic abuse problems. This would provide a neutral, agreeable exchange location in counties that have over 100,000... populations over 100,000 and under one million people. This would address the issue where we're seeing many times people using public places in order to exchange their children, whether it is a Hardees, McDonald's, or to exercise visitation rights. I have a letter from the Children's Foundation which is... the chief executive officer in Bloomington, Illinois, indicating that McLean County has a neutral exchange site that has worked very well in the past in addressing these types of concerns. I would ask for your favorable support."

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Speaker Hannig: "Representative Cross."

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

Speaker Hannig: "He indicates he'll yield."

Cross: "Jay, I understand, at least I think I understand the problem, and what goes on in divorce cases. I used to do some and glad I don't right now, but I... I guess I'm... I have a couple of questions and have a few concerns. Is there... In other places where they've done this or are doing this, do you have someone staffing the neutral exchange site or what are you... yeah, neutral site custody exchange funding site? Do you have somebody staffing it?"

Hoffman: "It's my understanding, and I have a letter here from what's called... and I'm not familiar with this, maybe Representative Brady may be better, but from Bloomington, Illinois, the Children's Foundation. And what they do is, they have opened such a program, and here... the letter from the chief executive officer, says they're ope... they opened the program on a shoestring budget of about \$40,000 per year, and that is what it would... it's used not only for rent payments, Representative, but it also is to make sure that somebody is there for the exchanges. I think sometimes, not only, Representative, would it be an exchange location, but also it could be utilized and the idea, at least in St. Clair County, is gonna be utilized to actually have visitation in the the instances where the noncustodial parent it not allowed for whatever reason, to take the child to their home."

Cross: "I see in the Bill that 'the county board shall set a fee to be collected by the clerk' in all civil cases and filings of not less than a dollar nor more than eight. So, that's not... that's more than just even divorce cases. It all civil cases, Jay?"

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Hoffman: "Yeah, it's my understanding, I don't have the point that you're reading in the Bill, but the intent..."

Cross: "Page 2, lines 8 on.

Hoffman: "Yes. The intent is, the county board will make a determination initially. They don't have to. So, it does say 'shall' if they make the determination that they want to do one of these sites, okay? If then the county board makes that determination, only in counties that have over 100,000 people, less than a million, they make that initial determination, they then have the leeway of how they're going to fund it, from a dollar to eight dollars on all civil cases. That would be up to each individual county board, though. So, we're allowing them... this is enabling legislation, allowing them to do it. Where you see 'shall', that only means if they decide they want to do it. We're not requiring them to do it. If they decide they do want to do it, then they would... in conjunction with the circuit courts, make a determination on the cost."

Cross: "Do you know if there are any counties that do this other than McLean? Maybe on a... more of an informal way, Jay?"

Hoffman: "I'm not... I'm not sure. I just have the one from McLean. Now, I know that in St. Clair County, they're trying to start one up. And that's why this Bill and hence the Bill. I think they have them in other states, Tom."

Cross: "I... as I said earlier on, I know, at least I think I know the rationale or the reasoning behind it, I'm just concerned about creating, you know, an additional level of bureaucracy, so to speak, where we have a neutral site, custodian, so to speak."

Hoffman: "Well, what we don't want, I guess... you know... you know, I don't really do divorce cases, but I... you know, I've seen from my days back in the State's Attorneys Office

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and working in domestic violence cas... courts, what happens is, is in these domestic cases, many times the noncustodial parent, because of orders of protections or otherwise, they end up going to McDonald's. And they'll either make an exchange there or they will exercise their visitation rights at McDonald's. Many times, certain instances break out that I don't know are healthy, because of the past relationships. So, this would provide a place for those exchanges to happen."

Cross: "And I understand that. I guess... given the fact that we're gonna create these neutral site custody... neutral custody site exchange places, I mean, has the Restaurant Association put in a slip in opposition? Because, if I'm McDonald's or I'm Burger King, I'm gonna lose some business. Has anyone discussed that perspective, Jay?"

Hoffman: "No, nobody's really discussed it, and I'm hopeful... I certainly don't want to cut down on the sale of Happy Meals."

Cross: "You wouldn't wanna... you wouldn't wanna cut down on the sale of Happy Meals. Well, I think, I know there's some other people that have questions. I understand what you're trying to do, and... I just... as I said earlier on, I had some questions, but thank you."

Speaker Hannig: "Representative Black."

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

Speaker Hannig: "He indicates he'll yield."

Black: "Representative, following up with Representative Cross, again, it's very difficult to argue with the ultimate intent of the Bill. But I really have some questions that I don't think are addressed in the Bill. First of all, you are allowing a fee to be charged on both the custodial and

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noncustodial parent, not to exceed eight dollars to defray the cost, if any, on a staffing center that isn't defined. Now, in my experience with some of these cases, the noncustodial parent who may have been in court for years battling that noncustodial designation, now, you put an eight dollar fee on him or her, that he's ma... now he's mad again, and now you mandate where the exchange is going to take place, and I... and I will again, you correct me after I'm through. I thought the courts generally said or would state where the exchange would take place. And it's usually in a public... some kind of public facility, which may not be a good idea, because... But the Bill is so vague, it doesn't say what kind of a neutral site. If it's a staffed center, as they have in St. Louis, it's clearly defined. There is staff there. It is staffed around the clock. There are experts there. There are professionals there. This Bill is so vague that if a judge says the exchange will take place at 9 p.m. in the vacant lot next to the old Danville High School gymnasium, and the noncustodial parent who's mad about the eight dollar fee, the visitation didn't go well. They get into an argument in a vacant lot at 9 o'clock at night, somebody could get killed. I mean, it's not beyond the realm of possibility. I would be much more comfortable if this Bill specified what kind of neutral site will this be. Will it be a DCFS office, and will we require a staffer to be there at that time? Will it be a mental health center or a center for children's services, who again have staff and security arrangements in place. Or I suppose, under the Bill, it could be the playland at the local McDonald's. I mean, it is so vague, that I see it causing more trouble than preventing."

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Hoffman: "Well, Representative, the problems that you just described with the local McDonald's, vacant lots, that's what's happening now. And what happens is, is that the fee you were talking about, would be paid at the filing time. The filing of the initial action."

Black: "Right."

Hoffman: "Okay. So, it won't be... it's not an ongoing fee. It's a onetime thing."

Black: "All right."

Hoffman: "That's how we're gonna fund it."

Black: "So, they wouldn't pay it every year."

Hoffman: "Right. That's how we're gonna fund it."

Black: "All right."

Hoffman: "And each local county board will make a determination as to whether or not they want to be involved in this."

Black: "Okay."

Hoffman: "And the idea is, is what has been done in Bloomington and what has been done in other states, is there actually is a location. It could be not-for-profit organization which it says they could contract out with. It could be at the county court house where they would just use some of this money to have somebody there. Or it could be any other... The idea is not to be a vacant lot, and not to be a quote 'public place that we're using now'. Because what you said, is exactly what happens..."

Black: "Oh, sure."

Hoffman: "... is... is..."

Black: "An argument breaks out quite often."

Hoffman: "Exactly, and that's why... why we believe that this Bill would address that situation because now you are going to a place that is designated and equipped to handle that type of problem, not a McDonald's, not a Burger King, where

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the police have to be called and the other patrons who are there..."

Black: "Okay."

Hoffman: " ... are having problems. So, that's what the whole idea is, and, it's limited also, and if you... and I don't know the size of your county, you probably aren't even..."

Black: "Both of mine would be exempt..."

Hoffman: "Right."

Black: " ... under the population requirements."

Hoffman: "Because we're talking about larger counties..."

Black: "Right."

Hoffman: " ... here now. If you guys were interested in doing this, you know, I'd be willing to talk about that, also."

Black: "Yeah. Well, and I think you've answered some of my concerns earlier when you addressed Representative Cross. This is strictly permissive legislation. If the county board does not want to get into this and make this decision and try to find a place that could be staffed, then go to the judiciary, you know, they don't have to do this, right?"

Hoffman: "Right. This just enabling legislation to allow them to do it if they wish."

Black: "And let me... I want to make sure I understand that. Evidently, McLean County is wanting to do this. It must be their view that they cannot do this without enabling legislation. Is that the reason for the Bill?"

Hoffman: "Well, their problem... My reason for the Bill is St. Clair County wants to do it, but in looking at this, the chil... What's called the Children's Foundation in McLean County, has a family visit center that is utilized. I assume they're a not-for-profit organization and the courts utilize them. I have a letter here from the chief executive

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officer that indicates that they... that their biggest problem is obviously the funding issue. And they operate on \$40,000 a year; 25% from local contributions and 75% from the Illinois Violence Prevention Authority Grant. Now, that wouldn't go away, I don't think. This would just augment..."

Black: "Okay."

Hoffman: " ... them if their county board wishes."

Black: "All right. And if I understand the ultimate power of the judiciary, let's assuming... let's assume that St. Clair does this, my guess is, if the judge doesn't want to, he says, 'I don't like the site. I don't like the location. I don't like the way it's run. I will not order the custody exchange to take place at that site.' That would certainly be within the purview of the judge, wouldn't it?"

Hoffman: "We're not changing the judge's..."

Black: "Yeah, all right."

Hoffman: " ... discretion at all. So earlier, I jumped around, I really didn't address that question because you kind of brought that up earlier. We're not mandating that the judge do this. We making it available..."

Black: "Yeah."

Hoffman: " ... for the judiciary..."

Black: "Well..."

Hoffman: "I think the family courts would utilize it. I guarantee it, 'cause it makes sense."

Black: "Well, after recent Supreme Court decisions, I think it's rather clear you can't mandate a judge to do anything."

Hoffman: "And even if we did, they wouldn't listen."

Black: "Well, if we did, they'd rule it unconstitutional, I'm sure."

Hoffman: "Yeah, that's right."

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Black: "Okay. I guess I understand the concept. I think it's somewhat vague, but it only affects 17 counties and since it's permissive, as Representative Johnson said earlier, 'Sometimes we try something, if it doesn't work we have to come back and fix it later.' But I appreciate your indulgence."

Hoffman: "Thank you, Representative."

Speaker Hannig: "Representative O'Brien."

O'Brien: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. To the Bill. I rise in very strong support of this Bill. I do a lot of family law work in my private practice, and unfortunately, when the two people can't get along and they can't even get along well enough to pick up and drop off their children, we often pass it off as the responsibility of the manager or the owner of a local restaurant, but that's gonna be neutral territory. And I know in Will County, they do have a children's advocacy center and they had the funds available to them to set that up. But in Grundy County, for example, they really wanted to do that and didn't have the funds available to have someone there consistently, so that when these drop off and pick ups happen, that they happen in a very smooth manner and that there is somebody there supervising it. And it's very necessary, because unfortunately, these people are adults but they don't often act like adults, and they traumatize their children every single week when a visitation occurs. And it's nice to have a place where children know they are safe and the parents aren't gonna fight back and forth and it does give a lot of discretion. And I know the circuit court together with their judicial council can designate exactly how this will happen. And I think Representative Hoffman has done an outstanding job in

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addressing the needs of his constituents and many others around the state and I just wanted to commend him."

Speaker Hannig: "Representative John Turner."

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

Speaker Hannig: "Yes, he indicates he will."

Turner, J.: "Representative, I think you indicated this applies to counties over 100,000, less than a million. How many counties are involved?"

Hoffman: "I think Representative Black and my tech review staffer, says 17. And Representative Black I think indicated that."

Turner, J.: "Seventeen counties?"

Hoffman: "That have over a 100,000. I think that..."

Turner, J.: "Well, I... I guess in..."

Hoffman: "... seems high to me, but I guess..."

Turner, J.: "... question becomes... How did you decide that only those 17 counties would be counties where this procedure would be allowed and the fee could be implemented by the county board?"

Hoffman: "The reason is, is to be very frank with you, I think that there is something that is called, I don't know if you've ever heard of it, the Children's First Program in divorce cases. So, we allowed... we had very similar population numbers when that was instituted here, so that what happens is, Children's First, they have a program locally, that when a divorce takes place, the parents have to go through this program in order to really focus on the fact that their child needs to come first. And when that was passed, the population numbers were the same. To be very frank with ya, if you are interested in reducing 'em, I'd be willing in the Senate to do that if you have some counties that are interested in doing this. Because I

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think it is a problem that's all over the state; however, the larger counties, because of the population base, obviously, it affects more people, and that's why. And it may be a situation, Representative, maybe where I wouldn't be opposed to having a couple of small counties go together to be able to do this if the county boards would want to do that. Because there... obviously, there's a concern as to whether it can be afforded in a small county."

Turner, J.: "The fee will be between one and eight dollars I understand, on every single case that's filed in civil court, right?"

Hoffman: "If... two things would have to happen. The county board, number one, would have to pass this Act; and number two, they would make a determination as to how much it would cost to run, and then they would set the fees on all the cases, yes. I originally would like to have just had it be done in domestic cases. However, looking at it, it wouldn't have raised sufficient amount of dollars to put this together."

Turner, J.: "So, if there is a small claim case for \$150, this fee would apply to the plaintiff in that small claim case, and the fee would be the same then for the small claim plaintiff as it would be for the divorce petitioner or the L plaintiff or LM plaintiff, all would be treated the same?"

Hoffman: "I believe that that's the case. However, I believe that the authority on setting those and how they are set, is still given to the counties. So, if the local counties would make that distinction, the smaller cases, we only want to do a dollar, the larger cases, we want to do five."

Turner, J.: "Okay, good. So, that does then, if the county board passes this, allow them, for example, to maybe only access

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a dollar for a small claims complaint filing and perhaps the eight dollars if someone is suing for over \$50,000 in an L case?"

Hoffman: "Yes, that's my intent. And I think the way it's written, it allows for that to happen."

Turner, J.: "Representative, who brought you this Bill and not that everyone has to bring you a Bill, maybe you were... maybe you thought this one up yourself one night, over the summer months or something but..."

Hoffman: "It actually came from the judiciary in St. Clair County, the chief judge of the court brought it to my attention. But I think he actually got it from other parts of the country as well as the state that have had these in place but having trouble funding them. They want to start one in St. Clair County and the judges in the family division, I think, may have brought it to him and subsequently got to me."

Turner, J.: "All right, you've answered a lot of questions on it, but just one more which is kind of a compound one. Assuming a county board passes your legislation, if we indeed pass it, or they pass the ordinance if we pass the legislation, the fees are assessed, the money is set aside in the fund as set forth in your statute, and the money there is... therefore it's to be used by someone. How is it used? What happens to the money? Is there an application process? And if so, those who apply who are fortunate enough to get the proceeds, what do they do with it? How does the program ultimately work?"

Hoffman: "What happens is, if you look at the Bill on page 3 and 4 of the Bill, it specifically lays out how the grant would be... how it would be dispersed. And what they would be allowed to do is, they would be allowed to disperse these

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funds pursuant to the authority of the Supreme Court and the chief judge of each judicial circuit in which a neutral site custody exchange fund has been established. It allows... It specifically says, 'that the chief judge shall be made to... that disbursements by the chief judge shall be made to one or more qualified not-for-profit organizations that operate within the judicial circuit. And then those not-for-profit organizations would run the neutral visitation site.'

Turner, J.: "Well, will it be available to all comers, any one who wants to make use of the services of the not-for-profit organization? Or are there restrictions on how... who can apply?"

Hoffman: "It would be made available to all parties who wish to utilize it. Specifically, I would think in most cases, the judge... a judge in a particular case where there might be trouble, much like they do now, would mandate the use of it."

Turner, J.: "Thank you, Representative."

Speaker Hannig: "Representative Hoffman to close."

Hoffman: "Well, thank you. Ladies and Gentlemen of the House, I'd specifically like to thank my friend from my side of the aisle for standing up in support of children in this state, as well, I think, that for the people on the other side of the aisle, who hopefully will support this. Your questions were well thought out and I think that if you look at the history of this issue, it's not right that we have children who are con... children subject to not only the problems that can happen when you go to a public place and make these type of custodial changes, but also the problems that have... that could happen to the general public because of these problems. So, I would ask for an

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'aye' vote. I think it's a reasonable piece of legislation that allows counties to do and have these neutral site custody exchanges."

Speaker Hartke: "Representative Hartke in the Chair. The question is, 'Shall the House pass House Bill 4300?' All those in favor will signify by voting 'yes'; those opposed vote '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 issue, there are 115 Members voting 'yes', 0 voting 'no', 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. House Bill 3469. Representative Rutherford. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 3469, a Bill for an Act amending the Freedom of Information Act. Third Reading of this House Bill."

Speaker Hartke: "Representative Rutherford."

Rutherford: "Mr. Speaker, Ladies and Gentlemen of the chamber. Thank you very much. I'm sponsoring this Bill on the behest of Attorney General Jim Ryan, in regards to amending certain opportunities in the freedom of information. A number of months ago, there was a survey done by the media groups in regards to the responsiveness of certain units of government in regards to freedom of information. And a lot of things came through in noncompliance. And actually, a part of it was because some of the local units of local government, themselves, did not truly know or understand how to respond to that. The Attorney General has worked quite intensely with it, a considerable number of groups, everyone from the Press Association to the State's Attorneys Association, with the Municipal League and the like, and crafted the original Bill, 3469. When we

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introduced it in the chamber, there was a significant number of groups that had presented concern with it. And after introducing it, we've met with them even further. When we brought it towards the Judiciary Committee, it was decided that we would amend it to provide for certain provisions that responded to some of these groups. Upon doing that, the State's Attorneys Association, as well as the Illinois Press Association, became proponents of the legislation. Unfortunately, we still were not able to find unanimity and support for this for a multitude of reasons. What I think we're presenting to you today, is the best effort that we can bring forward at the moment. Very simply, if an individual is to go through and request a freedom of information request and it is denied, the only recourse that citizen has today is to go to the courts to ask them to rule that they should receive that information. What Attorney General Ryan has proposed in this legislation, is that the citizen could request of the Attorney General's Office, an opinion as to whether that denial is accurate or not. At that point, the Attorney General's Office would notify the local unit of government, would provide for the opportunity to receive this information. If for some reason the unit of government did not provide the information to the Attorney General's Office, there are provisions for them to have subpoena power to receive that. The Attorney General then would try to negotiate or mediate between the two bodies to come to resolution. If they cannot, he then issues an opinion from the Attorney General. Once that is done, it is the citizen's... the private citizen's responsibility to determine if they want to move forward by going to court or not. If they do proceed and they do win, they have the

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opportunity for attorney's fees and they also have the opportunity for certain types of damages in there. There's a number of other points, too. I'd be glad to respond to any questions."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Lady from Cook, Representative Currie."

Currie: "Thank you, Speaker and Members of the House. I rise in reluctant opposition to House Bill 3469. Reluctant because I do believe that the Attorney General is well-intentioned. But I also rise in strenuous opposition to House Bill 3469, because I think you would only encourage increased layers of bureaucracy and head us precisely in the wrong direction in an effort to make more effective, our freedom of information laws. Under this measure, the Attorney General becomes the super czar of freedom of information requests across the state. The more than 5,000 local units of government and their individually elected mayors, county board chairs, the constitutional officers of this state, separately elected by the people, would become... open to investigation, including subpoena power, by one elected agent of our government, the Attorney General. I have no doubt that in the hands of this Attorney General, that kind of power would be used appropriately. But I'm not confident that the same could be said for every Attorney General. And I am certainly confident in saying that when there is a political 'hot potato' on the freedom of information agenda, I can imagine that politics might play a role in the outcomes that a Attorney General might seek to enforce. The... and remember of course, although as I say I have great respect for the current incumbent, I don't know that we want to change the law in ways that will affect all future incumbents of this job. Let me point

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out, too, that although the language seems to suggest that should the Attorney General, after subpoenaing local or state government documents, that if the Attorney General decides that going to court is the right thing, that might happen. But there is nothing in this proposal that would prevent the Attorney General on his or her own hook, from actually disclosing the information even if the public body whose information it is, decides that is not a good idea. Second, I mentioned bureaucracy. That's exactly what this is. With the more than 5,000 units of local government, with all of our state agencies, how many requests for information do you think are out there? How many new staff will we be required to employ in the Attorney General's Office? How much additional resources would we have to provide them? Today the Attorney General's Office provides useful information to local governments, to other agencies of state government. Educational informational opinions come from that office, but that's not what this Bill is about. This is about investigations. This is about subpoenaed documents. This about doing the kind of thing that ordinarily is done by a court of law. There are no time limits in this proposal. So, if I, Citizen A, what to go and get some information from my local mayor, say I'm a community organization, I wanna find out whether the parks in my neighborhood are getting the same kind of maintenance as the parks in some other neighborhood. Under the Freedom of Information Act, there are clear, streamlined time limits for response from the local or the state agency of government. Under this Bill, if I go then to the Attorney General, once having been turned down within the specified time, my request for information can sit there. Not just ten working days, it could sit there a month, two months.

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It could sit there 12 months. At the end of the day, even if the Attorney General agrees with me, what I get is probably not very valuable, that length of time later. As well, there are punitive damages in this Bill. A local unit of government, indeed a state agency, asked by the Attorney General to turn over the information, who thinks the Attorney General is wrong, can be awarded... can be confined against him, punitive damages set, just because there is a difference of opinion. Not because that government did anything culpable, not because that government was acting in ways that they thought inappropriate, but merely because there was a difference of agreement. I don't think I want to make my mayor or my governor or my county board president, eligible for punitive damages just because they have a disagreement with the Attorney General. I know of no other state in which the Attorney General has these kinds of powers over other state agencies and over local units of government. I think it is a mistake to provide this super czar status in our Office of Attorney General. It is a mistake from the perspective of local governments whom I believe do know how to meet their responsibilities. It's a mistake for the citizen who is asking legitimately for information. This will tangle them up. This will tie them down. This will, if they disagree with the Attorney General, subject them should they go to court, to having to pay the other side's fees, the other side's lawyer's costs. I think that is an undue and a restrictive burden on ordinary citizens. Freedom of information is supposed to make information available to us, not tie us up in a bureaucratic tangle. I hope you will join me, join Common Cause, join the American Civil Liberties Union, and vote 'no' on House Bill 3469."

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Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Winnebago, Representative Scott."

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

Speaker Hartke: "He indicates he will."

Scott: "Representative, I know we did this in committee, but I want to go back to it again. And I first want to say that... just so, you know, it's not one of these things where if you made these four or five changes for me I'd support it, because I just philosophically don't believe that this is a role that any Attorney General should have, even though I echo the same respect that Representative Currie has for the current Attorney General. But I do want to go over some points that, even beyond that philosophical part, I've got some difficulty with and we can do that."

Rutherford: "To let you know, Representative Scott, I kept my notes from committee and I've got Doug Scott right here, so, I'm ready."

Scott: "Good. Excellent. Excellent. The first one is this whole issue of conflict. How do we resolve the question of a state agency who is represented by the Attorney General, who now has a review by the Attorney General?"

Rutherford: "You know, right now, Representative Scott, that type of thing could exist anyway. I mean, when you look at the opportunity for a citizen to request this information, keep in mind, that what we're doing is having the Attorney General issue an opinion on this. I mean, if the citizen would like to go ahead and pursue the Act themselves and don't agree with the opinion, they can go through the courts on it."

Scott: "Though I bet it's more than that. Because right now what happens is, that the attorneys for the state and the attorneys for the agencies, who are the Attorney General's

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Office, now are the people who end up making the ultimate calls on FOIA to the state. So, how do we resolve the question where we go beyond that to the next step, which is this extra layer that we're creating here and resolve the conflict question with somebody who now is appealing an original decision that was made under the auspicious of the Attorney General's Office?"

Rutherford: "And actually, having counseled with my good Attorney General to make sure that I was gonna give you an absolute accurate answer to that, is that within a situation like that, the attorneys could actually have set up a wall within the operation so that the attorneys who would be divided, would not responding to each other on that, would be instructed not to talk with each other on that specific issue. And apparently, that is..."

Scott: "Wow."

Rutherford: "And there are cases right now, in other situations presently today, exactly like that in the Attorney General's Office where they already do that, so, it's nothing new that would be unusual for this office to have to receive."

Scott: "It's the legal theory of the Chinese Wall. I just think in this kind of instance, it's a little different, because the people... it's difficult to imagine that people who normally are experts on FOIA law who make decisions for state agencies, not having anything to do with the review, once it goes up."

Rutherford: "I'm afraid we're going to have to disagree with that one, Representative Scott."

Scott: "Okay. That's fine. The other question was raised by Representative Currie, and it has to do with the time line. One of the major complaints, having... and I preface this

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by saying I did FOIA things for ten years for a fairly large municipality here in the state. One of the major complaints that citizens have when they do this, is the whole time issue. The agency didn't get it back to me within seven days. When it was reviewed by the mayor, he didn't get it back to me in the time frame that's allotted by the statute. And there are no time lines in your Bill, Representative, and I'm wondering first of all, why there aren't any time lines in the Bill?"

Rutherford: "No, I understand that, Representative Scott. And as you and I talked in committee, as well as on the floor earlier, part of that reason is that some of it is not under the control of the Attorney General when the municipality or the local unit of government is going to respond. And I think the important thing here is if the citizen who had requested the FOI did not feel that this was happening in a timely fashion, at any time during this process they can go right directly to the court. So, if there's something that may take a certain length of time beyond what they'd like to have it happen, they go to court, period."

Scott: "Well, right. But the whole idea behind this was because a lot of people won't have the ability to just go to court. I mean, when you presented it in committee, that was one of the major reasons for coming up with this type of legislation in the first place, that people..."

Rutherford: "Exactly. And it..."

Scott: "... that people don't feel good about going to court or can't afford to do it, and you gave a list of reasons."

Rutherford: "And that still stands."

Scott: "Right. But, I mean, I don't know that we solve that if you say, well, if we delay it for a long time they can just

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go to court, because that's one of the things you're trying to correct."

Rutherford: "Well, I think with all respect, Representative Scott, the true reason the Attorney General's doing this is to try to help keep, not to increase litigation, but to try to be with compliance. And going forward with this, obviously, they're going to do it under the most expeditious manner possible to try to meet what the ultimate requester's desires are. And if for some reason, through the process, they're not able to do it in the manner fast enough that the person requesting it is, that person will always have the recourse to go directly to the court."

Scott: "Great. I might suggest that perhaps one of the reasons why is because it's going to be difficult to process that. We don't have any idea how many of these we're going to get. But for the most of the people who right now can't find their way into court, it's pretty safe to assume you're going to get most of these complaints into the AG's Office."

Rutherford: "I would suggest, Representative Scott, this is now point two that we're going to have to respectfully disagree on."

Scott: "Okay, that's fine. We may have more of those so... We've got a couple more here. And that leads into the next question, which is the resource question. I mean, honestly, Dan, I mean I used to do this and I would deal with, just in one municipality, I would deal with reviewing and looking at and the appeals of hundreds of FOIA requests in a year, for one municipality. A lot of those are denied for various reasons or they're denied in part. You'll redact or take out names; you'll take out addresses.

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You'll do things like that. Could you talk to me a little bit about the amount of resources that you think are going to need to go into this and what does that do to the Attorney General's Office?"

Rutherford: "I'd suggest that to respond to in part, that, but also in part to the previous Representative's comments is the fact that already a dozen states in our country provide for activity or action or oversight by the Attorney General's Office. To answer to your part in regards to staffing..."

Scott: "Well, how many a year, on that part of it?"

Rutherford: "I... Let me finish my point. I think to answer the part in regards to staffing though, is if you look directly at the testimony the Attorney General personally gave you and you've got a copy of the trans... or could get a copy of the transcript, is that he sees that as of today they will be able to utilize the existing resources to respond to the 'opinionation' of the FOI responses. Obviously, if at some point in the future there is a logical explanation to show that the number of increases and it requires additional resources, it'll be the obligation for him to come to the General Assembly, justify it and ask for approval."

Scott: "Well, how many right now... And go back, and I apologize for interrupting there. How many right now do you, does the Attorney General's Office get? How many requests do they get to review decisions and how often are they called in for help to resolve a particularly thorny issue on the FOIA?"

Rutherford: "Are you talking about official Attorney General's opinions? 'Cause obviously there are no FOI..."

Scott: "Or request for assistance under FOIA."

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Rutherford: "The... to... Against sourcing the correct information, the response in regards to..."

Scott: "You can't... You can't go any higher..."

Rutherford: "No, I..."

Scott: "... than what you've got there. That's great."

Rutherford: "Thank you. The... Today, requests for FOIA are generally responded to by in-house, the agency's in-house attorneys. For those then that come to the Attorney General's central office itself, is extremely small."

Scott: "Okay. So, it's fair to say that there's a pretty substantial increase in the amount of requests that the AG's Office anticipates getting."

Rutherford: "The only thing I can repeat is what was said in committee by the Attorney General himself, who said that he's... believes that his staff, under existing resources, can begin the response to this. And if there's a need at some point in the future to justifiably request of the General Assembly additional resources, that office would have to come to our Body and request it."

Scott: "In one more area, and this is the one I really hate, so I saved it for last. But the issue of the punitive damages, can you tell me somewhere else in Illinois law where we grant punitive damages for negligent conduct?"

Rutherford: "Yeah. I think punitive damages, though, is somewhat of a misnomer. And what we're talking about here is a \$50.00 fee per day. Fifty dollars per day."

Scott: "It says 'punitive damages' in the Bill."

Rutherford: "Right, but I..."

Scott: "I mean, the Bill says 'punitive damages'. I didn't make that up."

Rutherford: "I know, but it's action of a civil penalty, though."

Scott: "Okay. But can you... Well, that's not exactly true

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because you've got the one area that you're talking about in terms of the legal fees and other things that are involved..."

Rutherford: "Correct."

Scott: "... in here. But then you add in something that you call punitive damages of \$50.00 a day and I... First of all, and my question..."

Rutherford: "Yeah, I... Sorry."

Scott: "My question is, where else do we do something that we call, all of us, call punitive damages for negligent conduct. 'Cause you don't have to have a showing in your Bill that there's a willful violation of the Act."

Rutherford: "I can't respond to you at that part of the question 'cause I don't know and I'm not an attorney. And I..."

Scott: "I don't think there is any. That's why I asked. So..."

Rutherford: "I kind of figured that was the reason, but I want to go ahead and highlight, though, the fact that this is really dealing with civil damages. And punitive is what it says in there, but it's... the action is of a different course."

Scott: "I guess this comes to the point of why I'm kind of sorry that you didn't amend it at least in a couple of places after committee. I mean, and as I said, I'm not trying to sandbag you. Philosophically, you're not going to get me anyway on this one. But on an issue like this, let me just bring up a legal issue here that's raised when you call it punitive damages. Municipalities can't indemnify their employees for punitive damages right now. So, what you're saying is, and let it... because you didn't change the word, because you didn't call it a civil penalty or do something else. What you're saying is, if it takes a long time to wind its way through the court system and that

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\$50.00 a day is put on, that's something that, that it'd be bad enough if the taxpayers had to pay for it, but for what, in essence, amounts to a negligent act, no willful violation of the act, you're going to personally hit somebody, you've got what amounts to a civil judgment. 'Cause municipalities can't reimburse. Under state law they can't reimburse for punitive damages right now. I mean, I don't know if that was something that you were aware of."

Rutherford: "Let me just respond, Representative Scott, that, as I made a commitment to the committee on behalf of not only myself, but the Attorney General, is that we're going to be continuing to look at ways to try and improve the legislation. As of recent as of 45 minutes ago, there were still, what I would say are excuses by interests groups that for what I believe are much, much more deeper, such as perhaps, a basic philosophical difference in it, we're finding technical reasons to fault this. This thing is a work in progress... a work in process. As it goes over to the Senate I can assure you that we're going to continue to look at that and I'm sure that we can find that certain specific things, if it can be addressed, we'll try to do that."

Scott: "Well, that one didn't come from an interest group. I made... You know I made that one up all by myself. So..."

Rutherford: "No, and I appreciate you highlighting that and..."

Scott: "But the only concern that I've got, Dan, and I've got all the respect in the world for you and you do... but that's the same thing we heard in committee and now we're on... we're on Third Reading..."

Rutherford: "Exactly, and I..."

Scott: "... and the Bill is going through in the same form that

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it was in committee. And I realize and I'm not saying you're not trying 'cause I have no idea what your relationship has been with the other groups. And, yeah, they probably hate it and maybe they don't want to deal on it."

Rutherford: "I would sug..."

Scott: "But... but when we say, you know it's a work in progress, it was then. But it's still the same work that it was when it left committee last week."

Rutherford: "With all deference, I want to make sure that I did not make a commitment, that I would not move that."

Scott: "No, I know that."

Rutherford: "Okay. I just want to make sure the Body understands that. And I can assure you that we're continuing trying to find common ground to it."

Scott: "Okay. Thank you. I appreciate your answers."

Rutherford: "Thank you, Representative Scott."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, Representative Lang."

Lang: "Thank you, Mr. Speaker, Ladies and Gentlemen. I rise in opposition to this Bill, and it certainly is well-intentioned. When I first read the Bill I actually had a slip filled out to become a cosponsor of the Bill and then I read it further. And the reason I thought it was good originally is that we do have some problems with FOIA requests in this state. There are some municipalities, some communities, some elected officials that don't follow the law as they might and we need to do something about that. However, in my opinion, this Bill is not the way to do it. I'm joined in that view by the ACLU and Common Cause, people that are interested in making sure that people's FOIA requests are adhered to. But there's some

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real problems with the Bill, first, the issue of local control. Many of you who are going to vote for this Bill in a few minutes are advocates of local control. We've spend a lot of time on the floor of this House talking about local control, local control, local control. And yet you want to take away local control from municipalities and put it in the hands of a constitutional officer. And the current occupant of that office I'm sure would do a fine job with this statute if it passed; however, that's not good public policy if you believe in local control. Next, it sets up a new level of bureaucracy. It's a level that would make resolution of these issues more distant from a resolution to the problem, not less distant. It sets up more lawyers, more people, more investigation, and it keeps people farther away from getting the documents they're trying to get. The issue of punitive damages is a difficult one, also. So many of you are close to your municipalities. You might even know your local municipal lawyer. Imagine that person, in good faith, reviewing a FOIA request and saying no. Perhaps even coming up with a legal opinion why they... you should not give the documents, and then through this procedure, somehow, you're ordered to give those documents anyway. Should that municipality or that attorney be required to pay punitive damages for in good faith giving a legal opinion? I don't think so. Next, the issue of political choices. While we may trust and respect this Attorney General, the fact is that FOIA requests sometimes get down to the issue of making political choices. Who should have the document? Who should not have the document from a political point of view? I think that's a failing in this Bill, as well. There's also nothing in this Bill to prohibit the Attorney

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General from unilaterally ordering the documents to be delivered or releasing the document himself. Perhaps the Attorney General in his or her, at some later time, wisdom, will make a determination that there's no need to investigate this and just simply release the documents. There is nothing in this Bill that prohibits the Attorney General from simply releasing the documents. For all of these reasons, the Bill is fatally flawed. We passed a FOIA Bill here a few days ago. It seems like a few days ago, anyway. Representative Currie's Bill which would at least have put some teeth in the penalties allowing for attorneys fees when someone has to go to court to get the documents that they should have been given in the first place. So this Bill is overdone. It's fatally flawed. And I would recommend those of you, particularly those who are very concerned about local control, to vote 'no' on this legislation."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, Representative Dart."

Dart: "Thank you, Mr. Speaker and Members of the House. I rise in support of this Bill. The reason why I am in support of this is rather simple. You look at the impetus as to why this Bill came about. The impetus is, is that local municipalities throughout the country, or throughout the state, have not been complying with the FOI Act. They just have not been doing it. Some of the newspaper articles have showed some of the more egregious examples of it. But the reality of it is, is that a lot of these municipalities did not follow what the law is. And what is it that they're not doing? They're not supplying information. And who are they not supplying it to? More often than not, they're not supplying it to citizens. And who are the

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citizens? They're the ones that pay their paychecks. They're the ones that are behind this government. They're the ones that are suppose to be lettin' know what's going on. They're not doing it. This is a reasonable step to try to address that problem. Is it perfect? No, of course it's not. It's been agreed to by numerous people here that there's some problems that do have to be addressed here. I've talked with both the Sponsor and I've also talked with the Attorney General himself and they're agreed that this does need some work and there will be work going on with it over in the Senate if it gets over there. But I think we have to look at why we're doing this. And I say there are some serious problems out there right now on how the FOI Act is being administered. This is a reasonable approach in how to go after it. And some of the points have been brought up by my colleagues as to opposing it are very reasonable ones that I do think can be addressed over there. I don't think the way to do it is to end this process right now. I think what we need to do is get this over to the Senate, let some of the conversations continue to go on. And as I say, we have a reasonable idea here. It needs to be fine tuned somewhat, but I believe they're on the right track and that's why I support the Bill."

Speaker Hartke: "Further discussion? The Chair recognizes the the Gentleman from Logan, Representative Turner."

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

Speaker Hartke: "He indicates he will."

Turner, J.: "Representative, we've heard a lot of debate on this particular Bill. Frankly, some of the speakers have seemed to contradict each other. I wanted to ask just a couple of questions about your Bill."

Rutherford: "Sure."

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Turner, J.: "Your Bill, as I understand it, provides a mechanism where a grieved party could go to the Attorney General's Office if they believe that they're not gaining access to public records that they are entitled to. Is that correct?"

Rutherford: "That is correct, Representative."

Turner, J.: "Isn't it also correct that your Bill does not prohibit that person, who believes that they should have access to public records, from also going to the local circuit court if they choose to do so?"

Rutherford: "That is correct."

Turner, J.: "And it doesn't in fact change the right of the person to go to circuit court and pursue whatever remedy the judge may give them under the same parameters and under the same scope and under the same procedure as is already in the statute?"

Rutherford: "You're absolutely right, Representative. I just want to highlight, though, that if that were to happen, at that point the Attorney General stops the action in pursuing their mediation process."

Turner, J.: "So, indeed, it only... it actually even goes a step further. If someone utilizes the court system, that then would take the Attorney General completely out of the process, as I understand it."

Rutherford: "That is absolutely correct."

Turner, J.: "To the Bill then. Thank you, Representative, for answering..."

Speaker Hartke: "To the Bill."

Turner, J.: "... my questions. Following up on what Representative Dart just stated, clearly this is a work in progress as Representative Rutherford has indicated. You may recall, yesterday, that when the Majority Leader

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brought her Bill to the floor and many of us on this side of the aisle indicated that we had some questions about whether or not the way her Bill was worded, the way she was going with her particular legislation was indeed the correct way, or the perfect way. And I think we all agreed that it probably was not. And certainly we all agreed, however, that there is a need for members of the public to have access to public records that they're entitled to see. And I think we all indicated and voted, I believe unanimously yesterday, to send something over to the Senate. And one of the things that we agreed to send over to the Senate was the Majority Leader's Bill and we passed it out of here. Now, today, we have yet another opportunity to send a Bill over to the Senate, so that the Senate can continue to work on a piece of legislation which will allow the public to gain access to public records. Now, the Bill may not be perfect, but what it does is provide an additional mechanism for a person who believes they should have access to public records and that additional mechanism would be to go to the Attorney General. Now, I can't believe anyone on this floor could honestly argue or believe that if the Attorney General has the opportunity to look at the records and hear the arguments from the municipality or from the local governmental entity and from the person who's seeking the records, that that is not going to give impetus to that public body to release those records, if, indeed, it is fairly clear that they should be released. There's been arguments I've heard on that side of the aisle that this Bill doesn't go far enough or that it goes too far. I've heard punitive damages mentioned. I've heard attorney fees mentioned. But the fact is, that the person who believes

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they should have access to public records can still go to court if they want to do so. It also gives them the second opportunity to go to the Attorney General. The Bill also does have teeth in it. It does provide for punitive damages under the proper circumstances. It does provide for attorney fees to be awarded under the proper circumstances. I would suggest to the Members of this Body that we should give the same treatment to this Bill that we gave the three... that we did to the Bill that passed yesterday, and that is to bring it out of here, to send it over to the Senate so that the Senate has the opportunity to review a provision, or a change in law which would put a provision in where the Attorney General could become involved, or leave it with the circuit courts or a combination of both. But in either event, if we're going to give the public access to public records this Bill should be passed out of here to give that alternative to the Senate, to make sure we accomplish what the major objective is and that is to make public records accessible. I urge an 'aye' vote. Thank you."

Speaker Hartke: "Further discussion? Seeing that no one is seeking recognition, Representative Rutherford to close."

Rutherford: "Mr. Speaker, Ladies and Gentlemen of the House. Thank you very much. You know, there's been a lot of time by the Attorney General put into this by his staff and by, actually, the interest groups out there. Unfortunately, we are not going to have a perfect Bill come out of here. The type of things... There was a comment by one of my colleagues that talked about the Attorney General's ability to release the information, and as to whether that's right or wrong. The Attorney General agrees and is looking to amend that when we get it over to the Senate, to clarify

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that point. The Attorney General's been challenged as to whether he has the staffing level to deal with this thing. The Attorney General, himself, stood there in committee, committed to the Members that he believes under today's resources of the requests he'll have, he's going to be able to deal with it. If the time comes he needs more resources, he's got to come back here to get those. That's just the way it works in the process. The other thing is, there's been requests... or there's been comments about the politicization of this thing. Well, I've got to tell you, the State's Attorneys Association, made up of Democrats and Republicans all the way from upstate to downstate, have endorsed this, as well as the Illinois Press Association. I've got to tell you, if there's an office that can indict somebody, that can bring an indictment and that already exists for the Attorney General's Office, whether it's a Democrat or Republican. You're wondering whether they're going to politicize the request for freedom of information? Let's think about this, Ladies and Gentlemen. This is an opportunity to not bring about more litigation. Jim Ryan is trying to bring about more compliance. Finally, we're going to have somebody that's going to let the little newspaper, the individual person on the street out there that does not have the big bucks to go forward for a lawsuit to come to a body to say, will you give me your opinion as to whether I am right to try and get this information released? That's what the Attorney General's Office will do. There is not the public prosecution part in this for the Attorney General to go forward with this. It is a decision ultimately to be made by the courts. Ladies and Gentlemen, this is an absolutely common sense thing to move forward for and I would ask for your

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support."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 3469?' All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Please record yourselves. Have all voted who wish? Mr. Clerk, take the record. On this issue there are 82 Members voting 'yes', 27 Members voting 'no', 5 Members voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. The Chair recognizes the Lady from Sangamon, Representative Klingler. For what purpose do you rise?"

Klingler: "Thank you very much, Mr. Speaker. As a point of personal privilege..."

Speaker Hartke: "State your point."

Klingler: "... I would like to recognize, in the rear of the chamber, the eighth grade basketball state championship team from Blessed Sacrament; and their coaches and their principal, Father John Burnett, Coach Jim Ziegler, Coach Larry Grub, and Coach Willie Miller and the players. I hope you would all give a round of applause for the state champions."

Speaker Hartke: "The Chair recognizes the Gentleman from McHenry, Representative Franks."

Franks: "I rise on a point of personal privilege."

Speaker Hartke: "State your point."

Franks: "Thank you. With us in the gallery today are political science students from Woodstock High School, in 10th, 11th and 12th grades, which are both in Representative Skinner's and my district. I had the chance of meeting with them last night and we want to welcome you to Springfield. And with them is the coach of the 5-A championship Woodstock

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'Blue Streak' football team from two years ago, Owen Doak."

Speaker Hartke: "Welcome to Springfield. The Chair recognizes the Gentleman from Logan, Representative Turner."

Turner, J.: "Thank you, Mr. Speaker. An inquiry of the Chair."

Speaker Hartke: "State your inquiry."

Turner, J.: "You know, Representative Cross had broached this subject with the Chair a couple of hours ago. The Republican side of the aisle, we look over at the board and I'm starting to get a headache looking at this. You can't read it. Oh, have you got that side down, too. Well, the question is, do we have anybody working on this technical problem? I know originally we didn't get the three bells rung up when we went on to Third Reading, and Representative Cross had to point that out. And we've had this problem now for at least two hours. Is anyone looking into it? Tony Rossi is?"

Speaker Hartke: "What was your question?"

Turner, J.: "We're... Seriously, we're wondering if anybody's looking into the technical problem on the board?"

Speaker Hartke: "I'm sure the Clerk is."

Turner, J.: "Is he..."

Speaker Hartke: "Yes, the Clerk indicates to me that he is checking into the technical problem."

Turner, J.: "All right, thank you."

Speaker Hartke: "On page 3... On page 22 of the Calendar, appears House Bill 3254, Representative Gash. Out of the record. On page 22 of the Calendar on Third Reading, appears House Bill 3465, Representative McAuliffe. Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 3465, a Bill for an Act to amend the Criminal Code of 1961. Third Reading of this House Bill."

Speaker Hartke: "Representative McAuliffe."

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McAuliffe: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. House Bill 3465 deals with unauthorizing videotape, photography, or filming. Currently, there's been problems in the State of Illinois and, actually, all over the country where people are videotaping people in locker rooms, their own private residences. I had someone that came down and testified last week on this Bill because she thought, and I agreed too, that the penalty for anyone that does unauthorized videotaping is not substantial enough. In her case she had... the suspect was found guilty and was only charged with a disorderly conduct, and I agree that under the current statutes there wasn't much that... else that could be done. And hoping, with the new age of the Internet, that this is going to deny people the opportunity or the chance to videotape people while they're changing and not ready for it and put it on the Internet. This is something that's... that needs to be enacted in law and something, I'm sure, that we're going to probably keep addressing from year on to year on. And I'd be happy to answer any questions that anyone would have."

Speaker Hartke: "Any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House pass House Bill 3465?' Excuse me. Representative Black, for what reason do you seek recognition?"

Black: "Yes, Mr. Speaker, I'm sorry. Will the Sponsor yield? I'm late."

Speaker Hartke: "Sure."

Black: "I'll... Okay. Representative, the question was posed to me and I don't know the answer and I apologize. I should have just come back and asked you privately. I didn't know the Bill would come up this quickly. A news outlet wanted me to find out if they were doing video background out on

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the street, you know, for an article or a news story on a snow storm, potholes, whatever, and you are recognizable in the video on the six o'clock news and they failed to get what is called, I believe, a release statement from you, would this in... perhaps enable the person to have a cause of action? I mean, generally, they are pretty good about getting a model's release, but they were saying in just general shots on the street, that if you were inadvertently in the video and were recognizable and they did not get a release from you, would this Bill then put them at risk of some legal action?"

McAuliffe: "I don't think that... Representative Black, I don't think the intention would be that that would be illegal. And we specify in the Bill this would be in a locker room, changing room, hotel bedrooms, and initially they have tanning salons and your own private residency. So if somebody is doing a sting operation where they are showing like a worker comp case where someone is actually working in their backyard. But we're talking about specific places."

Black: "Okay. So... so the intent is clearly within property not normally defined as public access or... Okay, fine. That..."

McAuliffe: "Yes."

Black: "Thank you very much."

McAuliffe: "Thank you."

Speaker Hartke: "Further discussion? Representative McAuliffe to close."

McAuliffe: "I would like to thank Representative Eileen Lyons for giving me the opportunity or... to be on this Bill and to also cosponsor it, and also all the other cosponsors on both sides of the aisle that came up to me. And hopefully,

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this will deter people in the future from using the Internet or other sources in a bad way, and I ask for a favorable vote. Thank you."

Speaker Hartke: "The question is, 'Shall the House pass 3465?' All those in favor will signify by voting 'yes'; those opposed vote '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 House Bill 3465 there are 115 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 23 of the Calendar on Third Reading, appears House Bill 3951, Representative Capparelli. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 3951, a Bill for an Act amending the Highway Advertising Control Act of 1971. Third Reading of this House Bill."

Speaker Hartke: "Representative Capparelli."

Capparelli: "Thank you, Mr. Speaker. This is a ... outdoor advertising incentive. The amended Bill, 351 (sic-3951), would permit roadway billboards that are triangular, three-sided, providing that they comply with the sign size requirements as long as no angles of the signs exceed 90 degrees. Under the current law signs may be double-faced, back to back or v-shaped. The current law does not exempt or provide or prohibit triangular signs. This IDOT Amendment corrects that omission and allows for... will permit the three-sided sign. I would ask for a favorable roll call."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House pass House Bill 3951?' All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have

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all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk. There are two people still not voting. Clerk, take the record. On House Bill 3951 there are 115 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 24 of the Calendar appears House Bill 4352, Representative Black. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 4352, a Bill for an Act amending the Illinois Vehicle Code. Third Reading of this House Bill."

Speaker Hartke: "Representative Black."

Black: "Thank you very much, Mr. Speaker and Ladies and Gentlemen of the House. I had mentioned this idea some time ago to the Illinois Department of Transportation. I'm proud to carry a Bill that they have generated. It amends the Illinois Vehicle Code and it simply amends the requirements for an illuminated, rotary, oscillating or flashing yellow light on vehicles transporting implements of husbandry wider than eight feet, six inches. Currently, the law says the rotating light shall be on the cab or the roof of the cab of a truck hauling it. Whereas, these implements and specialty items have gotten somewhat bigger than we're used to, you can come up behind this truck and there's no way you can see this yellow light. It's hidden from your view. When you pass the truck, you look in your rear view mirror and say, oh, what a nice yellow light that was. I noticed driving back and forth, particularly in inclement weather, that you can come upon one of these flatbed trucks hauling a piece of equipment that extends out over the bed by several inches. And you can come upon them very quickly, you can't see them, and you pull out to pass and all of a sudden you realize that not only are you passing a truck,

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but that there may be part of a earthmoving equipment tread or a tire on a large tractor that sticks out an additional eight to 12 inches. And if you're not careful you could hit that, particularly in inclement weather. So all it does is to say that these oscillating lights, if they can't be seen because the equipment obscures the light that's currently mandated on the cab, they must have two of these rotating amber yellow lights on the rear of the trailer so that you can clearly discern that it is a wide load and act accordingly. I'll be glad to answer any questions you have."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House pass House Bill 4352?' All those in favor will signify by voting 'yes'; those opposed vote '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 House Bill 4352 there are 115 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 21 of the Calendar, on Third Reading appears House Bill 3117, Representative Silva. Excuse me. Take that out of the record. On page 21 of the Calendar, on Third Reading appears House Bill 1544, Representative Silva. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 1544, a Bill for an Act regarding medical care. Third Reading of this House Bill."

Speaker Hartke: "Representative Silva."

Silva: "House Bill 1544 creates a comprehensive primary medical care program. It essentially provides for a grant program under the Department of Human Services. And it's to establish and maintain medical services to medically and

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underserved populations, both in the inner city as well as in rural areas. I would urge an 'aye' vote."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Logan, Representative Turner."

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

Speaker Hartke: "The Sponsor will yield."

Turner, J.: "Thank you, Mr. Speaker. Representative, I realize we're on Third Reading, but this Bill has been amended, has it not?"

Silva: "Yes, it has."

Turner, J.: "All right. And from looking at..."

Silva: "I can barely hear you. I'm hard of hearing."

Turner, J.: "Oh, I'll try to talk louder. Thank you. From looking at the analysis, the Medical Society was originally against the Bill. Is that correct?"

Silva: "Yes. That with House Amendment #1 we were able to iron out any disagreements. And from my understanding there is no opposition to it."

Turner, J.: "Okay. So upon adoption of the Amendment, then the Medical Society lifted their objection to the measure. Is that correct, then?"

Silva: "As far as I know, yes."

Turner, J.: "Have you spoken to anyone from the Medical Society?"

Silva: "They have..."

Turner, J.: "When you say as far as you know, I'm just curious..."

Silva: "As far as I know this was an Amendment that was worked out with them."

Turner, J.: "Okay, thank you."

Speaker Hartke: "Further discussion? Seeing that no one is seeking recognition, Representative Silva to close."

Silva: "Again, I think this program is a good program. It covers

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people statewide. There are many people that are uninsured, whether they live in Chicago, Cook County, the suburbs or in rural Illinois, and I would urge an 'aye' vote."

Speaker Hartke: "The Chair would like to apologize to Representative Skinner. I did not see your light."

Skinner: "I know. You have these little calendars that sit on lights. I do have a question for the Sponsor."

Speaker Hartke: "State your question. She will respond."

Skinner: "Will these community health centers be supplying birth control drugs such as Norplant injections to women under... women and girls under 18 years of age?"

Silva: "Representative Skinner, I didn't ask them that. As you know that there are a lot of people who are ill, who have to... children included, who need services. The kinds of services that they need, for example, are preventive services. For example, when they are sick they need immunizations. They need well-child services. They need vaccines, screenings, pediatric, eye and ear, dental care screenings."

Skinner: "Representative, if you will keep your answer succinct, I will keep my questions to the point. Are these agencies going to be providing Title X birth control services to girls who are under 18 years of age?"

Silva: "As far as I know, I do not find that anywhere in this Bill."

Skinner: "It doesn't have to be in the Bill, Representative. These community centers already exist. Correct?"

Silva: "Pardon?"

Skinner: "These community centers already exist. Is that correct?"

Silva: "Some of them may exist, perhaps in medically underserved

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areas. It could mean that they would construct a new one."

Skinner: "Is McHenry County considered a medically underserved area by the definitions of this Bill?"

Silva: "I don't know. I guess, if you're asking me particularly about McHenry County, maybe you can tell me cause I'm not familiar with that area."

Skinner: "I didn't write the Bill, Representative, you wrote the Bill. Can you answer the question?"

Silva: "I'll get back to you, Representative Skinner."

Skinner: "Well, would you be willing to take it out of the record since you don't know the answer to..."

Silva: "No, I wouldn't."

Skinner: "... to about five of my questions so far? I didn't hear your answer, Representative."

Silva: "I didn't hear you. I said I was hard of hearing, I wasn't joking."

Skinner: "I'm sorry, Representative. You do not seem to be able represent... to answer some rather specific questions, which I think you should be able to answer. Would you be willing to take this out of the record and study the Bill a little bit longer and maybe bring it back later today? I'm sure the Democratic Speaker would be willing to accommodate you."

Silva: "No."

Speaker Hartke: "Further discussion?"

Skinner: "Thank you, Representative."

Silva: "You're welcome."

Speaker Hartke: "The Chair recognizes the Lady from Lake, Representative Moore."

Moore, A.: "Thank you, Mr. Speaker. Would the Sponsor yield?"

Speaker Hartke: "She indicates she will."

Moore, A.: "Representative, I'm a little confused because my

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analysis isn't clear to me. Perhaps you could help. It says that the Med. Society is opposed to this and then, also, my analysis says that the Illinois Refugee Group is also against it. Does the Amendment clarify their objections?"

Silva: "Yes, it does, Representative Moore. There..."

Moore, A.: "And so there's no longer any opposition to your Bill?"

Silva: "No, there isn't."

Moore, A.: "Thank you. And... but there was... Then the agreement to hold it on Second until there was an agreement has been taken care of also by the Amendment?"

Silva: "Correct."

Moore, A.: "Thank you very much."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Vermilion, Representative Black."

Black: "Mr. Speaker, I simply rise to support the legitimate request of any Member of this chamber. I don't think he made it in a harassing fashion. Representative Skinner has questions. Now, for the last several weeks people on both sides of the aisle have taken Bills out of the record so that staff can get together. It takes five or ten minutes. Representative Delgado took a Bill out of the record for two days, until legitimate questions can be answered. I don't think his request was out of order. The Lady refused to take it out of the record so that he could get questions answered. That's a right that any Member of this chamber has. And for another Member to just absolutely refuse does not add to the decorum of the chamber. And if she persists in that, I will urge any Member that is interested in the orderly transaction of business to vote 'present' on the Bill. We haven't had somebody refuse to take the Bill out

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of the record for a legitimate question in well over a year. It's not an unusual request. It may take five minutes or less. And if she refuses to do that, then I intend to vote 'present' on the Bill and I would ask all the other Members who would like an orderly way of transacting business to vote 'present'. That's an unusual answer to a very usual and reasonable request."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, Representative Morrow."

Morrow: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I agree with what Representative Black is saying, but they forget, several years ago when they were in the majority I made that same request to a Member on their side of the aisle and was denied that same request. So I believe in fairness and I agree with Representative Black, but I think it should be... they should be reminded that when they have the seat of power and we ask for that same... that same consideration, we weren't given that same consideration. I won't mention the Bill and I won't mention the person's name 'cause she's... they're still a Member of this General Assembly, but they denied that same request of me."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, or the Lady from Cook, Representative Mulligan."

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

Speaker Hartke: "She indicates she will."

Mulligan: "Representative, I wasn't in the committee that this came out of and I have a few questions. As you know I have worked with you before to try and establish some money particularly for immigrant-based health care centers. Would you tell me who is the Illinois Primary Health Care

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Association?"

Silva: "They are an association of clinics that are based throughout the State of Illinois who provide services to families."

Mulligan: "Yes."

Silva: "Okay. They provide services to families through health care services throughout the State of Illinois."

Mulligan: "And who are some of the members."

Silva: "Who are some of the members? I know in my own district Alivio Medical Center, Erie on the north side, the Genesis Center in Mt. Prospect. I don't know all of the members, but those are some of them."

Mulligan: "Genesis Center is in Des Plaines in Representative Krause's district. Also in a community that I represent. And I would personally rather call them and ask them if that's the particular association. But are you intending to do with this money what we've been trying to do to further or expand coverage for particularly immigrant services or clinics that are based such as Genesis that's run by Lutheran General, or what are you trying to... What's the goal?"

Silva: "The goal of this particular legislation is to cover people who, for whatever reason, do not have health care insurance. It can happen as a result of, for example, a divorce. A loss of a job. A loss of a job may also indicate a loss of benefit coverage to a family."

Mulligan: "Many of the clinics that are currently run, that are run by different organizations have different philosophies. First of all, they're backed usually by one organization such as, in my area, Genesis Clinic is backed by Lutheran General who puts up most of the money. And then the doctors there negotiate different sums of... for the people

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that have specialists. But they also have co-pay and we're not totally funding them. Also, you're asking for \$20 million, which is above the amount that we originally were seeking, and I don't see any matching appropriation for this. What do you hope to accomplish by passing this Bill with no appropriation when we already have a very large budget this year?"

Silva: "This is one of the great initiatives of the Conference of Women Legislators and you are one of the Members. I think that, again, some of it is subject to appropriations."

Mulligan: "Representative, I think the initiative of many of the women Legislators were already discussed and put out and we've already discussed them with the budgeteers of both our parties and with the Governor. I don't remember this particular initiative as being one of those. But on the other hand, \$20 million is a lot of money without a real definitive goal of where it's going to go and what you are going to do with it. And I don't find that my local groups are coming to me asking me to support your Bill, which Genesis is always right on top of these things. They always call me and say, would you support this? Can you do this for us? So I'm not quite sure where you're going with this and that's why I'm asking you these questions. And I'm not sure... I don't want... As I think Representative Skinner did, he asked you to take it out of the record. We don't want to not support it if it's got a good goal and these people are supporting it. I don't understand why originally the immigrant coalition was against it, the Medical Society was against it. Try to think who all... There were a number of groups out here that were against this and none of them have told me that they support this. But I think that it's important, if you think you want the

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money for this, which there is no matching appropriation for it, that it's negotiated a little bit rather than just passed out of here. You know that we've been working on this issue for awhile. It's an important issue. I don't think passing it just for the looks of it is what you're trying to accomplish here. And if it is, that's useless. So, I mean, I think what you need to do is really talk to the few of the people that have some concerns about it and then bring it back and see if we can't pass it. But the problem, I think, is the \$20 million and where it's going to go. I mean, I don't think we're intentionally trying to kill the Bill. I think some people have legitimate questions to figure out what you..."

Silva: "Representative Mulligan, I don't know where you got the \$20 million from."

Mulligan: "In our analysis it says that the Primary Health Care Association is touting this as a \$20 million program over five years to expand and/or improve the existing community-based primary medical care infrastructure serving the growing number of uninsured and underserved patients serving in Illinois. Now, I know the Genesis Clinic that you mentioned in my district has a variety of patients that come in from, some with insurance, some with no insurance, some do part of co-pay and... but the majority of them don't come in asking for a handout. They're very proud about that. So, I'm just curious where you're trying to go with this. And we've got a lot of questions and you don't seem to be answering them. And I think a lot of people would like to support you...."

Silva: "Well, you know, you said that the Med Society was against the Bill. And, in fact, the Amendment that we voted out of here a few days ago, it was done with their consent, with

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their concerns. You mentioned... you also mentioned the Coalition for Immigrant and Refugee Protection. They have not told me, and you know that I work very closely with them, that they were opposed to this Bill. In fact, some of the Members are on this Bill."

Mulligan: "I also have the Department of Public Health as against this Bill."

Silva: "I didn't... what did she..."

Speaker Hartke: "Representative Mulligan, are you... have you completed your questioning?"

Mulligan: "I'm trying very hard to have her answer the questions, so that we can support her. I've worked with Representative Silva on these particular issues. Perhaps if she did take it out of the record we could talk about it quietly and she could actually give me the answers. It doesn't seem that they're there. And I just want to make sure that we can support her rather than say we don't support her."

Speaker Hartke: "Well, go ahead, proceed with your questions then."

Mulligan: "I'll ask her once again, would she take the Bill out of the record for a little while? You..."

Silva: "I can't hear her."

Speaker Hartke: "Representative Silva, she has asked if you would like to, again, take the Bill out of the record?"

Mulligan: "I mean, your Leadership will call it again for you."

Silva: "Actually, I will take it out of the record for a little bit. But I wanted to clarify something with Representative Black. He specifically asked me if I wanted to do that. If you ask, then it's my prerogative to say, yes, I'm willing to do it or no, I'm willing not to do it, or I'm not willing to do that. So your comments about my refusal

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were inaccurate."

Speaker Hartke: "Your request is that you would like to take this Bill out of the record?"

Silva: "Yes."

Speaker Hartke: "Mr. Clerk, take the Bill out of the record. Representative Black."

Black: "Thank you very much, Mr. Speaker. My name was used in debate. I apologize. I'm a downstater, I am semantically challenged."

Speaker Hartke: "Okay. Ladies and Gentlemen, the Chair would like to make an announcement. We've had some trouble with the board, as you can see, this afternoon. They've located the problem, but in order to facilitate the correction of that board we're going to have to shut down and be at ease for five minutes. So, the House will stand at ease for five minutes. Please don't go away. The House will come to order. On page 24 of the Calendar, on Third Reading appears House Bill 4347, Representative Ryder. Clerk, read the Bill."

Clerk Rossi: "House Bill 4347, a Bill for an Act amending the Illinois Pension Code. Third Reading of this House Bill."

Speaker Hartke: "Representative Ryder."

Ryder: "Thank you, Mr. Speaker. The downstate Teachers Retirement System currently has 10 members on its board. This would increase the membership to 11 by adding an additional member annuitant elected by the annuitants of the system. That would bring the composition of the board to the Superintendent of Education who serves ex-officio. Four members, or four persons who are not members of the system, appointed by the Governor; four teachers representing those who pay into the system; and under this Bill we would then have 2 annuitants elected by the system."

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I want to thank Representative Lou Jones, who assisted in committee when I was unavailable to carry this. And I wish to thank the... in upwards of 22 people who have signed on as cosponsors of this Bill. I'd be happy to answer any questions."

Speaker Hartke: "Is there any... is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House pass House Bill 4347?' All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Representative Lyons is not voting. Clerk, take the record. On House Bill 4347 there are 115 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 22 of the Calendar, on Third Reading appears House Bill 3430, Representative Schoenberg. Mr. Clerk, read the Bill."

Clerk Rossi: "House..."

Speaker Hartke: "Mr. Clerk, take that Bill out of the record. On page 22 on the Calendar, on Third Reading appears House Bill 3485, Representative Scott. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 3485, a Bill for an Act amending the Abandoned Housing Rehabilitation Act. Third Reading of this House Bill."

Speaker Hartke: "Representative Scott."

Scott: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. House Bill 3485, actually, we debated a little bit yesterday when we did an Amendment. It amends the Abandoned Housing Rehabilitation Act, which is an Act that's been around for some time but is rarely used. And the purpose of the Act is to take housing that has been

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declared by a court to be a nuisance, that's been abandoned for at least a year and to have not-for-profit entities rehabilitate that housing, not tear it down, but rehabilitate it, so that it can be used for additional housing. It's not used, though, because there's a provision in the law that would require the property to also be tax delinquent in addition to being a nuisance and abandoned. And a lot of the property, I can speak from experience on this, a lot of the property that is abandoned and a nuisance and boarded up and vacant is not tax delinquent. And to bring to mind a case in Rockford, of four houses that are right across the street from a grade school, a grade school that's struggling in a transitional neighborhood that's made some great strides. But right across the street they have four houses that have been abandoned for 9, 10, 11 and 14 years, and there really is no alternative now for the city, which is a nonhome rule municipality, to try to affect any change on those particular properties. So what this would do, it would allow not-for-profit groups to actually take that particular property over with notice to the owner, rehabilitate the house. If the owner wanted to come back later, he could do so and claim those particular properties and reimburse the not-for-profit entity of their costs that were involved. I think this is a good Bill, not only for the rights it affords to the people who own the property, but also in that it will allow the municipalities and the not-for-profit entities to do a lot more in terms of trying to clean up their neighborhoods with some of these abandoned houses, which we know are havens for crime. They're havens for drug users. They're also insurance hazards and really do a lot to help bring down

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neighborhoods. So, I would appreciate your support on this Bill."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Cook, Representative Parke."

Parke: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Will the Sponsor yield?"

Scott: "Yes."

Speaker Hartke: "He indicates he will."

Parke: "In committee, when you presented this, we saw a lot of pictures of vacant buildings, residential residences around schools. This does apply to any particular location in a city that has this problem. It's not just near schools, is it?"

Scott: "Not just in the city. It would be anywhere."

Parke: "Okay. And no one really objected to this in committee. Is that right?"

Scott: "That's correct."

Parke: "And this initiative came out of the Urban Revitalization Committee hearings that we had around the State of Illinois?"

Scott: "Right. It came up twice that I can recall, Representative. And you were at all those, I believe. I remember it coming up in Rockford, obviously, but it also came up in Peoria where they were talking about the neighborhood groups and some of the tools that they needed to try to influence their neighborhoods."

Parke: "Okay. Mr. Speaker, to the Bill."

Speaker Hartke: "To the Bill."

Parke: "Representative Scott spent a lot of time and energy, what I believe was running a good committee to try to find solutions to trying to revitalize our inner cities. I think this is a tool that municipal governments and I

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believe county governments can use to help with urban blight. I'd like to... Did we put a sunset in this?"

Speaker Hartke: "Representative Scott, I think he interjected a question in the..."

Scott: "Thank you, that's fine."

Parke: "Did we put a..."

Scott: "No, the Act has been in place for... I... it came in as a Public Act during the 85th General Assembly. So it's been in place for at least, what would that be, 12 years. There isn't any sunset in the Act."

Parke: "Well, I would certainly like to see how this works."

Scott: "Those are the other two Bills. Those are the other two Bills."

Parke: "I'd like to... I think the Body should vote for this. I think we should put it into law. I would hope the Senate would concur and the Governor would sign it, to see if this is really a good tool and to make sure that we're not taking away individual property rights but that those rights are protected. But at the same time that we can revitalize the, specifically but not exclusively, inner city areas. So I rise in support of this legislation and ask the Body to consider it on merit."

Scott: "Thank you very much, Representative."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Vermilion, Representative Black."

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

Speaker Hartke: "He indicates he will."

Scott: "Yes."

Black: "Doug, I need to clarify..."

Scott: "Sure."

Black: "... just one thing that you and Representative Parke

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were talking about."

Scott: "Sure."

Black: "This only applies to incorporated areas within a municipality. Correct? A municipality, obviously, can't reach beyond its boundaries."

Scott: "Can I clarify it?"

Black: "Sure. Yeah."

Scott: "It's not specific to municipalities. It applies... the trigger here is the housing itself is abandoned."

Black: "Okay."

Scott: "And it's not just for municipalities to use. It's written... The way the legislation has been written for... since it came on 12 years ago, it's written for a not-for-profit entity to be able to take it over."

Black: "Okay. All right."

Scott: "Under the definition, that could include..."

Black: "Okay."

Scott: "... a governmental unit, but it's not specifically limited to them."

Black: "Now... This is the Bill we talked about the other day."

Scott: "Right."

Black: "I remember."

Scott: "Exactly."

Black: "Because I have a township who has requested that I file legislation because they have some abandoned properties and they found out that townships do not have any condemnation authority. And so I may need your help on that Bill. Maybe we can carry four Bills next year or something. I don't know."

Scott: "I'd be glad to help you with that. But where this could be useful..."

Black: "Right."

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Scott: " ... the township, if they actually wanted to, could work with a not-for-profit group, a housing group and try to work on rehabilitating..."

Black: "Okay."

Scott: " ... some of these properties. So you're getting at a little bit different issue..."

Black: "Yeah."

Scott: " ... that municipalities and counties have that townships don't and I'd be glad to help you with that."

Black: "Yeah, and the question that the township had, I think these were fire-damaged properties that were probably beyond rehabilitation. They wanted to condemn..."

Scott: "Right."

Black: " ... clear the lot and found that they didn't have any such authority. And it's something, maybe when the three Bill limit sunsets, we can address and I'll work with you on that. Thank you very much."

Scott: "I'd be glad to help you on that."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Winnebago, Representative Winters."

Winters: "Thank you, Mr. Speaker. Doug, in developing this Bill and hearing the testimony before our committee, there were some questions raised about the property rights issue."

Scott: "Right."

Winters: "If I could... maybe... I won't try to put words in your mouth, but the whole argument of property rights, the landlord who owns this house does have a period of time, I believe it's two years after the house has started to be rehabilitated, that he can come back and reimburse that non-for-profit for their improvements in his property and then it becomes his without any restrictions, again."

Scott: "Right."

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Winters: "This can be seen, I think, as a Bill that simply tries to move the landlord off dead center."

Scott: "Right."

Winters: "He wants to do something. Maybe the previous tenants that he had in there got mad at him when he chose to evict them for nonpayment and ripped the entire insides of the apartment apart. But it's not really condemnable. So as long as he pays his property taxes, keeps the first floor boarded up and the roof on, every window on the second floor can be broken out, the plumbing can be rotten, but he doesn't have to... there's no way that the municipality can tear down the house. What we're doing then, with this Bill, is to make him reach a decision; either he pays for the upgrading or he loses the property. Is that... is that a fair way to put the Bill?"

Scott: "Yeah, that's correct. And I think in answer to that and obviously we're sensitive to that because we have landlords who are constituents, too, and we hear of the problems that they have with people moving out and trashing their places. And so we're sensitive to that. This is much better in terms of a property rights law than demolition is, for example. Because here, not only do you get notice up front, first of all you could contest that the house is actually a nuisance. So if you're a landlord and you're able to beat that back in court at a threshold level, then this law, you know, not-for-profit is not going to be able to move in anyway. But what it then does is, we're not tearing the house down, the house is being rehabilitated. And for that landlord, and I think you described it very well, who maybe needs a little push to get off a dead center, to rehab the house, somebody else is doing that. And if the landlord comes back within two years after the

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date the order's entered, as long as he reimburses that not-for-profit for whatever they've put into it, plus interest, he gets the house back. He can claim it. So much better than almost anything else in this whole area of how we deal with abandoned or dilapidated or substandard houses. This one, I think, provides more rights for property owners than virtually any of those other laws."

Winters: "He also does have the right if he has not been able to rent it out, he doesn't have the capital to bring it up to a living standard and the not-for-profit moves in under the provisions of this Bill and starts to rehabilitate it, he could also go to them and say, 'Look, I know the building isn't really worth a lot, but there's a nice lot here. Maybe it's worth \$5 or 10 thousand and he can enter negotiations to sell what remainder of value he has..."

Scott: "Right."

Winters: " ... in that property. He hasn't lost that value until we're several years down the road."

Scott: "Exactly."

Winters: "Okay."

Scott: "Exactly."

Winters: "I just wanted to put those... to clarify them."

Scott: "No, I'm glad you did."

Winters: "I think it is a good Bill and will support it."

Scott: "Thanks, Dave."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, Representative Giles."

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

Speaker Hartke: "He indicates he will."

Giles: " ... for a couple questions? Representative, first of all, I think I want to commend you on this Bill."

Scott: "Thank you."

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Giles: "Any time we address properties that are dilapi... that are abandoned properties that are a nuisance, I think, is a noble thing to do. But I have a couple questions and I'm sorry I wasn't in on any of your committees..."

Scott: "No, that's okay."

Giles: "... to hear about the testimony. But I have some concerns. You stated that the not-for-profit organization would have the opportunity to obtain some of these properties. Is there a process in which a not-for-profit organization that will go through to get these properties to rehab 'em?"

Scott: "Yeah."

Giles: "Is there a process."

Scott: "Sure."

Giles: "Could... I mean..."

Scott: "You want me to go through it, briefly?"

Giles: "Could you go through it... be briefly..."

Scott: "Absolutely. The first thing they would have to do is petition the court. They would have to actually file a case and petition a court that they'd be allowed to, in essence, take over this property for the purposes of rehabilitating that. They have to provide a plan to the court of rehabbing the property. The court has to approve that plan. The court would also have to find that the property is abandoned, which means nobody has been in there for a period of at least one year and that it's a nuisance. And that's defined, also, in the statute. So at that point then, they could move in and start rehabilitating the property. And then we go back to what Representative Winters was talking about. Once it gets to the point where there's an order entered for the... by the judge that they can go ahead and do that, any time from that period forward

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for two years the owner has the ability to come back, reclaim the property, if he pays back the organization for whatever they put into it."

Giles: "Also, would you say that one of the criterias for an organization to be able to obtain that property, that they are credit-worthy or have the means or resources to be able to rehab? Because..."

Scott: "Sure."

Giles: "... what I am finding, what I know has happened in previous programs, that the organization, they try to obtain... some organizations try to obtain a mass of property and then they find themselves not able to..."

Scott: "Right."

Giles: "... go forth and rehab the properties and put it back on the market and make that home or the property a viable entity within the community. So..."

Scott: "Yeah, I've heard of that being a problem in some places. I really don't have experience with that. The groups that work in Rockford, for example, are all pretty decent. When they take property over, they go after it and they've got the resources to get it done. But I understand that that's the case. But what would happen here is, if they didn't have the resources and couldn't show the court that they had the ability to do it, the court's not going to grant the order in the first place. And then if they started it, and if for whatever reason couldn't finish it or couldn't do it, then the owner always has the ability to come back in and challenge it and say, 'Look, give me my property back 'cause these guys aren't doing it either.'"

Giles: "Just one last thing."

Scott: "Sure."

Giles: "Also, maybe this may not apply to this legislation. I

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know in my district in my community in which the process is that property that's on the demolition list..."

Scott: "Right."

Giles: " ... how is this legislation affected by property that is on demolition lists and on what we call 'fast track'..."

Scott: "Right."

Giles: " ... in the City of Chicago?"

Scott: "Well, if there is an outstanding action that the city is taking against that, then I don't think those are the same candidates that you've got here. 'Cause what's happening with... with demolition, whether it's 'fast track' in Chicago or slow track where I represent cause we don't have that, what ends up happening is you're going after the properties that are structurally unsound, that are a danger, they are in danger of some kind of collapse or falling in. That's not really the properties we're talking about here. We're talking about, more about the property that for whatever reason was boarded up and just left and abandoned."

Giles: "Thank you. To the Bill, Mr. Speaker. I think this is an excellent Bill. We need more initiatives like this. I know this is a major problem I know in my community, and any type of legislation that will address this issue I am supportive of. And I urge all of our colleagues to help us on this issue. Thank you."

Scott: "Thank you, Representative."

Speaker Hartke: "Further discussion? Seeing no one is seeking recognition, Representative Scott to close."

Scott: "I want to thank you. I appreciate all the comments and all the questions. I'd just point out one more thing. We talk about property owners here. There are a lot of property owners in these neighborhoods where vacant and

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abandoned and boarded up nuisance homes are there, and that hurts those property owners, too. There's a gentleman in Rockford who's really taken on himself at great financial risk to himself and his company to rehabilitate a lot of properties. And because his... one of his rehab properties is located across the street from one of the abandoned properties, State Farm cancelled him. Canceled his insurance. So here's a guy who's investing a lot into one of these neighborhoods to try to make it a better place to live and try to provide some decent housing, and he's thwarted in his efforts because of this house, as well. I think this adequately, more than adequately, addresses the property owners' rights and I think it's great for neighborhoods. And I appreciate all the comments and ask for an 'aye' vote."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 3485?' All those in favor will signify by voting 'yes'; those opposed vote '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 House Bill 3485 there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 23 on the Calendar, on Third Reading appears House Bill 4029, Representative O'Connor. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 4029, a Bill for an Act amending the School Code. Third Reading of this House Bill."

Speaker Hartke: "Representative O'Connor."

O'Connor: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. House Bill 4029 amends the School Aid... the School Code. Basically what it provides is, is that there is..."

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on October 15th of every year the schools, under the jurisdiction of the State Board of Education, are required to issue a school report card. We are adding the requirement to the school report card that school safety plans and school safety audits be added to this report card so that parents, teachers, and administrators are in a position to know whether there is in fact, then, a report card... I should say there is a school plan for safety as part of the school administration. This legislation has no opposition. It is supported by the Illinois Parent/Teachers Association. It passed out of the committee with no... with unanimous support and I'd be happy to answer any questions."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Cook, Representative Parke."

Parke: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Will the Sponsor yield?"

Speaker Hartke: "He indicates he will."

Parke: "Just a quick question. Is there any additional costs to the school districts to update these report cards? I mean, I don't like the standardized report card in the first place, but would these be considered just an unfunded mandate that they would have to change it or spend money to do this?"

O'Connor: "There is no additional cost. It will be part of the existing report card. I asked this question of the State Board of Education and they informed me that other than compiling additional information, which they have to otherwise send to the state board, that in fact, there's no cost at all."

Parke: "Thank you."

Speaker Hartke: "Further discussion? Representative O'Connor to

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close."

O'Connor: "I'd appreciate an 'aye' vote."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 4029?' All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On House Bill 4029 there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On Third Reading appears House Bill 3111, Representative Durkin. Clerk, read the Bill."

Clerk Rossi: "House Bill 3111, a Bill for an Act amending the Sexually Violent Persons Commitment Act. Third Reading of this House Bill."

Speaker Hartke: "Representative."

Durkin: "Thank you very much, Mr. Speaker. House Bill 3111 is not a new idea down here. This has been around for about four years. A matter of fact, we passed this about two... three years ago out when we passed the Sexually Violent Person Act. What this does is states that the Guardianship and Advocacy Council (sic-Commission) will take over the defense of these individuals. This Bill is supported as a very strong... a support from the Illinois Public Defenders Association, Metro Counties Association, Illinois State Bar, Chicago Bar Association, DeKalb County, Cook County, DuPage County, Lake County, St. Clair County. I'm ready to answer any questions."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Vermilion, Representative Black."

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

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Speaker Hartke: "He indicates he will."

Black: "Representative, there's been a lot of communication on this Bill between one of the state agencies, Guardianship and Advocacy, and others. Where's the Governor's Office on the Bill? I've heard..."

Durkin: "Neutral."

Black: "I've heard 'yes'. I've heard 'no'. I've heard 'neutral'. I've heard whatever."

Durkin: "They are neutral."

Black: "What's the cost of the Bill?"

Durkin: "We anticipate that we're asking for an appropriation of \$1 million for this year."

Black: "How many attorneys are on staff at the Illinois Guardianship and Advocacy Commission?"

Durkin: "Presently, 15."

Black: "Fifteen attorneys to cover the entire state?"

Durkin: "Are in the legal assistance section of GAC."

Black: "How many public defenders are there?"

Durkin: "Well, we got 102 counties..."

Black: "This would cover all counties, wouldn't it?"

Durkin: "Yes."

Black: "What kind of civil matters are currently handled by public defenders?"

Durkin: "By statute, they are not allowed to handle civil matters."

Black: "All right. But, factually, are not public defenders handling the 66% of the Mental Health Code violations in Kane County, over 50% of those Health Code matters in Peoria, and 100% of the Mental Health Code matters in Randolph County?"

Durkin: "Well, that's three counties out of 102 and I'm not sure how they're handling 'em in those counties."

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Black: "Well..."

Durkin: "Whether it's mental health..."

Black: "Yeah."

Durkin: "It is not... they are, by statute, they are not allowed to do civil matters. That is what this Act, the Sexually Violent Persons Act, by the United State Supreme Court, Hendricks v. Kansas, declared that this, while it may sound like, in some aspects, may be criminal, but this is strictly a civil commitment."

Black: "If the cost of the program is \$4 million to IGAC, has an appropriation been made for that?"

Durkin: "Not at this point. It is presently being negotiated with Steve Schnorf. And I've made this representation, in committee, that if there will be no funding for this by the Governor's Office in the budget and if this Bill happens... would be able to pass out of here and the Senate, I will write the veto message, if there's no money that comes from the Governor."

Black: "Can you write veto messages?"

Durkin: "I've done pretty good with the pen, Bill. I don't know if you've ever seen me..."

Black: "I had one last month..."

Durkin: "I'm better with the pen than I am speaking, I know that."

Black: "I had one last year I should have contacted you on. The... Approximately, how much money would a county spend on public defenders? I mean, obviously, Cook would be a large amount of money, but a typical county of a hundred thousand population, what would the county spend on public defenders? And how much of that, if any, is reimbursed by the state?"

Durkin: "Public defenders are not reimbursed..."

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Black: "So we don't assume any of that cost?"

Durkin: "This strictly... it comes out of... No. That's strictly the county's..."

Black: "Okay."

Durkin: "... county. That comes out of their budget. This is not as... public defenders are not funded by the state."

Black: "Would a county of a hundred thousand population, typical budget for a public defender's office be a quarter of a million? Is that too high or too low?"

Durkin: "I have no gauge for that. I really couldn't tell you, Bill."

Black: "Obviously, the Illinois Guardianship and Advocacy Commission is and no surprise to you, I mean, they're in steadfast opposition to this Bill. And in my tenure here, this seems to me, now you correct me if I'm wrong, with your legal background, but this seems to me to be putting a task on the Illinois Guardianship and Advocacy Commission that in my working with them over the years, this seems to be somewhat of a different kind of task that we normally would ask them to do. And I'm just curious as to why all of a sudden we would ask them to do this."

Durkin: "Well, presently, there was little notion that when this Bill went through, it was a unfunded mandate. We're great at doing that, but this was a..."

Black: "Oh, sure..."

Durkin: "... tremendous unfunded mandate on the counties and... and I believe and I agree with the counties, that, you know, let's..."

Black: "Yeah."

Durkin: "... we created this. We should be able to defend it. But I'll tell you a little bit about it, if you give me one second. Okay. Presently, right now in the statute,

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Guardianship and Advocacy, under the legal advocacy service, which is the attorneys end of the... of GAC, their mission statements say, 'The legal advocacy service shall make available legal counsel to eligible persons in judicial proceedings arising out of the Mental Health Code, including, but not limited to admission, civil commitment, legal competency and discharge.' This is a civil commitment. Right now, if you look in the budget, when it talks about Guardianship and Advocacy Council (sic-Commission), not only in their... talks about the responsibilities, but there also is a note that in October of 1998, the legal assistance... legal advocacy service... legal advocacy service of the Guardianship and Advocacy Council (sic-Commission) assume responsibility for representing inmates at the Dixon Correctional Center, were eligible for release, but deemed by the correctional center to warrant involuntary civil commitment. So, this is a natural fit under our statutes and also, with our agencies for this representation."

Black: "Well, if it's a natural fit, I guess I'm having difficulty understanding why Guardianship and Advocacy is so steadfastly opposed to it."

Durkin: "Well, sometimes, you know, that some people don't want change. We make policy and we tell agencies that we need for them to follow through with policies. They don't want... I have my own personal reasons, but I think they just feel that this should be more the role of the public defender. I'm not gonna state, right now, what I think re... I can talk to you off the record what I think the reasons are."

Black: "All right. Now, where... the attorneys for Guardianship and Advocacy, I assume, are stationed, domiciled, live,

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whatever the case may be, probably in either Springfield or Chicago. Correct? I mean, they don't have them all over the state, do they?"

Durkin: "Well, they have people, like I said before, that are presently working out of Dixon. They can go in different parts of the state."

Black: "Well, that's my point."

Durkin: "I could..."

Black: "If there's a sexually violent person who needs to be represented in Hardin County, I assume, someone from Springfield would travel to Hardin County, and then the very next day, may be asked... someone may be asked to carry or take a trial in McHenry County and then next week, perhaps, in Adams County. And I assume that most of the attorneys on the payroll of Guardianship and Advocacy would, in fact, be out of the Springfield office or the Chicago office."

Durkin: "Exactly."

Black: "All right."

Durkin: "For the same reason we have Attorney General which has an office in Chicago and Springfield."

Black: "Well, right. But, I mean, public defenders, obviously, are in each of the affected counties."

Durkin: "Correct. Public defenders, by statute should not be doing this and only just re... And I'll tell you another reason why PDs shouldn't be doing this is, 'cause two months ago the First Appellate Court District, in a decision, held that public defenders now can be personally liable for malpractice. Public defenders deal with drug cases and burglaries. There may be a very small percentage of people in those offices who's ever dealt with a case that dealt with psychiatric testimony. So, right now, your

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public defenders, the exposure they have for these kinds of cases, I think, is unreasonable. They should not be subjected to it. Guardianship and Advocacy deals with these types of issues on a daily basis. That is their job by statute and that's what their attorneys are trained for."

Black: "All right. One last question, because I'm not sure that I heard you. At some point in the process you indicated, I think, in committee. I wasn't in committee so I'm relying on notes and third party hearsay. It's a legal term I picked up..."

Durkin: "Objection."

Black: "Huh?"

Durkin: "It's inadmissible."

Black: "Oh, okay."

Durkin: "I'll cut you off right now."

Black: "But it was... it's alleged that you said you would not move this Bill until the Governor's Office made it very clear that either funding would be allocated, or in case it would not be allocated, then the Bill would simply die a natural death."

Durkin: "I will... that is my commitment."

Black: "Okay. All right."

Durkin: "I'm almost sure that this Bill, if the Governor's Office this year states that we are not gonna fund it and if the Bill, let's say, makes it out of the House, I will tell the Senate Sponsor to not move the Bill. And if he does then I will tell the Governor to veto it myself. 'Cause I'm not gonna... if there's no money attached with this, I'm not gonna have the..."

Black: "All right."

Durkin: "I don't want any consideration by the Governor's Office

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or anybody else."

Black: "And that still remains your commitment?"

Durkin: "Absolutely, want it very much."

Black: "Thank you very much."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Whiteside, Representative Mitchell."

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

Speaker Hartke: "He indicates he'll yield."

Mitchell, J.: "Thank you. Representative Durkin, my understanding now is that public defenders, at this point, do take these cases or the majority of these cases, at this time."

Durkin: "They are handling some of the cases, some are appointed counsel. Court is appointing some counsel to do it. Public defenders are not... they are appointing 'em... they're doing it under a... over their objections. They are being appointed by the court and they can't control that."

Mitchell, J.: "Do you say there's approximately 50 cases a year, statewide?"

Durkin: "That's what they... correct, 50 cases a year."

Mitchell, J.: "Where are the majority of these cases located? Are they... are they just all over the place or are they located..."

Durkin: "I mean, obviously, most of the cases I see..."

Mitchell, J.: "... in Cook and collar counties?"

Durkin: "... you'll probably find in the Cook or the collar counties."

Mitchell, J.: "Okay. So, my understanding would be that... that you are... your feeling is that it's an undue burden on the public defenders in Cook and the collar counties, more so, than the rest of the state?"

Durkin: "No, I'm saying is that by statute the public defenders

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are not required, they're not supposed to be doing any... they're not supposed to. Sometimes they do, but they're doing it and that's, you know, it's not... it's outside the letter of the law."

Mitchell, J.: "With this..."

Durkin: "That's their problem. But the fact is, public defenders, this is a civil hearing. They should not be doing these hearings."

Mitchell, J.: "With the 15 attorneys on... that are now under the Guardianship, don't you think they're gonna be spread... stretched a little thin with what they have to do now and an additional 50 cases a year?"

Durkin: "Well, I tell you what, when I was a state's attorney in Cook County, I worked in a courtroom with three guys. We would handle 250 cases in our courtroom over... on a yearly basis. We would probably dispose or try cases left and right. I don't believe that it's gonna be a problem for attorneys to make their required... to handle the cases that will be coming in. More money's gonna be provided. That's my agreement, as I said before, which is gonna allow them to hire more attorneys. The county still is gonna be saddled with the cost of the expert fees."

Mitchell, J.: "Well, my understanding, is that the Governor's staff has repeatedly said that they have no intention of funding this situation and have no interest in this particular expansion or change, as you call it, with the Guardianship."

Durkin: "Not true. I just spoke with... the Governor's Office is neutral on the Bill. Steve Schnorf has indicated that he has... he's gonna continue working on this issue about the funding, that was as of about 15 minutes ago. If you... Gentleman from the Metro Counties..."

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Mitchell, J.: "That may be it. However, you know, his entire staff ought to get together, because that's certainly not the indication that we're getting as Members, at this point. I'm a little concerned that we're gonna stretch the Guardianship very, very thin with what they have to do already. And even though, your commitment is to try to kill the Bill, once it leaves the House you no longer are in control of that Bill. The Senate can do as they wish and the Governor can do as they wish. You know, I would rather see it stay on Second until you get a firm commitment from the Governor's Office to either say 'yea' or 'nay' on... on the funding."

Durkin: "Well, this is a Bill which is a... comes out of the county governments, Metro Counties and Cook. And I have no problems... I don't see... foresee any problems that if there... the big 'no' comes out of the Governor's Office at some point, later that they're gonna pull the Bill. And I... you know, we go by people's words down here, Jerry. And I think that you should... shouldn't have any problems relying upon my word."

Mitchell, J.: "Well, Jim wouldn't this just as much... wouldn't it make just as much sense to have gone after a appropriation to public defenders kind of a charge-back situation for them if they, indeed, are doing this now and have some expertise simply because they have been doing it and they have some experience in it, to allow them to recoup the cost at this time, rather than to increase the size of an agency that has no expertise in this area, at this time?"

Durkin: "Well, as I told you before, this is a civil hearing. Our United States Supreme Court and our Illinois Supreme Court, our law, they both stated that while there are some

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things which sound criminal, but these are issues dealing with a speedy trial, just not complicated if you know how to count, you can do that. So this is not what... when they... when they talk that this is criminal. But the fact is it's a civil hearing. They should not be doing this type of rep... they should not be representing people under these scenarios. That's what the statute states. The Public Defenders' Act is very clear about the things they can and cannot do. Civil hearings and civil proceedings, they're prohibited from doing. They are liable for malpractice which is another problem. Guardianship and Advocacy, this is a... these proceedings deal with psychiatric testimony and representing people with mental disabilities. That is what we have declared in the legislative intent when we passed this Bill three years ago."

Mitchell, J.: "But..."

Durkin: "And that is why it is a civil hearing. If it wasn't, it would be double jeopardy."

Mitchell, J.: "It's interesting to me if the courts have decreed that they ought not be doing this, it obviously's not a 'shall not do it', but a recommendation that maybe they shouldn't be doing it. I don't know of too many areas where we can ignore court cases or case law and not severe... not have some kind of severe penalties. At this... in this situation I think there may be a strong indication that they ought not be doing it, but I don't know that it's illegal, at this point. Thank you, Mr. Speaker."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Grundy, Representative O'Brien."

O'Brien: "Mr. Speaker, will the Sponsor yield?"

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Speaker Hartke: "He indicates he will."

O'Brien: "Representative Durkin, the individuals that you're talking about have been convicted of felony offenses under the Criminal Code, is that correct?"

Durkin: "These people that's... I can't under the SVP Act, I don't th... I think it's just a... we are committing individuals who pose a threat. They are sexually... a sexual threat to the community is a... 'cause of the mental condition they have that they feel they are... "

O'Brien: "Right."

Durkin: "Yeah. And now, whether or not there is a... I can't... I'm not sure if under the SVP Act, which are actually... states that they must be convicted of criminal sexual assault or abuse or something of that nature."

O'Brien: "Well, when the SVP... when that Act kicks in, it's because an individual's being released from the Illinois Department of Corrections, is that correct?"

Durkin: "Yes."

O'Brien: "And do those people ever lose their status as a criminal offender in this state?"

Durkin: "Well, you know, once a felon, always a felon, I guess. That's... that's the law, right now. I mean, if you're under the Department of Corrections, I... I don't know too many people who are misdemeanor defendants, but it would be felons and felons would have that rap sheet and they would have that criminal background, until there's action by the board of re... unless the Governor pardons or makes some type of clemency or some type of executive action which will remove that conviction."

O'Brien: "All right. And the point that I'm trying to make in the questions that I've asked you, is that the individuals that are subject to the Sexually Violent Persons Act for

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which commitment may be sought after they finish their term with the Department of Corrections, you become subject to that because you are a criminal offender. So even though this is a civil commitment proceeding, it deals with, initially, their status as a criminal offender which is where we get the right then to proceed to commit them beyond the term of their imprisonment with the Illinois Department of Corrections. And I... because of that... well, I agree wholeheartedly, that we passed a law and we are requiring counties to pay and to cover a burden in terms of covering the defense of these individuals that we shouldn't have done without the money. I don't know that just transferring that responsibility to the Guardianship and Advocacy is absolutely appropriate. In my experience, nine times out of ten, these individuals were represented by a public defender and there were psychiatric evaluations done usually at the time they were being prosecuted for the criminal offense. And it's my belief that those attorneys should be appointed again because they would have the most expertise. And I think there's a real concern that if we transfer this to Guardianship and Advocacy that those attorneys may not have access to all of the information that was once part of the criminal file and can be very helpful, in fact, in either proceeding or in helping that individual be released. And I think, that it is most appropriately placed, because I think that the court can appoint any attorney it wants to, whether or not they're a public defender or a private attorney or if there's do pri... if they do public defender work on a part-time basis, that they can appoint whoever they want. And I think the fact of the matter is what we're seeking is a mechanism of funding this mandate that we've placed upon

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counties. And I understand where you're coming from that you think that it should be something that should be removed, that burden. But what I think we should do and what I want to impress upon my colleagues here is that we should look for a source of funding, such as we've done with capital crimes, where counties can tap into that and help pay criminal defense attorneys who are or a defense attorney who is appointed to represent these individuals in these commitment proceedings, not to transfer this burden to an agency that while you may... while they do have the authority to represent people in commitment hearings, I don't think the intent was ever that they were supposed to be defending these sort of hybrid individuals. And I would hope that my colleagues would seriously consider voting 'no' on this measure, but asking for a fund to be set up and money to be appropriated for each individual county who becomes subject to the need to have one of these people defended where they can access some funds for a local attorney. Otherwise, we have to almost set up an entire new agency. We have to hire a bunch of more state employees, have to pay pension benefits, health care benefits to them, rather than just having a fund where somebody can be hired on a contractual basis and I think that's more appropriate and more fiscally responsible, as well. And so I would urge my colleagues, with all respect to you, Representative Durkin, at this time, to vote 'no'."

Durkin: "Is there a question in there somewhere?"

Speaker Hartke: "Further..."

O'Brien: "There might have been at the beginning."

Durkin: "All right, I'm a little hard of hearing."

Speaker Hartke: "Further discussion? There are five people still seeking recognition and this Bill is on Short Debate."

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Please put your remarks pointed. The Chair recognizes the Lady from DuPage, Representative Cowlshaw."

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

Speaker Hartke: "Proceed. He indicates he'll yield."

Cowlshaw: "Thank you very much. Representative Durkin, how familiar are you with the Guardianship and Advocacy Commission?"

Durkin: "Other than when I started with this Bill this year, I'm not on the board. I can say that."

Cowlshaw: "I can recall some of my colleagues, not only those who are still here, but some who are no longer serving here who have had very serious doubts about the efficiency, the competence, and certain other aspects of the operations of the Guardianship and Advocacy Commission. That concerns me because it seems to me that what we are dealing with in this Bill is a very sensitive subject of very considerable importance, not only to that individual for whom we are seeking legal counsel, whether the current or some other form of legal counsel. It's also very, very important to the public for the whole subject of public safety. Do you have any reassurance from the Commission, that it has any way of going about hiring or in some way, acquiring the services of people to perform this function, who would really know from experience, knowledge, and so forth how to do this right?"

Durkin: "This is a civil commitment hearing, Representative. That is what they do. They represent individuals who are subject to civil commitment hearings. That is the bottom line of what this Bill does. This is what they're trained at. They're experts at this. Funding will allow them to hire attorneys, as we do with any other agency. That is a

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simple... I don't believe that that is an obstacle."

Cowlshaw: "I'm sure you did not mean to imply that in a civil hearing the competence of the attorney is not nearly as important as in other kinds of hearings. I'm sure that was not your intent, Representative. Thank you for answering my question."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Cook, Representative Currie."

Currie: "Thank you, Speaker and Members of the House. As I understand it, neither the public defenders nor their counties, nor the Guardianship and Advocacy Commission want to take responsibility for this activity. And it occurs to me that we have an Attorney General who, as far as I can tell, has lots of time and lots of resources on his hands and I wonder whether the Sponsor had any consultation with that office. They apparently are prepared to take on all Freedom of Information. Surely, they would have had time to take on this, as well."

Durkin: "Well, they're the ones that are filing petitions. The Attorney General is the petitioner, in these cases, so it would be kind of interesting if they were petitioner and also defending at the same time."

Currie: "Except that the earlier Bill we had today, put them in exactly that same conflictual situation. I believe they were able to provide a 'Chinese Wall' to separate the petitioner from the Attorney General acting as lawyer to the state. So maybe you'd want to go and consult with that agency to see whether they might use their resources better in this arena than another. I do agree with the Sponsor, that Guardianship and Advocacy is the more appropriate home, if we can't have the Attorney General to work on these issues. But I certainly share Guardianship and

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Advocacy's concern about resources. You have said on this House Floor, that you do not want to move the Bill in the Senate if the resources are not available. My question to you really is a simple one. When you say resources, do you mean some or do you mean truly adequate resources to enable GAC to do the job?"

Durkin: "Absolutely."

Currie: "'Cause it's certainly possible..."

Durkin: "No, I don't plan on throwing..."

Currie: " ... to spend \$2.50 and say, 'I, Jim Durkin, met my commitment.' But... so my... it's a simple, straightforward question..."

Durkin: "No, I want the resources, not some resources and I will correct that. I want the proper and adequate resources would be made available for Guardianship to take on this responsibility."

Currie: "And do you believe that you would be able to agree with Guardianship and Advocacy what that adequate level would be?"

Durkin: "Of what... Could you say that again?"

Currie: "Would you be able to reach agreement with the Guardianship and Advocacy Commission as to what constitutes an adequate resource?"

Durkin: "I'm sure that that's something that can be negotiated easily. I..."

Currie: "So, you're making a firm commitment not only that you'll write the veto message, but you will ask to table this Bill if the resources are not available."

Durkin: "If adequate resources are not gonna be made available, then I will say, let's not move this Bill. 'Cause this is... I... it's been..."

Currie: "All right. Well, again I would commend you the prospect

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of discussing the whole issue with the AG who's lookin' for work and leave both the GAC and the public defenders out of the equation. But if that doesn't work, I'll hold you to your commitment that the resources will be there or the Bill will not move. And with that understanding, I will support your Bill."

Durkin: "Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Cook, Representative Erwin."

Erwin: "Just briefly, Speaker. I, too, rise in support of this Bill. I was on Jud-II (sic-Judiciary II-Criminal Law) when we did the original Bill that created this whole new sphere, if you will, for a post-incarceration determination. It seems to me that while I appreciate the concern of Guardianship and Advocacy, there appeared to be little concern about the cost to counties when we did it originally. So I mean, I think as we're working through this whole new system, it is a state responsibility to provide for this. Guardianship and Advocacy appears to be the most appropriate and I think, we all join the Sponsor in trying to insure that there are adequate finances. But let's remember, there was very little concern as to whether or not there was adequate resources in the counties when we just shifted the responsibility to them. So, I would urge your support for this and also urge your support to increase the funding, so that it can be adequately staffed."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Winnebago, Mr. Scott."

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

Speaker Hartke: "He will."

Scott: "Representative Durkin, in listening to the debate here,

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one question has kept coming through my mind. If it's a problem of resources, at the public defenders' level now, and it's gonna be a problem of resources with the Guardianship and Advocacy Commission later on, why don't we just find the resources and appropriate it to the public defenders' offices, so that they can continue to do this, much like we do the stipend system for state's attorneys with civil commitments?"

Durkin: "Public defenders should not be representing people on these cases. This is a civil commitment hearing by the statute and what that states in the Illinois Revised Statutes said they are not to do civil hearings."

Scott: "Okay. I understand why you've gotta say that."

Durkin: "And I will say that there's a resource issue, but I also... there is a fundamental issue and I think that they should not be engaging in these proceedings, 'cause this is out of the range of what their authority is under the statute."

Scott: "Well, I'm gonna completely disagree with you on that point, but and I'll go through that here for a minute. I understand why we've gotta say it's a civil commitment hearing because of the double jeopardy issues and we talked about that before and you made that point earlier. I perfectly well understand that. But let's look at this for a second. In these commitment hearings, right to not self-incriminate, right? There's a Fifth Amendment right written into the statute to not self-incriminate, right?"

Durkin: "Right."

Scott: "That's not part of the Civil Code, right? That's a criminal thing, right?"

Durkin: "As I said, the United States Supreme Court and our Illinois Supreme Court... I'll tell ya, I was part of that,

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who I said, you know what, why don't we put a few extra protections in here about the Fifth Amendment issue, a speedy trial issue. These are not difficult concepts for any lawyer to... but the fact is, it is a civil commitment hearing. Whether or not it looks, you know..."

Scott: "Now, we're gonna get into the walkin' and like a duck and all that kind of stuff, here, so."

Durkin: "... you know, they say anything that walks like a duck, but the fact is, our Supreme Court and the United States Supreme Court say this is civil commitment hearing."

Scott: "Right to counsel, right? In this Act, yes or no questions, I guess."

Durkin: "Correct."

Scott: "Right to a jury trial. Jury verdict has to be unanimous."

Durkin: "As you do in civil cases, as well. You have a right to a jury."

Scott: "Oh, no. No there... no, they've got some civil cases that don't need a unanimous jury."

Durkin: "More than... more civil juries than there are bench juries and I think, you know that, Doug."

Scott: "Okay. And what Section is this in, by the way? Section 725 or Chapter 725 of the statutes, where do we find that? What generally is that?"

Durkin: "I think you probably know the answer to your question so... yeah."

Scott: "Yeah. Okay. And this arises, going back to what Representative O'Brien said, which I think is a great point. The only time you get somebody who's comin' up under this is because they've been convicted of a crime, a sexually violent or a crime sexual in nature, and their sentence with the Department of Corrections is done and

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they may be, continuing to be ruled to be sexually dangerous under this particular Act. They don't get here unless it's in conjunction with their sentence ending for a criminal sexual related crime, right? I mean, that's the only way they get into this SVP to start with."

Durkin: "You know, I don't have the SVP statute in front of me, but I don't know if it's... if there is... has to be an actual sexual assault or a sexual offense which is gonna deem this person or may during their period of incarceration for... unrelated they become a sexual threat to the community."

Scott: "Well, because otherwise, why wouldn't we just go through regular civil commitment hearings? I mean, why wouldn't we just go... if... it's not related to a crime, if it's not related to a sexual crime..."

Durkin: "Well, I didn't say that and exactly was sure if it. They..."

Scott: "Right."

Durkin: "More likely than not, they have been convicted of some type of child molestation or assault."

Scott: "Because otherwise why wouldn't we just go through regular civil commitment hearings, then? If this person is a danger to themselves or others, why wouldn't we just go through a civil commitment hearing?"

Durkin: "Well, 'cause we made an Act... when we did this four years ago, Doug, we decided that there..."

Scott: "We've... right. We made an Act that's..."

Durkin: "That's one of the arguments that I had. 'Cause that's when Representative Dart, one of my cosponsors, I asked the same question and..."

Scott: "And it's a good law. But all my point is, Jim, is that this is not a regular civil commitment hearing. You've

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added in, by your own and it's... they're good things, but you've added into this Act or we've added into this Act, extra protections that are found in criminal law. And the people who... this is a logical continuation of representing a person at a criminal trial and that's my only point. That the law belongs... the duties belong with the people who are knowledgeable about criminal law, those are the public defenders. If it's a resource issue, let's find the resources to get it to the public defenders, like we do to the state's attorneys in other cases and not shuttle the whole thing off to a group of attorneys who don't do this kind of work and who are... and who aren't versed in this kind of law and don't want the added responsibility to do that."

Durkin: "Well, I appreciate your concern, but I still believe that, you know, we did throw some... in the Sexually Violent Persons Act and I think, Representative Dart can concur that, I put some extra protections in there and I agree that in order for it... we believe if we gave greater protections it would... when it became time for our Supreme Court to scrutinize that Act it would... we think it would add credence that it, you know, that the court would find it was constitutional, because there are extra protections in there for these individuals. But these additions that we put in are very simple concepts which any lawyer can learn which you are... which... it doesn't take a great deal of thought to learn how to count up to 120 days in a Speedy Trial Act. I means, it's... or well, do you want a jury or not, or a right to a jury? I don't think you need special training to figure that aspect out. You know..."

Scott: "So, real estate closing, criminal... you know, capital felony... you know, traffic ticket... all about the same

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and that any lawyer can handle any of that. I'm not sure you'd agree with that."

Durkin: "Well, I think that these are concepts which..."

Scott: "I mean, do you want people prosecuting a capital case who don't do criminal law, for the most part? I mean, no, that's what we've got a State's Attorneys Office for."

Durkin: "Well, that's why we have training and they will... they get training in Guardianship and Advocacy..."

Scott: "Right."

Durkin: "... 'cause these are testimonies... these are hearings which basically have mo... much of it comes down to psychiatric testimony and dealing with those expert testimony... that type of... that's a major portion of the case. That's something they do right now so I..."

Scott: "But it also deals with the Act and it deals with their prior criminal acts. It deals with admissibility of evidence of prior criminal acts. A lot of stuff that has to do directly with what criminal lawyers do and with what their lawyers did, probably, when they represented them at the earlier stage of that when they went to the Department of Corrections."

Durkin: "Well, the rules of evidence really aren't that much different in civil and criminal cases. They're very similar concepts about hearsay and about different, you know, laying foundations for different types of exhibits in evidence. So, that is both civil and criminal. It's not just something which, you know, civil attorneys do not have training or have never experienced. You know they do that, Doug. You know that they have... they know that certain rules of evidence and procedure that's... so I'm not quite sure if I agree with you on that point."

Scott: "Well, just real briefly, to the Bill and I appreciate,

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Representative. But what we've got here... we've got a continuation of the criminal procedure and to say that rules like discovery and other things are the same in one procedure and another, I mean, that's really not the case at all. There's a whole extra body of laws that are there. But we've added into this things that make it directly a continuation of the criminal process. It belongs with the public defenders' offices. I know they don't want to do it. I know they're stretched out, but this is a matter of resources. Let's, at least, keep it with the people who understand this area of the law, who deal with this area of the law, and not create a resource and a substantive problem by giving it to lawyers who don't do this kind of work and don't want the extra duty. I urge a 'no' vote."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Sangamon County, Representative Klingler."

Klingler: "Thank you, Mr. Speaker. I rise with some real concerns about this law and the significant expansion of scope of the duties of the Commission. I think we have to remember that the Illinois Guardianship and Advocacy Commission was created in 1979 to safeguard the rights of persons with disabilities, by providing guardianship services and legal representation of those with mental illness and developmental disabilities. Last year, this Commission represented 7,500 clients in hearings and appeals related to proceedings under the Mental Health and Developmental Disabilities Code for involuntary admission or involuntary treatment. I know that the interest groups that are very... or closely work with persons with developmental disabilities or mental illness and the elderly, are very concerned that adding this work, these duties, to the Commission would confuse their historic

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mission and would hinder... would hurt the efforts that they do. I believe that this work is too controversial for the Guardianship and Advocacy Commission in which primarily deals in civil law. I would urge a 'no' vote on this Bill and would hope that funding would go to the public defenders to carry on this important work."

Speaker Hartke: "Representative Durkin to close. Oh, excuse me. Representative Flowers, do you have... are you seeking recognition?"

Flowers: "Sort of, Mr. Speaker. I have a few questions I would like to ask the Sponsor, please. Can you please bear with me for a minute because I had a little meeting up front and I didn't get the opportunity to listen to the whole debate of the Bill. And let me also state my conflict here, because I am one of the commissioners on this Commission. So what is the responsibility of this Commission?"

Durkin: "The Guardianship and Advocacy Commission serves as a guardian of last resort for adults with disabilities providing legal and money management service. The Commission represents persons with disabilities at commitment hearings and makes counsel available to enforce their rights as guaranteed by the Mental Health and Developmental... under the Mental Health Code."

Flowers: "The men..."

Durkin: "The Guardianship and Advocacy has assumed responsibility of representing inmates at the Dixon Correctional Center who are eligible for, at least, but deemed by the Correctional Center to warrant involuntary civil commitment."

Flowers: "Thank you. Thank you. Another question is, did we pass legislation here that stated that these men that are incarcerated cannot be set free until they've proven

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themselves to be so called 'healed'? Did we pass some type of legislation like that, that would not allow these men to just walk out of jail who's been committed of a sexually violent crime?"

Durkin: "No. That's not true."

Flowers: "Okay. The type of people that this agency would have to take care of, would it be men that have been released from prison that has been convicted of a sexually violent crime?"

Durkin: "It's the Department of Corrections that makes the decision that this person does pose a potential sexual threat to the community and they make that recommendation. The petition is filed through the Attorney General Office. They are not released from Corrections... when they're upon... when they're getting close to release, there is a determination made of certain individuals, who they've been monitoring, rather or not they pose this threat. And if they think that they are, do pose a threat, a screening process goes through with the Attorney General Office and they approve whether or not to file a petition for this commitment, for this si... commitment under the Sexually Violent Person Act. So they're still in... within custody of the Department of Corrections."

Flowers: "They're still in custody of the Department of Corrections, but have they... the time that has been sentenced, that they've been sentenced to, have they done their time that they've been sentenced?"

Durkin: "That's correct and that is... the question, which a lot of people have asked is, is this a... that's why it's not a criminal proceeding, 'cause the Supreme Court said it is a civil proceeding. If it was criminal, it would be... it would violate the double jeopardy protections under our

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Constitution."

Flowers: "So, because it is a civil proceeding and not a criminal procedure, would the agency of Guardianship, would it be their responsibility because this person had some type of mental illness, is it their responsibility to give the counseling for this particular person who happened to have served time for a criminal activity?"

Durkin: "They would be committed and they would be there for a... until a period in which the department feels that they are cured of whatever this mental disease which causes them to act in a, you know, sexually violent manner. But it would be counseling and treatment, yes."

Flowers: "It would be counsel... and that would be what the... the department would be doing?"

Durkin: "Correct."

Flowers: "Okay. Thank you, Sir."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, Representative Dart."

Dart: "Thank you, Mr. Speaker. I'll be very brief and to the point. This was a Bill that I worked on for quite a few years before we finally made it law, a couple years back. And Representative Durkin had worked with me on... and help me put this together. What the Bill is that he's been talking about has been well explained. It's an integral part of what we're doing. This is a civil proceeding. That is the reason why the Guardianship and Advocacy Commission is being asked to take on this role. These are very, very dangerous people that we're talking about here and I think, everybody in this room doesn't need to hear a speech from me about how dangerous some of these folks are. But the whole procedure was put together so that we can keep them off the streets. It is done through a civil

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proceeding, a civil hearing, because they are posing a danger to themselves or to society. The need for the proper defense is obvious and the best place to do that is in the Guardianship and Advocacy Commission. The different counties have all asked us, in one form or another, to work on doing this because of the undue burden that was put on them in the first place and we agreed to do that when we initially pushed the Bill forward. And this was something that was an ongoing discussion over the last three years since we put this Bill first on the books. As I say, it's an integral part of what we're trying to do here. It's a very important aspect of insuring that these people that we know are so dangerous that when they get back on the streets they'll freely admit, if you ask them, that they will attack people again, and usually it's children. We need to have this on the books so that we can insure that these people, who are being civilly committed for their own good for their mental health reasons, are kept there for the appropriate time until they are better and can be released upon the streets. And for that reason I urge an 'aye' vote."

Speaker Hartke: "Further discussion? Seeing that nobody is seeking recognition, Representative Durkin to close."

Durkin: "Thank you very much, Mr. Speaker. I appreciate the lively debate we had on this Bill. As I said before, this is a Bill which is strongly supported by the Illinois State's Attorney Association, Public Defenders' Association, Metro Counties, Illinois State Bar, Chicago Bar, DeKalb County, Cook County, DuPage County, Lake County and St. Clair County. This is a... I appreciate the concerns that individuals have, but I think, it's important, in these types of Acts, that we have centralized

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representation. And I think Guardianship and Advocacy is the proper fit. This is what they do. They represent individuals who are subject to involuntary commitments and we make... we, as policymakers have the right to tell them that this is probably... we can expand their roles. I think this is good policy. And I think, as I said before, if the money's not attached to it, then I will insure that the Bill will die and I will ask that it either not be moved through the Senate or if it does and the money's not there, I'll ask the Governor to veto the Bill. But I would a... I would appreciate your support on this Bill as it stands. Thank you."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 3111?' All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Six people are not voting. Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this issue, there are 75 Members voting 'yes', 36 Members voting 'no', and 2 Members voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 20 of the Calendar, appears House Bill 709, Representative Cowlshaw. Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 709, a Bill for an Act to amend the Public Aid Code. Third Reading of this House Bill."

Speaker Hartke: "Representative Cowlshaw."

Cowlshaw: "Thank you very much, Mr. Speaker, Ladies and Gentlemen of the House. House Bill 709, in its present form limits public funding of abortions to the extent that payment is required by the Federal Law. In other words, it puts the State Law of Illinois in accord with the federal

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provisions. For those circumstances presently, that the Federal Government will provide matching funds, those circumstances are: when the life of the mother is at stake, or when the pregnancy is a result of incest or rape. In any other circumstances the Federal Government will not participate in those payments. This Bill restricts our, that is, the state's participation in that funding to those situations that the Federal Government has acknowledged as something that it will help to fund. This Bill also is a question about whose jurisdiction it is to make the laws that apply to all of the people of the State of Illinois. In December of 1994, a Circuit Court Judge in Cook County struck down the then existing, and longtime standing law of this state, which at that time had simply said that the only public funding for abortion that the state was willing to accommodate would be for the life of the mother. Since then, of course, that has changed because of the Hyde Amendment. At any rate, this one judge decided at that time, that what was being done was not sufficient and not in keeping with what he believed, and so he made a ruling that has since been regarded by the Department of Public Aid as something that requires them to pay 100% of these costs in nearly all circumstances, and certainly that we are not limited to only those things that are partially subsidized by the Federal Government. When Attorney General Jim Ryan became Attorney General, and looked at this case, he remarked that he thought this may be the first time in the history of Illinois that one Circuit Court Judge made the laws for the entire state. Mr. Speaker, I submit to you that the making of laws is the responsibility of the Illinois General Assembly and I would suggest to you that the Members of this Assembly ought to

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resist very strongly, the efforts on the part of the judiciary to make laws in our behalf. That is our job and our responsibility. Consequently, I think that aspect of this legislation is important. I believe that it is important that we know our jurisdiction and that we protect it. I would be glad to answer any questions."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Cook, Representative McAuliffe."

McAuliffe: "Thank you, Mr. Speaker. A point of personal privilege?"

Speaker Hartke: "State your point."

McAuliffe: "I'd like the Body to welcome the Clerk of the Circuit Court of Cook County, Aurelia Pucinski."

Speaker Hartke: "Welcome to the House. Further discussion? The Chair recognizes the Lady from Cook, Representative Feigenholtz."

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

Speaker Hartke: "She indicates she will."

Feigenholtz: "Representative Cowlshaw, I have a couple of questions for you. Maybe you can explain to me... I'm trying to envision a pregnant woman going into a hospital, needing an abortion and I see that you have eliminated the need for protection of a woman's health in this Bill, is that correct?"

Cowlshaw: "I'm sorry, I didn't quite understand your question. It's very difficult to hear in this chamber right now."

Feigenholtz: "Could you explain to Members of this Body the difference between the protection of a woman's health, and the protection of a woman's life? Tell me the difference. I'm not real clear on that."

Cowlshaw: "I would suppose that since the Circuit Judge in Cook County who declared that we should use public funding for

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abortions in any situation regarding a woman's health, never bothered to define what a woman's health is. That, I'm not certain that I can define that either, but I would suppose that as opposed to the situation where a life of that potential mother is at stake, that the difference would simply be whether or not it was death, it was likely to produce death because of that, whatever was the health situation or whether it was not..."

Feigenholtz: "Do you think there's a reason that that judge didn't define that?"

Cowlshaw: "I would suppose because he was a liberal."

Feigenholtz: "Well, that's an interesting answer. I think I have some different concerns, and it's really about a woman and her doctor. And it's about the varying degrees and the varying situations that women are in, at a moment when they are in a hospital and with their physician. And I don't know if you're conservative or liberal or pragmatic, I'm not in the position to want to label people here, Representative, and I'm sure you're not either, I know that you're way above that. But I think the point I'm trying to make here is, these are the kinds of decisions that are made incrementally and on the spot by physicians, between them and their patients. Would you agree with that? That sometimes these are very, very private, personal decisions? House Bill 709 on its... what Amendment it this, is this #20, #16? I mean, how many times have we gone over this here, Representative? You are... I'm not sure what you're trying to do here, because we're talking here about, are we talking about money? Are we talking about money in this Bill? Are we talking about health? Are we talking about life? What are we talking about?"

Cowlshaw: "We are talking about what circumstances the Federal

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and State Governments will provide public funding for abortions for women on Medicaid. Presently, the Federal Government will provide matching funds under the circumstances I outlined in the opening remarks."

Feigenholtz: "Okay, but what you didn't outline for the people in this room, is the difference between a woman's life and a woman's health. And I think that those... the difference and the similarity and what the difference is between those two things is very relevant to how people vote on this Bill. I will bet you that there are a lot of people in this room who would be very concerned about whether or not we should publicly fund an abortion and what defines health. I think that this..."

Cowlshaw: "Representative, I really would like to try to answer your question, but I would suppose that..."

Feigenholtz: "I think you should... maybe what you should do, Representative, since it's the thing we're trying to do today, is in order to get a good answer for this, take it out of the record and provide the people in this Body with the right answer."

Cowlshaw: "Representative, I would suppose that what we have to depend upon is the judgement of that doctor. It is usually..."

Feigenholtz: "The judgement of the doctor."

Cowlshaw: "That is correct. It is up to the doctor to determine whether that woman's life is at stake or whether there is a health issue, that is not threatening to produce that woman's death. And I would suppose that has to be a..."

Feigenholtz: "Is that included in your Bill, Representative? Does it say 'the judgement of the doctor' to make the determination between life and health?"

Cowlshaw: "No, it never says that."

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Feigenholtz: "So, are we leaving this up to the judiciary after a woman is dead? We're going to go to judiciary and we're going to say, 'Should this doctor'... should we... who... when do we determine whether or not we're going to pay for this procedure or not?'"

Cowlshaw: "Well, Representative, I would suppose that anybody can sue anybody under any circumstances. But in very general terms, it seems to me that we have always entrusted doctors to tell us the degree to which our health, our safety, our continued life may be threatened under certain circumstances. I would suppose that is a medical judgement and not one that a person who is not a physician, licensed to practice medicine in all of its branches, would be able to make."

Feigenholtz: "Ladies and Gentlemen of the House, to the Bill."

Speaker Hartke: "To the Bill."

Feigenholtz: "To the Bill. I have a fact sheet here that says that this whole big fuss over House Bill 709 is about 22 procedures. So, why don't we just talk about what this Bill is all about, Representative? This is a Bill about poor women. This is a Bill that once again is going to end up, tied up in the court system. It's going to be challenged. I guarantee you it will lose. And I encourage a 'no' vote on this Bill. Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Cook, Representative Erwin."

Erwin: "Thank you, Speaker. I, too, rise in strong opposition to House Bill 709. I think many of us remember the debate we had on some of the Amendments. But I think we ought to remember that in the General Assembly's determination, not something that I happen to agree with, but as a matter of public policy in this state, we do not allow public funding

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for abortions. Medicaid does not cover it. The only exceptions that exist, operationally right now, have come as a result of the Federal Government mandating to us that we would lose our Medicaid funding if we did not provide this option for victims of rape and incest. So we were forced to do that by the Federal Government or lose our Medicaid funding. Secondly, the courts did determine that the application of our ban, because again, I think it's important. Somehow in this discussion, we sort of believe that we have Medicaid funding of abortion in this state. We do not. I was a Sponsor of the Bill to permit it, so believe me, we do not allow it. In the 22 cases where there was a determination by a physician that there was a medical necessity to preserve the life of a woman, and remember, frequently a mother who has other children to care for, that that procedure needed to be performed to preserve her life. It was a decision made on medical necessity between a physician and a patient. Ladies and Gentlemen, we do not allow public funding of abortion. To further impose this limitation, as has been pointed out, is going to be ruled again unconstitutional under the Illinois Constitution, as it was before. And it just seems to me to be a denial of the fact that our already existing ban has these few exceptions that allow women to continue being mothers to their other children, at a time when they have very complicated health situations. I urge a strong 'no' vote. This is not... for those of you who are not pro-choice, this is not going to at the end of the day, advance that cause at all, because we will be right back to where we were in terms of the litigation. So it will cost far more to litigate this than it would cost to provide decent health care to poor women. Please, just on common

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sense, vote 'no'."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Cook, Representative Mulligan."

Mulligan: "Thank you, Mr. Speaker. I think the previous speakers have made eloquent arguments on why we should not pass this Bill. It's truly unfortunate that we seem to single out poor women, when women around this state who have resources are able to do this. The fact that medical technology has brought us forward so that it's really hard for a doctor to say, 'Oh, this will definitely be the end of a woman's life', I mean, hopefully, they hope that's not the case. But as the previous speaker stated, many times it's a woman with other children at home, many times she has conditions such as diabetes, heart disease, cancer, things that would really be hampering her to continue the pregnancy to term. The other instance may be a fetus that will not be brought to term in any kind of viable condition, and she should have that option to end that pregnancy. If she had money, she'd have the resources to be able to do this, but we've singled out poor women, and we've decided that poor women should be penalized because they're poor. I think it's really unfair. And some of the Members on both sides of the aisle sometimes wonder why we have these Bills. They continue to talk, they've said, 'Oh, it's an issue of politics.' They take the actual life of the woman out of this and what her everyday problems may be, and even though they could afford to, or make that decision in their own homes if they had to, they choose to penalize poor women. Then there's other Members of this Body that don't understand what this is about. They think it's about the fact that the Sponsor may be looking to pass a Bill that would make a court case once again move forward and

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possibly change the law totally. I firmly believe that is part of the issue whether this Representative, who is sponsoring the Bill, understands that or not. But I think part of the goals behind this is to move forward with a court case that changes abortion for everyone. It's unfortunate that we do not seem to understand this, it's a very simple fact. The court ruled in Illinois that this was the proper thing to do. We are challenging a court case. We are playing with women's lives. We are paying with poor women's lives. I don't know how, in anyone's heart, they can honestly sit here and say that if the situation were in their family where they have resources, they would not want to be able to make that decision themselves, but they're taking away from poor women. I urge a 'no' vote on this. Kill this Bill. Let's get rid of it and let's get on with the business of the state."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentlemen from Cook, Representative Schoenberg."

Schoenberg: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. First of all, Mr. Speaker, should this Bill receive the requisite number of votes, I'd like to ask for a verification."

Speaker Hartke: "So noted."

Schoenberg: "Secondly, I'd like to address a question to the Sponsor. Will she yield?"

Speaker Hartke: "She will yield."

Schoenberg: "Representative Cowlshaw, I want to follow up on something that Representative Mulligan alluded to just moments ago, and that is the December, 1994 ruling of Doe v. Wright, in which a Cook County Judge explicitly stated that the Illinois Department of Public Aid had to provide funding for, out of medical necessity, for an abortion for

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the plaintiff class, the statewide class of Illinois women and their physicians. That in turn, gave the decision impact, in effect, statewide. The case specifically was one where a 16-year-old rape victim sought Medicaid funding for an abortion because continuing her pregnancy would have put her at risk for any pregnancy-induced hypertension, which may have led to heart, liver or kidney damage. My question, Representative, is given the clear mandate of the court in Doe v. Wright, isn't this Bill an open invitation for the courts to immediately block this measure, should it become law?"

Cowlshaw: "Well, Representative, since I am neither an attorney, nor a judge, I really cannot answer that question very..."

Schoenberg: "I fall into neither of those categories, too, but I think we both have a healthy understanding of the issues at hand..."

Cowlshaw: "But I was going to finish answering your question."

Schoenberg: "... and we obviously have to deal with the legal implications of it."

Cowlshaw: "I was going to finish trying to answer your question. However, I guess the only thing that we can look at is the precedent that has already occurred with this kind of a challenge, although the provisions of that law that was being challenged were slightly different than this. Back in 1979, the Illinois Supreme Court reviewed a law which provided that the state would publicly fund abortions for women on Medicaid only on the condition that the woman's life was in danger, it did not include incest and rape. That was, of course, prior to the Federal Hyde Amendment. And in June of 1980, the court upheld the Illinois law of paying only for the life of the mother. That is the only precedent in court that I know of, Sir, there may be

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others. That is the only one that I know of that sets any sort of precedent for what might happen, if this Bill becomes the law and is challenged in the courts."

Schoenberg: "In my question, I pointed to, as a preface to my question, Representative, I pointed to how the court in Cook County determined that women and their physicians were, indeed, the plaintiff class, that therefore making certain that this had statewide implications, that it was not limited to Cook County. So are you saying that you challenge the validity of the judge's 1994 decision in the state's largest jurisdiction to have that decision apply statewide?"

Cowlshaw: "I think that, since I am neither an attorney nor a judge, just a mother, I would probably have to tell you that I think that if there had been an appropriate challenge, so that that particular provision could have gone all the way to the Illinois Supreme Court, we might be in an altogether different situation than we are today and House Bill 709 might have entirely different contents. But because neither the Governor at that time, nor the Attorney General at that time, saw fit to cause that Circuit Court Judge's ruling to be reviewed by the Supreme Court, which by the way, both the Governor and the Attorney General have the right to do that. They have the right to take that case immediately to the Supreme Court. Neither of them chose to have the Supreme Court review this decision."

Schoenberg: "And why is that? Why is that?"

Cowlshaw: "Both of them were pro-choice."

Schoenberg: "But isn't the Attorney General charged with defending the rights of the state, whether or not he or she actually holds those views personally? I wasn't here at that time, but there, but the fact of the matter is it

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didn't happen."

Cowlshaw: "Well, and the current Attorney General wasn't the Attorney General at that time either, so it's kind of hard to say what might have happened. But it didn't and that's all history."

Schoenberg: "Well, that's precisely my point. The opportunity existed according to our existing judicial system. The opportunity existed to directly challenge the premise that this Cook County Judge's ruling should apply statewide. No one in the entire state sought to avail themselves of that opportunity at that time. So this, in my view, not only appears to do an end-run around that decision, to change perhaps the facts on the ground as you articulate them, but it also appears to be an open invitation for us, for a judge to immediately... you know somebody's going to go and immediately seek an injunction to block this if it becomes law. This is just holding the door open for any pro-choice organization, or caring individual to go ahead and do so. So why are we doing this?"

Cowlshaw: "Representative, I would like to point out to you that is your opinion, it is not necessarily mine."

Schoenberg: "I think my, in all due respect, I think my opinion... it may not carry the majority view in my own household, perhaps it may carry the majority view here, however. To the Bill, for the reason cited previously, and because, as the previous speakers have articulated, this impacts the lives of 22 people in this state. Perhaps it's 21 people too many. Perhaps we need to provide an exemption for a protected class of a protected industry, where people are lawyered up and lobbied up on all sides, maybe then we can get some action that'll put a halt to this effort once and for all. But because it's only 22

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poor women, because it's only 22 indigent women, and the implications of this extend far beyond that, that's why we continue to proceed with this again today. I urge a strong 'no' vote for this and again, I've asked for a verification, Mr. Speaker, and I hope you accommodate my request."

Speaker Hartke: "Chair recognizes the Gentleman from Cook, Representative Parke."

Parke: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, will the Sponsor yield?"

Speaker Hartke: "Sponsor indicates she'll yield."

Parke: "Thank you. Representative, did earlier did you say that there was a State Supreme Court ruling on this? Wasn't that a U.S. Supreme Court ruling, not a state? In other words, the United States Supreme Court made that ruling, not the State of Illinois Supreme Court? In fact, I believe that that is correct."

Cowlshaw: "I beg your pardon, Representative, and I thank you very much for pointing that out to me, I am sorry. The statement I made just a... probably less than a minute ago, was incorrect. That was not the Illinois Supreme Court, it was the U.S. Supreme Court that upheld the Illinois law in a decision handed down in June, 1980. The law that in Illinois, at that time, provided paying only for abortions that were based on the life of the mother. I'm sorry, Representative, and thank you, it wasn't the Illinois Supreme Court, it was the U.S. Supreme Court."

Parke: "Thank you, which is the highest law of the land. In addition, Representative, didn't the Federal Government through this ruling, state that abortion could be provided, well, not 'could', 'shall' be provided for reason of rape, incest and to preserve the life of a mother?"

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Cowlshaw: "Thank you, Representative. Yes, as I mentioned earlier, back in 1980 the Federal Law was that there would be some federal funding available in situations that involved a threat to the life of the mother. But then, with the adoption of the Hyde Amendment a few years ago, that Amendment then also included situations that are the result of incest or rape. Yes, that is correct."

Parke: "And isn't it also, that if we include any other provisions that we could lose federal matching funds?"

Cowlshaw: "I don't know quite how to answer that question because of the way it is phrased."

Parke: "Okay."

Cowlshaw: "We would not qualify for any federal matching funds for anything other than, what the Federal Government already provides for, so that anything beyond life of the mother, incest and rape, as I have mentioned, anything beyond that, the Federal Government will not provide any funding. If we were to cover that, we would have to do it 100% with the funds of the state with no federal help."

Parke: "Thank you, Representative. Ladies and Gentlemen, Mr. Speaker, to the Bill."

Speaker Hartke: "To the Bill."

Parke: "I rise in support of this legislation. In survey after survey that I have seen, the majority of the citizens of Illinois believe that state funds should not be used for abortions. Now, the Federal Government has already stated that if the life of the mother's involved, if it's rape, it's incest, that you shall provide funds for abortion, if that's the request. This is a good public policy Bill. I would ask the majority of the Members to support Representative Cowlshaw's Bill. It is time for us to adhere to the will of the United States Supreme Court and

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make sure that this kind of legislation's in place in Illinois."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Cook, Representative Currie."

Currie: "Thank you, Speaker and Members of the House. I rise in opposition to this Bill. I'm not sure I know what the difference between 'preserving the health' of the mother and 'preserving the life' of the mother is. I do believe that the people believe that it is worthwhile paying for an abortion for a woman whose life is at risk with public funds, rather than consign her to die when she carries the pregnancy to term. The difficulty I have is that in order for that exemption to apply, a doctor has to be pretty certain that she's likely to end up in death if she carries the pregnancy to term. I don't know whether that means 99% certain, 92% certain. I am here to suggest that without a health exemption, there will be doctors who do believe that there is a risk at the end of the day that the diabetes will turn to gangrene, that the kidney problem will result in kidney failure, but they can't be certain of that. And so that exemption does not apply. A doctor who certifies the health exemption is certifying a serious risk to that woman over time and it seems to me important for us as the caretakers of our clients on public aid, to make sure they get what their doctors believe to be required medical care. And when it comes to cost could we just say one word about that? I suspect some in this chamber believe we're talking about breaking the state bank. The last year, for which I have numbers, says that there were 22 women on public aid who had their abortions funded because of the health exemption that is current law. At \$629 per, the total cost was \$13,838, \$13,838 to guarantee that these women would

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survive and be able to bring up the children they already have, might guarantee that a woman whose pregnancy was debilitating would be able to become pregnant and bear a child another, newer day. It's been pointed out that this law that the House Bill 709 seeks to change, was one imposed upon us by the courts. I would urge Members of this Assembly that we do have a responsibility to make sensible public policy. It is only sensible, compassionate, caring public policy to say to it that Public Aid dollars can pay for abortions for women who face serious health problems if they do not have access to that legitimate medical service. The only fair and reasonable and cost-effective vote, since think what it will cost Public Aid, if the diabetes turns to gangrene, the only way to save your taxpayers money, is to vote 'no' on House Bill 709."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, Representative Lang."

Lang: "Thank you, Mr. Speaker, Ladies and Gentlemen. I rise in strong opposition to House Bill 709 for a number of reasons. First, the Bill itself is, in my view, unconstitutionally vague. Representative Currie just discussed the issue of when is it sure enough that the doctor declares that the life of the mother is at risk? You could put it in percentages. You could turn it the other way, too. What if the doctor certifies that the person's life is at risk and then the person doesn't die? Who's at risk? Is the doctor going to get some sort of complaint... against the doctor? Is someone going to get sued for the money? I think the issue of the health of the mother is also a critical one. Are we saying that the lives of poor women are important, but their health is not?"

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Are we saying that if they come close to death, but do not die, we're not going to help them, we're just going to let them be sick, we're just going to take them away from their other family members? I certainly think that's inappropriate. And I think, more to the point, this Bill and others like it keep coming back before us time after time, year after year, in an effort by anti-choice folks on this floor to continue to bring up this issue over and over and over again. And I think the real effort here is not even about the Bill. The real effort is to divide us from each other. The real effort is to deflect us from real public policy changes in the State of Illinois that really make some sense for the State of Illinois. Ladies and Gentlemen, many of you as I have, have been here for many years. We've debated Bills that are, what you would call pro-choice, and we've debated Bills like this one that you would call anti-choice. Ladies and Gentlemen, Illinois is a very diverse state. A lot of us disagree on these issues. We have deeply felt views on these issues. But Ladies and Gentlemen, it's apparent after all these years, and if we stay here another 20 years and debate these issues, that we're never going to permanently resolve the divide that exists on this House Floor on the issues of abortion. So why don't we stop debating these as if we're going to someday resolve the abortion issue on this House Floor? Why don't we deal with education the way some of you want to deal with abortion? Why don't we deal with health care the way some of you want to deal with abortion? Why don't we deal with the environment and the problems of working men and women, and sending our kids to college, and all of the things that really matter in the everyday lives of citizens in the State of Illinois, rather than

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continuing year by year, day by day to debate issues that we will never resolve on the floor of this House? This Bill is a cynical attempt to divide. It's an attempt to continue to throw a wedge into real debate on this House Floor, on real issues that we can resolve. I would recommend a 'no' vote."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Cook, Representative Jones."

Jones, L.: "Thank you, Mr. Speaker. I rise in... I don't know, this really gets to me. I mean, I don't understand how somebody can, excuse me, can have... put this kind of legislation in without even thinking. And I really don't think that the Representative have taken a look at what she has here and it says... I'm looking at 'in the opinion of the physician'. I'd like to give her an example. I'd like to give her an example. Here you got a young lady that gets pregnant, she has insurance, she's working. She's from a pretty, probably a middle-class family and she goes to the doctor and the doctor says, 'You are pregnant but, you have diabetes, or it looks like you might have some sort of diabetes later on, or you have hypertension, but we're going to monitor that for you. We're going to monitor that because you can come back to this doctor because this doctor is your physician and you can come back to this doctor and we're going to monitor you through your entire pregnancy to make sure nothing goes wrong with you.' Excuse me, can I have your attention? On the other hand, you have this poor person, be they black, white or indifferent, this poor person who goes to a prenatal clinic, who will not have the same doctor every time she goes, who says, 'You are two and a half, or a month or six weeks pregnant, but you know, you got hypertension and you

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have, you might have diabetes, or you might have anything that can occur when that child... when you get seven months pregnant.' And don't tell me that woman's life would not be at risk, because she does not have the prenatal care that that other lady has because of her poor living conditions, her lack of physical care while she's carrying that baby. So, something is wrong here. What you're doing, is like the former speaker says, 'It's a Bill against poor women.' They don't have to be black in the ghetto, they don't have to be purple, green, poor women that cannot afford the same type of care that another lady can. And I think it's unconscionable that you don't even think about things and you look at them at one side. I urge a 'no' vote on this because this is definitely a Bill against poor, poor women."

Speaker Hartke: "Further discussion? Seeing that no one is seeking recognition, Representative Cowlshaw to close."

Cowlshaw: "I would appreciate a 'yes' vote. Thank you very much."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 709?' All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Now, vote your own switches. There has been a verification requested. Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this issue, there are 65 Members voted 'yes', 51 Members voting 'no', and a request for a verification has been requested. Mr. Clerk, read the affirmative. Mr. Johnson requests to be verified. Mr. Schoenberg? Granted."

Clerk Rossi: "Poll of those voting in the affirmative. Representatives: Bellock. Biggins. Black. Bost. Brady. Brosnahan. Brunsvold. Bugielski. Capparelli. Cowlshaw.

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Crotty. Daniels. Durkin. Fowler. Franks. Granberg.
Hannig. Harris. Hartke. Hoffman. Holbrook. Hultgren.
Tim Johnson. Tom Johnson. Jones, J. Kosel. Lawfer.
Leitch. Lyons, E. Lyons, J. Mautino. McAuliffe.
McCarthy. McGuire. Meyer, J. Mitchell, B. Moffitt.
Myers, R. Novak. Osmond. Pankau. Parke. Persico. Poe.
Reitz. Righter, D. Rutherford. Ryder, T. Saviano.
Schmitz. Scully. Skinner. Smith. Sommer. Stephens.
Tenhouse. Turner, J. Wait. Winkel. Winters. Wirsing.
Wojcik. Woolard. Zickus and Mr. Speaker."

Speaker Hartke: "Will the staff please retire to the rear? Mr. Schoenberg, do you have any questions?"

Schoenberg: "Mr. Willis Harris."

Speaker Hartke: "Mr. Harris is in the middle aisle."

Schoenberg: "Sorry. Mr. Bill Mitchell."

Speaker Hartke: "Mr. Bill Mitchell is in his chair."

Schoenberg: "Mr. McGuire."

Speaker Hartke: "Representative McGuire. Representative McGuire in the chamber? Representative McGuire is in the rear of the chamber. Mr. Lawfer requests leave. Mr. Schoenberg. Mr. Schoenberg, Mr. Lawfer requests leave. Leave."

Schoenberg: "Nothing further."

Speaker Hartke: "On this question, there are 65 Members voting 'yes', 51 Members voting 'no', 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Clerk, what is the status of House Bill 3093?"

Clerk Rossi: "House Bill 3093 is on the Order of House Bills-Third Reading."

Speaker Hartke: "Remove that Bill from Third to place it on Second for the purpose of an Amendment at the request of the Sponsor. On page 22 of the Calendar, on Third Reading,

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appears House Bill 3430. Representative Schoenberg. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 3430, a Bill for an Act in relation to hate crimes. Third Reading of this House Bill."

Speaker Hartke: "Representative Schoenberg."

Schoenberg: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. House Bill 3430 is an initiative of Cook County State's Attorney Richard Devine's. The language has been recommended by the Governor's Hate Crimes and Discrimination Commission and it addresses a very disturbing trend in our society. While the data shows that there is an actual decrease in violent crime in our society, there is an inexplicable increase in hate-based crimes. Regrettably, existing law has proved inadequate for prosecutors to effectively prosecute those who are directly involved with the violation of the civil rights and in some cases, the ultimate violation of civil rights, people whose act... whose language and actions have directly resulted in serious harm, intimidation, and dare I say, in sometimes even death. Under existing law, leaders of hate groups have been able to effectively insulate themselves legally from prosecution. This Bill, which is endorsed by a variety of groups, has the following five provisions, establishes a conspiracy against civil rights. So, when a person agrees, for example, with someone else to use violence, threat, or intimidation in order to interfere with someone's free exercise of any right or privilege under either Federal or State constitution they can be charged with a Class IV felony for a first offense, Class II felony for a second or subsequent offense. It establishes mixed motive hate crimes. Under the current law, there is disagreement as to whether hate can be the

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sole motivating factor to charge a person with a hate crime. By making clear that hate crime can be charged regardless of the existence of any other motivating factors, this provision will be clarified in the law, be more consistently enforced across the state. It provides for increased penalties for hate crimes committed in safe zones. So that when a hate crime is committed in and on the property, within a 1000 feet of a place used for religious worship, a church, a mosque, a synagogue, a cemetery, a school or any other educational facility, a park, or an ethnic or religious community center. Under this provision a first offense would be a Class III felony, second or subsequent offenses would be a Class I felony. There are mandatory fines in community service. So when a defendant is convicted of a hate crime, the court imposes a mandatory fine up to \$1000. In addition, any sentence of either the probation or conditional discharge will include at least 200 hours of community service. And finally, there are increased penalties for repeat offenders. Repeat hate crime offenders would become ineligible under this law for probation or a conditional discharge. It is a sad commentary on our society that we need to formulate new laws and strengthen existing laws to protect the well-being of law-abiding citizens. I answer any questions and I urge your support."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Cook, Representative Brosnahan."

Brosnahan: "Thank you, Mr. Speaker. Jeff, I have a couple questions for you. I know, I saw a little bit of the committee hearings and I think this might have come up in committee, but some people have expressed concerns that this statute may violate an individual's First Amendment

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rights. What is your response to that?"

Schoenberg: "This portion of the Bill that you asked about is modeled after the federal conspiracy against rights, which was first adopted in 1948, and it's been repeatedly upheld on constitutional grounds. The Supreme Court... the U.S. Supreme Court has consistently recognized the distinction between the advocacy of an abstract doctrine and advocacy intended to promote or incite any unlawful action."

Brosnahan: "Mr. Speaker, to the Bill. I stand in support of this Bill. I think what we've seen in the last year, unfortunately, in hate crimes that have occurred in the State of Illinois and throughout our country, is that there are some weaknesses in the present statute that we have in the State of Illinois. I think this is an important tool for prosecutors to use. I think it's definitely needed in the conspiracy against civil rights. Prosecutors need this because right now the current statutes covering conspiracy, solicitation, and attempt all require proof that a particular crime was intended by the parties involved. This statute changes that. And it's important because a lot of these leaders of hate groups they may preach their hatred and spew their venom from the pulpit, but they don't actually speak about specific victims, who the victim's going to be, when the crime is going to take place, what they're actually going to do to an individual person and this changes that. That's why I think it's very, very important. It strengthens the statute that we have. And I'd ask everyone for an 'aye' vote. Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Vermilion, Representative Black."

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

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Speaker Hartke: "He indicates he will."

Black: "Representative, I've always had some difficulty understanding these kinds of laws. To me anybody who assaults... commits assault and battery, murder, mayhem, you name it, obviously, must have some hate in his or her mindset, assuming they even have a mind. And yet, we single out certain crimes and enhance the penalty. Now, what happens if somebody walks into a convenience store at midnight and has a BB gun, they hold up the convenience store and unbeknownst to the perpetrator of the crime the convenience store clerk is a member of the Jewish faith who is also gay and is also an African American. Now, the only thing that the perpetrator of the crime might be able to see, depending... and it would... I've seen many a criminal trial where I'm not sure the person who walked in the store would know anything about anything. But he commits the crime. Now, I assume that the danger in these kinds of laws is that even though the individual who commits the crime may not have recognized any of the mitigating factors of who the clerk was, the fact is he committed a crime and it would seem to me he could be then adjudicated on a more enhanced or severe penalty than he would have if he walked into the identical store at another shift and the person behind the counter was a Caucasian male. I don't... why the enhanced penalty? Armed robbery is armed robbery. Why it suddenly become an enhanced penalty when the armed robbery was committed against someone in one of the protected classes?"

Schoenberg: "Mr. Black, what distinguishes hate crimes from any other existing crimes and it's... as I said before, a sad commentary in our society that we need to formulate new laws to address a new growing problem in our society. But

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what distinguishes hate crimes from other crimes is that there are two sets of victims. There's the individual person whose civil rights and maybe health and well-being have been threatened. And then there's the message to the targeted community itself. Under this law you still have to establish a hate motivation and a proof of bias in order to be charged with a hate crime. But that's what distinguishes this from any other of the other existing statutes of the circumstances that you alluded to."

Black: "Beside... Jeff, and I'm not trying to be difficult. Obviously, the politically correct thing, the sensible thing, the more intelligent thing to do would be to sit down, shut up and vote for the Bill. But I really have tried to... I've wrestled with this for the last year. If anybody is murdered in my home community of Danville, it impacts everybody in the community. We're all afraid. It doesn't impact any... I suppose one could argue that if the victim was black it would have more impact on the black community. I'm not sure that it does. If anybody is murdered in the town that I grew up and, unfortunately, we have four or five, six murders a year, it didn't used to be the case when I was a young lad many, many years ago. Everybody is frightened, everybody is impacted, everybody is upset. And the murderer, to me, is a hateful, spiteful individual who has murdered someone and I won't get into the argument about what the ultimate penalty might or should be on that individual. But I've always had a problem trying to distinguish between some thug who commits a drive-by shooting and I'm not sure that thug even knows who, in many cases I don't know that he could distinguish or even cares of the sex, the race, the religion, or anything about the person standing on the street corner.

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The idiot drives by and kills somebody and the law should deal with that person harshly. I just have a hard time trying to distinguish in my mind what makes a senseless crime like that more heinous if the victim is a member of a protected class. 'Cause I guess what I'm getting at is I don't know that the thug, or the street criminal, or the idiot, whatever you want to call him, that pulled the trigger knows the difference."

Schoenberg: "First of all, Mr. Black, as usual you ask very thoughtful and incisive questions. So, I don't take offense at your asking. Through this new law we're actually hoping to prevent hate-motivated victims. Under this law it can not be inferred from the fact that a victim is a member of one group while the... for example an African American, a gay or lesbian, a member of the Jewish faith, a Hispanic, an Asian, it can't be inferred... it can't be inferred from that that it's a hate crime just because the victim is from one group and the perpetrator is another group. This Bill doesn't do that. What this Bill seeks to do, is to clarify the confusion among prosecutors and police and jurists by informing them that a defendant may indeed have more than one motive in violating the civil rights and causing actual harm or serious intimidation to someone. That's the purpose of the law. The purpose of the law is to clarify that for, not just prosecutors, but for jurists, as well. Mr. Black, this is really... this really strikes to the heart of what the motivation of the offender is, not what the particular class of the victim happens to be."

Black: "Okay. And I think I can understand that, Jeff. But how in the world... unless the defendant clearly states and there have been some recently in the national media who

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clearly said why they did what they did. It was a hate crime, they made no bones about it and the law will deal with them. But for some... I don't know why the criminal element... I don't know why anybody does some of the things they do. I can't imagine taking someone's life, particularly, in a random act of violence. How is it possible in a court of law to get in the mindset of an individual and say, 'I think you were motivated because of the person's race, or sexual orientation, or religion.' I mean unless the person says, 'Yes, you're absolutely right and that's why I did it.' How in the world can a prosecutor convince a jury that this crime went beyond a random act of violence? It was in fact a... it was in fact committed because the person had a intense hatred or dislike of the individual or the individual's religion or appearance or whatever. I've never understood how we can get into the mindset of, forgive me, it's not politically correct, but an idiot. Someone who strikes out and kills someone. I don't... how in the world do we get into the mindset of such an individual to begin with?"

Schoenberg: "Mr. Black, it's common practice in our judicial system, that we establish motive all the time. What we do through this legislation is seek to clarify, both for prosecutors as well as for judges, the complexity of the motives. And we also insure that those who are, indeed, responsible for helping to violate the civil rights of others that they can actually be held accountable. So therefore, we have the component of the Bill which deals with mixed motives, because we understand the complexity. And we also understand from the tragedies that have been occurring throughout our state and the country. And I want to add parenthetically, that in my life rarely have I

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experienced a chilling weekend as I did the 4th of July weekend in my community when my neighbors were shot and the police sat out in front of my house through the weekend because I was an identifiable public official who had been outspoken about a particular organization and their followers who happened to have a great deal of activity in the most affluent communities in our states. We understand the complexities of these issues and we understand and both the State's Attorney as well as the Governor's Commission understand, that these motives... establishing these motives are complex. And that right now our existing laws don't provide sufficient accountability for those who threaten, not only through intimidation, not only through physical harm, but eventually through death, the civil rights of others. And that is really what's prompted this. This is far from legal hair splitting. What it does is actually acknowledge how complex some of the motivation can be. It all comes down to what the motive is, not who was tragically harmed by it, that's a major consideration. But what drives this new law is based on what the motive actually is."

Black: "And I guess, Jeff, as a nonlawyer that's always been somewhat troubling to me as to the motivation behind an act of violence that I can't understand in any capacity. I mean, I don't know why they do what they do. I was awakened this morning when my clock radio went off and it's to a local station and the first thing I hear when my mind finally clears is that there had been a shooting late last night or early this morning, I don't remember the details. A drive-by shooting as I recall in Springfield. And I don't know any of the details but I can tell you that that has an impact on me. Because right away as you and I often

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leave the Capitol late at night or leave a reception late at night, go to our respective residence while we're in Springfield and you do worry about that. It does have an impact on everyone of us. We're much more careful of how we drive at night, whether our window is down. If we stop at a red light and there's somebody on the corner, some of us have been known to decide that we aren't going to stop at the red light. I certainly am not... I cannot argue with the fact that crime has had a major impact on how all of us live. And it has made all of us, unfortunately I think, more fearful. We certainly are much more fearful of our children, where they're allowed to go. Some of the things I did as a young child, I would never permit my children to do while they were growing up. It's had a major impact. But I still have a very difficult time knowing that fact that Illinois has some of the most strict hate-crime laws already on the books and I won't even get into the area of deterrence because I don't know what deters crime. I used to think I thought I had a handle on it. Strict, firm, punishment quickly administered, I thought would be a deterrent. Obviously, we've locked up more people than the history of the state. It hasn't seemed to be a deterrence to anything. But I really wrestle with this. I... to me a murderer is a murderer, someone who would stalk you is guilty of a serious crime and I... if I served on the jury, I've always had a problem trying to figure out how I would determine whether or not they were stalking Representative Schoenberg, to do harm to Representative Schoenberg, a Legislator for a stand you had taken or the religious faith that you practice or whether they just were stalking you because they thought you, you know, that your watch was a very expensive Timex

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and if they find the right opportunity they could steal it. I just... I've never been sure how we can effectively prosecute someone and get at their motivation. I... and I don't, you know, you don't need to answer, you've really answered the question. And I appreciate the fact, what you're doing, what you're attempting to do. I guess I'm just a simple country boy whose mother and father tried to raise him 50 some years ago, right was right and wrong and was wrong. And we didn't need to color it or enhance it or say, 'This is more right or less right or more wrong or less wrong'. And I don't know, I'll sit down and listen to the debate. I really wrestle with this. I can appreciate what you have been through in the area that you live. I appreciate the fact that there are some very, very sick people in this society. And I don't know what motivates them. I don't know if it's hate, I don't know if they have a piece of gray matter that somehow didn't develop over the years or what. But it's a... it's a concept that to me assault and battery is assault and battery, murder is murder, stalking is stalking, and the penalties should be swift, sure, and fair. But then to try and say that a prosecutor can enhance it if he can get it, somehow get into that person's mind and convince a jury that he did so or she did so because of some innate hatred of a protected group. I have a hard time dealing with that. But I... that's not to say that I disagree with what you're attempting to do. It's just something I wrestle with and I appreciate your indulgence."

Speaker Hartke: "The Chair recognizes the Gentleman from Cook, Representative McKeon."

McKeon: "Thank you, Mr. Speaker. Thank you, Jeff Schoenberg for introducing this Bill. It's an excellent Bill. I want to

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support it but, Mr. Speaker, if we could have some order in the place?"

Speaker Hartke: "Ladies and Gentleman, could we give some attention to the speaker, please. Shh. Thank you."

McKeon: "Thank you. Sometimes there's so much noise in here, I can't hear myself think. Let me respond to some of the issues and take the risk of mentioning Representative Black by name. This is a difficult issue, Representative. And I want to share with you and the Members of this Body my experience on many fronts as a police officer, as the Director of the Chicago Commission on Human Rights, where we had joint jurisdiction with the Chicago Police Department on these issues and also as a gay man. There's a lot of confusion around these statutes. And a lot of that confusion was raised by the very appropriate questions raised by Representative Black. And it isn't an issue about getting into somebody's mind. This is not about First Amendment, this is about behavior. On July 11th of this year someone came into my district office with a 2x2 and took a whack at my head. I did not appreciate that. That person went to jail. Because I'm an openly gay man that did not make it a hate crime, it was an assault, he was charged. And given his particular health situation, fortunately he ended up at a VA hospital to deal with his schizophrenia and alcoholism. But in 1986 I was walking down Halsted Street in Representative Feigenholtz's district with my partner, and a couple of drunks, three of them in fact, coming from a Cubs game, inebriated. One of them wielding, not a 2x2, but a four piece, 4 foot length of pipe yelling, 'Fags have no rights, fags burn in hell', and took a whack at me and my partner and other people walking down the street. That was behavior not getting

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into somebody's mind but an overt act, behavior attacking me and the people in my presence because they perceived me, not because I was wearing a sign on my chest that I'm gay, but because of the neighborhood I was in, to be a gay man. Now, if Representative Black was one of those people walking with me down Halsted Street when that crime occurred he would have been the victim of a gay bashing, a gay-related hate crime. And it's not a crime just against me or in that hypothetical case against Representative Black, but it's a crime against an entire community. When I was the Director at the Commission on Human Relations and the movie Schlinder's List was released in movie theaters throughout this country, I was part of a task force that worked on the North side of Chicago to deal with the vandalism, the torching of Jewish synagogues, institutions, cemeteries, and other places of worship and business, merely as a reaction to the release of that movie. That was not getting into somebody's mind, that was about behavior directed at an entire community. During the Persian Gulf War, I was part of another task group from the Commission on Human Relations that went into the Arab-American community. Where Arab children as young as 5, 6, 7, and 8 years old and their parents were threatened and intimidated. And these were 3rd and 4th generation American citizens. This was not about getting into somebody's mind. This was about overt behavior. And that, Representative Black, is how we prove these things. That's how prosecutors prove these things in court. It's about behavior, it's about language, it's about intent. It's not a crime against an individual. It's a crime against an entire community. Recently, on July 4th of this year, this state and in other states, California and elsewhere, saw

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overt acts of behavior not things going on between someone's ears, involving shooting children at a daycare facility, at shooting six Hassidic Jews on the North side of Chicago, at shooting an African American, former basketball coach, on the North side of Chicago, at shooting an Asian man in Central California. All linked to one person, to one person a part of a fellowship, an organization you've heard of related to the World Wide Church of the Creator, someone right here in Illinois. And then not too far from us we have the 'wacko' Reverend Fred Phelps that travels around the country spreading his hate and evil mean-spiritedness to incite other people to act. To take what it is between their ears, what it is in their mind and to engage in behavior, physical acts accompanied often with words directed not only at an individual, but an entire community. That's what much of the atrocities in Nazi Germany was about. This Bill takes a step dealing with those people who are the harbingers of hate. The hatemongers that incite this kind of behavior, not thought but behavior, which is an attack against the very community we live. I urge you to vote 'yes' on this Bill. It's long overdue and I commend the Sponsor and the State's Attorney for its introduction."

Speaker Hannig: "Representative Hannig is now in the Chair. The Chair recognizes Representative Tom Johnson."

Johnson, Tom: "Will the Sponsor yield?"

Speaker Hannig: "He indicates he will."

Johnson, Tom: "Jeff, I'm not going to go back over all this because I have the same struggle with this whole thing, as you well know, the issues that Representative Black raised. And the biggest concern that I have with this is we do have a movement towards dealing with the status of the victim as

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opposed to the actual act. You know, the more I deal with crime and look at crime and and I've tried to be diligent about that during my term here in office. You know, most crime is either motivated by hate or by greed. You know, when we get the spousal abuse, for example, something triggers a rage, something triggers hatred there and an act occurs. My only concern about the direction that we're moving with this is I think it starts taking us unto inequality under the law. Absent, of course, getting into the speech issues and those are the things that I struggle with as Representative Black mentioned. If somebody were to... you take John Hinkley, who proceeded to shoot Brady and Reagan and the others on that tragic day. You know, something was deranged, but obviously, he did not appreciate President Reagan. People don't appreciate our political thought. Somebody could come in here and start shooting Legislators. You know, in a sense, maybe and it's because he's dealing with a class of people, politicians, they don't like us. So, they take actions against us. And I guess the bottom line for me is as I struggle as opposed to trying to balance people's rights which I don't like anymore than you do people who hate classes of people or who hate me or whatever. But you know, in this system of ours people have a right to think whatever they want. But they don't have a right to act out on those things. And I think murder is murder. I think battery is battery. Assault is assault. And the more we begin to define status of victims, we begin to diminish, I think, a teaching tool to our youth that says it's wrong to harm another person. It's wrong to act out, whether they be over 65, whether they be Jewish, whether they be black, whether they be gay, or anything else. The law should be equal, everybody

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should be equal under that law. And aside from getting into the minds and into the thoughts and into the hearts, which unfortunately, I don't think law is ever going to be able to control, we need to be sure that regardless who you find as your victim, where you find as your victim, law is going to be swift and just and equal across the board for the acts that are being committed against people. And it's for those reasons and all the reasons that Representative Black stated that I am struggling with this. I wish there were some easy answer. But I'm not convinced that this is the direction that we ought to continue to pursue. And I have appreciated your comments and discussions and the prior speakers. And therefore, I don't think that I'm going to be able to support this Bill today. Thank you."

Speaker Hannig: "Representative Lang."

Lang: "Thank you, Mr. Speaker, Ladies and Gentlemen. I rise in the strongest possible support for this Bill. You know, under our Constitution and under the Constitution of our country, hate is protected. People can hate all they want. But, once they turn it into a crime, once they attack people at a religious institution or at a religious cemetery, once they attack someone because they're black, or because they're Hispanic, or because they're Jewish, or because they're Catholic, or because they're tall, or because they wear green socks, we have a real problem. And it is absolutely essential to our society that we do whatever we can to root out hate wherever it is. Now, much of what we have to do is a process of education. We need to have more education in our public schools and in our families about what hate does in America and about what hate does in the State of Illinois. But until we get to the point where everyone in Illinois is educated to the

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point where they understand what hate does to us and they understand how the spreading of hate throughout our state is bad for everyone and destroys the fabric of what we're supposed to be all about, we must do something. This is a reasonable step. It's a very reasonable step. And for those on the other side of the aisle that are concerned and I understand your concerns... the Gentleman that just spoke, the Floor Leader who spoke previously. The fact remains that we have to take strong measures to do what we can to root out hate in our state. It isn't enough to sit here and say, 'Well a murder is murder is murder'. Of course it is. But if it's done on the basis of hatred, if it's done because you're Jewish, or black, or tall or short, then we... unless we address it in a separate special way we can't send a lesson, we can't send a message to anyone that lives in our state that hate cannot be tolerated in our state. And so I applaud Representative Schoenberg and the other Sponsors. I applaud the Governor of our state for putting the Hate Crimes Commission together. Governor Ryan is to be applauded, he's to be applauded for helping us to bring to the floor the recommendations of that commission. This Bill should be passed immediately. Those of you who have been considering voting against it, please rethink your position. This isn't about special categories. This about sending a message to the people that live in our state that this Body will not tolerate hatred and that hatred in our society is bad for all, the haters and the ones who are hated. Please vote for this Bill."

Speaker Hannig: "Representative Cross."

Cross: "Thank you, Mr. Speaker, very brief. And I don't want to repeat what's been said, but I think there are a couple

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points worth recognizing. First of all, and Representative Lang mentioned it. There are not any additional categories or classifications of people or groups that are added under this Bill for those of you that are concerned about that. Second of all, and Representative Schoenberg alluded to this a little while ago, I think, when he opened up or at least tried to respond to some questions by one of the previous speakers. There is a huge distinction when it comes to freedom of speech between advocating abstract ideas, thoughts, or beliefs. That's entirely permitted, that's entirely accepted. We may not like it. We may not agree with it, but that's allowable in this country and it should be. But when you advocate with the intention to promote or incite unlawful action, you've crossed the line. The Supreme Court of this country, not of this state but of this country, has time and time again said, 'That's a line that cannot be crossed.' And this Bill recognizes that, that it should not be crossed. Third and finally, from a prosecutors standpoint, this provision, at least with respect to the initial part or the beginning part the conspiracy against civil rights, is needed for a couple of reasons. One, the current statutes that prosecutors deal with in the areas of conspiracy, solicitation, and attempt of a variety of things, all require proof that a particular crime was intended. Often when you talk about groups in the context of this Bill, at least in the hate crime context, members of hate groups often agree that threats, violence or intimidation should be used against a certain group, whether it's the African Americans or Jewish groups. But they never agree as to who the victim should be, when the offense should occur, or where it will take place. The conspiracy portions of this Bill take care of that. I

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think this is a Bill that is entirely appropriate. I see absolutely nothing wrong with it constitutionally and I'm proud to be sponsoring this with the other people on the board. And I would encourage a 'yes' vote."

Speaker Hannig: "Representative Schoenberg to close."

Schoenberg: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. This Bill is not exclusively for the victims or those who are other members of that community. This Bill is for the prosecutors, who unfortunately have had the opportunity to see how one of the best hate crime laws in the country is yet insufficient, because of all the practical experience they've had prosecuting those who seek to inflict harm, intimidate and even death upon others. My friends, hate is learned in the corn fields. Hate is learned across the bridge tables in our state. Hate is learned, unfortunately, hate is being taught at times in the classrooms of our state. We have an obligation to address hatred at its root cause and put an end to it, as best we can. Thank you very much."

Speaker Hannig: "The question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. 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 93 voting 'yes', and 21 voting 'no'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Representative Harris has filed a written Motion for... at the well. And Mr. Harris is recognized for your Motion."

Harris: "Thank you, Mr. Speaker. Having voted on the prevailing side, I move to reconsider House Bill 709."

Speaker Hannig: "The Gentleman has moved that the House reconsider the vote by which House Bill 709 passed. The

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Chair is suggesting that we have 1 Member speak in favor, 1 Member speak against. And we'll go to a roll call. This was a Bill that was debated at quite a bit of length. Representative Black."

Black: "Yes, thank you very much, Mr. Speaker, just an inquiry of the Chair."

Speaker Hannig: "State your point."

Black: "The speaker... you're within your... certainly within the rules of the House. The one speaker will speak for the Motion to Reconsider..."

Speaker Hannig: "That's correct."

Black: "... there will be one to speak..."

Speaker Hannig: "Opposed."

Black: "... against the Motion to Reconsider."

Speaker Hannig: "And then we'll vote."

Black: "We will have a recorded vote on the Motion to Reconsider."

Speaker Hannig: "And that requires 60 votes."

Black: "Thank you very much."

Speaker Hannig: "Representative Skinner."

Skinner: "I move that Motion lie upon the table."

Speaker Hannig: "Representative, we've got an arrangement besides... between both sides so that we would suggest that..."

Anonymous: "Is this Motion still in order?"

Skinner: "Excuse me. I thought we had... everybody had a voter on this floor? Anybody can make a Motion. Did I make an appropriate Motion?"

Speaker Hannig: "Okay. That is correct, Representative. So restate your Motion."

Skinner: "I move that the Motion lie upon the table. It happens in the Senate all the time."

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Speaker Hannig: "So, the Gentleman has moved that Representative Harris's Motion to Reconsider lay upon the table. The Motion to... the Motion to Table is not a debatable Motion. And so now, the question is, 'Shall the Motion to Reconsider...'"

Skinner: "May I have a roll call?"

Speaker Hannig: "Yes, Representative, we're going to the roll call."

Skinner: "Thank you."

Speaker Hannig: "So, now the question is, 'Shall the Motion to Reconsider the vote by which House Bill 709 passed lie upon the table?' All those in favor vote 'aye'; opposed vote 'nay'. And the voting is open. Have all voted who wish? Mr. Clerk, take the record. On this question, there are 58 voting 'yes', and 57 voting 'no'. This requires 60 votes and so the Motion fails. Now, on the Motion to Reconsider the vote by which House Bill 709 passed, we'll recognize 1 person to speak in opposition and 1 person to speak in favor. Representative Flowers, for what reason do you rise?"

Flowers: "Speaker, just in case House Bill once again (709) pass, I would like to have a verification."

Speaker Hannig: "Representative, at this point we're going to vote on the Motion to Reconsider."

Flowers: "Yes."

Speaker Hannig: "And... and if... and we will provide either side with a verification as we go through the process."

Flowers: "Thank you, Sir."

Speaker Hannig: "Now, to speak in favor of the Motion to Reconsider. Representative Pugh, would you like to speak in favor?"

Pugh: "Thank you, Mr. Speaker and Ladies and Gentlemen of the

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House. With all due respect to freshman Legislators and to Legislators that have been here for awhile, I think it's important for us to have a moment where we're compassionate. The frenzy of being reelected oftentimes causes us to do things that we're not responsible for, to make wrong or quick decisions. I think that if we all are purveyors of goodwill, purveyors of justice, purveyors of equity, that we should allow Willis Harris the opportunity to rethink his vote. He's merely asking for an opportunity to vote his conscious (sic-conscience). He made a mistake. We all make mistakes. We're all human. I submit to you that we should reach down beyond... beyond the cloak, beyond the cloak of our egos, beyond the cloak of our expediency which leads to politics, beyond the vanity that is prompted by popularity. And reach down within our heart of hearts and give this Gentleman an opportunity to recast his vote."

Speaker Hannig: "Now, in opposition to the Motion to Reconsider, Representative Cowlshaw."

Cowlshaw: "Thank you very much, Mr. Speaker, Ladies and Gentlemen of the House. There is not one of us in this chamber who has not at one time or another inadvertently cast a vote which a few minutes later we wished we could have changed. But I think we need to be particularly mindful of what that can mean to someone who is just beginning his career in this House. So Mr. Speaker, I know that this may be extraordinary, it may not be typical, but I would ask if there can be an understanding that any Motion to verify this vote would be withdrawn. I will gladly agree to have this Bill voted on over again, so that the man who filed the Motion to Reconsider will have the opportunity to change his vote. I think that is a very

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generous offer on my part."

Speaker Hannig: "Now, the question is, 'Shall House Bill... shall the vote by which House Bill 709 be reconsidered?' All in favor vote 'aye'; opposed vote 'nay'. The voting is open. This requires 60 votes. Have all voted who wish? Last call. Mr. Clerk, take the record. On this question, there are 59 voting 'yes', and 56 voting 'no'. And the Motion fails. Mr. Clerk, read House Bill 3988. Representative Hoffman."

Clerk Rossi: "House Bill 3988, a Bill for an Act amending certain Acts in relation to cemeteries and burial services. Third Reading of this House Bill."

Speaker Hannig: "Representative Hoffman."

Hoffman: "Thank you Ladies and Gentlemen of the House. House Bill 3988 is a result of Comptroller Hynes' commitment to looking at issues with regard to cemeteries throughout this state. As you know, Comptroller Hynes has a toll-free consumer hotline. And that the Comptroller's had consumer hearings throughout the entire state this year looking at the issue of insuring that cemeteries, not only are financially viable, but also that they have consumer protections for people who have pre-need contracts for individuals whose loved ones are buried in those cemeteries and that they are kept in a manner that is conducive and is right for the people who are buried there and their families. We've all heard horror stories about abandoned cemeteries in this state, particularly, in Edwardsville, Illinois, in my district Valley View Cemetery became, essentially, a poster cemetery for all that can go wrong. What happened was, the individual who ran Valley View misspent the funds that were to be entrusted for perpetual care. Ultimately, people who had bought things so that

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they would have burial vaults for their loved ones, people who bought plots, did not get what they had purchased. In addition, we saw on Mother's Day two years ago, when people went to see their loved ones, the grass had grown knee-high because the Valley View Cemetery was unkept. It's unacceptable. And I think everybody in this chamber would agree with me. What this legislation does is it not only addresses those incidences, but also... the conditions of other cemeteries pre-need sales and cemetery and home... funeral home services and merchandise and burial allowances for the indigent, it raises them. This would provide several things. And it is very comprehensive and I believe that Comptroller Hynes should be commended for his efforts. For going throughout the state and listening to people to try and identify what needed to be addressed. It provides a Cemetery Grant Program to assist in the cleanup of abandoned cemeteries. It permits temporary access to local governments so that authorities can get into the abandoned cemeteries. It requires cemeteries to post prices and maintain adequate records, hold private cemeteries to a minimal standard of maintenance for their cemeteries. It would create a new offense for theft of cemetery artifacts with the intent to resale and make that a Class II felony. It would require pre-need contracts by funeral and cemetery licensees to be readable in 12-point type, disclose consumer penalties for cancellation, and other consumer protections. It would also require licensees to distribute a consumer protection booklet spelling out consumer rights under pre-need contracts and provide consumers a 30-day refund or cooling-off period to evaluate these decisions. It would specify yearly increases in funding for public aid burials and funeral grants. I know that Representative

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Black has worked many, many years on that issue. This Bill is supported not only by Comptroller Hynes, but I believe also in a bipartisan fashion, we have worked together to foster what I think is a Bill that's going to provide for consumer protections, going to insure that cemeteries in this state are kept in a manner that we can be proud and is supported by the Funeral Directors Association, AARP, and the Illinois Townships Officials. I ask for any 'aye' vote."

Speaker Hannig: "Representative Parke."

Parke: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Would the Sponsor yield?"

Speaker Hannig: "He indicates he will."

Parke: "Thank you. Representative, we've discussed this Bill and I have talked to the Comptroller about some concerns that have been brought to me. And so, I'd like to ask you some questions about it because I commend the Comptroller for his effort to try and bring this to the attention of the Legislature. But there's some parts to this that bother me. And I've talked to some of the people in the Cemetery Associations who see this as a possible way of making some of them go out of business. So, I don't think we want that to happen, nobody wants that. So, let me ask you a couple of questions. Does this Bill impose a maintenance standard for cemeteries?"

Hoffman: "Yes. For privately-operated cemeteries it does impose a maintenance standard."

Parke: "Then, if that's the case, why does this only apply to privately-operated cemeteries?"

Hoffman: "That's a good question. And the reason that it applies to privately-operated cemeteries is because, essentially, those are the cemeteries, number one, generally that the

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Comptroller's Office has authority and licensure over. But also, more importantly I think, is municipal cemeteries, we all know that we elect municipal officials, they are accountable then to the people who elected them. When you look at other types of fraternal organizations and you look at religious organizations they are accountable to their congregation or their fraternal organization. What we're saying here is private cemeteries, we need to have a maintenance standard to insure that we as a state have a policy that says when you're not accountable to any specific group like that that you are going to have a minimal amount of maintenance when keeping the grass cut, and keeping the roads in proper order, et cetera."

Parke: "So, it's your feeling that we never in Illinois have had a religious cemetery go into disarray? Is that what you're saying? That there's no way that that's going happen or that there's any other kind of cemetery that's excluded under your law, they never have gone to a point..."

Hoffman: "That's not my position. No, what I told you is the rationale for the Bill. I'm not saying that all... every religious cemetery complies with every standard. What I'm saying is if there's a fraternal organization, if it's a religious organization, their answerable either to the members of that fraternal organization or to their congregation. And therefore there is some type of a mechanism in place, if it's a municipal cemetery to the voters, ultimately, whereby you can insure compliance."

Parke: "Yes, but didn't you now tell the private cemeteries that they are going to have to contribute to a maintenance fund to take care of all cemeteries? Is this a cost shift or am I misunderstanding?"

Hoffman: "And I think that that is something that we need to

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point out. We're not asking... this Bill has no fee increases. It has no additional fees and I can tell you, Representative, what is currently paid. Right now, if you are a cemetery in this state you have to register, you pay a \$5 fee, initially. Then also, if you are a privately-operated cemetery, this is all current law, we're not changing this, we're not going to change this. Privately-operated cemeteries, except care funds, must pay a \$5 fee when they get licensed. Licensed cemeteries must submit an annual report and that's \$10 yearly. And then the Comptroller assesses a penalty of \$5 per day if the annual report is late, unless a waiver is requested. Now, we aren't changing that at all. All we're saying is the money that is brought in as a result of those current fees can be used to address the issue of abandoned cemeteries in this state. As you know, and I don't know if you were fortunate enough to attend any of the hearings, but the things that I heard over and over again when people came to testify is their concern about these cemeteries that long ago were abandoned. And now nobody up... keeps them up. What we're providing for here is utilization of the existing fund to be given to local governments and not-for-profit organizations to cleanup those abandoned cemeteries and to make... put them in a fashion where we can be proud of the cemetery where are loved ones have been laid to rest."

Parke: "Well, thank you for clarifying, but it seems that according to the private cemeteries that the most that will come in from any kind of fees is about 6 to \$7 thousand and they claim that there's no way possible that that will cover what's needed to be done to some of these cemeteries that are around the State of Illinois."

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Hoffman: "Yeah. And I'm not saying that we would... that we couldn't use additional funds. What I'm saying is we made a decision, first of all, that once we changed the fund that we see if this works that we have to utilize it because it's the first of its kind. Utilizing money in order to rehabilitate abandoned cemeteries, it's the first time we've done that here in Illinois with regard to this type of an ongoing grant program. Representative, we also put in this Bill that there could potentially be additional appropriations. I don't foresee that happening this year. And this is going to bring in about \$25 thousand a year is the estimate. Let me give you an example. A gentleman came to me about a township cemetery and I believe it's actually in Vince Demuzio's district close to Carlinville. All they want is a grant for \$500 a year so that they can keep the grass mowed because it... right now they don't have any money to do that. The township is willing to take over that abandoned cemetery if they can get a grant for \$500 a year. To me that makes a lot a sense. And that would take care of one entire cemetery. We're talking about abandoned cemeteries that have weeds that are overgrown that we really, really, I think, have to have a policy that's going to address that issue."

Parke: "Okay. Let me ask you another question. It is my understanding that there's been an Amendment offered by the private cemetery people and you have felt that that Amendment is not acceptable at this time. Yet, you're going to move this Bill today and I would like to ask is there... is it your intent to whoever you ask to carry this Bill in the Senate to continue to have ongoing dialog with the cemetery people and the Comptroller to try to make sure that there is some semblance of compromise here, so that...

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that in fact there's no intended consequences that in fact the privately held cemeteries in this state can continue to flourish, that they'll be a marketable entity that could be sold? I don't want to see that happen. Where all of the sudden you didn't intend it to happen, but we've made it too difficult for cemeteries that are privately held to operate in this state. I don't think that's your intent, I don't think the Comptroller's intent. But they brought to my attention some serious concerns that need to be addressed and I would hope that that ongoing dialog, which means face to face meeting with the Comptroller and his staff and those people representing the private cemetery association."

Hoffman: "Representative, it has always been my position and I think that if you talk to the individuals who represent the cemeterians, they would tell you that I have tried to work with them in order to foster some type of agreement. They... yes, they have put forward an Amendment. I... to be very frank with you, find that Amendment unacceptable. However, with regard to the dialog, of course, we intend to work with them. It's nobody's intent to put anybody out of business. What we're trying to do is provide needed reasonable consumer protections while at the same time insuring that the bad actors, the people who are violating the trust of the consumers in this state, no longer are able to operate."

Parke: "Thank you. To the Bill, Mr. Speaker. I plan on voting 'no' on this Bill to send a message to the Senate that there was concern, there was objection to the approach, not with the intent. I respect the Comptroller's efforts here, but I want the Senate to be aware that at least some of us are saying this is still work to be done on this Bill."

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Speaker Hannig: "Representative Monique Davis."

Davis, M.: "Mr. Speaker, I rise in support of this legislation. There are numerous consumer protections in this Bill and I'm pleased that our new Comptroller Dan Hynes is bold enough to stand up to the industry for the true interests of consumers. But I want to comment on a particular component in the Bill that provides the indigent with the dignity they deserve with a proper burial and a proper funeral. Now, we're not talking about an extravagant ceremony that the state pays, but rather a very respectable ceremony for those families with no one to turn to for help. This legislation puts into the statute an agreement between our own beloved Representative Black. Representative Black worked tirelessly with the Governor's Office and the Governor vetoed his two Bills last year. And those Bills were asking for an allowance, and increase in the allowance for funerals and burials. We thank Representative Black for his tireless effort on that behalf. We also want to make sure that this agreement is put into law. This Bill increases the funeral allotment over the next couple of years from \$700 to \$1000, and from \$350 to \$500. For the past several years funeral directors, cemeterians, the catholic church and others have been providing the services, even though the reimbursement wasn't coming close to the actual cost. This Bill brings fairness to the indigent and to the service providers. And I think its time has come. Again, I commend our Comptroller for being bold enough to get this on the record and I'm sure we will get a favorable vote. Thank you."

Speaker Hannig: "Representative Black."

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

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Speaker Hannig: "He indicates he will."

Black: "Representative, let me in my opening remarks say that I commend Comptroller Hynes for the work that he's done on this issue. And my opposition is certainly and should not be construed as any opposition to Comptroller Hynes or his outstanding legislative liaison, Kevin Schoeben who worked for Democrat staff for several years, and I think in all sincerity is probably one of the best legislative liaisons currently serving in State Government. They have been very... they have been very forward, very truthful, they have been willing to work with us. But when all of that is said and done, there are some inherent flaws in this Bill that I would like point out. But first Representative, I was not at the committee meeting, it has been related to me... thank you, Mr. Speaker. It has been related to me that at the committee meeting a 98 page Amendment was presented to the committee, the committee on Constitutional Officers on February the 8th. The Republican Members asked repeatedly that the Bill be held until they had a chance to review the Amendment and that that request was denied. I'm not sure why that was done and I can't even attest that it was done. I wasn't at the committee. I don't serve on that committee. Representative, are you aware that the Service Employees International Union has written a letter, I have a copy, where they expressed some very serious reservations about this particular Bill?"

Hoffman: "Representative, I... an individual from the service... I don't recall the Gentleman's name who wrote that letter. But ultimately, the Service Employees Union's position, and I have a position paper here, indicates that they... that the Service Employees Union, the Illinois Council takes no formal position on the legislation. And they believe that

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House Bill 3988 has consumer merit, however the Council has not voted on a position. So..."

Black: "Okay."

Hoffman: " ... I think that that was a letter from an individual..."

Black: "Yes."

Hoffman: " ... as opposed to the official position of the Service Employees Union. Or at least that's the..."

Black: "You're right, it was Local #1 union representative, you're correct. I stand corrected. I do think the letter is very interesting and does, in fact, raise some very cogent points. As his union and probably where he works has been impacted by a bankruptcy, he's not sure that this Bill would have prevented or would protect him in the future. I... there are some things in the Bill that I just don't understand. Let me run just a few of them if I might. Does the Bill require a 30-day cooling-off period for pre-need contracts sold under the Illinois Pre-need Cemetery Sales Act?"

Hoffman: "Yes."

Black: "The answer is 'yes'. Can you tell me of any other action in State Law that requires a 30-day cooling-off period?"

Hoffman: "I don't know off the top of my head, Representative, I don't know that there is."

Black: "Okay. I don't either. I mean, if this were an in-home sale, you get 3 days. Would anybody on this floor support a 30-day cooling-off period when you buy a new home?"

Hoffman: "Can... can I give you... I'll give you the rationalization..."

Black: "Go ahead, sure."

Hoffman: " ... why it's... why I believe it's in there and why I think it's important. So, as you know, this is a lot

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different than buying a home, I think. It's a very emotional decision. It's a decision that people, I think, sometimes because of maybe their physical health and even sometimes because of their mental health at the time, make a decision like this sometimes rationally (sic-irrationally). Others, can deal with this issue of death much more rationally, some don't."

Black: "Okay."

Hoffman: "And the whole idea behind that, Representative, at least from my standpoint is, is you know there are people, unfortunately, in the industry who will go to Senior Citizen Centers or where older... a place where older adults live, and they will prey on their fears and sell them these types of pre-need packages. And what we're saying is, is that in those types of cases when all of the sudden my mother or my grandmother makes that decision and I'm not present and they show it to me and I realize this wasn't the best decision. And they did it because of some type of emotion that was preyed on by the salesman, that then after... they should be able to as reasonable a consumer protection in this situation to be able to then get out of that contract. Now, I think there's a second issue. If you buy a car... if you buy a car and you get transferred to California you can take the car with you. If you buy something like this, it's pretty permanent. And your whole family may be transferred and you have no intention of coming back and it may happen within the first 30 days. Do we really want to make you stuck... or stick you with that contract that you may have made in haste, previously?"

Black: "Okay. Representative, and I appreciate your answer and I think that you've just made a portion of my case. And I

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think this is why the Bill needs a great deal more work. I buy a pre-need contract. I know where I'm going to be buried. I buy a pre-need contract and I pay it off over a period of time. I'm under no duress. I'm under no pretense. That's... that very concept shows me that this Bill needs a great deal of work. A pre-need contract for a burial plot is sold to you at my age or younger. You're under no duress. Where we have had problems in the past is when your beloved spouse or parent or grandparent dies and you have made no arrangements, you then walk into a cemetery or a funeral home, then you are under extreme duress. And you may buy a lot that you wouldn't have bought under normal circumstances. You may buy a crypt in a mausoleum, that's more expensive that you wouldn't have bought under pre-need when you are not grief-stricken and distraught. So, this whole 30-day cooling-off period on pre-need contracts clearly shows that there's work to be done on this Bill. That's the way we should encourage people to enter into their final resting place, on a pre-need basis. Not after one of your loved ones passes away and you do it within 24 hours under extreme duress and grief. I just point that out to you, I think that is one of the problems. It would... this is the only sales contract that I'm aware of that would require a 30-day cooling-off period. And by the way, there is a secondary market in burial plots, or at least there is in my district and has been for years. If you are transferred or retire to Florida and no longer want to keep your burial plot in Danville, there's a market to sell that. Let me ask you another question. Does this Bill... I think Representative Parke touched on this. Does this Bill impose a maintenance standard for cemeteries?"

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Hoffman: "Yes."

Black: "When we impose a maintenance standard, the rules to be promulgated may be such that the grass will be a uniform 4 inches in height, that no tree shall have a tree limb closer than 7 feet to the ground. Now, I have some real difficulties with that, but it goes beyond that. Are all cemeteries covered under this maintenance agreement or maintenance standard?"

Hoffman: "If I might, Representative, excuse me. The issue... there is nothing in the Bill and the issue with regard to what you're referring, I think, is on page 35 of the Bill. There's nothing in the Bill that says that it has to be 4 inches or anything like that. So I... maybe I misunderstood you..."

Black: "No Representative, let me make it..."

Hoffman: "... you weren't saying that, I don't believe."

Black: "... let me make it very clear. I clearly said, the rules to be promulgated may set up these kind of standards. You and I have been here long enough to know that we can pass a very simple, straightforward Bill. When the agency, in this case the Comptroller's Office, writes the rules on how those maintenance standards will be promulgated and it goes to JCAR, these rules may be very, very different than you and I would ever anticipate. So I... in no way does the maintenance standard set out in the Bill. I would feel more comfortable..."

Hoffman: "Well it..."

Black: "... if it was. At least, I'd know what I was getting into."

Hoffman: "Well, Representative, I was referring to page 35 and there are six things that are listed there that I think gives local authorities the leadership or an idea with

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regard to what we're talking about with regard to the maintenance standard. And what we're looking at..."

Black: "All right."

Hoffman: "... is much like we look at in all these types of issues as we're really looking at a reasonable maintenance, community standards and what the local community will tolerate or not tolerate. Just like you do a nuisance violations or..."

Black: "Okay. All right."

Hoffman: "And we're not talking about promulgating rules."

Black: "And I hope you're right. But you and I both know that the devil's in the details and where we get into problems is that the rules that are then later promulgated to enforce and carry out the law. On page 35, that's my next question. Are these maintenance standards imposed upon all cemeteries in the State of Illinois?"

Hoffman: "As I had indicated to Representative Parke, they are imposed on all private cemeteries in the State of Illinois."

Black: "Only private cemeteries. That's interesting... that's interesting. One last question. On page 31 of the Bill, also on page 53 and again on page 89 and 90, there is a new penalty provision, in addition to the existing provision, which provides for a \$10,000 civil penalty not to exceed \$1000 for each day the violation continues. These penalties are also in addition to penalties that may be imposed under the Consumer Fraud And Deceptive Business Practice Act. Is that not double jeopardy?"

Hoffman: "No. What we're giving is the prosecutorial authority... the prosecutorial authority additional penalties that can be imposed civilly, in addition to the Consumer Fraud and Deceptive Practices Act. So no, we're

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not talking about trying people twice. In the same instance, you could conceivably in the case of a violation of the previous law, the Consumer Fraud and Deceptive Businesses Act, for knowing violations of the Act you could also impose civil penalties under this Act as a violation. So we're just talking about an additional avenue that a local prosecutor could take."

Black: "And the Bill increases the current penalty from its \$5 thousand threshold to \$10 thousand, correct?"

Hoffman: "Yes."

Black: "The Bill further allows a cause of action to be brought by anybody, not a representative of the Comptroller's Office. If I visit my grandfather's grave and I don't like the way the shrubs are trimmed, under this Bill, I have the authority to bring a cause of action against that cemetery. Is that correct?"

Hoffman: "No, that is not my understanding of the Bill. And the State's Attorney or the Attorney General would be the entity that could enforce the provisions of this Act. Now, you could have a private cause of action based on the common law or on some other type of law that may exist in the State of Illinois for fraud or otherwise, but not as a result of this."

Black: "Jay, I have only the greatest respect for you and I know it would not be your intent. But on page 31 of the Bill, lines 12 through 21, it certainly appears to me and I'm not an attorney, I'll defer to your expertise. It certainly seems to me that any citizen would then be empowered to bring a cause of action against a cemetery and I will take your statement at face value. I trust you, I know you're a man of honor. I don't think that's your intent. But I do think..."

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Hoffman: "And I will say for purposes of legislative intent that is not my intent."

Black: "Okay."

Hoffman: "It... actually it says, 'The civil penalties provided for in this Section may be recovered in a civil action.'"

Black: "Okay."

Hoffman: "That civil action is our legislative intent and I think elsewhere in the Bill it says that. That only the State's Attorney and or the Attorney General could bring that civil action."

Black: "Okay. All right. Jay, thank you very much. Mr. Speaker, if I might, to the Bill."

Speaker Hannig: "To the Bill."

Black: "Thank you very much. Ladies and Gentlemen of the House, I take no particular pleasure in opposing this initiative. I happen to think that the young man elected to office has taken on a very difficult task and one that certainly needs to be looked into and I commend him for that. And he has been in my office numerous occasions, he has been very accessible. He has talked, been willing to have his staff talk on the telephone to constituents of mine who have had a problem with the Bill or trying to interpret some of their concerns. I commend him for what he is doing. And I... not only that I commend him in the way that he is doing it. He is... he's not hidden in his office somewhere. He's been out, he's been working this Bill on the floor and I think he's on the right track. I simply rise to suggest to some of you that this is a work in progress. And I think even the Sponsor would agree with that. There are still some things that need to be done. There are some things in this Bill that concern me. For example, there are approximately 9,000 cemeteries in this

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state. Only 800 of those cemeteries will finance this Act because they are the privately-owned cemeteries operating in Illinois. Now that... what measure of fairness is there in any legislation that says 800 cemeteries operating and doing the very best they can must pay the freight to maintain 9,000 cemeteries that are not privately-owned that would have to be maintained. This Bill will raise less than \$200,000 a year in additional fees. Ladies and Gentlemen, I don't how many of you visit your loved ones graves, but if you do, you know what a monumental task it is to maintain, mow, clean, and operate a cemetery. Now you're not going to maintain and clean up some 9,000 cemeteries in this state with fees that would amount to, not counting the fines that may be levied and that's another part of the Bill that scares me. There would be incentive to levy fines because the maintenance fund would need the money. You're not going to maintain 9,000 cemeteries at the expense of 800 with the kind of money that this Bill generates. Last, but by no means ... one other point. Let's say that a cemetery in a rural area like mine, where the population is shrinking, moving North, unfortunately, but that's another issue. If the owner of the cemetery wants to sell off a portion of that land to a developer, this law would require that cemetery owner to place, I think the figure... it may escape me and if I'm wrong, Jay, correct me, 31 square foot of each unused property that he wants to sell off would have to be put into the Cemeteries Perpetual Care Fund. So, this language by its very nature prevents a cemetery owner from selling some unused land in an area that the population just will not accommodate, perhaps the acreage that they initially bought and receive full market value for the land that they

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paid for and maintained and paid taxes on all these years. And last but not least, and again, I don't rise to oppose the spirit or the intent of the Bill, I come from a district that's different than many of you. We have many privately-owned cemeteries who are now run by the survivors of families that have died long ago. And maybe the only... maybe the trustees of a cemetery would consist of 3 people whose ages might be 80, 78, and 75. And they do the best they can. And I see these people out there in the hot sun mowing, maintaining, doing everything in their power on a budget sometimes less than \$2000 a year to maintain this cemetery. And yet, you want to hold them to a standard of a cemetery that might have 20,000 graves and 250 acres yet to be developed in a metropolitan area. Cemetery owners agree that something needs to be done with this Bill, this whole problem. I would submit to you, in all due respect, there are legitimate differences of opinion on whether this Bill accomplishes what the Comptroller wants to do and I commend him for wanting to do that. But regardless of the outcome, I urge the Comptroller and I know he will, he's a man of honor and integrity, to continue to work on this with members of the cemetery industry and the funeral industry and that we could come to a... perhaps an agreement on the issue. And to an earlier person on your side of the aisle, I, too, thank the Comptroller for embodying the increased funeral costs into this Bill. I appreciate that. I appreciate him asking me and I told him, yes, I would like to have it in there. But I have also been assured by the Governor's staff and the Bureau of the Budget that with or without any statutory language the fee increase that Democrats and Republicans negotiated last year for public aid funerals, which is the last measure of dignity we can

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give to someone, would be increased. And that that will be increased. I have that in writing, I have that in the word of the Governor and the Bureau of the Budget. So this Bill is a work in progress, it needs a great deal more work. But in the form that it's in, I must, in all good conscience and in all respect to the Comptroller who has worked so hard, vote 'no'. And would urge many of my colleagues to look at it carefully, and perhaps, if you could, join me in voting 'no'. And we'll see this Bill again and we'll continue to work with the Comptroller and, hopefully, find something that all can agree to."

Speaker Hannig: "Representative Steve Davis."

Davis, S.: "Yes, thank you, Speaker, Ladies and Gentlemen of the House. I rise in strong support of House Bill 3988. I was fortunate enough to attend one of the public hearings that Comptroller Hynes and Representative Hoffman held in Edwardsville. And we literally had hundreds of people at the public hearings including veterans, township officials, consumers, genealogical society members. They packed the hearing room. And we listened to some of their horror stories. And I think everybody in this chamber understands that there's a problem with the cemetery industry in the State of Illinois. And I strongly and highly commend Representative Hoffman and Comptroller Hynes for their efforts on the behalf of the consumers in the State of Illinois. Let's face it, Ladies and Gentlemen, all of us are going to be consumers for this industry someday. Many of us have already been consumers when our loved ones have died and had to deal with the cemetery owners and the funeral homes. And I have to tell you that I was very fortunate in my area. We have some good cemetery owners and we have some wonderful funeral directors and when my

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mother passed away, they were a great deal of help to both me and my family. However, it's not like that in every area of the State of Illinois. And fortunately, Comptroller Hynes has taken this initiative and he's stepped forward, he's stepped to the forefront on this issue and it's not an easy issue to solve with one single Bill. Unfortunately, the Cemetery Owners' Association will never... will never agree to every provision that came forward out of these public hearings. Now, I know for a fact that Representative Hoffman and Comptroller Hynes talked with the Cemetery Association throughout the summer. They've talked to the Cemetery Association throughout this Session trying to negotiate some of the problems with the Bill. There were concessions made. There were many concessions made by Representative Hoffman. There were many concessions made by the Comptroller of the State of Illinois to the Cemetery Association. But you haven't heard about that, you've not heard about the concessions that were made. I have to tell you that this Bill contains some vital provisions and the previous speaker brought up something I wanted to address, also. He brought up the fact that 800 cemeteries are going to fund the maintenance of 9000 cemeteries. That's totally not correct because many of the 9000 cemeteries are currently being maintained by the caretakers that are there. This money is going to go help some of these abandoned cemeteries that do not have anybody maintaining them and for some of the townships that are in need of some monetary assistance to maintain some of their township cemeteries. The Bill requires pre-need contracts by funeral and cemetery licenses to be readable for our senior citizens in the 12-point type, which is something we all know. Whenever you go and buy a home,

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when you sit in front of your mortgage lender and you sit down and you sign stack on stack on stack of papers with fine print you have no idea what's in it, but you go ahead and sign it. And one of the problems with this industry, we've got telemarketers selling cemetery lots. We've got door to door salesmen selling cemetery lots. And that's one of the reasons that they put the 30-day provision in there. I understand the previous Representative's problem with the 30-days. However, you have to understand that this is a different industry than selling a car. This is a different industry than selling a home. We're dealing with a different kind of organization. So let me... let me just say this to the Gentlemen and the Women in this House. This Bill really boils down to truth in disclosure and fairness to the consumers in the State of Illinois, fairness to our senior citizens, fairness to the elderly in our state and fairness to the families. Once again, I commend Representative Hoffman, I commend the Comptroller for their fine efforts. And I would appreciate an 'aye' vote."

Speaker Hannig: "Representative Leitch."

Leitch: "Thank you very much, Mr. Speaker. I, too, would rise to congratulate Comptroller Hynes for taking on an issue that's been more neglected than many of the cemeteries which we all know are out there throughout our state. I also would agree that the Bill is a work in progress. But I think it's a very important work in progress. I hope and I'm confident not all of you have had the kind of problems that we've had in Peoria with the historic Springdale Cemetery. But those and many other cemeteries that seem to come into disrepair through neglect and create tremendous community consternation are a constant thorn in the sides

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of those of us who serve here and more importantly represent an issue and a problem that urgently needs our attention. So, while this Bill is not a perfect Bill, it is certainly a very good start and I would thank the Comptroller for visiting with so many of us on a personal level to try and reach an agreement. And I thank him, too, because he indicated that in the Senate he will be continuing to work to refine this issue. Frankly, I would encourage the Comptroller to go farther than he has gone. Because as Representative Black identified, there are only roughly 8... 900 (sic-800 to 900) private cemeteries out of the 9,000 in Illinois. And certainly each of those cemeteries has a lot of problems with maintenance and other things. I would see that we could go further and figure out some means of providing a fund, maybe a matching fund to help municipalities or others of the not-for-profits who have these problems, address those problems. And do it in a way that is respectful of the people whom we serve and respectful of the people who rest in those locations. So, I intend to vote 'yes' for this Bill. I intend to keep working with the Comptroller even as the Bill is in the Senate because this is a very important first step. It's a very important issue. It's an issue that is not going to go away. And I'm... just think it's high time that we address this issue and I'm very proud again that our Comptroller would grab this issue and begin to find a thoughtful and intelligent solutions. Thank you, Mr. Speaker."

Speaker Hannig: "Representative Curry. Julie Curry."

Curry: "Thank you, Mr. Speaker, Members of the House. I rise in very strong support of this legislation and would like to also commend the Sponsor, Representative Hoffman, and

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Comptroller Dan Hynes for his work on this issue. It's been nearly 10 years since this issue's been addressed and Comptroller Hynes has taken on a great task by holding hearings across this state in many of our communities. He came to Decatur this past summer and held a hearing and I was amazed at the number of people who showed up, not only from the Decatur and Macon County area, but from all of the surrounding counties and communities around Macon County. And we heard time and time again the problems that we had in private cemeteries and in some municipally-owned and township-owned cemeteries as well. That cemeteries were... weeds were overgrown, stones and monuments were dismantled. And the need for legislation to improve the accountability of private cemetery owners was so great. And I commend him for the legislation that he's put before us today. This is a consumer-oriented Bill. It's a pro-consumer Bill. I really don't understand how anyone in this Body, in this chamber could possibly vote 'no' or think about voting 'no' on this Bill. We pass out Bills, out of this Body, everyday that go to the Senate that need work. They come back with an Amendment, we agree to those Amendments or we reject those Amendments. That's part of the process, and we understand that. But we have to look at the very good things in this Bill. The fact that this legislation puts consumers first is so important. It adds protections for consumers. It requires cemetery licensees to distribute consumer protection booklets, spelling out consumer rights under pre-need contracts. And another important provision, providing a cemetery grant program to assist in the clean up of abandoned cemeteries. Local units of governments, other organizations like Veterans' groups can apply for this money. And the thing that I heard in these meetings,

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especially from municipally-owned cemeteries or township-owned cemeteries and from Veterans' groups is that if they had just a few thousand dollars to do some work, some cleanup work in a cemetery they could make it look really nice. And these cemeteries aren't selling plots that are worth thousands of dollars, in fact, some of them haven't sold plots for years. So, the idea that we could make money off of those is irresponsible. After the hearing that Comptroller Hynes held in Decatur, I went out to one township in my district and I was astounded at the number of small cemeteries throughout my legislative district, which is very rural. One township, in Oakley Township, had nearly... I visited three cemeteries, and the need for a township-owned cemetery that controlled three or four different cemeteries, they only had \$11,000 a year to mow all the weeds. This is a taxpayer-funded program and they need help. The other problem that they faced is that they had cemetery way out in the middle of nowhere where vandalism had occurred, where stones and monuments had been overturned, where graffiti had been painted all over these stones. They can't afford to go out and clean up this cemetery every time a group of kids or vandals get out there and destroy it. They're trying to find ways to do that. This Bill helps them. The other issue that I think is so important that one of the things that was presented to us in our hearings is that this legislation would permit temporary access to local government authorities and cemetery authorities into abandoned cemeteries. That's so important. It's an issue that we heard from groups, Veterans' groups, who can't get into these cemeteries because land owners or the individual or the private cemetery owner won't let them in. This will take care of

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that need. So, I think that this legislation is so important. Comptroller Hynes has worked so hard on this and for the first time again in 10 years he's put forward and initiated a program to help taxpayers, to help consumers across this state. He's listened to their needs and this legislation clearly reflects the concerns of taxpayers and consumers all over the State of Illinois. And I would urge this Body to support this legislation. Thank you."

Speaker Hannig: "Representative Osmond."

Osmond: "Thank you, will the Sponsor yield for some questions?"

Speaker Hannig: "Indicates he'll yield."

Osmond: "Many of the concerns that I have, have been addressed already, but I do have a couple other questions. When I... could you please explain what cemeteries will be eligible for the use of these grant funds?"

Hoffman: "Yes, there's a definition in the Bill that defines abandoned... or what exactly an abandoned cemetery is, I believe. I take that back. There is a definition of abandoned cemetery but that is not for the provision regarding the grant. What will happen here is the Comptroller's Office will administer this grant fund and they will appoint a five-person board. That board, what we call the Cemetery Advisory Board, will recommend the distribution of moneys from the Cemetery Preservation Fund which we have... is the money that's sitting there. And the intent, the intent is for cleanup or restoration of abandoned or neglected cemeteries, including grants to local governments, schools, and not-for-profit organizations to do that. So, the grants will actually go to these local governmental entities or not-for-profit organizations in order to clean up and restore abandoned

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or neglected cemeteries."

Osmond: "I would like to say thank you to the Comptroller's Office, both of the staff people spent a great deal of time with me in explaining the Bill and I appreciate that. And there were... and I believe there were some concessions made with the Cemetery Association. I'm wondering if you could also just explain what the term 'delivered' means under the pre-need sales, because I believe that was a major concern of the Cemetery Association's. And now... isn't that Association now in agreement with the language that's in the Bill with regards to 'delivered' items?"

Hoffman: "It's our understanding that, yes. What we did, is the Amendment that was put before the committee... and I'll be... I agree that I wish we could have got that Amendment to you sooner. But the reason we had the Amendment was because, we had worked with the Cemetery Association and one of the provisions and we took out of the original Bill was the issue with regard to constructive delivery. And we agreed with some of the concerns of the cemeterians and took that out of this Bill."

Osmond: "When we talk about abandoned cemeteries a couple of the Representatives have said this is a terrific idea to have the grant fund because we know of cemeteries that have been vandalized. We know of cemeteries that are not in very good shape. Would you please clarify, though, the fact that this money will not go into any municipal or township cemetery that is still accepting gravesites or selling it, so that this private sector doesn't get in the business of maintaining municipal or township cemeteries?"

Hoffman: "That's correct. That is absolutely not the intent of that fund. What we want to do is clean up abandoned, neglected cemeteries, not ones that are currently accepting

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individuals for gravesites."

Osmond: "One of things that we were concerned about in committee is the funding mechanism for this fund coming from a not an increase in fees, but a new fining system. It was my suggestion and I hope it's taken into consideration that if this is a universal problem in the State of Illinois, for all of us concerned about all abandoned cemeteries, that we choose a different funding mechanism for this that reflects all of our concerns and that would be an increase in a fee for a death certificate. We did this last year, to be able to issue electronic death certificates. I think there is a need for it. I just don't like the funding mechanism that sets in place. I think that this will if we start using those funds I'm afraid there's going to be a movement to find penalties to fund needed projects. And I think that if we take that incentive away from those people who are going to be administering it, we'd have a fairer mechanism for funding. And I'd like that to be considered as you move ahead with considerations with this."

Hoffman: "I, like you, believe that we need to find some type of mechanism to get more, Representative Osmond, than the \$25 thousand a year, because that is an issue. That's a legitimate issue, but we believe that we shouldn't be increasing any fees at this point. And I'm not so sure that we need to in the long term. Another reason is, is the point was made earlier that only 800 cemeteries are paying for cleanup of all of these abandoned cemeteries. But actually, the fund we're talking about, all cemeteries in Illinois must register with the Comptroller's Office, all cemeteries. And they pay five dollars and that makes up a portion of this fund that already exists. So, really all cemeteries are chipping in to ensure that there is some

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money here to address the issue."

Osmond: "Does the Comptroller have the ability now to go into abandoned cemeteries to do any repair work, or any fixing?"

Hoffman: "I think, generally, and I'm gonna talk off the top of my head. It's my understanding that no, they don't. That's why we need this. I think that they could go and probably license cemeteries that are the ones that are licensed under the various Acts for various reasons. But as far as abandoned and neglected, first of all, there's practical problems. They don't have the staff to do that type of thing. But, secondly, the funding is not there to do that type of thing. But, I think, really, the Comptroller's Office should be an arm that regulates, not necessarily an arm that does the cleanup work. So, what we're talking about here is allowing local entities of government as well as local not-for-profit organizations to actually take on the load of rehabilitating these cemeteries."

Osmond: "I spoke with the township officials and why they were in favor of the Bill and they do like the idea of having funds available. But the problem is, it's only if they decide to match it with their own money. And I'm concerned that we might be giving an impression that by creating these funds that we're going to be able to go in and clean up these cemeteries when in fact we're not gonna have... or the Comptroller's Office won't have the jurisdiction to do that. So, the townships or municipalities will have to come up with some additional funds if they choose to do it."

Hoffman: "Yeah. It's my understanding, and you can correct me if I'm wrong, Representative, but it's my understanding that the matching provisions under the Act actually only apply

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if they're cleaning up township or municipal cemeteries. So, what could happen under this Act is a township could decide, well, here's an abandoned cemetery, it's not necessarily a township cemetery and we would like to, as a governmental entity, do something for the community and rehabilitate that. They then could apply for a grant and it's my understanding in that instance, in that instance, they will be eligible for a hundred percent grant. Okay?"

Osmond: "Because they would fall under charitable or whatever... when a charitable organization, let's say the VFW, which is an honorable organization, decides to come and apply for money to go... who will... will the Comptroller determine that a cemetery is abandoned or will that be up to the organization to do it, or will there be an opportunity for the... maybe the... for a hearing first before these people come on in?"

Hoffman: "Well, it's like, there'll be a five-member board and I would assume what would happen is the applications will come in, the five-member board would then review them. I don't think that in the Act there's not necessarily a procedure of whether there'll be a hearing on each one. I would assume that people would come in, make their pitch and try and get the grant money that way."

Osmond: "One of the things that we talked about when I had the meeting, is the use of life insurance and annuities and the funding of pre-sale agreements. And currently, it's my understanding that one of the Acts allows that and the other Act does not. And the Act that does not is the Act that governs those guaranteed prices. Is that correct?"

Hoffman: "Yes."

Osmond: "Would the Comptroller's Office reconsider that to let life insurance or annuity policies also be used to fund

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both of the preneeds under both Acts. I don't see any downside to that at all."

Hoffman: "Yeah, I would just hold... to me particularly that issue has not been raised, Representative, but I certainly... as in all this, if it can help out the consumers and it will help out the people who are going to be utilizing that portion of this Act, we certainly would consider it."

Osmond: "One of the provisions of the Bill states that cemeteries, private-owned cemeteries, shall have surveys done periodically and maps shall be drawn outlining the cemeteries, prices shall be posted in the cemetery or available at the quote 'office'. There are many of... and I think when we talk about private cemeteries we have a false impression that it's only those for-profit..."

Hoffman: "Mr. Speaker."

Osmond: "... cemeteries."

Hoffman: "If we could have... Mr. Speaker, if we could have order. I can't hear the questions."

Osmond: "I think when we talk about private cemeteries, there's a common misconception those are only for-profit cemeteries. In my district, I know that we have an awful lot. I have a cemetery across the street from my home. It's a private cemetery, not-for-profit. It's being maintained, now, by the niece, cousins, daughters, grandchildren of people that are buried there. And I'm concerned of the practicality of them getting a current survey of the cemetery, the cost involved in it, mapping, and where it's gonna be posted. There is no office on the premises. And I'm concerned about that and I'm wondering how that's gonna be interpreted and handled."

Hoffman: "If, and I don't know the specific cemetery you're

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talking about, but it's my understanding if it were to be considered a family burial ground..."

Osmond: "No."

Hoffman: " ... And it may not be, and if you're saying it's not, then you're saying it would come under the private cemetery. We're... what we're trying to get at, Representative, the biggest problem is people are going trying to find their loved ones, and there's no map as to where they've been buried. And we believe that there should be one. We should be able to identify where an individual is buried in any given cemetery. That's the intent of this."

Osmond: "Has the Comptroller given any thought to generating some kind of a qualifying number before these restrictions come in? Gravesites of a hundred graves or more, 200 or 300. You know, we've got an awful lot of cemeteries that might have a hundred graves that doesn't take too long to walk around there. I don't know where the practically... whether they're gonna have to put a mailbox up with the maps posting of prices. I don't see that. And I don't read it in the Bill where any of these smaller cemeteries that are voluntarily run and managed by relatives or volunteers from the community. Many of our cemeteries in our area don't have the resources to do these things and, in fact, our funeral directors are donating money to help maintain the cemetery. I think some of these things are burdensome to them."

Hoffman: "Yeah, I think you make a good point, and as everything that's been said today we're gonna consider it. And our whole idea is to make sure the people can find where their loved one's buried. And I think that how we get to that point without putting an undo burden on the very small

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family-type operated cemetery is something that I am willing to work with you on to try and come up to a conclusion."

Osmond: "Yeah, I just have two other questions. Is there an effective date on this? I'm concerned that some cemeteries would like to be in compliance with all of the your maintenance standards and I know they haven't even been drawn up yet, so I don't know how many of them we'll find in noncompliance because a fence is down or dead trees. A lot of these cemeteries don't have any money to fix these things and I'm sure there's others in here who have mowed cemeteries other than myself, but it's an expensive proposition. Dead trees, fences that once were very nice wrought iron are now knocked down over years, ground has settled and there's... I don't have a clue how much it would... how expensive it would be to put in all new cement seawalls, retaining walls with wrought iron on them. And I'm afraid the day that this is effective they are all gonna be in noncompliance. I would suggest that we look at some kind of a date down the future... in the future to give cemeteries an opportunity to come into compliance with this Act."

Hoffman: "Right now, the effective date of the Bill, as written, is January 1, 2001. That's the effective date. First of all, I think if you look at how we crafted the issue of the maintenance of the cemeteries and that is, generally, we, I think, did a good job in listing, generally, of what we are talking about. Generally, we are talking about insuring that the grass is cut, insuring that after there is a burial that there is grass seed thrown down. And we indicate in there that we're talking about reasonable maintenance standards and there'll be a community

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standard. Putting in a million dollar new fence, I don't believe would be reasonable under this Act. But I understand your concern, that is not our intent. Our intent is to have some reasonable maintenance standards, so that when people go see their loved ones, they don't have weeds up to their knees in trying to find their loved ones burial site."

Osmond: "Could you also define what a 'cemeterian' is? Is that defined in the Bill someplace?"

Hoffman: "I think the term would be 'cemetery authority' and that's defined by the Care Act."

Osmond: "Thank you very much."

Speaker Hannig: "Representative Slone."

Slone: "Thank you, Mr. Speaker. Ladies and Gentlemen, I rise in strong support of this legislation. I commend the Sponsor and Representative Moffitt, as well as Comptroller Hynes, for all their hard work and persistence on these issues. We have, as Representative Leitch referred to, a cemetery in Peoria which is an historic cemetery that was owned until recently, by an out-of-state owner, a private business person who bilked families who had loved ones in the cemetery, people to bury in that cemetery and people who had perpetual care agreements for their loved ones. This individual sold off cemetery property for his personal gain. He sold, among other things, Civil War cannons that had been in the cemetery for well over a century and frontage was separated off... frontage on a major thoroughfare and sold for his personal gain. It is this type of abuse that this legislation is intended primarily to address, and I would strongly urge your support. The Comptroller, by appearing on numerous occasions in Peoria and assisting us in our community to fight against the

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owner and to get his license taken away from him, made a tremendous difference with a very intractable problem. There are many cemeteries around this state that need, vitally need, this type of attention and regardless of some of the smaller details of the Bill that may need additional work in the Senate, I would just strongly urge everyone to vote 'aye' on this legislation. Thank you."

Speaker Hannig: "Representative Bost."

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

Speaker Hannig: "He indicates he will."

Bost: "Jay, a lot of these things have already been asked. But I am concerned. I'm on a cemetery board that... it's a private... it's a family cemetery. Very few graves are there, but the family's maintained it over the years. When we start talking about the care and the maintenance, the concern I have is... when they start talking about maintaining like, roadways and things like that in? Are we going to be required to blacktop into these rural small cemeteries?"

Hoffman: "No, not at all. What we're talking about is just simply, really, allowing access to the... the problem that we're having is, is in some of these cemeteries... and the issue with regard to family members, this would not apply, it's my understanding, to family burial grounds, family burial grounds. Now, how you define that, you know, I guess people brighter than me gotta figure that one out. But it doesn't apply to family burial grounds, number one. And what we're talking about is allowing access. In the hearings that we had around the state, there are literally just problems getting to the burial ground, so that you can see your loved one. And we were just talking about road access, if it's a gravel road you get through it. That's

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what we're talking about. We're not talking about paving it, so that you would have to expend large sums of money."

Bost: "Okay, also, you know, and maybe this cemetery I'm talking about doesn't exactly qualify as a family cemetery. I mean, it's several families. It is a... it... but... there's concerns from those groups. There's also concerns in the fact that... and I know that you wrote, that it's written vague for a reason. But by being vague whenever we're describing what the proper maintenance is, is that going to open us up to when we write these rules how are we going to be negatively affected by these smaller..."

Hoffman: "Yeah, I don't believe that... it's been my belief that State's Attorneys in the state and the Attorney General are busy people generally, and I'm sure that... I wish they weren't so busy that means there wouldn't be as many crimes being committed. But I don't think that they're going to be taking families to court who have not put new gravel on the road. What we're talking about and I think we were purposefully open-ended so that each community can make a determination as to what is reasonable. What goes on in Carbondale may not be the same that goes on in Naperville or in Collinsville. So, I think that that's the reason we wrote it the way we did because I don't think it's reasonable for us to say 'you can't have grass over two inches.' You know, you're not... you don't want or four inches, you don't want to be sending a grass cop out there to measure how high the grass is."

Bost: "Okay. Also, and there was another issue that was covered earlier, seems like forever ago, and that was the 30-day provision on, you know... and it was mentioned by a previous speaker that that's not common in state law. It's so much not common that I tried to carry a Bill to

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protect senior citizens two years ago, that if a door-to-door salesman came up and made a sale that we were going to put a 30-day clause and that was defeated in committee because it was never done before. But yet in this Bill, we're going to say that that 30 days is in there. And I understand we're trying to protect consumers. That's no problem. Now, if those consumers are right at the time of a death and they're trying to make their decision right there, I can understand that, but many of these sales are made way in advance. Matter of fact, I purchased and have a crypt for my wife and I. I don't want to move in too quick, but I do have it. And, you know, I shouldn't... you know, I want to protect people from this but I don't believe that this is any different than any other sale."

Hoffman: "Well, I think, let me tell you why I think that... and the couple of things that we didn't really touch on and why I think it might be a different scenario. What we are talking about and why I think it's important to note, is we are talking about the issue of preneed. So, within that 30-day period, unless you pass away during that period which is unlikely, you... nothing has been expended by the cemetery. So, it's different than when I sell you a car, or a house, where you had paid for the inventory and something was coming out of your pocket. What we're talking about here is for that 30 days you really aren't gonna be making an expenditure on this pre-need basis. The second problem this is really trying to address is, whether you want to admit it or not, there are unscrupulous salesmen out there who are pushing this on some of our society's most vulnerable people. And many times that vulnerability is being taken advantage of and the loved

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ones of this elderly person who may have purchased something preneed don't get to see the contracts, don't get to see what has been talked about until after or sometimes later. And what we're trying to do is say, 'this is such a decision and there is really no out-of-pocket expenses in these pre-need basis that we want to get at the unscrupulous salesman who is taking advantage of some of our most vulnerable citizens.'

Bost: "Well, I hope that maybe that I can bring my other... since we're setting a precedence (sic-precedent) maybe I can bring that other Bill back which I thought was a good Bill. But, to the Bill, Mr. Speaker. The Bill, as many people said, it is a work in progress. I think it needs quite a bit more work. I commend Jay and you, Jay, and the Comptroller on working very hard. These are important issues to be dealt with. I have concerns about the Bill. I hope it will be worked on quite a bit more in the Senate. One thing that is in the Bill that I know is important is to be able to clean up and repair many of the existing cemeteries we have out there. I know in my district many of us have volunteered for different cemeteries that have been found over the years and trying to find funds to help. Lucky enough this last year we were able to work with the Department of Corrections and bring in some of the work camp there, as well as some volunteers from the school, because we found a African-American war veterans from the Viet... from the Civil War era. And it had been just let go, and we brought that back. And that's a good thing to do. I support the idea. I think there's a lot of work that needs to be done. I'm not sure how I'm going to vote on it. I hope that if it gets out of here, and I'm sure it will, that the Senate will work on a lot of these problems

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and I know, Jay, you'll continue to work on them, as well.

Thank you very much."

Speaker Hannig: "Representative Moffitt."

Moffitt: "Thank you very much, Mr. Speaker, Ladies and Gentlemen of the House. The hour grows late, but it is an important issue. I rise in support of this legislation because we still definitely have a problem. It was my hope that we would have an Agreed Bill before it left the House, but we don't, but the problem is still there and we need to deal with it. This Bill, as it's been said, is not a final product. And that's fine because they rarely are when they leave here. But the Comptroller's Office has agreed to continue to work on this, work in the Senate, let there be some more input and work towards some compromise. I think they're to be commended on that, as is the Sponsor for all of his efforts. Just remind the chamber that last year we passed some legislation, some reform, we strengthened the hand of the Comptroller in regulating these cemeteries. It was House Bill 2081. We passed it out of the House, went to the Senate and guess what? It was amended and came back over here and we approved that Bill that had been amended in the Senate with a vote of 116-0. But the point we made when that came back over here, was that there would be follow-up legislation. And that's what we're doing today. So, we passed the first step last year and said we would be back in the next session. It also should be pointed out that most owners are reputable, we're talking about a few bad actors that have caused this problem. It's only the unscrupulous owners that need to fear this legislation. And we want legislation that they would be concerned about. Certainly, Comptroller Hynes is to be commended, but I've had the problem in my district so long Comptroller

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Didrickson came to my district and held a hearing and was able to make some progress. And we went out to that cemetery, the private cemetery that had been a problem, and the grass was tall and if it was mown, individuals had to mow for their family members. I saw graves that had sunken a foot or two and had never been backfilled. There was a mausoleum there and the plate was off of some of the crypts. It was kind of an eerie feeling going there, they were all empty, but it was kind of an eerie feeling going there and seeing those open crypts at the mausoleum. So the problem is real and we must continue to try to deal with it. Representative Leitch identified some serious problems at Springdale, and that cemetery has probably got as much or more attention than any other cemetery in the state, being there in Peoria. One owner even sold off some historic cannons from the Springdale Cemetery, extremely valuable. I believe they were Civil War cannons and they have not yet... both of them have not yet been recovered. That's who were dealing with, it's the unscrupulous owners. This is a good additional step. We made one last year, we're making another one now. The right vote is a 'yes' vote. This is a consumer protection Bill. And the right vote is a 'yes' vote for that. Thank you."

Speaker Hannig: "Representative Brady."

Brady: "Will the Sponsor yield?"

Speaker Hannig: "He indicates he will."

Brady: "Representative, can you define for me the fee increases in this legislation?"

Hoffman: "There is not one fee increase, none."

Brady: "Our staff tells me that the legislation carries with it a transfer fee of \$1 per square foot of unused land when it's sold from one owner to another, and a \$5 per prepaid plot

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when it's sold from one owner to another, is that correct?"

Hoffman: "Yeah, okay. I apologize to you. Let me talk about that \$1 issue and that's what Representative Black, I believe, brought up. If I could define the issue with regard to fees. There's certain fees that are paid when you register as a cemetery. There's certain fees you pay when you file an annual report. There's certain fees that you pay whenever you register pursuant... a privately-operated cemetery accepts care funds. That's not changing at all. What we're talking about is how we're going to utilize those existing fees. Now, with regard to what you're talking about, we're talking about a situation where a current cemetery, one that is already licensed, already exists, already accepts care funds, perpetual care funds besides to sell a portion of their property. What this Bill would do, is say, 'If you decide to sell a portion of your property you would have to pay into the care fund, into the perpetual care fund, \$1 per square foot.' The reason is, is because what happens is, when you design these cemeteries you put so much money into perpetual care. And in order to ensure that perpetual care exists, it is done based on how many plots are going to be sold. When you sell off a portion of that, there is a concern that there will be enough dollars available in order to maintain that cemetery long-term. The second problem with it I think is more of a problem of I decide that my loved one is going to be buried in a cemetery, and all of a sudden a new road goes through right next to the cemetery and they decide to sell off the front portion of that cemetery. Not only is there an issue as to whether how you're going to protect perpetually care for that cemetery, but also now, my loved ones burial plot faces the

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back of a WAL-MART. That's problematic. I think it's problematic, because that was sold with the understanding that it was gonna be a cemetery. You think it's gonna remain a cemetery, and then all of the sudden some guy in development comes on the front of the property. So, what this would do, in order to discourage that type of activity, is provide for \$1 per square foot amount of money that will go into the care fund in order to care for that cemetery perpetually."

Brady: "Representative, right now, if I were to go out and buy a plot of land and turn it into a cemetery, as I sell plots I have to pay into a care fund, correct?"

Hoffman: "I'm told that not every cemetery has to be a care cemetery, but gener... if you are a care cemetery, I believe you're correct."

Brady: "Okay, so, let's say..."

Hoffman: "I apologize to you, because I'm not sure of the distinction."

Brady: "Do all cemeteries which transfer title to another owner, for the purposes of an investment, do they all have to pay this \$1 per square foot fee?"

Hoffman: "Not if it's going to continue to be utilized as a cemetery."

Brady: "So the \$1 fee's only if it's continued... if it's not continued as a cemetery?"

Hoffman: "If you are selling from a licensed cemetery to another licensed cemetery owner, okay? So, I own a cemetery, somebody comes in and wants to buy my cemetery, this fee would not apply. However, if you're selling it and you're going to utilize that land for another purpose other than a cemetery, that creates a problem with insuring the financial integrity of the perpetual care fund. So, that's

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where the fee would come in. That's the intent."

Brady: "So, you're saying the legislation requires if you're going to take cemetery land and sell it to someone who's not gonna use it for the cemetery, they're gonna have to pay a fee of \$43,560.00 per acre?"

Hoffman: "If that's how many square feet are in an acre, yeah."

Brady: "It is."

Hoffman: "I was told that only for the portions of the cemetery land that were suitable for internment (sic-interment), in other words, that were suitable for burial. Do you understand what I'm saying?"

Brady: "If I've got 10 acres that I can expand into cemetery plots, and I'm gonna sell that to a school and in order to do that I'm gonna have to pay a fee of \$43,560.00 per acre, or half a million dollars, approximately?"

Hoffman: "If you're going to sell it to a school and the... in the Bill if the Comptroller believes that there's sufficient dollars in order to perpetually care for that cemetery, the Comptroller has a right of waiver of that amount of money under the Bill."

Brady: "Okay, thank you."

Speaker Hannig: "Representative Hoffman to close."

Hoffman: "Well, thank you. Thank you, Ladies and Gentlemen of the House. I'll be extremely brief. First of all, I would like to thank all of the individuals who talked on the Bill. I believe that the questions were well thought out, I'd also like to thank Comptroller Hynes for having hearings and having the fortitude to come forward on this very important Bill. I talked earlier in the opening about the Valley View Cemetery situation in my area, where the weeds were literally growing up to people's knees when they went on Mother's Day to see their loved one, to pay their

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respects to their loved ones grave. We believe it's reasonable to use existing funds in order to take care of the issue of abandoned cemeteries. We're talking about war heroes. We're talking about people who fought for this country whose cemeteries are abandoned. It's reasonable to provide that grass gets cut and it's reasonable to ensure minimum consumer protections. The bottom line here is you can either vote on this issue... and I understand that you may be concerned about various issues on this Bill. But isn't it really wrong when an individual and we're allowing in this state without any penalty to steal artifacts from cemeteries without any penalty? This would make that a Class II felony under this Bill. Isn't it wrong when unscrupulous salesman are taking advantage of the most vulnerable among us in order to sell cemetery plots? What we're talking about here is one thing. We're talking about joining the AARP, we're talking about joining the township officials, we're talking about joining the funeral director, and joining Comptroller Hynes, and joining the 12 million consumers who someday, unfortunately, are going to have to deal with this situation here in the State of Illinois. Are you gonna be with 12 million consumers? Are you gonna be the 800 cemeterians that we're talking about? That's the decision, vote 'aye'."

Speaker Hannig: "The question is, 'Shall this Bill pass?' All in favor vote 'aye'; opposed 'nay'. The voting is open. Have all voted who wish? 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 100 voting 'yes', and 11 voting 'no'. And this Bill, having received the Constitutional Majority, is hereby declared passed."

Speaker Madigan: "Speaker Madigan in the Chair. Ladies and

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Gentlemen, if we could have your attention, if we could have your attention for a few moments, there's been a great deal of controversy today regarding House Bill 709. The Bill was called, it was debated, it got 65 votes. There was a Motion filed to reconsider the vote. There was an effort and a combination by Representative Cowlshaw on the Motion to Reconsider which was not successful. And so, I've spoken with both sides of the issue, there's an agreement among the participants to the issue that I will request leave to reconsider the vote. Leave will be granted. We will then proceed to a second roll call on the Bill. There'll be no further debate, we'll just go to the roll call. So, the question is on House Bill 709, 'Is there leave to reconsider the vote by which the Bill passed?' Leave is granted. Mr. Clerk, put the Bill on the scoreboard. The question is, the question is, 'Shall this Bill pass?' Those in favor vote 'aye'; those opposed vote 'no'. This is a Third Reading vote. This is a Third Reading vote. The issue is Medicaid funding of abortions. The Bill got 65 votes the first time. Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question there are 64 'ayes', 51 'noes'. This Bill, having received a Constitutional Majority, is hereby declared passed. House Bill 4266, Mr. Ryder."

Clerk Rossi: "House Bill 4266, a Bill for an Act in relation to adult education. Third Reading of this House Bill."

Speaker Madigan: "Mr. Ryder."

Ryder: "Thank you, Mr. Speaker. This Bill would change the governance of adult... what we know as adult education from the State Board of Education to the Illinois Community College Board. Seventy percent of adult education now is being accomplished by the community colleges. The State

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Board of Education indicates that adult education is not their priority, in fact they received zero increase in funding this year. Community colleges wish to advocate for adult education and wish to advocate for the enhancement and growth of the program. I'll be happy to answer questions."

Speaker Madigan: "All right. Mr. Ryder moves for the passage of the Bill. Mr. Ryder, there's a request to take this matter off the order of Short Debate, that request is granted. Ladies and Gentlemen, let me have your attention. Ladies and Gentlemen, let me have your attention. This Bill is concerned with the transfer of adult education from the State Board of Education to the Community College Board, okay? There are already about 10 people seeking recognition. Now, we all have a choice, we can debate this for about two hours and everybody knows how they're gonna vote. We can debate this for two hours and everybody knows how they're gonna vote, or we can agree that there'll be a limited number of people on each side. Okay? I would suggest three and three, three and three. Mr. Ryder would be one of the three for the Bill and there would be two others for the Bill, and there would be three against the Bill. Now, among those who are seeking recognition, those opposed to the Bill if you could raise your hand. I see Mr. Schoenberg, Representative Davis, Representative Klingler, Representative Krause. Now, could the four of you get together and decide who's gonna be the three? What purpose does Mr. Giles seek recognition?"

Giles: "Mr. Speaker, Mr. Speaker, there was a request to have my name removed from the Bill."

Speaker Madigan: "This Bill?"

Giles: "That's correct."

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Speaker Madigan: "Yeah, Mr. Clerk, remove Mr. Giles as a Sponsor of the Bill. Now, have Mr. Schoenberg, and Representative Monique Davis, and Representative Klingler, and Representative Krause come to an agreement? The Clerk wishes to announce a meeting of the Rules Committee."

Clerk Bolin: "The Rules Committee will meet immediately in the Speaker's Conference Room."

Speaker Madigan: "Representative Krause indicates that she'll drop out. Recognize Representative Krause."

Krause: "Mr. Speaker, the three that will speak in opposition are Representative Schoenberg, Representative Monique Davis, and myself."

Speaker Madigan: "Okay, very good. Mr. Schoenberg in opposition."

Schoenberg: "Thank you, Mr. Speaker. A question of the Sponsor. Will the Gentleman yield?"

Speaker Madigan: "The Sponsor yields."

Schoenberg: "Mr. Ryder, what are the implications of this transfer of authority relative to the Illinois Purchasing Act?"

Ryder: "Relative to what, Representative?"

Schoenberg: "The Illinois Purchasing Act. If you transfer the governance of this program from a state agency which is covered by the Illinois Procurement Code and the Purchasing Act and all the required competitive bidding requirements under law and all the penalties for violating that to the Illinois Community College Board for the awarding of these contracts, my question is, what are the implications in this transfer of authority?"

Ryder: "Representative, for legislative intent, I will indicate to you that the Community College Board should operate under the same laws of procurement that bound the State

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Board of Education."

Schoenberg: "Mr. Ryder, with all due respect, there are a number of quasi public agencies which historically... and other agencies which are not code agencies which should comply, but which often don't despite their best intentions. Would you be willing..."

Ryder: "Representative... Representative, in direct answer to your question, I would indicate to you those community-based organizations to which you may refer came to us and said that we want to make sure that the language is located in that Bill and there is indeed an Amendment that was adopted in committee that specifically gives the ability of the Community College Board to... through the community colleges to accomplish just that. So that where the education is delivered, there is no change. Those organizations that deliver it now, for example, some of the organizations in Chicago that teach English as a second language, the Jewish Federation, some of the other charities, Polish Alliance, and others. They are included under this Act so they can continue to provide the very same services that they're providing right now."

Schoenberg: "And I don't dispute how effective some of those nonprofit organizations are..."

Ryder: "You're right, they're very effective."

Schoenberg: "But my question is, are we relinquishing control of the stricter standards... as a result of relinquishing control, are we not eliminating the requirements of all this contracting to occur under the Purchasing Act?"

Ryder: "In my opinion we are not."

Schoenberg: "Would you be willing at the appropriate time to... and I'd be happy to work with you to clarify that through an Amendment either in the Senate or when it comes back

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here to do so? I appreciate your expressing the intent that they should comply with the purchasing laws, but should... asking someone to do so, and require... mandating them by law this is not only for our protection, this is protection for all the contractors, as well."

Ryder: "Representative, you are the first to bring this issue to my attention. It was not brought up during the hour and 45 minutes that we had in committee and I'm happy to cooperate. It's my intention to pass the Bill this evening and if I'm not able to satisfy you, perhaps there's other pieces of legislation that we can use to clarify what's passing out of here this evening, if it happens."

Schoenberg: "I'm not sure if I should interpret that as a commitment to rectify this matter or if we're just gonna let it go."

Ryder: "Representative, I've told you my intent..."

Schoenberg: "Okay."

Ryder: "I have indicated to you that I believe that it does apply. If reasonable folks have brang (sic-brought) to you and I evidence that it doesn't, then we need to rectify that. Obviously, I want to pass the Bill this evening and, hopefully, that will pass on over to the Senate. If they see the wisdom of your criticism or your question this evening and they put on that language to satisfy you, I'll present it for passage when it comes back to the House."

Schoenberg: "Okay, to the Bill. Very briefly, that being the case under its current form, I would urge you not to support House Bill 4266 in its current version. There's no dispute as to the efficiency and qualification of many of those who are providing these adult educational services. However, because there is no ironclad protection that contractors would have to follow the more stringent

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standards of the state's purchasing laws, in light of some of the other recent abuses which have occurred under the auspices of the Illinois Community College Board through exclusive no-bid contracts for other services that are provided, at this time I respectfully ask you to vote in opposition of 4266."

Speaker Madigan: "The next person to speak in support of the Bill, if he wishes, will be Mr. Wirsing. Mr. Wirsing, are you in support of the Bill? All right. Mr. Wirsing in support of the Bill and there'll be one more in support of the Bill. Mr. Wirsing."

Wirsing: "Thank you, Mr. Speaker. I think that the few comments I want to make in support of changing of the governance system, for the adult education here in Illinois, is one that's, in my opinion, is long overdue. It's been a issue that has been scrutinized several times over the last 20 years and it seems like whenever it resolved or attempted to resolve on some of the issues on relative to the adult education system in the governance of it, whenever that was reached, it seemed as though within a very short period of time it was right back to square one. Since I've been serving as State Representative and been involved in the whole element of higher education here as a Representative, there's been several times when I've been involved in this issue. I'm so pleased to see us have the opportunity to with a piece of legislation that does not tear apart what I think is a very good adult education system here in the State of Illinois. Simply, it is a moving of the governance of the management of that system into... without question now, a much more appropriate area and place to manage the system. From my perspective, that means that we're gonna see the adult education system in the State of

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Illinois improve dramatically over the next few short years, and it has that opportunity to do that. And because of that, that's the singular reason that we ought to be changing anything, is to... with the idea that it's going to work better, it will offer more and be a stronger adult system here in Illinois. And as was indicated in Higher Education Committee when this Bill was debated that the leadership of the Illinois Community College Board without question, answered questions as far as what the intent was of the Illinois Community College Board. And it was not just simply to take over the governance but it was to improve the adult education system with a statewide management process and dollars as well, additional dollars. And I think that's very important, and I think we need to keep that in mind. So, I would... as I stand here in full support of the system and I would ask for your consideration to, in fact, support the legislation that we're talking about here today. Thank you."

Speaker Madigan: "The next person in opposition to the Bill will be Representative Monique Davis."

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

Speaker Madigan: "Sponsor yields."

Davis, M.: "Representative Ryder, I believe it was in 1994 or '96 in which all of the interested parties came together and formed an agreement, is that correct?"

Ryder: "There was an accommodation reached in the Governor's Office, I think in 1996."

Davis, M.: "And it came about because all of the interested parties met and the accommodations were satisfactory to all the interested parties, is that correct?"

Ryder: "No, ma'am."

Davis, M.: "So, who was dissatisfied?"

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Ryder: "Why, I think that there were several folks that were not happy with the result but agreed to it because that was the option they had at that point. We're here today because the Higher Education Committee passed a Resolution asking the State Board of Education, State Board of Higher Education, and the Community College Board to come up with a solution to avoid the rather complicated duplicitous dual reporting system that was a result of the meeting that you described."

Davis, M.: "Well, we've lived with that agreement for this many years, and Representative, do you think that group could have come back together and attempted to resolve their differences?"

Ryder: "No, ma'am, I don't. And I would like to explain to you the reason, if I may."

Davis, M.: "Okay."

Ryder: "Okay. This year the State Board of Education decided that its priorities were in the traditional classroom setting in order to meet the learning objectives that they wanted to have accomplished. They had indicated that's their priorities. And in a year in which the State Board of Education received a hundred percent of what they requested they were very specific as to where they wanted that money to go: early childhood development, classrooms. And they spoke at the committee, and you were there. They spoke at the committee talking about the tens of millions of new dollars to fit those priorities. The State Board of Education has said what we call adult education is not a priority, and as a result this year the State Board of Education said zero new dollars to adult education. The community colleges on the other hand, want not only just to welcome the adult education into the fold of community

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colleges, not only do they want adult education to come where 70% of adult education is being done right now, they want to enhance, they want to grow, they want to thrive that program."

Davis, M.: "Representative..."

Ryder: "So, I think it would be somewhat difficult for those positions to be reconciled."

Davis, M: "Representative Ryder, I was at that meeting, and I had taken my name off the Bill. I, too, removed my name from the Bill after I received all of the facts. Why is it that there is still \$5 million in the State Board of Education's budget for literacy if they're moving the program? What is that remaining there for?"

Ryder: "On that issue, you would have to discuss with the State Board of Education. I don't believe literacy is exclusive to adult education. I believe that literacy can be applied in many other ways and clearly, that is part of the program. I would suggest if you examine the budget that is today, versus the budget of where we wish adult education to be in three years, there's gonna be several kinds of accommodations made because I hope that we have more dollars available in next year's budget and the year after. This transfer, by the way as you know, as you sat through the hearing, doesn't take place until July 1, of 2001. So, this budget is not at all reflective of where we wish it to be after that time. I hope that the adult education thrives and is enhanced under the auspices of the Community College Board."

Davis, M.: "Representative, when we speak of adult education, can you clarify or define for us the kind of education we're speaking of?"

Ryder: "Sure. Representative, as you know, 'cause you're very

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much involved in the educational process, I would divide it into a couple of different areas, and this is only from my shorthand. There are places around the state that offer what's called alternative education for youngsters primarily through the regional superintendents in my neck of the woods. It may be different in yours and they..."

Davis, M.: "That's going there, too? Alternative education?"

Ryder: "Yes, ma'am."

Davis, M.: "For when kids get expelled, when students get expelled from school?"

Ryder: "No, I'm not... you and I are not talking about the same thing."

Davis, M.: "Oh."

Ryder: "Okay, there are some students in my district who have left school for whatever purposes and adult education is being provided under contract at freestanding facilities. There's one here in Springfield, as well. The 16-, 17-, 18-year-olds that participate in that make up about 24% of the total numbers of what we call adult education. The remaining 75% are those who are 20-120, who may be using English as a second language, who may be working for a GED, who may be doing lots of different adult education things in a traditional fashion. That in a shorthand is the two ways that it's accomplished. And now, in the city colleges of Chicago, and in lots of other community colleges downstate, that adult education, 70% of the total adult education, is being provided by community colleges today."

Davis, M.: "Since, Representative Ryder, the mission of Illinois community colleges is to prepare people for the workforce or prepare them for entry into further education, perhaps a four-year institution, how does, basic education or English as a second language, fit into that scheme of things?"

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Ryder: "Representative, it doesn't. Because what you said is the mission is too limited for what community colleges now do. Community colleges take great pride in the community portion of their mission. They're reaching now into high schools to offer dual credit, high school credit and college credit, for those that are in the classrooms. They are reaching into the communities to offer enhancements through telecommunications, through distance learning, through video hookups, to provide course work in high schools and elsewhere for the community. If their only mission was as you described either vocational or to get an advanced degree after Associate's, I would agree with your statement, but that definition of what community colleges does is probably 20 years out of date. And now what they're providing in the community is so much more than those two narrow focuses."

Davis, M.: "Is it because they don't have enough students..."

Ryder: "Oh, no."

Davis, M.: "... perhaps that they're reaching back into the high schools..."

Ryder: "No, ma'am. Community colleges provide per student, the most economical delivery of education in the State of Illinois."

Davis, M.: "Representative Ryder, educational programs for students who have dropped out and are getting their GED have received excellent ratings and at this point are highly regarded."

Ryder: "You are correct, and I don't wish for those to change."

Davis, M.: "Why... then my question, Representative, is why are we changing the governance if we found a state program that's sufficiently working, who is accomplishing its goals, where there are no complaints, why are we actually

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doing this?"

Ryder: "We're doing it because many of the very programs you describe are already being distributed and provided by the community colleges. Seventy percent of adult education in the State of Illinois is now provided by community colleges. This simply recognizes..."

Davis, M.: "That's your... isn't that your..."

Ryder: "... this simply recognizes where it's happening."

Davis, M.: "I'm sorry, isn't that your English as a second language program, that 70% of the community college programs?"

Ryder: "Seventy percent of adult education in the State of Illinois is provided by community colleges."

Davis, M.: "How about... What percentage of your students are GED students?"

Ryder: "I'm sorry, I didn't hear the question."

Davis, M.: "What percentage are GED or basic education, basic skills pupils?"

Ryder: "Representative, I don't know the answer."

Davis, M.: "Not you? Did you know, Representative, that in 1998 Illinois was catching up with every other state in reference to providing GED testing and passing? Did you know we had accomplished that in the State of Illinois? Did you know that our ability to be successful was increasing?"

Ryder: "Absolutely."

Davis, M.: "Now, according to the Constitution of the State of Illinois it is the public schools' duty, constitutional duty to educate through high school. Now, if we take people who are in need of basic education, they're adult people but they are in need of basic skills, basic education, GED classes, we turn them over to an institution whose major

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concern, if it's not should be, to prepare people for the workforce and also to make sure that those who want college degrees can articulate (sic-metriculate) from the junior college onto the four-year institutions. That's what they should be doing. I don't object to them going into the community, having technology classes or distant (sic-distance) learning classes, but I do have a great deal of concern of how important the basic education will be if when they get it, how important will it be to them since they're doing all of these other functions."

Ryder: "If I could answer the Lady's question. There's two questions that I wish, you asked about GED and high school credit of approximately 93 thousand students. It's about 17 thousand. I apologize I didn't do the math while you asked, but it's about 17 thousand out of 93."

Davis, M.: "Representative, I knew that you would know."

Ryder: "Well, some nice people who are standing next to me were able to provide that."

Davis, M.: "I wish there were some nice ones around me."

Ryder: "Let me answer the question to you, because I think this is a case, Representative, where you and I as reasonable people will disagree, because the premise you set up mandates the conclusion. I do not look at community colleges in the very narrow focus that you describe them. You describe them as vocational training, and seeking a degree beyond the two years. I see community colleges as much more than that. I do, however, agree with you on one thing and that is that we are recognized as providing good services for adult education. And let me be real clear about two things here, very clear. I don't believe that we're changing how that education is delivered at the front line, at the retail level, at the teacher to student

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level. I'm not advocating that. What I am advocating is the change of the governance to simply recognize, that of those well-recognized programs, of those highly regarded programs, it's being provided by community colleges right now, 70% of it. I don't expect that in those programs where you have students that didn't make it in high school for one reason or another, and they're making it in an alternative program, I don't want that to change. If it requires bussing now to get those folks to that community, that's fine. I don't want that to change. What I do want to change is simply to recognize that 70% of those well-regarded programs that we're providing now, and that..."

Davis, M.: "Who will be your labor force? Will your community..."

Ryder: "Same labor force that's there now."

Davis, M.: "Your community college teachers?"

Ryder: "Same labor force that's there now."

Davis, M.: "Now, wait a minute, Representative..."

Ryder: "I'm changing the governance, not how it's delivered. I want that to stay the same."

Davis, M.: "So, are you saying that the Illinois Community College teachers will teach the GED classes?"

Ryder: "No ma'am. They already do it now and I don't expect that to change. Where the community colleges are teaching now, they're gonna continue. Where an alternative adult education, I don't expect that to change. Where community-based organizations are teaching adult education, I don't want that to change either."

Davis, M.: "Will they grow? Will community-based organizations grow, I mean..."

Ryder: "My hope is, yes, they will."

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Davis, M.: " ... or are they limited to only those that currently exist, or can they develop new ones? Will they project..."

Ryder: "Representative, I can only tell you two things, and hope... allow you to make a conclusion drawn on those two."

Davis, M.: "Okay."

Ryder: "The first is, that the State Board of Education did not grow adult education this year, they asked for zero dollar increase. Secondly, that the Community College Board in testimony, and you heard it because you were paying attention during that committee meeting, said, 'we want to enhance, we want to grow the program.' And third, I said two I will sneak a third one in here, the Governor who's initiative this is, he is in favor of this initiative, I believe will put his money, our money, your money, there to grow and enhance the program."

Davis, M.: "Do you think, Representative Ryder, that I'm gonna quote Mrs. Ryan, 'if it ain't broke, we ought to fix it'?"

Ryder: "Representative, if it's not right, and 70% of the folks coming through community colleges, all of these folks have the dual reporting system, this cumbersome, expensive dual reporting to both community colleges and the State Board of Education, I think that reporting system is broke. It's costing us money and we ought to change it."

Speaker Madigan: "Representative Davis, could you bring your remarks to a close?"

Davis, M.: "Yes, yes."

Speaker Madigan: "Thank you."

Davis, M.: "To the Bill, Mr. Speaker. I would like to say that usually the adult education classes that we are speaking of, whose governance is being transferred, I don't know if they're federal dollars attached to that and the community college will have an opportunity to use those federal

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dollars. And if they do, I hope they'll continue to use them to educate the people that they are supposed to educate. I'm very concerned when the governance is being changed without a real good reason. You know, there are so many, I won't say a lot, but there's some agencies that don't really work too well and you're glad if there is a change of governance. But this is certainly not one of them. I have to say that I think the State Board of Education has done a very commendable job in its responsibility of educating adults. And I am very much concerned with transferring this to the Illinois Community College Board whose interest should not be at the basic education level. Their interest should be for higher education and for technology and to prepare people for the work force. They should not take on the responsibility of elementary or high school governance educators and try and educate adults when they should be about pushing and promoting those who are already on their way. These are people who need basic educational services. I believe they're gonna be lost in the Illinois Community College Board system, and I urge a 'no' vote with all respect to Governor Ryan."

Speaker Madigan: "The next person in support of the Bill will be Representative Erwin."

Erwin: "Thank you, Speaker. I rise in strong support of House Bill 4266 and in response to some of my colleagues on this side of the aisle, maybe I can give you some real good reasons to support 4266. First of all, adult education was created prior to the existence of our community college system. So, we'll think about the timing here, it was created at a time when, getting a high school diploma was a really big deal. It was a really big deal. Today, it

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isn't a really big deal. Secondly, and as the author of the original Resolution along with Representative Wirsing to examine this issue, let us remember that today in the Illinois economy we are facing labor shortages throughout the Illinois economy. It seems to me that we have a responsibility to do the best job we can in the most appropriate venue to help students of whatever age get from where they are to where they need to go. As has been pointed out, community colleges already provide over 70% of these services. So, in response to Representative Schoenberg, I would argue that whatever accountability has been going on, will certainly continue because they have been providing 70 some percent of the services anyway. I don't think a procurement issue is a real one. And secondly, I would argue that there's maybe more accountability because there is accountability at the local level. I think that adults in this state have a right to have a system that respects them wherever they are. Representative Davis keeps referring to basic education. Ladies and Gentlemen, many of these people may have had Masters Degrees in Poland, or in Russia, they just happen not to speak English. It does not mean they can't operate mathematics or science. The fact of the matter is many of these students are as adults lack some particular skill. English as a second language is one of the major services provided. The Sponsor, I think, and the Governor's Office bent over backwards in terms of working out concerns that community-based organizations did have, an Amendment was offered that allayed, I believe, and I know the Jewish Federation believes and many others believed allayed the fears. I don't think that operationally there will be little, if any, change at the local level. So, if you have

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providers that are doing a good job, they will continue doing a good job, it's just that it will come from a more appropriate venue. Finally, just let me say that I really do believe in what we now call a knowledge-based economy. We have a responsibility to assist Illinois adults to progress on the learning curve from wherever they are to wherever they want to go. The community college system in this state has a mission to work with and teach adult learners. That is what we are talking about. And I find it, I must say, disrespectful to assume that just because someone might not be reading English at a high school level that we treat them like a fifth-grader. We are talking about adults, men and women who will become, if they are not already, productive citizens of this state. Let's treat them like the adults they are, with respect, and in a system where they will be not only honored but their learning will be enhanced. I encourage a 'yes' vote. Thank you."

Speaker Madigan: "The next person in opposition will be Representative Krause."

Krause: "Thank you, Mr. Speaker. To the Bill. I rise in opposition to House Bill 4266. As has been stated here already this evening, we currently have a most successful program under the state board which is running the adult education and literacy programs here in Illinois. There is a legitimate concern that this is more than just merely a transfer over of authority from the state board to the community colleges. In my district, High School District 214, it has expressed its opposition to the transfer. This district out of Arlington Heights has operated a most successful adult education and literacy program for the past 16 years. It has been recognized as the leader in

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adult education programs in Region 5 by the U.S. Secretary of Labor. This adult program was set up to meet these particular needs within the four townships of Elk Grove, Schaumburg, Wheeling, and Palatine Townships in the Northwest Suburban area. It serves 9 thousand adults in the area. It has over 35 instructional sites of contracts that it has been made with numerous businesses within the areas to help train the employees of those companies. There is, indeed, a legitimate concern that as this power is transferred over to community college, that, indeed, the impact and effect of this most highly successful program can be affected. I did talk to the president of the local community college and expressed District 214's concern, and he said that he is aware of the concern and that he would work with them. I do believe, though, that the legislation here should have taken into consideration the importance of the adult education programs that are currently successful and run by the many high school districts here in the State of Illinois. And that legislation does not do so. Community colleges indeed are doors that are opened to higher education and training. But it was under the state board that we were able to meet the needs of many adults in the need of adult education and literacy program. I would urge this evening that we give serious consideration to this. I do urge a 'no' vote. And the statements that have been made, that the easing over of this is merely a transfer has a great deal of concern over a period of years and it can dilute the effectiveness of the high school districts here in this state that have indeed run and made a most successful program. I urge a 'no' vote."

Speaker Madigan: "Mr. Ryder to close."

Ryder: "Thank you, Mr. Speaker. To those who have concerns about

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the freestanding, excellent adult education facilities in your districts, let me be very clear about one thing. It is not the intent of this Sponsor, it is not the intent of the Community College Boards to change the delivery of adult education in that respect. We want to enhance it. We want to grow it. We wish to make it thrive. Adult education started to educate soldiers coming back from World War II before community colleges started. Let's show that we understand that times have changed and we're simply recognizing a fact. Mr. Speaker, thank you for the opportunity, and I urge an 'aye' vote."

Speaker Madigan: "Ladies and Gentlemen, if everybody would be in their seat. Mr. Scott, if you could take your seat, we're gonna vote. Everybody could be in their chair, the question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Verification. Have all voted who wish? Have all voted who wish? Have all voted who wish? One per... the Clerk shall take the record. On this question there are 83 'ayes', and 31 'noes'. Representative Davis."

Davis, M.: "Yes, we'd like a verification please."

Speaker Madigan: "There are 83 votes, Representative."

Davis, M.: "It shouldn't take more than an hour."

Speaker Madigan: "There are 83 votes."

Davis, M.: "All right. For you, Mr. Speaker, I will take back my request."

Speaker Madigan: "The Lady withdraws the request. This Bill, having received a Constitutional Majority, is hereby declared passed. House Joint Resolution 47, Mr. Poe. Mr. Clerk, is there an Amendment?"

Clerk Rossi: "Floor Amendment #1, offered by Representative Poe, has been approved for consideration."

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Speaker Madigan: "Mr. Poe. Mr. Poe."

Poe: "Thank you, Mr. Speaker. I move for the Floor Amendment to be adopted."

Speaker Madigan: "Yeah, the Gentleman moves for the adoption of the Amendment. Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it. The Amendment is adopted. Mr. Poe, on the Resolution."

Poe: "I think we want to be brief. I think the troops want to go home. This Resolution dealing with the farm crisis in Illinois, and Hartke don't ask her any questions. Okay, what... just quick I want to say it creates a farm task force to look into the consolidation and monopolies of companies selling inputs into the agriculture economy and also look into the consolidations of monopolies that look in the marketing of agriculture products in the... Resolution. The Resolution names who would be identified and what time they would report back to the House. I would request an 'aye' vote."

Speaker Madigan: "Those in favor of the adoption of the Resolution vote 'yes'; those opposed vote 'no'. Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question there are 115 voting 'yes', '0' voting 'no'. The Resolution is adopted. The Clerk will read the committee schedule. Please give your attention to the Clerk."

Clerk Rossi: "The following committees will meet immediately after Session; the Appropriations-Human Services Committee in Room 114; the Human Services Committee in Room 118. The following committees will meet tomorrow morning, the Aging Committee at 8:30 a.m. in Room 118. The following committees will meet at 9:30 a.m.: the Agriculture and Conservation Committee in D-1; the Elections and Campaign

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Reform Committee in Room 122B; State Government Committee in C-1; the Tobacco Settlement Proceeds Committee in Room 114. This schedule has been passed out to all Members."

Speaker Madigan: "The Chair is prepared to adjourn. Representative Currie moves that the House does stand adjourned until 10 a.m. tomorrow morning, providing perfunctory time for the Clerk. Those in favor say 'yes'; those opposed say 'no'. The 'ayes' have it, and the House does stand adjourned until 10 a.m. tomorrow morning, with perfunctory time for the Clerk."

Clerk Rossi: "Perfunctory Session will come to order. Introduction of Resolutions. House Resolution 620, offered by Speaker Madigan and Leader Daniels, is assigned to the Rules Committee. Committee Reports. Representative Monique Davis, Chairperson from the Committee on Appropriations- Human Services to which the following measures were referred, action taken on February 24, 2000, reported the same back with the following recommendations: 'do pass Standard Debate' House Bills 3204, 3211, House Bills 3212, 3214, 4577, 4578, 4579, 4580, and 4581; 'do pass Short Debate' House Bills 4355, 4356, 4359, 4380, 4383, 4384, 4391, and 4392. Messages from the Governor. Executive Order #3, Executive Order reassigning functions pertaining to administration of Illinois Job Training Partnership Act, Workforce Investment Act, and Welfare to Work Programs. Filed with the Index Department of the Office of the Secretary of State February 24, 2000, signed by George H. Ryan, Governor. Introduction and First Reading of Senate Bills. Senate Bill 1241, offered by Representative Capparelli, a Bill for an Act to amend the Illinois Vehicle Code. Senate Bill 810, offered by Representative Pankau, a Bill for an Act to amend the

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Illinois Income Tax Act. Senate Bill 1249, offered by Representative Delgado, a Bill for an Act amending the Longtime Owner-Occupant Property Tax Relief Act. Senate Bill 1266, offered by Representative Holbrook, a Bill for an Act amending the Code of Civil Procedure. Senate Bill 1268, offered by Representative Mathias, a Bill for an Act amending the Criminal Code of 1961. Senate Bill 1284, offered by Representative Joe Lyons, a Bill for an Act amending the Voluntary Payroll Deductions Act of 1983. Senate Bill 1293, offered by Representative Delgado, a Bill for an Act amending the Election Code. Senate Bill 1298, offered by Representative Gash, a Bill for an Act amending the Illinois Vehicle Code. Senate Bill 1303, offered by Representative Cowlshaw, a Bill for an Act to amend the Property Tax Code. Senate Bill 1319, offered by Representative Monique Davis, a Bill for an Act amending the Criminal Code of 1961. Senate Bill 1326, offered by Representative Mautino, a Bill for an Act to amend the Illinois Income Tax Act. Senate Bill 1329, offered by Representative Silva, a Bill for an Act concerning higher education. Senate Bill 1331, offered by Representative Persico, a Bill for an Act amending the Transient Merchant Act of 1987. Senate Bill 1353, offered by Representative Giglio, a Bill for an Act amending the Illinois Identification Card Act. Senate Bill 1359, offered by Representative Cross, a Bill for an Act to reenact the amendatory changes to the WIC Vendor Management Act. Senate Bill 1360, offered by Representative Cross, a Bill for an Act to reenact Article V of the Juvenile Court Act. Senate Bill 361 (sic-1361), offered by Representative Cross, a Bill for an Act to reenact various provisions of Public Act 88-680, amending the Illinois Vehicle Code.

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Senate Bill 1362, offered by Representative Cross, a Bill for an Act to reenact Provisions of the Rights of Crime Victims and Witnesses Act. Senate Bill 1363, offered by Representative Cross, a Bill for an Act to reenact provision of the Firearm Owners Identification Card Act. Senate Bill 1364, offered by Representative Cross, a Bill for an Act to reenact provisions of the Unified Code of Corrections. Senate Bill 1365, offered by Representative Cross, a Bill for an Act to reenact certain criminal provisions of Public Act 88-680. Senate Bill 1388, offered by Representative Bellock, a Bill for an Act to amend the Adoption Act. Senate Bill 1389, offered by Representative Steve Davis, a Bill for an Act concerning higher education. Senate Bill 1398, offered by Representative Joe Lyons, a Bill for an Act amending the Animal Welfare Act. Senate Bill 1400, offered by Representative Black, a Bill for an Act to amend the Emergency Telephone System Act. Senate Bill 1409, offered by Representative Bill Mitchell, a Bill for an Act to amend the Code of Criminal Procedure. Senate Bill 1425, offered by Representative Art Turner, a Bill for an Act concerning park districts. Senate Bill 1427, offered by Representative Klingler, a Bill for an Act to amend the Emergency Medical Services (EMS) Systems Act. Senate Bill 1428, offered by Representative Silva, a Bill for an Act to amend the Illinois Vehicle Code. Senate Bill 1442, offered by Representative Feigenholtz, a Bill for an Act amending the Clerks of Courts Act. Senate Bill 1474, offered by Representative Hartke, a Bill for an Act to amend the Illinois Vehicle Code. Senate Bill 1507, offered by Representative Winters, a Bill for an Act to amend the Illinois Commission on Community Service Act. Senate Bill 1511, offered by Representative Bugielski, a Bill for an

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Act relating to payment for certain services. Senate Bill 1524, offered by... Senate Bill 1533, offered by Representative Coulson, a Bill for an Act to amend the Illinois Marriage and Dissolution of Marriage Act. Senate Bill 1538, offered by Representative Lang, a Bill for an Act amending the Higher Education Student Assistance Act. Senate Bill 1555, offered by Representative Lopez, a Bill for an Act amending the Civil Administrative Code of Illinois. Senate Bill 1571, offered by Representative John Turner, a Bill for an Act concerning municipal officers and firearms. Senate Bill 1582, offered by Representative Moffitt, a Bill for an Act amending the Counties Code. Senate Bill 1586, offered by Representative Coulson, a Bill for an Act amending the Uniform Disposition of Unclaimed Property Act. Senate Bill 1609, offered by Representative Sharp, a Bill for an Act amending the Emergency Medical Services (EMS) Systems Act. Senate Bill 1617, offered by Representative Steve Davis, a Bill for an Act concerning automobile insurance coverage. Senate Bill 1634, offered by Representative Hartke, a Bill for an Act amending the Illinois Family Farmer Support Act. Senate Bill 1638, offered by Representative Kevin McCarthy, a Bill for an Act amending the Illinois Public Aid Code. Senate Bill 1648, offered by Representative Cross, a Bill for an Act in relation to environmental protection. Senate Bill 1650, offered by Representative Hartke, a Bill for an Act amending the Illinois Fertilizer Act of 1961. Senate Bill 1652, offered by Representative Krause, a Bill for an Act to amend the State Employees Group Insurance Act. Senate Bill 1690, offered by Representative Dart, a Bill for an Act amending the Principal and Income Act. Senate Bill 1712, offered by Representative McKeon, a Bill for an Act

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amending the Illinois Public Aid Code. Senate Bill 1861, offered by Representative Klingler, a Bill for an Act concerned with driving while under the influence of alcohol or other drugs. Senate Bill 1862, offered by Representative Wirsing, a Bill for an Act amending the State Treasurer Act. Senate Bill 1881, offered by Representative Kosel, a Bill for an Act amending the Sanitary District Act of 1936. Senate Bill 334, offered by Representative Rutherford, a Bill for an Act regarding electricity excise taxes. Senate Bill 649, offered by Representative Stephens, a Bill for an Act in relation to cloning. Senate Bill 742, offered by Representative Tom Johnson, a Bill for an Act concerning spinal cord injuries. Senate Bill 1248... or Senate Bill 1271, offered by Representative Daniels, a Bill for an Act concerning tobacco settlement proceeds. Senate Bill 1277, offered by Representative Bellock, a Bill for an Act concerning military memorials. Senate Bill 1291, offered by Representative Osmond, a Bill for an Act to amend the Department of Transportation Law of the Civil Administrative Code of Illinois. Senate Bill 1295, offered by Representative Mathias, a Bill for an Act concerning public universities. Senate Bill 1296, offered by Representative Hoffman, a Bill for an Act concerning taxation. Senate Bill 1304... Senate Bill 1307, offered by Representative O'Connor, a Bill for an Act to amend the Property Tax Code. Senate Bill 1317, offered by Representative Rutherford, a Bill for an Act to amend the Property Tax Code. Senate Bill 1330, offered by Representative Cross, a Bill for an Act to amend the Franchise Disclosure Act. Senate Bill 1332, offered by Representative Bugielski, a Bill for an Act to amend the

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Rights of Crime Victims and Witnesses Act. Senate Bill 1340, offered by Representative Eileen Lyons, a Bill for an Act in relation to child support. Senate Bill 1376, offered by Representative Meyer, a Bill for an Act to amend the Illinois Municipal Code. Senate Bill 1397, offered by Representative Hartke, a Bill for an Act concerning industrial hemp. Senate Bill 1421, offered by Representative Beaubien, a Bill for an Act to create the Data Processing Services for Financial Institutions Act. Senate Bill 1422, offered by Representative Meyer, a Bill for an Act concerning certain financial institutions. Senate Bill 1444, offered by Representative Howard, a Bill for an Act to amend the Higher Education Student Assistance Act. Senate Bill 1498, offered by Representative McCarthy, a Bill for an Act in relation to fines for driving under the influence of alcohol or drugs. Senate Bill 1508, offered by Representative Lindner, a Bill for an Act to amend the Mental Health and Developmental Disabilities Code. Senate Bill 1541, offered by Representative Rutherford, a Bill for an Act to amend the Public Utilities Act. Senate Bill 1589, offered by Representative Righter, a Bill for an Act to amend the Board of Higher Education Act. Senate Bill 1599, offered by Representative Lindner, a Bill for an Act to amend the Mental Health and Developmental Disabilities Code. Senate Bill 1620, offered by Representative Harris, a Bill for an Act to amend the Sex Offender Management Act. Senate Bill 1627, offered by Representative Andrea Moore, a Bill for an Act concerning local government debt. Senate Bill 1629, offered by Representative Wait, a Bill for an Act to amend the Illinois Vehicle Code. Senate Bill 1630, offered by Representative Jones, a Bill for an Act to amend the

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Illinois Vehicle Code. Senate Bill 1646, offered by Representative Ryder, a Bill for an Act to amend the Regulatory Sunset Act. Senate Bill 1647, offered by Representative Daniels, a Bill for an Act in relation to certain land. Senate Bill 1649, offered by Representative Jerry Mitchell, a Bill for an Act to amend the State Comptroller Act. Senate Bill 1651, offered by Representative Daniels, a Bill for an Act in relation to the finances of the Capital Development Board. Senate Bill 1656, offered by Representative Durkin, a Bill for an Act to amend the Illinois Credit Union Act. Senate Bill 1659, offered by Representative Novak, a Bill for an Act to amend the Personnel Code. Senate Bill 1660, offered by Representative Leitch, a Bill for an Act to amend the Illinois Public Aid Code. Senate Bill 1682, offered by Representative McCarthy, a Bill for an Act concerning sales and use taxes. Senate Bill 1693, offered by Representative Hamos, a Bill for an Act to amend the Property Tax Code. Senate Bill 1704, offered by Representative Pankau, a Bill for an Act to amend the Real Estate Appraiser Licensing Law. Senate Bill 1734, offered by Representative Daniels, a Bill for an Act to amend the Military Code of Illinois. Senate Bill 1735, offered by Representative Zickus, a Bill for an Act concerning the regulations of professions. Senate Bill 1780, offered by Representative Daniels, a Bill for an Act regarding appropriations. Senate Bill 1828, offered by Representative Daniels, a Bill for an Act in relation to State Government. Senate Bill 1829, offered by Representative Daniels, a Bill for an Act in relation to State Government. Senate Bill 1844, offered by Representative Eileen Lyons, a Bill for an Act to amend Acts in relation to mental health. Senate Bill 1853,

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offered by Representative Tenhouse, a Bill for an Act in relation to tobacco settlement proceeds. Senate Bill 1855, offered by Speaker Madigan, a Bill for an Act in relation to the General Assembly. Senate Bill 1860, offered by Representative Daniels, a Bill for an Act concerning membership duties, rights, and obligations of authorities, boards, commissions, and committees. Senate Bill 1874, offered by Representative Monique Davis, a Bill for an Act concerning the exercise of police powers by state employees. Senate Bill 1875, offered by Representative Zickus, a Bill for an Act to amend the Telephone Solicitations Act. Senate Bill 1883, offered by Representative Harris, a Bill for an Act to amend the Property Tax Code. Senate Bill 1899, offered by Representative Novak, a Bill for an Act concerning electric utility taxes. First Reading of these Senate Bills. Introduction and First Reading of House Joint Resolution Constitutional Amendment #22, offered by Representative Schoenberg. BE IT RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FIRST GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this Resolution a proposition to amend Section 12 of and to add Section 12.1 to Article VI of the Illinois Constitution as follows: ARTICLE VI THE JUDICIARY, SECTION 12, ELECTION AND RETENTION. Supreme, Appellate and Circuit Judges shall be nominated at primary elections or by petition. Judges shall be elected at general or judicial elections as the General Assembly shall provide by law. A person eligible for the office of Judge may cause his name to appear on the ballot as a candidate

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for Judge at the primary and at the general or judicial elections by submitting petitions. The General Assembly shall prescribe by law the requirements for petitions. The office of a Judge shall be vacant upon his death, resignation, retirement, removal, or upon the conclusion of his term without retention in office. Whenever an additional Appellate or Circuit Judge is authorized by law, the office shall be filled in the manner provided for filling a vacancy in that office. A vacancy occurring in the office of Supreme, Appellate, or Circuit Judge shall be filled as the General Assembly may provide by law. In the absence of a law, vacancies may be filled by appointment by the Supreme Court. A person appointed to fill a vacancy 60 or more days prior to the next primary election to nominate Judges shall serve until the vacancy is filled for a term at the next general or judicial election. A person appointed to fill a vacancy less than 60 days prior to the next primary election to nominate Judges shall serve until the vacancy is filled at the second general or judicial election following such appointments. Judicial Retention Procedures. There shall be a Judicial Retention Commission in each Judicial District to determine qualifications for retention of Judges of the Supreme and Appellate Courts for each District and a separate Judicial Retention Commission to determine qualifications for retention of Circuit Judges for each Circuit. A combined Judicial Retention Commission shall be impaneled to consider the qualifications of judges seeking retention in the First Judicial District and the Cook County Circuit. If more than 40 Judges in a Circuit, or in Cook County in the combined District and Circuit, have filed declarations of candidacy for retention under this Section, one or more additional Judicial Retention

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Commissions shall be impaneled so that not more than 40 Judges are assigned to a single Judicial Retention Commission. When more than one Commission is impaneled in a Circuit or in a combined District and Circuit, the Administrative Director of the Illinois Courts shall divide the candidates for retention by lot into equal groups or groups that are as close to equal as possible and shall by lot designate the groups for assignment to each Judicial Retention Commission. Each Judicial Retention Commission shall consist of 11 members. Six members shall be nonlawyers and 5 members shall be lawyers. All members shall be residents of the appropriate District or Circuit. Two nonlawyer members of each Judicial Retention Commission shall be appointed by the Governor and 2 nonlawyer members shall be appointed by the State official or officer first in the order indicated who was elected to office and is not affiliated with the same political party as the Governor, the Attorney General, the Secretary of State, the Comptroller, the Treasurer, the President of the Senate, the Speaker of the House of Representatives. If all of those State officials and officers are affiliated with the same political party as the Governor, one nonlawyer member shall be appointed by the Minority Leader of the Senate and one nonlawyer member shall be appointed by the Minority Leader of the House of Representatives. If there is a vacancy in the position for which the original appointment was made under this subsection (c), a successor nonlawyer member shall be appointed by the same person who appointed the predecessor nonlawyer member if that person's office and political party affiliation have not changed since the predecessor nonlawyer member was appointed. If that person's office or political party affiliation have changed

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since the predecessor nonlawyer member was appointed, the successor nonlawyer member shall be appointed: by the Governor if the Governor is affiliated with the same political party as the predecessor nonlawyer member; or otherwise by a State official or officer first in the order indicated in this subsection (c) who is elected to office and is not affiliated with the same political party as the Governor. If the Circuit or a District comprises a single county, one nonlawyer member of each Judicial Retention Commission shall be appointed by the county board chairman and one nonlawyer member shall be appointed by the county board member with the longest service on the county board who is not affiliated with the same political party as the chairman. If 2 or more county board members who are not affiliated with the same political party as the chairman are tied for the longest service, one of them shall be chosen by lot to make the appointment. If the county board consists only of members of the same political party, the county board shall appoint 2 nonlawyer members of the Judicial Retention Commission, but those appointees may not both be affiliated with the same political party. If there is a vacancy in the position for which the original appointment was made under this subsection (d) and the county board does not consist only of members of the same political party, a successor nonlawyer member shall be appointed by the same person who appointed the predecessor nonlawyer member if that person's office and political party affiliation have not changed since the predecessor nonlawyer member was appointed. If that person's office or political party affiliation have changed since the predecessor nonlawyer member was appointed, the successor nonlawyer member shall be appointed: (i) by the county

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board chairman if the county board chairman is affiliated with the same political party as the predecessor nonlawyer member; or (ii) otherwise by the county board member with the longest service on the county board as determined under this subsection (d) who is not affiliated with the same political party as the chairman. If there is a vacancy in a position for which the original appointment was made under this subsection (d) and the county board consists only of members of the same political party, the county board shall appoint a successor nonlawyer member and the member appointed may not be affiliated with the same political party as the other nonlawyer member appointed under this subsection (d). If a Circuit or a District is comprised of more than a single county, the chairmen of the county boards within that Circuit or District shall select 2 nonlawyer members of the Judicial Retention Commission, but both of those appointees may not be affiliated with the same political party. If there is a vacancy in a position for which the original appointment was made under this subsection (e), the vacancy shall be filled by the county board chairmen, and the member appointed may not be affiliated with the same political party as the other nonlawyer member appointed under this subsection (e). If any official, group of officials, or body fails to appoint a nonlawyer member to a Judicial Retention Commission or fill a vacancy, the Supreme Court shall make the appointment or fill the vacancy. When a Judge of the Supreme Court is seeking retention, he or she shall not participate in the appointment of any member of his or her District's Judicial Retention Commission under this subsection (f) or under subsection (h). For purposes of filling a nonlawyer vacancy on a Judicial Retention

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Commission under this Section, the political affiliation of the predecessor nonlawyer member shall be deemed to be his or her political affiliation at the time of his or her appointment. The lawyer members of each Judicial Retention Commission shall be selected by secret ballot, without political party or other designation, by the lawyers who are admitted to practice in Illinois and who reside in the appropriate District or Circuit, in a manner provided by Supreme Court Rule. The lawyer members of the Judicial Retention Commission shall be admitted to practice in Illinois and reside in the appropriate District or Circuit. If an inadequate number of lawyers is selected in the manner set forth in this Section, the Supreme Court shall appoint the other lawyer members. If there is a vacancy in a position for which the original appointment was made under this subsection (h), the currently eligible lawyer who was not selected in the most recent election held under this subsection (h) in the appropriate District or Circuit but who received more votes than the other currently eligible lawyers who were not selected shall be appointed; however, if no lawyer is eligible to fill a vacancy in this manner, the Supreme Court shall appoint a lawyer to fill the vacancy. To ensure racial diversity in any District or Circuit where African Americans, Asian Americans, or Hispanic Americans exceed 3% of the population and are not represented on a Judicial Retention Commission, the Supreme Court shall appoint a lawyer-member from the listed racial group that exceeds 3% of the population so that that group has no less than one member on that Commission. The term of each member of a Judicial Retention Commission shall begin 8 months before the general election in each year in which a general election is held, and shall expire on the first

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Monday in November of the same year. Appointments and elections to a Judicial Retention Commission may not take place earlier than 45 days before the term is to commence. A member appointed to fill a vacancy shall serve for the unexpired portion of the term. The chairman of each Judicial Retention Commission shall be selected by its members. Any person who holds any office under the United States or this State or any political subdivision or unit of local government of this State and receives compensation for services rendered in that office, or who holds any office or official position in a political party, is ineligible to serve on a Judicial Retention Commission. Compensation for service in the State militia or the armed services of the United States for a period of time as determined by Supreme Court Rule is not a disqualification to service on a Judicial Retention Commission. Members of a Judicial Retention Commission may not serve consecutive terms on a Commission. No person may serve on more than one Judicial Retention Commission at the same time. All members of a Judicial Retention Commission are subject to ethics and economic disclosure requirements as provided by law, and lawyer members are subject to campaign financing disclosure requirements as provided by law. Not less than 10 months before the general election next preceding the expiration of his or her term of office, a Supreme, Appellate, or Circuit Judge who has been elected to that office may file in the office of the Secretary of State a declaration of candidacy for retention in that office. The Secretary of State shall, within 14 days of receipt of the declaration of candidacy, submit the Judge's name to the Administrative Director of the Illinois Courts. The Administrative Director of the Illinois Courts shall

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certify the number of Judicial Retention Commissions that are necessary. Not less than 7 and not more than 8 months before the general election next preceding the expiration of the term of office of the Judge, the Administrative Director of the Illinois Courts shall notify the chairman of the appropriate Judicial Retention Commission of the Judge's candidacy. The chairman shall then promptly convene the Commission. A Judicial Retention Commission may conduct investigations, meetings, and hearings, all of which may be confidential, and employ staff members as may be necessary to perform its duties. Each Commission shall determine its own rules, which shall be broadly disseminated and at a minimum shall contain provisions affording judges seeking retention the opportunity to appear before it and, when it finds that a Judge is not qualified to serve another term, an opportunity for rehearing. Members of Commissions may not receive any compensation for their services but are entitled to reimbursement for necessary expenses. The General Assembly shall appropriate funds to the Supreme Court for expense reimbursement and for all other administrative expenses of the Commissions. If, by concurrence of not less than three-fifths of its members, the Commission finds the candidate to be qualified to serve another term, the candidate shall be retained in office for a full term commencing on the first Monday in December following the general election. The standard for determining qualifications to serve another term is that the person who by his or her character, background, temperament, professional aptitude, experience, and commitment to justice is deemed by the Commission to be qualified to be retained in office. Each qualified person may be

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considered for retention by a Judicial Retention Commission free from discrimination on the basis of race, color, creed, national ancestry, or sex. Not less than 84 days before the election, the Commission shall prepare and submit to each candidate its finding as to whether the Commission finds or fails to find that the candidate is qualified to serve another term. Not less than 77 days before the election, the Commission shall submit to the Secretary of State a list stating by name which candidates: (i) it has found qualified to serve another term; (ii) it has found to be not qualified; and (iii) have withdrawn their candidacy by written notification to the Commission. If a Judicial Retention Commission finds that a Judge is not qualified for retention, the Judge has the right to be informed of the reason or reasons for the finding. That judge may stand for retention by the electorate at the general election by filing in the office of the Secretary of State, not less than 70 days before the election, a declaration of candidacy for retention by the electorate. Not less than 63 days before the election, the Secretary of State shall certify the Judge's candidacy to the proper election officials. When a Judge files a declaration of candidacy for retention by the electorate, the reason or reasons for the Commission's finding that the Judge is not qualified for retention shall be made public by the Commission. At the election, the name of each Judge who has timely filed a declaration of candidacy for retention by the electorate shall be submitted to the electors, separately and without party designation, on the sole question of retention in office for another term. Retention elections shall be conducted at general elections in the appropriate Judicial Districts and Circuits. The

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affirmative vote of three-fifths of the electors on the question of retention shall elect a Judge to that office for a full term commencing on the first Monday in December following the election. A Judge eligible to file a declaration of candidacy for retention who fails to do so within the time specified in this Section, or having filed, fails of retention, shall vacate the office on the first Monday in December following the election, whether or not a successor is qualified. If an incumbent Judge, eligible to do so, does not timely file a declaration of candidacy for retention, the selection of a successor, if any, shall proceed in the manner provided in Section 12. An authorized reduction in the number of Judges shall be without prejudice to the right of Judges in office at the time to seek retention in accordance with this Section. The reduction shall become effective when a vacancy occurs in the affected unit. Schedule- This Constitutional Amendment takes effect upon being declared adopted in accordance with Section 7 of the Illinois Constitutional Amendment Act. Introduction of Resolutions. House Resolution 612, offered by Representative Giglio, is assigned to the Rules Committee. There being no further business, the House Perfunctory Session stands adjourned."