

STATE OF ILLINOIS  
97th GENERAL ASSEMBLY  
HOUSE OF REPRESENTATIVES  
TRANSCRIPTION DEBATE

153rd Legislative Day

8/17/2012

Speaker Madigan: "The House shall come to order. House shall come to order. The Members shall be in their chairs. We shall be led in prayer today by Rabbi Elliot Mathias, son of Representative Sid Mathias, who is the founder and Executive Director of Hasbara Fellowships, an organization that educates university students about Israel. Rabbi Mathias, who resides in Livingston, New Jersey, is the guest and son of Representative Mathias. Members and guests are asked to refrain from starting their laptops, turn off all cell phones and pagers and rise for the invocation and the Pledge of Allegiance."

Rabbi Mathias: "Beloved God, bless the Members of this Illinois House of Representatives and guide their deliberations that they may govern this great state with wisdom and justice, grace and compassion, bringing honor to Your name and Your blessing to humankind. May You bless them and all of us with clarity in our aims, responsibility in our actions, humility in our approaches and civility in our attitudes even when we differ. May we emulate Your ways as You have taught us that we should be merciful because You are merciful and that we should be compassionate because You are compassionate. We come to You today as a united body praying for the guidance to make wise decisions. May the decisions we make here today better the lives for all people in the State of Illinois and beyond. Today, Friday, is the day before the Jewish Sabbath corresponding to the sixth day in the seven days of Creation. On the sixth day of Creation, the first man and woman were created in the image of God, meaning they had the ability to be godly in

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their choices and actions. On this day, Lord, please give us the clarity, humility and strength to fulfill our potential of living as spiritual and holy people, taking responsibility for our fellow man, our community, our nation and the world. And through this, may we enter into the seventh day, the Sabbath, the day representing our common vision of a world filled with clarity, peace and knowledge of the Almighty."

Speaker Madigan: "We shall be led in the Pledge of Allegiance by Representative Mathias."

Mathias - 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 Madigan: "Roll Call for Attendance. Representative Currie."

Currie: "Thank you, Speaker. Please let the record show that Representatives Farnham, Feigenholtz, Jakobsson and Mell are excused today."

Speaker Madigan: "Mr. Bost."

Bost: "Thank you, Mr. Speaker. Let the record reflect that Representative Sosnowski, Pihos and Tryon are excused on the Republican side of the aisle today."

Speaker Madigan: "The Clerk shall take the record. There being 110 Members responding to the Attendance Roll Call, there is a quorum present. Mr. Clerk."

Clerk Bolin: "Introduction of Resolutions. House Resolution 1186, offered by Representative Brown. House Resolution 1187, offered by Representative Flowers. House Resolution

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1188, offered by Representative Turner. House Resolution 1197, offered by Representative Beiser. House Resolution... House Joint Resolution 95, offered by Representative Morrison. House Joint Resolution 96, offered by Representative Osmond. And House Joint Resolution 97, offered by Representative Verschoore."

Speaker Madigan: "On the Order of Consideration Postponed, there appears House Bill 30. Mr. Lang."

Lang: "Thank you, Mr. Speaker. I ask leave of the Body to move House Bill 30 to Second Reading for purposes of an Amendment."

Speaker Madigan: "Leave being granted, the Bill shall be placed on the Order of Second Reading. On the Order of Concurrence, there appears House Bill 4110, Mr. Verschoore."

Verschoore: "Thank you, Mr. Speaker. I would ask for Nonconcurrence on the Amendment that was added in the Senate to House Bill 4110."

Speaker Madigan: "The Gentleman moves to nonconcur in Senate Amendment #1 and 2. The Chair recognizes Mr. Franks."

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

Speaker Madigan: "Sponsor yields."

Franks: "Representative, what did Senate Amendments 1 and 2 try to do?"

Verschoore: "It added another airport to this land-based lease. I tried to pass this for the Quad City Airport only and when it went to the Senate, they added the Lansing Airport. And so, what I'm trying to do is get it back to the

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original Bill where it includes just the Quad City Metropolitan Airport."

Franks: "What's your objection to the adding the extra one?"

Verschoore: "Well, there was objection from people higher up than me..."

Franks: "Oh."

Verschoore: "...so I guess that's my objection."

Franks: "I get it. Okay. Well, thank you."

Verschoore: "Thank you."

Speaker Madigan: "The Gentleman moves to nonconcur in Senate Amendments #1 and 2. Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it. The Gentleman's Motion to Nonconcur is adopted. On the Order of Resolutions, there appears House Resolution 1157, Mr. Rang... Mr. Lang. Mr. Lang."

Lang: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. This Resolution calls on the ICC to simply follow the law as it relates to the Smart Grid Bill that passed out of this General Assembly. This was a controversial Bill when it passed. Certainly, we recall that it was vetoed by the Governor and then this General Assembly overrode the Veto. There are numerous ways and I don't think it's necessary to go into each of them at this time. In the interest of time, let's just suffice it to say there are numerous ways the Commerce Commission has avoided and ignored the law as we passed it. And whether you voted for this Bill or not originally, we all have a stake in the integrity of the law the General Assembly passes. As a Member of JCAR, I work on a regular basis to make sure

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state agencies simply follow the law and don't go beyond their authority. In this case, the Commerce Commission has tried to make up their own rules as they go along, has tried to ignore the direct intent of the General Assembly and all this Resolution does is to call on the Commerce Commission to simply follow the law. And so, some of you may have been opposed to this Bill originally, you may still be opposed to its intent, that's fine, but even you should be voting for this Resolution because we should make sure that the state agencies follow our direct wishes when we pass legislation in this Body. I would urge your 'aye' votes."

Speaker Madigan: "Mr. Durkin."

Durkin: "Will the Sponsor yield? Representative Lang, I want to make it..."

Speaker Madigan: "Sponsor yields."

Durkin: "...very clear, this Resolution is nonbinding. It's advisory, correct?"

Lang: "That's correct, Sir."

Durkin: "And the ICC can either accept or reject this recommendation, correct?"

Lang: "That is also correct."

Durkin: "Thank you very much."

Speaker Madigan: "Mr. Bost."

Bost: "Thank you, Mr. Speaker. I rise in strong support of House Resolution 1157. And I had a list of the things that I would probably say about how the requirements set forth by the Bill that was originally passed are already being met to the best of the company's ability to provide the

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smart grid, to provide the jobs, to do all the things that... that were set forth that they agreed to do. But as the speaker originally said... and the Sponsor originally said, even if you didn't support... even if you didn't support the Bill, this has a bigger problem that we're trying to deal with. The Commerce Commission along with many other of the agencies that are created and exist throughout the State of Illinois that we have created through legislation are to carry out the laws that we passed to the best of their ability. This has been a case where there's been feet-dragging, there has been not implementing exactly what it is that we ask them to do. As my colleague said, this isn't binding, but we hope that it's a very, very, very clear message that when we, the General Assembly, pass law, you can like it or not like it but it is still the law and it must be implemented. I rise in very strong support of the Gentleman's Resolution and I would appreciate everyone's 'aye' vote."

Speaker Madigan: "Mr. Jefferson."

Jefferson: "Thank you, Mr. Speaker. I rise in strong support of House Resolution 1157. The Grid Modernization Law is less than a year old and already a tremendous amount of work has been accomplished to strengthen the system and improve service. In the process, the company also making investments needed to prepare a new generation of utility workers who will be responsible for maintaining a more modern electrical grid. On May 1, I was proud to attend the groundbreaking ceremony at a new training facility in Rockford, Illinois. I learned that it will play a major

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role in training employees to perform overhead, underground and transmission work at twice the pace they have trained employees over the last 10 years. The new facility will have 34 thousand square feet of classroom and indoor training space, an 85 thousand square foot training yard, indoor climbing areas, splicing bays and everything you'd expect from a state-of-the-art facility. They're replacing old and obsolete trailers that have been used for too long. The EIMA legislation has paved the way for this new center which is due to open in December. This project already has provided a boost to the struggling Rockford economy employing carpenters, laborers, ironworkers, roofers, plumbers, cement finishers, sheet metal workers, electrical and engineering workers. I'd like to also remind you that ComEd plans to break ground in a year or so on another training facility, this one on the south side of Chicago where it would provide a nice boost to another area that needs one. Unfortunately, the Chicago Center, like other major projects in the Smart Grid Bill, is now less certain pending the outcome of the ICC hearing. This problem, it troubles me greatly that just as ComEd was beginning to gain traction much of the process as... that includes job creation is at risk because of the ICC's inability to follow the law that we passed last October. I recognize the ICC was not in favor of this law when it was passed and testified as such during the debate, but the Legislature spoke and the ICC has an obligation and duty to follow the law. I urge a 'yes' vote on House Resolution 1157."

Speaker Madigan: "Mr. Phelps."

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Phelps: "Thank you, Mr. Speaker. I rise in support of House Resolution 1157. And I want to commend Leader Lang for introducing this. I recognize that we're not here today to debate the merits of the Grid Modernization Law, but I think it's helpful to remind ourselves that we pass a law, not for the value of the utilities but for the value it delivers to the people of Illinois and that those benefits are at risk because of the ICC's May 29 order. This law will deliver greater reliability with fewer and shorter outages. This law holds the utilities accountable for performances like never before and most of all this law creates thousands of good jobs at a time when our state needs them the most. I urge a 'yes' vote on House Resolution 1157."

Speaker Madigan: "Mr. Ford, with some pearls of wisdom."

Ford: "Thank you, Mr. Speaker. I rise to speak on the merits of the Bill... of the Resolution. I voted against House Bill 1652, the rate increase, because I am against the rate increase for my constituents at this time. I know we are here to uphold the Constitution here in Illinois, but I also believe that this is a time for me to ask ComEd, a very profitable business, to not forget about the 8th District and to remember when they're rolling out jobs, when they're rolling out infrastructure, when they're making partnerships in communities, please do not forget about the 8th District, the west side of Chicago and all of the 8th District. I still am undecided about how I will vote for this Resolution, but I want to encourage ComEd to not forget about the 8th District as they make their



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profits with the increases that could come from HB1652.

Thank you, Mr. Speaker."

Speaker Madigan: "Mr. Reboletti."

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

Speaker Madigan: "Sponsor yields."

Reboletti: "Leader Lang, I know it's very loud in here and you may have some difficulty hearing, but what is the next..."

Speaker Madigan: "Mr. Reboletti, let me give you some help."

Reboletti: "Thank you, Speaker."

Speaker Madigan: "Ladies and Gentlemen, could you give your attention to Mr. Reboletti. Could we end the conversations and give your attention to Mr. Reboletti. Mr. Reboletti."

Reboletti: "Thank you, Mr. Speaker. Leader Lang, if the ICC does not follow our statutory guidelines here that we set, we passed a law, what would the next step be for the enforcement of our legislation? I know this Resolution has no binding authority and it's being... probably being treated the same way by the ICC as a statute. What would have to happen next for this to be enacted?"

Lang: "Well, as you know, Representative, the law is already on the books. I suppose litigation might ensue. I suppose we could be called upon to pass new legislation, but the most immediate impact would be that because of what the Commerce Commission has done, in violation of the law in my opinion, is to create a circumstance and a situation where the utility will not invest the money because it won't get the return on the money and it will cost us the expenditure of capital, it will cost us the expenditure of jobs and the most important part of the Bill creating the Smart Grid to

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ensure reliable power into the future and to try to avoid brownouts, et cetera, won't ever happen. And so, the Commerce Commission in a very real way has become a stumbling block or a speed bump between the intent of the law we passed and getting to the goal line."

Reboletti: "And I appreciate that, Leader. I think it's important to recognize what the ICC is supposed to be doing. It's supposed to follow the legislative guidelines that we set out through statute. As somebody who represents DuPage County, we've had three or four major storms roll through and my constituents have been wondering what will happen. How do we get the Smart Grid moving? How do we repair old lines and replace poles and replace transformers? And all this will do is simply put it back even further when we look to try to repair some of those issues. And we know we need to modernize the grid, not only for providing power to our constituents but to our businesses. And when we look at the state of business in Illinois, businesses will look to see what our infrastructure looks like including that Smart Grid. So, I would urge your support for this Resolution. Thank you, Mr. Speaker."

Speaker Madigan: "Mr. Lang to close."

Lang: "Thank you. I think we've had a thorough debate and I greatly appreciate everybody's involvement in this. I would ask for your 'aye' vote."

Speaker Madigan: "The Gentleman has moved for the adoption of the Resolution. This will be a record vote. Those in favor vote 'yes'; those opposed vote 'no'. Have all voted who

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wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 86 'ayes', 23 'noes'. The Gentleman's Motion to adopt the Resolution is adopted. The Chair recognizes Mr. Harris for the purpose of an announcement."

Harris, G.: "Thank you, Mr. Speaker. And on a different note, I would just like to wish happy birthday to my seatmate Michelle Mussman, whose birthday is today."

Speaker Madigan: "The Chair recognizes Representative Osmond for the purpose of an announcement."

Osmond: "Thank you, Mr. Speaker. It's with a little sadness that one of our Members, Dave Winters, has retired. We've all enjoyed his service here on the floor, but it's also with a lot of happiness that we have a replacement for him and his name is John Cabello. So, please, give him a welcome to the General Assembly."

Speaker Madigan: "Mr. Cabello, did you wish to say hello?"

Cabello: "Thank you, Mr. Speaker. It's an honor to be in this honorable chamber. I wish to look and listen and learn from everyone here. Thank you."

Speaker Madigan: "The Chair recognizes Mr. Will Davis for the purpose of an announcement."

Davis, W.: "Thank you very much, Mr. Speaker. Ladies and Gentlemen of the House, while you are in the spirit of congratulating new Members, I would like you all to welcome one of our newest Members, again, to the Illinois General Assembly, Representative Elgie Sims, who is now... who has replaced former Representative Constance Howard. Ladies and Gentlemen, Representative Elgie Sims."

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Speaker Madigan: "Representative Sims."

Sims: "Thank you, Mr. Speaker. And thank you, Representative Davis, for those kind words. For all of you, this is a humbling day for me to be here and join this august Body. I'm looking forward to working with each and every one of you as we tackle some very difficult challenges ahead of us, but I'm encouraged because we have some... we have some of the brightest minds across the great State of Illinois represented here in this chamber. So, Mr. Chamb... Mr. Speaker, I'm looking forward to working with each and every one of you. I'm looking forward to us doing some wonderful things on behalf of the people of the State of Illinois. And Mr. Speaker, on a point of personal privilege, I have with me my family, my wife, Shivonne, my daughters, Kennedy and Mackenzie and my mother, Irma."

Speaker Madigan: "Mr. Rose."

Rose: "Thank you, Mr. Speaker. A point of personal privilege, if I may?"

Speaker Madigan: "State your point."

Rose: "Ladies and Gentlemen, I'm asking for prayers for a very good friend of mine, Mike Black, who oddly enough broke my arm in eighth-grade wrestling. A few weeks ago was severely injured serving our country in the Special Forces. He's now, thankfully, at home with his wife and children. I was lucky enough to talk to him about a week ago and he's in very good spirits, but he does have a long road of recovery ahead of him. And a rocket propelled grenade came in and consistent with my friend, Mike, he was in the process of yelling at all of his... all of his men to get down and take

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cover while he had picked it up and was running it back out of their tent when it went off. It is a... I talked to his father and his mother when he... and it's amazing that he is still alive today, one and back home, but two, his spirit is not broken. He's... he's the same Mike Black. But the only reason I bring this up today, Mr. Speaker, is I would ask prayers for Mike Black. His family is the long road of recovery for him. A big thank you to the Man upstairs for the miracle that was performed in keeping Mike here with us and also prayers for all of our men and women serving anywhere in our military. Thank you, Mr. Speaker."

Speaker Madigan: "Mr. Clerk, Agreed Resolutions."

Clerk Hollman: "Agreed Resolutions. House Resolution 1142, offered by Representative Coladipietro. House Resolution 1143, offered by Representative Cole. House Resolution 1144, offered by Representative Pihos. House Resolution 1145, offered by Representative Pihos. House Resolution 1146, offered by Representative Brauer. House Resolution 1147, offered by Representative Acevedo. House Resolution 1148, offered by Representative Chapa LaVia. House Resolution 1149, offered by Representative Franks. House Resolution 1150, offered by Representative Crespo. House Resolution 1151, offered by Representative Daniel Burke. House Resolution 1152, offered by Representative Chapa LaVia. House Resolution 1153, offered by Representative Jackson. House Resolution 1154, offered by Representative Flowers. House Resolution 1155, offered by Representative Cross. House Resolution 1156, offered by Representative Mayfield. House Resolution 1158, offered by Representative

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Durkin. House Resolution 1159, offered by Representative Chapa LaVia. House Resolution 1160, offered by Representative Chapa LaVia. House Resolution 1161, offered by Representative Dugan. House Resolution 1162, offered by Representative William Davis. House Resolution 1163, offered by Representative Crespo. House Resolution 1164, offered by Representative Howard. House Resolution 1165, offered by Representative Bill Mitchell. House Resolution 1166, offered by Representative Phelps. House Resolution 1167, offered by Representative Senger. House Resolution 1168, offered by Speaker Madigan. House Resolution 1169, offered by Representative Kelly Burke. House Resolution 1170, offered by Representative Lilly. House Resolution 1171, offered by Representative Lilly. House Resolution 1172, offered by Representative Bill Mitchell. House Resolution 1174, offered by Representative Marcus Evans. House Resolution 1175, offered by Representative Jerry Mitchell. House Resolution 1176, offered by Representative Crespo. House Resolution 1177, offered by Representative William Davis. House Resolution 1178, offered by Representative Reis. House Resolution 1179, offered by Representative Jackson. House Resolution 1180, offered by Representative Jefferson. House Resolution 1181, offered by Representative Jefferson. House Resolution 1182, offered by Representative Crespo. House Resolution 1183, offered by Representative Monique Davis. House Resolution 1184, offered by Representative Crespo. House Resolution 1185, offered by Representative Phelps. House Resolution 1189, offered by Representative Ford. House Resolution 1190,

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offered by Representative Nybo. House Resolution 1192,  
offered by Representative Phelps. House Resolution 1194,  
offered by Representative Cross. House Resolution 1195,  
offered by Representative Beiser. House Resolution 1196,  
offered by Representative Reis. House Resolution 1198,  
offered by Representative Lilly. House Resolution 1199,  
offered by Representative Dugan. House Resolution 1201,  
offered by Representative Monique Davis. House Resolution  
1202, offered by Representative Monique Davis. And House  
Resolution 1203, offered by Representative Dugan."

Speaker Madigan: "You've all heard the Clerk read the Agreed Resolutions. Representative Currie moves for the adoption of the Agreed Resolutions. Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it. The Resolutions are adopted. Next order of business will be House Resolution 1191. And I'd like to direct your attention to the House Calendar. Under the heading Report of Select Committee on Discipline, you will find the report filed with the House by the Select Committee on Discipline. In accordance with all of the applicable House Rules, the report in its entirety was placed on the House Calendar two previous Legislative Days and a copy is available for all Members on your laptop. In the report, the committee unanimously adopted a finding of fault against Representative Derrick Smith on the charge that Representative Derrick Smith abused the power of his office by participating in a scheme to obtain a personal benefit in exchange for his official acts. Further, by a vote of 11 to 1 the committee recommended the penalty of expulsion from the House of

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Representatives. At this time, we will move to the Order of Resolutions. Mr. Clerk, please read House Resolution 1191. Members should be advised that the Clerk plans to read this Resolution in its entirety. Mr. Clerk."

Clerk Hollman: "House Resolution 1191.

WHEREAS, Illinois State Representative Derrick Smith, representing the 10th Representative District in the State of Illinois, was arrested on March 13, 2012, by federal agents on the charge of violating 18 U.S.C. § 666(a)(1)(B), namely that Representative Smith accepted a cash bribe in exchange for recommending an Early Childhood Construction Grant (ECC Grant) to the Capital Development Board, an Illinois State agency; and

WHEREAS, On March 12, 2012, a Criminal Complaint was filed in the United States District Court for the Northern District of Illinois, Eastern Division, against Representative Smith alleging that Representative Smith violated 18 U.S.C. § 666(a)(1)(B) by accepting a cash bribe in exchange for recommending an ECC Grant to the Capital Development Board; and

WHEREAS, Attached to the Criminal Complaint was an Affidavit sworn to and signed by Special Agent Bryan M. Butler of the Federal Bureau of Investigation (Butler Affidavit), that contained numerous factual allegations supporting the ultimate allegation that Representative Smith violated 18 U.S. C. § 666(a)(1)(B) by accepting a cash bribe in exchange for recommending an ECC Grant to the Capital Development Board; and



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WHEREAS, The Butler Affidavit alleges that Representative Smith was covertly recorded engaging in several discussions with an individual cooperating with the federal government, known as the "Cooperating Source," between December, 2011 and March, 2012; and

WHEREAS, The Butler Affidavit alleges that Representative Smith and the Cooperating Source were covertly recorded on several occasions in which Representative Smith indicated that, in exchange for a cash bribe, Representative Smith would be willing to write a letter on behalf of a daycare center in support of an ECC Grant from the Capital Development Board; and

WHEREAS, The Butler Affidavit alleges that Representative Smith and the Cooperating Source were covertly recorded discussing on several occasions that the cash bribe Representative Smith would accept in exchange for writing that letter of support would be in the amount of \$7,000; and

WHEREAS, The Butler Affidavit alleges that Representative Smith did in fact sign a letter of support for an ECC Grant for the above-mentioned daycare center, and that he did so on official state letterhead; and

WHEREAS, The Butler Affidavit alleges that, in exchange for writing this letter of support, Representative Smith did in fact accept \$7,000 in cash; and

WHEREAS, On March 21, 2012, under House Rule 91, 5 members of the Illinois House of Representatives filed a Petition containing suggested charges against Representative Smith

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that outlined the allegations contained in the Criminal Complaint and the Butler Affidavit (Petition); and

WHEREAS, Under House Rule 91, following the filing of the Petition on March 21, 2012, the House Special Investigating Committee (House SIC) was formed, consisting of 3 members appointed by the Speaker of the House and 3 members appointed by the Minority Leader of the House; and

WHEREAS, On April 10, 2012, a federal grand jury indicted Representative Smith on the charge of violating 18 U.S.C. § 666(a)(1)(B), which indictment further contained a forfeiture allegation under 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) for unrecovered proceeds approximating \$4,500 of the cash bribe that Representative Smith was alleged to have received; and

WHEREAS, The House SIC held a public hearing on March 27, 2012, at which Representative Jim Sacia, one of the signatories to the Petition, submitted a suggested Charge as follows: "Representative Smith provided an official letter of support on his letterhead for a daycare owner's application for a state grant from the [Illinois] Capital Development Board in exchange for personally accepting a \$7,000 bribe."; and

WHEREAS, The House SIC engaged in written and oral communications with the United States Attorney for the Northern District of Illinois in an attempt to determine (1) whether the House SIC could obtain evidence in the U.S. Attorney's possession, and (2) whether the U.S. Attorney would consider any independent investigation by the House

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SIC to be an interference with the federal investigation;  
and

WHEREAS, The U.S. Attorney informed the House SIC that he could not provide the House SIC with any information or evidence in his possession and that he would consider an independent investigation by the House SIC to constitute an interference with the federal investigation, which he characterized as "ongoing"; and

WHEREAS, The House SIC held public hearings on April 26, 2012, and on May 10, 2012; and

WHEREAS, The House SIC entered into the Record eleven exhibits, including Exhibit 11, which was received from Representative Smith's counsel and which was entered into the Record by unanimous consent of the House SIC members;  
and

WHEREAS, The exhibits, public notices, and transcripts of hearings are included in the House SIC Record, available for public view on the General Assembly's website; and

WHEREAS, The House SIC Record is adopted and incorporated herein as if fully set forth; and

WHEREAS, The House SIC gave ample notice to Representative Smith and his attorney of each and every hearing, and confirmed with Representative Smith's attorney that he had received notice; and

WHEREAS, While the House SIC gave Representative Smith the opportunity to testify under oath, he declined to do so;  
and

WHEREAS, While the House SIC gave Representative Smith's attorney the opportunity to specifically admit or deny

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various allegations in the Butler Affidavit, he declined to do so; and

WHEREAS, The House SIC gave Representative Smith the opportunity to provide the House SIC with any information he deemed relevant to the House SIC's investigation; and

WHEREAS, The Butler Affidavit contains lengthy excerpts of alleged statements that were recorded and attributed to Representative Smith, indicating that Representative Smith was intentionally and knowingly trading a letter of support for an ECC Grant for a cash bribe of \$7,000; and

WHEREAS, The House SIC unanimously found that reasonable grounds existed to prefer a Charge against Representative Smith, to wit: "Representative Derrick Smith abused the power of his office by participating in a scheme to obtain a personal benefit in exchange for his official acts."; and

WHEREAS, The Charge was supported by the following Specifications:

- (1) Representative Smith, in his official capacity as a State Representative, has an obligation to faithfully discharge his duties in the best interests of the people of the State of Illinois and not for his own personal benefit;
- (2) During the time period beginning on or about December, 2011 through March, 2012, Representative Smith agreed that, in exchange for a cash bribe, he would provide an official letter of support for a daycare's Early Childhood Construction Grant to the Illinois Capital Development Board;
- (3) On or about March 1, 2012, Representative Smith did, in fact, sign this official letter of support in his official

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capacity as a State Representative and planned or intended for that letter to be submitted to the Illinois Capital Development Board;

(4) On or about March 10, 2012, Representative Smith did, in fact, receive a cash bribe in exchange for providing this official letter of support;

(5) Accepting a cash bribe in exchange for an official act, or even plotting or attempting to do so, constitutes a breach of Representative Smith's obligation as a public official to faithfully discharge his duties in the best interests of the people of the State of Illinois and warrants disciplinary action by the House of Representatives; and

WHEREAS, Under House Rule 93, the House SIC appointed Representatives Lou Lang and Jim Durkin to serve as the House Managers to present the case for disciplinary action against Representative Smith; and

WHEREAS, Under House Rule 94, a House Select Committee on Discipline (Select Committee) was formed, with 6 Members appointed by the Speaker of the House, including Representative Barbara Flynn Currie as Chairperson, and 6 Members appointed by the Minority Leader of the House, including Representative Chapin Rose as the Minority Spokesman; and

WHEREAS, The Select Committee held a Final Hearing on July 19, 2012; and

WHEREAS, Representative Smith declined to appear at the Final Hearing, but was represented by counsel in attendance on his behalf; and

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WHEREAS, The Select Committee considered portions of the Butler Affidavit that were admitted into evidence by stipulation as part of Select Committee Group Exhibit 4; and

WHEREAS, Those portions of the Butler Affidavit were accepted as credible evidence by the Select Committee; and

WHEREAS, At the Final Hearing, the House Managers called Representative Smith as a witness to testify, but Representative Smith declined to do so; and

WHEREAS, At the conclusion of the presentation of the evidence and argument at the Final Hearing, the Select Committee recessed to deliberate over the evidence; and

WHEREAS, After this consideration, the Select Committee re-convened for the purpose of taking a record vote on the Charge and Specifications; and

WHEREAS, The Select Committee unanimously voted to find Representative Smith at fault on the Charge and on each Specification; and

WHEREAS, Following this finding of fault, the Select Committee considered the appropriate penalty to recommend to the House of Representatives; and

WHEREAS, By a vote of 11 Members voting "yes" and one member voting "no," the Select Committee adopted a recommendation that Representative Smith be expelled from the House of Representatives; and

WHEREAS, Under House Rule 96, the Select Committee prepared and filed a Report with the House Clerk; and

WHEREAS, The Report of the Select Committee is adopted and incorporated herein as if fully set forth; and

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WHEREAS, In its Report, the Select Committee determined that credible evidence existed that Representative Smith engaged in and carried out a plot to write an official letter of support to a daycare center for a capital grant in exchange for a bribe of \$7,000 in cash; and

WHEREAS, In its Report, the Select Committee properly concluded that the principal purpose of disciplinary proceedings before the House is not to punish a Member but to protect the public from official misbehavior and to preserve the people's trust in their representatives and in the General Assembly as a whole; and

WHEREAS, In its Report, the Select Committee properly determined that Representative Smith's refusal to testify could be considered not to suggest the truth of the evidence against him but because a public official owes the people of this State an obligation to affirmatively assure them that he has put the interests of the people before his own and to assure them that he did not, in fact, trade an official act for a cash bribe; and

WHEREAS, In its Report, the Select Committee emphasized that any consideration of Representative Smith's refusal to testify was ancillary to the credible evidence presented against Representative Smith, which by itself was sufficient to reach a finding of fault on the Charge and each of the Specifications; and

WHEREAS, In its Report, the Select Committee, by a vote of 11 to one, determined that expulsion was the only appropriate remedy given the credible evidence against Representative

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Smith and given that the Charge against him was a breach of the public trust of the highest order; and  
WHEREAS, The House finds that the Select Committee properly interpreted House Rule 95(c), including the waiver of that Rule's protection, in all respects; and  
WHEREAS, The Select Committee Exhibits, the Procedural Rules adopted by Chairperson Currie, and the transcripts of proceedings before the Select Committee are adopted and incorporated herein as if fully set forth; and  
WHEREAS, Article 4, Section 6(d) of the Illinois Constitution provides that no Member shall be expelled by either house of the General Assembly, except by a vote of two-thirds of the Members elected to that house; and  
WHEREAS, House Rule 97(f) provides that a resolution the effect of which is to expel a member may be adopted only by the affirmative vote of 79 Members elected; therefore be it  
RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, That the House of Representatives finds Representative Smith to be At Fault on the Charge and on each of the Specifications against him as preferred by the House Special Investigating Committee and as determined by the House Select Committee on Discipline; and be it further  
RESOLVED, That Representative Smith is hereby Expelled from the House of Representatives, the Expulsion to take effect immediately upon adoption of this Resolution by a record vote of 79 Members elected."

Speaker Madigan: "The Chair recognizes the Majority Leader Representative Currie."



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Currie: "Thank you, Speaker and Members of the House. Serving as Chair of the House Select Committee on Discipline has been one of the most important but difficult challenges I have faced as a Member of the Illinois House. And the vote we take today, the vote we are asked to take today, is one of the most important but difficult votes we are ever going to be asked to take. We do not take lightly the expulsion of a Member. Nobody on the Select Committee took it lightly, on the contrary, we carefully considered the evidence before us and we weighed its gravity. Every case must stand on its own, not every infraction warrants a disciplinary hearing, not every infraction warrants expulsion. The case against Representative Smith, however, is about something that no Member of this House can consider harmless. Taking official action, not because it is right for the public, but because someone has offered you a bribe to do so, that is a very contrary to our mission as State Legislators. Using ones office for personal gain, not for the public good, is an affront to the core responsibilities of every Legislator. To... to act in this way is to me a stunning violation of the oath of office each of us has promised to uphold. I can think of no greater breach of the public trust. We, on the Select Committee, did our very best to provide a fair and open hearing for Representative Smith. We heard evidence, evidence we believed was sufficient to... to support the finding of the Special Investigating Committee. Would we have liked to have had more evidence? Absolutely. Would we have liked to have heard from Representative Smith himself?

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Of course, we would, but he refused to take the opportunity to testify under oath either before the Special Investigating Committee or the Special Committee on Discipline. I don't see how we can go back to our constituents and tell them that Representative Smith did not commit this act... these acts when he wouldn't tell us himself that he didn't do it. Today is a difficult day; in my view, a necessary day. We must protect the Body politic from infractions of the oath of office that each of us has sworn to uphold. It would be convenient to say, let's let the electoral process take care of this, but we can't do that. The Constitution gave it... this Body the responsibility and the authority to consider the expulsion of one of our own and it did so for a reason and that reason is that sometimes actions are so egregious so contrary to the core values of each of us and to this institution that we must act and we must act now. So, it is with a heavy heart but with great appreciation and gratitude to Representative Rose for his diligence and hard work, for the legal counsel that we relied upon so heavily and with such... such sense and to each Member of the Select Committee on Discipline. With these thanks, I urge a 'yes' vote on House Resolution 1191."

Speaker Madigan: "Representative Reboletti."

Reboletti: "Thank you, Mr. Speaker and to the Members of the Body. I've been here for five and a half years and every time I walk up into this building, I think about the privilege that I have that the 105 or 6 thousand people of the 46th District bestowed upon me back in 2007 and I'm

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sure that our new Representatives that started here today have that same feeling. We are given great responsibilities; we are given great opportunities and all of us affects 13 million citizens. So, when we undertook the Special Investigative Committee, a charge was brought to us by Representative Sacia signed by four other Members of this Body that said Representative Smith abused the power of his office by participating in a scheme to obtain a personal benefit in exchange for his official acts and we have to go back and take a look at how we got here. As we all know, Representative Smith was arrested by the FBI on a warrant. He was brought before a magistrate. He was placed on bond and then his charge of corruption was brought before a grand jury. Our Special Investigative Committee acted like a grand jury or like a preliminary hearing. It was our charge because of the request of Representative Sacia and the other Members to be in the process to see if we favored a charge, should we move forward on a charge, was there enough evidence to move forward on a charge. I'd like to thank Chairman Nekritz and the Members of the committee, David Ellis and Andrew Freiheit, our legal counsel because we were definitely in unchartered territory. The last time this Body expelled a Member was in 1905. So, we don't come to this occasion many times and that is very good for the people of the State of Illinois, but unfortunately we had to go down this road because of his actions. We met three different times. Each time Representative Smith and his legal counsel, Mr. Victor Henderson of Chicago, were invited to our Special

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Investigative Committee not only by e-mail notification, which was an accepted way between our counsel and his counsel, but it was also posted on our website and that all the people could see. Our hearings were extremely transparent, deliberative and we gave Representative Smith an opportunity to testify. The things that we took into consideration was what has been commonly referred to as the Butler Affidavit, which is an affidavit that was used to swear out a warrant to a magistrate stating the reasons for probable cause for the arrest of Representative Smith. Within that affidavit, the FBI agent listed conversations between a cooperating source and between that of Representative Smith. And I know that all of you have had a chance to review our documents, our hearings, the discipline committee hearings, as well as read about the case. And we've had an opportunity to review that affidavit where that affidavit, being transcribed, stated that Representative Smith took an undertaking of an official action that all of us deem as pretty perfunctory in our regular day as a State Representative, that he wrote on his state letterhead a letter in support of a grant for his district, that grant amount being \$50 thousand and that in return for that official act, he would receive \$7 thousand. He would get \$5 thousand and the cooperating source would get \$2 thousand. On each one of our hearings, we asked if Representative Smith wanted to appear. He did not appear at two of those. He did not appear at our first hearing, but he did appear at our second hearing. He appeared and gave a statement but advised us through his counsel that he would

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not be taking any questions under oath. And after that, we had an opportunity to ask his counsel questions about the veracity of our charge and the veracity of the charges against Representative Smith. I want you all to realize that while there is a pending federal measure, a case... a criminal case, our burden here, the burden of our committees is nowhere near that of the criminal case on 219 South Dearborn. In that case, a jury of 12 people from the Northern District of Illinois will hear those charges and they will determine the guilt or innocence of Representative Smith. But when we asked his attorney about the charges that we've made and the allegations in the affidavit, I recall that I specifically asked his attorney about some of the things that he had said about the... the case about Derrick Smith. And he had said that the Federal Government had manufactured some things and that there were issues with the cooperating source because not all of the cooperating source's criminal history had been given to the magistrate when the warrant was signed. I did ask Mr. Henderson, and you can read that in our transcript, if he was telling our Body that the conversations alleged in the wire never happened and there are pages and pages of conversations about what purported to be a bribe. And if you go through those, what you will see is that at one point Representative Smith had over 148 phone calls regarding this bribe. Some of those phone calls occurred while we were here in Session. I again asked Mr. Henderson what he meant by the case of misrepresentation and he had said that the government had created a fictitious

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corporation with the Secretary of State's Office as part of their investigation. And I can tell you as somebody who has prosecuted these types of cases of undercover investigations that that is not an uncommon occurrence. But when you get down to the heart of the matter, Representative Smith chose not to testify in front of us, he chose not to deny that those conversations in that affidavit on the wire ever took place. He had three opportunities in front of our Special Investigative Committee to do so. Mr. Henderson, his attorney, again, did not deny that those conversations took place. So, when you read all of those, what are you to take from them? If Representative Smith is not going to deny those.. those conversations, I would suggest to you that it is your duty and obligation to review those charges and review the four corners of those documents and take them at their face value. That is what our Special Investigative Committee did. We looked at those: the affidavit, the conversations on the wire, the charge, we took them at their face value because there was no objection to them. That doesn't mean that Mr. Henderson, his attorney, didn't object to.. he wanted us to wait. And I asked him what would we be waiting for. I said at some point in a future date would Representative Smith testify in front of this committee, would there be new information that would be gleaned from discovery from the Federal Government and he couldn't answer that question. At some point, the Special Investigative Committee could no longer wait. When one of our Members is charged with a serious crime, alleged to

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have violated not only the trust of the people of the State of Illinois, a federal crime, we have to take action. I was reading the oath of office that Representative Smith took and it says I, Derrick Smith, do solemnly swear and affirm that I will support the Constitution of the United States, the Constitution of the State of Illinois and I will faithfully discharge the duties of the office of Representative in the General Assembly for the 10th Representative District of the State of Illinois to the best of my ability, signed and dated on March 24, 2011. When you look at the timeline of how this investigation went down, about nine months after being sworn in or thereabouts is when this activity began. So, after asking for witnesses, we also had conversations with the U.S. Attorney's Office as we had under the Blagojevich impeachment, and many of you were here for that, and they were unable to give us any more evidence, they could not release any more evidence because there is a continuing pending investigation against Representative Smith and other unidentified individuals. So, that was a dead end for us. There was not going to be any new information that our Special Investigative Committee could glean. And so, after three different meetings and after weeks of deliberation, we believe that the charge that Representative Sacia and the Members put forth to us had been substantiated and that it should move forward to the Disciplinary Committee for the appropriate action for them to take which is how we find ourself here today. Having been a prosecutor for eight years, I can tell you that you just have to follow the

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evidence and that the evidence that we provided the Disciplinary Committee was pretty clear. You have a federal agent, who under the pains and penalties of perjury, brought forth an arrest warrant for Representative Smith. He laid out all the allegations in that affidavit. At one point, Representative Smith had money counted out to him, 1 thousand, 2 thousand, 3 thousand, 4 thousand, 5 thousand, 6 thousand, 7 thousand dollars, never denied. There are also other conversations and as I reviewed the affidavit, it was a regular official investigation, very standard investigation. The confidential source had been checked where they... the official... he was given what they call official advanced funds suggesting that that currency was already marked, so that it could be identified upon future arrest or search warrants. Counsel also asked him numerous times about if Representative Smith wrote a letter. He could neither confirm nor deny that. And think about it, Ladies and Gentlemen, we have stationery in our offices here in Springfield and back in your district. It's something we just take for granted. We write letters all the time: congratulatory letters, letters of recommendation. Representative Smith was paid \$7 thousand to write a letter that all of us write on a regular basis advocating for our constituents. And because of Representative Smith's extraordinary actions, we, as a General Assembly, the House, should also take extraordinary action. We believe that there was sufficient evidence to move forward because nothing else told us not to move forward. If you look at Representative Smith's seat, he



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isn't here. Again, he would have an opportunity to tell you, I never had these conversations. There might be legal defenses for Representative Smith, but that's not something we should concern ourselves with. People have asked me, what if it's entrapment? No matter what, he had these conversations. His oath of office declared that he needed to do a lot more than enrich himself at the expense of Illinois taxpayers. And so, we found that there was enough evidence to be substantiated and to move it to the next level. And I think we did a very deliberative, very purposeful, exhaustive search for all evidence to be taken into consideration. We gave Representative Smith every opportunity, he was represented by counsel and he was given every opportunity to defend himself. And you are allowed under House Rules to draw negative inference, meaning that by his absence here, his absence of denial of those statements, his absence in attendance at our committee... at the disciplinary committee. That's what... what is in those four corners of the document are true and accurate as to what happened back in December of 2011. And with that, we, as a Body, must police ourselves. If we don't do it, who will? Representative Smith's trial could maybe come in a year or two years. Some people have asked me about that. Maybe we should wait. The integrity of this Body is at stake. Every transaction we do here shouldn't be thought about, is something else happening? Is there an ulterior motive for that? Is somebody getting paid something? We're here to talk about pensions; we're here to talk about this state's economy and about the future of 13 million

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residents. How can we do that when one of our Members and a stakeholder in this state has serious federal charges of corruption leveled against him? And so, it was with that that I would suggest to this Body that expulsion is the appropriate mechanism and that Representative Smith should be expelled from the Illinois House of Representatives.

Thank you, Mr. Speaker."

Speaker Madigan: "Mr. Jefferson."

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

Speaker Madigan: "Sponsor yields."

Jefferson: "You know, I've sit here and I've listened to all the debate and I'm just wondering, is this due process? Has he been given due process as it relates to the law?"

Currie: "I would say that he has been given due process in terms of our procedures and our requirements. We are not a court of law. We are not a criminal court. We have no authority. We have no ability to take away Mr. Smith's freedom, to put him in a jail cell. The question for us in this Body is do we have enough evidence that he violated the oath of office he took, the same oath we all took, to warrant his expulsion from this chamber? And I would argue that we have met the due process requirements, we have met the Constitution's authority given us to determine whether or not one of our Members should be expelled."

Jefferson: "And you said earlier in your discussion that he was given the opportunity to come before you. He did not come before you. If he had come before you and said, I didn't do this. Would we still be here going through this process?"

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Currie: "I think we would not have. I think if he had come to us and said, that's not my voice, I never said those words, I never took that money. I think we would not have had enough evidence to say him otherwise."

Jefferson: "And you know, I know we've got a lot of pretty good attorneys in this audience here and you know that when someone hires you, you normally listen to your attorney. And because he hasn't come forward, I'm sure he's acting on the advice of his attorney to not come before this Body. We're saying that there's a legal process that the Federal Government are... the legal system has complaints against him and they will be having a trial later on, but we're usurping their authority to say that we're going to go ahead and do this in spite of what their situation is?"

Currie: "No, I think that's an entirely separate procedure and I don't think that anything we do here is going to determine the outcome in a federal criminal court."

Jefferson: "What happens if, in fact, we go through with this and later on he's found innocent of all charges? Then what happens?"

Currie: "Well, then, he still has been expelled from this Assembly and I would urge that if he did not do it, if he did not do it, if that was not his voice, he should have come before us and told us that. I do not understand how we can tell our constituents he didn't do it when he wouldn't tell us that himself, if that is true, if he didn't do it."

Jefferson: "But when, in fact, you hire an attorney, don't you listen to advice of your attorney?"

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Currie: "I think the attorney was concerned about his federal criminal trial. The lawyer, his lawyer, was not concerned about whether or not Mr. Smith could continue as a Member of the Illinois House of Representatives. And that's fair, that's fine. If that's what the lawyer wants, if that's what the client wants, that's fine. But for us, I don't think that that's good enough to say that this person should not be expelled."

Jefferson: "I think that this would affect all of us if, in fact, we went ahead with this process. All of us are subject to something like this happening to us individually. You know, I don't understand why we have to get ahead of the curve. Why don't we let the legal system take care of this and not get involved. At this point, you know, I just don't feel this is right, so I'll be voting 'present' on this issue. Thank you."

Speaker Madigan: "Mr. Rose."

Rose: "Thank you, Mr. Speaker. To the Resolution. Ladies and Gentlemen, I was the spokesman for the Select Committee on Discipline and the matter before us is one that goes to the very core of the legitimacy of our democracy. This is not a speeding ticket or driving while suspended ticket. This is a charge that was leveled under penalty of perjury in front of a U.S. Magistrate. It is a charge that includes not an allegation of observed conduct by some third party, but an allegation of recorded conduct of the individual, Representative Smith. The... as part of our duty in a Select Committee, we were essentially a jury and we listened to what the two House Managers ably put on and I would like to

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highlight just a couple of items. One of the items that came before us as evidence and to the last speaker's comments, this is not a criminal trial although 95(c) elevates to some extent the level of evidence required, the... it is not, at the end of the day, a criminal trial. It's not even a civil trial. It's not of a adjudicated proceeding. It's a hearing of the House of Representatives. And under the evidence that came in, unobjected to by Representative Smith's attorney, part of that evidence was a recitation of the recording... of some of the recordings of Representative Smith and the... in his own words and the... the con... and the confidential source. That... those recordings that came in through the so-called Butler Affidavit were admitted, again, unobjected to by Representative Smith's counsel. Contained within the recitations of those recordings, again sworn to by an FBI agent under penalty of perjury, is knowledge clearly by Representative Smith of his conduct. In fact, at one point, he even pressed his confidential source... the confidential source to repeat the agreement, 'you already said a number now. I'm just trying to see if you remember what you said.' Source, 'I know exactly what I said, okay, she's talking about getting us 7 thousand, man.' Later on, in the same document that was, again, I think importantly not objected to is a counting of the money followed by Representative Smith, 'you don't want me to give you yours now?' to the Source. That came in unobjected to by Representative Smith. There's been some made and I think me and our side actually shared the concern about the so... notion of the so-called adverse

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inference by the failure of Representative Smith to appear at the hearing. And let's be... let's be clear, the House Managers, Representative, that came in and did the investigation, the formal hearing his real chance to respond and address the issues afore him was before the Select Committee on Discipline, Representative Currie.. Majority Leader Currie, myself and the other committee Members. He failed to appear at all at that hearing, at all. There was some, I think, very, very thoughtful discussion on what, if any, inference you could take by his failure to appear. It is clear from the case law that in a civil proceeding, an adjudicated proceeding, you can... that the trier of fact can take an adverse inference from the failure to appear. The last speaker brought up can... brought up the issue of the adverse inference while there's a pending criminal proceeding. And if you... I'd refer you to page 18, footnote 20 of the report, in a case... a series of cases where it is absolutely permissible for a trier of fact in a civil court... and keep in mind, we're not in a civil court. It's absolutely permissible at that higher level than what we have to take an adverse inference of his failure to appear and address the charges. 'But it is even permissible for the trier of fact to draw adverse inferences from the invocation of the Fifth Amendment in a civil proceeding.' And again, that's in footnote 20, page 18. We're... we, as a Body, as a Legislature, aren't even held to that standard. So, it is absolutely appropriate for us to take an adverse inference from his failure to appear. I do think had he come to that hearing, to the formal

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hearing and said, hey, these statements are out of context. There's more to the story. Well, maybe we wouldn't be here today, he didn't. The statements came in unobjected to by his counsel and then he did not contradict them himself. As to the expulsion, the finding of fault... this is a two-step process for our committee. The finding of fault was bipartisan unanimous. Finding of fault was bipartisan unanimous. And I think the committee itself represented a very broad breadth of the State of Illinois. We had a short discussion on our side of the aisle that if you find fault based on the unobjected two portions of the transcript and the failure to appear, if you find fault, you have no choice. The only logical remedy at that point is expulsion. This is not a speeding ticket. This is not a driving on a suspended license. This... you know, this isn't even a, you know, a... you know, some floor argument between Members as often has come in the past, that people have gotten up in arms about. This goes to the very core of our democracy. If you find fault, you really have no choice but to expel because it goes to the oath of office. With that, I, too, want to thank the Majority Leader, our counsels, Mr. Ellis, Mr. Freiheit, all the Members and the other staff that worked in our committee. The finding of fault was unanimous and bipartisan. And I think the only appropriate remedy is expulsion. Thank you, Mr. Speaker."

Speaker Madigan: "Mr. Lang."

Lang: "Thank you, Mr. Speaker, Ladies and Gentlemen. I appreciate the comments by all who have spoken before me and before I go on, I want to thank Mr. Durkin, who worked

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closely with me. We worked as the House Floor Managers before the Currie Committee and it was a grave undertaking..."

Speaker Madigan: "Mr. Lang..."

Lang: "...and we took it."

Speaker Madigan: "...let me interrupt you for one second. Mr. Clerk."

Clerk Hollman: "Committee Reports. Representative Barbara Flynn Currie, Chairperson from the Committee on Rules reports the following committee action taken on August 17, 2012: recommends be adopted for the floor is Floor Amendment #5 to House Bill 30."

Speaker Madigan: "Mr. Lang."

Lang: "Thank you. We undertook this as a grave responsibility and took a significant amount of time compiling the case that we put together. And this is a grave undertaking. It's probably the most serious thing we can do in the House of Representatives. While many of us were here for the impeachment of a Governor, we could not remove that Governor from office, all we could do was charge him. The Senate removed him from office. And so, today, before us, we have probably the most serious and significant action that can be taken by this Body. The case that was assembled before the Currie Committee was a, I believe, well-thought-out case. The committee felt so as well. And I would invite you, if you haven't done so, during the remainder of this debate to read the report of the committee which is part of the House Calendar today. It is a well-written document describing in great detail the evidence that was brought



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forth before the committee and the reasoning of the committee for making its determination. It is not just simply a report of a thousand different task forces that we have around here, but it is an important legal document with logic and reason that I would point you to in the next several minutes before we take a vote on this Resolution. I would particularly point you to pages 16 through 20 when it discusses the offer of proof made by Mr. Durkin and I and the significance of the silence by Mr. Smith.. Representative Smith. And I want to add to what you would read there, not only was Representative Smith silent, but his attorney was as well. And so you can argue, well, if I was Representative Smith, I wouldn't have come before the committee either. But he did take the time to hire an attorney, a well-known, well-respected attorney in the City of Chicago, who came before the committee and at no time during his opening remarks, during the proceeding, or in his closing remarks, deny any single allegation of the federal criminal complaint filed or the affidavit filed by the FBI agent who filed his affidavit under oath. There has never been a denial of the charges, the specifications, the allegations made against Representative Smith. Some would say, well, he's protecting himself in the federal criminal case. Well, that may well be true, but if you look at page 18 of the report that's before you, you see very carefully outlined several cases of precedent in Illinois law where that silence can be taken adversely. The case of the state worker who had to choose between keeping his job and what he wanted to defend in the... in a federal criminal case, the

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court said very clearly it's his choice. He can choose, but the fact-finder, in this case the House Committee and in this case, this Body, have a right to take a look at those facts and determine from those facts what it means. So, Ladies and Gentlemen, Representative Smith's silence, in this case, speak volumes. You've all seen movies and TV shows, those of you who are not lawyers, about how law cases work. And we all know that someone has the right to remain silent and he did... Representative Smith does in the criminal case and he did before all of our proceedings as well. But the Federal Constitution allows him a different right in a criminal case that he does not have here and that is the right that his silence may not be used against him. That is absolutely not part of this matter; this is not a criminal case. And let's take it one step further, let's take it out of the realm of law and let's take it into the realm of politics. Almost all of us are running for reelection, maybe it's to this Body, maybe it's to the chamber across the way, but almost all of us are running for a public office. Imagine three and a half months before the November election, you're called before a committee of your colleagues in the Illinois House and this committee is discussing whether or not you've taken a bribe. And you've been asked many times, did you do it, did you do it, did you do it, did you do it and three and a half months before an election, you don't want to stand up on the highest rooftop with the loudest microphone you can find and tell your constituents, if no one else, tell your constituents, no, I didn't do it. I'm not a crook. I didn't take a bribe.

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And when we go to Federal Court, we will prove that. We will respond to the prosecutor's allegation. We will convince people or convince a jury that I'm not guilty of this crime, not just, I'm not guilty, but I didn't do it. Because, Ladies and Gentlemen, if his defense is entrapment in the federal case, that means he's admitting he did it. The defense of entrapment starts with you saying, well, I did it, but here's why I did it and whether he has a defense in the criminal case or not, that would be a defense of entrapment, that isn't going to help him much here because we cannot have a person in this chamber who accepts bribes. It's plain and simple. And so, who among you would have failed to at least deny that you're a person who would take a bribe three and a half months before an election. Some of you think he has to be found guilty somehow, like in a movie, in this chamber beyond a reasonable doubt. That isn't the standard. The standard is what's in the mind of the Members of this House, each of you, there is no written standard. Each of you must decide whether Representative Smith has violated his oath of office. You don't even have to decide if he took a bribe. I want to repeat that. You don't even have to decide if he took a bribe. What you have to decide is whether he has violated his oath of office and if he has violated his oath of office, he is not a fit Member to be in this Body. And so, even if your point of view is that he has to be found somehow guilty beyond a reasonable doubt and we haven't done that as you would in a courtroom, it is beyond a reasonable doubt that he's thumbed his nose at the

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Constitution of the State of Illinois. And it's beyond a reasonable doubt that he's ignored the proceedings of the Illinois House of Representatives and it's beyond a reasonable doubt that he has refused to deny the charges and it's beyond a reasonable doubt that he isn't even here today to stand up and press that white button and let it flash awhile and stand up and say to you one sentence, I didn't do it. Not so hard, if he didn't do it. That wouldn't prejudice his federal case. I understand that if I was his lawyer I wouldn't want him, if I had a... wanted... if my greatest goal was to keep him out of jail, if that's what the issue was, I might have also told my client, listen, we're not going to give away our whole case. We're not going to answer a million questions. But I would say to my client, you could utter one sentence, I didn't do it. There isn't any lawyer who would not understand that that's a reasonable thing to do. And so, aside from whether or not you're convinced that Representative Smith took a bribe, you ought to be convinced for sure that the procedures, the proceedings, the Rules of the House of Representatives, an institution that we respect, have been violated. Certainly, our sense of fair play has been violated. Certainly, our sense of what we are about in this chamber and what our responsibility is to protect the institution is at risk. Mr. Smith has not been among us for very long and many days he's missed like today and I don't know him that well, but my conversations with him over those months have been pleasant, seems to be an okay person who may have done a bad thing. But we cannot have a person among us who takes

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bribes and we cannot have a person among us who doesn't care about the rule book. We all got a new rule book today, very nice, blue in color. We cannot have a person among us who doesn't care about those rules, doesn't care about the institution, doesn't care about the integrity of this Body, doesn't care even to tell us, his colleagues, I didn't do it. And so, Ladies and Gentlemen, our responsibility is grave. It's the most serious thing we can do in this chamber. Nobody wants to do it. Just like nobody wanted to impeach a Governor, it wasn't fun. This is not fun, but we have a greater responsibility even than our responsibility to ourselves and our responsibility to this chamber. We have a responsibility to 13 million people in the State of Illinois to do what we can do to convince them out there that we aren't crooks in here. Legislators and elected officials for many years now have been taking a beating from the general public and from the press about our ethics, about the way we do things and because of headlines in newspapers most people in Illinois and most people in this country think that we are all like those people who end up in the headlines with bad headlines and we're not. And the best way to show the people of Illinois, the best way to show the people of this country, that people in public life will not put up with other people in public life that cross the line that don't seem to care, is to make a statement today. It's not a statement just about Representative Smith; it's a statement about us. It's a statement about why we're here. It's a statement about the process, the institution and it's a statement about moving

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forward that we want to display ourselves as elected officials differently to the people we represent and if we fail to do that today, we will have failed the people of the State of Illinois. I must regretfully suggest an 'aye' vote on this Resolution. Thank you."

Speaker Madigan: "Mr. Durkin."

Durkin: "Thank you, Mr. Speaker. To the Resolution. I will be brief. I want Members of our Body but also the public who's watching this to understand that Representative Derrick Smith had more rights than Rob Blagojevich did during the impeachment proceedings. I think that anyone, particularly Representative Lang and I, appreciate and I was glad to work with him on it. There was a great amount of pretrial wrangling over evidentiary rules that were briefed out, argued, something which Rob Blagojevich did not have the opportunity to do. So, I want people to be perfectly clear that Representative Smith was given substantial rights. There have been some complaints and suggestions that we are rushing to judgment, that we should wait for the trial to commence and finish, but I will say this, it will be a cold day in hell when a third party or an outsider tells us how to operate and to run our chamber, particularly in matters of... of this nature, so severe in nature. And lastly, this is directed to Representative Derrick Smith. I just want to say that it is disingenuous to complain about the deprivation of process unless you've availed yourself to process and you have chosen not."

Speaker Madigan: "Representative Flowers."

Flowers: "Thank you, Mr. Speaker. Will the Lady yield?"

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Speaker Madigan: "Sponsor yields."

Flowers: "Representative, I want to preface my remarks by saying, I don't know Derrick Smith. I never laid eyes on him before he came to this chambers. And as a Member of this Body, I have the greatest respect, I take my job very seriously and I hope everyone else do likewise. I take the Constitution very seriously as well because I was amended into the Constitution twice. One just because of my person and the other gave me the right to vote. So, I take this very seriously. I don't know if Derrick Smith committed a crime. I wasn't there and quite frankly, I really have not read what has been written. I haven't given it much thought, quite frankly, because there's so much other stuff that's been going on, Medicaid and Medicare and our children and elderly people. I haven't focused in on Derrick Smith. And today, I want to really remove Derrick Smith, because it is a criminal case, I want to remove him from the process. And I just want to talk about what's before us today, the standards that we're setting for this Body that anybody could come along and lay charges on us and we could immediately be expelled. I... let me just kind of slow down a little bit because I want to ask a few questions. I need an understanding. I know some of the previous speakers who are lawyers, more articulate and more educated than I'll ever be on the issue, they have spoken quite succinctly as to the Fifth... the Fifth Amendment that me... the Fifth Amendment that says that you have the right to remain silent or you don't have to incriminate yourself. They say that that is not applicable here, but it's still

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applicable to the Constitution and irregardless of what we do on the state level, the Constitution... the Constitution of the State of Illinois supersedes. And so, in order for me to want to protect myself, the... the law that was written or the... on page 18, the references that was made in regards to the adverse inference, it doesn't say that you 'shall' infer guilt. It doesn't say that. It says you 'may', you 'may'. So, as a result, it wasn't necessary that we come up with a guilty plea because that's not... this is not a court of law. This is not a criminal case. But that's the inference that we made and that's the conclusion that we came up with. But the Constitution says I have a right not to... oh, I just said it... I have... I do have a right to remain silent. I do not have to incriminate myself. Even when the Miranda rights, when a police officer reads you your remand... your Miranda rights, the police officer in the Miranda rights says you have the right to remain silent. I read an article from the Chicago Tribune and it said a trial date... at the time of this article... it says a trial date has not been set for Smith who pleaded not guilty in Federal Court. He pleaded not guilty in Federal Court. So, he spoke in Federal Court. So, we can infer... we can infer from what he said in Federal Court that he's not guilty. He's innocent until proven guilty. That's what the Constitution says... the Constitution says and we took an oath to uphold the Constitution. So, can we have it both ways? And one of my other colleagues said that it'll be a cold day in hell when someone from the outside tell us how to run this Body. But the Constitution does tell us how to



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run this Body; it does set the standards. So, I ask the question as well, what's the rush? Only because... only because Mr. Smith is on the ballot. We could find Mr. Smith guilty and the headlines would read, we found him guilty: he's going to be expelled. And if he was here today, he would be escorted out the door. That is what would happen if Mr. Smith was here and that is what the headline is going to read. Oh, but come the election because he's still on the ballot and it is we the people, the people of his district, that will have the last say. They will be the ones to say if Mr. Smith will come back to this House or not. So, irregardless of what we may say or do about his behavior, what we think about him, what we inferred, there's nothing that we will do here today that will stop him from coming back and then what, then what? Do we put him out again? Do we expel him again? What are the standards? That's the only thing I'm asking for. What are the standards? What are we doing here today? And so, I'm asking you if we really want to do justice, if we really want to let the people of the State of Illinois know that we really mean business, we will wait. Because after he's been found either innocent or guilty, after the election, we can do whatever it is that we need to do and then he can't come back. But now, we are given... he does have an opportunity after this dog and pony show to walk... to hold his hand up again, take that same oath and walk through these doors and have the same privileges that you and I will have. He will be able to collect his pension and any other state benefits that he may have coming to him as an

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elected official. So, once again, I want to make it plain and clear that I'm here today to uphold the Constitution of the State of Illinois. I am here today to try to set forth some type of standards instead of us having some type of dog and pony show to what the flavor of the month is. If we're going to do it, let's do it right. If we're going to do it, let's make it final. Let's set some rules; let's set some standards. I had the privilege of talking with Senator Durbin the other day and I asked him in regards to what happens in Congress. All of them, they're not expelled. Some of them are just censored. You don't... but there's no... it's either this way or that way. You know, here it's just expel, but then, he could still come back because the Constitution is silent on that. There's no laws in our state statutes that addresses that. So, Representative, I would appreciate if you would take the Resolution out of the record. Let's wait until after the election. Let's wait until after the trial and the people of the State of Illinois will then be truly served. Thank you very much."

Speaker Madigan: "Representative Monique Davis."

Davis, M.: "Do I really have to follow her? Mary, that's the best speech you've ever given. I, too, would like to question our respect and regard for the Federal Constitution. I want to ask a couple of questions, Representative, whom I have great respect for. In the City Council of Chicago, there have been indictments of Council members. Those Council members remained until they were sentenced, is that correct or until they had a trial?"

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Currie: "My understanding is that in the... the City Council procedures do not provide the same kind of mechanism that our Rules and Constitution provide for that decision in this chamber."

Davis, M.: "Can I ask about the Federal Government where there have been investigations and indictments of Congressional members who remained in their seats?"

Currie: "My understanding is that the Federal... under the federal rules, that the House of Representatives has among its punishment authorities expulsion would be one."

Davis, M.: "Have... have they done so?"

Currie: "Pardon me?"

Davis, M.: "Have they ever done so?"

Currie: "Yes, I believe they have."

Davis, M.: "You do. Recently, do... I mean, I don't remember reading any cases."

Currie: "I didn't either. I... well..."

Davis, M.: "You don't either, Barbara?"

Currie: "Yeah. And I think... I think Alcee Hastings was one and I believe, it was some time ago, I think Adam Clayton Powell was expelled."

Davis, M.: "But he did return. Is that correct?"

Currie: "Yes, he did."

Davis, M.: "Thank you. I know that all of us are very concerned about the perception of Members of the General Assembly. We all want to appear above board, honest, not corrupt and I believe the majority of us behave in that way. Those who don't, according to the Federal Constitution, they have a right to a trial, they have a right to appear before a

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court and be adjudicated, they have the right not to have double jeopardy... double jeopardy and go before many trials and those of you who are lawyers, you know your client is told what to do by you and if your client doesn't do what you say, you usually try to drop them as a client. So, for us to state that he could have come and he could have testified and he could have said, no, he didn't. His lawyer told him not to because he has a pending trial, he doesn't want to jeopardize his case. There is an indictment that says he took a bribe for writing a letter. To date, there have been no witnesses to come to either support or to deny the charge. I would hate for this Body to do what we're going to do and only find a short time later a Member of this Body whom we might like a lot gets indicted. Will our behavior be different if it's someone we like? You know, I don't condone anything in reference to taking money for doing what we're supposed to do, but neither do I condone people, including us, violating the Federal Constitution. And the Federal Constitution says that there are times when the acts of a government Body may appear repugnant... repugnant to the judicial system. And when that happened, whatever we enact can be overturned by a Federal Court. You know, I know as I stated before we all have... what do we call it... the personal persona that we want to appear pristine and I hope we are. We don't want anybody to look in this room and say, look, they have that corrupt person there. But if it is not constitutionally correct for us to expel him, then we should not do so because I personally believe we're going to live to regret it. We... we are

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lawyers in here. We make laws in here. We're supposed to observe and obey the Federal Constitution, the State Constitution. There's no precedent for what we're doing. There's no precedent. Mr. Smith had an attorney. Mr. Smith's attorney advised him not to come before the Body. Did you subpoena anybody else? Did the indictment officer show up or did he tell you that he was not going to talk to you until this case had been heard in a real court. I admire you for trying. I think our reputation stands for itself. Look how many years you've had this Body, look how many years many of us have been here and you have not been indicted for corruption. So, the majority of us are good, clean, honest reputation people. So, to do this, to prove to someone that we don't condone it, is the wrong way to go. And I'm very sorry, but I'm going to have to oppose this Resolution."

Speaker Madigan: "The last speaker will be Representative Greg Harris."

Harris, G.: "Thank you, Mr. Speaker, Ladies and Gentlemen. As a person who was a Member of the Select Committee on Discipline, we listened to a lot of testimony and we listened to a lot of the state of the law that we have to follow as we pursued this issue. Some of the previous speakers have talked about what other levels of government may or may not have as their policies and procedures in rules that be it at the federal level, what other states may do, what other... and these have been in the State of Illinois since the City of Chicago might do regarding its own members. But here we need to deal with the laws that

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are before us: the laws that our Constitution lay out, and the responsibility it gives us as a House for discipline of its own Members and the policies and procedures on which we vote which are adopted and we are governed by. In this case, we have followed those procedures that our Constitution requires, that our Rules require. We've given due process as defined in those Rules and our Constitution to amen... to any Member... this Member as we would hope they would be given to us. There are separate processes that are running and this is the way the American system works. There are judicial processes running; there is an electoral process running. But those are outside of our control and outside of what we can do in this chamber. The process that is running here is the process that our Constitution provides that we must follow through. As Mr. Smith's attorney came before us, it was striking to me the things that he said but more so the things he did not say. Mr. Henderson, the attorney for Representative Derrick Smith, took great pains as he presented his case before us on behalf of his client to talk about the affidavit of the FBI informant and the people who were involved in that transaction. He went to great lengths to point out things that may or may not have been in that affidavit regarding the background of the persons involved in that transaction that he said should have been included in consideration. He went to great lengths to point out the fact that in affidavits to the... to the judge that the federal agent may not have supplied all this information. He went to great lengths to point out exactly how many phone calls had been

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made in total, an incredible number of phone calls, regarding one transaction, the writing of one letter. And he went to great lengths to point out that within the affidavit and within the federal complaint and within the grand jury indictment, these calls were reported but other calls were not. It struck me that he spent a lot of time and attention talking about what was not in the case, but at no time... at no time did he ever mention those calls that were in the record. He never said these are not my client's. He never said these were not my client's words. He never said my client did not do these things. He had plenty of opportunity to do that but did not and to me, those were very telling things. It's with a heavy heart that we all come here today and I don't think, you know, we come here to worry about what those on the outside may think of us or might think of what we do. We come today because each of us must look within our own hearts and realize that the Constitution and our laws and our Rules have devolved upon us a certain responsibility today. And we have to look at the words and the evidence that are available to us and we must each within our hearts make our own right decision. As a Member of that committee, I voted to accept all the charges that were placed before us and I voted to recommend expulsion of Representative Smith. I would ask for an 'aye' vote on this Resolution today. Thank you."

Speaker Madigan: "Representative Currie to close."

Currie: "Thank you, Speaker. Just the reminder that, the protections against self-incrimination apply in criminal

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proceedings. This is not a criminal proceeding. It isn't even a court civil proceeding, but it is a proceeding of this House of Representatives. All of the Members of the Investigating Committee, all of the Members of the Select Committee on Discipline agreed that Mr. Smith is guilty of the charge, the charge that he performed an official act in order to accept a bribe. That is what is before us today. I urge my colleagues to vote 'yes' on House Resolution 1191."

Speaker Madigan: "With no additional Members requesting to speak, we will proceed to vote on the Resolution. In accordance with Section 6(d) of Article IV of the Illinois Constitution, this Resolution requires a vote of two-thirds of the Members elected to the House, that being 79. The question is, 'Shall the House adopt House Resolution 1191, pursuant to which Representative Derrick Smith will be immediately expelled from the House of Representatives?' All those in favor vote 'aye'; and those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? The Clerk shall take the record. With 100 people voting 'aye' and 6 people voting 'nay', the Resolution, having received the constitutionally required vote, the Resolution is adopted. And Representative Derrick Smith is hereby expelled from the House of Representatives. Mr. Clerk, please remove Derrick Smith from the roll of the House. The House will stand at ease for a very short time. Mr. Clerk, Agreed Resolutions."

Clerk Hollman: "Agreed Resolutions. House Resolution 1200, offered by Representative Cole. House Resolution 1204, offered by Representative Riley. House Resolution 1205,



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offered by Representative Morrison. And House Resolution 1206, offered by Representative Bradley."

Speaker Madigan: "The Clerk has read the Agreed Resolutions. Representative Currie moves for the adoption. Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it. The Agreed Resolutions are adopted. The House will now stand at ease to the call of the Chair. Let the record show that the House shall stand in recess to the call of the Chair."

Speaker Madigan: "We are now in the regular Session. Representative Currie moves that the regular Session stand adjourn pursuant to House Joint Resolution 94. Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it. The House does stand adjourned pursuant to the call of the Chair."