

STATE OF ILLINOIS  
99th GENERAL ASSEMBLY  
HOUSE OF REPRESENTATIVES  
TRANSCRIPTION DEBATE

61st Legislative Day

6/4/2015

Speaker Turner: "Good afternoon. Members are asked to be at their seats. We shall be led in prayer today by Reverend Abdul Finner, who's with the Siloam Baptist Church in Chicago, Illinois. Reverend Finner is the guest of Representative Turner. Members and guests are asked to refrain from starting their laptops, turn off all cell phones and rise for the invocation and Pledge of Allegiance."

Reverend Finner: "Oh gracious Father, we thank You for Your presence. We thank You for who You are in our lives. As we come together today, Lord, I ask that You would open our hearts and our minds to be able to come together in unity to get done what needs to be done at this committee, Lord. Allow us, Lord, not to put You first in our actions and our talk and the way we commune with one another. Thank You for this privilege just to be in the land of the living once more. And again, in Jesus' name we pray, Amen."

Speaker Turner: "We shall be led in the Pledge of Allegiance today by Representative Kifowit."

Kifowit - 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 Turner: "Roll Call for Attendance. Representative Brown."

Brown: "Thank you, Mr. Speaker. Please let the record show that Representatives Ives, Morrison, Poe, Sullivan, Tryon, and Barb Wheeler are excused today. Thank you."

Speaker Turner: "With 107 Members present, a quorum is established. Mr. Clerk, community... Committee Reports."

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Clerk Hollman: "Representative Hoffman, Chairperson from the Committee on Labor & Commerce reports the following committee action taken on May... on June 04, 2015: recommends be adopted is Floor Amendments 5, 6, 7 and 8 to House Bill 1287."

Speaker Turner: "Mr. Clerk, House Resolution 577. Representative Butler."

Butler: "Thank you, Mr. Speaker. Today I would like to welcome the state champion team from Rochester, Illinois. The girls' soccer team won the 1A State Championship this past weekend up in Naperville. They beat Chicago Latin by a 6 to 1 score. This is the second year in a row that they've been in the state championship game. They won the championship in convincing fashion; their second state title. I can't think of... as we begin the Women's World Cup next week... I can't think of a better group to be here today than the 1A State Champions from Rochester High School. I thank the coaches and the parents but especially the players for coming out here today. It's a tremendous accomplishment. And as you can see, you get a small trophy when you win... by the way the trophy's name is Susan... so, in case you were wondering. The trophy's name is Susan. You get a small trophy when you win. So, along with Representative... Representative Scherer, who splits Rochester, I think she's going to say a few words. Thank you for being here today. Welcome and congratulations, girls. Great job."

Speaker Turner: "Chair recognizes Representative Scherer."

Scherer: "Thank you, Mr. Speaker. Point of personal privilege."

Speaker Turner: "Please proceed."

Scherer: "I just wanted to say, again, also and reiterate Representative Butler. First of all, congratulations. And I...

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I just need to say that, you know, this is the fun and great and easy part, but when you got up to go to practice at 6:00 in the morning when you were tired and you still had a test to study for and you know, I've had my own fair share of kids in my own family that did sports and I... I understand all the sacrifice that went into getting to where you're at right now. And it started probably when you were about 3 or 4 years old and playing soccer with the Y or something. So, kudos to you for all those years. It's been a long time 'cause you're not 4 years old any more. And I... I'm just so very proud of you but more importantly, you should be so proud of your own self. And thank you for all your sacrifice to make our district proud. And... and it's just a wonderful, fabulous accomplishment. And I must say that Susan name is just a great name for your trophy. So, good for you."

Speaker Turner: "Representative Butler moves that the House adopt House Resolution 577. All in favor say 'aye'; all opposed say 'nay'. In the opinion of the Chair, the 'ayes' have it. And the Resolution is adopted. Congratulations, ladies. Representative Phillips, for what reason do you seek recognition?"

Phillips: "A point of personal privilege, Mr. Speaker."

Speaker Turner: "Please proceed, Representative."

Phillips: "Thank you very much. I debated whether or not I was even going to bring this up, but I've decided I think it's in the best interest of the State of Illinois. I have a newspaper article here that landed in my district and I'd just like to take a second to read what it says. Welcome Illinois-based Franklin Well Services to Indiana because Indiana has the

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economic guts to attract new business. Indiana, a state that works. A state that works.com. You can... they put a nice colored ad in one of my larger towns in my district. And I know the guy that owns this company. It's a hundred immediate jobs and overall it will be 300 jobs moving from Illinois. And the reason I bring this up at this point in time, Mr. Speaker and my fellow State Representatives, is because it's so important to me. This is one of the issues I ran on. I'm not trying to be contentious here in this article. The fact remains that workers' compensation is a thorn in the side of me and who has 400 and going on 500 employees. Every time I write that check, since the 2011 changes that you made and that 17 percent increase over the past three years, in my premiums alone it makes it very difficult to do business in the State of Illinois. I hope as we ponder these workers' compensation reforms we take into consideration... that's 300 in my neck of the woods which is a small area and it's just going to continue to climb. I just hope we really get down to the work that the people sent us up here to do the right thing. And again, I'm trying not to be contentious. It's a real serious matter. Thank you for the time, Mr. Speaker."

Speaker Turner: "The Chair recognizes Representative Frese."

Frese: "Thank you, Mr. Speaker. Point of personal privilege."

Speaker Turner: "Please proceed, Sir."

Frese: "I'd like to introduce a couple of visitors I have today my wife, Ronda and my daughter, Sara. And I would like to defer to Representative Phelps, who can discern which one is which. Thank you very much."

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Speaker Turner: "Welcome to your Capitol. Mr. Clerk, Agreed Resolutions."

Clerk Hollman: "Agreed Resolutions. House Resolution 576, offered by Representative Bellock. House Resolution 578, offered by Representative Currie. House Resolution 579, offered by Representative Breen."

Speaker Turner: "Leader Currie moves that the House adopt the Agreed Resolutions. All in favor say 'aye'; all opposed say 'nay'. In the opinion of the Chair, the 'ayes' have it. And the Resolutions are adopted. Representative Moffitt, for what reason do you seek recognition?"

Moffitt: "I rise to a point of personal privilege."

Speaker Turner: "Please proceed, Representative."

Moffitt: "Would it be appropriate to introduce new Members at this time?"

Speaker Turner: "Go right ahead."

Moffitt: "If we don't have any, then could I introduce an old Member?"

Speaker Turner: "Sure."

Moffitt: "I'm pleased... and any time debate gets serious it's good to have this guy on the floor. Would you welcome back former State Representative Floor Leader Bill Black? Bill, it's good to have you back here."

Speaker Turner: "Welcome back, Representative Black. Representative Brown."

Brown: "Thank you, Mr. Speaker. The Republicans request an immediate caucus in Room 118 for one hour."

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Speaker Turner: "The Republicans will caucus in Room 118. The Democrats will caucus in Room 114. The House will be at recess."

Speaker Lang: "The House will be in order. Page 5 of the Calendar, House Bills-Second Reading, there appears House Bill 1287. Mr. Clerk."

Clerk Hollman: "House Bill 1287, a Bill for an Act concerning employment. This Bill was read a second time on a previous day. Floor Amendments 1, 2, and 3 lost previously. Floor Amendment #4 was adopted previously. Floor Amendments 5, 6, 7 and 8 have been approved for consideration. Floor Amendment #5 is offered by Representative Hoffman."

Speaker Lang: "Mr. Hoffman on Amendment 5."

Hoffman: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. You may recall a couple of weeks ago we had a hearing on several Amendments before the committee regarding workers' compensation. During that time we voted on three Amendments that received 0 'yes' votes. I repeat, received 0 'yes' votes. They were proposals from the Governor's Turnaround Agenda that dealt with three issues. It dealt with the issue... his version of the issue of causation. His version regarding the AMA guidelines. And his version of a medical fee schedule reduction. We did adopt Amendment #4, however, which would go a long way to we believe reducing workers' compensation rates by providing for prior approval of workers' compensation premiums. House Amendment #5 would go further and deals with the issue of causation. The Governor in the working groups that I attended and a several from the other side of the aisle attended as well, continually... the Governor's Office

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continually talked about the issue of causation. Most recently, he had indicated that the issue of causation must be part of any workers' compensation reform. This deals with the issue of causation. As you know, our side of the aisle for years and years and years has been reluctant to deal with this issue because truly workers' compensation in Illinois is designed to be a no-fault system. However, what this Amendment would do is it would adopt the *Venture-Newberg* decision regarding traveling employees and that is a Supreme Court decision that was ruled in favor of the employer that is designed to define when an individual will be in the course of employment. And we'd also would adopt the *Sisbro v. the Commission* and the *Caterpillar v. the Commission* court... court cases which would define in total, for the first time in Illinois statute, arising out of and in the course of employment. This deals with causation. Twenty-nine other states have similar causation standards than what we have. This would catapult us ahead of those 29 states. I ask for a favorable Roll Call."

Speaker Lang: "Leader Durkin is recognized."

Durkin: "Thank you. Inquiry of the Chair."

Speaker Lang: "State your inquiry, Sir."

Durkin: "Mr. Chair, how many votes will it take to adopt each one of these Amendments today?"

Speaker Lang: "As always, Sir, it takes a majority of those voting on the question."

Durkin: "Okay. Thank you. If any of these Amendment or Amendments are adopted, what is the vote threshold to make this Bill, if it's called on Third Reading, effective immediately?"

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Speaker Lang: "Sir, we won't know until the Amendments are adopted."

Durkin: "All right. One last question, maybe this can be directed at the Clerk. How many of the 71 Democrats are not in attendance today? If we could ask the Clerk if he could perhaps give us an attendance of what the Democrat Majority.. of what it is today?"

Speaker Lang: "Representative, we'll be happy to bring you a copy of the Attendance Roll Call for today."

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

Speaker Lang: "Sponsor yields."

Durkin: "Representative Hoffman, you've again are talking about today, as you did the last time you rose, brought these to the House attention, that these are the Governor's Turnaround Agenda items, correct?"

Hoffman: "These are all items that we had discussed in our working group. I don't know that... I wouldn't say that this is... these are the Governor's Turnaround Agenda items. Workers' compensation reform is one of his items. And then he had four specific things under that. We voted on three of them and they got 0 votes."

Durkin: "But none of these came out with an agreement within the working group that this is something we're going to go back to the chambers and the administration that we have reached the deal, particularly on work comps... work comp."

Hoffman: "No, but neither did the Governor's proposals that he filed that you sponsored."

Durkin: "Well, the point is, is that the whole point of it was a negotiated compromise. That's the whole point of the working



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groups. And now, we're in the first week of June and we still... this is not agreed. This is not anything that... it was dropped on us yesterday, some new language. Can you tell me whether or not the Governor's Office has indicated to you that they are in support of House Amendment 5 through 7?"

Hoffman: "I can only tell you what was related in the press. And I would say they are less than enthusiastic."

Durkin: "Shocking. So, let's talk a little bit about other people who are less than enthusiastic. Now, the whole point of trying to construct a Bill. We try to find common ground and consensus with all the people who would be affected by this. In particular, I would like to talk about the business community. Now, right now, standing in opposition to what you're trying to do today are the Associated Builders and Contractors, the Chemical Industry Council of Illinois, the Chicagoland Chamber of Commerce, Homebuilders Association of Illinois, Illinois Chamber of Commerce, Illinois Coal Association, Illinois Construction Industry Committee, Illinois Manufacturers Association, the Illinois Municipal League of which the City of Chicago is a member, the Illinois Retail Merchants Association, Illinois Self-Insurers' Association, Illinois Trucking Association, Midwest Equipment Dealers Association, Midwest Truckers Association, National Federation of Independent Business and the Technology and Manufacturing Association. Am I missing anybody?"

Hoffman: "I... I really don't know. But if I could make... You had... you had talked about the agreed Bill process and that are agreed Bill and that's what the process we should be going through. The very first meeting of the working group I

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requested the agreed Bill process, which is traditionally how we've dealt with workers' compensation issues. Where business and labor, experts in the field, would get together and try and hash out their differences. I was told that they wouldn't engage in the agreed Bill process with regard to workers' compensation."

Durkin: "Well, I think both of us know that there's a willingness on behalf of this side of the aisle and also the second floor and also the business community to find resolution on this through an agreed process. That was the point of the... of the working groups, but to me it seems like this is a piece of legislation which clearly is... doesn't meet anyone's favorability in the business side. And that's the whole point of this to find a balance between the rights of the injured worker but also trying to be fair to the work... to the employers who we've have not done a very good job for for a number of years to see if we can make some sense over something that's extremely important. So, to me it seems like we've got another Bill that is not quite ready. I'm not sure why we're here doing it, but getting to... to the Bill... to the Amendment. Folks, what we're seeing right now is really no movement. Particularly on this Amendment we're talking about the whole issue of causation being what's driving the negotiations and the change and the... currently the law is states that a... a case law that a work comp claimant need only prove some act or phase of their employment was a causative factor of their injury not the sole or principal causative factor. So, all we're doing right now is codifying current case law. We're not making any movement. That's why you have

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such a... a, you know, united opposition to this Bill. Costs are not going to go down. So, I don't believe this Bill is a truly sincere effort by people who are advocating on behalf to make some meaningful change in Illinois. I'm not quite sure why we're down here today. This is not a good Bill. I'm not going to vote 'for' it. I don't believe you're going to get any support on our side of the aisle. I would hope that this... we can continue to work on this. But folks, if we're looking for a pathway to finish our work to get a good balanced budget and to get some good reforms in Illinois by the end of... end of this month, this is not the way to do it."

Speaker Lang: "Mr. Sandack."

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

Speaker Lang: "Sponsor yields."

Sandack: "Representative Hoffman, when we went through the exercise of going through Amendments 1 through 4, some of those Amendments you actually stood up and said I do not support. And I think Amendments 1 through 3 failed. Isn't that correct?"

Hoffman: "They received 0 'yes' votes."

Sandack: "Including the Sponsor, or the punitive Sponsor at least, you were the person that was... that put the Amendment on the board. Amendment 4 did pass, isn't that correct?"

Hoffman: "It was adopted, yes."

Sandack: "It was adopted, well said. If Amendment 5 is adopted, and I want you to assume that subsequent Amendments... I should ask you this. The 6 through 8, are you going to support the adoption of those Amendments?"

Hoffman: "Five... 5 through 8, yes."

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Sandack: "All right. So, if 4 through 8 are ultimately adopted, do you intend to move that Bill to Third Reading?"

Hoffman: "Yes."

Sandack: "So, for the first time, maybe, we've got potentially a real Bill on our hands?"

Hoffman: "Well, there's a real Bill. The question is, do you support them or you don't?"

Sandack: "No, the question is..."

Hoffman: "Now, the Governor has a... the Governor has a real Bill. He had it introduced. I... I think that this is more of a compromise and is a true legitimate attempt to find some middle ground. You know, I have... I'm not the one who said in order to really talk turkey about the budget we have to have these reforms. We're trying to move the process forward so we can put a... get a state budget, which should be the real priority for us in this chamber."

Sandack: "Well, I... Representative, I won't argue that point with you, but you've already voted on budget Bills. So, I... I don't know. Maybe are those not real Bills? I know they're being held on reconsideration, but those Bills have gone out on a partisan Roll Call. And so, what I'm trying... and I will address something you just said, compromise. Is... is Amendment 5 the product of compromise or is it your Amendment, Sir?"

Hoffman: "This is... this is my Amendment. It was discussed in the working groups. And again, under Illinois law, currently, it simply says that the incident must be arising out or in the course of employment. There's no definition. This goes a long way because it codifies what that means. It specifically codifies what 'out of and in the course of employment' means."

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Sandack: "So, is it..."

Hoffman: "It's a causation standard and it's being implemented for the first time in statutory language."

Sandack: "So, is it your opinion that this actually is a causation standard now?"

Hoffman: "Yes."

Sandack: "Okay. To the Amendment. Ladies and Gentlemen, I appreciate the Gentleman's unilateral attempt at achieving compromise, but of course, that belies the point. This is not a product of compromise. This is continuation of a process that's old, tiresome and wasteful. This isn't a real Bill, notwithstanding the Gentleman's comments, and more importantly, it's not causation. Amendment 5 simply codifies current law and actually doubles down on what current law is. There are zero supporters from business and the industry on this because they haven't been asked to opine on it. There's no compromise. There's no real process here. This is an attempt to try and embarrass the Governor, embarrass Republicans and say, we're doing your Turnaround Agenda. Let's be clear. This is not the initiative of the Governor. It's got no business or industry support. It is unilateral and it is not com... is not a product of compromise or consensus. I urge a 'no' vote. And Mr. Speaker, I will ask for a Roll Call vote on this, please? Thank you."

Speaker Lang: "Your request will be acknowledged. Mr. Zalewski."

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

Speaker Lang: "Sponsor yields."

Zalewski: "Jay, I want to distill a little bit of the policy in your Amendment, putting aside the process, 'cause I disagree

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with the previous speaker. This is a step forward in causation. Is it or is it not true that for the first time the definition of 'cause' will be laid out in statute?"

Hoffman: "Yes. For the first time, there will actually be laid out in statute what... what is... the definition of 'arising out of and in the course of employment' and what that means, if an incident or an accident occurs."

Zalewski: "Previously, is... if this Bill were to become law, it would... it would effectively remove the definition that had been set forth by the Supreme Court, correct?"

Hoffman: "Well, what it would... what it does is it codifies that definition. So, we don't know what... what a future Supreme Court's going to do or another courts going to do or will do. So, what this does is it codifies for the first time the issue of causation, what it means to be 'out of or in the course of employment'. And by doing so, it prevents it being changed by some... by judicial activists who may interpret it in a different fashion."

Zalewski: "So, effectively, we will have set in statute, if this Amendment and this Bill were adopted, that the statutory definition is of cause and a court will be bound by the statute as opposed to being able to lay out any old definition of cause going forward?"

Hoffman: "Yes."

Zalewski: "And can you explain how that changes the dynamic of a injured worker versus then and what it would be if the Bill were enacted?"

Hoffman: "Well, I think... if I might, just kind of tell you where we've been and how we got here. The problem with the

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Governor's standard is, is his standard would be the harshest in the nation. It would deny people benefits. It would deny injured workers benefits. And we have said over and over and over it is our goal in any workers' compensation reform to #1) not deny legitimately injured workers benefits while providing relief and... while providing relief to the premiums that employers pay, reducing the cost to employers. So, what this would do is it would adopt the Sisbro and Caterpillar cases and it would indi... it would establish when an employee suffers an injury while performing acts he or she was instructed to perform by the employer, acts which he or she had a common law or statutory duty to perform or acts which the employee might be reasonably expected to perform incident to his or her assigned duties, if it is within that definition, then it would be 'out of or in the course of employment'."

Zalewski: "That's from a case involving Caterpillar?"

Hoffman: "Sisbro and the Caterpillar case."

Zalewski: "Okay. And thank you, Jay. To the Amendment. I... again, I have a great deal of respect for the previous speaker. I... I take... I take issue with this notion that the barometer down here on workers' compensation reform has to be what the business groups view as having to be a proponent or agnostic or opponents to. We're the arbiters of the state statute on this issue. We're the ones that can decide whether or not something is good public policy or not. On this particular issue, I think it's fair to say that it's okay to start hitting singles and doubles for business instead of holding out for the grand slam. So, I think... I have a great deal of

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respect for those individuals on the other side of the aisle who continue to want to see more when it comes to workers' compensation, but I think we're starting to.. you're starting to realize that this side's starting to move on this issue. We're willing to take votes that are in advance of business interest in this state, to the Dutchmen of injured workers in some instances. And I would urge an 'aye' vote on the adoption of the Amendment."

Speaker Lang: "Mr. Wheeler."

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

Speaker Lang: "Sponsor yields."

Wheeler, K.: "Hi, Jay. We finally get to say causation. It's starting to sound nice. Walk me through the difference between the affect of causation that we currently have in Illinois versus what your proposed Amendment would do."

Hoffman: "Currently under current law the... the term 'arising out of and in the course of employment' is... is the only term regarding causation contained in the Illinois statute."

Wheeler, K.: "Right."

Hoffman: "And so, what we would do is we would define that term for the first time by codifying the Ventura case... the Ventura case and the Sisbro and Caterpillar cases."

Wheeler, K.: "Okay. So, the affect is neutral because we're already doing those things based on the existing case law based upon our lack of a definition in the actual statute?"

Hoffman: "I wouldn't say that the affect is neutral. I would say that this long-term sets the standard of causation for future businesses and for future injured workers."



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Wheeler, K.: "Okay. But if we're just codifying what we're already doing, I guess I'm just missing the point of where you see there's going to be a cost savings that will make a difference in the overall system."

Hoffman: "Well, the problem you have I think is there is no... no set standard in the law. And you have certain judicial activists that don't... that tend not to follow it. Now, we're going to say, we're putting it into the law."

Wheeler, K.: "Okay. So, on a side note, you do good to that judicial activism can be a problem?"

Hoffman: "Depends how they're acting."

Wheeler, K.: "Today, in committee you mentioned that this was an attempt to meet halfway. Halfway... right now our causation standard is somewhere in the single digits of percentage of injury versus a Governor's approach that you keep referring to that was a major contributing cause or 50 percent. Wouldn't in the middle somewhere be around 25 percent?"

Hoffman: "Well, I think the problem here is... and when we had our hearings of the Committee of the Whole... when we talked in the working groups... when we had the hearings on the Amendment about two weeks ago, several people on your side of the aisle stood up and were very adamant that they didn't want to take benefits away from injured workers... from legitimately... legitimately nonfraudulent injured workers. That's my... that's my belief as well. Yet, if we followed what the Governor is proposing, that would happen and that's the problem for us. So, what we're attempting to do here is to set a standard so that nonfraudulent injured workers will receive the compensation that they are due."

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Wheeler, K.: "Jay, I appreciate where you're coming from. The... the idea that legitimately injured workers can have just literally 1 percent of the injury be caused by the workplace and have them be included in the workers' compensation system really is where I have a point with where you're going with this. To the Amendment. For Illinois, our recovery from the great recession is like behind our neighbors and almost every indicator and economic measure shows that. Several polls of Illinois's employers, the people we really want to reach out to and let them know that Illinois is a great place to hire someone, to expand your business, to develop your operations here. They tell us that workers' compensation costs are a #1, #2, #3, somewhere in that top tier, issue that we haven't sincerely addressed yet. And from our good friends at NCCI, they tell us that the rate of personal partial... permanent partial disability awards in Illinois is 554 per 100 thousand; whereas, the national average is only 337. Let's break that down. It's 64 percent higher award rate in Illinois than it is in the country as a whole. Four things in my mind could contribute to that. One, either our Illinois workers are 64 percent unprepared compared to our neighboring... states throughout the country which we know the Illinois workers are great. Our workforce is amazing, so we know that's not the case. The second thing is the Illinois workers are doing work that's 64 percent more dangerous than the rest of the country. That can't be the case either; that makes no sense. It could be that the Illinois Workers' Compensation Commission arbitrators are being 64 percent too generous, but we know we fixed that in the 2011 reforms. So, that can't be the case.

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So, that leaves us with the option at the end here. It could be that the fact that Illinois has the lowest causation standard in the country could be a reason why we have a 64 percent higher award rate. Does that mean the people shouldn't be getting compensation and benefits when they're injured? No, it means that the people who are truly injured at work should get those. But this Amendment, does it address that issue at all? It... it codifies a standard that already exists. We're not moving the ball at all. The answer is no. It's not going to improve workers' compensation rates in Illinois. And we're going to be stuck with the seventh highest workers' compensation premiums we already have. I urge a 'no' vote."

Speaker Lang: "Mr. Kay."

Kay: "Thank you, Mr. Speaker. Would the Sponsor yield, please?"

Speaker Lang: "Sponsor yields."

Kay: "A matter of clarification, if you will, Jay. You mentioned that this particular Amendment codifies into the law the Sisbro case. Is that correct?"

Hoffman: "It... it actually does three... three cases: Sisbro, Caterpillar and Ventura."

Kay: "Okay. Do you remember what the Sisbro case really said, the opinion of that case?"

Hoffman: "It... what it did is it set out the standards for the definitions of 'arising out of employment'."

Kay: "Well, that's part of it. Here's the other part. The Illinois Supreme Court in Sisbro expanded employer liability by virtually eliminating long-standing normal daily activity and no greater risk limitations on compensability for work-related injuries that aggravated preexisting conditions. The

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ruling awarded benefits to a truck driver with a nonwork-related bone disease whose ankle shattered as he stepped down from a truck. We're going to codify that? Is that what I understand?"

Hoffman: "What we're... the only thing that we're codifying is... is the definitions contained in that case of 'while arising out of and in the course of employment'. For the first time in Illinois, there will be some statutory language."

Kay: "Well, that's... that really is not an answer to my question though because my question was the case that you refer to here that we're now going to codify vastly expands benefits. Is that correct?"

Hoffman: "We're not expanding any current law. We're trying to codify current law."

Kay: "Well, I'd like the record to show that those are the exact quotes from *Sisbro, Inc. v. the Industrial Commission* where it talks about the expansion of work comp rates. And I think we're not exactly headed in the right direction if we're expanding rates or expanding the definition, if you will, of what is and what isn't risk. Instead of reversing dollar amounts being paid out, we're enhancing them according to this decision. I guess that baffles me a little bit. Are you familiar, Representative, with the *Circuit City Stores v. Illinois Workers' Compensation Commission*?"

Hoffman: "No, I'm not."

Kay: "Okay. Well, essentially, again, bootstrapping off the *Sisbro* case again basically expanding workers' comp benefits using the *Sisbro* case as the so-called benchmark which, again, enhances benefits does not reduce them. And there's several

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other cases I could mention. So, my point today to the Body is that we're not doing anything buy codifying a bad practice. And that's unfortunate because as the state and our neighbors around us look at this, they're saying you're doing a bad job. This isn't a right move, but it's good for other states, not necessarily good for us. So, I'm going to ask that the Body vote 'no' for this Amendment. I think we have not been accurate in our assessment here of what Sisbro does or is or was. And I think for us today to.. to mainly stand back and say we're going to codify bad law that is the issue at stake, is simply bad practice. Thank you, Mr. Speaker."

Speaker Lang: "Mr. Hoffman in response."

Hoffman: "Let me just say how inaccurate that is. Under the proposal, injuries must have been caused by a risk connected to the employment. It also codifies a Supreme Court precedent which is current law. It is codifying current law. And these cases are being codified to prevent judicial activism from expanding the causation standard any further. That's the intent and that's the intent of the Amendment."

Speaker Lang: "Mr. Bradley."

Bradley: "Just a matter of historical context. In 2011, when I presented the workers' comp Bill that's currently the law in Illinois in terms of the reforms that we made, there were criticisms and statements made that night that what we were voting on was not the real Bill. There were criticisms and statements made on the floor that night that what we were voting on was not the real Bill. That Bill passed out of the House, went to the Senate, was signed by the Governor and resulted in 20 percent reductions in the cost of workers'

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comp in the State of Illinois and we can't get assurances that's being passed on. If we make additional cuts to the system, what assurances do we have that those savings are going to be passed on? That in my mind is a question because we did a significant reform which was criticized for not being the 'real Bill'. But yet, it resulted in significant savings for Illinois businesses that we can't get confirmation is being passed on."

Speaker Lang: "Mr. Cabello."

Cabello: "Thank you, Mr. Speaker. Due to a po... personal conflict, I will be voting 'present' on all Amendments."

Speaker Lang: "Mr. Batinick."

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

Speaker Lang: "Sponsor yields."

Batinick: "I just want to get it real tight for the *Cliff Notes* version, Representative. So, what we're doing here and I believe in the response to Representative Kay, you said this, we're codifying case law. Amendment 5 codifies case law to set for the first time a causation standard. Is that correct?"

Hoffman: "Yes."

Batinick: "Okay. So, to the Amendment. We're codifying the way we're doing business now. I don't know how that's meeting somebody in the middle. It sounds like we're just digging in and saying where we are, we're going to make it law that the way we're doing business is exactly the way we're going to keep it. And I urge a 'no' vote. Thank you."

Speaker Lang: "Mr. Davidsmeyer."

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

Speaker Lang: "Sponsor yields."

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Davidsmeyer: "Earlier one of the speakers mentioned a number of opponents to this legislation. I was just wondering if we had any proponents of this legislation?"

Hoffman: "Our side of the aisle. And let me just say this. So, you know, it's ironic that for the last two months everybody's been talking about we shouldn't be listening to lobbyists and special interests. Yet, you quote lobbyists and special interests as being against this as a reason to be against it. The Illinois Trial Lawyer Association is not necessarily for this. The AFL-CIO has taken no position. Neither one was taking a position. We've come up with something we believe is attempting to provide workers' compensation reform that's going to lower the cost to businesses. And that's when all these Amendments combined, you can look at them in silos as we debate each Amendment, but you got to look at the totality when we vote on it on Third Reading."

Davidsmeyer: "You know, I think it's interesting to note that the... the opponents are the employers, the ones that are providing these jobs. The reality is, if there was a positive impact in here, they would have some sort of support or even possibly be neutral. But the reality here is, like previous speakers have said, we are just doing exactly what we're currently doing. This is already in place. You're just putting it in statute. So, it's just putting this into perpetuity. It doesn't create stability in the system. This is what we're doing. This is what we're going to continue to do. It's not going to have a positive effect on workers' comp. I urge a 'no' vote."

Speaker Lang: "Representative Hammond."

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Hammond: "Thank you, Mr. Speaker. I yield my time to Representative Kay."

Speaker Lang: "Mr. Kay."

Kay: "Well, thank you, Mr. Speaker. So, back to the Sisbro case, Representative, I just wanted to make one point very clear. That two people can be right on a particular piece of law and maybe you are to an extent and I am to an extent. The problem is that you don't include the entire law in your Bill. And let me just give you an example. And maybe you can help me by answering this question or your lawyer can, one or the other. But is the risk incidental to employment compensable under your particular carveout here of causation?"

Hoffman: "Yes. That's what you have to prove."

Kay: "So, that's a yes?"

Hoffman: "Yes."

Kay: "Okay. And what about accidental injury? Is that compensable?"

Hoffman: "Here's... if... if the accidental injury arises out of the and in the course of employment, as defined by what we're going to codify here, yes."

Kay: "Okay. So, again, that's existing case law that happens to be Young... the Young case, well-known case, that's already in law. So, again, we're just... we've talked about three cases this afternoon where essentially this is the ba... the past practice of Illinois. So, all we're doing is codifying past practice. You're taking pieces out of various court cases. Slipping it in and saying, this is causation; this is real. And what I'm bringing to your attention is the balance of the



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law... the balance of the court decision that you forgot to include. Thank you, Mr. Speaker."

Speaker Lang: "Mr. Wehrli."

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

Speaker Lang: "Sponsor yields."

Wehrli: "Representative, just to be clear, we're codifying this today through your Amendment because we're concerned about judicial activism. Is that the gist of it?"

Hoffman: "Well, just as previous speakers have indicated that courts have changed the standards based on case law and their interpretation of the... of what they believe 'out of or in the course of employment' is. We're trying to nail it down so that won't happen in the future, yes."

Wehrli: "So, we're not doing this to benefit businesses nor are we doing this to help those injured and rightfully should get some sort of compensation under the Workmen's Comp Act?"

Hoffman: "Well, I would say we're doing it for both."

Wehrli: "Okay. Are you aware what's Florida's... of Florida's workman's comp law and causation there in Florida? Now, there's not a lot I want to be like in Florida, especially when it comes to hockey. But are you aware of their workmen's comp... their causation claims?"

Hoffman: "I believe that's very similar to what the Governor was proposing."

Wehrli: "And why... what... what's wrong with it? Why not adopt the Florida model?"

Hoffman: "We believe it would deny legitimately injured workers compensation."

Wehrli: "Are they having that problem in Florida?"

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Hoffman: "I would say yes."

Wehrli: "Okay. Thank you."

Speaker Lang: "Mr. Hoffman to close on the Amendment."

Hoffman: "Thank you. I... just to some of the previous speakers' points. The idea here and under this proposal is simply to ensure that injuries must have been caused by risk connected to employment. It also would codify the cases we mentioned and would prevent judicial activism from expanding the causation standard. We believe that this, for the first time, is us trying to extend an olive branch to the Governor's Office saying we are going to address the issue of causation. I ask for a favorable Roll Call."

Speaker Lang: "Those in favor of the Gentleman's Amendment will vote 'yes'; opposed 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? D'Amico. Please take the... record. On this question, there are 63 voting 'yes', 39 voting 'no', 4 voting 'present'. And the Amendment is adopted. Mr. Clerk."

Clerk Hollman: "Floor Amendment #6 is offered by Representative Hoffman."

Speaker Lang: "Mr. Hoffman."

Hoffman: "Thank you, Mr. Speaker. As I indicated and during the last Amendment, it is our goal to reduce the cost to employers in Illinois so they can be competitive with other states with regard to workers' compensation. As we know, the NCCI, which is the trade group that gives advisory rates, indicated that we should have as a result of Representative Bradley and our side of the aisle and some of your side of the aisle's work in 2011, should have had a minimum of 18.1 percent reduction

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in premiums. For whatever reason, that hasn't been happening. Therefore, we believe there has to be some insurance reforms. In the working group and in our discussions of the Committee of the Whole and the committee... and our discussions on the floor, it was indicated that part of the problem that employers face is when a person has a repetitive injury, something that over time begins to wear out portions of their body and they, just for a short time, work for an employer and then they break down as a result of that repe... repetition that that employer bears the entire burden. So, this would do two things. It would prohibit a workers' compensation insur... insurer from factoring into its determination of premiums a workers' compensation claim for accumulative or repetitive injury suffered within the first three months of employment. In other words, it would be spread across the injury the cost in the future. The second thing it would do. It would allow employers to seek contribution or reimbursement from a prior employer for the prior employer's share of responsibility for accumulative or repetitive injury as determined by the Workers' Compensation Commission. We believe that this would add fairness to the system and it wouldn't unduly burden an employer who has an employee that suffers an injury as a result of repetitive trauma."

Speaker Lang: "Mr. Sandack."

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

Speaker Lang: "Sponsor yields."

Sandack: "Representative Hoffman, in your opening remarks as to Amendment 6, you were talking about trying to have some reduction in expense to employers, and you referenced the

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2011 reforms led by the Representative from Marion. Have you done an analysis as to why... what effect the 2011 reforms have done for self-insurance?"

Hoffman: "The problem is and I think a later Amendment, I believe it's Amendment #7, attempts to address that. We don't... self-insurance insurers aren't required to provide information. So, we don't really know."

Sandack: "So, the answer is you didn't... I mean, the information isn't ascertainable. Is that what I'm hearing?"

Hoffman: "That's correct."

Sandack: "Have you made an inquiry of companies that have self-insurance pools and asked them to come with data, without disclosing anything obviously personal, but to attempt to grab that information before moving ahead with reforms that may or may not have any effect on self-insureds?"

Hoffman: "When we have made those attempts, they have indicated that that information is proprietary and would not turn it over."

Sandack: "Who have you made that request to?"

Hoffman: "I believe... I believe we discussed it in a hearing before the Labor Committee. I... and I apologize to you I don't recall what... what company."

Sandack: "Well, offline I would be pleased to hear specifics in rather... rather than vague comments about people not cooperating. I'd like to help you get that information and so, offline, again, not on the record. I'm happy to try and help you because I think achieving real workers' comp reform including employers that have and run self-insured pools is

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part and parcel of actually trying to achieve good reform. I think you'd agree with that."

Hoffman: "Well, we're attempting to provide, with the next Amendment, standardization throughout the industry whether you're insured or you're self-insured there'd be the same type of reporting requirements. That's what we're attempting to do."

Sandack: "All right. We'll talk about that in due course. To the Amendment, Mr. Speaker. I think, again, the colloquy right here demonstrates the attempt or the illusion of attempt to obtain consensus and compromise, again, on a unilateral basis by the Democrats rather than actually having a collaborative process, inviting business industry and labor to the table and including self-insurers in the process to try and achieve savings that weren't realized in 2011, that should be realized for consumers of workers' compensation products would be an admirable goal and a good process, none of which has been demonstrated here, again. For the last few weeks, it's all been go-it-alone type stuff. This is another example of it. This is not the Governor's initiative. This is not an attempt to obtain consensus. And I would urge a 'no' vote. Mr. Speaker, I'm going to again ask for a Roll Call vote. Thank you."

Speaker Lang: "Your request is acknowledged. Mr. Wheeler."

Wheeler, K.: "Mr. Speaker, will the Sponsor yield?"

Speaker Lang: "Sponsor yields."

Wheeler, K.: "Jay, we had this in committee this morning and I want to just relate to the whole Body that I appreciate your approach to this because it's important that we get things

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right for those workers like your brother-in-law and my brother who both are in the drywall business, you know, at least in that part of the industry. I'm asking a few questions along the same lines we did earlier. But does this Amendment actually allow insurance companies who are making the, you know, paying out those claims for a worker who has gone through this process. They're in the first three months of employment for a company. They have a repetitive strain injury. They have made the claim. They're being paid out by that business's insurance company for work comp, right? That work comp insurance company through this Bill do they have the right then to get... go back to the previous employers and their insurance companies to get their claim paid back or their portion of it?"

Hoffman: "Yes. What this is an attempt to do is an attempt to... I'm going to answer your question, but I'm going to tell you where we got the language. In... under tort law, there's a doctrine called joint and several liability. So, what we attempted to do is do the same thing basically in this workers' compensation arena. And so, the answer to the question is yes."

Wheeler, K.: "Okay. Yeah 'cause in your opening statement you mentioned that a company would have the opportunity to do that. Someone asked you, like a self-insurer would have that, but I wanted to make sure that the insurance company for a smaller company who doesn't have that would be able to do the same thing."

Hoffman: "It would be the employer or the insurance company."

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Wheeler, K.: "Excellent. Thank you. And then, how... you know, if you have the situation we just mentioned before workers under the first three months of employment with their company, they file the claim based on the repetitive strain and then the company wants to go back... the company or the insurance company wants to go back and try and get a list of all those companies, those employers that that employee once worked for. How are you going to help them get that done?"

Hoffman: "We're requiring that the employee be cooperative, so it would have to provide that. And you can get that, certainly, as a matter of discovery."

Wheeler, K.: "Okay. So, then the suit has to be filed first?"

Hoffman: "It goes to the Commission first, yes."

Wheeler, K.: "Okay. That's how I'm trying to understand the process. How are you... how you imagine this is going to work and work well 'cause I think there's some value in here. How... Does the work classifications are they included here 'cause if you've got a person that did this different kind of work in the past, but they're not doing the same kind of work now. Does that have any impact at all in the process?"

Hoffman: "No. But I would suspect that when the Workers' Compensation Commission does the rules to enact this that they would require that."

Wheeler, K.: "And then finally the... the idea that... one of the concerns I have with the way you've drafted this is that I'm fearful that the insurance companies are going to feel they're hold a longer exposure. Now, we're looking at a situation where an employee could have started a repetitive strain injury 30 years ago... so, we're looking into the future... 30

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years from now that employee makes a claim in the future and then that is going to come back to the company at the beginning of his career that insurance company's going to hold some level of exposure there and they're going to keep a cost in mind to have that in place. So, I'm... I guess I'm concerned with that long of a look-back period that you could actually be driving up the costs of work comp instead of driving it down."

Hoffman: "Well, that's... that's certainly not the intent. I mean, the problem and the dilemma here is, you know, we don't want the current employer to be liable. We don't want the past employer to be liable. Well, and if there's an injury, someone has to be liable. And so, what we're trying to do is be... be fair to the system and be fair to employers as to actual cause. Now, let me just say this. And there's no requirement that an employer or insurance company do this in attempting a contribution from other employers. There's no requirement."

Wheeler, K.: "No, sure I understand. I mean, I'm just trying to think... I'm trying to work with this to understand what... how this would actually take place. What the affect on the insurance companies would be 'cause I think there's... there's... this is just an approach here that I'm... I don't know, first, if this is going to work. But that is a concern of mine, Jay, that we... that we're on the right track, but I think that in the form it's in right now it's going to be unworkable from the insurance side of the perspective so."

Hoffman: "Well, from my standpoint, you know, this... this I believe is... is an attempt that I believe would make a difference. And all... as are all these Amendments. That doesn't mean, as it



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winds through the process here, I wouldn't be willing to... to take advice from you to make it... if you believe this can be worked a little bit differently."

Wheeler, K.: "I'd love to sit down with you and talk about that. The... just to the Bill or to the Amendment. This is a case where I think that there's good intent here, but we need to work on it further to get it right. The... the other drawback to this Amendment is we're not looking at a way that actually... a measure that will actually demonstrably drive down the overall cost of the work compensation system in Illinois. At this point in time, while I appreciate the Sponsor's initiative, I... I will be a 'no' vote."

Speaker Lang: "Mr. Wehrli."

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

Speaker Lang: "Gentleman yields."

Wehrli: "Representative Hoffman, I'm not sure if you were at this committee hearing or not of the Labor Committee, but we had the City of Naperville attorney Kristen Foley down talking about self-insured. You said there was no data out there. Well, the City of Naperville is self-insured and it has about 950 employees, approximately, and it was my understanding that her testimony on that day in front of your committee was that there has been no change scheme to self-insured due to the 2011 changes."

Hoffman: "I apologize. I do now recall her being there. I was thinking in terms of self-insured business not... not..."

Wehrli: "Okay. So..."

Hoffman: "...not government. So, yeah..."

Wehrli: "...my point is..."

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Hoffman: "...I believe that... I believe that she... I don't recall exactly her testimony, but I believe that she indicated that she need... she thought there should be further reforms which we would do."

Wehrli: "Right. And I'll speak to this, I'm sure, further on Amendment 7, but there is data out there. So, I'm not so sure that we need to continue to study due to lack of data. Data is readily available."

Hoffman: "Yeah. I don't... I think... I don't recall her giving us data. I recall her testifying but not giving us data."

Speaker Lang: "Mr. Kay."

Kay: "Thank you, Speaker. Would the Sponsor yield?"

Speaker Lang: "He yields."

Kay: "Jay, a couple questions on... on apportionment. The idea of joint and several liabilities is not one that's very popular to the business community. So, have you considered a different way of approaching the apportionment issue?"

Hoffman: "Well, I think... this isn't... maybe I... this isn't just a copy the joint and several liability. This is... this indicates that only the current employer... only the current employer... under joint and several liability any of the possible defendants could... could assert that doctrine. This just says the current employer can attempt to get re..."

Kay: "Contribution reimbursement, yeah."

Hoffman: "...reimbursement contribute... contribution to... to... based on fault."

Kay: "Okay. So, as an example, if the last employer was responsible for 75 percent of the predicted or diagnosed condition, then they pay 75 percent of the bill?"

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Hoffman: "Well, it would.."

Kay: "When it comes to contribution?"

Hoffman: "No. It would.. it's a two-step process. First of all, you would.. you would.. pay. Go through the regular process an injured worker goes through in order to be compensated whether it's an arbitration process, whether it gets appealed to the Commission. That would go forward. Then, what could happen is the employer, the current employer, could then bring an actual contribution for a previous employers, if there's a repetitive trauma."

Kay: "So, the last employer, albeit that he's 75 percent liable, could still go back and spread this? Is that what you're saying?"

Hoffman: "It would be based on... So, if he would be... if... first of all, he would be... have to... his insurance company would do as they do now, pay the hundred percent. Then they'll be apportioned based on fault and or cause... a causation. So, 75 percent would be borne by him and the other 25 would be borne by another employer."

Kay: "Okay. So, the previous Representative made a good point though. We're talking about some big legal expenses to get to the point where a contribution is feasible in your scenario. Isn't that... isn't that correct?"

Hoffman: "Well, it's the same thing. I mean, here's the dilemma. Okay. Under the Governor's proposal regarding causation, individuals who fall under the 50th... the 50 percent causation standard could go to court. That's going to drive up legal costs greater, much greater and what we're trying to do here is we're just trying to say an employer currently has no

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ability to be compensated for something that they may not have been at fault for. So, they don't have to do this. We're not requiring them to do that. They can make a business decision as to whether they want to do it. So, it's... it's entirely up to them."

Kay: "Okay. Tell me about the statute of limitation on this contribution matter. When... when does that start for the last employer?"

Hoffman: "They have one year from the award to the injured worker and then they can... within that one year they can bring the proceeding."

Kay: "Is it from the award or the start of the TTD payments?"

Hoffman: "It's the award because you wouldn't know the total amount until..."

Kay: "Yeah, exactly. You're right. Okay. To the Bill. I... thank, Jay, for your answers. It concerns me that we could end up in a scenario where we spend far more in trying to determine who's responsible through this apportionment process. I think it's a good idea, but it's a little like... little like trying to collect gold dust and then putting it in a bag. And I'm not sure that's where we want to go here. But thank you, Mr. Speaker."

Speaker Lang: "Mr. Batinick."

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

Speaker Lang: "Sponsor yields."

Batinick: "My understanding is, according to this Amendment, the amount of awards the injured worker receives isn't changed at all, correct? This does not change what an injured worker may or may not receive. Is that correct?"

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Hoffman: "That's correct."

Batinick: "Okay. So, the overall payout, in terms of indemnity costs and injured worker costs, that's flat. My concern is, doesn't this add friction to the system? And you're an attorney. Is that correct?"

Hoffman: "Yes."

Batinick: "Okay. You do discovery for free?"

Hoffman: "I try to avoid it."

Batinick: "Okay. Do you do lawsuits for free?"

Hoffman: "We don't."

Batinick: "Okay. My... my..."

Hoffman: "Yeah, when you lose, yeah, you do."

Batinick: "My point is we're taking... we're taking something that's relatively simple and complicating it and putting the onus on small businesses and self-insurers to go back and sue previous... for the previous employers, which is going to lead of more lawsuits, more discovery. You're adding... you're adding legal and friction costs to the system. Is that not correct?"

Hoffman: "We're not if... we're not requiring an employer to do anything. We're let... we're giving it to their... we're letting them have their own discretion as to whether they want to."

Batinick: "Right. Let me tell you how that doesn't work in reality. In reality what happens is the ones that don't go back and sue are going to be carrying the bill for everybody else. So, the way to get the average rate is to make sure that you're not overpaying for your injury. So, if you have a bunch of drywall companies and six of them go back and make sure that their little company doesn't pay full boat on all

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this, the four that don't go back and do that, don't pay for the discovery and don't pay for all that friction in the system, they're going to get the short end. So, there's... if they... if they go... they're damned if they do; they're damned if they don't. It doesn't work... it's going to hurt them. But you're act... you're certainly opening more legal possibilities under this Amendment. I'll just go... I'll go straight... I'll go straight to the Amendment."

Hoffman: "But... but if I might."

Batinick: "Just go ahead."

Hoffman: "The intent... the intent is to make sure and address the issue of that employers feel sometimes they aren't the ones in a repetitive injury situation. It's only in those type of situations that should be responsible for the... for the payment. That's the intent."

Batinick: "No. I actually appreciate the intent. I think there is something that could be added to this with a true causation standard. But the reality of how this is going to work, the company that can't afford to go back and sue are going to end up paying... paying a higher rate because the other ones are going to go back and recover. The overall damages are flat. To the Amendment. Amendment 5 doubled down on the way we're doing business now, just codified it. There's no savings there. This Amendment just adds friction to the system, adds more legal costs, more discovery, more lawsuits. If anything, this Amendment doesn't save anybody money. It'll end up costing them more money. I urge a 'no' vote."

Speaker Lang: "Mr. Reis."

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

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Speaker Lang: "Sponsor yields."

Reis: "Actually, to the Bill. We've heard a lot of information from both positions on this Bill. But you know what, for those of you that have been here a while and know me, I'm a kind of where the... one of those guys where the tires hit the road. And where the tires hit the road is, is we continue to lose good paying jobs in the State of Illinois. Now, I'm not talking about restaurant jobs or service oriented jobs or anything like that, our good manufacturing jobs and where I'm from our oil jobs and our coal jobs, we continue to lose those. Why? Why? 'Cause it's not competitive to do business in Illinois. And I bring up my colleague's comments from earlier today. The company he talked about is actually in my district. We share the county together. Welcome Illinois-based Franklin Well Services to Indiana because Indiana has the economic guts to attract new business. This isn't their first announcement. They took Pioneer Oil there two years ago. This is their sister company. They're taking it too. They keep looking for some hope, some ray of hope, that they can lower their work comp costs that are five times higher in Illinois than they are in Indiana. Five times. And I've sat down with this gentleman several times. You know, he loves Illinois, but he said, David, it's... I can't make it work anymore. So, we're talking about 130 jobs here with these two businesses in a county of 16,800 people. If you work that through, 2.3 million jobs... or people in the City of Chicago that would be like losing 16 thousand jobs. Sixteen thousand jobs. We would be having hearings in this town. In fact, we had hearings when we were going to lose CME, 2 thousand jobs.

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We can't possibly let something like that happen to the City of Chicago. This is 16 thousand jobs. Last week, Air Techs announced they were leaving Wayne County. They were a thousand employees at one time. They're down to 350 now. They're going to move all but 50 out and the other 50 will probably be gone in 18 months. In a county of 16,700 people, if you translated that into Chicago it's like 41 thousand jobs that the City of Chicago would be losing. We know what the problem is. Let's fix it. And my colleague is going to bring up the next two Amendments. We worked on the Bill that everyone said we couldn't do. You'll never get fracking laws in Illinois. And we had some ugly hearings. Both sides of the aisle were entrenched as much as they are on this issue, but we finally came together. Was it the Bill I liked, no? I got my rear end chewed for supporting something so bad. And I know there's colleagues over there from Chicago that got their rear ends chewed out because they supported something. But you know what, we finally came together. We compromised and we got it done. Why can't we do that with workmens' comp? The Governor's not going to sign this Bill and who knows how long else we're going to be here until we try to find something that's right. But where the tires hit the road are, the employer has to be happy. The employer has to be somewhat happy and somewhat feel that they're competitive in this state and if they're not feeling it, so they move to Indiana and my people get in the car and drive to Indiana every day. And work in those horrible conditions that you guys all railed about a month ago. That's not right either. Let's give them a chance to work here and let our communities grow. Continue on your



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charade today, but when this is done, let's get down to work and really come up with something that's going to be helpful for creating jobs in the State of Illinois."

Speaker Lang: "Mr. Hoffman to close."

Hoffman: "Again, with respect to the... this Amendment, this is an attempt to help out employers who have repetitive injury on one of its employees in order to make it a fair system. That's the attempt. That's why I put it forward, so that they would be treated in a fair manner. I ask for an 'aye' vote."

Speaker Lang: "Those in favor of the Amendment will vote 'yes'; opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Please take the record. On this question, there are 63 voting 'yes', 39 voting 'no', 4 voting 'present'. And the Amendment is adopted. Mr. Clerk."

Clerk Hollman: "Floor Amendment #7 is offered by Representative Bradley."

Speaker Lang: "Mr. Bradley on Amendment 7."

Bradley: "Thank you. Amendment #7 is an attempt to get a better picture of the savings that have occurred and what's actually going on with them, has two parts. It would create a task force to look at the insurance rates and advisory rates. There would be eight members appointed by the Leaders and four by the Governor. The second part of this would be setting up a reporting with regards to the self-insured, so that we can answer those questions that came up earlier in terms of what's going on with the self-insured in the State of Illinois. This is a good faith effort on my part to try to move the ball

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forward and see where we're at and continue to try to work through this issue. And I hope it's taken as such."

Speaker Lang: "Mr. Batinick."

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

Speaker Lang: "Gentleman yields."

Batinick: "Just have a series of quick questions. You know, I did a report at the beginning of the Session about how much money self-insurers can... or how much municipalities and State Government can save if we just had a average workmen's compensation cost. So, I want to attack this from the budget angle a little bit. Isn't... isn't this we have a lot of municipalities like this and even Naperville that self-insures. Isn't this just another unfunded mandate for them?"

Bradley: "No."

Batinick: "Do you think the City of Naperville will provide this information will be no charge for them?"

Bradley: "I think they already have this information and would simply need to gather it so that we can use it in our evaluation."

Batinick: "Okay. I'll disagree with that. But doesn't the Workmen's Compensation Commission already collect a lot of this data?"

Bradley: "I've heard that, but we don't have it readily available to us to evaluate and analyze and compare it to what's going on in the insurance industry."

Batinick: "Okay. So..."

Bradley: "It's exempted from FOIA."

Batinick: "It's... I'm sorry?"

Bradley: "It's exempted from FOIA."

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Batinick: "Okay. So, this... so, if a private... private... if private industries are on the task force, their information will not be subject to FOIA licensing?"

Bradley: "Well, great point and I'm glad you brought that up. The manufacturers were in committee today suggested some confidentiality language, which I personally am supportive of and I hope that we get this out of the House and we can resolve that in the Senate."

Batinick: "Okay. So, as it stands right now, the private..."

Bradley: "We haven't had the opportunity to get the confidentiality language that they want in the Bill, but I personally am supportive of that."

Batinick: "Okay. Well, as... as a sidebar to that, I think that's one of the reasons why dropping the Bill 24 hours before we're going to vote on it, we don't get to work out the tweaks. So, maybe that's something we could change our procedure on moving forward. The Amendment says that the Department of Insurance is going to report by October 15. That seems like a pretty quick turnaround. Do you... what's the penalty for people who don't put... don't give the data?"

Bradley: "We're going to have you interrogate them?"

Batinick: "Okay. Then I've got no good response for you, Representative. Who's going to be on the Commission?"

Bradley: "There's going to be eight people appointed by the Leaders and four by the Governor."

Batinick: "Okay. Four by the Governor, eight by the Leaders. So, two per Leader?"

Bradley: "That would add up to twelve."

Batinick: "Okay."

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Bradley: "I noticed you're keeping score."

Batinick: "I do. And why aren't we looking at all aspects? Why aren't we looking at how much injured workers pay attorneys and all that other information? Is that something we might want to gather?"

Bradley: "If you want to put that in, it would certainly be up to you. I'm trying to figure out 'cause it was clear from the testimony we had the other day that the reduction in the NCCI advisory rates is about 20 percent and..."

Batinick: "Eighteen, yeah."

Bradley: "Okay. Well, I... if you go back to the polls of 2011, it says 26, but let's say 20. And we're going to have more to come because we haven't actually had a full experience post the reforms of 2011. So, when all is said and done, who knows how far it's going to be. But we need this information with regards to self-insured 'cause I think there was testimony today that they make up about 30 percent of the total comp in the State of Illinois. And we need to know how much of the savings of the costs of the system is actually being passed on to businesses. And I think that's an important... important thing to figure out."

Batinick: "Okay. Thank you for your answers."

Speaker Lang: "Mr. Kay."

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

Speaker Lang: "Gentleman yields."

Kay: "Representative, I've read this Amendment that you have filed. I'm curious about the... your intention. It looks to me like you're looking for a lot of information here. And I'm wondering if the... the intent behind this is to get to a point

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where you determine whether insurance companies are in a debit or a credit position as established by the state with various companies... their customers?"

Bradley: "I... I don't think that's the intent of the Bill, Representative."

Kay: "Well, did I read in here that the Department of Insurance was going to determine a rate that was, in essence, fair?"

Bradley: "I think that's a different piece."

Kay: "Oh."

Bradley: "That's not my piece."

Kay: "That's not your piece. Okay. So, in essence, you're... you're just going to get the information in place so that the next Amendment will determine whether or not a company is in a debit or credit position with respect to premiums that the state will then set?"

Bradley: "I don't know that I would characterize it like that. We're trying to get a full picture of what happened; what's going on."

Kay: "Okay. Well, fair enough. Mr. Speaker, I... I would just say this to the... to the Bill. That we had in the 2011 reforms, as you'll recall, a Commission in place and that Commission met exactly one time on the 19th of January, 2012. So, I have little faith in Commissions, especially that one, because it didn't accomplish anything. And I doubt that this would accomplish much more other than maybe the possibility of some rate making by the state. I'd urge a 'no' vote."

Speaker Lang: "Mr. Wehrli."

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

Speaker Lang: "Sponsor yields."

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Wehrli: "Representative Bradley, I've only had a couple hours to read this Amendment, so maybe you could help me understand. What data are you looking for specifically that we don't already have?"

Bradley: "We don't have all the data with regards to the self-insureds. And then with regards to the task force, it will give us some direction on what to look at in terms of the cost savings and what's going on with it."

Wehrli: "What data from the self-insureds don't we have?"

Bradley: "I... I don't know that we have the same data that we had with regards to folks that get their workers' comp covered by private insurance so. I don't want to be limiting..."

Wehrli: "So, you, too, were on the committee when the City of Naperville came down and testified, a self-insured municipality."

Bradley: "I... I wasn't... I apologize. I wasn't there then."

Wehrli: "You weren't there. Okay. So, another task force, here we go. So, here it is we're in the Stanley Cup finals, so I'm going to use a hockey analogy. Our... our friends over on the other side of the aisle have a Supermajority, which basically is a five on three extended, four minute power play. They could pretty much do whatever they want. Now, we've got a pretty tough blue line. We can play good defense here and maybe they're a little apprehensive of the guy we have that's 6'6" between the pipes and may not let anything pass anyway. But at some point in time, instead of just studying things around here, we actually just need to shoot the puck."

Speaker Lang: "Mr. Bradley to clo... Oh, excuse me. Mr. Bennett is recognized."

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Bennett: "Thank you, Mr. Speaker. Sponsor yield?"

Speaker Lang: "Sponsor yields."

Bennett: "I'd just like to speak to the Amendment here as we're going through this. Illinois has the most competitive state... or has been the most competitive state in the country for worker's compensation insurance since the mid-1980s, folks. Three hundred and thirty-three insurers... that is 333 insurers in the State of Illinois compete for their right to earn a customer's work... worker's compensation business. That's a heck of a marketplace. Second point I want to make, again to the Amendment, according to information recently released by the Illinois Department of Insurance the six-year average of profits, six-year average of profits for worker's compensation insurance in Illinois has been 0.8 percent. That's 0.8. Nationwide we're not even close. Over that same period, the average return for worker's compensation insurers has been 4.4 percent. Nowhere close. Thank you, Mr. Speaker."

Speaker Lang: "Mr. Bradley to close."

Bradley: "I'd ask for an 'aye' vote."

Speaker Lang: "Those in favor of the Gentleman's Amendment will vote 'yes'; opposed 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Please take the record. On this question, there are 62 voting 'yes', 40 voting 'no', 4 voting 'present'. And the Amendment is adopted. Mr. Clerk."

Clerk Hollman: "Floor Amendment #8 is offered by Representative Bradley."

Speaker Lang: "Mr. Bradley."

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Bradley: "Given the lack of bipartisan support or cooperation here, I'm not going to proceed with #8."

Speaker Lang: "Amendment 8 is withdrawn, Mr. Clerk. Mr. Clerk."

Clerk Hollman: "No further Amendments. No Motions are filed."

Speaker Lang: "Third Reading. Mr. Turner in the Chair."

Speaker Turner: "Mr. Clerk, House Bill 2787 (sic-1287), Representative Hoffman. Please read the Bill."

Clerk Hollman: "House Bill 1287, a Bill for an Act concerning employment. Third Reading of this House Bill."

Speaker Turner: "Representative Hoffman."

Hoffman: "Well, thank you, Mr. Speaker, Ladies and Gentlemen of the House. This certainly has been thoroughly debated. I would just say that we had hearings in the Labor Committee. We, me personally, attended every working group attempting to try and find consensus. We have taken many of the thoughts of the Governor's Office. We've added thoughts of our own. And we had a Committee of the Whole that was conducted here on the House chambers. Now, I just want to explain my goal and I believe our side of the aisle's goal in this workers' compensation reform. Number 1) we don't believe that injured workers should have their benefits reduced for legitimate claims. We just don't believe that. And unfortunately, the result of many of the Governor's proposals would be that would, in fact, would occur. Injured workers would be put on poverty. Injured workers would not be able to make ends meet. And injured workers would be de... would, certain injured workers, would be denied compensation. Now, what did we hear in the testimony that we had here? The National Council of Compensation Insurance indicated, the NCCI, the experts on



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this who provide advisory rates indicated to us that there should be an 18.1 percent reduction in the rates that are being charged to employers as a result of the 2011 reforms. That's not occurring and that was testified here. So, what have we tried to do in order to make it competitive and make employers be competitive and allow them to be competitive here in Illinois while protecting the rights of injured workers? First of all in Amendment 4 we've provided for prior approval of rates. Now, if you truly say that we have a competitive market, then what are the insurance companies afraid of if they're going to require the Department of Insurance to make sure that the rates are excessive? If they already are not excessive, they'll be approved. Number 2) we indicated if you have a qualified safety program your rates will be reduced, again, a help to the employer. We've provided for causation standards by codifying current law for the first time putting it in the law what exactly it means to be arising... 'arising out of and in the course of employment'. Again, that helps and reduces costs to employers. You can't use repetitive trauma if you're there for less than three months against an employer as an experience factor that would raise their rates. Again, a proposal that would assist employers. We would ensure that employers who are not truly at fault with repetitive trauma could... could get from other employers contribution. Again, a help to... assistance to employer. We provide a task force: four of which would be appointed by the Governor, two by each Legislative Leader, business would be on there, labor would be on there to look at why we're not receiving the reductions that should be

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occurring to employers. Again, employers would be involved and it would be a benefit, long-term, to employers. Now, I have a very personal situation that I think I maybe shared maybe once on the floor. As you know, Leader Durkin and I both lost our mothers about a year and a half ago. And I never told this story on the floor prior to her passing. There's a couple reasons for that and they're really personal. But it's a story of a young man who was 21 years old whose father, in his younger years, played baseball with him. Every day it was nice we'd play catch outside. Playing baseball at Illinois State University where I first met Leader Durkin. Now, at that time at 21, the young man finally realized that his dad was a pretty smart guy and they'd become very close. And it was a beautiful April day, playing a doubleheader at Illinois State University, one of the days that I think Ernie Banks would have said, if I was a Cubs fan... but I am a Cardinal fan... Ernie Banks would have said let's play three. It was a gorgeous day. And back then, there was no cell phones. And so, I remember my roommate... and it's about me... my roommate coming during the second game of the doubleheader and talking to my baseball coach and it was interesting why he was there because he wasn't really a baseball fan. It kind of took me by surprise. Well, the baseball coach waited... waited until after... waited until the after the doubleheader was over and he took me into the locker room and sat me down and he told me my father was killed in a trench cave-in, was killed in a work-related injury. I saw what that did to my mother. I saw and felt what it did to me. So, when we talk about causation, when we talk about... when we talk about whether it's in the

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course of employment or not, when we talk about numbers and when talk about self-insurance, we're not getting to the heart of it. We're not getting to the core of it. We're not getting to what we should be doing as a General Assembly. It matters; it matters. It affects people. It affects the nurse who testified here who's been put in bankruptcy because she would care for the elderly and repetitively lift them up so they wouldn't get bedsores so she could clean them and now, can't work anymore. The coalminer who testified that for years of working in the coalmines he no longer can lift five pounds. Yet... yet, the doctor said to him, well, that occurred because you played baseball as a kid. And he never played one day of organized baseball. It's not right. It's just not right. The factory worker who testified that got their hand caught in a machine and now is facing bankruptcy because he's just getting starved out. Or the laborer who, just two years ago, was working in my district and was striping the highway and a car hit him and he didn't return home that day. Okay? It matters; it matters. This is a good faith attempt to try to put something on the table that can make employers... make employers in Illinois competitive, allow them to ensure that the 2011 reforms that were put in place to actually get the gains of those reforms and the insurance industry passes them on to the employers. And it's a good faith attempt, I believe, to make sure that we are protecting the people who are hurt... were hurt in the workplace. I ask for favorable Roll Call."

Speaker Turner: "The Chair recognizes Leader Lang."

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Lang: "Thank you, Mr. Speaker. I simply rise to announce that due to potential conflict of interest I voted 'present' on all Amendments, will be voting 'present' on this legislation."

Speaker Turner: "Chair recognizes Representative Sandack."

Sandack: "Thank you, Mr. Speaker. Inquiry of the Chair."

Speaker Turner: "Please proceed."

Sandack: "Can maybe the Clerk recite which Amendments have been adopted and are now part of the Bill, so that everyone knows for the record the Bill we're voting on?"

Speaker Turner: "Mr. Clerk."

Clerk Hollman: "Floor Amendments 4, 5, 6 and 7 were adopted."

Sandack: "One more in... Thank you for that, Mr. Clerk. One more inquiry of the Chair. What is the effective date of the Bill that's on the board right now that we're voting on?"

Speaker Turner: "This is a 60-vote Bill. There is no immediate effective date."

Sandack: "When... Thank you, Sir. When will the... if it's passed and passes the Senate and should be voted... it should be signed by the Governor, when would it become effective into law?"

Speaker Turner: "June 1, 2016."

Sandack: "So, next year?"

Speaker Turner: "Yes, Sir."

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

Speaker Turner: "The Sponsor indicates that he will yield."

Sandack: "Sorry, to make you step up again, Representative. Is there a reason why the effect... the last Amendment... I know it wasn't yours... but you're the Sponsor of the Bill so I have to inquire of you... why the last Amendment was withdrawn?"

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Hoffman: "Well, as a matter of practicality. We didn't... we wouldn't have 71 votes. We don't have them here."

Sandack: "All right. And Representative, I'd be remiss if I didn't ask you, do you think the Governor will sign this Bill should it pass out of this House and pass out of the Senate?"

Hoffman: "I hope so."

Sandack: "That's not what I asked. I asked what do you think, not what you hope?"

Hoffman: "Look, this is... this is an attempt to find common ground. And I hope that he sees it as that. And I hope he signs it."

Sandack: "Thank you. To the Bill, as amended. Ladies and Gentlemen, the Gentleman just said he hopes the Governor signs it. And he says he hopes it's seen as an attempt at trying to achieve compromise. But let's be clear, compromise doesn't exist in a vacuum and it cannot be achieved unilaterally. And it's being sought to be achieved unilaterally right now. This will be a partisan Roll Call. There won't be any Republicans on the vote. And this is the kind of matter, worker's compensation reform is important. I agree with the Gentleman when he says this matters. He's absolutely right. It absolutely matters. Lives matter; getting it right matters. And right now, as it exists as it stands right now, we don't have it right. We know that by looking at certain things that are objectively true. When we passed the Gentleman's reform Bill in 2011, we thought we moved the needle; we barely moved the needle. And while I appreciate the articulated goal of trying to find out why savings weren't spread out to Illinois business, we ought to be doing that in a bipartisan way. We ought to be doing that in an agreed Bill type of way. And I

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think that was actually broached by the Governor and for reasons I do not know, those working groups failed and now we're here. And this is a partisan Roll Call on an important piece of legislation and it's unfortunate. It's unfortunate because it's not going to come into law and we're going to be doing this again. And I suspect because of the way things are right now, the temperature of this building and beyond, we're going to be here frequently. So, we have time to get things right. This isn't right. Vote 'no'."

Speaker Turner: "Chair recognizes Representative Kay."

Kay: "To the Bill, Mr. Speaker. When I was a freshman here, five, six years ago, I had a House Resolution that had to do with auditing State Government with respect to Menard and Pinckneyville and some other correctional facilities. Some of you in this room may remember that. Some people were kind enough to let me run the Bill; I appreciate that. And you know, there's kind of a tale to this story and the story simply was that the Auditor General and his team went down to Menard and he found some pervasive abuses. And he found one lawyer carrying 350-plus cases of people who had so-called carpal tunnel or some variation of that... that type injury. What we found was that those cases weren't being contested, in fact, if they were \$50 thousand or more, we'd just pay them. And what I found out from the Attorney General's Office was they didn't have, they say, the staff to defend those cases. Now, they did defend four and they won one. We've spent millions of dollars on cases that we have no idea whether we owe. The reason I mention this is that the Attorney General then came out with a rather detailed report, which I keep on

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my desk, which said we need to reform how we do business with respect to worker's compensation. And I'll bet you if I ask you if you've seen that report, a lot of you'd raise your hand. You probably got it on your desk. But you know one thing that was talked about in that report was not the total numbers, not the total dollars, not that one lawyer, it talked about the fact that our causation standard was sort of weak, which to me means we've made worker's compensation a benefit. It's no longer compensation, it's a benefit. You wonder why people leave Illinois, worker's comp's a benefit. It's just like Menard; it's like Pinckneyville. It's no different. But the State of Illinois is not picking up the bill. Caterpillar is; John Deere is; ADM is; that little mom and pop shop. They're picking up the bill. And so, we worry about a lot of things and I hear from your side of the aisle that we don't treat people fairly; we don't give them jobs. We can't find them jobs. Well, you're going to have a lot tougher time finding jobs because they're going to flee out of this state because this has become Menard. People, please, we're not asking for the world. We're just asking for a fair, legal standard. That's not... that's not unfair. That's not irrational. In fact, some people would say that's exactly the recipe to get Illinois fixed. I've made this comment before and I'd say it to you again. You will not fix the problem in Illinois unless you grow your way out of it and we're doing just the opposite. We're suggesting to people that they grow somewhere else. So, Mr. Speaker, I would ask for a 'no' vote today. This is not any near... anywhere near reform. It's not what this state is looking for. It's not what employers are

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looking for. And they don't want a good deal; they want a fair deal. They want to be able to have a number at the bottom line so they can hire and build and grow. And you do too, I think. I think you all want that. I think we all want that. But at the pace we're going, we're going to continue to be at the bottom of the barrel, the birdcage and we will do so with no hope to grow this economy. Thank you, Mr. Speaker."

Speaker Turner: "Chair recognizes Representative Bradley."

Bradley: "So, I had Amendment #8, which was an effective immediate... immediate effective date, which means that we would have taken action today. It would have gone into effect right away. But after Amendment #7, which was a good faith effort to get information which gets no support from the other side of the aisle, what are the chances that we're going to get support to do something right now? On the one hand... on the one hand we get criticized for not doing anything right now and we can't get support on movement for codifying... codifying the traveling employee doctrine which is in favor of the employers. Codifying it? In favor of the employers that's movement. We can't get support on that. We can't have an effective date. We can't do anything today 'cause we can't get support on things that there ought to be support on. So, Amendment #8 was withdrawn because the experience from Amendment #7 and the other attempts to work together got shot down. So, we're trying... I'm trying. I presented Amendment #7. I didn't get mad; I didn't yell and holler. I'm trying to work together, trying to do something in good faith. People of the State of Illinois want us to get something done, but we can't do it effective right now because we can't get any



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kind of cooperation or bipartisan support. Let's get this done: let's work together. Let's roll up our sleeves. Let's quit pointing the finger. Let's get something done with regards to the budget. Let's get something done here with regards to what we're trying to do in moving a piece of legislation. Vote 'aye'."

Speaker Turner: "Representative Wheeler."

Wheeler, K.: "Thank you, Mr. Speaker. To the Bill. I surely sympathize with the Sponsor's loss those years ago. It brought me back to unfortunate memories when my brother-in-law had a trench cave in on him. Fortunately, he did survive and he's one of my closest friends. But this is important. The Sponsor's absolutely correct that this is important. It's important on a lot of levels. When I made the decision with my family to run for this office, we were assessing that why will we do this, because in our community we were looking at the other side of the problem that we have in Illinois, too many neighbors. Too many neighbors that don't have work. Too many neighbors in line at the local food pantry. Too many foreclosures because they can't pay the mortgage. And I thought that we have a responsibility to the families of our entire state and for each of us in each of our districts to find ways, real ways, to create the best opportunity for those neighbors to find work that will support their family, give them a career and at the same time, keep a system in place so that those workers are protected while they are at work. Real workers' compensation reform does exist. Real workers' compensation reform that can drive down the cost of this entire system which we've all seen are too high that shows up

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in our... in all kinds of measures including our premium cost rating of being the seventh highest in the country. It shows that we are 64 percent higher than the national average when it comes to permanent partial disability claims. Real workers' compensation reform is probably going to have to implude... include some type of a higher causation standard than the current 1 percent, roughly, standard that we have right now. It is something that we can do that is fair to workers that does protect legitimately injured workers in the workplace including those who suffer repetitive strain injuries. It's what we're asking for. I think the Sponsor's got some... some headway here. It's not enough to make Illinois a more competitive place to do business to create those jobs, see those businesses be developed here and give our neighbors a chance to go back to work. Like the previous speaker mentioned, I do look forward to working with all of you in a bipartisan way. I've reached out to the Sponsor on a number of occasions. We've had good conversations and I appreciate them. I wish we had more of them. I wish we had more than a day to see these Amendments, so the process can be authentic. It can be real and it can actually represent the people back in our districts that sent us here. So, with all that said, I will be voting 'no' but looking forward to working will all my colleagues on the other side, especially Representative Hoffman, as we move forward trying to make Illinois a better place to do business, raise a family and... and grow some jobs. Thank you."

Speaker Turner: "The Chair recognizes Representative Batinick."

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Batinick: "Thank you, Mr. Speaker. To the Bill. I'll be quick. I just wanted to summarize what we did and are doing today. Amendment #5 codifies what... the way we're doing business now. I don't see how that's... how that is savings. The Sponsor mentioned that the courts could broaden it. I'm not sure how you could make our causation standard any broader. Amendment #6 does nothing to lower costs, but it merely adds friction in the system. The Sponsor claims that the employer doesn't have to go back and sue, but if there is one of those employers, there's nothing to stop somebody from going back and suing that employer. So, this makes our... our system a lot more litigious. And #7 is yet another task force. I urge a 'no' vote."

Speaker Turner: "Speaker Madigan to close."

Madigan: "Mr. Speaker and Ladies and Gentlemen of the House, I... I rise in support of the Bill. It's been very well debated. The Bill would provide for prior approval on the rates imposed by workers' compensation insurance companies. It would provide safety and return to work program incentives. It deals with causation, traveling employees, repetitive and cumulative injuries. It provides transparency where there is self-insurance. And it does create a task force to further study the rates of insurance on workers' compensation. I want to compliment Representative Hoffman and I want to compliment Representative Bradley for the work they did on this project. And again, I would recommend an 'aye' vote."

Speaker Turner: "The question is, 'Shall House Bill 1287 pass?' All in favor vote 'aye'; all opposed vote 'nay'. The voting is open. Have all voted who wish? Have all voted who wish?"

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Have all voted who wish? Mr. Clerk, please take the record. On a count of 63 voting 'yes', 39 voting 'no' and 4 voting 'present', House Bill 1287, having received the Constitutional Majority, is hereby declared passed. The Chair recognizes Representative David Harris."

Harris, D.: "Thank you, Mr. Speaker. On a note of personal privilege."

Speaker Turner: "Please proceed, Sir."

Harris, D.: "Thank you. I don't know if we're getting ready to adjourn, but on a... on another matter. Before we do adjourn, I just wanted to put in... mention into the public record of the House a birthday which is going to occur on Sunday. This coming Sunday one of the most notable individuals in Illinois is celebrating his birthday. Mr. Lester Crown, a man who has been an exceptional businessman, philanthropist and civic leader not just in Illinois and Chicago but really throughout the nation will celebrate his 90th birthday. And I just wanted to say that the House wishes him well. He has barely slowed down in his 90 years and all of us benefit from his sort of tireless energy. And I just wanted to make sure that the House was aware of the birthday of this notable individual. Thank you very much."

Speaker Turner: "Thank you, Representative. Chair recognizes Leader Lang."

Lang: "Thank you, Mr. Speaker. I rise on a point of personal privilege."

Speaker Turner: "Please proceed, Sir."

Lang: "Mr. Speaker, today I went to the committee meeting of the Human Service Appropriations Committee. I don't normally

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visit committees that I'm not a... presenting a Bill on or sitting on, but I felt there was an important point that needed to be made today or wanted to hear the answers about the important point. As you all know, it's come out that the Secretary of Education has been paid a salary or getting a salary of \$250 thousand a year and it was determined, Mr. Speaker, that these dollars came out of the Human Service budget or the Department of Human Services. And I, like most of my colleagues certainly on this side of the aisle and maybe those who are honest on that side of the aisle, would say, well, wait a minute now. We are cutting funding for people with epilepsy and we are cutting funding for the autistic and we're cutting for adult day care and we're cutting funding for immigration line items and we're cutting here and we're cutting there out of Human Services and yet, we're paying the Secretary of Education out of the Department of Human Services and I wanted to see what that was all about. I've certainly had some constituents ask me about it. And when I went to the hearing, I have to tell you, Ladies and Gentlemen, that I was appalled by what I heard. What I heard was someone representing the administration that refused to answer a straight question, what I heard was somebody who insulted the Members of the committee who asked straight questions. What I heard was a person who changed the subject and refused to address the purpose of the subject matter hearing. He did a fine job sticking to his script, I will tell you, but no answers were forthcoming. In fact, simultaneously with the appearance by the administration in this committee, a press release was distributed which is entitled, House Democrats

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engage in sexist smear campaign. A sexist smear campaign. Rightfully, the Members on our side of the aisle particularly the female Members on our side of the aisle, were outraged because this committee meeting had nothing to do with the Secretary of Education's gender. It had to do with how she was paid. And Ladies and Gentlemen, if the person that was there on behalf of the administration would simply have said, look, happens all the time. We have to pay this person. No one was complaining about how much she was paid. We were only asking or they, the committee Members, only asking questions about why this budget. Why not the Education budget? And there was talk about SILOs and that it's one big state budget, et cetera. Then one has to ask the question, well, why just... if it's all one big budget, why don't you pay out of the Governor's budget? Why don't you pay it out of the Education budget? Why this budget? Why steal from children with epilepsy? No answer was forthcoming except a smokescreen. And the smokescreen that was used was appalling to me. To talk about sexism from a political Party that often basks in it, is beyond embarrassing. We've had Resolutions on this floor regarding the Equal Rights Amendment that most Members on the other side of the aisle won't embrace. Legislation regarding pay equity that most Members on the other side of the aisle won't embrace. We've had legislation on this floor to uphold the value of women in the State of Illinois that many Members on the other side of the aisle won't vote for. And a Governor that has yet to say how he feels about any of these things. And yet, he feels it appropriate to send to a committee asking a legitimate question a person who refuses to answer that

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question and suggests that the very people who support the rights of women in the State of Illinois brought this person to committee or asked these questions for sexist reasons. In the gentleman's own statement in committee today, Ladies and Gentlemen, the very first sentence. Beth Purvis is one of the most accomplished women I have ever met. He didn't say one of the most accomplished people I have ever met. He didn't say one of the most accomplished people in the administration I have ever met. Or one of the accom... most accomplished people in State Government I have ever met. Or one of the brightest folks I have ever met. No, he said she was one of the brightest and accomplished women he had ever met as if it's surprising that a woman would be that accomplished. As if it's surprising that a woman would dare to be the Secretary of Education of the State of Illinois. Ladies and Gentlemen, on that side of the aisle and whoever's listening in 200 and 2 and a half, 'cause I know you always listen to my words... I know I'm a fan favorite down there... we're okay that the Secretary of Education is a woman. We're even okay that she gets paid an appropriate amount of money for her work. All we want to know is why do you steal from that budget to pay her? It was a legitimate question. And if the gentleman had simply said, I don't know. We had to find some line item to pay her from and that's the one we picked. Not what he said. In fact, the gentleman who's been running around this building on behalf of the Governor for months telling us about the Governor's Turnaround Agenda and telling us how this Governor wants to be so transparent, to do everything so correctly, and we have to change the State of Illinois because past Governors with

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a D next to their name didn't do it right, he said, well, we did it this way 'cause all Governors do it this way. All Governors. So, where's the turnaround? Where's the transparency? Instead, you insulted the Democratic Members of that committee. You insulted the women of this chamber. You insulted, in fact, the women of the State of Illinois by bringing that issue up at all. That committee hearing could have been over in three minutes if you would have just simply answered a simple question, but you refused to do that. And you used that committee time as an opportunity to be insulting and to be degrading and to say things that are beneath the dignity of this chamber and beneath the dignity of the committee process. Ladies and Gentlemen, this is not the way government ought to be. And I know the other side of the aisle has spent a good deal of time talking about how this side of the aisle doesn't want to make any change. You're privileged. That's a good public policy to make... to have and let's have that. But to say, as you do with your Turnaround Agenda, that everything we do and everything we say in the State of Illinois has to relate to the Turnaround Agenda before we're going to talk about budgets and other matters is just wrongheaded government. I stand on behalf of the women of Illinois and for sure the women in this chamber. I stand against those comments. I stand against that press release. And I stand for moving this chamber along in a more dignified manner. Those comments were degrading to the process and they must stop. For one, I want to tell you how proud I am of my side of the aisle who stood tall in that committee today, continued to ask the questions that need to be asked and



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someday we'll get answers to those questions. I thank you for listening to my comments. Ladies and Gentlemen, on this side of the aisle we must continue to stand against this silliness in State Government and stand for our values which we did today in committee. Thank you, Mr. Speaker."

Speaker Turner: "The Chair recognizes Representative Sandack."

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

Speaker Turner: "Please proceed, Representative."

Sandack: "So, I guess I now know why we're down here. So, we were brought down on the façade of a workers' comp Bill that was jammed down our throats, but why we were really here was to hear that political speech. And make no mistake about it, it was a political speech. I counted the word 'insulting'; it was used four times. Guess what? I'm going to use it a sixth time. It was insulting by its very terms. Let's make sure we're clear on something here. I was in that committee too and I saw a couple things distinctly different. I saw a sham, a charade, a kangaroo coun... court and the worst kind of use of the privilege... Excuse me, Representative. I... It's my point of personal privilege. Push your button and you can talk next. Bottom line here is, we were subjected... you know, a friend of mine used the hockey analogy. I'm going to use it again. I know folks aren't in this chamber many of whom have only been around when the Ds control everything. I used the five on three, hockey. I'm sorry, it's now five on four. And now that we're in extra innings, it's kind of five on five. And so, the idea of actually sharing, the idea of actually being collegial, the idea of not ramming things down peoples' throats, I know is probably very new to some in this chamber.

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Get used to it. What we saw today was a show trial. The administration was brought downstairs to be ridiculed and lectured to, not unlike we just heard right now. What I saw was a gentleman trying to answer questions. He didn't once raise his voice. He didn't once say that's an inappropriate question. He didn't challenge anybody. He answered the question repeatedly because the same questions were put to him. Yes, the people asking the questions didn't like the answers. Surprise, they didn't like the answers. That's not being rude. That's just being... that's standing tall and saying this is my answer. Some took offense to the fact that the gentleman called it a sham. I'm sorry, it was. Lest you have any doubt about that, watch it. Listen to it. There was no real purpose in that hearing. It was in... it was intended to try and embarrass and humiliate the Governor and just... and the person they decided to hire. And the idea that no one was complaining about her salary, is absolutely laughable. The idea that that salary's going to take away kids from epilepsy or autism or hurt grandma, that was intended as a show trial. Like there was no hungry or desperate people two years ago. Like the Democrats in charge had solved all the world's problems. When... I wonder why there's a new Governor? There's a new Governor because the folks in charge are now being challenged and I know, back to that five on three analogy for hockey, you all don't like it too much. I get that. But guess what? That Bill we just passed is going to be vetoed. And we're going to be back talking about real workers' compensation reform. One of the points I had just made, I think I made it subtly and I tried to make it politely, is

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why are we rushing now? There's nothing to rush about. We're in extra innings here because the Speaker says we're in extra innings, but we're not... the Governor's not going to sign that Bill. You know that; I know that. But back to the Gentleman's comments. He used the word... I'm sorry if I'm boring you. You guys brought us down here. It's my nickel now. Come on. You don't like it. I'm sorry. No, really I am. I'm sorry we're down here. I'm sorry we're wasting peoples' time. I'm sorry I was just subjected to a harangue, a political speech, on the floor of the House. It was in... it was inappropriate. It was an inappropriate use of our time. Us being here right now is wasteful. And let's make sure we're clear. The Speaker brought us down here, not the Governor. We're here, we're being paid and we're down here turning the lights on and having these conversations because the Speaker of the House said come down and pass a Bill that won't be signed. That's why we're here right now. Or maybe we're being... you're being paid. You're being paid too much. Push your lights if you want to speak to the issue. The fact of the matter is we are being subjected... we've just been subjected to a political speech, a political harangue that was insulting, one-sided and absolutely unfair. And I'm sure the Gentleman thinks he's going to get something done with this Governor with those types of speeches. He won't. It's not a good... it's not a good message. It's not trying to further collegiality and bipartisanship. We're going to keep coming down here and doing this. Things are going to be worse, not better. So, let's not have show trials. Let's not try and play gotcha politics. Let's not try to embarrass people. Let's pass Bills that have

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a chance of actually getting signed. Let's start working together. Is that too hard? I know the five on three thing is cool. I know it's fun to have the puck in one zone, but you're going to have to actually play nice now or things will be coming back. And I know that's hard to swallow, but the fact of the matter is the people of the State of Illinois have hired a new Governor because the Governors before him weren't so good. Because the Bills... by the way, we just passed... you guys just passed a budget that's 4 billion out of balance and... and I'm sure that's the Governor's fault on that one too. Good, we have a Gentleman that's going to speak. Ladies and Gentlemen, it's time to actually work together and stop dehumanizing and standing on this floor with political charades. It's unfair. It's not helpful. And it's a waste of time. Thank you, Mr. Speaker."

Speaker Turner: "Chair recognizes Representative Greg Harris."

Harris, G.: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. And thank you to the Gentleman who just spoke before who every time I hear the words 'subtle in flight'. Yeah, his name leaps to mind and his floor speeches. And you know, for also having introduced to us the word 'sham' and perhaps 'shamwow', you know, another word he might use. But I just wanted to switch gears here. I just want to switch gears and talk about something that is, you know, real policy of the State of Illinois that could potentially affect our constituents, because I think, you know, these points could be made and this is in regard to just some comments on the affect the budget management steps that the Governor announced the other day. Just to be clear on what they will

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do and what they will not do at least from the perspective of Human Services appropriation. So, one of them... one of the first ones that fell in this area was in regard to the area of auditing to be sure that Medicaid expenses were appropriately reclaimed from those who might have billed the program in excess of what it actually was. These are very good suggestions. And I totally agree with Governor Rauner we ought to be doing this. In fact, in the Medicaid omnibus Bill SB788 that passed out of this chamber and the Senate and hopefully will soon go to the Governor, there is an auditing provision. I think everyone in this chamber on both sides of the aisle would believe, you know, auditing to be sure that, you know, inappropriate expenses are recouped is a very good thing. There were two changes with... which I think have some possible complications the Body should be aware of. One is the change to community care program that serves seniors who are living in their own homes and this is the issue of the DON score, the Determination of Need score. And in the proposal if it... it talks about raising the DON score from 29 to 37. I think it's important to point out that about 39 thousand senior citizens would lose their in-home services that would allow them to maintain their independent living and to stay in dignity in their own home. Thirty-nine thousand is a large number. And the proposed changes to the child care programs, the child care program which many of us here fought to, you know, fully fund this year in the supplemental appropriation, the proposed changes would put 5 thousand children out of the program over the course of a year. So, as we, you know, look forward to these steps, I think some are

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appropriate, some may have very severe unintended consequences. And we ought to keep these in mind. And I thank you for your attention."

Speaker Turner: "The Chair recognizes Representative Drury."

Drury: "Thank you, Mr. Speaker. A point of personal privilege."

Speaker Turner: "Please proceed, Representative."

Drury: "You know, I am just utterly outraged at the comments that came from that side of the aisle. Our Leader spoke about a process that happened today that was totally uncalled for, totally inappropriate. And then we hear in response that it was a sham. And we keep hearing that it was a sham. Well, let me talk to you about shams and about what... what I've seen in my few years here. Over the summer, there was a hearing. It was in Chicago and I was asked to speak at that. It was a hearing that purported to be some sort of criminal investigation or quasi criminal investigation or just some sort of joke investigation. And I was asked to come there and speak about how a grand jury process really works. And so, I came there thinking that this was going to be a serious hearing and that a U.S. Attorney in the Central District of Illinois had asked that the hearing not go forward but yet we were going to go forward with this, in the middle of a gubernatorial election, we were going to have some fake investigations into a Governor from a Body that could do absolutely nothing about it. The U.S. Attorney asked it to stop and people asked me to come speak and say is this good for Illinois or is this bad that we have this weird impaneled Body that is moving forward with some big investigation of a Governor. And so, I spoke. And I spoke neutrally about it. I...

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I spoke from my experience. I admit it. I said I am not the most experienced person when it comes to politics, when it comes to General Assembly, but when it came to grand jury investigations I was positive that I had more experience than anybody... anybody sitting on that panel especially when it came to the federal side. And I said that we are hurting the State of Illinois. We are hurting our credibility. We are hurting an investigation into the Governor by having that fake investigation go on. Because by making it public, we were hurting a grand jury investigation that the U.S. Attorney ask that we stop. And you know what the response was to me? I can't believe you're political. I can't believe you're doing this. I did nothing but go there in good faith. So, if there are any shams going on here, that was the sham. And this reminds me of a commercial that I saw when I was a kid and it wasn't about a hockey and it wasn't about baseball. It was from Partnership for a Drug Free America. And you all may remember this. A dad goes into his kid's room and he's holding a little cigar box. And he opens it up. It has needles and joints and all this stuff. He says, where did you learn this? Where did you get this stuff? Where did you learn this? You know what the kid said? I learned it from you, dad. Take a look in the mirror."

Speaker Turner: "The Chair recognizes Representative Bellock."

Bellock: "Thank you very much, Mr. Speaker. To the... to the topic of discussion. I just... I was at that meeting again today. I'm the Human Service Minority Chair. I know that that budget is very important to all of us. I just wanted to say that I thought that the person from the Governor's administration

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was very forthright at that meeting when asked the questions. I did not feel that he was disrespectful. I think that everybody had a chance at that meeting to ask the questions that they wanted to ask. He answered over and over again that this, you know, the funding of a director can be done and has been done in many administrations through different agencies. Our budget was never finally discussed. We never voted on that budget in committee. And that budget was brought forward to the House Floor without a final vote by the Members of that committee. I would just like to say I think that everybody, and we want to be respectful of everyone, and in our committee we always have been. And I appreciated everybody's questions, but from a different perspective, I thought the answers were forthright and they were clear as to what was going on with this appointment and with the salary and all the other questions that were answered. With regard to some of the other statements that were made, I just want to point out, as a woman especially, that last week on the equal pay Bill all Republicans voted 'yes' on that in respect of equal pay for women. Thank you very much."

Speaker Turner: "And now, allowing perfunctory time for the Clerk, pursuant to House Joint Resolution 85, the House will adjourn until Tuesday, June 9 at 1 p.m. or until the call of the Speaker."

Clerk Hollman: "House Perfunctory Session will come to order. Introduction of Resolutions. Senate Joint Resolution 4, offered by Representative Bennett and Senate Joint Resolution 28, offered by Representative Jesiel are referred to the Rules



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Committee. There being no further business, the House  
Perfunctory Session will stand adjourned."