STATE OF ILLINOIS
89TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

22nd Legislative Day March 3, 1995

PRESIDENT PHILIP:

The regular Session of the 89th General Assembly will please come to order. Will the Members be at their desks. And will our guests in the galleries please rise. Our prayer today will be given by the Reverend Mrs. Jane Ferguson, Jerome Methodist Church, Springfield, Illinois. Reverend Ferguson.

THE REVEREND MRS. JANE FERGUSON:

(Prayer given by the Reverend Mrs. Jane Ferguson)

PRESIDENT PHILIP:

Would you please all rise for the Pledge of Allegiance. Senator Sieben.

SENATOR SIEBEN:

(Pledge of Allegiance, led by Senator Sieben)

PRESIDENT PHILIP:

Reading of the Journal. Senator Butler.

SENATOR BUTLER:

Mr. President, I move that reading and approval of the Journals of Wednesday, March 1st and Thursday, March 2nd, in the year 1995, be postponed, pending arrival of the printed Journals.

PRESIDENT PHILIP:

Senator Butler moves to postpone the reading and the approval of the Journals, pending the arrival of the printed transcripts. There being no objection, so ordered. WMAY has asked permission to film <sic> today. Is there any objections? If not, leave is granted. Committee Reports.

SECRETARY HARRY:

Senator Karpiel, Chair of the Committee on Executive, reports Senate Bills 282 and 465 Do Pass; Senate Bills 185, 274 and 432 Do Pass, as Amended; Senate Resolution 23 Be Adopted; Senate Joint Resolution 15 Be Adopted; Senate Joint Resolution 14 Be Tabled; and House Joint Resolution 8 Be Adopted; also Senate Amendment No. 2 to Senate Joint Resolution 1 Be Adopted.

Senator Mahar, Chair of the Committee on Environment and Energy, reports Senate Bills 231 and 364 Do Pass; Senate Bills 68 and 461 Do Pass, as Amended; Senate Resolution 19 Be Adopted, as Amended; and Senate Joint Resolution 12 Be Adopted, as Amended.

And Senator Peterson, Chair of the Committee on Revenue, reports Senate Bills 264, 285, 288, 396, 425 and 472 Do Pass; and Senate Bills 244 and 296 Do Pass, as Amended.

PRESIDENT PHILIP:

Messages from the House.

SECRETARY HARRY:

A Message from the House by Mr. McLennand, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to wit:

House Bills 632, 660, 119, 355 and 598.

All passed the House, March 2nd, 1995.

PRESIDENT PHILIP:

The Illinois Information Service requests permission to tape today's proceedings. Is leave granted? Leave is granted. On page 2 on today's -- Calendar in the Order of 2nd -- Bills 2nd Reading. I would hope that the Members would move their bills.

PRESIDING OFFICER: (SENATOR WEAVER)

For what purpose does Senator Dunn arise?

SENATOR T. DUNN:

Thank you, Mr. President. In order to help the process, I'd like to make a motion to discharge Bill 730 from Senate Rules Committee for the purpose of tabling.

PRESIDING OFFICER: (SENATOR WEAVER)

That motion is always in order. We just need a motion to table, Senator Dunn. Senator Dunn moves to table -- Senate Bill 730. Those in favor will say Aye. Opposed, Nay. The Ayes have

it. The bill is tabled. Senator Klemm, on Senate Bill 62. Out of the record. 63. Out of the record. Senator del Valle, on Senate Bill 72. Out of the record. Senator Peterson. 76. Out of the record. Senator Raica. Senate Bill 80. Out of the record. Senator Woodyard. Senator Jacobs, on Senate Bill 118. Read the bill, Mr. Secretary.

SECRETARY HARRY:

Senate Bill 118.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Transportation adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR WEAVER)

Are there further amendments approved for consideration?

SECRETARY HARRY:

No further amendments reported, Mr. President.

PRESIDING OFFICER: (SENATOR WEAVER)

3rd Reading. Senator Klemm, on 122. Out of the record. Senator Peterson, on 133. Out of the record. Senator Klemm, on 150. Read the bill, Mr. Secretary.

SECRETARY HARRY:

Senate Bill 150.

(Secretary reads title of bill)

2nd Reading of the bill. No Committee or Floor amendments, Mr. President.

PRESIDING OFFICER: (SENATOR WEAVER)

3rd Reading. Senator Syverson, on 168. Out of the record. Senator Thomas Dunn, on 227. Read the bill, Mr. Secretary.

SECRETARY HARRY:

Senate Bill 227.

(Secretary reads title of bill)

2nd Reading of the bill. No Committee or Floor amendments, Mr. President.

PRESIDING OFFICER: (SENATOR WEAVER)

3rd Reading. 237. Read the bill, Mr. Secretary.

SECRETARY HARRY:

Senate Bill 237.

(Secretary reads title of bill)

2nd Reading of the bill. No Committee or Floor amendments, Mr. President.

PRESIDING OFFICER: (SENATOR WEAVER)

3rd Reading. 292. Senator O'Malley. Senator O'Malley, on 292. Read the bill, Mr. Secretary.

SECRETARY HARRY:

Senate Bill 292.

(Secretary reads title of bill)

2nd Reading of the bill. No Committee or Floor amendments, Mr. President.

PRESIDING OFFICER: (SENATOR WEAVER)

3rd Reading. Senator Syverson, on 363. Out of the record. Senator Sieben, on 365. Out of the record. Senator Parker on the Floor? Senator DeAngelis on the Floor? On page 5 we'll go to the Order of House Bills on 3rd Reading. Senator Dillard, on House Bill 20. For what purpose does Senator Cullerton arise?

SENATOR CULLERTON:

Yes. Thank you, Mr. President. We would ask to have a brief Democratic Caucus before we consider this bill.

PRESIDING OFFICER: (SENATOR WEAVER)

The Senate will stand in recess. How long will you be, Senator Cullerton?

SENATOR CULLERTON:

Forty-five minutes.

PRESIDING OFFICER: (SENATOR WEAVER)

All right. We'll stand in recess until the hour of 11.

(SENATE STANDS IN RECESS)

(SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR WEAVER)

We will return to House Bills 3rd Reading, but in the meantime we'll read in some Senate bills. Mr. Secretary, Senate Bills 1st Reading. Introduction of Bills. Excuse me.

SECRETARY HARRY:

Senate Bill 831, offered by Senator Fitzgerald.

(Secretary reads title of bill)

Senate Bill 832, by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 833, by Senator Farley.

(Secretary reads title of bill)

Senate Bill 834 is offered by Senator Welch.

(Secretary reads title of bill)

Senate Bill 835, by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 836, by Senators Dillard and Lauzen.

(Secretary reads title of bill)

Senate Bill 837, by Senators Dillard and Lauzen.

(Secretary reads title of bill)

Senate Bill 838, by Senator Hawkinson.

(Secretary reads title of bill)

Senate Bill 839, by Senator Petka.

(Secretary reads title of bill)

Senate Bill 840, Senator Cronin.

(Secretary reads title of bill)

Senate Bill 841, Senator Cronin.

(Secretary reads title of bill)

Senate Bill 842 is offered by Senator Cronin.

(Secretary reads title of bill)

Senator Cronin offers Senate Bill 843.

(Secretary reads title of bill)

Senate Bill 844, Senator Cronin.

(Secretary reads title of bill)

Senator Smith offers Senate Bill 845.

(Secretary reads title of bill)

Senate Bill 846, by Senator Smith.

(Secretary reads title of bill)

Senate Bill 847, Senator Smith.

(Secretary reads title of bill)

Senate Bill 848, Senator Smith.

(Secretary reads title of bill)

Senate Bill 849, Senator Smith.

(Secretary reads title of bill)

Senate Bill 850, offered by Senators Raica, Farley and others.

(Secretary reads title of bill)

Senate Bill 851 is offered by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 852, Senator Cronin.

(Secretary reads title of bill)

Senate Bill 853, Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 854, by Senator Molaro.

(Secretary reads title of bill)

Senate Bill 855, by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 856, Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 857, Senator Dillard.

(Secretary reads title of bill)

Senate Bill 858, by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 859, by Senators Maitland, Jones and others.

(Secretary reads title of bill)

Senate Bill 860 is offered by Senator Sieben.

(Secretary reads title of bill)

Senate Bill 861, by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 862, by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 863, by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 864, Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 865 is presented by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 866, Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 867, Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 868, by Senator Hawkinson.

(Secretary reads title of bill)

Senate Bill 869, by Senator Severns.

(Secretary reads title of bill)

Senate Bill 870, by Senator Severns.

(Secretary reads title of bill)

Senate Bill 871, Senator Severns.

(Secretary reads title of bill)

Senate Bill 872, by Senator Hall.

(Secretary reads title of bill)

Senate Bill 873, by Senator Hall.

(Secretary reads title of bill)

Senate Bill 874, by Senator Hendon.

(Secretary reads title of bill)

Senate Bill 875, Senator Hendon.

(Secretary reads title of bill)

Senate Bill 876, Senator Demuzio.

(Secretary reads title of bill)

Senate Bill 877, Senator Demuzio.

(Secretary reads title of bill)

Senate Bill 878, Senator Smith.

(Secretary reads title of bill)

Senate Bill 879, Senator Smith.

(Secretary reads title of bill)

Senate Bill 880, Senator Carroll.

(Secretary reads title of bill)

Senate Bill 881, Senator Carroll.

(Secretary reads title of bill)

Senate Bill 882, Senator Severns.

(Secretary reads title of bill)

Senate Bill 883, Senator Severns.

(Secretary reads title of bill)

Senate Bill 884, Senator Severns.

(Secretary reads title of bill)

Senate Bill 885, Senator Severns.

(Secretary reads title of bill)

Senate Bill 886, Senator Tom Dunn.

(Secretary reads title of bill)

Senate Bill 887, by Senator Cullerton.

(Secretary reads title of bill)

Senate Bill 888, by Senator Cullerton.

(Secretary reads title of bill)

Senate Bill 889, by Senator Cullerton.

(Secretary reads title of bill)

Senate Bill 890, by Senator Berman.

(Secretary reads title of bill)

Senate Bill 891, Senator Petka.

(Secretary reads title of bill)

Senate Bill 892, by Senator Tom Dunn.

(Secretary reads title of bill)

Senate Bill 893, by Senators Hawkinson and Tom Dunn.

(Secretary reads title of bill)

Senate Bill 894, by Senator Hawkinson, and also Senator Tom Dunn.

(Secretary reads title of bill)

Senate Bill 895, by Senators Hawkinson and Tom Dunn.

(Secretary reads title of bill)

Senate Bill 896, by Senators Hawkinson and Tom Dunn.

(Secretary reads title of bill)

Senate Bill 897, Senator Tom Dunn.

(Secretary reads title of bill)

Senate Bill 898, by Senator Sieben.

(Secretary reads title of bill)

Senate Bill 899, Senator Farley, and also Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 900, by Senators O'Malley and Farley.

(Secretary reads title of bill)

Senate Bill 901, by Senator Fitzgerald.

(Secretary reads title of bill)

Senate Bill 902, Senator DeAngelis.

(Secretary reads title of bill)

Senate Bill 903, by Senator Walsh.

(Secretary reads title of bill)

Senate Bill 904, by Senator Walsh.

(Secretary reads title of bill)

Senate Bill 905, by Senator Walsh.

(Secretary reads title of bill)

And Senate Bill 906, by Senator Walsh.

(Secretary reads title of bill)

1st Reading of the bills.

PRESIDING OFFICER: (SENATOR WEAVER)

We will revert back to the Order of House Bills 3rd Reading. Senator Dillard, do you wish to call House Bill 20? Mr. Secretary, read the bill.

SECRETARY HARRY:

House Bill 20.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR WEAVER)

WAND has requested permission to videotape. Is leave granted? Leave is granted. Senator Dillard.

SENATOR DILLARD:

Thank you, Mr. President, and Ladies and Gentlemen of the Senate. I stand today as the sponsor of House Bill 20, the civil justice amendments of 1995. I stand today as the sponsor...

PRESIDING OFFICER: (SENATOR WEAVER)

Maybe all of them won't work. Senator Dillard, do you wish to move over to Senator Hasara's desk? For what purpose does Senator Dudycz arise?

SENATOR DUDYCZ:

Thank you, Mr. President. I would move that we table -- that the Senate table Senate Bill 463.

PRESIDING OFFICER: (SENATOR WEAVER)

453?

SENATOR DUDYCZ:

463.

PRESIDING OFFICER: (SENATOR WEAVER)

463. Senator Dudycz moves to table Senate Bill 463. Is there

leave? Leave is granted. Senator Dillard.

SENATOR DILLARD:

Thank you, Mr. President and Ladies and Gentlemen of the Senate. We'll try again. Mr. President and my fellow Senators, I stand today as the sponsor of House Bill 20, which is the civil justice amendments of 1995. This is the much discussed tort reform legislation, which we've all heard about which calls upon us to return fairness, predictability and responsibility to the civil justice system in Illinois. As an attorney, myself, I have faith and belief in the value of our court system and the importance of the right of people to seek redress for their grievances. And as an attorney, I guess, like most of us who are attorneys in this Body, I obviously have a conflict of interest on certain provisions of this bill, but I'll do what I believe I do on every bill, and that's do what's right for my district and what's right for the people of Illinois. I have, as many of you, become increasingly concerned over the past few years with the ways in which our system of justice, which we hold very dear, has been consistently and continually pushed from its foundation. Many now believe that they should have the right to sue and receive award for slight, or for inconvenience, or for minor injury. Many also believe that their compensation should be unlimited. I stand before you today urging protection of the system which affords a forum for redress of those grievances with a measure of responsibility for those presumed rights of the actions of the plaintiffs themselves. When injured people receive different awards for the same injury solely based upon what county they file the lawsuit, or literally in some instances, if they're in the next court room, we have a problem. And when business people and professionals view the civil justice system and our courts, not as something to be protected and held in high esteem, but something to be feared as a business person, or a

professional, or a defendant, we've got a problem. When concepts and rules which we believe will be in the place for generations to come to provide safeguards for victims, when they're twisted and changed overnight in various courtrooms throughout the State of Illinois, we've got a problem. House Bill 20 will seek to correct some of these problems by establishing once and again that one's fault is the basis of their liability to another in tort litigation in this State. Concepts such as fault and the legal term "privity", meaning a direct relationship between one who is injured and one who causes the injury, have been abandoned over the years. We have a system which is more intent on redistributing assets than on compensating victims. When defendants can act with disregard for responsible care, or at times impunity, because their belief that they will not have to pay for their proportional share of their own fault, we have a system that's run amok. Our system has reached so far, Mr. President, in an effort to compensate those who are injured, that it is now stressing the award of large sums of money to individuals, without due consideration to the true amount of which that victim may have been harmed, the individual or entity which has caused their harm, or the impact an individual award may have on society as a whole. For this reason, I believe we need parameters for at least objective element -- for the least objective element of damages and that's nonecomonic damages. By this bill we do not say or imply that people who -- that people do not truly suffer pain as a result of their injuries. What we do say though, is that no one can truly know what the cost or value of that pain and suffering may be. Therefore, it is wholly appropriate that we provide reasonable limits on nonecomonic damages in order to provide and appropriate compensation while adding back to our system an element of fairness and parameters. This bill will provide reasonable limits on the levels of punitive

damages, also, in order to create a rational guideline which would accurately reflect the purpose and historical background of punitive damage awards. It is appropriate to punish when punishment is due. However, the punishment must be appropriate to the course of action and give due consideration to the purpose of that punishment. That is to stop aberrant behavior and not to solely enrich one plaintiff. Punishment, such as the loss of business license, criminal charges, administrative sanctions and other measures are -- are oftentimes more appropriate than the award of punitive damages themselves, over and above any compensatory award. We must take steps to reduce the systematic costs of tort recovery in this State. And to this end, this bill does a number of things to speed up the discovery process and provide that records, which would be available in any event, are made available more quickly to hold down the incredibly rising cost of civil litigation. In instances in which an award, such as a workmen's compensation award has been made, and damages are fairly well settled, we must limit additional litigation seeking contribution from employers to the appropriate measure of their responsibility under Illinois law. That is the amount they have paid in Workers' Compensation. No one wants unsafe products in the State of Illinois. However, in order to protect the economic health of our businesses we must provide for rational review and limits on the way in which product liability litigation may be brought. We don't know how many good products have not come to market because of the fear of litigation. We also do not know how many units of local government have curtailed activities for our children and our families, or limited access to their facilities, and in many cases schools for extracurricular activities, or have acted in other self-protective ways solely because of the fear of being sued. Thus, House Bill 20 seeks to reduce the frequency and severity of civil claims by modifying the Code of Civil Procedure

and related laws to permit all parties to have redress of grievances and then get on with their lives. The debate has sadly focused sometimes, Mr. President, on this bill -- on the focus -- and that has been on emotionalism. There has been discussion of those plaintiffs who have been injured. They deserve our consideration, obviously. They deserve our respect, our support and they deserve compensation for their losses. They do not, however, deserve unlimited compensation regardless of their measure of loss. Little has been made of the cost to being a defendant in the State of Illinois, even though those defendants who have been negligent have a similar right - they do under Illinois law to be protected just like the victim. Where is the constitutional remedy for one who has been forced to pay more than their damage, which can clearly and objectively be shown to have been caused by their behavior? Where is the constitutional right for a remedy to one who has been forced to pay more than their relative share in the damages solely based because they were there as an unintended, and somebody who was forced to bear more than their proportional fault because they were there as a defendant? I believe that the election results of November 8th said a number of things. But one of those messages was, the people of this State said that it's time for people to be responsible for their own actions. Every analysis of our court system and the view of it held by our citizenry, which I am familiar, has indicated that people do not believe our courts hold people responsible for their own actions. This bill is an effort to return some sense to a system that I believe has gone astray, along with most of the citizens of this State. I'd urge your support. I'd be happy with my cosponsors, Senator Fitzgerald, Senator Cronin and Senator Barkhausen to answer any questions which you may have.

PRESIDING OFFICER: (SENATOR WEAVER)

Is there discussion? Senator Thomas Dunn.

SENATOR T. DUNN:

Thank you, Mr. President. Well, it's obvious from today that Washington, D.C. does not have a lock on constitutional issues and questions. To those future constituents who will always ask, "Why do criminals have more rights than victims?" they can now add, "Why do criminals have a right to a jury trial, but I as a victim do not?" You trust a jury to kill, but not to compensate. How distorted that is. This bill elevates money over life, sometimes a life of pain and suffering. No one knows the cost of suffering, except the people that vote Aye today. There are many constitutional questions that are raised by this. House Bill 20 is in violation of the Constitution of the State of Illinois in one or more of the following ways: It violates the preamble, assurance of legal, social and economic justice; It violates Article I, Section 2 by depriving persons of property without due process of law and denies persons the equal protection of the laws; It violates Article I, Section 12 by denying persons a certain remedy in the law for all injuries and wrongs which they receive to their person, privacy and property and reputation and by preventing persons from obtaining justice by law freely, completely and promptly. The provisions is a direct descendant of Coke's interpretation of Chapter 20 <sic> (40) of the Magna Carta. Edward Coke, Second Institutes, 55-56, (4th ed. 1671). It violates Article I, Section 13, which guarantees the right of a trial by jury as heretofore enjoyed shall remain inviolate. For example, caps on damages infringe strongly on fact-finding function of the jury in assessing appropriate damages. Since the assessment of damages is a fact issue committed to the jury for resolution, a limitation on the performance of that function is a limitation on the role of the jury. It's true, of course, that a court has the power to set aside a verdict or order a new trial, order a remittitur or a judgement notwithstanding the verdict, but

those powers may be exercised only by applying the proper legal standard to the facts of a specific case. In contrast, the Act would require the court to ignore a verdict in an amount above the cap, which is supported by evidence, and instead enter judgement for the cap amount. This extraordinary requirement bears no relation to the doctrines of remittitur, new trial, judgment notwithstanding the verdict, and it cannot be found upon the court's inherent power over verdicts and judgments. Indeed, there exists no permissible basis for entering a judgment predetermined by the Legislature in place of a judgment on a verdict properly reached by a jury. It violates Article I, Section 18 by denying equal protection of the laws on account of sex by the State. It violates Article I, Section 23 by allowing wrongdoers to escape recognition of their corresponding individual obligations and responsibilities. It violates Article IV, Section 8 because it fails to be confined to one subject. It violates Article IV, Section 13 as it constitutes a special law where a general law can be made applicable. It violates Article VI, Section 1 as it represents an invasion and usurpation of the judicial power which is vested in the Supreme Court, the Appellate court and the circuit courts. It violates Article VI, Section 9 as it interferes with the court's original jurisdiction of all justiciable matters. It violates Article VI, Section 16 because is invades and usurps the general administrative and supervisory authority over all courts which is vested in the Supreme Court and which shall be exercised by the Chief Justice in accordance with its rules. It violates Article I, Section 6 as an invasion of privacy. House Bill 20 is a violation of the United States Constitution provisions guaranteeing the right to a trial by jury, equal protection and due process. House Bill 20 represents a dastardly, cynical and politically driven, unconstitutional assault on the judicial branch of the State. The most glaring

aspect is that it violates Article II, Section 1 of the Constitution as an exercise by the Legislature and executive branches of power properly belonging to the judicial branch. The Act overrules cases -- after case decided by our Appellate and Supreme Court, such as Gilbert versus Sycamore Hospital and its progeny - apparent agency; Kotecki versus Cyclops and its progeny - the relationship between contribution and workers' compensation; Suvada versus White Motor Company, and its progeny - 1965, product liability; Petrillo versus Syntex, its progeny - physical <sic> patient privilege; Wright versus Central DuPage Hospital and its progeny - caps on damages; Tweedy versus Ford Motor Company and its progeny - no expert required in certain product liability cases; Ward versus K-Mart and its progeny - open and obvious danger defense; Lee versus the CTA - liabilities for injuries on public property; O'Connell versus St. Francis Hospital - the principal of sanctity of the Supreme Court rulemaking powers; Lannon, which encouraged settlements; Laue versus Leifheit, requiring the trial of a contribution case with the primary case; Grace versus Howlett - mandatory arbitration; Varelis versus Northwestern - wrongful death actions; Khatib versus McDonalds - rules requiring admissibility of other injuries; Henry versus St. John's Hospital - filing of contribution action with the primary case; and Jones versus O'Young - experts' specialty qualifications. It was so eloquently stated over two hundred years ago by our founding fathers: The complete independence of the courts of justice is peculiarly essential in a limited constitution. By a limited constitution I understand one which contains certain specified exceptions to the legislative authority. Limitations of this kind can be reserved and practiced no other way that through the medium of the courts of justice whose duty it must be to declare all acts contrary to the manifest tender of the constitution void. Without this, all reservations

of the particular rights or privileges would amount to nothing. If the Bill of Rights is incorporated into the Constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights, they will be impenetrable bulwark against every assumption of power, legislative or executive. Thank you.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Carroll.

SENATOR CARROLL:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Following the lead of the lead sponsor, I, too, am an attorney; however, I have no conflict. We do not handle these kind of cases and never have and most likely never will. However, I think there is an issue here that we should address a little more closely and that's the concept of punitive damages, what it's for and what it's about. This legislation, House Bill 20, will attempt to limit the dollars awarded in a punitive damage case and change the burden of proof for proving an action that would require punitive damages. And they've tried to set a, in my opinion, ridiculous and nonsensical standard of three times the economic loss. Think about your own constituents. If you have a housewife who happens not to have a job and gets injured in a case where a judge, jury and anybody in the world would say punitive damages should apply, three times her lost wages? What are the wages for being a homemaker and -- and raising children? None. That would greatly limit her right to recover as compared to a next-door neighbor, a woman who happens to have to work for a living and lost months of time and would have that within the calculation of what is punitive damages. It changes the burden of proof and changes long-standing Illinois common law. If you look at what it's about though, why the hue and cry? Punitive damages is really a nonissue in Illinois. It happens very, very, very rarely. In

only less than one in one thousand cases is it even an issue. In the recent statistics of the Cook County Jury Verdict Reporter, the number of punitive damage awards in personal injury cases over the last eighteen years was one hundred and eighty-three cases. That clearly does not do anything to limit anyone's right to do business but changing it would clearly disadvantage those who have a legitimate, legitimate claim. A recent study by the Roscoe Pound Foundation, covering the years from 1965 to 1990, the likelihood that a United States manufacturer would be assessed even one time in one punitive damage case was less than one in one thousand, and that's assessed. The judge then goes back and looks this over and in many of those cases where it was assessed - in fact, in only forty percent of those cases where it was assessed - did it actually end up getting awarded. So I think totally the punitive damage issue that's in here and has become so big is a total falsity as to the manufacturers, but look what it does to people. I happen to have a neighbor who happened to have bought a saw for his home, one of these bench-type from a major manufacturer I won't mention, even though that manufacturer was found guilty. Using the saw at home to cut some wood, suddenly the band snapped and took off two of his fingers. He told me the story later, is he saw the fingers fly in the air and his -- a -- a relative of his filed suit. During that suit, they found the manufacturer might be at fault, and during the middle of that trial, the company that sold the saw, as well as the manufacturer, had hidden from them originally a memorandum that they found literally during trial wherein they said the manufacturer and this major retailer knew the saw was defective, knew it could, in fact, snap off and harm someone, had already corrected the design, had manufactured a new one, withheld sending it to the store till all of these were sold - the defective ones, knowingly defective, were sold, - 'cause they didn't want to lose the income from the

machines they had already manufactured. And the court said that's obviously a case where whatever the punitive damages are, they're not enough. Now, how many days you off for loss of finger? I don't know. But think of the wrong that that major company and major manufacturer did by putting a product on the market, leaving it there, knowing it was defective, merely for a profit incentive. We hear a lot about the McDonald's case. If you look at the facts of the McDonald's case, this coffee was at a hundred and ninety degrees. The average standard is considered about a hundred and sixty. They had already had seven hundred cases of people injured because of the hot coffee. Cases filed, complaints made, McDonalds knew. This particular elderly lady suffered severe injuries to her vagina, thighs and buttocks. The jury said a hundred and sixty thousand was the actual damages, but said, "We will access punitive damages to McDonalds" - this is a jury - "of two days' profit from the sale of coffee only at McDonalds." They went and asked McDonalds, "What do you make on the sale of coffee for two days?" That's the amount the jury awarded because they said, "You had seven hundred cases prior to this old lady. You should have known and should have done something about it." There the judge said even that - two days' profit to McDonalds for coffee only - was too much, and they reduced the award to a much more legitimate number as to that particular lady, which proves the current system does work. Let me just take you through one or two others, or three others. Some of you may know - and this is not a case of malpractice at all - my oldest brother happened to have had his leg amputated because of some blood clots. Nothing to do with malpractice at all. About a year ago. They tried to save it at the below-the-knee level so that he could use a prosthetic device. It didn't work. They had to do a second surgery. Have any of you ever been with someone who has had that kind of a surgery and know what pain they go through after? Not

phantom pain. Real, real, real pain, where they wake up in the middle of the night screaming because they have not yet figured out how to change the nerve endings in the bottom of the stump? I have. It is a horrible situation for which no kind of monetary recovery could ever work. But look at what happened a week ago in Florida. Look at what happened a week ago in Florida where a person went in for an amputation and they cut off the wrong leg. And now what are they going to do? They've got to go back and cut off the correct leg. Is that entitled to punitive damages? Is a half a million enough for you to lose the wrong leg? Think of the difference in lifestyle to that person. One amputation is bad enough. They can get a prosthetic device; they can get a wheelchair - whatever. Think of the lifestyle change - to because of an accident, an act of negligence by a doctor, an act that should be severely responded to by the system - the person has now lost two legs. Think of the total change in the life of that person. And what did the hospital do, according to this morning's paper? According to this morning's paper, Willy King, 51, was supposed to have his gangrenous right foot removed two weeks ago at Tampa's University Community Hospital. When he woke up, instead of his right foot, his left foot was taken off. Now they have issued an order. They will write "NO" on the correct foot in a Magic Marker so that the surgeons will know not to take off the incorrect foot. That's not what society is supposed to be all about. That's not the way you correct this kind of abuse. I think, Senator Dillard, November 8th did send a message - I hope a message that is heard loud and clear in this State and in this nation. The lowest turnout in the history of this country, and let the message be this kind of legislation. Those of you who stayed home, this time it might be the guy in Tampa; the next piece of legislation may be you. You better show up if you don't want this to happen again.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Welch.

SENATOR WELCH:

Thank you, Mr. President. I was quite surprised to hear the introduction to this bill. Three weeks ago when we debated the bills concerning education, we heard about the mandate on November 8th, 1994, was a mandate to return authority back to local people. We were empowering people back home. That was the mandate's outcome from November 8th. And we heard that for several weeks. Then we took two weeks off and we came back. And guess what, folks? There's been a reinterpretation. What really happened on November 8th was, people didn't like what the people back home were doing, particularly in jury verdicts. Two weeks ago people back home knew everything. We had to trust them. Those of us in Springfield knew nothing. We had to transfer all of our power back home, because they knew better. The two-week vacation made a big difference, folks. We're back here. And guess what? We know better than people back home who are picked for juries. Those twelve people in the community don't know enough. We know better. I suppose next week we'll have a new interpretation of the vote on November 8th, 1994. It's strange to me how the -- the changes in the interpretation of that vote on November 8th happen to parallel the opinions of those who supported those who won on November 8th. I'm sure it's a coincidence. Well, let me just speak directly to this bill. House Bill 20 provisions address product liability and undermine and repudiate every basic tenet of Illinois product liability law, most significantly a manufacturer's non-delegable duty to provide a reasonably safe product. In practice, these provisions will serve to bar most if not all product liability suits brought by injured Illinois citizens. At the same time, these product liability provisions will condone and thereby encourage product manufacturers and suppliers to regress to the

lowest common safety denominator with respect to the product design, product manufacture, product warnings and product information. As long as the manufacturers can plead ignorance and point to the backwardness of their respective industries, they will be protected from liability for all injuries, no matter how serious or how far-reaching, if they arise from defectively designed and manufactured products. Section 2-2101 comprises the definition Section of the proposed legislation. Inclusion of the basic terms as "manufacturer" and "harm" whose definitions and parameters have evolved through years of developing common law, over four hundred years of common law, could with reference to, quote, "clear and convincing evidence", unquote, which has never been the degree of proof required in tort cases of any kind in Illinois, is indicative of the dramatic revision or product law contemplated by this bill. Section 2-2102, which incorporates by reference any and all civil actions falling within the definition of a product liability action, reveals the legislative agenda to legislatively co-opt all existing product liability law developed over the years in the State of Illinois by scores of judicial decisions within this new statutory scheme. Perhaps the most insidious of the product liability provisions set forth in this -- set forth in this bill is the new Section 2-2103, which is on page 28. This Section provides that a product or product component shall be presumed to be reasonably safe so long as the aspect of the product that caused harm was specified or required by a State or federal statute or as promulgated by a State or federal regulatory body. This presumption represents a perversion of existing product liability law which already permits a jury to consider a defendant's compliance with federal standards in determining whether or not a product is defective. The ramifications of this provision on product liability law and ultimately upon the public safety are sure to be devastating and

far-reaching. The bottom line is that our modern American society, few if any products released into the stream of commerce are immune from some type of statutory or regulatory provision. It must follow that the establishment of this presumption will ensure that nearly every product liability case will either result in a summary judgment ruling in favor of the defendant or a jury instruction informing the jury of this presumption, which will undoubtedly lead a jury determination against the plaintiff. Section 2-2103's presumption of reasonable safety will effectively deter most, if not all, meritorious product cases filed in the State of Illinois. It is Section 2-2106, however, with its wealth of protections for product manufacturers, with respect to injuries arising from a manufacturer's failure to warn or provide product instruction, that evidences the greatest disregard for end user and public safety. Under this Section, a defendant is protected from liability for failure to warn so long as pamphlets, booklets or other written warnings pertaining to the risk of injury and death connected with the use of the product has been proven to be reasonably anticipated by users or, quote, unquote, "knowledgeable intermediaries". The defendant is further protected from liability so long as that information was in conformity with, quote, "generally recognized standards in the industry", unquote - standards which, for obvious reasons, will be far from stringent. This Section requires consumer to be more knowledgeable of the dangerous properties of a product than the manufacturer is. In addition, despite manufacturers' greater access to information and testing, respecting the harms and dangers of any given product, they need only provide notice of risks arising from, quote, unquote, "reasonably anticipated", as deemed by the industry use of the product and need not warn of material risks obvious to a product user or a matter of common knowledge. And as if that weren't enough, this Section reintroduces the feasibility concept,

providing manufacturers with the further protection of non-liability for failure to provide adequate warnings or instructions if knowledge of the danger that caused the harm was not reasonably foreseeable. Dangers of any given product, per this Section, need only provide notice of risks arising from reasonably anticipated, as deemed by the industry, use of the product and need not warn of material risks obvious to a product user or a matter of common knowledge. Clearly under the statutory scheme, the manufacturer is king, and those with the most resources and most information and least chance of actually using or becoming injured by the product in question are protected. There is no requirement that information concerning the risks associated with the use of the product be placed upon the product in question or be communicated in such fashion as to be reasonably certain to reach the product's end user. Here those with the fewest resources and the least information and not ability to negotiate a safer alternative will be the ones forced to bear the costs of products liability in terms of pain, suffering and death. Section 2-21.6.5 protects defendants from liability for any harm arising from a product containing an inherent characteristic that cannot be eliminated without substantially compromising the product's usefulness or desirability. This provision, coupled with the weak protection afforded Illinois consumers under the preceding product liability provision leaves consumers and product end users vulnerable to injury by any range of inherently dangerous products, such as tobacco, asbestos and firearms, with no remedy at law. At a time when other states are pursuing cases against tobacco manufacturers to protect their citizens, instead you are protecting the tobacco lobby against the citizens of Illinois. Section 2-2107, the standards defense as a bar to punitive damages, effectively bars punitive damage awards in all product liability actions in Illinois unless the plaintiffs meet

the ludicrously impossible standard of proving by, quote, "clear and convincing evidence", unquote, that the conduct of the manufacturer or seller rose to the near criminal level of intentionally withholding or misrepresenting information to the relevant federal or State legislative or regulatory agency that could have resulted in a changed decision relative to the law or standard applicable to the product in question. As if that were not preclusive enough though, the provision further provides punitive damages will be barred against any defendant who acted in compliance with standards set forth in applicable federal or State statutes or regulations. Accordingly, this seemingly all-encompassing punitive damage bar denies Illinois consumers full protection under the law while constituting yet another incentive for manufacturers to adopt a regressive or, in many cases, a reckless approach with respect to product and consumer safety. Thank you.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Palmer.

SENATOR PALMER:

Thank you, Mr. President. To the bill, with regard to jury instruction. House Bill 20 creates potentially dangerous problems when it enables the judge to tell the jury that awards for compensatory and punitive damages are not taxable to the plaintiff. Currently a judge cannot legally tell the jury that the wrongdoer gets a credit in the amount of money paid to the plaintiff by virtue of the fact that the plaintiff pays no taxes on the jury's award. House Bill 20 would do, indirectly, what the court cannot now do. If a judge can tell the jury that the plaintiff will not be taxed on any award, a judge should also be able to tell the jury that the wrongdoer will get a tax credit for the award and that the wrongdoers insurer will pay the award, not the wrongdoer. Furthermore, the defense in a personal injury

cases will add expense, complexity and confusion to the case by adding another expert - a certified public accountant - who would inform the jury on tax laws that would normally affect earned income, not a jury award. Cumbersome and unnecessary variables come into play if a jury acts on the inference that it should reduce a tax-exempt verdict by the amount the plaintiff would have paid in taxes. The jury would have to be told the percent of attorneys' fees and the amount of litigation expenses which should be deducted from the gross verdict to equate a net taxable award to the plaintiff, and the jury would then need to determine the proper tax bracket in which the amount of money they seek to award minus the deductions would fall. The jury instruction in tort cases regarding taxability of damages is inadvisable and unworkable. It would cause additional disputes between opposing attorneys, and trial court judges would be burdened with the complex responsibility of determining the true tax impact on any such award. In effect, this type of jury instruction would force the judge to become a part-time IRS revenue auditor, reviewing tax laws and personal income tax returns. The impact on the jury is equally undesirable. Such a jury instruction would likely cause the jury to believe it must compute damages based on applicable combined federal and State tax rates. The jury may incorrectly infer that its ruling on damages should be increased by costs of litigation and related expenses. The bottom line is that any instruction to the jury on the taxability of compensatory or punitive damages will either directly or by inference interject into the deliberation process criteria and considerations which are inappropriate, speculative and/or incapable of review. House Bill 20 also says the court shall not inform or instruct the jury concerning caps on the amount of noneconomic or punitive damages that are recoverable. In catastrophic cases where extensive medical bills, both past and projected, exist along with the loss

of earning capacity, a defense attorney will be given a distinct advantage in arguing cases in which the jury is not told of caps on the disability, pain, suffering and other noneconomic losses. The distinct advantage is that the defense will vigorously attack any future care or medical needs of the victim, even though they may be conservative and/or an under -- understatement of the actual costs in the future. Currently, defense attorneys rarely challenge medical expenses, past or future. Rather, they challenge noneconomic damages. However, if a jury is not told about caps on noneconomic damages, the defense attorney, to appear reasonable, will tell the jury that the plaintiff has inflated future medical expenses but has suffered terrible pain, terrible disability, and the attorney will tell the jury that they should give whatever they feel is just and right with regard to these noneconomic damages. Defense attorneys know that most jurors will be inclined to accept this reduced estimate of future medical costs and make up for the cuts of economic costs by awarding larger amounts for noneconomic damages, such as pain, suffering and disability. Under the proposed nondisclosure of the caps on noneconomic damages, the plaintiff's attorney cannot reveal to the jury the insincerity and dishonesty of the defendant's argument because he cannot tell the jury that the noneconomic damage is capped. If juries are misinformed, their awards will be reduced. Eventually, when the reduced award is depleted due to the cost of future medical bills, the victims will likely be forced to turn to public aid to pay their medical bills. Lastly, House Bill 20 says a court should not inform or instruct a jury that the defendant should be found not liable if the jury determines that the victim was at least fifty percent responsible for the cause of the injury or damage for which a recovery award is sought. The problem is this: If a jury does not know that the defendant will be completely absolved of any responsibility to pay for damages, it

will cause jurors to believe that they are giving recovering to the victim when, in fact, the victim is leaving court without a penny - the effect of its own verdict being hidden from the jury. The very definition of a jury is a group of people sworn to hear the evidence and inquire into the facts in a law case and to give a decision in accordance with their findings. This Legislature should be ashamed of the passage of any bill that requires a judge to lie to a jury and blatantly conceal the true effect of their verdict.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Severns.

SENATOR SEVERNS:

Thank you, Mr. President, Members of the Senate. I have with me today a book that perhaps some of you have seen, The Death of Common Sense. Seems like it might be too appropriate in this Chamber and certainly on this bill today. Where is the insurance industry in this debate, and why are they not being held accountable? One of the stated reasons for the proposed legislation is to assist in keeping the costs of liability insurance premiums from rising. In the reform proposals before the General Assembly, purportedly aimed at a statewide crisis in liability insurance, there is nothing - absolutely nothing - which would act to cap insurance premiums. Because there is nothing in the proposed legislation which goes directly to the heart of the alleged crisis in liability insurance premiums, changes such as the proposed damage caps will be ineffective in addressing this problem without the necessary changes in the insurance industry as well. Victims should not suffer additional injustice under damage caps, while insurance companies' profits continue to grow larger. A cap on liability insurance premiums should be placed on all liability insurance policies written in Illinois. For example, insurance underwriters would not be able to charge a premium for a

policy that exceeds the premium applicable to the policy on March 1st, 1995. Thereafter, annual increases would not be allowed to exceed the consumer price index during the preceding calendar year. This cap would ensure that consumers would not continue to pay increasing insurance premiums while potentially being capped by a court or in a settlement. Oftentimes, after a person is injured by a product or on the job, he or she is no longer able to work at his or her former occupation. Besides lost wages, the victim often loses family health care coverage. Children and spouses are thus also made a victim of the injury. After the injured person loses group health care coverage, he or she has little choice but to attempt to obtain individual health care coverage on the open market. The victim often finds that the cost of such a policy is prohibitive and either pays the exorbitant prices or does not provide coverage for his or her dependents. With thirty-five million Americans currently without health care, we should not be passing legislation to add to this crisis. In addition, with the prospect of caps, having to purchase health care insurance coverage will take a greater percentage of the victim's final judgement or settlement. The practice of denying insurance coverage to dependents of an injured worker or consumer based on the claims made by the injured person is a very real problem. It is necessary and it is unfair. Children and nonworking spouses of victims should not be punished because they are dependents of victims and can no longer obtain group health insurance coverage that was terminated through no fault of their own. The prohibition of discrimination insurance coverage to dependents of injured workers or consumers should have been included in this bill to protect health care costs for the victim and his or her family. Thank you.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator del Valle.

SENATOR dEL VALLE:

Thank you, Mr. President. House Bill 20 changes the law regarding a tort feasor action for contribution against the plaintiff's employer. This change will essentially extinguish most civil actions for work-related injuries. It is supposed to be a codification of existing law, as cited in Kotecki versus Cyclops Welding Corporation, but in actuality, it overrules this Illinois Supreme Court decision. A defendant's liability is discounted by both. With other proposed reforms, a plaintiff's recovery in work-related injuries would be reduced three times. Initially, his own negligence will offset his entitlement to recovery. Then the recovery is further reduced by factoring his employer's negligence. Even after that reduction, the plaintiff must still repay his employer's workers' compensation lien. Consider the simplest case: A jury awards the plaintiff five hundred thousand dollars in damages and finds that the defendant the plaintiff's employer are each fifty percent at fault. Because tort feasors will no longer be jointly liable as a result of this legislation, the defendant in this case would only be liable for his percentage of the damages. Thus, of the five-hundred-thousand-dollar verdict, the defendant would only have to pay fifty percent, or two hundred thousand dollars. But the amendment to the Joint Tort Feasor Contribution Act eliminates even that liability. The defendant, as a result of the proposed change in the law, obtains a credit against his liability based upon the employer's liability. Therefore, the defendant's liability drops to nothing. Two hundred and fifty thousand minus a credit of two hundred and fifty thousand equals zero. A similar injustice arises when a plaintiff's negligence plus his employer's equals or exceeds fifty percent. Take the same verdict of five hundred thousand. Assume the plaintiff was ten percent negligent, the defendant fifty percent negligent, and the employer forty

percent. The five hundred thousand would first be reduced by the plaintiff's comparative fault. The reduction amounts to fifty thousand, as a result of multiplying five hundred thousand by ten percent. The defendant is responsible for two hundred and fifty thousand, by multiplying five hundred thousand times fifty percent, but then gets a credit of two hundred thousand. Thus, the defendant, who is most responsible for the injury, is liable for only fifty thousand, which is arrived at by subtracting the two hundred and fifty from two hundred. This represents only twenty percent of the defendant's fair share or liability and only ten percent of the plaintiff's true damages. In both of the examples I have mentioned, the plaintiff's damage were set at five hundred thousand. In both, the defendant's fault was assumed to be fifty percent; yet, the defendant's ultimate liability ranged between zero and fifty thousand. This liability changed according to an irrelevant variable: the amount of fault attributable to the plaintiff's employer. Yet when a defendant and employer are equally responsible for an accident that injures an innocent plaintiff, that plaintiff recovers nothing. This change to the law is a radical departure from existing law. It is not fair. It is not reform. It is nonsense. It only serves to protect negligent wrongdoers from their actions at the expense of the working people of Illinois. The proposed changes to Section 5 of the Contribution Act treat medical malpractice actions differently from any other action. This separate treatment is special legislation. The changes are proposed -- that changes that are proposed in this bill are contrary to public policy, as articulated by the Illinois Supreme Court in Laue versus Leifheit. The Court said, "In addition to the fact that the statutory language of Section 5 clearly requires the filing of an action for contribution in the original action, there are strong public policy reasons for such a requirement. One jury should decide

both the liability to the plaintiff and the percentages of liability among the defendants so as to avoid a multiplicity of lawsuits in an already crowded court system and the possibility of inconsistent verdicts. Requiring the parties to litigate the matter in one suit will also save money and attorneys' fees." This bill has rejected the Court's reasoning. Instead, the bill has declared one of its purposes is to reduce the frequency of civil claims. The proposed changes to Section 5 promote no such reduction. They, in fact, encourage more suits with defendants suing defendants, even after the plaintiff's case is over.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Molaro.

SENATOR MOLARO:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Senate <sic> Bill 20 considers repealing the doctrine of joint liability. The doctrine of joint liability allows victims to recover their rightful damages from those responsible for their injuries. Any person or corporation who could have prevented the victim's injury, who is found to be more than twenty-five percent at fault, is jointly responsible. The doctrine encourages people to be watchful for the health and safety of others and to act reasonably to prevent others from being hurt by their negligence. The rule does not allow victims to recover from injuries for which they are the primary cause. As the eminent U.S. Supreme Court Justice Cardozo said, "One guilty defendant whose conduct was, by itself, sufficient to cause an injury cannot avoid responsibility for the victim's injuries by hiding behind the skirts of another's guilt." An example would be if a hospital doing a background check on a man or a doctor, errs or doesn't do it, and they hire some neurosurgeon who's not even a neurosurgeon. He performs this surgery half drunk and terribly and causes injuries that a jury comes back and says, "You do have injures of three million

dollars," but they say that the hospital's only thirty percent at fault, and the charade doctor is seventy percent at fault. If the doctor is broke and has no money, two million dollars of which cannot be recovered -- if this law passes, cannot be recovered by the victim because the hospital's only on the hook for thirty percent. So that means that two million dollars is either going to be borne by the victim or borne by the hospital. This law says it's the victim that should lose, not the other wrongdoer. It protects the wrongdoer and hurts the victim. Let me make a couple other comments, quickly. When we talk about tort law, it was designed to make victims whole, so if a wrongdoer goes out and hurts somebody or he causes injury, they would make him whole. We're in the Senate saying today if this passes, you can get all your economic damages recovered. Get your lost wages. We'll pay for your medical bill, but the noneconomic damages we're going to cap at five hundred thousand. And I know one of my colleagues will speak more to it. But you know what the stuff of noneconomic injuries are? Disfigurement, blindness, infertility, loss of a loved one, chronic pain, lifetime suffering, paralysis, wheelchair confinement. These are the things that we care most about. These are the things that is the American fiber. So if someone comes out and causes these injuries... And what are they worth? Million? Four million? Ten billion? We're going to say we're going to cap it at five hundred thousand dollars. And for what reason? Why are we doing this? Why are we putting a cap? To save money on insurance policies, so doctors could pay twenty-five thousand dollars less on their malpractice? So, you're telling that if some doctor's making three hundred thousand dollars and by this passage we save him twenty-five thousand dollars, he's going to pass this on to his patients? He's going to take it home. This isn't going to help America or the State of Illinois. The Senate -- this is what I thought when I came to the Senate: We

have a bicameral Legislature. We have a House of Representatives that sent this over. They are there for their little constituency that's carved out, and they are there for their party. So they come and send stuff here that is very self-serving for their little constituency. That's who they represent. We are to be the last bastion. We are supposed to represent the entire State of Illinois, not merely the Republican or the Democratic Party, not merely a -- a little constituency. We're supposed to be beyond that. This House -- this -- this part of the Legislature is turning into a mini House of Representative. There's no need for Senators to be here if we're going to be in lockstep as Democrats or Republican. We're supposed to be deliberative. We're supposed to take our time. We're supposed to look at this and not have thirty-three Republican green lights and twenty-eight Republican <sic> red lights. If we're going to do that on every major issue that comes before us, we might as well disband and become a mini House of Representatives. Let them do it. If we're going to just blindly follow Leadership on major issues, we might as well just let Senator Philip and Senator Jones vote. Give him one and a half and give Senator Jones one so they can win the issues. What's the sense of all -- all of us being here? The last thing I want to say and I want to bring to your attention: This is the Ford Pinto memo that went out in 1973. And when that went out, what they were deciding is that the government came back and said: These Pintos - you're going to be found liable for all these deaths and injuries, Ford, and it's going to be easy to prove. Well, Ford executives came back with the memo, and the memo said: Well, over the next two years, we'll have a hundred and eighty burn deaths caused by the Pinto and the Ford trucks, hundred and eighty serious burn injuries, and we're going to have twenty-one hundred burned vehicles. And they figured out, when they add noneconomic and economic injuries, that they're going to pay two

hundred thousand dollars per death and about seventy thousand dollars per injury. And when they figured it out, they said: When we settle all these lawsuits, if we don't fix the cars, it's going to cost us forty-nine million dollars. But if we fix eleven dollars per car, 1.5 million trucks and -- and about 1.11 million cars, it'll cost us a hundred and thirty-seven million. So they decided not to fix the cars and trucks 'cause it was cheaper to let these people die, get maimed and injured than it was to fix the cars and trucks. The only way to stop this is with punitive damages and no caps so these people know that they're going to pay. That's the only thing they understand. And by doing this today, you're going to send every boardroom across Illinois starting to sit there and say, "Wait a second. It may be cheaper for us to let these people get injured and die than it will to fix our products." And I don't think we want to do that. Thank you.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Trotter.

SENATOR TROTTER:

Thank you very much, Mr. President, Members of the Senate. The last two weeks that we were not down here in Springfield, at the request of the Democratic Minority, I co-chaired a task force on worker safety, and we had hearings in two cities of this great State, in Rock Island and the City of Chicago. Now, granted that's not all over the State, but in those two hearings, we met with a good cross-section of individuals from this State. We met with doctors. We heard from lawyers. We heard from plaintiffs, also from the corporate attorneys as well. We heard from workers, and we heard from those workers who cannot work any longer because of injuries that they've sustained due to accidents on the job. And out of that, not once did I hear this clarion call that we have to make these kind of changes in our present laws. One of the things that we're talking about changing in House Bill 20 is

creating a Code of Civil Procedure Section 2-624. And the purpose of this Section of House Bill 20 is to overrule the Illinois Supreme Court's decision in Gilbert versus Sycamore Hospital, which defined and affirmed in law on ostensible or apparent agency. Effectively abolishing Gilbert would not only be unwise and unwarranted, but it would blatantly usurp the authority of our Supreme Court. Apparent agency is the equitable principle of law most commonly seen in the situation where a patient comes to an emergency room and is treated by emergency room physicians. Many hospitals contract out for emergency room physicians, and the physicians who work in emergency rooms are not the direct employees of the hospital. In the typical case, the patient does not know and is not informed of the emergency room physician providing their care that they are not employees of the hospital. If the emergency room physician is negligent and causes death or serious injury to the patient, often the suit will be filed only against the hospital and the physician, unless the patient happens to know that some other entity actually employs the physician. Over the last thirty years, developing case law has recognized that hospitals are not only important health care providers in our community, but they're also big business. Hospitals advertise and promote the availability of their service, including emergency room care. They should be held responsible for the conduct of physicians who provide the basic services that they market, such as emergency room care and radiology, if -- if negligence in conduct causes serious injury or death. The Illinois Supreme Court examined the entire doctrine of ostensible and apparent agency in the case of Gilbert versus Sycamore Hospital. It ruled that there -- that where a patient relies on an institution to provide services like emergency room care, with no indication from that institution that those services are provided by an intermediary, the hospital should be held responsible for doctor

negligence. If the citizens of Illinois go to a hospital because of their trust in that institution, that institution should be held responsible for those patients. The decision of the Supreme Court in Gilbert was correct, and the portion of House Bill 20, which abolishes Gilbert, should be defeated. This bill is not a perfect bill. We should not be voting on it today. Thank you.

END OF TAPE

TAPE 2

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Garcia.

SENATOR GARCIA:

Thank you, Mr. President and Members of this Honorable Body. As someone who represents an overwhelmingly blue-collar and pink-collar working-class community, I feel compelled to rise here this afternoon to point out how House Bill 20 will impact, dramatically, our rights to privacy, confidentiality, and will jeopardize relationships between attorneys, patients, plaintiffs, and health care professionals. House Bill 20 requires every plaintiff to sign a consent form from which -- which will allow defense counsel to obtain any and all prior medical records and also authorizes secret conversations between treating doctors and defense counsel. This provision is a clear violation of the constitutional right to privacy as stated in Article I, Section 6 of the Illinois Constitution. This provision also violates Article II, Section 1 and Article VI, Section 1, by encroaching upon the Supreme Court's authority to promulgate procedural rules for civil trial. The requirement that a plaintiff sign a consent

of release of all records is particularly galling. This means, for example, that a woman who breaks an arm in an auto accident will be required to sign a consent for the disclosure of gynecological, psychological and psychiatric records, even though the records are not in any way relevant to her broken arm. This portion of the bill overturns scores of cases that hold that a defendant is not entitled to inquire into unrelated injuries and medical conditions and many other cases that prevent a defendant from learning any information about psychological or psychiatric treatment, unless the plaintiff's mental condition is an issue in the case. Unbelievable as it seems, there is not a provision that allows a judge to prevent a fishing expedition into irrelevant and extremely private medical records. The Petrillo Rule, as it is known to attorneys - and I'm only a paralegal - stems from a 1986 opinion of the First District Appellate Court in which a defense attorney appealed from a trial judge's ruling that barred any private conversations between the defense attorney and one of plaintiff's treating physicians. The court held that such conversations violated the physician-patient privilege and were contrary to the public policy of this State. The court also found that the defense attorney could not demonstrate that such an order prevented him from obtaining all relevant information through conventional court-supervised discovery proceedings. Since the 1986 opinion, the Petrillo Rule has been adopted in more than twelve states, both in case law and by statute. It has been reviewed on more than thirty occasions by all of the district appellate courts of this State, and the U.S. Supreme Court refused to hear the defense lawyer's appeal from the appellate court ruling. The need for the Rule can be illustrated by reference to one appellate court case. In Nastasi versus United Mine Workers, plaintiff was injured in a work accident and, subsequently, a part of his leg was amputated. He filed a medical malpractice suit

against the United Mine Workers' Hospital and his physician, arguing that their delay in treatment of a vascular injury led to the amputation. His subsequent treating physician, the doctor who performed the amputation surgery, testified in a discovery deposition that earlier recognition of the vascular injury would have spared the plaintiff the amputation. After the deposition, however, the defense attorney improperly communicated with the physician and told the doctor what the defendant's theory of defense was and supplied the witness with the defendant's expert deposition. This conduct occurred four years after the Petrillo Opinion. Not surprisingly, when the witness testified at the trial, he changed his opinion and said that earlier treatment would not have made any difference. The appellate court sanctioned the defense attorney and barred the witness from testifying at trial, but the damage had been done. Plaintiff's treating doctor had been turned against his patient, and the patient's lawsuit was lost. This case reminds us that the defense bar continues to abuse this Rule. If this provision of House Bill 20 passes, one can surely predict that many other treating physicians will be corrupted by private conversations with their patient's adversary. This would represent a decidedly unfair, improper and unethical change in the handling of actions against health care professionals, and I would urge a vote against House Bill 20. Thank you, Mr. President.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Cullerton.

SENATOR CULLERTON:

Thank you, Mr. President, Members of the Senate. The centerpiece of this so-called tort reform legislation is a five-hundred-thousand-dollar limit on a injured persons recovery for pain, suffering, disability, disfigurement, and loss of society of a loved one in a wrongful death case. These elements

of damage have been dubbed "noneconomic damages". So under the law, which has been in place for hundreds of years, these are no less important than economic damages, such as medical expenses and lost wages. But the bill, with its caps on noneconomic damages, provides for full recovery of the money that an injured person loses but puts a limit of five hundred thousand dollars on the amount a person can recover for the suffering he endures. This is completely arbitrary limit on what it means to be blinded, to have a severed spinal cord or to be a child born with brain damage that will never see, or hear, or have intellectual functioning above that of a one-year-old. In short, this bill allows full compensation for the loss of the ability to work but limits compensation for loss of the ability to walk. A majority of state supreme courts, including our own Illinois Supreme Court, hold that statutes limiting jury damages' awards are unconstitutional. The General Assembly has already passed caps. In 1976, the Supreme Court of Illinois, in the case of Wright versus Central DuPage Hospital, held that a statute limiting recovery in medical malpractice cases of five hundred thousand dollars was arbitrary and constituted a special law in violation of Article IV, Section 13, and that Section states: "The General Assembly shall pass no special or local law when a general law is or can be made applicable." In that case, the General Assembly passed a provision which said the maximum recovery on account of injuries by reason of medical, hospital or other healing art malpractice shall be five hundred thousand dollars. Proponents then, as now, asserted that the cap was imposed because of an insurance crisis and the ever-increasing number of medical malpractice claims. The court found that such a provision was unfair to seriously injured victims of medical malpractice because the burden of the legislative effort fell exclusively on those most unfortunate victims who needed financial protection the most. The cap we're

voting on today is no different than the cap the Supreme Court struck down in 1976. It's special legislation. It only affects cases involving bodily injury, death or physical damage to property based on negligence or product liability. No other types of cases are singled out here, and this singling out indicates that this class is somehow not as important or is worth less than a breach-of-contract case, or a commercial case, or any other class of cases that are not subject to an arbitrary cap. Statutes limiting noneconomic damages also violate the equal protection provisions of the Illinois and Federal Constitution, because the effect of these laws is to unfairly discriminate against those victims that are the most seriously injured by the negligence of another. At the Constitutional Convention in 1970, Article I, Section 2 of our Constitution advanced the concept of fairness and prohibited laws that would inhibit the freedom of citizens based on some unreasonable categorization. That Section states that no person shall be deprived of life, or liberty, or property without due process of law or be denied the equal protection of the laws. Before the Constitutional Convention of 1970, the Illinois Constitution had no such provision. During debate, they explained that this concept of fairness, equivalent to the equal protection in the Federal Constitution, ought to be included in the Illinois Constitution. Objective evidence and common sense indicates that a statute limiting noneconomic damages will have a disproportionate impact on our most vulnerable citizens: children, the disabled, homemakers, and pregnant women - just to name a few. These citizens are entitled to equal protection under the law. The kind of cases which moves juries to award over a half a million dollars all involve horrible injuries, such as death, brain damage, spinal cord injuries, amputation, severe burns and trauma causing permanent injuries. Caps will not affect injured persons who have injuries which do not result in serious

permanent injury. Those kind of cases command settlement and jury awards much less than five hundred thousand dollars and would never be affected by the cap. The people, and the only people, who will be affected by caps on recovery are the people who suffer the most serious injuries. These are the people whose injuries are profound, permanent and either literally take the -- their life or obliterate their ability to live as they had before. And if that's not bad enough, the caps will have a disproportionate affect on anyone who doesn't work, who makes a lower salary, such as women and children. Recovery for economic damages is not capped. Of course, any recovery for past medical expenses, by the way, goes to the -- not to the plaintiff, but to the health insurance company that paid the medical bills in the first place. If a person's thirty-five years old and they're blinded by negligence, if that person was not working before the injury, the most he will get beyond past and future medical expenses is this five-hundred-thousand-dollar limit for his pain and his disability; however, a person with the very same injury, who is employed, will be able to recover his lost future earnings, which could be in the millions. In short, the award for lost earnings is full and fair; the award for disability and disfigurement is not. The legislation does not further a legitimate State interest. It deprives the most deserving victims of due process. There's another constitutional Section which is violated. Section 12, Article I of the Illinois Constitution says that every person shall find a certain remedy in the laws for all injuries and wrongs which are received to his person, privacy, property or reputation. He shall obtain justice by law, freely, completely, and promptly. This Section provides that an injured party will receive a complete remedy for all injuries. A statute arbitrarily limiting the amount of compensation an injured party may recover obviously violates the injured party's right to a full and

complete recovery. If a person is a victim, they receive a jury verdict for a hundred or -- or a million dollars for a noneconomic damage, they have not received a constitutional redress of those injuries if the General Assembly - we - tell the jury that the recovery has to be only five hundred thousand. If we can constitutionally cap the recovery at five hundred thousand, there's no reason why it couldn't cap the recovery at some other figure. We could pick a hundred thousand, or a thousand, or a dollar. This legislation does not provide an alternative remedy for -- or commiserate benefit. In essence, it limits an award -- the limits on award take away a constitutional right from a plaintiff without giving him anything back in return. It violates a victim's rights to open courts and to access to the courts. It also affects the right to a trial by jury. Article I, Section 13 of the Illinois Constitution provides the right of trial by jury as heretofore enjoyed shall remain inviolate. The 1970 Constitutional Convention delegates that drafted this provision intended strict adherence to the language, as proven by the many amendments which failed because of the fear that the amendments might weaken or take away the right to a trial by jury in civil and criminal cases. Currently in Illinois, a civil plaintiff has the opportunity and right to have their claim heard by a jury of his peers. This is the only country in the world that affords such a right in civil cases, if the plaintiff so desires. Once the claims of the plaintiff have been tried, the jury, as it sees fit, will award damages to the plaintiff on a case-by-case basis. Illinois has always relied upon the abilities of its citizen jurors and the judiciary with the power of remittitur, which allows the judge to reduce awards to fairly and accurately assure the fairness of jury awards. So a statute capping noneconomic damages violates the historical right to trial by jury by placing an arbitrary and unreasonable limit on the amount of damages a

jury may award. Such a statute invades the province of the jury. If you have a seven-year-old child who's in an automobile crash caused by a careless truck driver or a drunk driver, an explosion occurs, the child suffers third-degree burns over eighty percent of her body and then is hospitalized and endures treatment for burns for six months and then dies of complications, if this were your child, would you choose to decide what -- who would you choose to decide what award was reasonable? Should it be the special interests that are pushing this bill or an American jury? It violates the Constitution in other respects. I will just briefly list them, along with the factual violation. It violates Article I, Section 18, by denying equal protection of the laws on account of gender. It violates Article II, Section 1 and 6 <sic> -- Sections 1, 9 and 16 where the legislative and executive branches are entitled to exercising powers properly belonging to the judicial branch and Article I, Section 6, by invading the privacy, once secured, by the patient privilege -- physician privilege. But there's one other Section in this bill -- if you're not on the Judiciary Committee, maybe you're not aware of it. I want to bring it to your attention because this is important, and I think it's something which we should probably address later on in the Session. There's a provision in this bill that was slipped into the bill over in the House that protects negligent lawyers - not negligent doctors. In 1990, I was the House sponsor of a bill that allowed for a statute of limitation for lawyers. I thought it was fair. There was no limitation before that, and we said that you must sue your negligent lawyer two years after you knew or you should have known that an injury took place, but in either case, no -- no longer than six years. After six years, you're out. But we said there should be one exception: If a lawyer drafts a will negligently, if he messes up, the injury doesn't occur until after that client of that

lawyer dies, and then it's the heirs, who -- who should have got something under the will but who didn't, who are the victims. You know, the will is put in a safety deposit box, and the future injured parties don't even have the right to know what's in there. This bill that we're voting on changes that law. It takes that exception for wills out, so that now, six years after a will has been drafted, that's it. Even if it was done negligently, you cannot bring a lawsuit against that lawyer. So if your will gives all your money to your daughter who loved you and who stood by you and nursed you in ill health and nothing to the daughter who abandoned you and left you, after you die, sure enough they both show up; the will, as long as it's over six years old, the bad daughter will get half of your money, even though you intended her to get nothing. Now why do some lawyers want to change this? I suspect that it has something do with lawyers' malpractice insurance premiums. We all pay it. All of us lawyers pay malpractice insurance premiums. But if we can pass a law that lets negligent lawyers off the hook, then maybe our premiums might go down. But in the meantime, somebody in your district may find out that instead of the kids inheriting the farm, it all goes to somebody else because some negligent lawyer messed up. And by you voting for this bill, you're taking away their right to sue that lawyer for negligence. Now we tried to amend this Section out in the Judiciary Committee. I offered an amendment to do so. But that would have required if we had passed the amendment, that the bill would go back to the House of Representatives, and maybe some State Representative who was over there, who once was with the doctors, then he switched to the lawyers, then he switched back to the doctors might switch back to the lawyers again. We wouldn't want to have that to happen. So we'll take care of it by filing a trailer bill. So we're going to vote on a trailer bill to follow this. The only thing I can tell you is, though, that this Section

is in here as part of a deal. Somebody made a deal in the House: "Put this Section in, and I'll vote for the bill." So I don't think we can guarantee by passing a bill out of the Senate that a trailer bill is going to be part -- is going to pass over in the House. I truly believe that this bill will be found unconstitutional and we will then again be back here talking about these issues. When we come back, I've got an idea. Instead of having the trial lawyers and the doctors and the business interests, who spend so much money on our campaigns writing this bill, why don't we do something novel? Why don't we have some of us - the legislators - sit down and negotiate and regain the power that the people who voted for us thought that we had. Thank you.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Bowles.

SENATOR BOWLES:

Thank you, Mr. President and Ladies and Gentlemen of the Senate. The current civil justice system consistently and fairly compensates injury victims as determined by the facts and evidence of each case, rather than utilizing an unreasonable and arbitrary predetermination. The Illinois civil justice system, through its citizen jurors, and the judicial branch, with its use of its power of remittitur when necessary, fairly and accurately assures the fairness of jury awards. The available evidence shows that in recent years there has been no significant increase in the average size of the verdicts nor has their been any significant increase in the percentage of verdicts for injured citizens; therefore, there is no plausible reason to suggest that the juries in Illinois are out of control or that the civil justice system is in need of drastic change. An American College of Physicians' study concluded that inappropriate and unjustified malpractice awards are uncommon and that the degree of physician negligence, not the degree of patient injury, was most closely correlated to the size

of the awards. The existing public policy in Illinois is that liability for damages shall be based on fault and that where proven, that wrongdoers shall be held fully accountable for all harms caused. An innocent plaintiff should not be required to bear the risk of non-collection when one or more of the wrongdoers is unable to pay its proportionate share of the damages. The burden of the shortfall in collection has been placed on the wrongdoers in Illinois common law for more than one century. Illinois common law has always recognized that noneconomic losses are no less important than out-of-pocket expenses. It has always been the public policy of the State of Illinois that an injured party is entitled to fair and complete compensation for all losses suffered by the wrongful act of another, including noneconomic losses. The consistent application of existing jurisprudence provides individualized, fair and complete damage awards which are just and benefit all parties and society. There is more than a century of jurisprudence in Illinois for courts to rely upon in assessing and reviewing noneconomic damages. Noneconomic damages are individualized and depend entirely on the facts and evidence presented to a trier-of-fact trial subject to trial: the appellate and the supreme court review. The judicial branch is empowered, too, and is perfectly capable of monitoring and controlling jury verdicts which may be perceived as excessive. Medical malpractice continues to be a significant factor in producing injury and death because the medical profession fails to ensure quality medical care. Medical malpractice claims more lives than motor vehicle accidents, falls, drownings, fires, choking, firearms and poisons combined. According to a Harvard research team, medical malpractice claims over eighty thousand American lives each year. A study of over twenty-five thousand medical malpractice cases filed in Cook County over a fourteen-year period found that two percent of the physicians were

defendants in thirty-six percent of the medical negligent litigation; yet, only fourteen doctors' licenses were revoked or suspended by the State for malpractice or incompetence from January 1974 to September 1986. Americans are more than twice as likely to die at the hands of a negligent doctor as an automobile crash. According to Doctor Arnold Relman, editor in chief emeritus of the New England Journal of Medicine, twenty thousand physicians, for one reason or another, probably ought not to be practicing medicine. They are either alcoholics, drug addicts, senile, criminals or simply incompetent physicians. The advantage of the tort system is that it provides a continual, ongoing system of regulation by incentives, and it does not rely on enforcement by the medical profession, which like any other profession, is notoriously reluctant to police its own members. It is sad but true that many physicians practice more carefully than they did in the past because they have an eye on the potential litigant. If the courts and insurance companies, in the fear of malpractice, become the most important disciplinary weapon in medicine, distasteful as the idea may be to physicians, so be it. The judiciary balances the rights of injured persons and legitimate protections for wrongdoers with the goal of achieving justice in every case. The majority of states, including Iowa and Kentucky, which border Illinois, do not impose arbitrary and unreasonable limits on noneconomic damages. There is no scientific basis for concluding that damages for pain, suffering, disability, disfigurement, loss of society, loss of consortium of the injured party are any more difficult for the jury to determine than those for economic loss. Tort cases comprise a small fraction of all the civil cases filed in Illinois. Business contract disputes outnumber personal injury suits by more than seven to one, according to data in the annual report of the Administrative Office of the Illinois Court of 1992. Only five percent of the

civil cases are tort cases. Business litigation, often businesses suing other businesses, and not injured people suing for damages in tort, comprises one of the fastest-growing segments of civil case filings. In fact, contract disputes account for fifty percent of all civil cases filed annually in the federal courts between 1985 and 1991. No proponent of civil justice reform has ever suggested that limits of any kind of that kind of case that have truly multiplied in recent years: business suing business. Thank you.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Shadid.

SENATOR SHADID:

Thank you, Mr. President, fellow Members of the Senate. The available objective evidence clearly demonstrates that the number of tort filings in Illinois has decreased in the last eight years, particularly in the areas of medical malpractice and product liability. This reduction in filings demonstrate that there is no crisis in the civil justice system relating to tort cases requiring massive restrictions in the tort system. Products liability and medical malpractice lawsuits account for a miniscule one-tenth of one percent of all lawsuits filed in Illinois. The number of product liability lawsuits filed annually has declined, by over half, over the past decade. Less than one percent of all lawsuits filed in Illinois deal with product liability. In 1987, there was one malpractice lawsuit per ten thousand hospital visits. In 1993, there was still one lawsuit per ten thousand hospital visits. Medical malpractice lawsuits make up a tiny share of all civil lawsuits filed in Illinois. Less than one percent of all lawsuits filed deal with medical malpractice. The number of product liability suits has steadily decreased since 1989, from one thousand three hundred and fifty-one in 1989 to seven hundred and seventy-nine lawsuits in 1993. According to

studies by the Rand Corporation, less than one percent of all manufacturing concerns in the United States have any involvement at all in product liability litigation. The Rand Corporation also found that about one percent of sales revenue is absorbed by product liability costs. The evidence shows that the total direct costs of the malpractice system represents less than one percent of the overall health care costs in the United States. The total amount of all liability premiums paid in the -- in the United States represents less than one percent of U.S. health care costs. A great number of physicians receive payments and profits for -- for patient referral and procedures. One recent study concluded that physician self-referral may cost Americans forty billion dollars each year in fees for needless and excessive medical treatment. A 1994 landmark study, by the Congressional Office of Technology Assessment, on defensive medicine, the most comprehensive analysis of the issue to date, concludes that a small percentage of diagnostic procedures are only ordered primarily because of conscious concerns about malpractice liability. The total direct costs of the medical malpractice system in its entirety represents less than one percent of overall U.S. health care costs. The OTA also concluded that most malpractice reforms are unlikely to have much affect on defensive medicine. There is no lack of available liability coverage for products and services in the present market, nor has there been such an availability problem in the last ten years. There is no evidence of vastly increased insurance premiums and no evidence to suggest that there's any insurance crisis in Illinois. Since 1990, the share of Illinois output devoted to liability insurance has declined nine percent. Illinois ranks at the median of industrial states and had the second largest decline. For insurers, Illinois is far and away the most profitable state in which to write liability policies. These lines of insurance

generated eight hundred and thirty-seven million dollars in profits in 1992, one-third higher than the second most profitable state, Massachusetts. A survey of U.S. business cities in Best's Review ranked Chicago tops in the nation for insurer headquarters, noting Illinois is an insurance-friendly state and was, in fact, rated by survey participants as having the best regulatory environment for insurance companies. Insurers in Illinois took combined profits of eight hundred and thirty-seven million dollars, an average of twenty-two cents of every dollar in premiums. Medical malpractice insurance is the most profitable type of insurance for an insurer to sell, and rates have not decreased due to enactment of caps. In both Indiana and Illinois, medical malpractice is the single most profitable line of property casualty insurance when measured as a percent of premium over the period from 1985 to 1992. In Illinois, medical malpractice insurance earned an aggregate profit of 22.6 -- of premium versus the profits earned in all property casualty insurance of eleven percent. Indiana's medical malpractice insurers earned aggregate profits of forty-eight and a half percent of premium, compared to 3.6 percent in all lines. Indiana's profit was twice -- twice the rate of Illinois. The national -- the National Insurance Consumer Organization in 1993 found that between 1985 and 1991, the average return on net worth, i.e., profits after dividends, for writers of medical malpractice insurance, nationally, has been 14.4 percent. In 1986, Florida passed a number of changes to the tort system. St. Paul Insurance reviewed the tort changes and their potential affect on its medical professional liability experience. Its review is based on a study of over three hundred Florida closed claims. The total effect of the bill based on this evaluation was very small. The conclusion of the study is that the noneconomic cap of four hundred and fifty thousand dollars, joint and several liability on the noneconomic damages, and mandatory structured

settlements on losses above two hundred and fifty thousand will produce little or no savings to the tort system as it pertains to malpractice -- medical malpractice. The GAO estimates that from 1975 to 1985, the medical malpractice industry did not suffer the six-hundred-and-fifty-three-million-dollar loss that it claimed, but rather, made a profit of 2.2 billion dollars. Huge medical malpractice insurance rate increases of fifteen to fifty percent has occurred in many states enacting the caps. Thank you very much.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Jones.

SENATOR JONES:

Thank you, Mr. President. We've heard quite a bit of talk about House Bill 20, that it's on the fast track and what it's going to do for the people of Illinois, but let me tell you what the "Wrongdoer Protection Act" will not do for the people of Illinois. Automobile insurance premiums will not decrease. Product liability insurance premiums will not decrease. Medical malpractice insurance premiums will not decrease. Homeowners' insurance premiums will not decrease. Consumer prices will not decrease. Health care costs will not decrease. Health care availability will not improve. The number of health care providers in Illinois will not increase. Taxes, definitely, will not decrease. The cost of the civil justice system will not decrease. And pre-trial settlements will not increase. Experience has shown that when a wrongdoer calculates the cost of defending an action and paying any settlements or awards is less than the profit to be made from marketing an unsafe product or engaging in an unsafe practice, the wrongdoer will be more likely to market a -- the unsafe product or engage in unsafe practice. Americans would be much worse off if they were not able to hold wrongdoers accountable. The -- the makers of asbestos certainly

did not voluntarily assume responsibility for the harm that they caused the people. A.H. Robbins Company did not offer to compensate the thousands of women injured by the Dalcon Shield. It is only the civil justice system and punitive damages that have placed accountability where it belongs: at the door of the wrongdoer. Punitive damages have made Americans safer. A manufacturer of a children's pajama, the -- the fabric of which was one hundred percent untreated cotton -- flameless -- stopped making the highly flammable garment in 1980 after a Minnesota -- Minnesota jury ordered the company to pay seven hundred and fifty thousand dollars in compensatory damages and one million dollars in punitive damages to a four-year-old girl who had been badly burned when her pajama's top caught fire. A woman was killed and a child severely burned when a Ford Pinto they were driving exploded into flames after being struck from behind by another car. This lawsuit against Ford established that the Pinto gas tank had been defectively designed and that the -- and that Ford had been aware of the danger, but choosed <sic> not to redesign car, in order to save money. In fact, the Ford Company did a cost-benefit analysis, weighing the costs of correcting the defect against the liability resulting from deaths or injured expected to be caused by the defect and determined that it would be cheaper - cheaper - not to -- to correct that defect. According to the -- the National Highway Safety Administration, that defect caused at least twenty-seven deaths, twenty-four serious burn injuries. Testimony during the trial revealed that the gas tank could have been -- could have made a significant safer at a cost of only eleven dollars per car. The jury awarded that child -- the child three million dollars in compensatory damages and because of the outrageous, calculated, callous disregard for life demonstrated by Ford, also awarded punitive damages. In reaction to this and similar lawsuits, Ford finally recalled the Pinto. Per -- per

capita health costs have grown slower in Illinois than in most states have with the imposed caps that -- such as in this bill. Indiana health care spending per capita grew at a rate of twenty percent faster than -- than in Illinois. As a percentage of households' income, health care costs grew almost twice as fast in Indiana - a state that has caps - than in Illinois. Between 1980 and 1991 Illinois saw the slowest growth of aggregate health care spending of all the fifty states, including the District of Columbia. Health care availability problems, if they exist, are due to factors unrelated to the tort system. States with caps saw a bigger decline in doctors' growth than states without caps between the years 1991 -- late 1981 and 1991. Caps do not help the medically underserved areas. In 1986, the states that imposed caps on injured victims averaged .033 percent of that population in counties without an active physician in patient care. By 1991, that number jumped to 1.24 percent. Objective studies show -- show that the Illinois economy is growing at a faster rate than the nation as a whole. Additionally, unemployment in Illinois is below the national average. Construction is growing at a -- seven times the national rate, and large employers continue to invest in Illinois. Just ask the Governor, in his State of the State Address. Monthly exports totaled from Illinois set a record in March and June last year. Exports are nineteen percent higher than last year's level. The Illinois economy galloped ahead of -- in -- in September, passing the high-growth rate of summer months to post the best monthly gains in business activity in seven years. The gross State product, the measure of economic output, grew at a solid 3.1 percent in 1993, ahead of the national average. Analysts predict that in 1994, we will see even a higher growth. Very good economy in Illinois. Retail sales in the first quarter were up 4.6 percent over the same period a year ago, and analysts predict that Illinois retail sales will continue to grow

ahead of the national average in the next few years. The Chicago Purchase -- Purchasing Managers Index rose from 63.3 percent to 61.6 percent in August, rating above the fifty, indicating industrial expansion. The Chicago Consumer Price Index grew at an annualized rate of 1.7 percent in the second quarter, far behind the national average of 2.4. The Department of Employment Security reports an increase of ninety-one thousand six hundred and fifty in payroll jobs since the start of 1994. Service sector jobs growth was healthier in states without caps. Manufacturing employment, likewise, saw no significant changes in most states that put barriers on injured people's access to the courtroom. Business leaders have acknowledged that U.S. liability laws provide an innovative incentive by encouraging U.S. businesses to develop safer, more reliable and more competitive products. Nor is business location within the State largely dependent on the concerns about liability. A 1993 survey of business -- businesses in New York State conducted by the National Federation of Independent Businesses found that taxes was the most important factor in the choice of business location. Similarly, according to Forbes magazine, recently feature -- feature concerning New York State business environment. It is high taxes that have caused businesses to flee the state. The public believes strongly in preserving the civil justice system and the concept of full compensation for injury -- injuries caused by wrongdoers. In fact, most Illinoisans want the right to file a lawsuit if they or their loved ones are killed or injured by a defective product, drunk driver, or even a bad doctor. Seventy-five percent of Illinois voters said they would file a lawsuit if they or their families were injured. Of the voters who claim to have served on a civil -- civil jury at some time, eighty-two percent affirm their belief that the jury reached a fair conclusion in the case. Damage awards for injuries occurring by wrong -- wrongful conduct

deter future wrongful conduct. The arbitrary restriction on damage awards encourage future carelessness. This Act will require the court to ignore a verdict -- verdict in the amount above the cap, which is supported by evidence, instead enter a judgment for the cap amount. This -- this extraordinary requirement bears no relations to the doctrines or -- remittitur, new trial and judgement notwithstanding the verdict, and it cannot be -- be found upon the court's inherent power over verdicts and judgments. Indeed, there exists no permissible basis for entering a judgment predetermined by the Legislature in place of a judgment on a verdict properly reached by a jury. Limits on economic <sic> damages discriminate against individuals with disabilities in violation of the national mandate of the Americans with Disabilities Act of 1990.

PRESIDING OFFICER: (SENATOR WEAVER)

The Chair would appreciate if the Membership would confine their remarks to the five-minute time limit, without using the clock. Senator Demuzio is recognized.

SENATOR DEMUZIO:

Well, thank you, Mr. President. I didn't think we were operating under that procedure; however, I will attempt to be as brief as possible. Nevertheless, when I received my honorary doctorate of jurisprudence from Lewis and Clark, needless to say several years ago, I had no idea I'd have to summon up all my powers to say what I wanted to within that five minute period. However, Mr. President, there is no scientific objective where empirical studies have shown any economic benefits that follow restrictions on the civil justice jury system. There is no objective evidence to show that the civil justice system which currently exists negatively impacts Illinois job creation, job retention, health care costs, or insurance costs. Ed Murnane, who is the President of the Civil Justice League, acknowledged that

there is no proof that the average consumer would save money as a result of changes in House Bill 20. In states that have implemented tort reform proposals, there is no evidence to suggest that residents are paying less in municipal taxes, doctors' fees or insurance premiums, as quoted in the Chicago Tribune of February 10th of 1995. Caps on jury verdicts have absolutely no affect on health costs or availability, on employment, or on consumer prices. Tort restrictions had absolutely no affect on what consumers paid for goods and services, on where and from whom consumers purchased goods and services, or on what employment opportunities were available. Nowhere was there a positive correlation between the barriers and savings. This is not -- there is not a shred of evidence that tort restrictions benefit consumers. Much of the care that is commonly dubbed "defensive medicine" would probably still be provided for reasons other than concerns about malpractice. Physicians have always sought to provide patients with the best possible medical care at the lowest risk and will continue to do so, even without the threat of lawsuits. Because much of this defensive care helps to reduce the uncertainty of medical diagnosis, it seems unlikely that physicians would change their practice patterns primatically in response to -- to malpractice reform. Although higher medical malpractice costs have been blamed for increasing the nation's health care bill, they do not appear to account for much of the increase. In 1987, the Insurance Service Office, an office in the insurance agencies' rate-making agency, conducted a survey of twelve hundred and sixty-two insurance adjusters from nine insurers in twenty-four states, including fifteen states that had already imposed barriers on victims. The survey concluded that tort restrictions would have no affect on rates. Available evidence shows that in these states that limit noneconomic damages, employment, health care costs, availability of health

care and the cost to the consumer do not improve. In the case of Indiana, a bordering state to Illinois which has had caps on noneconomic damages for twenty years, employment, health care costs, availability of health care and the cost of consumer goods are worse than they are here in the State of Illinois. Indiana's health care spending per capita in the area of health care grew at a rate of twenty percent faster than here in Illinois. Indiana's spending on physician services per capita grew at a rate of seventeen percent faster than Illinois. Indiana now spends more for doctor services per capita than we do here in our State. There are no objective studies to indicate that limits on noneconomic damages will improve health care in rural Illinois. No state that has imposed restrictions on jury verdicts has seen an improvement in rural health care availability. Missouri led the nation in population living in countries <sic> without a practicing doctor the year before it imposed caps on jury verdicts. Today, almost a decade later, Missouri continues to lead the nation in population in counties without a practicing doctor. Of the forty-five counties in Illinois with ten or fewer doctors during the eleven-year period that was studied, almost half, or forty-four percent, had not had any medical malpractice suits filed in the eleven years from 1980 through 1990. More than three-fourths of the counties had not had any lawsuits filed which resulted in cash settlements on payments to the plaintiffs. Of the twenty-five counties with at least one malpractice lawsuit, fourteen either experienced no change in the number of physicians practicing in that county or actually gained additional physicians. The cap on noneconomic damages will deny injured persons recovery for their full economic losses. Capping noneconomic damages will discourage settlements since the defendants will have little incentive to settle even the most catastrophic cases. David Pritchard, a defense attorney, said -

and I quote: Every plaintiffs' attorney who knows what they are doing knows why we try ten times as many cases if the caps were approved. When an injured plaintiff is unable to collect all of his or her damages through the tort system, that person will become a burden to the taxpayers of the State of Illinois. While tort restrictions will not unclog the courts, they will insulate wrongdoers from the costs of their recklessness, which is certainly the Civil Justice League's actual goal. This will shift the burden of paying for catastrophic injuries away from the negligent parties and onto injured people, and also to the public welfare system, a substantial increase in the tax burden for the people of our State. Because of these above conditions, there is no reason to invade or to usurp the powers that have been entrusted to the citizens, the jurors and the judicial branch of this State because of the following reasons: Fault remains the basis of tort liability; injured persons should be entrusted that they will continue to be fully and fairly compensated for all their -- all their losses legally caused by the wrongdoer; the judicial system does and will continue to guarantee that adequate parameters exist for the review of noneconomic and punitive damages; House Bill 20 will increase the costs of the tort system because it will discourage the settlement of meritorious claims; the present system strikes a fair balance between the rights of injured persons and the protections afforded to wrongdoers; and finally, the present system provides an appropriate incentive for a potential wrongdoer to act safely and reasonably for the protection of Illinois' citizens from injury and from death. Thank you, Mr. President.

PRESIDING OFFICER: (SENATOR WEAVER)

Seven minutes, Senator Demuzio. Further discussion? Senator Farley.

SENATOR FARLEY:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. This bill contains a repeal of the Roadworkers' Safety Act. The title of this Act says that it is an Act to protect workers and the general public from injury or death during construction or repair of bridges and highways within the State of Illinois. This bill was passed in 1959 by a vote of one hundred and thirty-nine to zero in the House, and fifty-five to zero in the Senate. The Act prescribes that two flagmen be required where one-way traffic is utilized. It sets out safety standards, requires drivers to obey the flagman and sets out penalties for violations of this Act. In 1993, according to DOT statistics, there were eight -- eight thousand five hundred and ninety-nine construction work zone crashes with thirty-one fatalities and three thousand nine hundred injuries. If we repeal this Act, what will take place to ensure flagmen of safety standards and road and bridge construction in this State? And if the problem is the additional right of action, we should just delete that provision, rather than repealing this whole Safety Act. Thank you, Mr. President.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Smith.

SENATOR SMITH:

Thank you, Mr. President and Ladies and Gentlemen of the Senate. I'm delighted to have this privilege to speak. I didn't think I was going to have it. But while sitting here, my secretary brought me a lot of letters. And, as you know, I'm always for the under. As they use the vernacular on the street, if I might use it on this Floor. The underdog, as they call it, the person who has been injured, that is my forte. I have many professional people in my district, but I want to just say something ornery in behalf of those who cannot be here to speak for themselves, but they have been in my office. And I merely want to say to our Body, that any cap decided by the Legislature

is the product of the worst sort of arrogance. This is necessarily true, because imposing caps implicitly presumes that twelve citizens are not quite as smart as the politicians and are not unable <sic> to exercise sound judgment though <sic> their collective experience to determine the degree in which another one's individual or entity is responsible for harming another. If these historical trends teach us anything, it is likely that the five hundred thousand dollars, which is to be collectively garnered from a jury for - and I quote - "loss of a normal life, pain and suffering and disability", will not be reflective of the actual amount received or needed by the injured party. Not by a long shot. Perversely, the reforms that are being offered are not true reform in any meaningful sense of the word. For an example, if one is truly interested in reforms, he must acknowledge and attempt to change the most inefficient and irrational imposition on our civil justice system which may arise from both the plaintiff's and the defendant's side. Similarly, if reform is intended to reduce health care costs, why is it that the Legislature's so -- strangely silent on advancing in any additional proposals, however modest, which would begin to even address the ever-spiraling medical health care costs in this country? The answer is too obvious for the rejoinder: No one is advancing these current reforms is interested in the real, true reforms. Arbitrarily, restrictions upon the people participation within our civil justice system is also fundamentally contrary to the notion of the smaller government - the rallying cry of the proponents of this legislation - indeed as currently crafted, the tort reform being advanced, are also a real and irrevocable threat to constitutional government, large or small as we know it. I am wholeheartedly appealing to this legislative Body that we rethink our trend and do not pass this tort reform. It's not just the professional people that we are seeking to help, but people who

have been maimed for the rest of their lives and cannot do anything about it but depend upon us. Thank you and God bless you.

PRESIDING OFFICER: (SENATOR WEAVER)

Senator Dunn, for a second time.

SENATOR T. DUNN:

Thank you, Mr. President. I do not rise to speak to the issues of House Bill 20. I do rise, however, to say to the Body that we have offered to shorten the process here today a little bit by providing our own documents and transcript of what we've said to the President. And in looking at the -- the Constitution, Article IV, Section 7(b) and (c) provide that each Body of the House and the Senate shall have transcripts and further that each Body has the ability to subpoena records and books. So, in -- in light of that authority that we do have the power to produce books, records and papers, I would direct one of our staff to present to Secretary Harry the document that -- that we would normally read into the record, but in order to save time, we would -- we would offer it. Whether you obviously choose to accept it is up to you. But in an effort to shorten the -- the time span, that's -- that's our offer.

PRESIDING OFFICER: (SENATOR WEAVER)

Well, Senator Dunn, we have never made part of the transcript written material. Only oral testimony from the Membership. Senator Fitzgerald.

SENATOR FITZGERALD:

Thank you, Mr. President. Ladies and Gentlemen of the Senate, what we've heard so far has been a shotgun approach to this bill. The Members on the other side of the aisle have read into the record prepared remarks and have tried to throw something out there to set this bill up for a constitutional challenge in the Supreme Court. And what I'd like to do is to address some of the

objections that they have raised and try and give you the rational basis for them. Senator Dunn, you had a very interesting concept when you started out, and I think it was picked up by Senator Cullerton. You talked about the rules that existed in common law, at common law in England before the adoption of the United States Constitution, and tried to suggest that the cap on noneconomic damages in this bill was somehow a violation of that constitutional right to trial by jury as it existed at common law. And I thought about that, and I said: You know, that's an interesting proposition, because if we wanted to really make a strong tort reform bill, maybe we should go back to the rules that existed at common law in England before the Constitution was adopted. Because there were a lot of rules then that provided protection for defendants that no longer exist. And when those protections were gradually obliterated over the last, oh, maybe a hundred or so years, I didn't hear the plaintiffs' bar complaining. There is a stronger assumption of risk doctrine. There is contributory negligence. It was possible for one at common law to contractually limit one's liability. There was a privity requirement. There were much tougher causation requirements to show that a defendant caused an injury. There weren't as many categories of damages. There weren't as many causes of action. And, in fact, I think they had the English rule even back then, where the loser had to pay the other side's attorney's fees. So if you folks on the other side of the aisle and the plaintiffs' bar are really sincere about going back to the good old days, maybe after we pass House Bill 20 up to the Governor, we can sit down, Senator Dunn and Senator Cullerton, and negotiate going back to those rules, because that would be much better, stronger tort reform than we are now presenting here. And, in fact, I've done a little research on this issue, and I have asked the other side to produce a case from the old common

law, prior to the adoption of our Constitution, in which it can clearly be shown that noneconomic damages were awarded at common law. And the cases in those days didn't really break things down as well as they do now, but it just so happens that my research - and this is my own research - I find the first British common law case awarding noneconomic damages clearly - clearly awarding them - is about -- came from about 1832, long after our Constitution was adopted. And I understand that in Illinois one of the first cases was the late 1800s. So let's not come up with this tendentious argument that somehow there is this right to this vague category of damages at common law. That is not at all clear. But in any case, assuming for the sake or argument that there is some validity to Senator Dunn or Senator Cullerton's statements, what is the quid pro quo? What is society getting in return for the cap on noneconomic damages? We have a rational belief that we will further a legitimate State interest in creating jobs, in retaining jobs, in promoting the affordability and availability of health care in Illinois, of lowering consumer prices, of lowering municipal taxes and of affording some predictability and stability for our economy. We will make Illinois more competitive, we believe, in the state and national economy. I was reading last night - and it's very fortuitous that I was - reading the Chicago Lawyer magazine, from March 1995. That's this month's edition. And they interviewed in this magazine several plaintiffs' personal injury attorneys and asked what they thought of noneconomic damages and the cap. And on page nineteen of that issue, there's a quote from a plaintiff's attorney, Neil Zazove, Z-A-Z-O-V-E, of Zazove and Associates. And I -- this is a direct quote: "When you go before a jury you say, 'I can't quantify pain and suffering,' and then you quantify it. Is it a bizarre system? Yeah." That's a plaintiff's personal injury attorney. And the point about noneconomic damages is just that, what Mr. Zazove

said: They are not capable of being quantified, at least not in monetary terms. And we in this Legislature, after reviewing all the available data, after reviewing the evidence in the other states - the many other states - that have caps on noneconomic damages, after reviewing the large body of scholarly literature which calls into question the propriety and appropriateness and the legitimacy of the entire category of noneconomic damages, and we have determined that a five-hundred-thousand-dollar cap indexed for inflation is an amount which at one time would recognize that noneconomic losses can be real, that they are real losses, but at the same time says that those losses do not have a monetary dimension and that a -- as a matter of public policy, we in the Legislature are not going to allow awards of more than five hundred thousand dollars in noneconomic damages, because beyond that point, you start to get the type of economic instability and destabilization that we in the Legislature are saying, as a matter of public policy, we do not want to have in Illinois. You called into question on the other side whether we have faith in the jury. We have faith in the jury system, and juries do an excellent job in individual cases in deciding awards. But what juries do not look at is the systemic cost of all the awards in the aggregate because that is not their role. The role in setting the policy in looking at the big picture, that is our unique role in the Legislature and that is what we are doing in imposing the caps. Now, your comments were very interesting for what you did not dwell on, as well as for what you did. Very little was said on the other side of the aisle in defense of the doctrine of joint liability. That is because it's hard to explain to constituents why they should be held liable beyond their proportionate share of fault. Why should they -- their ability to pay determine their liability instead of their degree of fault? What we are saying with this bill, by abolishing the doctrine of joint liability and

creating a pure several liability system in Illinois, is that you will be responsible for the harm you cause; you will not responsible for the harm that someone else causes.

PRESIDING OFFICER: (SENATOR WEAVER)

Senator Fitzgerald, would you try to bring your remarks to a close.

SENATOR FITZGERALD:

Yes, I will. And in the end, abolishing joint and several liability will enhance the deterrent -- deterrent effect of our laws because people will know that they cannot get off from causing an injury because someone else happens to have a deeper pocket. Finally, one more point that I want to bring up about the safety issue. And the point was made on the other side of the aisle that these high noneconomic awards and other awards are actually promoting safety. But, the fact of the matter is, there's serious question after a certain point when you add so much to the cost of a new car or a new airplane. And I am told now that new small airplanes carry as much as a fifty percent premium for product liability insurance, and that because of that, new planes, new cars are not as competitive as they otherwise would be in the market vis-a-vis old planes and old cars. So the system that we have now is actually counterproductive, in the end, when -- when we are forcing people to use older products that are demonstrably less safe. At a certain point, we -- we get a subversion of the deterrent's purpose of tort laws. Ladies and Gentlemen of the Senate, thank you for your patience, and I will defer to my colleagues.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Karpiel.

SENATOR KARPIEL:

Thank you, Mr. President. Some of the opponents to this bill have said that its passage hurts women and children more than

others. As a woman and a mother of three daughters, I would like to address this distortion of the truth. This bill does not take away what is already law in this State. The current system of tort law in Illinois is intended to compensate people, all people, including women, for the amount of their loss. Under that law, if two people with similar or identical injuries suffer different levels of injury -- I mean, different levels of loss, they are not entitled to the same compensation. That is present law. Thus, two individuals with similar injuries may recover different awards. And that is due to one person may be earning twenty-five thousand dollars a year, and they will have their economic losses based in part on that lost income, and similarly, the person making fifty thousand dollars a year will have the same system applied to their loss. Under this bill, none of that would change. For women like my daughter Laura, who is employed outside of the home at a very high-paying job, if injured, she would receive higher economic damages than would her husband, if he received an identical injury, because she earns more than he does. For those women who do not work outside the home, like my daughter Lynn, current law would grant her economic damages based on lost services -- her lost services as a homemaker. In fact, a one-and-a-half-million-dollar damage award was recently awarded a homemaker for her economic damages. One and a half million dollars. These homemaker economic damages have been quantified and upheld in court. None of this will change under this bill, and scare tactics should not be used in the public debate on this issue. If I thought that this bill would hurt women, like my three daughters, I certainly wouldn't be standing in support of it. If women's awards for economic damages are lower than men's it is because, on average, they earn less than men. I agree that this should be changed. I'd like to see them earn more, but not through the tort system. Thank you.

PRESIDING OFFICER: (SENATOR WEAVER)

Further discussion? Senator Lauzen.

SENATOR LAUZEN:

Thank you, Mr. President. There's certainly no perfect legislation. There is usually some bad with the good that we vote on. There are many of us who feel that the concept of tort reform is a powerful good, but some of us feel that there are serious flaws in this bill. Senator Cullerton points out an example of overreaching where were provide immunity to estate lawyers. I would offer to cosponsor that portion of any trailer bill that you're referring to. Secondly, caps do provide predictability, and that's a good. If we're wrong in where we place the cap, it would be more prudent to put them at a million dollars, rather than five hundred thousand, but we're beyond that point in today's vote. It's a legitimate question to be asked, "Will our hospitals, doctors, governments decrease their fees to us?" That's an answer that we'll have to see in the market. There is more good than bad in this effort to change the direction of our culture is moving in where, when you slip and fall, the first reaction isn't, "Well, I was really clumsy; I'm going to -- I'm going to be more careful next time," as opposed to, "Well," looking around, saying, "Who am I going to sue?" But may I ask the sponsor to address my major concern in his closing remarks, which is the cap on punitive damages. What would happen in the case of the Pinto case in Illinois under this legislation? Thank you very much.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Barkhausen.

SENATOR BARKHAUSEN:

Thank you, Mr. President and Ladies and Gentlemen of the Senate. If I might start with a general observation and -- and also something of a personal note. As a longtime advocate of tort

reform, mostly a frustrated one, in this Chamber, I would note that for years there has been an attempt in the General Assembly to raise the general question of whether the high costs imposed by some of the rules and procedures of our civil justice system are unduly costly and burdensome to -- to our citizens. And after a long, long period of time in which this issue, I think it's fair to say, is almost one that could not be discussed in this Capitol within polite company, let me just say that it is gratifying, to say the least, that the debate has now been fully engaged. If I may, otherwise, begin with two questions of the bill's sponsor, Senator Dillard.

PRESIDING OFFICER: (SENATOR MAITLAND)

Indicates he will yield, Senator Barkhausen.

SENATOR BARKHAUSEN:

Senator Dillard, for purposes of this Act, does the Legislature intend that a cause of action accrues on the same day that the applicable statute of limitations begins to run?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Dillard.

SENATOR DILLARD:

Yes, it does, Senator Barkhausen. The term "accrues", as used in this Act, is intended to have the same meaning as that term has in Section 13-202 of Chapter 735 - the statute of limitations for personal injury actions. For example, if the date of an automobile accident or the date a person knew or should have known that he has a disease is after the effective date of this Act, then the provisions of the Act would apply to that lawsuit.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Barkhausen.

SENATOR BARKHAUSEN:

And secondly, Illinois has a two-year statute of limitations for personal injury actions. Is it the intent of the Legislature

that any claim that can be filed timely after the second anniversary of the effective date of this Act shall be governed by the provisions of this Act, if applicable?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Dillard.

SENATOR DILLARD:

Yes. The Legislature has determined that both the interests of potential defendants in finality and the interests of the State in protecting the vested rights of its citizens are served by allowing citizens up to two years to investigate and file their claim for damages under now existing rules. Therefore, the provisions of this Act would apply, Senator.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Barkhausen.

SENATOR BARKHAUSEN:

Thank you, Mr. President. If I otherwise might attempt, like my colleagues on this side before me and after me, to -- to respond briefly as I can to some of the lengthy remarks that were made about certain parts of this bill. And the first comments I'd like to make deal with the question of -- of jury instructions and particularly the question of whether it is right for us to be saying, as we do in this legislation, the fact that personal injury damages are -- are tax-free is something that should be included in an instruction, and the fact that there is this cap on noneconomic damages and the fifty percent rule, as it's generally known, should not be matters that are included in instructions to the jury. And first as to the question of -- of the tax impact. It's -- it's certainly fair to say that the role of the jury is to determine facts, in general, and that the role of the court or the judge is to apply the law, and one of the facts that needs to be determined by the jury is the -- of course, the extent of losses, if any, suffered by the injured party. And in determining what

are damages and what it will take to make a plaintiff whole, certainly it's more than relevant to that determination the fact that personal injury damages are tax-free. It should also be said that the fact that personal injury damages are tax-free is -- is not a subject on which any great tax expert will have to be brought forward to testify. The law is very clear on that subject, and I believe it's contained in -- in Internal Revenue Code Section 104(A). Then as to the question of the impact of -- of the fifty-percent rule and the cap on noneconomic damages and whether -- whether it is somehow -- as alleged by the other side, whether it is somehow unfair not to disclose that to the jury in advance. It has been pointed out that there are other matters of this kind, matters of law, not of fact, which are not disclosed to the jury, and one of those, as has been mentioned, is the potential of the court to after the jury's verdict is brought in, the potential of the court to render a judgment NOV, or a judgment notwithstanding the verdict, as it's known. And so in that instance, the jury's deliberations may be of no practical effect and impact because of the court taking it upon itself to enter a judgement NOV. In addition, as has also been mentioned, the court has the power of remittitur, as it's known, the power to reduce an award below the level included in the jury's verdict. And neither of -- just as neither of those potential actions by the court are disclosed in advance to the jury, so it is our belief in these two cases - the fifty-percent rule and the cap on noneconomic damages - that these do not need to be disclosed to the jury and that indeed the jury's fact-finding role can and should best be carried out free from any potential influence of questions of law that could conceivably color the objectivity of the jury's findings. Next, I would like to simply comment that there is, I think at best, great confusion on the other side as to the combined impact of the repeal in this bill of the doctrine of joint liability and

the Kotecki Rule. I would simply note that the -- the real objection here, I think -- and it's a matter of philosophical difference between the two sides as to -- as to whether it's fair and it makes sense to repeal the doctrine of joint liability. But in a -- in a case where there is initially a defendant who is found to be proportionally responsible only for its own fault and there is also an employer, the defendant will pay only its share of proportionate fault, but the plaintiff will also receive, or in many cases have already received, money from the employer under workers' compensation, and the employer would only be able to recover some of what it has paid out or might pay out under workers' compensation, if the employer's -- if the amount of the employer's own proportionate fault is less than -- than what it has paid out under workers' compensation. And to the extent it is less, then the employer would be able to recover that difference. But, otherwise, the employer wouldn't be able to recover anything. There was, in addition, a question raised as to the change in the legislation relating to the timing of filing contribution actions. And again I think the comments here have to do with a difference of opinion as to what best promotes efficiency and economy in the manner in which personal injury litigation is handled. In general, we believe that it makes sense for there to be a determination of what the percentage share of responsibility of various defendants or potential defendants is before contribution actions are brought or need to be brought. And under this system as we propose it, contribution actions, which might otherwise have been filed, they may not be -- they may not even be necessary if, in fact, a defendant or potential defendant is not found to be proportionally liable for any portion of the damages. And so we believe that this change will -- will save money by preventing contribution actions that really don't need to be brought. However, in healing art malpractice cases, there is a concern that

the -- that lengthening the time in which to bring contribution actions will unduly extend the effective statute of limitations or the statute of repose. And finally, Mr. President, many comments have been made on the other side that it -- are really impossible to swallow that somehow the changes in this legislation will have absolutely no impact on consumer costs, taxpayer costs or insurance premiums. With regard to insurance, one doesn't need to be a great lover of insurance companies on the one hand, nor need to be an actuary to recognize that insurance is basically a pass-through mechanism and that the cost of insurance obviously reflects the costs that are incurred by the insurance company in extending the coverage. And to the extent costs are limited either because awards are somewhat limited or, more importantly in this legislation, the costs of actually defending lawsuits are limited, then over a period of time, as this legislation takes effect - and it will be a period of time because of the impact of the effective date - surely the costs of insurance will either come down, on the one hand, or will not increase to anywhere near the extent that it would have otherwise should we not be taking this action. Well, so much for insurance. More importantly what we're talking about here, Ladies and Gentlemen is the cost to consumers and the cost to taxpayers. Can the other side truly say that an award that we heard about in Judiciary Committee - we had the Mayor from Hanover Park who testified in regard to an award of 6.5 million dollars of which six million dollars was for noneconomic damages - can it -- can it truly be said that that award does not have an impact on the taxpayers of Hanover Park?

END OF TAPE

TAPE 3

SENATOR BARKHAUSEN:

Can it truly be said that the awards -- the many awards brought every year against the Chicago Transit Authority - and two years ago, there was one for in excess of twenty-five million dollars, most of which was noneconomic damages - can it truly be said that a fair and reasonable limitation on noneconomic damages will have no impact, no benefit, either for the riders of that system who must pay higher fares in order to pay inordinate costs of noneconomic damages, or for the taxpayers of this State and region who otherwise subsidize mass transit? Can it truly be said...

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Barkhausen, would you bring your remarks to a close, please, sir.

SENATOR BARKHAUSEN:

Can it truly be said that this legislation will have no benefit? Obviously not. It is our function, Mr. President and Ladies and Gentlemen, to balance the interests of injury victims, as we have with those of consumers and taxpayers. We, the sponsors and proponents of this legislation, are firmly convinced that we have done a fair job in this regard, and we ask for your support.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Further discussion? Senator Cronin.

SENATOR CRONIN:

Thank you very much, Mr. President. I, too, would like to offer a couple of brief remarks in regard to six specific areas of the bill. Those provisions include: the affidavit, the certificate of merit, the lawyers' statute of limitations, the local government provision, consumer fraud, and wrongful death. Just briefly in regard to those, and starting with the provision providing that an affidavit must accompany a complaint of medical

malpractice. This specific provision requires the disclosure of the name of the individual who has reviewed the merits of the case. We believe, and the sponsors believe, that this allows for a quicker and more efficient examination by all those parties to the claim. This is not the expert; this is the medical reviewer who attests to the merits of the case. The rationale of this provision is that if the medical reviewer is known by all parties, a determination can be made as to whether or not this is a reputable professional who has -- is within his area of expertise and who has the ability and the knowledge to attest to the merits of the claim. The case can proceed more intelligently, efficiently, and more fairly. We believe that this disclosure requirement permits not only a better evaluation of the case, but we also believe that it's very appropriate, in that the threshold issue in all medical malpractice actions turns on the standard of care. So it's critical that we have someone with some expertise attesting to the merits of the case at time one. Secondly, the certificate of merit provision that accompanies a complaint of product liability. This is an important new provision in the law. It seeks to parallel what has been the current law with respect to medical malpractice actions. Furthermore, this product liability provision of the certificate of merit must be attached to the complaint that states that a qualified expert has examined the product or has examined literature about the product, and that the action has merit. Specifically, the expert's report must contain a determination that the defective condition of the product or the defendant's fault was a proximate cause of the plaintiff's harm, and it goes on to provide for other -- other requirements as well. There are three important points to note with this new provision: Number one, with the certificate that you have, it examined the product -- the certificate that you have examined the product or it examined the literature. This literature's available in trade

journals, technical publications, and so forth. The third important point is that the certificate -- it must certify that the product is not available. Now, this is the third requirement, or third provision, that the certificate can show that the product is not available and that one made a good-faith effort to -- to gain access to the product that is the subject matter of the product's liability claim. Current law requires that a plaintiff's attorney certify that the allegations in any complaint are well-grounded. In fact, this is a standard applied by both State and federal court systems. In product liability cases, in particular in design defect cases, it's virtually impossible for an attorney to certify that a claim is well-grounded in fact, without first obtaining the determination of qualified expert. The lawyers' statute of limitations is an issue that was addressed earlier, particularly by Senator Cullerton. He talked about a two-year Statute that -- a bill -- a current law that provides two years after one knew or should have known, or six years. He suggests that we're letting negligent lawyers off the hook. Our rationale, and our reason, is that we're not letting lawyers off the hook, in fact we're keeping them on the hook for six years. But we're trying to inject a little reasonableness into the -- into this part of the law. Who or why should these lawyers be on the hook literally forever? The law changes; many things can happen over a period of time of generations. We heard some compelling testimony from a Mr. William Peithmann, who happens to be the Chairman of the Estate Planning Section of the Illinois State Bar Association. He talked about the fact that he's a local, relatively small-town, practicing lawyer. A family business - his father was in the business. He illustrated for us that under current law, a will that his father may have drafted years ago may have caused a series of event that result in this gentleman's son, the grandson, who's not even in law school yet,

could be held liable for. We're just trying to inject a little reasonableness into the system. Even criminals have been afforded better protection with statutes of limitations. Next, we have the local government provision. Real quickly, with the proliferation of public service given as a -- as a sentence for those that are convicted of various crimes, we want to provide some measure of protection for local or -- or for government bodies, as well as nonprofit institutions, that enter into agreements to permit these convicted people an opportunity to fulfill their public service sentence, whether they're working at a hospital or they're working at a soup kitchen or they're working with senior citizens. We believe the public policy goal is that these organizations should not be held liable when they are trying to fulfill a public good; that is, help these people provide a service in fulfilling their -- their sentence and also providing some public good. The consumer fraud provision of the Act is -- is something that needs to be addressed. We believe that creative plaintiff's lawyers have tried to use the Consumer Fraud and Deceptive Practices Act <sic> in an unintended way to expand the scope of the Act. We are providing that there shall be an exception included in the law. We are not taking away any tort theories of recovery. Finally, the wrongful death provision is kind of an interesting one and kind of goes in the other direction as far as the reforms are concerned in this bill. We have actually provided that wrongful death recoveries -- or, recoveries in wrongful death actions are now going to be more generous, in that comparative fault is implemented into these wrongful death actions. A wrongful death action, as you know, can only be brought under current law if the decedent had a claim prior to death. And now we're saying that comparative fault principles will be implemented in this system. Mr. President, that's the sum and substance of my remarks, and I urge a favorable vote.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Dillard, to close.

SENATOR DILLARD:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. I certainly thank you for your patience and attentiveness during the debate on what is obviously a very, very major piece of legislation before this Body. Before I close, Mr. President, I do want to just address and clarify a couple of things that were said in debate. First, I want to make sure that everyone understands that the term "accrues" means that the action which gave a right to bring a lawsuit occurred after the effective date of this Act, and therefore, as that term exists in the statute of limitations for personal injury actions, the provisions of this Act would apply to that lawsuit. Let me just for a second point out a couple of things that were brought out in debate on punitive damages. First of all, someone on the other side of the aisle talked about the Dalcon Shield case. That case, as I understand it, was a class action lawsuit that made a number of women receive, as victims, seventy thousand dollars apiece. It was a class action suit. It's different than would come under the Damages Section, under Punitive Damages of our bill, and that company paid out many, many women seventy thousand dollars apiece, and that was a huge award. But I believe that action would not be affected by House Bill 20. The standards in the Punitive Damage Section that set up clear and convincing evidence as a standard of evidence is high -- because we're talking about punishment, like a criminal case. And I want to make it very clear, too, in -- in punitive damage awards, we're not talking about compensating a victim, we are about -- talking about punishing a defendant. That is a very important distinction. So all of those opponents of the bill who argue that somehow a limitation -- a rational limitation on punitive damages negatively impacts any segment of our society,

whether they be women, children, or those who are unemployed for example, really doesn't bear a relationship because punitive damages are to punish the wrongdoing of a defendant, not to compensate a victim. Lastly on punitive damages, we use a terminology called "evil motive" in this bill, and that language comes directly from our Illinois Supreme Court. Moreover, that language has been used in the restatement of torts, one of the major bodies of -- of -- of horn-book law that we in the legal profession follow. Concerning government standards in product liability cases, I want to make it real clear that there is a presumption - a presumption, it can be rebutted - that if a government agency says that the standard that was followed by a manufacturer is proper, that there is a presumption that can be overcome by a plaintiff. It's not definitive; it's not final. And a plaintiff certainly could overcome a government standard. I also want to make it clear concerning the Section of the bill dealing with government standards in products cases, that where we talk about -- where we talk about written warnings. Throughout that Section we used the term "reasonable". We're not about to throw a five- or a six-hundred-page manual at a farmer who may be injured in an implement accident and say, "You're responsible for everything in that six-hundred-page document, and geez, you shouldn't have gotten on that tractor, or you shouldn't have operated that machinery without reading it." And if you read the bill, we used the term "reasonable" throughout that Section of our bill. We've heard a lot of talk about medical records, and that deals with a case called "Petrillo". And it's really not the Petrillo matter that is the problem, it's a number of cases that followed it. But I want to make about three or four points perfectly clear to the Members of this Body. First of all, a physician and patient privilege is statutory. It is created by us; it is not a common-law concern. We can change it because it's

statutory and it comes from the Illinois General Assembly. Existing laws say that physicians now can disclose, and all we're doing - those records - all we're doing is changing the procedure, not the substance in the Petrillo Section of this bill. And importantly, it's the plaintiff who puts the physical or mental condition of themselves into issue when they bring a lawsuit. But there are plenty of protections in this bill, as there are currently in today's law. We don't tinker with confidentiality, and clearly the records must be relevant. Obviously, if a women has an injury to her hand, we're not going to want to see gynelogical <sic> records and all the other hysterical things that have been brought out in debate over this bill over the last couple of months. These are logical changes to the Petrillo Rule, or Petrillo Doctrine, that make cases proceed more quickly and more inexpensively. There are a lot of ridiculous situations that have risen after Petrillo in the way that cases have interpreted, including the fact that some -- in some instances, you cannot even talk to an employee of a clinic or a hospital that you may operate. But I want to make it very clear, the records must -- you have the relevancy, as well as the confidentiality, of these records are not tampered with, and if someone has problems with a record, they can clearly go in under motion practice today, as well as after the effective date of House Bill 20, and have records, if they are not relevant, stricken by a court of law. Senator Lauzen asked me to address the Pinto case. And, Senator, I don't know what an Illinois jury would do today with the facts that they were faced with, and far be it from me to defend Ford Motor Company. But one of the things I've -- I've heard throughout -- throughout not only the debate on this bill, but just in product liability cases and tort reform in general, is that Ford Motor Company wrote a memorandum, and they made a very callous decision that it was cheaper, literally, to have people

injured, or burned, or maimed, than to fix the defect. Well, I have the affidavit of the gentleman that was responsible, or one of a couple of gentlemen at Ford Motor Company, for that particular case, and he says in his affidavit that that report, that -- that -- that often referred to memorandum, that cost-benefit analysis of whether it was cheaper to fix the car or whether it was cheaper, in cold and callous terms, to burn an individual, that report was prepared for the National Transportation Highway Safety Administration in another part of Ford Motor Company. It was not prepared by people who made decisions about whether or not to fix that car, to pull it off. It was not a cost-benefit analysis made by decision-makers. It was made off in another part of Ford Motor Company in response to National Transportation Highway Safety Administration standards, and it is definitely -- it is definitely something different than a real cold, calculated memorandum that said, "Hey, it's cheaper to burn people than to fix the automobile." As responsible legislators, it's our duty to address the problems, I think, of this State, sometimes before they reach an absolute crisis level. I think most public opinion polls show that people who elected us have little confidence, or no confidence, or falling confidence, in the civil justice system to provide justice in a timely manner or in a fair manner. Therefore, I do think that we should place reasonable limits on noneconomic damage awards before the threat of excessive awards causes Illinois to lose job-producing, tax-generation businesses to neighboring states that have adapted more rational tort systems than ours. We should place a reasonable limit on noneconomic damages before the threat of excessive awards causes irreparable harm to the health care system of our State. And we must remove the lottery-type threat of punitive damage awards in order to further the development of new lifesaving drugs and other products which contribute to the health

and well-being of the citizens of our State. Therefore, I think the reforms proposed in this bill are preventative as well as corrective. To close, Mr. President, let me say that we have had, physically, this bill in this Body for two weeks. It has been analyzed. It has been turned over. In committee the other day, we had seventy amendments prepared by the opponents of this bill. That shows me that there has been a thorough analysis of this bill; plenty of time to look at it. And yesterday's State Journal Register here in Springfield characterized our hearing, in which Senator Hawkinson fairly presided, as a "marathon" five-hour session of the Senate Judiciary Committee. I've only served in this Body a year or so, but I've been around this process a long time. This issue has been around. These concepts in this bill have been around a long time. And I can guarantee you that the opponents of this bill, just like we proponents, have looked, analyzed every comma, and everything in this bill. So there's been plenty of ample time for study. I, personally, as the sponsor of this bill, have met with plaintiffs' trial lawyers. I have met with hundreds of people privately, as well as in committee hearings, on this bill, to seek their input. The opponents have argued that this bill is for big business, or big medicine, or big insurance, that's where this comes from. But what they failed to overlook, I think, are the thousands and, indeed, hundreds of thousands and millions of residents of Illinois who have been represented in the drafting of this bill. How about all the millions of people that ride public transportation - senior citizens, students, riding the CTA, Pace, or downstate transportation systems, who faced increased fares when they can't afford it, because of the growing cost and ridiculousness of some of the litigation in these awards? How about the mayors, or the school superintendents, or park districts, throughout the State, who -- and their constituents who face higher taxes? And the loss

of the use of those facilities, for children, because of the growing cost of liability and litigation. The small businesses of Illinois. This isn't necessarily about big business; it's not necessarily about the Ford Motor Companys or Caterpillar tractors. What about the twenty-one thousand members of the National Federation of Independent Businesses and their mom-and-pop operations, in many cases, who need this bill to stay in business and to keep moving forward with the American dream? What about the farmers of Illinois - the three hundred and eighty-five thousand members of the Illinois Farm Bureau, who stand behind this legislation? And importantly, the not-for-profit organizations of this State, and all of those volunteers? Those are day care centers. Those are homeless shelters. Those are foster care providers. Those are organizations that provide recreational and development activities for children. And the other side, or the opponents of this bill, a lot of times, like to criticize us for always using the girl scout cookie analysis. Well, we got a new one; it's little league baseball. How more wholesome, especially at a lower level, can this bill's impact be seen? Yeah, doctors support this legislation, and so do hospitals and clinics, but they support it so they can go back to concentrating on health care. That's their mission, rather than providing and worrying about needless records and needless tests that have to be going on, as well as all of the unwarranted litigation that sometimes takes them away from working on our families and healing our brothers and sisters. Manufacturers provide many of the nongovernmental jobs in Illinois. They support this legislation because it helps them, what they're supposed to do too. It helps them create jobs. It helps keep our economy growing without worrying about unlimited and sometimes meritorious -- unmeritorious lawsuits. And those manufacturers in Illinois, how about 'em? They've slowed down their research.

They've slowed down their development. Let's frankly face it, because of the risk of lawsuits. And they support it because it will help them move forward with new technology, new health care developments, new and better communication. And many of those - many of those - impact positively for women, children and the downtrodden of our State. Mr. President, House Bill 20, the Civil -- Civil Justice Reform Amendments of 1995 are a significant step forward in Illinois. And the attention this legislation is attracting nationwide will encourage other states to do the right thing too, and perhaps the United States Congress as well. I strongly urge your favorable vote. This is a very important bill for all segments of Illinois.

PRESIDING OFFICER: (SENATOR MAITLAND)

The question is, shall House Bill 20 pass. Those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. On that question, there are 36 Ayes, 20 Nays, no Members voting Present. House Bill 20, having received the required constitutional majority, is declared passed. Senator Cronin, for what purpose do you rise, sir?

SENATOR CRONIN:

Thank you, Mr. President. Having voted on the prevailing side, I move to reconsider.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator O'Malley.

SENATOR O'MALLEY:

Yes. Mr. President, I move that we table the motion to reconsider.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator O'Malley moves that -- that the motion to be -- to reconsider be tabled. All those in favor, say Aye. Opposed, Nay. The Ayes have it, and the motion is tabled. Senator Demuzio, for

what purpose do you rise, sir?

SENATOR DEMUZIO:

Mr. President, for the record. Senator Hall and Senator Collins are again absent today due to illness.

PRESIDING OFFICER: (SENATOR MAITLAND)

The record will so reflect, Senator Demuzio. ...(microphone cutoff)...Gentlemen on page 7 of today's Calendar is the Order of Motions in Writing to Reconsider the Vote. Mr. Secretary, read the motion, please.

SECRETARY HARRY:

Having voted on the prevailing side, I move to reconsider the vote by which Senate Bill 206 passed.

Filed, March 2nd, 1995, and signed by Senator Shaw.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Geo-Karis.

SENATOR GEO-KARIS:

I rise to speak against this motion for reconsideration. I urge a No vote.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Geo-Karis.

SENATOR GEO-KARIS:

And I move to table his motion.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Geo-Karis moves that -- the motion in writing be tabled. All those in favor, say Aye. Opposed, Nay. The Ayes have it, and the motion is tabled. Roll call has been requested. Those in favor will vote Aye. Opposed, Nay. In favor of the motion to table, those in favor, vote Aye. Opposed, Nay. And the voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. There are 35 Members voting Aye, 20 Members voting Nay, no Members voting Present, and the motion carries, and the motion is tabled.

Senator Geo-Karis, for what purpose do you rise, ma'am?

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, for a point of clarification, the motion we voted on was to table the motion to reconsider. Is that correct?

PRESIDING OFFICER: (SENATOR MAITLAND)

That is correct.

SENATOR GEO-KARIS:

And, because I was confused right here, I happened to vote No and I should have voted Yes to table it.

PRESIDING OFFICER: (SENATOR MAITLAND)

The record will so reflect your comments, Senator Geo-Karis. Senator Demuzio, for what purpose do you rise, sir?

SENATOR DEMUZIO:

Well, as a matter of inquiry, a couple things. First of all, could you tell us what the schedule will be for the remainder of the day, and then secondly, how long are -- do you intend to stay open in order for introduction of bills after we've concluded the appropriate business today?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Demuzio, for all practical purposes we have nothing but paperwork to do from this point on, and my -- my guess is we will stay open long enough to -- to afford the Members the opportunity to -- obviously, this is the -- the final day of introduction, for those bills to arrive here and -- and be introduced. I don't have a definite time at this point, sir. Let me -- I'll get to you in just a minute. Okay? Senator Raica, for what purpose do you rise, sir?

SENATOR RAICA:

Thank you, Mr. President. I would like to discharge the Senate Environment and Energy Committee from hearing Senate Resolution 9, which I am the sponsor, for the purpose of tabling

that resolution.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Raica has moved to discharge the Committee on Energy and Environment for further consideration of Amendment 9 <sic>. Is there discussion? Senator -- Senator Raica has moved to table Amendment No. 9 -- to Senate Resolution 9. Those in favor, say Aye. Opposed, Nay. And the amendment is tabled. Senator Demuzio.

SENATOR DEMUZIO:

Well, I was just about to ask, are we tabling the Resolution No. 9 or just the amendment that was proposed to the resolution? I -- if you're -- if you're doing that, you're moving to reconsider, I'm sorry -- if you're moving to discharge the committee for the purpose of tabling, you would have two motions before you.

PRESIDING OFFICER: (SENATOR MAITLAND)

Ladies and Gentlemen, no. Just for clarity, the resolution has been tabled. I inadvertently referred to it as Amendment No. 9. The sponsor held up the fingers and I thought that's what he was referring to. So the -- the resolution is tabled. Senator Demuzio.

SENATOR DEMUZIO:

Well, I think you have to discharge the committee, and -- moving to discharge the committee, and then you table.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator, I'm -- I'm reliably informed that that is not necessary to table. Mr. Secretary, have there been any motions filed?

SECRETARY HARRY:

Yes, Mr. President. Senator Fawell and Senator Dillard both have filed motions with respect to Senate Bill 211.

PRESIDING OFFICER: (SENATOR MAITLAND)

Mr. Secretary, the Chair requests that these motions be printed on the Calendar. So ordered. Resolutions.

SECRETARY HARRY:

Senate Joint Resolution 32, offered by Senator Dudycz.

(Secretary reads SJR No. 32)

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Dudycz moves to suspend the rules for the purpose of immediate consideration and adoption of Senate Joint Resolution 32. Those in favor will say Aye. Opposed, Nay. The Ayes have it. And the rules are suspended. Senator Dudycz moves the adoption of Senate Joint Resolution 32. Those in favor will say Aye. Opposed, Nay. The Ayes have it, and the resolution is adopted. Committee Reports.

SECRETARY HARRY:

Senator Weaver, Chair of the Committee on Rules, reports that the following Legislative Measures have been assigned to committees: Referred to the Committee on Agriculture and Conservation - Senate Bills 665, 666 and 731; to the Committee on Appropriations - Senate Bill 678; to the Committee on Commerce and Industry - Senate Bills 683, 684, 685, 686, 687, 688, 722, 739, 767, 768, 769, 777, 778, 785, 786, 793 and 805; to the Committee on Education - Senate Amendment 3 to Senate Bill 17, Senate Bills 654, 657, 658, 661, 673, 710, 727, 730 <sic>, 782, 783, 784, 802, 803 and 814; to the Committee on Environment and Energy - Senate Bills 694, 789, 790 and 818; to the Committee on Executive - Senate Bills 643, 645, 655, 667, 671, 672, 674, 679, 697, 705, 720, 749, 754, 755, 757, 759, 772, 794, 798, -- or 800, 801, 806, 808, 825, 826 and 830; to the Committee on Financial Institutions - Senate Bills 660, 681, 795 and 796; to the Committee on Higher Education - Senate Bills 682, 690, 696, 698, 718 and 779; to the Committee on Insurance, Pensions and Licensed Activities - Senate Bills 651, 653, 669, 680, 693, 695, 712, 717,

725, 734, 735, 736, 737, 738, 766, 797, 809 and 810; to the Committee on Judiciary - Senate Bills 640, 652, 664, 676, 691, 692, 699, 704, 721, 732, 741, 747, 750, 787, 792, 812, 813 and 829; to the Committee on Local Government and Elections - Senate Bills 636, 639, 648, 649, 706, 711, 751, 761, 762, 764, 774, 780, 781, 788, 799, 815, 819, 820, 821, 822, 823, 824, 827 and 828; to the Committee on Public Health, and Welfare - Senate Bills 641, 659, 662, 663, 670, 677, 689, 700, 701, 709, 742, 743, 744, 745, 746, 758, 773, 791, 804, 807, 811 and 816; to the Committee on Revenue - Senate Bills 644, 646, 647, 650, 656, 668, 703, 713, 714, 715, 716, 723, 724, 726, 729 and 753; to the Committee on State Government Operations - Senate Bills 637, 642, 675, 719, 740, 748, 756 and 763; and to the Committee on Transportation - Senate Bills 702, 707, 708, 728, 733, 752, 760, 765, 770, 771, 775, 776 and 817; and Be Approved for Consideration - Senate Amendment 2 to Senate Bill 20.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Cullerton, for what purpose do you rise, sir?

SENATOR CULLERTON:

Yes, I feel like I'm in Congress, on C-Span. There's nobody here and we're still in Session. I would like to ask permission to table two bills of which I am the chief sponsor: Senate Bill 98, dealing with bicycle helmet legislation, and Senate Bill 153.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Cullerton moves that Senate Bills 98 and 153 be tabled. All those in favor, say Aye. Opposed, Nay. The Ayes have it, and the motion -- the motion to table is approved. Let me just respond to Senator Demuzio's earlier question, for those on the Floor and those who have retired to their office. The Secretary will begin, shortly, reading the introduced bills into the record, and that will be somewhat of a lengthy process, I would suggest, and so would -- would urge the Members to get their

bills down here for -- for introduction, because upon the conclusion of -- of reading those bills into the record, this Session will be -- the Senate will be adjourning. We'll now proceed to the Order of Resolutions Consent Calendar. With leave of the Body, all those read in today will be added to the Consent Calendar. Mr. Secretary, have there been any objections filed to any resolutions on the Consent Calendar?

SECRETARY HARRY:

No objections have been filed, Mr. President.

PRESIDING OFFICER: (SENATOR MAITLAND)

Any discussion? Any discussion? If not, the question is, shall the resolutions on the Consent Calendar be adopted. All those in favor, say Aye. Opposed, Nay. The motion carries, and the resolutions are adopted. Ladies and Gentlemen, we have effectively completed our work for today. The -- the Senate will -- will stay in -- in perfunctory Session as the Secretaries read the -- the introduced bills into the record. For those still on the Floor and have retired to their office, let me mention to you that the Senate will reconvene at noon on Tuesday, March 7th.

SECRETARY HARRY:

...(microphone cutoff)...reconvene in Perfunctory Session. On the Order of Introduction of Bills:

Senate Bill 907, offered by Senator Walsh.

(Secretary reads title of bill)

Senate Bill 908, by Senator Walsh.

(Secretary reads title of bill)

Senate Bill 909, by Senator Walsh.

(Secretary reads title of bill)

Senate Bill 910, by Senators Walsh and Jacobs.

(Secretary reads title of bill)

Senate Bill 911, by Senator DeLeo.

(Secretary reads title of bill)

Senate Bill 912, by Senators Philip and Donahue.

(Secretary reads title of bill)

Senate Bill 913, by Senator Weaver.

(Secretary reads title of bill)

...Bill 914, by Senator Donahue.

(Secretary reads title of bill)

Senate Bill 915, by Senators Ralph Dunn and Hasara.

(Secretary reads title of bill)

Senate Bill 916, by Senator Weaver.

(Secretary reads title of bill)

Senate Bill 917, by Senator Weaver.

(Secretary reads title of bill)

Senate Bill 918, by Senator Maitland and others.

(Secretary reads title of bill)

Senate Bill 919, by Senator Donahue.

(Secretary reads title of bill)

Senate Bill 920, by Senator Donahue.

(Secretary reads title of bill)

Senate Bill 921, by Senator Woodyard.

(Secretary reads title of bill)

Senate Bill 922, by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 923, by Senators Rauschenberger and Maitland.

(Secretary reads title of bill)

Senate Bill 924, by Senator Rauschenberger and others.

(Secretary reads title of bill)

Senate Bill 925, by Senators Philip and Dillard.

(Secretary reads title of bill)

Senate Bill 926, by Senators Butler and Donahue.

(Secretary reads title of bill)

Senate Bill 927, offered by Senators Donahue, Madigan and others.

(Secretary reads title of bill)

Senate Bill 928, offered by Senators Rauschenberger and Maitland.

(Secretary reads title of bill)

Senate Bill 929, offered by Senators Rauschenberger and Maitland.

(Secretary reads title of bill)

Senate Bill 930, offered by Senators Weaver and Donahue.

(Secretary reads title of bill)

Senate Bill 931, offered by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 932, by Senator Viverito.

(Secretary reads title of bill)

Senate Bill 933, by Senator Hawkinson.

(Secretary reads title of bill)

Senate Bill 934, by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 935, by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 936, by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 937, by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 938, by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 939, by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 940, by Senators O'Malley, Fitzgerald and others.

(Secretary reads title of bill)

Senate Bill 941, by Senators Sieben and Watson.

(Secretary reads title of bill)

Senate Bill 942, by Senators Sieben and Karpiel.

(Secretary reads title of bill)

Senate Bill 943, by Senators O'Malley, Sieben and others.

(Secretary reads title of bill)

Senate Bill 944, by Senator Watson.

(Secretary reads title of bill)

Senate Bill 945, by Senator Petka.

(Secretary reads title of bill)

Senate Bill 946, by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 947, by Senator Dudycz.

(Secretary reads title of bill)

Senate Bill 948, by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 949, by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 950, by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 951, by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 952, by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 953, by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 954, by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 955, by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 956, by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 957, by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 958, by Senator Watson.

(Secretary reads title of bill)

Senate Bill 959, by Senator Watson.

(Secretary reads title of bill)

ACTING SECRETARY HAWKER:

Senate Bill 960, offered by Senator Fitzgerald.

(Secretary reads title of bill)

Senate Bill 961, offered by Senator Fitzgerald.

(Secretary reads title of bill)

Senate Bill 962, offered by Senator Dudycz.

(Secretary reads title of bill)

Senate Bill 963, offered by Senator Fawell.

(Secretary reads title of bill)

Senate Bill 964, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 965, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 966, offered by Senators Garcia.

(Secretary reads title of bill)

Senate Bill 967, offered by Senator Weaver.

(Secretary reads title of bill)

Senate Bill 968, offered by Senator Trotter.

(Secretary reads title of bill)

Senate Bill 969, offered by Senator Trotter.

(Secretary reads title of bill)

Senate Bill 970, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 971, offered by Senators O'Malley, Petka, Peterson, DeAngelis and Viverito.

(Secretary reads title of bill)

Senate Bill 972, offered by Senator Donahue.

(Secretary reads title of bill)

Senate Bill 973, offered by Senator Molaro.

(Secretary reads title of bill)

Senate Bill 974, offered by Senator Molaro.

(Secretary reads title of bill)

Senate Bill 975, offered by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 976, offered by Senators Peterson and Cullerton.

(Secretary reads title of bill)

Senate Bill 977, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 978, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 979, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 978 -- pardon me, 980, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 981, offered by Senator Maitland.

(Secretary reads title of bill)

Senate Bill 982, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 983, offered by Senator Molaro.

(Secretary reads title of bill)

Senate Bill 984, offered by Senator Lauzen.

(Secretary reads title of bill)

Senate Bill 985, offered by Senator DeAngelis.

(Secretary reads title of bill)

Senate Bill 986, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 987, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 988, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 989, offered by Senator Cullerton.

(Secretary reads title of bill)

Senate Bill 990, offered by Senator DeAngelis.

(Secretary reads title of bill)

Senate Bill 991, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 992, offered by Senator Donahue.

(Secretary reads title of bill)

Senate Bill 993, offered by Senator Palmer.

(Secretary reads title of bill)

Senate Bill 994, offered by Senator -- Senators Barkhausen and Farley.

(Secretary reads title of bill)

Senate Bill 995, offered by Senator Lauzen.

(Secretary reads title of bill)

Senate Bill 996, offered by Senator Hendon.

(Secretary reads title of bill)

Senate Bill 997, offered by Senators Rauschenberger, Petka, O'Malley and Lauzen.

(Secretary reads title of bill)

Senate Bill 998, offered by Senator Berman.

(Secretary reads title of bill)

Senate Bill 999, offered by Senator Berman.

(Secretary reads title of bill)

Senate Bill 1000, offered by Senators Lauzen, O'Malley, Rauschenberger, Syverson and Fitzgerald.

(Secretary reads title of bill)

Senate Bill 1001, offered by Senator Lauzen.

(Secretary reads title of bill)

Senate Bill 1002, offered by Senator Shaw.

(Secretary reads title of bill)

Senate Bill 1003, offered by Senator Molaro.

(Secretary reads title of bill)

Senate Bill 1004, offered by Senator Peterson.

(Secretary reads title of bill)

Senate Bill 1005, offered by Senators O'Malley, Karpiel, Sieben and Watson.

(Secretary reads title of bill)

Senate Bill 1006, offered by Senators O'Malley and Watson.

(Secretary reads title of bill)

Senate Bill 1007, offered by Senators O'Malley and Dudycz.

(Secretary reads title of bill)

Senate Bill 1008, offered by Senators Butler -- pardon me, by Senator Butler.

(Secretary reads title of bill)

Senate Bill 1009, offered by Senators Watson and O'Malley.

(Secretary reads title of bill)

Senate Bill -- pardon me, 1010, offered by Senator Demuzio.

(Secretary reads title of bill)

Senate Bill 1011, offered by Senator Woodyard.

(Secretary reads title of bill)

Senate Bill 1012, offered by Senator Woodyard.

(Secretary reads title of bill)

Senate Bill 1013, offered by Senators Maitland and Donahue.

(Secretary reads title of bill)

Senate Bill 1014, offered by Senators O'Malley, Cronin and Watson.

(Secretary reads title of bill)

Senate Bill 1015, offered by President Philip.

(Secretary reads title of bill)

Senate Bill 1016, offered by Senators Cronin and Watson.

(Secretary reads title of bill)

Senate Bill 1017, offered by Senator Karpiel.

(Secretary reads title of bill)

Senate Bill 1018, offered by Senators Watson and Karpiel.

(Secretary reads title of bill)

Senate Bill 1019, offered by Senator Cronin.

(Secretary reads title of bill)

Senate Bill 1020, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1021, offered by Senator Shaw.

(Secretary reads title of bill)

Senate Bill 1022, offered by Senators Peterson and Trotter.

(Secretary reads title of bill)

Senate Bill -- 1023, offered by Senator Raica.

(Secretary reads title of bill)

Senate Bill 1024, offered by Senator Fawell.

(Secretary reads title of bill)

Senate Bill 1025, offered by Senator Fawell.

(Secretary reads title of bill)

Senate Bill 1026, offered by Senator Fawell.

(Secretary reads title of bill)

Senate Bill 1027, offered by Senator Maitland.

(Secretary reads title of bill)

Senate Bill 1028, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1029, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1030, offered by Senators O'Malley and Karpiel.

(Secretary reads title of bill)

Senate Bill 1031, offered by Senator Bowles.

(Secretary reads title of bill)

Senate Bill 1032, offered by Senator Raica.

(Secretary reads title of bill)

Senate Bill 1033, offered by Senator Raica.

(Secretary reads title of bill)

Senate Bill 1034, offered by Senators Palmer and del Valle.

(Secretary reads title of bill)

Senate Bill 1035, offered by Senators O'Malley, Karpiel, Lauzen, Butler and DeAngelis.

(Secretary reads title of bill)

Senate Bill 1036, offered by Senators Syverson and Burzynski.

(Secretary reads title of bill)

Senate Bill 1037, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 1038, offered by Senator Hawkinson.

(Secretary reads title of bill)

Senate Bill 1039, offered by Senator Fawell.

(Secretary reads title of bill)

Senate Bill 1040, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 1041, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 1042, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 1043, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 1044, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 1045, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 1046, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 1047, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 1048, offered by Senator Fawell.

(Secretary reads title of bill)

Senate Bill 1049, offered by Senator Molaro.

(Secretary reads title of bill)

Senate Bill 1050, offered by Senators Philip and Jones.

(Secretary reads title of bill)

Senate Bill 1051, offered by Senators Philip and Jones.

(Secretary reads title of bill)

Senate Bill 1052, offered by President Philip.

(Secretary reads title of bill)

Senate Bill 1053, offered by Senators Dillard and Lauzen.

(Secretary reads title of bill)

Senate Bill 1054, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 1055, offered by Senators Hasara and Demuzio.

(Secretary reads title of bill)

Senate Bill 1056, offered by Senators DeAngelis and Demuzio.

(Secretary reads title of bill)

Senate Bill 1057, offered by Senators DeAngelis and Demuzio.

(Secretary reads title of bill)

Senate Bill 1058, offered by Senator Mahar.

(Secretary reads title of bill)

Senate Bill 1059, offered by Senator Mahar.

(Secretary reads title of bill)

Senate Bill 1060, offered by Senators Butler and Rea.

(Secretary reads title of bill)

Senate Bill 1061, offered by Senators -- Senator Butler.

(Secretary reads title of bill)

Senate Bill 1062, offered by Senator Butler.

(Secretary reads title of bill)

Senate Bill 1063, offered by Senator Petka.

(Secretary reads title of bill)

Senate Bill 1064, offered by Senator Shadid.

(Secretary reads title of bill)

Senate Bill -- 1065, offered by Senators Molaro and Rauschenberger.

(Secretary reads title of bill)

Senate Bill 1066, offered by Senators Klemm and Hasara.

(Secretary reads title of bill)

Senate Bill 1067, offered by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 1068, offered by Senator Cronin.

(Secretary reads title of bill)

Senate Bill 1069, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1070, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1071, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1072, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1073, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1074, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1075, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1076, offered by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 1077, offered by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 1078, offered by Senators Dillard and Fawell.

(Secretary reads title of bill)

Senate Bill 1079, offered by Senator Karpiel.

(Secretary reads title of bill)

Senate Bill 1080, offered by Senator Fawell.

(Secretary reads title of bill)

Senate Bill 1081, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 1082, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 1083, offered by Senator Cronin.

(Secretary reads title of bill)

Senate Bill 1084, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1085, offered by Senator Woodyard.

(Secretary reads title of bill)

Senate Bill 1086, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1087, offered by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 1089, offered by Senators Dillard and Petka.

(Secretary reads title of bill)

Senate Bill 1088, offered by Senators Dudycz, Parker, Raica, Molaro and Farley.

(Secretary reads title of bill)

Senate Bill 1090, offered by Senator Dudycz.

(Secretary reads title of bill)

Senate Bill 1091, offered by Senators Petka, Dillard, Thomas Dunn, Cronin, Molaro and Shadid.

(Secretary reads title of bill)

Senate Bill 1092, offered by Senators Burzynski and Madigan.

(Secretary reads title of bill)

Senate Bill 1093, offered by Senator DeAngelis.

(Secretary reads title of bill)

Senate Bill 1094, offered by Senators Fitzgerald and Cullerton.

(Secretary reads title of bill)

Senate Bill 1095, offered by Senators Severns, Madigan, Hasara, Bowles, Smith and Demuzio.

(Secretary reads title of bill)

Senate Bill 1096, offered by Senator Severns.

(Secretary reads title of bill)

Senate Bill 1097, offered by Senator Severns.

(Secretary reads title of bill)

Senate Bill 1098, offered by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 1099, offered by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 1100, offered by Senator Petka.

(Secretary reads title of bill)

Senate Bill 1101, offered by Senator Weaver.

(Secretary reads title of bill)

Senate Bill 1102, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1103, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1104, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1105, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1106, offered by Senators Weaver and Rauschenberger.

(Secretary reads title of bill)

Senate Bill 1107, offered by Senators Weaver and Rauschenberger.

(Secretary reads title of bill)

Senate Bill 1108, offered by Senator Peterson.

(Secretary reads title of bill)

Senate Bill 1109, offered by Senators Dudycz, Burzynski, Peterson, O'Malley and Ralph Dunn.

(Secretary reads title of bill)

Senate Bill 1110, offered by Senator Molaro.

(Secretary reads title of bill)

Senate Bill 1111, offered by Senator Rea.

(Secretary reads title of bill)

Senate Bill 1112, offered by Senator Rea.

(Secretary reads title of bill)

Senate Bill 1113, offered by Senator Rea.

(Secretary reads title of bill)

Senate Bill 1114, offered by Senator Rea.

(Secretary reads title of bill)

Senate Bill 1115, offered by Senator Rea.

(Secretary reads title of bill)

Senate Bill 1116, offered by Senator Ralph Dunn.

(Secretary reads title of bill)

...Bill 1117, offered by Senator Cullerton.

(Secretary reads title of bill)

Senate Bill 1118, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 1119, offered by Senator Donahue.

(Secretary reads title of bill)

Senate Bill 1120, offered by Senator Carroll.

(Secretary reads title of bill)

Senate Bill 1121, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 1122, offered by Senator Sieben.

(Secretary reads title of bill)

Senate Bill 1123, offered by Senators DeAngelis and Philip.

(Secretary reads title of bill)

Senate Bill 1124, offered by President Philip.

(Secretary reads title of bill)

Senate Bill 1125, offered by Senator Peterson.

(Secretary reads title of bill)

Senate Bill 1126, offered by Senator DeAngelis.

(Secretary reads title of bill)

Senate Bill 1127, offered by Senator Shaw.

(Secretary reads title of bill)

Senate Bill 1128, offered by Senator Parker.

(Secretary reads title of bill)

Senate Bill 1129, offered by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 1130, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 1131, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 1132, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 1133, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 1134, offered by Senator Carroll.

(Secretary reads title of bill)

Senate Bill 1135, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 1136, offered by Senator Jones.

(Secretary reads title of bill)

Senate Bill 1137, offered by Senator Cullerton.

(Secretary reads title of bill)

Senate Bill 1138, offered by Senator Severns.

(Secretary reads title of bill)

Senate Bill 1139, offered by Senator Shadid.

(Secretary reads title of bill)

Senate Bill 1140, offered by Senators Geo-Karis and Raica.

(Secretary reads title of bill)

Senate Bill 1141, offered by Senator Berman.

(Secretary reads title of bill)

Senate Bill 1142, offered by Senator Ralph Dunn.

(Secretary reads title of bill)

Senate Bill 1143, offered by Senator DeAngelis.

(Secretary reads title of bill)

Senate Bill 1144, offered by Senator Shaw.

(Secretary reads title of bill)

Senate Bill 1145, offered by Senator Shaw.

(Secretary reads title of bill)

Senate Bill 1146, offered by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 1147, offered by Senators Cullerton and Berman.

(Secretary reads title of bill)

Senate Bill 1148, offered by Senators Berman and Cullerton.

(Secretary reads title of bill)

Senate Bill 1149, offered by Senators Lauzen and Peterson.

(Secretary reads title of bill)

Senate Bill 1150, offered by Senators Lauzen and Peterson.

(Secretary reads title of bill)

Senate Bill 1151, offered by Senator Dudycz.

(Secretary reads title of bill)

Senate Bill 1152, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 1153, offered by Senator Mahar.

(Secretary reads title of bill)

Senate Bill 1154, offered by Senator Fawell.

(Secretary reads title of bill)

Senate Bill 1155, offered by Senator Trotter.

(Secretary reads title of bill)

Senate Bill 1156, offered by Senator Carroll.

(Secretary reads title of bill)

Senate Bill 1157, offered by Senator Smith.

(Secretary reads title of bill)

Senate Bill 1158, offered by Senators Shadid and Madigan.

(Secretary reads title of bill)

Senate Bill 1159, offered by Senator Severns.

(Secretary reads title of bill)

Senate Bill 1160, offered by Senator Severns.

(Secretary reads title of bill)

Senate Bill 1161, offered by Senators Severns and Demuzio.

(Secretary reads title of bill)

Senate Bill 1162, offered by Senator Carroll.

(Secretary reads title of bill)

Senate Bill 1163, offered by Senator Shaw.

(Secretary reads title of bill)

Senate Bill 1164, offered by Senator Shaw.

(Secretary reads title of bill)

Senate Bill 1165, offered by Senator Farley.

(Secretary reads title of bill)

Senate Bill 1166, offered by Senator Farley.

(Secretary reads title of bill)

Senate Bill 1167, offered by Senator Farley.

(Secretary reads title of bill)

Senate Bill 1168, offered by Senator Farley.

(Secretary reads title of bill)

Senate Bill 1169, offered by Senator Jones.

(Secretary reads title of bill)

Senate Bill 1170, offered by Senator Jones.

(Secretary reads title of bill)

Senate Bill 1171, offered by Senator Jones.

(Secretary reads title of bill)

Senate Bill 1172, offered by Senator Jones.

(Secretary reads title of bill)

Senate Bill 1173, offered by Senator Jones.

(Secretary reads title of bill)

Senate Bill 1174, offered by Senator Jones.

(Secretary reads title of bill)

Senate Bill 1175, offered by Senator Jones.

(Secretary reads title of bill)

Senate Bill 1176, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 1177, offered by Senator Severns.

(Secretary reads title of bill)

Senate Bill 1178, offered by Senator Palmer.

(Secretary reads title of bill)

Senate Bill 1179, offered by Senator Farley.

(Secretary reads title of bill)

Senate Bill 1180, offered by Senator Farley.

(Secretary reads title of bill)

Senate Bill 1181, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 1182, offered by Senator Cullerton.

(Secretary reads title of bill)

Senate Bill 1133 <sic> (1183), offered by Senator Cullerton.

(Secretary reads title of bill)

Senate Bill -- 1184, offered by Senators Dudycz, Butler, Walsh and Lauzen.

(Secretary reads title of bill)

Senate Bill 1185, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 1186, offered by President Philip.

(Secretary reads title of bill)

Senate Bill 1187, offered by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 1188, offered by Senator Dillard.

(Secretary reads title of bill)

Senate Bill 1189, offered by Senator Shaw.

(Secretary reads title of bill)

Senate Bill 1190, offered by Senator Petka.

(Secretary reads title of bill)

Senate Bill 1191, offered by Senator O'Malley.

(Secretary reads title of bill)

Senate Bill 1192, offered by Senator Berman.

(Secretary reads title of bill)

Senate Bill 1193, offered by Senator Rea.

(Secretary reads title of bill)

Senate Bill 1194, offered by Senator Rea.

(Secretary reads title of bill)

Senate Bill 1195, offered by Senators Garcia, Shadid, Carroll, Thomas Dunn and Smith.

(Secretary reads title of bill)

Senate Bill 1196, offered by Senator Jones.

(Secretary reads title of bill)

Senate Bill 1197, offered by Senator Raica.

(Secretary reads title of bill)

Senate Bill 1198, offered by Senator Cronin.

(Secretary reads title of bill)

Senate Bill 1199, offered by Senator Raica.

(Secretary reads title of bill)

Senate Bill 1200, offered by Senators O'Malley and Karpiel.

(Secretary reads title of bill)

Senate Bill 1201, offered by Senators Dillard and Fawell.

(Secretary reads title of bill)

Senate Bill 1202, offered by Senators Parker and Bowles.

(Secretary reads title of bill)

Senate Bill 1203, offered by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 1204, offered by Senators Hasara, Sieben, Dillard and Parker.

(Secretary reads title of bill)

Senate Bill 1205, offered by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 1206, offered by Senator Barkhausen.

(Secretary reads title of bill)

Senate Bill 1207, offered by Senator Cullerton.

(Secretary reads title of bill)

Senate Bill 1208, offered by Senator Fitzgerald.

(Secretary reads title of bill)

Senate Bill 1209, offered by Senator Walsh.

(Secretary reads title of bill)

Senate Bill 1210, offered by Senator Walsh.

(Secretary reads title of bill)

Senate Bill 1211, offered by Senator Walsh.

(Secretary reads title of bill)

Senate Bill 1212, offered by Senator Walsh.

(Secretary reads title of bill)

And Senate Bill 1213, offered by Senator Berman.

(Secretary reads title of bill)

1st Reading of the bills.

Being no further business to come before the Senate, pursuant to the adjournment resolution, the Senate stands adjourned until Tuesday, March 7, at the hour of noon.

STATE OF ILLINOIS
89TH GENERAL ASSEMBLY
SENATE
DAILY TRANSCRIPTION OF DEBATE INDEX

MARCH 03, 1995

STATE OF ILLINOIS
89TH GENERAL ASSEMBLY
SENATE
DAILY TRANSCRIPTION OF DEBATE INDEX

MARCH 03, 1995

STATE OF ILLINOIS
89TH GENERAL ASSEMBLY
SENATE
DAILY TRANSCRIPTION OF DEBATE INDEX

MARCH 03, 1995

STATE OF ILLINOIS
89TH GENERAL ASSEMBLY
SENATE
DAILY TRANSCRIPTION OF DEBATE INDEX

MARCH 03, 1995

STATE OF ILLINOIS
89TH GENERAL ASSEMBLY
SENATE
DAILY TRANSCRIPTION OF DEBATE INDEX

MARCH 03, 1995

STATE OF ILLINOIS
89TH GENERAL ASSEMBLY
SENATE
DAILY TRANSCRIPTION OF DEBATE INDEX

MARCH 03, 1995

SENATE

DAILY TRANSCRIPTION OF DEBATE INDEX

MARCH 03, 1995

SUBJECT MATTER