

STATE OF ILLINOIS
90TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

5th Legislative Day

January 28, 1997

PRESIDENT PHILIP:

The regular Session of the 90th General Assembly will please come to order. Will the Members please be at their desks, and will our guests in the galleries please rise? Our prayer today will be given by Pastor Paul Hansen, Evergreen Park Christian Reform Church, Evergreen Park, Illinois. Pastor Hansen.

PASTOR PAUL HANSEN:

(Prayer by Pastor Paul Hansen)

PRESIDENT PHILIP:

Senator Sieben will now lead us in the Pledge of Allegiance.

SENATOR SIEBEN:

(Pledge of Allegiance, led by Senator Sieben)

PRESIDENT PHILIP:

Reading of the Journal. Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President, I move that reading and approval of the Journals of Thursday, January 9; Wednesday, January 22; and Thursday, January 23, in the year 1997, be postponed, pending arrival of the printed Journals.

PRESIDENT PHILIP:

Senator Geo-Karis moves to postpone the reading and the approval of the Journal, pending the arrival of the printed transcripts. There being no objections, so ordered. Messages.

SECRETARY HARRY:

Message for the Governor by Deno Perdiou, Director of Legislative Affairs. January 23rd, 1997.

Mr. President - The Governor directs me to lay before the Senate the following Message:

To the Honorable Members of the Senate, 90th General Assembly - I have nominated and appointed the following named persons to the offices enumerated below and respectfully ask concurrence in and confirmation of these appointments of your

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Honorable Body.

PRESIDENT PHILIP:

Resolutions. Introduction of Bills.

SECRETARY HARRY:

Senate Bill 143, offered by Senator Rauschenberger.

(Secretary reads title of bill)

1st Reading of the bill.

PRESIDENT PHILIP:

Resolutions.

SECRETARY HARRY:

Senate Resolution 15, offered by Senator Viverito and all Members, as is Senate Resolution 16.

They're both death resolutions, Mr. President.

PRESIDENT PHILIP:

Consent Calendar.

SECRETARY HARRY:

Senate Joint Resolution 3, Constitutional Amendment, offered by Senator Watson.

PRESIDENT PHILIP:

Senator Butler, for what purpose do you rise?

SENATOR BUTLER:

Thank you, Mr. President. Purposes of an announcement.

PRESIDENT PHILIP:

Make your announcement.

SENATOR BUTLER:

Just to confirm the meeting of the -- of the Committee on Local Government and Elections has been cancelled for this afternoon.

PRESIDENT PHILIP:

Thank you, Senator Butler. Now, if I could have your attention for one minute to explain what -- what -- what's transpiring. Evidently the Executive Appointments and Education

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Committee are going to be going a lot longer than we anticipated. So the Senate will stand at ease - and I don't know how long - to the adjournment of the Executive Appointments Committee, which could be an hour, an hour and a half, or two hours. Everybody understand that? Then we will come back here and -- and possibly do something. Senator Demuzio, for what purpose do you rise?

SENATOR DEMUZIO:

Thank you, Mr. President. I'd like the record to reflect that Senator Garcia is not here today, due to illness, and...

PRESIDENT PHILIP:

Record will so indicate.

SENATOR DEMUZIO:

Senator Farley will not be here because of personal reasons either -- all this week...

PRESIDENT PHILIP:

The -- the record will so indicate.

SENATOR DEMUZIO:

And Senator Shaw will not be here all this week, due to personal reasons.

PRESIDENT PHILIP:

The record will so indicate. Senator Madigan, for what purpose do you rise?

SENATOR MADIGAN:

Thank you, Mr. President. I would like the record to reflect that Senator Woodyard will not be with us this week because of surgery, and ask that he be excused.

PRESIDENT PHILIP:

The record will so indicate. Senator Madigan.

SENATOR MADIGAN:

Thank you, Mr. President. I would ask that -- or, like the record to reflect that Senator Peterson will not be with us today, due to his attending a funeral.

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PRESIDENT PHILIP:

The record will so indicate. The Senate will stand at --
Committee Reports. Excuse me.

SECRETARY HARRY:

Senator Weaver, Chair of the Committee on Rules, reports the following Legislative Measures have been assigned: Referred to the Committee on Appropriations - Senate Bill 143; to the Committee on Education - Senate Bill 99; to the Committee on Environment and Energy - Senate Bills 140, 141 and 142; to the Committee on Executive - Senate Bill 126; to the Committee on Financial Institutions - Senate Resolution 13; to the Committee on Insurance and Pensions - Senate Bills 97, 101, 115, 124, 131, 132, 133, 134, 135, 136, 137 and 138; to the Committee on Judiciary - Senate Bills 98, 100, 102, 105, 107, 109, 112, 113, 117, 118, 119, 120, 121, 122, 123, 125 and 128; to the Committee on Licensed Activities - Senate Bill 108; to the Committee on Local Government and Elections - Senate Bills 89, 90, 91, 92, 93, 94, 95, 96, 103, 104, 106, 111, 129, 130 and 139; to the Committee on Public Health and Welfare - Senate Bill 114; to the Committee on Revenue - Senate Bill 127; and to the Committee on Transportation - Senate Bills 110 and 116.

PRESIDENT PHILIP:

Now, if I could have your attention, the Senate will stand at ease for approximately an hour, hour and a half, maybe two hours, for the Executive Appointments Committee to do their work. Then, hopefully, we'll come back here and get to work. The Senate will stand at ease.

(SENATE STANDS AT EASE)

(SENATE RECONVENES)

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PRESIDENT PHILIP:

The Senate will please come to order. Introduction of Bills.

ACTING SECRETARY HAWKER:

Senate Bill 144, offered by Senator Link.

(Secretary reads title of bill)

Senate Bill 145, offered by Senator Burzynski.

(Secretary reads title of bill)

Senate Bill 146, offered by Senator Trotter.

(Secretary reads title of bill)

Senate Bill 147, offered by Senator Trotter.

(Secretary reads title of bill)

Senate Bill 148, offered by Senator Trotter.

(Secretary reads title of bill)

Senate Bill 149, offered by Senator Trotter.

(Secretary reads title of bill)

Senate Bill 150, offered by Senator Trotter.

(Secretary reads title of bill)

Senate Bill 151, offered by Senators Mahar, Jacobs and
Dillard.

(Secretary reads title of bill)

Senate Bill 152, offered by Senator Parker.

(Secretary reads title of bill)

Senate Bill 153, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 154, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 155, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 156, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 157, offered by Senator Hawkinson.

(Secretary reads title of bill)

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Senate Bill 158, offered by Senator Maitland.

(Secretary reads title of bill)

Senate Bill 159, offered by Senator Weaver.

(Secretary reads title of bill)

Senate Bill 160, offered by Senators Walsh and Karpziel.

(Secretary reads title of bill)

Senate Bill 161, offered by Senator Watson.

(Secretary reads title of bill)

Senate Bill 162, offered by Senator Peterson.

(Secretary reads title of bill)

Senate Bill 163, offered by Senator Burzynski.

(Secretary reads title of bill)

Senate Bill 164, offered by President Philip.

(Secretary reads title of bill)

Senate Bill 165, offered by Senator Walsh.

(Secretary reads title of bill)

Senate Bill 166, offered by Senator Cullerton.

(Secretary reads title of bill)

Senate -- Senate Bill 167, offered by Senator Cullerton.

(Secretary reads title of bill)

Senate Bill 168, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 169, offered by Senator Farley.

(Secretary reads title of bill)

Senate Bill 170, offered by Senator Farley.

(Secretary reads title of bill)

Senate Bill 171, offered by Senator Farley.

(Secretary reads title of bill)

Senate Bill 172, offered by Senators Cronin and Philip.

(Secretary reads title of bill)

Senate Bill 173, offered by Senator Burzynski.

(Secretary reads title of bill)

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Senate Bill 174, offered by Senator Klemm.

(Secretary reads title of bill)

Senate Bill 175, offered by Senator Petka.

(Secretary reads title of bill)

Senate Bill 176, offered by Senator Petka.

(Secretary reads title of bill)

Senate Bill 177, offered by Senator Petka.

(Secretary reads title of bill)

Senate Bill 178, offered by Senator Petka.

(Secretary reads title of bill)

Senate Bill 179, offered by Senator Sieben.

(Secretary reads title of bill)

Senate Bill 180, offered by Senator Peterson.

(Secretary reads title of bill)

Senate Bill 181, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 182, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 183, offered by Senator Welch.

(Secretary reads title of bill)

Senate Bill 184, offered by Senator Geo-Karis.

(Secretary reads title of bill)

Senate Bill 185, offered by Senators Burzynski and Syverson.

(Secretary reads title of bill)

Senate Bill 186, offered by Senator Garcia.

(Secretary reads title of bill)

Senate Bill 187, offered by Senator Halvorson.

(Secretary reads title of bill)

Senate Bill 188, offered by Senator Jacobs.

(Secretary reads title of bill)

Senate Bill 189, offered by Senator Smith.

(Secretary reads title of bill)

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Senate Bill 190, offered by Senator Smith.

(Secretary reads title of bill)

Senate Bill 191, offered by Senator Smith.

(Secretary reads title of bill)

Senate Bill 192, offered by Senator Weaver.

(Secretary reads title of bill)

Senate Bill 193, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 194, offered by Senator Madigan

(Secretary reads title of bill)

Senate Bill 195, offered by Senator Watson.

(Secretary reads title of bill)

Senate Bill 196, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 197, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 198, offered by Senator Madigan.

(Secretary reads title of bill)

Senate Bill 199, offered by Senator Dudycz.

(Secretary reads title of bill)

Senate Bill 200, offered by Senator Rauschenberger.

(Secretary reads title of bill)

Senate Bill 201, offered by Senator Demuzio.

(Secretary reads title of bill)

Senate Bill 202, offered by Senator del Valle.

(Secretary reads title of bill)

Senate Bill 203, offered by Senator Lauzen.

(Secretary reads title of bill)

Senate Bill 204, offered by Senator Lauzen.

(Secretary reads title of bill)

Senate Bill 205, offered by Senator Lauzen.

(Secretary reads title of bill)

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Senate Bill 206, offered by Senator Lauzen.

(Secretary reads title of bill)

Senate Bill 207, offered by Senator Welch.

(Secretary reads title of bill)

Senate Bill 208, offered by Senators Demuzio and Shadid.

(Secretary reads title of bill)

1st Reading of the bills.

...Bill 209, offered by Senator Carroll.

(Secretary reads title of bill)

1st Reading of the bill.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Jacobs, for what purpose do you rise?

SENATOR JACOBS:

Thank you, Madam Chairman. A point of inquiry and a point of personal privilege combined, I guess. My inquiry is: Is the Capitol still the people's house? If one walked in the north door here today of the Capitol and saw the condition of the steps coming up to this Capitol, combined with the fact that my secretary fell last week down those same steps because of the icing on the stairs and fractured her ankle, needing nine pins and a plate in her ankle, I think that this Body should take it upon itself to ensure that the steps to this building are well-maintained and well taken care of, because the north entrance, in particular, at this particular time, is atrocious.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Your point is very well taken, and I'm going to refer it to the proper authorities for you. Resolutions.

SECRETARY HARRY:

Senate Resolution 17, offered by Senator Dudycz.

Senate Joint Resolution 4, offered by Senator Donahue.

And Senate Joint Resolution 5, offered by Senator Maitland.

They're all substantive.

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PRESIDING OFFICER: (SENATOR GEO-KARIS)

Committee Reports.

SECRETARY HARRY:

Senator Hawkinson, Chair of the Committee on Judiciary, reports Senate Bills 14 and 15 Do Pass.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

We have business to come before the house, and I would like to ask that all of our Senators be present. We will now go to Executive Session for the purpose of advice and consent. Mr. Secretary, Committee Reports.

SECRETARY HARRY:

Senator Larry Bomke, Vice-Chair of the Committee on Executive Appointments, to which was referred the Governor's Message of January 9th, 1997, reported the same back with the recommendation that the Senate advise and consent to the following appointments.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Bomke.

SENATOR BOMKE:

Thank you, Mr. -- thank you, Mr. {sic} President. I move the Senate resolve itself into Executive Session for the purpose of acting on the Governor's appointments set forth in the Message of January 9th, 1997. Mr. President, with respect to the Governor's Message of January 9th, I will read the non-salaried appointments to which the Senate Committee of Executive Appointments recommends that the Senate do advise and consent:

To be Chairman of the Illinois State Board of Education for a two-year term -- of membership to be drawn by lot, Louis L. Mervis of Danville.

To be members of the Illinois State Board of Education for terms to be drawn by lot, Sharon G. Gilliam, Marilyn McConachie, Connie Rogers, Vincent J. Serritella.

Mr. President, having read the non-salaried appointments, I

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now seek leave to consider these appointments on a roll call. And, Mr. President, will you put the question as required by our rules?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any discussion? Senator Carroll.

SENATOR CARROLL:

Thank you, Madam President. A question of -- in the form, I guess, of a parliamentary inquiry that I raised in committee, as well. If you look at Public Act 89-610, the issue is, what will be the effect of our action - that I'm raising - if you look at 1A-1(a) as to what will now be the State Board of -- of Education. As I understand it, the existing old Board had been properly put into office and what we passed said, they will serve until the later of -- of one of two events: Either "January 1, 1997", which has passed, "or" - and it's the later of - "or when all of the new members initially to be appointed under this amendatory Act of 1996 are appointed by the Governor as provided in Section {sic} (b)..." Section {sic} (b) goes on and says, "appointed under this subsection...by the Governor," subject to "advice and consent of the Senate". My point is, and my question is that since this -- the Statute that had been passed as 89-610 said that the new Board will only be effective when "all" the members have been appointed and then defines appointed to mean with the advice and consent of the Senate, if, by this action, we are choosing to confirm five out of nine people, which in normal parlance would be a -- a quorum and a majority, it does not meet the statutory requirements, and therefore, would not the old Board still be the Board until we have completed the process of advising/consenting on nine appointments?

PRESIDING OFFICER: (SENATOR GEO-KARIS)

If you'll hold on just a moment, we'll refer to the Parliamentarian, Senator Carroll. Senator Carroll, your inquiry

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is not one for a ruling by this Body. Really, the nominations were brought before this Body and the Body is responding to this matter, and this question is one for the legal authorities in the -- in the other branches of government. Senator Carroll.

SENATOR CARROLL:

Thank you, Madam President. I do not disagree at all with the way in which the Chair is ruling. And I -- personally, I think the overwhelming majority, if not unanimous, opinion of the Senate will be that these five people are eminently qualified. My concern is to what we are doing by taking this action, since the action seems to be - and just advisory to the Members - by not doing the full nine that the Governor had submitted - and he did submit nine - by going with less than the full, we will not have met the statutory requirement of "all" new members having been advised and consented to. And I believe, therefore, the old seventeen-member Board is probably, then, the only Board that can act, and I don't know where the new five end up doing anything, and they may be in never-never land. I agree with you that it's probably not for the Chair to rule, since it's a statutory interpretation, but I think we should be careful, since we have withheld taking action on the other four that -- or, the Majority Party has withheld taking action on the other four appointees; we may be jeopardizing the State Board.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Bomke.

SENATOR BOMKE:

Thank you, Madam President. Senator Carroll, I -- I would just refer you to another part of the School Code, Section 1A-4 of the School Code, under paragraph E, it says, "Five members of the Board shall constitute a quorum. A majority vote of the members appointed, confirmed and serving on the Board is required to approve any action."

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PRESIDING OFFICER: (SENATOR GEO-KARIS)

Senator Carroll, in response.

SENATOR CARROLL:

Yes. Thank you. Thank you, Senator Bomke. And as we had discussed in -- in Committee without the reference, I agree that a quorum normally acts. My problem is, whoever had drafted House Bill 2596 that became Public Act 89-610, in creating a new board, said all must be before it becomes a board. I'm not sure that these five are a quorum of anything legal. They may be able to sit and talk to each other, but I think because the decision of the Republicans to withhold a -- a vote on the four, for very good reason by the way, but to withhold the vote on the four remaining mean we have not taken action on the nine and I don't think the new Board is a Board until we do so.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Further discussion? Senator Demuzio.

SENATOR DEMUZIO:

Well, thank you, Madam President, Members of the Body. I -- I think Senator Carroll is absolutely correct. What we are saying here today is that there is going to be some doubt as to whether or not these new five members that would constitute the State Board of Education are, in fact, going to be able to -- to do their duty. The fact is, and I'll be more specific - Senator Carroll didn't read part of it - it said that the term of each member of the State Board of Education who is in office on the effective date of this amendatory Act of 1996 shall terminate on July {sic} 1st of 1997 or when "all" of the new members initially to be appointed under this amendatory Act of '96 are appointed by the Governor as provided in subsection (b), whichever last occurs. Subsection (b) obviously talks about advice and consent of the General Assembly. So my reading of this, as a nonlawyer, is that the five members, who we are about to confirm, will not, in fact,

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be legitimately authorized to conduct any business, because all of the members to be appointed by the Governor in his Message that he sent here will not have been confirmed. I don't know what we're doing here today, but it just seems to me, in the period of time that I've spent in the General Assembly, that this is the first year that I've heard so much about elementary and secondary education, reforming education and what have you. And what's going to happen here is not only are we going to have a question as to who, in fact, is legitimately going to be empowered to serve under the Statute, but we're going to have another problem. The Committee seems to be content that the other four members of the Board recommended by the Governor are not going to be confirmed until after the Auditor General comes forward and submits the last audit, the compliance audit, of the State Board of Education. The Auditor General has indicated that that compliance audit will not be ready until the spring. And so what that means is if, in fact, we confirm these five today, and there's some question as to whether or not they, in fact, can serve, in lieu of the other ones not being confirmed, the other four won't be taken up by this Body nor confirmed by this Body until the grass is green, until the flowers bloom, until the leaves are on the tree. What are we doing here? It just seems to me to -- to confirm five with this doubt, and not the other four, seems to be a little silly to me.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Is there further discussion? Senator Hendon.

SENATOR HENDON:

Thank you, Madam President. Having heard my esteemed colleagues, despite what they've said, which is -- I agree with a hundred percent, I find these five to be quite acceptable, outstanding people. They were very straightforward with -- with the Committee. I agree that we do have a problem with -- with the other four nominees being held. However, these five were

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excellent credentials, very independent-minded, and I think they'll be an asset to the people of the State. And I urge support of the Senate.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Any further discussion? Any further discussion? Any further discussion? Hearing none, the question is, does the Senate advise and consent to the nominations just made. Those in favor, vote Aye. Those opposed will vote Nay. The voting is open. Have all voted who wished? Have all voted who wished? Have all voted who wished? Mr. Secretary, take the record. On that question, there are 51 voting Yea, none voting Nay, 1 voting Present. And a majority of Senators elected, concurring by a record vote, the Senate does advise and consent to the nominations just made. Senator Bomke.

SENATOR BOMKE:

Thank you, Madam President. I move that the Senate arise from Executive Session.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

You have heard the motion of Senator Bomke. Those in favor, say Aye. Those opposed, say Nay. The motion carries, in the opinion of the Chair. Senator -- Senator Donahue, for what purpose do you rise, ma'am? Senator Donahue.

SENATOR DONAHUE:

Thank you, Madam President. I would like to announce a Republican Caucus in Senator Pate Philip's at 10 a.m., tomorrow morning. 10 a.m., tomorrow morning.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

The announcement is that there's a Republican Caucus at 10 a.m., the 29th of January, which is tomorrow morning, in Senator Pate Philip's Office. 10 a.m. sharp, tomorrow morning. Thank you, Senator Donahue. Senator Demuzio.

SENATOR DEMUZIO:

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Thank you, Madam President. We -- we won't be there. On a point of personal privilege. I'd like to...

PRESIDING OFFICER: (SENATOR GEO-KARIS)

State your point.

SENATOR DEMUZIO:

...indicate for the record that Senator Bowles is not here due to the weather, and Senator Berman is also absent due to personal matters.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

What was the first name, please?

SENATOR DEMUZIO:

Bowles and Berman, and also we -- we can't go to the caucus at 10, so just want to let you know.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

I understand. It's so noted. Introduction of Bills.

SECRETARY HARRY:

Senate Bill 210, offered by Senators Madigan, Fitzgerald and others.

(Secretary reads title of bill)

Senate Bill 211, by Senator Sieben.

(Secretary reads title of bill)

And Senate Bill 212, offered by Senator Molaro.

(Secretary reads title of bill)

Also, Senate Bill 213, offered by Senator O'Malley.

(Secretary reads title of bill)

1st Reading of the bills.

PRESIDING OFFICER: (SENATOR GEO-KARIS)

Is there any further business to come before the Senate? If not, Senator Bomke moves the Senate adjourns until noon, Wednesday, January 29. I repeat, we are reconvening tomorrow at noon. Wednesday, January 29. Senate remains adjourned until then.

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