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HOUSE OF REPRESENTATIVES
TRANSCRIPTION DEBATE

106th Legislative Day

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Speaker McPike: "The House will come to order. Members will be in their seats. The Chaplain for today will be the Reverend Herbert Thompson, Pastor of Kumler United Methodist Church of Springfield. Reverend Thompson is a guest of Representative Mike Curran. Will the guests in the balcony please rise and join us in the invocation?"

Reverend Herbert Thompson: "Let us pray. Oh God, for physical existence itself, for sustaining us through each breath we draw and each beat of our hearts, for the marvelous universe of which this great state is a part, for the blessings, and the abundance, and the physical sense of life in Illinois, and for those whose sacrifices have made possible the freedoms that we're privileged to enjoy, as well as for the leaders and the rank and file who have made most responsible and compassionate use of our freedoms, we give Thee thanks. We bow in prayer at this moment because when You have given us the deepest insight into who and what we are, oh God, we have realized that we are ultimately under Thy control, that Thine authority is supreme, that our times are in Thy hand. And we would pray, therefore, for the faith and the continuing awareness of who You are, and what we are, and how great is our need for Thee, that will cause us to believe that as we act in accord with the very best we know and decide in the interests of all the people we are here to serve, with an awareness of Thy hand in our lives and in the collective life of this nation and world, with a view to what will be best for everyone, that we will find a fulfillment we seek - the satisfaction of helping others - and a feeling that when all has been said and done, our lives and the life of this Body in its action will have been a blessing - a blessing and rather than a burden for those with whom our

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lives relate. Keep us close to Thee and conscious of our need for Thy wisdom and strength, Thy courage, vision and stamina at all times, oh God. Help us to use Thy blessings as You would have us. And for all the fruitful results of leading us in this way, we give Thee praise and glory now and always according to Thy will. Amen."

Speaker McPike: "We will be led in the Pledge of Allegiance by Representative Ropp."

Ropp - et al: "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."

Speaker McPike: "Roll Call for attendance. 115 Members answering the Roll Call, a quorum is present. Representative Matijevich, do you know if there's any excused absences?"

Matijevich: "Mr. Speaker... Speaker, let the record reflect the excused absence of Representative Alan Greiman."

Speaker McPike: "Representative Piel."

Piel: "Yes, Mr. Speaker, would the record reflect a excused absence of Jane Barnes?"

Speaker McPike: "Thank you."

Piel: "Thank you."

Speaker McPike: "Page eight of the Calendar, Constitutional Amendments Third Reading. HJRCA 8 and HJRCA 12 have been read in full a third time. SJRA 22. Mr. Clerk."

Clerk O'Brien: "Senate Joint Resolution Constitutional Amendment #22. Resolved, by the Senate of the 84th General Assembly of the State of Illinois, the House of Representatives concurring herein, that there shall be submitted to the electors of the state for adoption or rejection at the general election next occurring at least six months after the adoption of this Resolution, a proposition to amend Section 9 of Article I of the Constitution to read as

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follows: Article I. Section 9. Bail and Habeas Corpus. All persons shall be bailable by sufficient securities, except for the following offenses where the proof of evidence or the presumption great: capital offenses; offenses for which a sentence of life imprisonment may be imposed by a consequence of conviction; and felony offenses for which a sentence of imprisonment, without conditional or revocable release, shall be imposed by law as a consequence of conviction, when the court, after a hearing, determines that release of the offender would pose a great and present threat to the physical safety of any person. The privilege of the Writ of Habeas Corpus shall not be suspended except in cases of rebellion or invasion when the public safety may require it. Any costs accrued to a unit of local government as a result of the denial of bail pursuant to the 1986 Amendment to this Section shall be reimbursed by the state to the unit of local government. Schedule. If approved by the voters of the this state, this Amendment shall take effect one day following the proclamation of the results of the vote on this referendum. Third Reading of the Constitutional Amendment as amended and held on Third Reading."

Speaker McPike: "Out of the record. Held on Third Reading. Introduction and First Reading."

Clerk O'Brien: "House Bill 3629, Phelps, a Bill for an Act providing for the detention and sheltered care at the Harrisburg Youth Center. First Reading of the Bill. House Bill 3630, Ropp - et al, a Bill for an Act to amend Sections of an Act in relation to state finance. First Reading of the Bill. House Bill 3631, Churchill, a Bill for an Act creating the Department of the Lottery and amending certain Acts herein named. First Reading of the Bill. House Bill 3632, Capparelli and DeLeo, a Bill for an

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Act to amend Sections of the Illinois Aeronautics Act.
First Reading of the Bill."

Speaker McPike: "Committee Reports."

Clerk O'Brien: "Representative Steczo, Chairman of the Committee on Cities and Villages, to which the following Bills were referred, action taken April 21, 1986, reported the same back with the following recommendations: 'do pass as amended' House Bill 3204; 'do pass Consent Calendar' House Bill 3128; 'do pass as amended Short Debate Calendar' House Bill 3079. Representative Ronan, Chairman of the Committee on Transportation and Motor Vehicles, to which the following Bills were referred, action taken April 21, 1986,..."

Speaker McPike: "Representative Breslin in the Chair. Proceed."

Clerk O'Brien: "... reported the same back with the following recommendations: 'do pass' House Bill 2781; 'do pass Consent Calendar' House Bill 3277. Representative Myvetter Younge, Chairwoman of the Committee on Urban Redevelopment, to which the following Bills were referred, action taken April 21, 1986, reported the same back with the following recommendations: 'do pass' House Bills 191, 1699 and 2666 and 2792; 'do pass as amended' House Bills 317, 330, 1233; and remove House Bill 1233, consideration was postponed; 'tabled by Rule 26(d)' House Bill 1238. The Committee on Rules has met pursuant to Rule 29(c)-3, the following Bills have been ruled exempt on April 21, 1986: House Bills #2676, 2685, 2705, 2711, 2724, 2743, 2746, 2749, 2796, 2876, 2882, 2893, 2950, 3072, 3126, 3158, 3175, 3183, 3192, 3214, 3217, 3237, 3242, 3282, 3302, 3344, 3346, 3349, 3357, 3371, 3387, 3412, 3418, 3425, 3431, 3443, 3474, 3475, 3476, 3477, 3479, 3480, 3506, 3518, 3521, 3522, 3525, 3527, 3528, 3529, 3530, 3531, 3532, 3533, 3534, 3535, 3543, 3548, 3550, 3587, 3604, 3612, 3613, 3615 and 3616. Signed John

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Matijevich, Chairman. A correction on Committee Report from Urban Redevelopment, House Bill 1233 was reported 'do pass as amended'."

Speaker Breslin: "Ladies and Gentlemen, on page seven on your Calendar appears Constitutional Amendments Third Reading. First Bill, House Joint Constitutional Amendment #1, Representative Madigan."

Clerk O'Brien: "House Joint Resolution Constitutional Amendment #1. This Constitutional Amendment has been read a third time."

Speaker Breslin: "Representative... Representative Vinson, for what reason do you rise?"

Vinson: "Madam Speaker, I'd like to request a Republican Conference in Room 114 immediately."

Speaker Breslin: "Representative Van Duynes, for what reason do you rise?"

Van Duynes: "Just to make an announcement, Madam Speaker. There will be no meeting of the Counties and Townships Committee this afternoon. There will not be a meeting of the Counties and Townships this afternoon."

Speaker Breslin: "There's been a request for a Republican Conference. Therefore, the House will stand in recess until the hour of 1:00 allowing time for the Republicans to go to Conference in Room 118 and the Democrats to go to lunch."

Speaker Madigan: "Ladies and Gentlemen, if I could have your attention just for one minute. The plan is for the House to continue to stand at ease for approximately 15 minutes and for the Members of the Rules Committee to go immediately to Room 114 for the purpose of a partial hearing on matters before the Rules Committee. So if the Members would stand at ease, but the Members of the Rules Committee please go to Room 114 immediately so that we can

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continue the process. Thank you."

Speaker Breslin: "Ladies and Gentlemen, the House will come to order. Introduction of Bills."

Clerk O'Brien: "House Bill 3633, offered by Representative Ropp, a Bill for an Act to amend Sections of the Criminal Code. First Reading of the Bill. House Bill 3634, Rea, a Bill for an Act to amend Sections of the River Conservancy District Act. First Reading of the Bill."

Speaker Breslin: "Ladies and Gentlemen, we will now go to page seven on your Calendar. Under Constitutional Amendments Third Reading, appears House Joint Resolution Constitutional Amendment #1, Speaker Madigan."

Madigan: "Madam Speaker and Ladies and Gentlemen, this Constitutional Amendment deals with the authority of the Governor to author amendatory vetoes to Bills which are passed by the Legislature to his desk. Today, when the Governor offers an Amendment to a Bill, the Bill returns to the Legislature. The Bill Sponsor is given a choice of accepting the Governor's Amendment in order to provide that the Bill will become law. The vote count to accept the Governor's Amendment is a Simple Majority. Today, if the Sponsor wishes to attempt to override the Governor's veto and to get his Bill as the Bill was sent to the Governor, the vote count is an Extraordinary Majority in the House - 71 votes. In my judgement, those vote requirements taken together with the practical consideration that Bill Sponsors are very desirous of being able to say that their Bill has become law has led to a situation where we have permitted an imbalance between the Executive Department and the Legislative Departments. We in the Legislature suffer vis-a-vis the relationship that we have with the Executive Department in this particular area. This Amendment is designed to remedy that situation to put the two

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departments in a better balanced vis-a-vis the relationship that exists between the Executive and the Legislative. The Amendment would simply provide that if adopted by the people, then for a Bill Sponsor to accept the Governor's Amendment would require an extraordinary vote and for a Bill Sponsor to override the Governor's Amendment to get the Bill as the Bill was sent to the Governor's desk would only require a Simple Majority. So, we would flip the vote requirements and in my judgement restore the balance that should exist between the Legislative Department and the Executive Department. There have been earlier efforts in this area. There was an Amendment to the people in 1974 which failed. There were other Resolutions which failed. Those earlier efforts generally went much further than this Amendment and certain of those earlier efforts even attempted to completely eliminate the amendatory veto. I believe that this proposal strikes a good balance between those who would prefer to leave the amendatory veto as is, and those who would like to eliminate the authority in the Governor completely. I would recommend an 'aye' vote in support of the Resolution."

Speaker Breslin: "The Gentleman has moved for the adoption of House Joint Resolution Constitutional Amendment #1. And on that question, the Gentleman from DuPage, Representative McCracken."

McCracken: "Thank you, Madam Speaker. Parliamentary inquiry before I proceed."

Speaker Breslin: "State your inquiry."

McCracken: "Is it correct that this vote... or that this Motion requires 71 votes?"

Speaker Breslin: "That is correct."

McCracken: "Thank you. To the Bill. Or strike that. Will the Sponsor yield?"

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Speaker Breslin: "He indicates he will yield."

McCracken: "Mr. Speaker, would you go over again the affect this seeks to make? Is it correct that in the case of an acceptance it can be done, if this Bill were passed by a Simple Majority and the override by a Simple Majority,..."

Madigan: "No. The acceptance would require an Extraordinary Majority, and the override would require a Simple Majority."

McCracken: "Thank you. To the Bill, Madam Speaker. I believe that the current rule requiring an Extraordinary Majority for override and a Simple Majority for acceptance is, in fact, the balance which should exist in a tripartite system of government. I think that where the Governor takes the extraordinary action of vetoing the Bill it should likewise require an extraordinary vote by the General Assembly to override that veto. I think that, in fact, is the balance which currently exists and which should be continued. In the case of acceptance of an amendatory veto, there is less controversy. There is less dissension between and among the various branches of government. And in that case it is appropriate, I think, to act with a Simple or Constitutional Majority. So, I believe that current law, our current rules do, in fact, strike that balance which is necessary and that to adopt this Motion would, in fact, throw out of balance our relationship with the Executive."

Speaker Breslin: "Is there any further discussion? Hearing none, Representative Madigan, to close."

Madigan: "In closing, Madam Speaker and Ladies and Gentlemen, let me explain that in the case of an outright veto - a case where the Governor simply vetoes the Bill - the vote requirement to override the veto remains 71 votes in the House, 36 in the Senate. This Resolution only deals with the situation where there is an amendatory veto offered by

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the Governor. It simply provides that the Legislature - you and I - now and forever, not just during the tenure of this particular Governor, would be placed in a better position relative to the consideration of legislation. Thank you."

Speaker Breslin: "The question is, 'Shall the House adopt House Joint Resolution Constitutional Amendment #17?' All those in favor vote 'aye', all those opposed vote 'no'. Voting is open. 71 votes are required for adoption. Have all voted who wish? Have all voted who wish? The Clerk will take the record. On this question, there are 65 voting 'aye', 47 voting 'no', and none voting 'present'. And the Resolution fails. House Joint Resolution Constitutional Amendment #3, Representative Shaw."

Clerk O'Brien: "House Joint Resolution Constitutional Amendment #3, this Constitutional Amendment has been read in full three times previously."

Speaker Breslin: "Representative Shaw."

Shaw: "Yes, Madam Speaker, Ladies and Gentlemen of the House, this is a... House Resolution 3 is a Constitutional Amendment. And this Resolution is... would extend the term of office for the House Members from two to... from two to four years and the Senate from... it would give the Senators one six year term and one four year term. And I've conferred with the various election departments around the state. And I talked to the Chicago Board of Election commissioners, and they said that this... if this was changed, it would save the City of Chicago and various election departments millions of dollars. And not only that, it would... it would save all of... it would save the Representatives from running every year, more or less. Because by the time you come out of one election, you're into another one and you really don't have time to do the

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work that the people have sent you to Springfield to do. And with this Amendment, even though we vote it out of here today, the people of this state would still have to vote on this Amendment to... on this change. And I think it's a good Amendment. And I think that it would well serve the public interest, if this Amendment was adopted."

Speaker Breslin: "The Gentleman has moved for the adoption of House Joint Resolution Constitutional Amendment #3. And on that question, the Gentleman from Cook, Representative Piel."

Piel: "Thank you, Madam Speaker, Ladies and Gentlemen of the House. I stand in support of the Gentleman's Motion on Constitutional Amendment #3. I think all of us who serve in this chamber many times are asked, why are you continually running for office? It's a situation to where we're sworn in in January. In December you have to file for reelection even though you have 13 months left in office. March, you have to run again. And as even our analysis states, so much of your time is spent campaigning. You're running all over your district campaigning when you know technically you should be doing your legislative duties. This is not a situation to where we're taking the whole authority ourselves. We're putting it up before the people. Many times people have approached all of us here at one time or another in the House and stated, why don't you have longer terms? All this Constitutional Amendment does is give... put it on the ballot. Let the citizens of Illinois... If the citizens of Illinois want us to have staggered terms that would coincide with our Senators, we would not be running ever in the situation against our Senators, but terms that would coincide with our Senators, then they will tell us in November. Yes, we do want you to have longer terms, or no, we don't want you to have longer

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terms. All this Constitutional Amendment does is give the voters of the State of Illinois the right to say yes or no. I would ask for the passage of House Joint Resolution Constitutional Amendment #3."

Speaker Breslin: "The Gentleman from Champaign, Representative Johnson."

Johnson: "I didn't think that I would address this issue, but since people from both sides of the aisle have I feel compelled I think to give the other side of the issue and my position. And that is, when we established this Constitution in 1970 and the Constitutions before that, for that matter the United States Constitution, one of the premises was that this branch, the House of Representatives, ought to be continually subject to the scrutiny of the people. And I think that argument is equally as valid if not more valid today than it was back in the 1800's and the 1700's when we framed those Constitutions. I think one example points out to me the reason why this should be defeated. If a particular controversial issue was voted on, let's say, early in the term of what would propose to be a four year term of a legislator, controversial and wrong and against the interest of the people or whatever you want to hypothesize, four years is a long time. And four years is a long time and memories fade and the ability of the people, the voters, to scrutinize and judge the Members of this chamber, I think, would be weakened by passing this Amendment. And for those reasons and despite my respect not only for the Sponsor, but for Representative Piel who's spoken in favor of it, I think this is a change that ought not to be made in the 200 and some year tradition in this country of having this chamber subject to continual voter scrutiny is a good one. And this Amendment should be

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defeated."

Speaker Breslin: "There being no further discussion, Representative Shaw, to close."

Shaw: "The only thing that I would like to point out, that several states around the nation is elected... the Legislature is elected to four year terms. And one come to mind and that's the State of Louisiana where the House is elected to four year terms. And we're not trying to circumvent the people here. The only thing that we are trying to do is put this referendum before the people and let the people decide. And I think the people of this state should have an opportunity to make the judgement, not those of us who sit in the Legislature and pass laws, but let it go on the ballot. The Resolution should be passed, and the people of this state should have an opportunity to vote on it. And I urge an 'aye' vote on it."

Speaker Breslin: "The question is, 'Shall the House adopt House Joint Resolution Constitutional Amendment #3?' All those in favor vote 'aye', all those opposed vote 'no'. Voting is open. This Amendment... This Resolution requires 71 votes for adoption. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk will take the record. On this question, there are 61 voting 'aye', 51 voting 'no' and 3 voting 'present. And the Resolution fails. House Joint Resolution Constitutional Amendment #4. Clerk, read the Resolution."

Clerk O'Brien: "House Joint Resolution Constitutional Amendment #4, this Constitutional Amendment has been read in full previously."

Speaker Breslin: "Representative Friedrich."

Friedrich: "Madam Speaker, Members of the House, I've joined with several Members on both sides of the aisle to give the people of Illinois a chance to vote on this matter that's

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vital to a lot of people in this state; Representative Richmond, Representative Hastert, Representative Mautino, Representative Ryder. More people are involved in public education than any other activity in this state. Two-thirds of your real estate taxes and one-third of the state budget is directed towards public education. We have thousands of students, teachers, and parents and yet we have never had an Illinois resident appointed to the position of State Superintendent by the State Board which is appointed by the Governor. It seems to me this is not government at its best. This office under this system has become unresponsive and irresponsible not only to Members of the Legislature, but more importantly unresponsive to the various school districts and school boards. They spend their time drawing up difficult and unreasonable rules and then trying to bypass the elected regional superintendent. I would remind you that the people never had an opportunity in 1970 to decide whether they wanted an appointed superintendent. It was not a scheduled item. It was in the package, and you either voted for the package and the appointed superintendent or you voted against the whole package. I've introduced this Amendment before, and I've been told, 'Well, let's give it time.' Well, we've given it time now. We've given it over ten years, and education in Illinois continues to go downhill with this method. I would remind you again that voting and passing this Resolution does not of itself make the office an elective office. It merely submits the question to the people to let them decide, for the first time, which way they want to go. To me, if you believe in government by the people and for the people, this is an opportunity to submit a question that involves a lot of dollars and a lot of people in this state. I've been around a long time, as you know, and I've

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worked with superintendents elected by both the Democrat Party and the Republican Party. And I can tell you now, I'd rather have an elected Democrat than an appointed alien. School board members and teachers agree with me. Unfortunately, some of them are a little reluctant to come out as vocal as they should. Because, you know, in politics we say, if you're going to shoot a king, you better hit him. And I think they're a little afraid they might not hit him. But this gives the people - all the people - a chance to decide how this office ought to be run. I say there's no office in this state that's more important than the State Superintendent of Schools. And I think he ought to be chosen by the people of this state."

Speaker Breslin: "The Gentleman has moved for the adoption of House Joint Resolution Constitutional Amendment #4. And on that question, the Gentleman from Kendall, Representative Hastert."

Hastert: "Thank you, Mr. Speaker (sic - Madam Speaker), Ladies and Gentlemen of the House. I stand to concur with the Gentleman's proposition. I think when you look at the educational reform that we went through last year and see that sometimes we focus on education maybe once every eight, or nine, or ten years, that we really ought to focus on education every four years. I think when we elect the State Superintendent of Education, this becomes the issue, that we can take a look at education, that education becomes part of the elective process, that you can start to focus in on the issues and those issue are going to be discussed. And I would say that if we had the election of the State Superintendent of Education on a periodic basis, that those educational issues would be constantly in front of the people of this state. People would have a knowledge of what's happening on education, and we wouldn't have to

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deal with education when it was at the crisis stage. I think it's a very excellent program. I think it's a proposition that will bring education constantly before the people of the State of Illinois. It will give the people a voice in what happens to their property tax dollars, to their income tax dollars, how we fund education, what the quality expectations of education should be and puts it, in part, in the people's hand where it should be. I support this proposition and ask for your affirmative vote."

Speaker Breslin: "Is there any further discussion? The Gentleman from Cook, Representative Shaw."

Shaw: "Yes, I would... will the Sponsor yield for a question?"

Speaker Breslin: "He indicates he will."

Shaw: "When was the Superintendent of Public Instructions eliminated in terms of the... in terms of the election... of being elected?"

Friedrich: "Prior to 1970, the Constitution provided for the election. The 1970... which the... the Constitution which was adopted in 1970 changed that to an appointive method. And it was about a couple years later the first one was appointed."

Shaw: "Did the people of this state ratify the Constitution?"

Friedrich: "Yes, they did. But as I pointed out, Representative Shaw, they had no choice in this matter. They either voted against the whole Constitution which involved home rule for Chicago and some other things, or they voted for an appointed superintendent, one of the two. They couldn't have it both ways."

Shaw: "To the Resolution. I think that it's clear that if the people had wanted to... an elected school superintendent, they would have taken different action. And today, I would like to see a superintendent appointed because if he's not doing his job, the Governor or whoever appoints him can

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fire him. And I don't think that you should take that away from the Governor. It doesn't make any difference which Governor it is, whether it's a Democrat or Republican. But the people had spoken back in 1970, and now we are here today trying to circumvent the people of this state. And I think this Resolution should be defeated."

Speaker Breslin: "The Gentleman from Cook, Representative Preston."

Preston: "Thank you, Madam Speaker and Ladies and Gentlemen of the House. I rise in opposition to this Constitutional Amendment to this House Joint Resolution. I think, in Illinois, we have, through recent experience, seen what happens when you have a ballot so full of names and offices that proper public attention cannot and is not paid to any but the most visible of those offices. The opportunity to work mischief is great when you have a ballot so filled with one office after another that the public know little about that they end up voting for a name instead of the qualifications of the candidates. I can see no reason to add yet one more office to the list of offices that we already have elected officials in. I think that there are many too many offices today that can properly be filled and should properly be filled by appointment from the Executive Branch much the same as exists within the Federal Government. I think now to add the Superintendent of Education as one more office to stand for election will give yet another opportunity for the public scrutiny to be little, for the opportunity of mischief to be great. And for that reason, I think it's a bad idea. And I'm going to vote 'no'."

Speaker Breslin: "The Lady from Cook, Representative Didrickson."

Didrickson: "Yes. Thank you, Madam Speaker, Members of the House. I, too, rise in opposition to this Amendment, this

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constitutional change. If I was convinced we were going to get better helm at the head of our State Department of Education, I'd go along with it. But instead of a better educator, I have a feeling that we might get a better politician. I come out of Cook County, and indeed, we up there elect our Judges as we do in the rest of the state. I'm not convinced we have a better judicial system in Cook County because we elect those Judges, for instance, scrutinizing them and looking at them based on their merit. For those reasons, I oppose this."

Speaker Breslin: "The Gentleman from Champaign, Representative Johnson."

Johnson: "Well, along the same lines, if I thought that voting against this would upgrade the Superintendent of Schools in Illinois, I probably would vote against it. But I think the only way we're going to get somebody who's not willing to go into office and practically double his salary, and have virtually no scrutiny or accountability to the Legislature or to the people, is to vote 'yes' on this Amendment. So, I'm going to vote for it."

Speaker Breslin: "There being no further discussion, Representative Friedrich, to close."

Friedrich: "Well, I'd like to clarify a couple of things again, particularly for Representative Shaw. The people did not have a choice. They did not have a choice whether it was elected or appointed. They had a choice whether they adopted a new Constitution which had many things in it, I'm sure, that his people would like to have had. The argument at the Constitutional Convention - let's take education out of politics. Well, what they did was take education out of the hands of the people and gave it to a select few that are untouchable. Now, there's more politics going on with the State Board of Education internally than there is in

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the political parties right now. And if you don't believe it, you haven't been watching. I believe in politics heads up, and let the people who elect the Governor and elect you and me to have a chance to decide who heads education in this state. 'Jay Lester Bufford' who was a very strong advocate, he had been head of the IEA and the NEA, said, 'Let's take education out of politics.' He told me since then on several occasions, said, 'We made a terrible mistake and you were right in the first place.' I can tell you, you have nothing to fear unless you fear the people of this state. Give them a chance to decide what they want. That's all you're doing here."

Speaker Breslin: "The question is, 'Shall the House adopt House Joint Resolution Constitutional Amendment #4?' All those in favor vote 'aye', all those opposed vote 'no'. Voting is open. 71 votes are required for the adoption of this Resolution. The Gentleman from Macon, Representative Tate, one minute to explain your vote."

Tate: "Thank you, Madam Speaker. I really don't have an explanation. I would like to ask a question kind of late. I wondered if somebody could respond whether this affects the State Board of Education in any way? Whether... Are those positions elected or appointed?"

Speaker Breslin: "Representative Friedrich, would you like to... in explanation of your vote, answer Representative Tate's question?"

Friedrich: "The State Board would be abolished as it presently exists."

Speaker Breslin: "Have all voted who wish? Have all voted who wish? The Clerk will take the record. On this question, there are 46 voting 'aye', 62 voting 'no' and 2 voting 'present'. And the House fails to adopt House Joint Constitutional Amendment #4. House Joint Resolution

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Constitutional Amendment #6, Representative McPike. Out of the record. House Joint Resolution Constitutional Amendment #8, Representative Satterthwaite. Clerk, read the Resolution."

Clerk O'Brien: "House Joint Resolution Constitutional Amendment #8. This Constitutional Amendment has been read in full a third time previously."

Speaker Breslin: "Representative Satterthwaite."

Satterthwaite: "Madam Speaker and Members of the House, this Constitutional Amendment is one that the House passed two years ago, but the Senate, because it was so late, did not take action in time to put it on the ballot. It makes some changes in the Section of the Constitution dealing with voting rights. It really makes no substantive change. It really just updates that Section to comply with what we have been doing for over a decade in the State of Illinois. It decreases the age for voting from 21 to 18 which was, of course, made compulsory under the U.S. Constitutional Amendment #26. And it changes the length of residency requirement to 30 days which has been in effect since the early 70's by a decision by the U.S. Supreme Court. And so, it really does not change what we have been doing for more than a decade in the State of Illinois, but it would update the Constitution to comply with current practice. I think, as we expect our young people in our schools to study the U.S. Constitution and the Illinois State Constitution, we should be having that consistent with what actually happens. And for that reason, I would ask for your support in passing House Joint Resolution Constitutional Amendment #8."

Speaker Breslin: "The Lady has moved for the adoption of House Joint Resolution Constitutional Amendment #8. And on that question, is there any discussion? Hearing none, the

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question is, 'Shall the House adopt House Joint Resolution Constitutional Amendment #8?' All those in favor vote 'aye', all those opposed vote 'no'. Voting is open. 71 votes are required for the adoption of this Amendment. Have all voted who wish? 71 votes are required for the adoption of this Amendment. Have all voted who wish? The Clerk will take the record. On this question there are 98 voting 'aye', 13 voting 'no' and 1 voting 'present'. And the House does adopt House Joint Resolution Constitutional Amendment #8. House Joint Resolution Constitutional Amendment #12, Representative Pedersen. Clerk, read the Resolution."

Clerk O'Brien: "House Joint Resolution Constitutional Amendment #12. This Constitutional Amendment has been a full... in full three times as amended previously."

Speaker Breslin: "Representative Pedersen."

Pedersen: "Thank you, Mr. Speaker (sic - Madam Speaker) and Ladies and Gentlemen of the House, for this opportunity to present House Joint Resolution Constitutional Amendment 12, what we call the tax cap Amendment. Citizens of Illinois are entitled to have a say - a direct say in how much of their income we should spend. Citizens of other states do, and it is Illinois' turn. Our citizens will show their appreciation to all of us for getting the chance. A little history is in order. The 1960's and 70's were years of tremendous growth of government and government spending at all levels. Take a look at the figures. Government spending - state, federal and local - totalled 45.2 percent of personal income in 1983 according to a U.S. Department of Commerce survey of current business issued in February of 84. In Illinois, since passage of the income tax in 1969, spending has jumped from 3.5 billion in the last biennium before 1969, and that's two years, folks, to the

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proposed budget this year of over 20 billion dollars for only one year. From 1960 to 1983, spending in Illinois went up 721 percent while personal income rose by only 452 percent. Taxpayers in other states revolted. Proposition 13 in California and Proposition 2.5 in Massachusetts are well known examples. In 1978, Illinois taxpayers let us know in the way... in the only way they could, advisory, you know, that they overwhelmingly approve constitutional limits on government spending. Now, we all know this is an election year. What a nice gesture. All those green lights for a Constitutional Amendment which allows taxpayers in Illinois to have a direct say in how much of their income we can spend. They will show their appreciation. Not that Illinois didn't get some relief, they did. But now with the 1983 state financial crisis behind us, the pressure for more spending and consequently more taxes is tremendous. Nobel Laureate 'Milton Friedman' says, this is all caused by a fundamental defect in our political and constitutional structure which prevents the public at large from ever getting to vote on the total budget of the government. Currently, each particular spending measure is considered separately. That, of course, means each spending measure develops its own little interest group and we're all members of these small groups. Although we sometimes think of these vested interests as big bad guys sitting on money bags, we know better. We know they are really us - you and me and every citizen. Each of us tends to strongly favor measures that will benefit us, and we tend to overlook other small measures as long as they don't cost too much. Obviously, we aren't going to vote somebody out of office because he imposes an additional three dollar a year burden on us. Consequently, when we consider each measure separately, there is great

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pressure to pass. The proponents make a better case than the opponents. Nobody adds up the cost until suddenly, another budgetary crisis has developed and we're told tax hikes are needed. Let's face it, it's easier to control a problem at the source. In other words, to look at the level of revenue raised by the government from which programs can be funded. We're working against the forces of human nature when we consider spending questions by themselves and that is where the tax cap Amendment comes in. The tax cap Amendment remedies this flaw by enabling the taxpayers of Illinois to tell the Legislature what they're willing to pay for State Government. They'll say, 'We assign you a budget, now it's your job to spend that budget in the most effective way. You must establish priorities.' The tax cap Amendment will allow the taxpayers of Illinois to assign us a budget by limiting government spending to a fraction of income, specifically 6.5 percent of the average personal income of Illinois in the three most recent years for which figures are available. This limit on taxes imposed would apply to deposits in both the General Revenue and the Common School Funds. The tax cap Amendment is not a tax cut. It does allow the taxpayers of our state to set a limit and allowed increased revenues only if the jobs' climate is good and income is going up. But it would protect them from a repeat of what has happened the last 25 years in Illinois. We have also put in an escape mechanism for emergencies by establishing a rainy day reserve called the Budget Stabilization Fund. The fund itself would be limited to two percent of the revenue limit in each fiscal year. It could only be tapped if the Governor declared a fiscal emergency and three-fifths of the Members of each Legislature... legislative chamber agreed. In an extreme

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emergency if the Budget Stabilization Fund was inadequate, the 6.5 percent cap could be suspended with action by the Governor and a Two-Thirds Majority of the Legislature. In these cases, any emergency taxes imposed would become void the following year and the 6.5 percent cap would be reinstated. I might add that the rainy day fund would serve another purpose as well. A special provision of our Amendment earmarks fund surpluses to reduce the unfunded liability of the state's five pension systems, retire general obligation bonds sold by the state, or even return the excess to the taxpayers. Everyone talks about balanced budget Amendments and deficits, but most solutions recommend increasing taxes, something nobody likes to talk about. 'Parkinson's Law' states that government will spend whatever the tax system generates, plus a lot more. Tax increases don't solve the problem. They only encourage more spending, which encourages more taxes and so on and on in a never ending spiral. It's really pretty simple, however. If individuals are ever again to have the freedom to spend most of their money and, the burden of government is not to crush all initiative in enterprise till it collapses beneath its own weight, then government must find a way to control, or better still, reduce instead of continually increases its activities. The thing to watch is not deficits. It's not unbalanced budgets. What we should be watching is what government spends. Right now, the people don't have the chance to decide how much of their resources they want government to spend. The tax cap Amendment would change that and let the people of Illinois decide just how much government they're willing to pay for. In closing, I'd like to ask you to remember that referendum back in 1978, remember what the people - your constituents and mine - said, what a nice gesture to be asked by us in a

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referendum that means something. I know they will show their appreciation. We have broad bipartisan support of this measure with over 65 Cosponsors. And so I ask for your favorable vote on House Joint Resolution Constitutional Amendment 12. Thank you."

Speaker Breslin: "The Gentleman has moved for the adoption of House Joint Resolution Constitutional Amendment #12. And on that question, the Gentleman from Cook, Representative Cullerton."

Cullerton: "Will the Sponsor yield?"

Speaker Breslin: "He indicates he will."

Cullerton: "Well, Representative, basically then, it's a pretty simple Amendment, huh? It's a pretty simple formula?"

Pedersen: "Well, it just basically says that in those two funds we'll come up with the percentage of personal income of 6.5 percent, and you can't spend more money than that 6.5 percent. It's 6.5 percent of personal income."

Cullerton: "So, for '86 we would take 1983, 1982 and 1981 fiscal years, divide it by three, multiply it by 6.5 to equal the limitation. Is that right?"

Pedersen: "... '86 that's correct."

Cullerton: "Well, I think the voters shouldn't have any problem understanding that formula when they vote on this in November, do you think?"

Pedersen: "Well, what it does is... that average is kind of counter-cyclical to the business cycle. And so what happens is that..."

Cullerton: "Representative, I'm sorry. Could you tell me what is the position of the Governor on this Constitutional Amendment which provides a limitation on state taxation?"

Pedersen: "Well, he... I think we had an advisory referendum of this sort back in 1978... and the people passed it overwhelmingly and he was supporting that. So, I don't..."

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I haven't heard of any opposition to this at all."

Cullerton: "Well, do you know what the Governor's position is on this Constitutional Amendment?"

Pedersen: "I'm not sure that he has one."

Cullerton: "Well, he... he doesn't get a chance to veto or sign these Constitutional Amendments, correct?"

Pedersen: "That's right. The people decide."

Cullerton: "Right. So, he just gets one vote, just like anybody else."

Pedersen: "Right."

Cullerton: "But he has not indicated to you whether or not he's in support of the Constitutional Amendment? He has taken no position on it?"

Pedersen: "As far as I know."

Cullerton: "Okay. No further questions. Thank you."

Speaker Breslin: "The Gentleman from Bureau, Representative Mautino."

Mautino: "Thank you very much, Madam Speaker. I'd like to stand in support of HJRC 12, and I'd like to use the analogy that we are providing, with this Constitutional Amendment, exactly what is provided for in our local government. You know, in 1974 when we came down to this General Assembly our budget was 10.9 billion dollars, and in that short 11 year span, it has basically doubled while, in fact, the economy has not done the same. There are very few of us that are willing to make that big determination to not impose new taxes to provide for funding of government by service related fees, but at the same time don't really give evaluation to the overall economic growth that the individual state is having, that being our state. Therefore, there is one way to provide for the taxpayers some knowledge, and planning, and forethought into what their taxation bill will be. This Amendment does that. It

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does it under a formula that does have the escape hatch for emergencies. And I think what it will do is probably have the General Assembly as well as the Executive Branch of Government examine those areas that are not departmentally covered such as; contractual agreements, professional and artistic contracts, etcetera, which I believe will probably be the fourth or fifth estate that this General Assembly in this state will be evaluating in detail in the coming years. I think it's good that we provide a cap so that the citizens of this state have the opportunity to know just how large the growth in government will be. And I think it's important that we give them the opportunity to make that decision. California has not fallen off the continent of North America. They provided the same good services that were in effect before Proposition 13. And I think Illinois, with this advanced formula presented by Representative Pedersen and others, is beneficial. They should have the right to vote on it, and it's a good measure. I stand in support."

Speaker Breslin: "The Gentleman from Madison, Representative McPike."

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

Speaker Breslin: "He indicates he will."

McPike: "If this had been in effect in FY '85, how much could we, the state, have spent?"

Pedersen: "In these two funds, it would be 8.73 billion."

McPike: "Eight point what?"

Pedersen: "Eight point seven three billion dollars."

McPike: "And how much did we spend?"

Pedersen: "Yes, we spent the 8.73 billion dollars."

McPike: "Could you speak up just a little? I can't hear your answers. You say the limitation..."

Pedersen: "The General... The General Funds for fiscal '85, the

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receipts less federal aid, were 8.73 billion dollars."

McPike: "Those are the receipts. And what would have been the limitation, had this been the law?"

Pedersen: "Well, the average personal income was 130 billion and that figure would have been 6.7 percent. So, it's... It would have been two-tenths of a percent too high. Not much. Not much money. This year in '86 we're right on the button at 6.5. That's the estimated."

McPike: "This year, we will raise how much?"

Pedersen: "Well, the estimated is 8.95 billion dollars."

McPike: "And that's how much we would raise, and that's the limitation, also?"

Pedersen: "The limitation is 6.5 percent..."

McPike: "I know what... How much is it in dollars?"

Pedersen: "Well, the average... all right... We're talking about the 8.95 billion being right at the 6 percent... at the 6.5 percent. That's why we wrote it this way, to put it about where we are."

McPike: "Now, are we limiting all state spending or just spending in some categories?"

Pedersen: "Just those two major funds. You know, it's really the General Revenue and the Common School Fund combined. Those are the main ones, you know, the income tax, sales tax, utility tax, and so on, go in there."

McPike: "Yes, well is there some way we can get around it by spending... by creating other funds? Taking the... General Assembly pass a law to take the sales tax and put it into... Let's say take the Lottery and put it into instead of the... instead of the Education Fund, we could pass a Bill putting the Lottery into some other fund to pay for state fairs and..."

Pedersen: "Well, I suppose there's no limit to what a resourceful politician can do, but I... You know, this is the way it's

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supposed to work and I assume that if the politicians start playing games, you know, the taxpayers would take notice."

McPike: "Okay. Thanks."

Speaker Breslin: "The Gentleman from DeWitt, Representative Vinson."

Vinson: "Thank you, Madam Speaker. I don't think that this deserves or demands a lot of debate. And I think that that's the case because there have been two states in the country that have done this, one is Massachusetts, and one is California. And the simple fact of the matter is they got the two strongest, most vital economies in the country since they've done it. I think that record speaks for itself. And it would seem to me that the Gentleman from Madison, as destitute as his area is, would understand the need for this, as should the rest of us. I would urge an 'aye' vote."

Speaker Breslin: "There being no further discussion, Representative Pedersen, to close."

Pedersen: "Pedersen."

Speaker Breslin: "Pedersen."

Pedersen: "Yes, Ladies and Gentlemen of the House, most Americans are patient with their elected officials up to a point. The history of other states in recent years is something we should ponder. California and Massachusetts come to mind. Taxpayers in Illinois gave us some advice back in 1978. They have been patient. Passage of HJRC 12 conveys a message to them that we are interested, really interested in what they think our budget ought to be. Only this time it won't be advisory. It will mean something. What a nice gesture to be asked by us in a referendum what they think. I know they will show their appreciation. On the other hand, if we say no, what are they to think? Remember, it's easier to control a problem by the source at the level of

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revenue raised by government from which programs can be funded. HJRCA 12 also allows taxpayers of Illinois to vote on a budget set at 6.5 percent of personal income and that's the level we're at in 1986. They could decide whether they want to be protected from a repeat of the spending increases in Illinois over the last 25 years. In closing, I'd like to leave you with this thought from a letter of support by 'Jim Hines', Professor of Economics at the University of Illinois. 'A Constitutional Amendment to limit taxes would be a big plus for the Illinois business climate. It would send the strongest possible signal to the world's economic community that Illinois is serious about controlling the costs of government.' And so, Ladies and Gentlemen of the House, the taxpayers of Illinois are waiting for your answer. Let's show them we are interested in what they think by voting 'yes' on HJRCA 12. Thank you."

Speaker Breslin: "The question is, 'Shall the House adopt House Joint Resolution Constitutional Amendment #12?' All those in favor vote 'aye', all those opposed vote 'no'. Voting is open. This Resolution requires 71 votes for adoption. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk will take the record. On this question, there 93 voting 'aye', 18 voting 'no' and none voting 'present'. And the House does adopt House Joint Resolution Constitutional Amendment #12. Senate Joint Resolution 22, Representative McCracken. Read the Bill... Read the Resolution, Mr. Clerk."

Clerk O'Brien: "Senate Joint Resolution Constitutional Amendment #22. This Constitutional Amendment has been read a third time as amended previously."

Speaker Breslin: "Representative McCracken."

McCracken: "Thank you, Madam Speaker. SJR 22 would give the

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courts discretion to deny bail in the case of charged offenses for which imprisonment is mandatory upon conviction where the presumption of guilt is great. And there is, in the discretion of the court, a need to protect any person from the defendant. This Bill essentially would extend to mandatory imprisonment offenses already the standard for the imposition or denial of bail for capital and natural life sentences. In addition, it requires that the state reimburse the local units of government for the cost of the 1986 Amendment to the Habeas Corpus Article of the Illinois Constitution. I move its adoption."

Speaker Breslin: "The Gentleman has moved for the adoption of Senate Joint Resolution #22. And on that question, is there any discussion? The Lady from Cook, Representative Braun."

Braun: "Thank you, Madam Speaker. Will the Gentleman yield to a question?"

Speaker Breslin: "He indicates he will."

Braun: "Representative McCracken, are there standards in the provision of this Constitutional Amendment that will safeguard a defendant against the subjective impression of a given court in use of the denial of bail in a given situation where that individual might allege the use of... the discriminatory use of the bail denial in their particular case?"

McCracken: "The Amendment does not address that issue expressly for the denial of bail. There would be rights of appeal. The theory for the reversal of a trial court could include discrimination which is outlawed by the 14th Amendment and the 5th Amendment of the United States Constitution."

Braun: "To the Constitutional Amendment. I'm very concerned, Madam Speaker, Ladies and Gentlemen of the chamber, that we may be setting a precedent here in which an individual

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might be denied their constitutional right to bail simply because of the way that they look, or the color of their skin, or the appearance that they make before the court. We have seen in many instances, more instances than I think this chamber is often willing to admit, situations in which individuals are denied constitutional rights simply because of subjective factors or their subjective impression. To fool around with the Constitution and to open the door to a subjective criteria, and as opposed to the objective criteria which are presently in the law, invites abuse. I can cite example after example, but I know of a case in Florida recently - and Florida is a state in which this kind of Constitutional Amendment exists - in which, a woman who was attempting to keep a home invader out of her home fired a gun at that person, and because use of a weapon in Florida is a nonbailable offense, wound up spending 60 days in jail simply because of her mistaken impression. Now, in this situation that 60 days was imposed on a 63 year old woman who thought her home was being invaded, because there was no room for a change in the law, because the law in Florida is similar to this proposed Constitutional Amendment. I think, Ladies and Gentlemen, that we may be treading down a road that we may later regret, not only in that it will increase the cost of detaining people who are more and more often denied bail in situations in which bail would be appropriate, but also because this opens the door again to the use of impressionistic and subjective factors in decision making by the courts in a way that presently is not available. And we would thereby be cutting off people's constitutional rights on what are essentially illegitimate criteria. I would caution the Members of this chamber that this is a dangerous Constitutional Amendment, that we may very well be increasing the cost to Illinois

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taxpayers for the whim, for the temporary whim, of a given judicial officer. And I would encourage a 'no' vote on this Constitutional Amendment."

Speaker Breslin: "Is there any further discussion? The Gentleman from Cook... The Gentleman from Fulton, Representative Homer."

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

Speaker Breslin: "He indicates he will."

Homer: "For purposes of legislative intent, Representative McCracken. First of all, with regard to the issue of the requirement for reimbursement of counties where a judge has invoked the provisions of this Constitutional Amendment, is it your express understanding that in situations where under previous constitutional law a Judge withheld bail because the person was charged with a capital offense or one for which a possible sentence of life imprisonment was indicated, that under SJR 22 there would be no requirement for reimbursement?"

McCracken: "That is correct. By its terms, the Amendment would only come into play for bail denied as a result of the 1986 Amendment."

Homer: "Alright. And secondly, there is a clause in SJR 22 that says, 'without conditional and revocable release'. Would you clarify what is meant by that terminology?"

McCracken: "That terminology bears no relation to what in the Judiciary Committee was thought to be similar or identical language used in the context of mandatory supervised release or parole. This language is for the purpose of making it clear that the Amendment relates only to those offenses for which a mandatory imprisonment is required as a result of conviction."

Homer: "So, the Amendment is addressing itself to capital offenses, to murder, to all Class X Felonies, or any other

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felony for which there is a mandate of a prison sentence."

McCracken: "The Amendment itself, the 1986 Amendment, relates only to mandatory imprisonment for felony offenses other than a capital offense or a offense for which a sentence of natural life may be imposed. That's correct."

Homer: "Okay. Thank you, to the Bill... to the Amendment, Madam Speaker. I would urge my colleagues to support the Amendment. I believe that all that we're doing here is affording the people an opportunity to give and grant to a trial court, to the Circuit Judge or Associate Judge, the discretion and authority in a given case where an individual has threatened serious harm or could threaten serious harm to any other individual, and where also, a mandatory prison sentence may be... is required upon conviction. We're simply asking that the Judge in those cases be given the discretion to withhold bail pending the trial of that individual. Members should be aware that under our law that any defendant who is incarcerated without bail must be brought to trial within 120 of the arrest. So, that all that a Judge would be doing, should he or she exercise that discretion, would be to withhold bail pending the trial on the merits of the case, which must be within 120 days. So, we're not mandating that a Judge do anything. All that we're doing is saying, in those given cases where a Judge, in his discretion in these serious felony cases, feels that for the protection of society, an individual should be held without bail pending trial, that the Judge may so order. In cases where the Judge does not feel that that is necessary, the Judge can continue to operate as he has in the past by setting bail commensurate with the offense. So, I think it's a reasonable proposition and one that ought to be supported."

Speaker Breslin: "The Gentleman from Winnebago, Representative

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Hallock."

Hallock: "Thank you, Mr. Speaker (sic - Madam Speaker) and Members of the House. You've heard a lot of discussion about this issue, but the issue to me is really pretty clear. The issue to me is this, and I think it should be to you as well: Should the court have the power to deny bail in those cases where release of the defendant might, in fact, cause injury or harm to some other person, to other people, to witnesses, to the family of the victims and others? The issue is very clear. It seems to me the Judge should have that power. But beyond that, I believe strongly that we should let the citizens of our state decide that issue. Hopefully, they will come down on the side of the victims, not on the side of the criminals. Let the Judge decide if criminals should be released on bail or not. Let them have that power. I urge you to vote for this, and let the people decide that finally in the Fall. Thank you."

Speaker Breslin: "The Gentleman from Cook, Representative Young. The Gentleman from Cook, Representative Young."

Young: "Thank you, Madam Speaker, Ladies and Gentlemen of the House. I just have to rise to correct what I feel were some statements by my colleagues that we need to pay a little closer attention to. One of the statements made is that, all a Judge can do under this Bill is keep someone in jail for 120 days. I think that is something that is most serious. It would be most serious to anyone here, any of their families, to be held without bail for 120 days, most importantly when you are accused and not convicted. I would also like to point out to the Members of this Assembly that presently in capital cases, the Judge has the authority to hold defendants without bail. In a murder, in a treason, or in any Class X Felony, the Judges and the

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courts have that discretion right now. I think this Amendment goes a little too far. I think we need to keep in mind that we are, in fact, innocent and proved guilty. This Amendment will give judges the power to punish people before they are, in fact, proven guilty. And I urge a 'no' vote."

Speaker Breslin: "The Gentleman from Cook, Representative Cullerton."

Cullerton: "Thank you, Madam Speaker and Ladies and Gentlemen of the House. I rise in opposition to the Constitutional Amendment. However, there is one part of the Constitutional Amendment which I agree with. As a matter of fact, it's the Amendment that we adopted in Committee, and as a matter of fact, I drafted the Amendment. And I would like to indicate for the record why the Amendment was drafted. It was accepted by the Governor who lobbied heavily for this Constitutional Amendment to presumably help him in his reelection. The Amendment deals with the issue of cost. What the Governor agreed to do with this Amendment is to say that any additional cost involved with locking people up before trial as a result of these new offenses that we're adding to the Constitution, the state shall reimburse the county. So, what that Amendment means, and again, I indicate to you in drafting it that I wanted it to be very broad - it means that the state will be required to reimburse the county for additional cost even when the defendant is ultimately acquitted or convicted of a lesser offense. It means the state will be required to reimburse the counties if the influx of new prisoners caused by this Amendment requires the counties to utilize temporary quarters for some prisoners, or indeed, if they have to go and build a new prison to accommodate the new prisoners. Keep in mind this only applies to county jails.

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This does not apply to the state prisons. And the county jails are under severe pressures. Many of them are under court order or about to be sued because they are so crowded. It will require the state to reimburse the counties for the cost of salaries of prosecutors, Judges, public defenders, court reporters who conduct hearings which result in the detention of a prisoner without bail. If... I would also indicate that under the terms of this Constitutional Amendment if someone files an action against the sheriff seeking a Writ of Habeas Corpus, the state must reimburse the county for the cost incurred in defending the suit and the same is true for cost of the defendant in an appeal of the decision to hold the defendant without bond. If the prisoner is incarcerated due to this Constitutional Amendment, if he's injured while in custody, the state must reimburse the county for the cost of defending the civil court action and the state must reimburse the county for the cost of any judgement in a case brought by such a prisoner. Now, that goes to the issue of cost. It is going to be a large cost to the state, but at least the Governor is willing to put his money where his mouth is. Let me also indicate that in reviewing the transcript of the Committee hearing with regard to the issue of burden of proof. Now there's a Section here that says that when a court after a hearing determines that the release of the offender would pose a real and present threat to the physical safety of any person, then bond can be denied. The question is, who has the burden of proof? Let me quote from the Senate Sponsor, Senator Davidson, who said in Committee that the state's attorney is certainly going to have to prove beyond a reasonable doubt that this person could or would be a threat to the community. So, I incorporated into my comments the reference made by the

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Senate Sponsor as to who has the burden of proof. The reference that Representative Homer questioned Representative McCracken on, the references to the words, 'without conditional or revocable release', has absolutely no meaning whatsoever. And I contacted the lawyer at the Reference Bureau who drafted it, and he as much as indicated that he had made a mistake. That refers to parole, which we have abolished. It only goes to make this Constitutional Amendment vague, and I know that an Appellate Court will be reviewing this Constitutional Amendment, and they will be as puzzled as we were in Committee as to what that means. I would also indicate to Representative Hallock that there are...there's also language here which I think is... what ultimately will declare this Constitutional Amendment unconstitutional and that is that, 'after a hearing if a court determines that the release of the offender would pose a real and present threat to the physical safety of any person'. That does not mean that they have to show that the defendant will pose a danger to some other person. It means that he can pose a danger to himself. So, if a judge determines that a person appears to be somewhat suicidal, he can lock that person up without bail while he is presumed innocent while he is awaiting trial. I don't believe that we have a constitutional right to do that, and I think that that is ultimately what's going to undermine this Constitutional Amendment. I would also point out that the reason why the Members of the Committee were concerned about the way this was drafted is that there are... there is in the statute a Section... Chapter 111.5-6321 and 6323, which says that certain defendants charged with otherwise nonprobational offenses may receive probation. So, when a court looks at that statute and applies it to this Constitutional

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Amendment, it may find that none of these new offenses really are added as long as they're eligible for this drug abuse program. The people who are opposed to this Amendment include the Chicago Bar Association, the Illinois State Bar Association, the League of Women Voters. They're opposed to it mainly because in drafting the Amendment and in having us rush to vote it out in time to get it on the ballot, we realized in Committee that we think we're trying to add serious offenses to the list of offenses where bail can be denied. But we're really not doing it in the right fashion. Here are the offenses. Here are some of the offenses which this does not apply to: voluntary manslaughter, a judge can't deny bond if someone is charged with voluntary manslaughter; kidnapping, this Amendment doesn't apply to kidnapping; or child abduction; or aggravated battery of a child; or criminal sexual assault; or aggravated criminal sexual abuse; or arson; or any Class X attempt. It doesn't apply to those offenses. It doesn't even apply, unlike the Governor's press release states, to the Alton Coleman case. It doesn't apply to those cases even though he used that to try to drum up support for it. What it does apply to, though, is a first time offender for residential burglary. Now, that could include a 17 year old kid who's charged with taking a bicycle out of an attached garage, or for that matter, out of a tent. So, it seems like, to say the least, that it's overkill. It seems like it's not really addressing the problem in a rational manner. And I think that some people think, oh maybe it won't be used. Maybe it won't be used at all. It's just a, you know, reelection technique and nobody will use it. But I suggest to you that a number of Judges who are up for retention who have someone before them who's eligible for this type of offense and has the right under this

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Constitutional Amendment to deny bail, if that Judge is up for retention, he's not going to take a chance. He or she is not going to take a chance in denying... in giving bail to that person, because that person might go out and commit an offense and then, that Judge would be perhaps losing their election. So, I think a lot of Judges are going to at least try to use it, and I think it's going to result in abuses. I initially thought that perhaps this Amendment would pass out of here overwhelmingly, but I'm reminded of the debate that we had in past Sessions about constitutional rights. And I was quite frankly surprised we had so many civil libertarians in the House, but we do. So, you can compare your position that many of you took with regard to the constitutional right to not have the government tell you that you had to wear a seat belt, to this constitutional right, the right to be presumed not guilty, you know, the right to be presumed innocent. This is basically a Bill that says we can lock people up - innocent people up - even though they may not have committed the offense at all. For that reason, I would urge a 'no' vote for those of you who can do it. For those of you who haven't been threatened or pressured by the Governor to vote for it, please vote 'no'. Thank you."

Speaker Breslin: "The Gentleman from St. Clair, Representative Flinn."

Flinn: "Madam Speaker, I move the previous question."

Speaker Breslin: "The Gentleman moves the previous question. The question is, 'Shall the main question be put?' All those in favor say 'aye', all those opposed say 'no'. In the opinion of the Chair, the 'ayes' have it, and the main question is put. Representative McCracken, to close."

McCracken: "Thank you, Madam Speaker. First, in response to the previous speaker, let me indicate that, for purposes of

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statutory construction, if the court should ever refer to this dialogue or monologue, let it be clear that the Gentleman is not in support of the Bill. Let it be clear that the Gentleman did not present his purported intent for the Amendment at the time it was offered. Let it be clear that he opposes the Bill as amended, and in fact, that it is not the intent of the Sponsors to determine, at this point, who has the burden of proof in going forward under this Amendment. It is not the intent of the Sponsors who support this Bill to determine, at this point, the cost to be reimbursed by the state. It is not the intent of the Sponsors, at this point, to limit this Bill to Class X felonies, which was another statement incorrectly cited. The fact of the matter is that this Bill applies to offenses which require a mandatory imprisonment sentence upon conviction. And let me tell you how the people feel about that. We've been talking in vague, legalistic terms too often, I think, and one of my friends indicated during the debate that he didn't understand a thing that was said. And candidly, I'm not surprised. The point of the matter is that the people have a right to be protected, and that's what this Amendment addresses. It strikes a constitutional balance between the rights of the defendant and the rights of society to be protected from crime. Let me tell you, those of you who have doubts about the constitutionality of this, that the Supreme Court has repeatedly held that bail is not a right to be granted in all instances. Bail can be conditioned. It can be denied. This Bill - this Amendment - is very modest in that regard. It applies only to offenses for which mandatory imprisonment is required. It applies only to offenses wherein the presumption is great or the proof is evident. It applies only in cases where the defendant has had a hearing, and it applies only in

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cases where the Judge has found that the defendant not only is subject to the presumption or proof, but also that he is a danger to any person. I respectfully ask for the people of the State of Illinois, as indicated, among other papers, in the Journal-Register today. 'House Okay Needed on Bail Amendment'. The people have spoken. Let's not go with the lawyers just because of some vague generalities that they purport to apply to this Bill. That's not the case at all. The constitutionality is beyond doubt. The matter of policy begs for your vote. I ask for an 'aye' vote."

Speaker Breslin: "The question is, 'Shall the House adopt Senate Joint Resolution 22?' All those in favor vote 'aye', all those opposed vote 'no'. Voting is open. 71 votes are required for the adoption of this Amendment. The Gentleman from DeWitt, Representative Vinson, to explain his vote."

Vinson: "Thank you, Madam Speaker, Ladies and Gentlemen of the House. I just want a note made on the record to the effect that Representative Cullerton's interpretation of legislative intent in regard to the Amendment to this Constitutional Amendment is not shared by me. That is not my intent, and I believe it should be interpreted very differently."

Speaker Breslin: "The Lady from Sangamon, Representative Hasara, to explain her vote."

Hasara: "Yes, thank you. On behalf of the victims and the witnesses that I worked with in the court system for the last five years, I am very pleased to vote for this at this time. Thank you."

Speaker Breslin: "Representative Cullerton, for what reason do you rise?"

Cullerton: "My name was mentioned in debate, Madam Speaker. I just wanted to indicate for the record that even though they don't like the legislative intent that I gave for the

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Amendment that I drafted, I was the drafter of the Amendment, and I did second the Amendment in Committee.

Thank you."

Speaker Breslin: "The Gentleman from DuPage, Representative McCracken."

McCracken: "Point of Order. I suppose as a practical matter, it's late now, but I believe that was an improper point of personal privilege. There was nothing derogatory said. The Gentleman purported to speak on behalf of the Sponsors as to legislative intent. That, obviously, is wrong."

Speaker Breslin: "Representative McCracken, your point is well taken. Have all voted who wish? Have all voted who wish? The Clerk will take the record. On this question... On this question, there are 80 voting 'aye', 30 voting 'no', and 2 voting 'present', and the House does adopt Senate Joint Resolution 22. Representative Keane is recognized for an announcement. Representative Keane. Representative Matijevich is recognized."

Matijevich: "Madam Speaker, Ladies and Gentlemen of the House, I would ask leave of the Body and the use of the Attendance Roll Call for that purpose, to waive the posting notice for the following Bills so that they maybe heard in the Rules Committee immediately after adjournment in Room 114, and this has been cleared with both sides of the aisle. The Bills are: House Bill 2753, 2764, 2963, 3298, 3306, 3307, 3345, 3463, 3468, 3484, 3520, 3536, 3561, 3598, 3608, 3609, 3619, 3623, 3624, 3626, 3630, 3631, 3632, and Senate Bill 1422. I would ask leave of the Body."

Speaker Breslin: "The Gentleman has moved for the waiving of the posting rules... the posting requirements under the rules for the Bills that he has just read. And on that question, the Gentleman from DeWitt, Representative Vinson."

Vinson: "Yes, I wonder if the Gentleman would yield for a

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question?"

Speaker Breslin: "Representative Matijevich."

Vinson: "What was the Bill you read immediately prior to 3306?"

Matijevich: "3... 3298."

Vinson: "I don't believe that that Bill has been cleared, and I would ask you to take that particular Bill off your list. Wait a minute. What was that? 3 what?"

Matijevich: "3298. Fire alarm... "

Vinson: "Okay, I see. A Bill's been penciled in on my list. I'm sorry. I would join you on that Motion."

Matijevich: "Thank you."

Speaker Breslin: "The question is, 'Shall the House waive the posting rules for the Bills read?' All those in favor say 'aye', all those opposed say 'nay'. In the opinion of the Chair, the 'ayes' have it, and the rules... the posting rules are waived for those Bills. Representative Keane, for an announcement."

Keane: "No, for a Motion. I ask to waive the posting rules for Revenue Committee so that tomorrow at noon, the Revenue... the full Revenue Committee can hear Senate Joint Resolution Constitutional Amendment #11 at noon in Room 118, and it's been cleared with leadership on both sides of the aisle."

Speaker Breslin: "The Gentleman has moved to waive the posting rules so that the Revenue Committee can hear Senate Joint Resolution Constitutional Amendment #11 tomorrow at noon, Wednesday, in Room 118. And on that question, is there any discussion? Hearing none, all those in favor say 'aye', all those opposed say 'nay'. In the opinion of the Chair, the 'ayes' have it, and the posting rules are waived for Senate Joint Resolution Constitutional Amendment #11. Ladies and Gentlemen, Committees will meet after this Session. The 2:00 Committees will meet immediately after we adjourn, until 4:30. Thereafter, the 4:00 meetings will

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be scheduled to begin at 4:30. So everybody understands that we want to give an extra half hour to the 2:00 Committees because we have adjourned so late. So go to your Committees immediately and continue working until 4:30, and then, the 4:00 meeting can begin at 4:30. Rules will be meeting immediately at the end of this Session. Representative McPike moves that the House... Excuse me. Representative Stern."

Stern: "I just wanted to invite my colleagues to the Women's Political Caucus auction from 5:00 to 8:00 at Baur's. There is a free drink and a couple of carrot sticks for each of you on the reserve table. Representative Zwick joins me in that warm invitation. Thank you."

Speaker Breslin: "Representative McPike moves that the House stand adjourned until 12:30 tomorrow, allowing five minutes for the Clerk to do necessary business. All those in favor say 'aye', all those opposed say 'nay'. In the opinion of the Chair, the 'ayes' have it. This House stands adjourned until 12:30 tomorrow, April 23rd."

Clerk O'Brien: "Introduction and First Reading of Bills. House Bill 3635, McNamara, a Bill for an Act to amend the Public Utilities Act. First Reading of the Bill. House Bill 3636, Hannig and Hastert, a Bill for an Act to amend the Illinois Pension Code. First Reading of the Bill. House Bill 3637, Ryder, a Bill for an Act to amend the Illinois Vehicle Code. First Reading of the Bill. House Bill 3638, Curran, a Bill for an Act to amend the Legislative Commission Reorganization Act of 1984. First Reading of the Bill. House Bill 3639, Curran, a Bill for an Act in relation to detection and prevention of suicide by adolescents and teens. First Reading of the Bill. House Bill 3940, Curran, a Bill for an Act in relation to the summer employment of Illinois youth and the creation of

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local summer recreational programs. First Reading of the Bill. 3640. House Bill 3641, Curran, a Bill for an Act in relation to the prevention of and penalties for the offense of driving under the influence by a person under the age of 21. First Reading of the Bill. No further business. The House now stands adjourned."

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16:08

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