

STATE OF ILLINOIS
92ND GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

115th Legislative Day

December 4, 2002

PRESIDENT PHILIP:

The regular Session of the 92nd General Assembly will please come to order. Will the Members please be at their desks? Will our guests in the galleries please rise? Our prayer today will be given by Pastor Jeff Nelsen, Cherry Hills Baptist Church, Springfield, Illinois. Pastor Nelsen.

PASTOR JEFF NELSEN:

(Prayer by Pastor Jeff Nelsen)

PRESIDENT PHILIP:

Please remain standing for the Pledge of Allegiance. Senator Radogno.

SENATOR RADOGNO:

(Pledge of Allegiance, led by Senator Radogno)

PRESIDENT PHILIP:

Reading of the Journal. Senator Wendell Jones.

SENATOR W. JONES:

Mr. President, I move that reading and approval of the Journal of Tuesday, December 3rd, in the year 2002, be postponed, pending arrival of the printed Journal.

PRESIDENT PHILIP:

Senator Jones moves to postpone the reading and the approval of the Journal, pending the arrival of the printed transcript. There being no objection, so ordered. The Illinois Information Service and -- wants to videotape and we have a still photographer who wants to take pictures. Is leave granted? Hearing no objections, leave is granted.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Parker, why do you seek recognition?

SENATOR PARKER:

For a point of personal privilege.

PRESIDING OFFICER: (SENATOR NOLAND)

Go ahead.

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SENATOR PARKER:

Thank you, Mr. President. I have with me today, in the gallery, David Golder and Peter Bulandr, and their -- a nephew for David Golder is Adam Didech, and also Pete Bulandr is here with me on the Floor. He's a Page for a Day. And I would like to introduce them and please have the Senate welcome them.

PRESIDING OFFICER: (SENATOR NOLAND)

Would your guests please rise and be welcomed? Senator O'Daniel, why do you seek recognition?

SENATOR O'DANIEL:

Mr. President, a point of personal privilege. I have a special guest here today - my granddaughter, Casey Ingram. She's -- she's an Honorary Page today. Casey, would -- would you stand up? And -- help me welcome her to the Senate. Also...

PRESIDING OFFICER: (SENATOR NOLAND)

Welcome to the Senate.

SENATOR O'DANIEL:

Also, her mother and dad and my wife, Norma, are in the President's Gallery. It's nice to have 'em here today.

PRESIDING OFFICER: (SENATOR NOLAND)

Would the guests please rise and be recognized? Senator Demuzio, why do you seek recognition?

SENATOR DEMUZIO:

The purpose that I seek recognition for, Mr. President, is I would like to also introduce to the Members of the Senate, Trey Herndon, who is an Honorary Page for a Day also, standing behind me. Like to welcome him to the Senate. Also, I have another significant announcement, if I might. It seems as though that Senator O'Daniel, in his -- in his quest to make sure that he introduced his Honorary Page for the Day, has neglected to tell us that today is also his birthday. Happy birthday, Senator O'Daniel.

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PRESIDING OFFICER: (SENATOR NOLAND)

Happy birthday, Senator O'Daniel. Senator O'Daniel.

SENATOR O'DANIEL:

You know, over the years, a lot of times I've went around and -- when I was campaigning and some of the others would say, "Boy, you're old enough to be our father." Well, I'll tell Vince like I told them, "If I'd have been your father, I'd have raised you different."

PRESIDING OFFICER: (SENATOR NOLAND)

Randy Squires, for the Associated Press, requests permission for still photography in the Senate. Is leave granted? Hearing leave, leave is so granted. Committee Reports.

SECRETARY HARRY:

Senator Hawkinson, Chair of the Committee on Judiciary, reports Senate Resolution 543 Be Adopted, as Amended; Senate Bill 1966 - the Motion to Concur with House Amendment 2 Be Approved for Consideration; Senate Amendment 4 to House Bill 3717 and Senate Amendment 3 to House Bill 5657, both Be Approved for Consideration.

Senator Burzynski, Chair of the Committee on Licensed Activities, reports Senate Bill 1701 - the Motion to Concur with House Amendments 1, 3 and 6 Be Approved for Consideration.

PRESIDING OFFICER: (SENATOR NOLAND)

Messages.

SECRETARY HARRY:

Message from the Minority Leader, dated December 4th, 2002.

Dear Mr. Secretary - Please be advised that I have appointed Senator William Haine to replace former Senator Evelyn Bowles on the Licensed Activities Committee. I am also appointing Senator Ira Silverstein as Minority Spokesperson of the Licensed Activities Committee, replacing Senator Bowles as Minority Spokesperson. These appointments are effectively immediately.

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Signed by Senator Jones.

Another Message from the Minority Leader, dated December 3rd, 2002.

Dear Mr. Secretary - Please be advised that I have appointed Senator Shaw to the Executive Committee. This appointment is effective immediately.

Sincerely, Emil Jones, Jr., Senate Minority Leader.

PRESIDING OFFICER: (SENATOR NOLAND)

Messages from the Governor.

SECRETARY HARRY:

A Message for the Governor by Michael P. Madigan, Director of Legislative Affairs, dated December 4th, 2002.

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

To the Honorable Members of the Senate, Illinois General Assembly - I previously asked for your Honorable Body to concur in the appointments and confirm the persons commensurate with the offices indicated below. Please remove the following individuals from the Senate Message dated November 21st, 2002.

PRESIDING OFFICER: (SENATOR NOLAND)

Introduction of Bills.

SECRETARY HARRY:

Senate Bill 2436, by Senator Watson.

(Secretary reads title of bill)

1st Reading of the bill.

PRESIDING OFFICER: (SENATOR NOLAND)

Resolutions.

SECRETARY HARRY:

Senate Resolution 554, by Senator Clayborne.

And Senate Resolution 555, by Senator Shadid.

They're both death resolutions, Mr. President.

PRESIDING OFFICER: (SENATOR NOLAND)

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Consent Calendar.

SECRETARY HARRY:

And Senate Resolution 556, offered by Senator Jacobs.

It's substantive.

PRESIDING OFFICER: (SENATOR NOLAND)

Messages from the House.

SECRETARY HARRY:

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

Mr. President - I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to wit:

Senate Bill 729, together with House Amendment No.

1.

Passed the House, as amended, December 3rd, 2002.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Karpiel, for announcement.

SENATOR KARPIEL:

Thank you, Mr. President. I want to announce a Republican Caucus immediately in Senator Philip's Office. Immediately.

PRESIDING OFFICER: (SENATOR NOLAND)

...Halvorson, why do you seek recognition?

SENATOR HALVORSON:

Thank you, Mr. President. For a -- I'd like to announce a Democratic Caucus in Senator Emil Jones' Office immediately.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Demuzio.

SENATOR DEMUZIO:

Mr. President, how long will the caucus last on -- on your side so we might have some idea as to where we are with time?

PRESIDING OFFICER: (SENATOR NOLAND)

We are suggesting about thirty-five minutes. Senate stands in recess until the hour of 1:30.

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(SENATE STANDS IN RECESS/SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR NOLAND)

The Senate will come to order. Mr. Secretary, have there been any motions filed?

SECRETARY HARRY:

Yes, Mr. President. Senator Roskam has filed a motion with respect to House Bill 2058.

PRESIDING OFFICER: (SENATOR NOLAND)

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

SECRETARY HARRY:

Senate Resolutions 557 through 564, by Senator Lauzen and all Members.

They're all death resolutions, Mr. President.

PRESIDING OFFICER: (SENATOR NOLAND)

Consent Calendar.

PRESIDING OFFICER: (SENATOR KARPIEL)

Will the Members please be in their chairs? We are going to go to the Order of 3rd Reading. It's page 2 on your Calendar. So, I hope all Members are on the Floor and in their seats. On page 2, House Bills 3rd Reading, is House Bill 1269. House Bill 1273. Senator Rauschenberger. Read the bill, Mr. Secretary.

SECRETARY HARRY:

House Bill 1273.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Thank you, Madam President, Ladies and Gentlemen of the

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Senate. House Bill 1273 now deals with carefully, and hopefully universally, defining the way we will tax private line communications under our telecommunication tax Act. Most of our telecommunication tax Act dates back to the seventies and the eighties, before -- there's been a lot of development in how telecommunications actually takes place. When a private line telephone conversation crosses State lines, there's a lot of complications in our statute about how the taxes will be assessed on that. This -- this statute takes current practice that's also the recommended practice by the people working on the national telecommunications tax reform and writes it into statute effective June 30th of next year. Upon its effective date, it also theoretically extinguishes prior claims on the tax treatment so that telecommunication carriers who are collecting the tax under direction -- our direction within the Department of Revenue can move forward, hopefully without experiencing lots of class action lawsuits. It's part of an ongoing, kind of national reform. I think people would like to get this done before the new administration has to wrestle with a lot of things. Passing this probably indemnifies the State from the risks of lots of millions of dollars of refund claims if we fail to act. The Department of Revenue supports it. They -- all of the telecommunication carriers support it. I would note, however, that State Farm Insurance, one of the larger private line users in the State of Illinois, is uncomfortable with the Act and asked us to read some legislative intent, and I think would characterize themselves as opposed.

PRESIDING OFFICER: (SENATOR KARPIEL)

All right. Any discussion? Senator Brady.

SENATOR BRADY:

Thank you, Madam President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR KARPIEL)

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He indicates he will.

SENATOR BRADY:

Senator Rauschenberger, I have a constituent in my district who currently is disputing the method by which the telecommunication tax is being assessed upon it by a proponent of House Bill 1273. Would this bill adversely or retroactively affect the ability of my constituent to make that claim for a refund of the tax that they believe was incorrectly computed?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

The bill has an effective date of, I think, June 30th of 2003. It -- it is my understanding and my -- my hope that that would give your constituent adequate time to resolve with the Department of Revenue its current disputed situation, hopefully to -- to their satisfaction. I'm a -- I happen to be a -- a mutual owner of -- of that constituent and -- and very interested in their well-being. I don't believe it's the legislative intent of 1273 to preclude any taxpayer from having a reasonable, statutorily justified claim for a refund that's already been made upon a telecommunication carrier, and hopefully the -- the time frame we've given them would give them time to -- to satisfy those questions.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Brady.

SENATOR BRADY:

Just to clarify. Even if they don't resolve this dispute by the effective date of this Act, it's not your intention that this legislation would affect the outcome of that dispute, even if it carries past the effective date of this Act.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Rauschenberger.

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SENATOR RAUSCHENBERGER:

This is one of those cases where I wish Carl Hawkinson would stand up and tell me what I really meant. It is not my intention if they're in process trying to satisfy a claim that they brought before we did this statute, that they would be precluded from -- from completing that. As I understand it, they're already in discussions. So, I would say it's not my legislative intent to extinguish their right to pursue that claim, but I -- you know, but -- but -- but I'm the recliner salesman.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Brady.

SENATOR BRADY:

Regardless of the final date of that resolution, be it after the implementation of this bill, if it becomes final passage, or before.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Yes.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Emil Jones, for what purpose do you rise?

SENATOR E. JONES:

Thank you, Madam President. Point of personal privilege.

PRESIDING OFFICER: (SENATOR KARPIEL)

State your point.

SENATOR E. JONES:

I'd like the Body to know that we have Governor-elect Rod Blagojevich on the Floor. He's here getting an early start and making the rounds, meeting...

PRESIDING OFFICER: (SENATOR KARPIEL)

Welcome to the Senate Chambers.

GOVERNOR-ELECT BLAGOJEVICH:

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(Remarks by Governor-elect Blagojevich)

PRESIDING OFFICER: (SENATOR KARPIEL)

Thank you very much. CBS, which is Channel 2 in Chicago, requests permission to record the proceedings. Is there permission granted? Permission's granted. Further discussion on House Bill 1273. Senator Welch.

SENATOR WELCH:

I had a question of the sponsor.

PRESIDING OFFICER: (SENATOR KARPIEL)

He indicates he'll yield.

SENATOR WELCH:

Senator Rauschenberger, is this bill going to change how an individual's tax bill -- how their telephone bill comes to them? Is there going to be a change in their tax rate?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Senator Welch, no. I know of no residential customers who are on private line communications, so I don't think it has any effect on any residential customer in the State of Illinois, although there may be some exception to that. As far as current corporate and business users of private lines, the Department of Revenue has been using this exact tax computation method for about the last five or six years, so there should be no change to them. It will be a change to those consultants who have been aggressively working to get multiple methods of calculation permitted so that they can go back against the Department of Revenue for refunds.

PRESIDING OFFICER: (SENATOR KARPIEL)

Any further discussion? If not, the -- Senator Rauschenberger, to close? Senator Rauschenberger, to close. Was that a close? If not, the question is, shall House Bill 1273 pass. Those in favor will vote Aye. Opposed, vote Nay. The voting

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is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. On this question, there are 56 voting Aye, none voting Nay, none voting Present. And House Bill 1273, having received the required constitutional majority, is declared passed. House Bill 1664. House Bill 2463. We have a sponsorship change on House Bill 2463, from Senator Noland to Senator O'Shea. Senator O'Shea? Mr. Secretary, read the bill.

SECRETARY HARRY:

House Bill 2463.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Shea.

SENATOR O'SHEA:

Thank you, Madam President and Members of the Senate. House Bill 2463 establishes the pharmacy technician training guidelines and also requires that every prescription filed shall contain the unique identifier of the person licensed to dispense the medication.

PRESIDING OFFICER: (SENATOR KARPIEL)

Excuse me, Senator O'Shea. Could we please break up the -- all the discussion in the back of the Chamber? I know it's exciting to have the Governor-elect with us today, but let's give the Senator our attention, please. Senator O'Shea.

SENATOR O'SHEA:

At this time, I would ask the Members of the Senate -- on a favorable roll call vote. Thank you.

PRESIDING OFFICER: (SENATOR KARPIEL)

All right. Any discussion? Senator Sullivan.

SENATOR SULLIVAN:

Will the sponsor yield, Madam President?

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PRESIDING OFFICER: (SENATOR KARPIEL)

He indicates he will.

SENATOR SULLIVAN:

Senator, I -- I believe this is your first bill, which the Chamber might want to be aware of. You -- you look awfully young. Are you old enough to go to the pharmacies and pick up a prescription yourself?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Shea.

SENATOR O'SHEA:

Usually Senator Noland will drive me there, so I...

PRESIDING OFFICER: (SENATOR KARPIEL)

Further discussion? Senator Sullivan.

SENATOR SULLIVAN:

As you may know, we have a pharmacist in the Senate and we have a pharmacist in the Governor's Mansion. Have you conferred with the Governor and Senator Watson on this bill and do they support it?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Shea.

SENATOR O'SHEA:

Senator Watson is in favor of the bill and there is no opposition to this bill, as I understand.

PRESIDING OFFICER: (SENATOR KARPIEL)

Further discussion? Senator Hendon.

SENATOR HENDON:

Thank you, Madam President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR KARPIEL)

He indicates he will.

SENATOR HENDON:

Senator O'Shea, I had the opportunity to talk with you last time we were here, and I found you to be quite a brilliant young

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man. But this pharmacy bill is -- how did you happen to have your first bill relating to -- to drugs and narcotics? Could you explain that to us here on the Senate Floor?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Shea.

SENATOR O'SHEA:

Senator Noland thought this would be a good opportunity for me to -- to -- to -- to learn -- to learn the system here, in this form or fashion.

PRESIDING OFFICER: (SENATOR KARPIEL)

Further discussion? Senator Burzynski.

SENATOR BURZYNSKI:

Thank you, Madam President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR KARPIEL)

He indicates he will.

SENATOR BURZYNSKI:

Thank you. Senator O'Shea, I'm -- I'm a little bit curious. I chair the Licensed Activity Committee and I don't remember you being in front of our committee with this particular piece of legislation, and I'd like to say it's highly -- highly irregular that anyone would ever come to the Floor with a -- a piece of legislation that hasn't been in front of the committee. Can you explain that, sir?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Shea.

SENATOR O'SHEA:

You know, this is an important bill about training and setting guidelines, and obviously I -- I saw that opportunity and -- and asked Senator Noland to -- to take part. And so from that standpoint, the amendment took place to add me on the bill at this time.

PRESIDING OFFICER: (SENATOR KARPIEL)

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Senator Burzynski.

SENATOR BURZYNSKI:

Well, that's -- that's all good and well, since then you want to go to the merits of the bill. Exactly what does a pharmaceutical technician do? Or should I say a pharmacy technician do?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Shea.

SENATOR O'SHEA:

...pretty much work under the -- the guide of the pharmacist.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Burzynski.

SENATOR BURZYNSKI:

So, then, they don't have private practice?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Shea.

SENATOR O'SHEA:

No, they do not.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Burzynski.

SENATOR BURZYNSKI:

Thank you. Well, to -- to the -- to the sponsorship of the bill, as well as the merits of the bill itself. Senator O'Shea, you know, Senator Noland took several tries before he was able to pass his first legislation and perhaps he passed this piece of legislation on to you because he knew that he would have difficulty in -- in its passage. Certainly I would -- I would just caution you to be a little bit more observant in the future as to whose bills that you do take for granted. Senator O'Shea, please, I -- I'm seeking your attention. Senator. Senator O'Shea, you are on the Senate Floor and I am addressing you, and yet you're disregarding my comments. Can you repeat what I said,

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sir?

PRESIDING OFFICER: (SENATOR KARPIEL)

...want a response, Senator Burzynski?

SENATOR BURZYNSKI:

Yes.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator -- Senator O'Shea.

SENATOR O'SHEA:

I -- Senator, I did hear in regards to that Senator Noland had took awhile to pass his first bill and -- and had to work hard, and I -- I can't believe that's possible. A man of his type of character, he seems like the type that would be able to move things quickly. Did an excellent job in the Chair up there. I think Senator Noland is doing an excellent job, so I'd be amazed that he wasn't able to do his first bill very quickly on the first time.

PRESIDING OFFICER: (SENATOR KARPIEL)

Further discussion on this momentous bill? Senator Jacobs.

SENATOR JACOBS:

Thank you, Madam President, Ladies and Gentlemen of the Senate. Would the sponsor yield?

PRESIDING OFFICER: (SENATOR KARPIEL)

He indicates he will.

SENATOR JACOBS:

Senator O'Shea, you know, this side of the aisle has been trying for years to pass a prescription drug bill, and I guess my question basically is, how do you have the audacity to come in here and try to steal something that we have been trying to pass for many years and not been able to do so?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Shea.

SENATOR O'SHEA:

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Well, it's -- it's important to work with both sides of the aisle.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Jacobs.

SENATOR JACOBS:

So -- so, do I take that to be a -- if we get a prescription drug bill to the Floor, you will support that, regardless of what your caucus may -- may feel?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Shea.

SENATOR O'SHEA:

I would have to, obviously, look at that legislation and know the background on that.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Jacobs.

SENATOR JACOBS:

Here we go again, acquiescing. You know, yes, we are; no, we're not. I just think that the -- this bill probably be -- should be tabled. I would ask you to withdraw it to be considered at a later date. But if the Body doesn't feel that's justified, I guess we'll have to vote on it either Yes or No.

PRESIDING OFFICER: (SENATOR KARPIEL)

Further discussion? Senator Geo-Karis.

SENATOR GEO-KARIS:

Senator O'Shea, I note that you did not explain the bill, but that's all right; Senator Jacobs doesn't understand it either. Therefore, I would like to tell you that I'm glad to see you here. And please be more explanatory next time because you hid it as well as Zeke Giorgi used to hide a bill, and -- when he spoke about it, he mumbled. And although you didn't mumble, you didn't answer much, but you still are entitled to be in this house and I certainly will support you.

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PRESIDING OFFICER: (SENATOR KARPIEL)

Further discussion? If not, Senator O'Shea, to close.

SENATOR O'SHEA:

Again, I would appreciate a favorable roll call on this. Thank you.

PRESIDING OFFICER: (SENATOR KARPIEL)

The question is, shall House Bill 2463 pass. Those in favor will vote Aye. Opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. On this question, there are 55 voting Aye, none voting Nay, none voting Present. And House Bill 2463, having received the required constitutional majority, is declared passed. Congratulations, Senator O'Shea. Committee Reports.

SECRETARY HARRY:

Senator Weaver, Chair of the Committee on Rules, reports the following Legislative Measures assigned: Be Approved for Consideration - House Bill 333, House Bill 1531, Senate Amendment 2 to House Bill 333, Senate Amendment 1 to House Bill 1531, Senate Amendment 5 to House Bill 3717, Senate Amendment 1 to House Bill 3712, Senate Amendment 4 to House Bill 5657, the Motion to Recede from Senate Amendment 1 to House Bill 4157.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Daniel, for what purpose do you rise?

SENATOR O'DANIEL:

Madam President, for a point of personal privilege.

PRESIDING OFFICER: (SENATOR KARPIEL)

State your point.

SENATOR O'DANIEL:

I have four generations here: myself, my daughter, my grandson, and my great-grandson. Help me welcome them to the Illinois Senate. Appreciate it very much.

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PRESIDING OFFICER: (SENATOR KARPIEL)

Welcome to Springfield. We're glad to have you here. House Bill 2643. Senator Rauschenberger. Read the bill, Mr. Secretary.

SECRETARY HARRY:

House Bill 2643.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Thank you, Madam President, Ladies and Gentlemen of the Senate. This is another one of the great Rauschenberger legacy bills. Current law provides that under the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act, contracts for less than twenty-five thousand dollars are exempt from public notice, evaluation, and selection requirements. This bill clarifies that small contracts are contracts with an estimated basic professional services fee of less than twenty-five thousand dollars. This is the practice for more than ten years by the -- the Capital Development Board. In an internal audit finding, it was pointed out to them that they -- they cannot exempt a small contract unless they define what a small contract is in statute. So this corrects that flaw. It's supported by the industry and by the department. I would be very happy to try to answer a question on this.

PRESIDING OFFICER: (SENATOR KARPIEL)

However, there are not any. Would you like to close? Would you like to close? Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Favorable roll call.

PRESIDING OFFICER: (SENATOR KARPIEL)

All right. The question is, shall House Bill 2643 pass. Those

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in favor will vote Aye. Opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. On this question, there are 57 voting Aye, none voting Nay, none voting Present. And -- and House Bill 2643, having received the required three-fifths majority, is declared passed. House Bill 2721. Senator Dillard? Read the bill, Mr. Secretary.

SECRETARY HARRY:

House Bill 2721.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Dillard.

SENATOR DILLARD:

Thank you, Madam President and Ladies and Gentlemen of the Senate. This is a minor change to allow the Metropolitan Water Reclamation District and Hanover Township in Cook County to annex thirty-six acres. It's agreed to by Hanover Township and also the Metropolitan Water Reclamation District, and I'd appreciate a favorable vote.

PRESIDING OFFICER: (SENATOR KARPIEL)

Any discussion? If not, the question is, shall House Bill 2721 pass. Those in favor will vote Aye. Opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. On this question, there are 57 voting Aye, none voting Nay, none voting Present. And House Bill 2721, having received the required three-fifths majority, is declared passed. Senator Lightford, for what purpose do you rise?

SENATOR LIGHTFORD:

Thank you, Madam President. On a point of personal privilege.

PRESIDING OFFICER: (SENATOR KARPIEL)

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State your point.

SENATOR LIGHTFORD:

Thank you. I'd like to introduce to the Body one of our new Member-elect, Jacqueline Collins of the 16th District. If you-all could help me welcome Jacqueline.

PRESIDING OFFICER: (SENATOR KARPIEL)

Welcome to the Senate, Jacqueline. Senator Hendon, for what purpose do you rise?

SENATOR HENDON:

Thank you, Madam President. Point of personal privilege.

PRESIDING OFFICER: (SENATOR KARPIEL)

State your point.

SENATOR HENDON:

We also have Senator-elect Martin Sandoval on the Senate Floor tonight. We'd like to welcome Senator-elect Sandoval to the Senate Floor.

PRESIDING OFFICER: (SENATOR KARPIEL)

Welcome to the Senate. Senator Demuzio, for what purpose do you rise?

SENATOR DEMUZIO:

Also with us is Senator-elect John Sullivan, right behind me, and his wife.

PRESIDING OFFICER: (SENATOR KARPIEL)

Welcome to Springfield. All right -- now. Back to page 2, House Bills 3rd Reading, is House Bill 2742. Senator O'Malley. Read the bill, Mr. Secretary.

SECRETARY HARRY:

House Bill 2742.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Malley.

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SENATOR O'MALLEY:

Thank you, Madam President. House Bill 2742, as amended, creates a new checkoff on the individual income tax return for the Illinois Military Family Relief Fund. The fund will be administrated by the Illinois Department of Military Affairs, which may make grants to families of persons who are members of the reserves of the armed forces of the United States and who have been called to active duty as a result of the September 11, 2001 terrorist attacks.

PRESIDING OFFICER: (SENATOR KARPIEL)

Excuse me, Senator O'Malley. I know it's the holiday season and everybody is kind of enjoying themselves, but let's -- let's please get our work done in a timely fashion. Thank you very much. Senator O'Malley.

SENATOR O'MALLEY:

I'd be happy to answer any questions there may be about this legislation.

PRESIDING OFFICER: (SENATOR KARPIEL)

Any discussion? Senator Donahue.

SENATOR DONAHUE:

Thank you very much, Madam President. I have some questions of the sponsor for purposes of legislative intent.

PRESIDING OFFICER: (SENATOR KARPIEL)

State your -- proceed.

SENATOR DONAHUE:

The language of this legislation states that the Department of Military Affairs would have the power to make grants, as well as be responsible for determining eligibility of families. Does that mean the Department would have to create different criteria or varying eligibility factors for families to receive grants?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Malley.

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SENATOR O'MALLEY:

Thank you, Senator Donahue. The language provides that Military Affairs shall establish eligibility criteria by rule. That rule making will occur in the JCAR process to determine how to best make grants. The Department is on record that it does not have the expertise or resources to determine criteria or eligibility factors for families to receive grants. Rather, the Department believes that grants should be available on a first-come, first-served basis. When called to military duty, most families suffer hardships. In addition, if a grant fund is created, each member -- family should be eligible to receive a flat amount subject to the amount available in the fund.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Donahue.

SENATOR DONAHUE:

Would the Department be responsible for contacting and compiling duty statuses of all Illinois residents who are in the Guard and reserves to make them aware of the grant availability?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Malley.

SENATOR O'MALLEY:

The -- the Department of Military Affairs is a State agency that oversees the Illinois Army National Guard and the Illinois Air National Guard. Other military reserves units, such as the U.S. Army Reserves, the U.S. Air Force Reserves, the U.S. Navy Reserves, U.S. Marine Reserves and U.S. Coast Guard Reserves are part of the federal government. The Illinois Department of Military -- Military Affairs does not track members of the U.S. Reserves and has no capability to do so. As part of the possible rules, it would be the responsibility of each reservist to contact the Department to request a grant and the Department would not be held liable if members needed assistance but did not request a

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grant.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Donahue.

SENATOR DONAHUE:

Thank you again, Madam President. The legislation states that this applies to National Guard and reserves -- and reserves who are called to duty as a result of 9/11. Is possible military action in Iraq as a result of 9/11?

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Malley.

SENATOR O'MALLEY:

It is the intention of the Department of Military Affairs to make grants to any Guard member or reservist who are called to active duty under the partial mobilization authority issued in response to September 11, 2001. It is expected that this would include Iraq and also future calls to duty under the partial mobilization authority.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator Donahue.

SENATOR DONAHUE:

Thank you. Final question. Let me be clear for the record: The Department of Military Affairs is in support of this legislation, given the expectation that the rules it must formulate will contain the following: One, every member of the Guard and reserves called to duty under the partial mobilization authority issued in response to 9/11 would be eligible for a grant; two, it would be the responsibility of -- each National Guard or reserve member to contact the Department of Military Affairs to request a grant and Department of Military Affairs would not be held liable if members needed assistance but did not request a grant; and three, it is intended that the grants would be a flat amount available to all families on a first-come,

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first-served basis.

PRESIDING OFFICER: (SENATOR KARPIEL)

Senator O'Malley.

SENATOR O'MALLEY:

Senator Donahue, thank you for clarifying everything. What you've just stated is absolutely correct. Thank you.

PRESIDING OFFICER: (SENATOR KARPIEL)

Any further discussion? If not, Senator O'Malley, to close.

SENATOR O'MALLEY:

Just -- just would request support of the Body.

PRESIDING OFFICER: (SENATOR KARPIEL)

All right. The question is, shall House Bill 2742 pass. Those in favor will vote Aye. Opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. On this question, there are 55 voting Aye, none voting Nay, none voting Present. And House Bill 2742, having received the required three-fifths majority, is declared passed.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Hendon, for what purpose do you rise?

SENATOR HENDON:

Madam President, point of personal privilege.

PRESIDING OFFICER: (SENATOR DONAHUE)

State your point.

SENATOR HENDON:

I'd like to bring to the attention of this august Body that we also have Senator-elect Ed Maloney on the Floor. Senator?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator, welcome. On -- Senator Hendon.

SENATOR HENDON:

Thank you, Madam President. We're trying to get 'em all in at one time. Senator-elect Iris Martinez is on the Floor and...

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PRESIDING OFFICER: (SENATOR DONAHUE)

Welcome, Senator.

SENATOR HENDON:

We allow -- we allowed Representative, now Senator-elect, Jeff Schoenberg to come over to the Senate. He's also on the Floor. If we could welcome them to the Senate.

PRESIDING OFFICER: (SENATOR DONAHUE)

Welcome. Senator O'Shea. All right. In the middle of page 2 is Senate -- or, House Bill 3080. Senator Petka? Senator Petka? With leave of the Body, we'll return to House Bill 3080. House Bill 3557. Senator Sullivan. Read the bill, Mr. Secretary.

SECRETARY HARRY:

House Bill 3557.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Sullivan.

SENATOR SULLIVAN:

Thank you, Madam President, Ladies and Gentlemen of the Senate. House Bill 3557 has become technical clean-up language dealing with unclaimed property. A few of the highlights are that it cleans up the language providing when that property would be reportable in newspapers. It says that the Act does not apply to charities' gift certificates that are issued, and it states that the State Treasurer shall retain all funds from unclaimed property in a trust fund, and on April 15th and October 15th of each year, the Treasurer must deposit any amount in the trust fund exceeding two and a half million dollars into the State Pension Fund. There's no known opposition. I ask for an Aye vote.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Is there any discussion? Seeing none, the question is, shall House Bill 3557 pass. Those in favor

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will vote Aye. Opposed, Nay. And the voting's open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 57 Ayes, no Nays, none voting Present. House Bill 3557, having received the required three-fifths majority, is declared passed. Senator Klemm, do you wish to return House Bill 3712 to the Order of 2nd Reading for the purposes of an amendment? Hearing no objection, Senator Klemm seeks leave of the Body to return House Bill 3712 to the Order of 2nd Reading for the purposes of an amendment. Hearing no objection, leave is granted. Now on the Order of 2nd Reading is House Bill 3712. Mr. Secretary, are there any Floor amendments approved for consideration?

SECRETARY HARRY:

Amendment No. 1, offered by Senators Klemm and Philip.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Klemm.

SENATOR KLEMM:

Thank you, Madam President. What we've done is added an amendment for the railroad safety for the ICC to allow it to continue, as we've done in the past, and I do ask for your support.

PRESIDING OFFICER: (SENATOR DONAHUE)

All right. Is there any discussion? Any discussion? Senator Welch.

SENATOR WELCH:

Madam President, I couldn't hear a word he said. Could you ask him to repeat that, as to what the amendment does?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Klemm.

SENATOR KLEMM:

Yes. I'm sorry he didn't hear me. This adds the provision for the rail safety for the ICC, as we've done last year. It

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would continue that program. It makes some changes. There was some concerns before. We eliminated the five hundred thousand dollars that was a concern. We're working with Senator Durbin on that. He has told us that he'll be continuing that program, so we eliminated it this time.

PRESIDING OFFICER: (SENATOR DONAHUE)

Okay. Any further questions? Any further questions? Senator Shadid.

SENATOR SHADID:

Yes. Thank you, Madam Chair. Would the sponsor yield?

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Shadid.

SENATOR SHADID:

Senator, do you have any detailed or any idea of how this money is going to be spent and for what?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Klemm.

SENATOR KLEMM:

Thank you. We had discussion on this last year. There were two problems or concerns -- three concerns that we had. One was the five hundred thousand dollars which we removed because we're going to work on that later on, and that was used for educational purposes. If that doesn't come through on a federal grant, fine, we won't have to worry about it. The second one was we were concerned about some of the downstate crossing guard -- crossing locations, that the ICC has assured me that they'll be working with you and the other legislators in trying to find unsafe railroad crossing locations that perhaps needed more attention. The second one is we had some projects that had some funding that was going to...

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Klemm, just a second, please. We've got questions

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going on on the Floor. People don't know what's being answered. So, would you please take your seats? Staff, take questions and conversations off the Floor. Senator Shadid, do you have further questions? Senator Klemm, finish. Senator Klemm.

SENATOR KLEMM:

And we had some projects that the ICC had not completed, and that this would allow them to use those funds to complete those projects rather than die in the middle of the fiscal year. So, those are the three changes, those are the three concerns: the education one you talked about, the downstate concern, and also the projects that have begun that we would end if we don't continue this funding for rail safety. So, that's the changes that you had asked for, I understood, and that's what we're doing.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Shadid.

SENATOR SHADID:

I -- I just want to get something clarified, Senator. Are any of these funds going to be used to hire any more police for the Commerce Police?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Klemm.

SENATOR KLEMM:

...my understanding, no.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Shadid.

SENATOR SHADID:

And the Railroad Association is opposed to this?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Klemm.

SENATOR KLEMM:

...just got down here today. I don't know.

PRESIDING OFFICER: (SENATOR DONAHUE)

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Senator Shadid.

SENATOR SHADID:

Well, also, I don't think this came to our committee.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Klemm.

SENATOR KLEMM:

I'm sorry, I wasn't here. I don't know.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Shadid.

SENATOR SHADID:

Is there some reason why it didn't come through our committee?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Klemm.

SENATOR KLEMM:

The original bill was in the committee; this amendment is similar, except we reduced it to meet the concerns of the questions that were raised before.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Shadid.

SENATOR SHADID:

Am I correct, wasn't the original bill a license plate bill?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Klemm.

SENATOR KLEMM:

I -- I didn't hear you.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Shadid.

SENATOR SHADID:

Wasn't the original bill a license plate bill?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Klemm.

SENATOR KLEMM:

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The original bill was not that I had introduced. This is an amendment on a Rotary license plate bill, yes. This is a vehicle we're using for that one. Because of the importance, we don't have very many objects here.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Shadid.

SENATOR SHADID:

I'd just like to recommend to our side to vote No. Thank you.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? All those in favor, say Aye. Oh! Senator Klemm, to close.

SENATOR KLEMM:

Just -- you know -- you know, railroad safety is a pretty interesting and important issue here. I -- I don't know why we're not allowing railroad safety to have some dollars that we gave 'em last year to take care of it. I mean, I think you know the problem I had in Fox River Grove where I had eleven little babies killed on a bus because we didn't have safety, for crying out loud. And now we're not going to allow them to continue the same program we've allowed before? We've eliminated the dollars that had objections. We allow the railroads to work together. We want to get your railroad crossings safe. We're talking about terrorism in this country and we can't even see the -- the trains and the tracks are safe? Just for what? For the same funding? It's not an increase. I think it's ridiculous. I think it's an unwise vote on this Assembly not to vote Yes on this small expenditure of two -- two and a quarter million dollars only. So, I would ask for your support, careful consideration on your vote on this one.

PRESIDING OFFICER: (SENATOR DONAHUE)

All those in favor, say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there any further Floor amendments approved for consideration?

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SECRETARY HARRY:

No further amendments reported.

PRESIDING OFFICER: (SENATOR DONAHUE)

3rd Reading. Senator O'Malley, on House Bill 3717. Senator O'Malley seeks leave of the Body to return House Bill 3717 to the Order of 2nd Reading for the purposes of an amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is House Bill 3717. Mr. Secretary.

SECRETARY HARRY:

Amendment No. 4, offered by Senator O'Malley.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

Thank you. Amendment No. 4 actually becomes the -- the bill and creates a program that has been recommended to us by a number of people but is designed and intended to deal with child sexual exploitation. Be happy to answer any questions there may be here today, but it's an extensive bill and would prefer to discuss it on 3rd Reading in detail.

PRESIDING OFFICER: (SENATOR DONAHUE)

Are there any questions? Is there any discussion? Senator Jacobs.

SENATOR JACOBS:

Senator, just for a matter of legislative intent, and I think I know the answer but I just want to get it there. In child erotica, on page 28, it reads in part a "photograph...if the child is a female, the child's fully or partially developed breast exposed or through transparent clothing." It is not your intent that a parent or grandparent could not take a picture of their child or grandchild in the bathtub or on a bear rug. That's not your intent, is it?

PRESIDING OFFICER: (SENATOR DONAHUE)

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Senator O'Malley.

SENATOR O'MALLEY:

Senator, it is not. And in Amendment No. 5, which will be coming up here, I would hope, it addresses that issue, because we discussed that in committee yesterday.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Further discussion? Seeing none, all those in favor, say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there further Floor amendments approved for consideration?

SECRETARY HARRY:

Amendment No. 5, offered by Senator O'Malley.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley, on Amendment No. 5.

SENATOR O'MALLEY:

Thank you, Madam President. Floor Amendment No. 5 is the one that I just discussed in the previous conversation. It makes some minor changes in the legislation in light of a conversation that we had during committee.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Any discussion? All those in favor, say Aye. Opposed, Nay. The Ayes have it, and the amendment is adopted. Are there further Floor amendments approved for consideration?

SECRETARY HARRY:

No further amendments reported, Madam President.

PRESIDING OFFICER: (SENATOR DONAHUE)

3rd Reading. Senator Philip, on House Bill 4047. Read the bill, Mr. Secretary.

SECRETARY HARRY:

House Bill 4047.

(Secretary reads title of bill)

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3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Philip.

SENATOR PHILIP:

Thank you, Madam President, Ladies and Gentlemen of the Senate. House Bill 4047, Amendment -- Floor Amendment No. 3 becomes the bill. It amends the Criminal Identification Act to exempt units of the Illinois National Guard from payment of a fee to the State Police for running criminal background checks on persons seeking access to arms storage facilities maintained by the Guard. Be happy to answer any -- answer any questions.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Is there any discussion? Seeing none, the question is, shall House Bill 4047 pass. Those in favor will vote Aye. Opposed, Nay. And the voting's open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, no Nays, none voting Present. House Bill 4047, having received the required three-fifths majority, is declared passed. Senator Bomke, on House Bill 4046 {sic}. Read the bill, Mr. Secretary.

SECRETARY HARRY:

House Bill 4446.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Bomke.

SENATOR BOMKE:

Thank you, Madam President, Ladies and Gentlemen of the Senate. House Bill 4446 simply requires the State and local government employees to be granted up to twenty days leave per twelve-month period to assist in disaster relief if the employee is registered as a volunteer for the Illinois Emergency Management

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Agency. The bill also removes a provision that would restrict a leave for emergencies that have occurred in Illinois. Be happy to answer any questions.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Is there any discussion? Seeing none, the question is, shall House Bill 4446 pass. Those in favor will vote Aye. Opposed, Nay. And the voting's open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 57 Ayes, no Nays, none voting Present. House Bill 4446, having received the required three-fifths majority, is declared passed. Senator Weaver, on House Bill 4588. Out of the record. Senator Philip, on House Bill 5159. Senator Dillard, on House Bill 5218. Read the bill, Mr. Secretary.

SECRETARY HARRY:

House Bill 5218.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Dillard.

SENATOR DILLARD:

Thank you, Madam President and Ladies and Gentlemen of the Senate. This bill addresses a very unique facility in my area and Senator Larry Walsh's area called the Bolingbrook Medical Center, and what we did a few years ago was we had a -- a temporary program for freestanding emergency centers. It was a demonstration program. It's worked very well, and this would -- this would make it permanent. I'd be happy to answer any questions. The Department of Public Health is for this. I know of no opposition, and it's time to make this permanent.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any questions? Is there any questions? Seeing none,

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the question is, shall House Bill 5218 pass. Those in favor will vote Aye. Opposed, Nay. The voting's open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, no Nays, none voting Present. House Bill 5218, having received the required constitutional majority, is declared passed. Senator Roskam seeks leave of the Body to return House Bill 5657 to the Order of 2nd Reading for the purposes of an amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is House Bill 5657. Mr. Secretary, have there been any Floor amendments approved for consideration?

SECRETARY HARRY:

Amendment No. 3, offered by Senator Roskam.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Roskam.

SENATOR ROSKAM:

Thank you, Madam President, Ladies and Gentlemen of the Senate. House Bill 5657 is the death penalty bill. I would just make the recommendation that we go ahead and move -- put these amendments on on 2nd Reading and then we can have the debate on 3rd Reading, if that's your pleasure.

PRESIDING OFFICER: (SENATOR NOLAND)

Any discussion? Senator Obama.

SENATOR OBAMA:

Thank you, Mr. President, Ladies and Gentleman of the Senate. Just a brief comment. I've got some concerns about the underlying bill; however, I will acknowledge that the sponsor of the bill, after a -- a vigorous debate in committee, offered what I consider to be improvements on the bill in this amendment. And so, although I will have some comments about the underlying bill and its -- the concepts that it embodies, I would be supportive and encourage everybody to support the amendments that are being

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attached.

PRESIDING OFFICER: (SENATOR NOLAND)

Seeing no further discussion, Senator Roskam, to close.

SENATOR ROSKAM:

Please vote Aye.

PRESIDING OFFICER: (SENATOR NOLAND)

All those in favor, say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Any further Floor amendments -- Floor amendments approved for consideration?

SECRETARY HARRY:

Amendment No. 4, offered by Senator Roskam.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Roskam, to explain your amendment.

SENATOR ROSKAM:

Very simply, more language to posture it for 3rd Reading positioning, and I appreciate an Aye vote.

PRESIDING OFFICER: (SENATOR NOLAND)

Any discussion? Seeing none, all those in favor, say Aye. Opposed, Nay. The Ayes have it. The amendment is adopted. Any further Floor amendments approved for consideration?

SECRETARY HARRY:

No further amendments reported.

PRESIDING OFFICER: (SENATOR NOLAND)

3rd Reading. Previously, leave was sought to return to House Bill 3080. Senator Petka. Senator Petka? House Bill 3080. Mr. Secretary, read the bill.

SECRETARY HARRY:

House Bill 3080.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Petka.

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SENATOR PETKA:

...the record for awhile? Can we come back to this? I don't have my analysis.

PRESIDING OFFICER: (SENATOR NOLAND)

There's leave to return to House Bill 3080. House Bill 3717. Senator O'Malley. Mr. Secretary, read the bill.

SECRETARY HARRY:

House Bill 3717.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator O'Malley.

SENATOR O'MALLEY:

Thank you, Mr. President. 3717 - House Bill 3717 - closes a loophole in the child abduction statute by establishing a new offense called illegal solicitation of a child. This bill creates this offense called illegal solicitation of a child, eliminating specific places to which a child must be lured and simply prohibits an adult from luring a child to any location for any unlawful purpose. It also makes it illegal to intentionally contact or communicate with, or attempt to contact or communicate with, any child for the purpose of or with intent to engage in any unlawful act upon or with any child, including any sex offense under Illinois or federal law. It provides that it is not a defense to a violation that the person solicited or lured is a peace officer whom the defendant reasonably believes to be a child. That's the first of five provisions. The second one amends the child pornography statute to prohibit explicit depictions of child erotica. It provides for a definition for child erotica which is in conformance with federal statutes and case law. Third provision updates and enhances the harmful material for a child statute in the State of Illinois. It updates the definition of

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material that is harmful or obscene for children by reflecting the most recent U.S. Supreme Court case law, in particular the cases known as Ginsberg and also Miller. These cases prescribe a test determining whether or not a -- material is harmful or obscene for children, and -- and the bill sets forth that test. The fourth provision creates the offense of child photography by a sex offender, prohibiting a child sex offender from conducting or operating a business that photographs, videotapes or takes digital images of children. It also prohibits child sex offenders from taking photographs, videotapes or digital images of children. And the last provision establishes the Project Safe Child pilot program. It is intended to coordinate State and federal efforts to stop child victimization via the Internet. Overall, this is an attempt - and I think it's a very serious attempt - to crack down on the epidemic of child sexual exploitation. I'd be happy to answer any questions there may be.

PRESIDING OFFICER: (SENATOR NOLAND)

Any further discussion? If not, Senator O'Malley, to close.

SENATOR O'MALLEY:

Thank you, Mr. President. I said earlier, this is an important piece of legislation. It's been called Project Safe Child, has a number of provisions and, again, is -- is committed to cracking down on -- on the epidemic of child sexual exploitation. Would appreciate the support of the Members of the Senate and I -- on this important piece of legislation. Thank you.

PRESIDING OFFICER: (SENATOR NOLAND)

The question is, should House Bill 3717 pass. Those in favor, vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 voting -- 56 Ayes, 0 Nays and 0 voting Present. House Bill 3717, having received the

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required three-fifths majority, is declared passed. House Bill 5657. Senator Roskam? Read the bill, Mr. Secretary.

SECRETARY HARRY:

House Bill 5657.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Roskam.

SENATOR ROSKAM:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. House Bill 5657 is the effort of a number of us on both sides of the aisle to take up this question of death penalty reform, and before we talk about the specifics of the legislation, I'd like to just acknowledge a few people that have been very, very active in this. I want to give credit to the Governor's Commission who was charged with a difficult task and that was to come up with substantive and procedural language to try and enhance this process. And I also want to thank the subcommittee Members, in particular of the Capital Litigation Subcommittee, who took time over the summer to go to six different cities. When many, many people really weren't looking and active campaigns were going on, there were a number of Senators who were driving and flying to various locations that had nothing to do with campaigning but had everything to do with trying to listen to proposals. And I've got to say that the caliber of the testimony on all sides of this issue was really encouraging to me personally. I felt like there was an excellent dialogue, like there was great participation on the part of the witnesses and -- and the -- the bipartisan spirit was really rich, as often comes through from the Senate Judiciary Committee. I want to put our efforts today, or at least House Bill 5657, into a context. You know, oftentimes we tend to debate death penalty proposals as if nothing has changed and if nothing

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has happened. That, in fact, couldn't be further from the truth. We in this General Assembly, over the past few years, under the leadership of Committee Chairman Hawkinson and Senator Petka and others, have made great strides in changing the death penalty process, and here's a couple of examples: One is the -- the initiation of the Capital Litigation Act which, for the first time, obligates the General Assembly to pay for the costs of indigent defendants who are in the capital system. That represents a sea change in terms of what's gone on in the past. We have post-conviction DNA testing, which was sponsored in this Body by Senator Petka. The Illinois Supreme Court has taken up measure after measure after measure not only in their own case law, but in their rules, and a couple of those are -- are easy to reference. One is the Capital Litigation Bar, so we don't have a problem anymore of incompetent counsel. We have attorneys who are qualified now, who meet a standard and are the ones that are defending death penalty cases. We have the discovery rules which have been initiated by the Illinois Supreme Court. So here's where we are: We have a Governor's Commission who in good faith and earnestly comes forth with a number of recommendations. And as we have maintained throughout this process, the Governor's Commission is a group that -- that deserves our respect, deserves our admiration for their service, and they're appointed individuals. Now it's time for the elected representatives of the people to look at their counsel and look at their suggestions and make decisions about what we're going to choose to enact. Let me tell you about what is in this bill. Bare with me. I'm going to read a page of legislative intent at the front end, and then I'll do my best to answer any questions on this as we move down the road. The bill, in a nutshell, has, sort of, seven components and then a -- a major change that I want to describe in a little bit more detail, but let me go through some of these recommendations

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fairly quickly because you can get 'em at face value without much other discussion, I think. First is, it allows a DNA comparison right and the proposal permits a defendant access to his or her DNA and the DNA database administered by the State Police in order to try and establish that a person's actually innocent. The second is, the proposal codifies current case law that requires a defendant's request for forensic testing to be allowed whenever such testing would advance the claim of actual innocence, even if it wouldn't by itself exonerate him or her. The third is express coverage of DNA testing in the Capital Crimes Litigation Act. That doesn't really warrant any further discussion. The fourth is, no death penalty, obviously, for the mentally retarded. We take current case law language, we use the Governor's recommendations and come forth with a standard that I think is wise and would recommend to you. The fifth is the police perjury provision. Some of the police folks don't like it, frankly, but from my feeling, it -- it is very measured. And basically the proposal requires local police commissioners to report to the Illinois Training and Standards Board - that is, the certification body for all Illinois police officers - the administrative findings that a police officer committed perjury. Sixth, clemency review via the Prison Review Board within thirty days of setting of death date. Seven is reissuing the Capital Crimes Litigation Act, which is Senator Hawkinson's legislation. And then finally, in terms of these incremental proposals, is the actual innocence language and the time limitation as it relates to when a defendant can -- can -- can put forth that hearing. We've removed the deadline. There was a two-year deadline that originally was in that language. We've returned it to the current state of the law which says just a reasonable period of time. So, essentially, we're not changing the law as it relates to the time limit. The last portion of this, let me spend a couple minutes describing it

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and then I've got to read a page and then we can sort of have a good discussion. You know that feeling every once in awhile when you're in a committee hearing and you're listening to something and you think you've heard pretty much everything on these various issues and then all of a sudden somebody comes in with a fresh, new, unusual idea that you would have never thought of by your own in a month of Sundays? Well, that happened to this subcommittee when we were in Will County during one of the hearings, and we heard from a professor from Indiana University's Law School, a Professor Hoffmann, who came and he said, "You know what? You need basically to change the paradigm that you're operating in." Over the years, people in death penalty reform measures have spent time nibbling at the edges. They've spent time focusing in on little procedural rules. And those procedural rules, by my saying they're little, I'm not trying to minimize them; they're important. But he said, "We need to take a fresh look. And instead of doing that, why don't you empower the Illinois Supreme Court, give them authority that they don't have right now" - and we can talk about some of the testimony that was yesterday that was pretty misinformed on that issue; they don't have this power right now - "and empower the Supreme Court to say: 'As a matter of fundamental fairness.'" After reviewing the court record, as a matter of fundamental fairness - that is a gut-check standard - they can take a death verdict and set it aside. Now, what happens today the way the rules are set up and the way the Supreme Court operates is, they have to find a procedural flaw in overturn -- in order to overturn a death verdict. And what we're saying under this proposal is that they wouldn't have to do that. It is characterized as the "fundamental justice amendment." Let me read a page that's, I think, important. I hate reading, but it's important for legislative intent and then I'll yield, and I think Senator Cullerton, I hope, has some nice things to say and then we

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can move on from there. But this amendment provides the Supreme Court with the authority to reverse a fundamentally unjust death sentence without any need to identify a procedural error at trial or sentencing to justify the reversal. The decision authorized here is factual, rather than legal, in nature and is similar to the one made by the jury at the trial, based on all the facts and circumstances about the crime and the defendant. In other words, based -- the question is, does the defendant deserve the death penalty. In our system of justice, the jury has the primary responsibility to make this decision, but when the death penalty is at issue and when the consequences of an error are so great, it is proper to allow another decision maker to take a second look at the facts and circumstances to ensure the fundamental justice of the death penalty. The amendment is designed to eliminate any inappropriate pressure on the Supreme Court, in a case where the court may feel that a death sentence is fundamentally unjust, to find a procedural pretext or a procedural error to justify reversing the sentence. The amendment will therefore reduce the excesses of procedural litigation in capital cases by allowing the court to reverse fundamentally unjust death sentences on the merits without regard to any procedural rules of any kind. The amendment authorizes the Supreme Court to engage in the broadest possible review of the merits of each capital case. The decision will be based on the entire record which might include exculpatory evidence -- discovered after trial or new information that causes the court to question the voracity of trial witnesses. The amendment allows the reversal of a fundamentally unjust death sentence even if an aggravating circumstance was present. The amendment is not about legal eligibility for the death penalty or legal sufficiency of the evidence. It simply asks the court to decide on the entire record whether the death penalty should be imposed in the particular case. The amendment requires the

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Supreme Court to write an opinion explaining its decision. Because the decision is not based on any legal standards but solely on the facts and circumstances of the particular case, neither the opinion nor the decision should serve as precedent for any other case. Just as a jury's verdict has no precedential value for other cases, neither should the same kind of decision when made by the court. The court's opinion need not be signed, and given the unique nature of the decision, it may be better if such decisions are made on a per curiam basis. The kind of review -- authorized by this amendment is different from what is called "comparative proportionality review". Comparative proportionality review would require the court explicitly to compare the case before it with other murder cases to see whether the results are consistent; however, such comparisons between factually unique capital cases can't be made in a meaningful way. The court's moral judgment about the fundamental justice of a particular death sentence will be informed by its experience with other death penalty cases, but the -- court must decide each case on its own merits instead of basing its decision on misguided comparisons with other cases. That's this bill in a nutshell. This bill is not a panacea. This bill is not the be-all, come-all, end-all and do-all of death penalty reform. But from my point of view, this bill is a responsible document that changes the debate, I believe; begins to move forward towards consensus. And I'll be happy to answer any questions. Thank you.

PRESIDING OFFICER: (SENATOR NOLAND)

Any further discussion? Senator Obama.

SENATOR OBAMA:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Will the sponsor yield for a few questions?

PRESIDING OFFICER: (SENATOR NOLAND)

The sponsor will yield.

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SENATOR OBAMA:

Senator Roskam, thank you for your presentation. I thought it was an accurate description of the -- the provisions. We had a significant debate yesterday about this, and I just want to make sure. One area that was of great concern was the potential time limits that were set on being able to prove actual innocence. There was initially a two-year provision. As I understand it, that has been taken out by the amendment, and so that's no longer in the bill. Is that correct?

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Roskam.

SENATOR ROSKAM:

Yes.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Obama.

SENATOR OBAMA:

Now, there was a second area of concern -- and -- and -- and just to set the context, there was some -- there -- there were essentially two types of objections to the bill yesterday by the opponents -- presented by the opponents. One was the notion that the bill didn't do enough or didn't do much. That's -- and that we'll get to in a second. But -- but the second one was of greater concern to some of our Members and that was that the bill might be a step back. This two-year provision was considered possibly a step back in terms of being able to prove actual innocence. You've removed that. There was a second portion of the bill, though, that some, at least, thought might be a step back and that had to do with raising the bar -- raising the standard of proof by which you had to make an initial showing as to whether you had evidence that you were innocent before you could get a new trial. And I guess the question I have is: Based on our conversations yesterday, was that provision modified in any

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way or is that provision still in the bill, as amended?

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Roskam.

SENATOR ROSKAM:

The -- the provision, Senator, is still in the bill, as amended. It's a clear and convincing standard, and it's, I would argue, a good, solid standard, and you would submit it's not. But, I mean, I -- you and I understand one another, and that's -- that's the -- the nature of the program.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Obama.

SENATOR OBAMA:

To the bill, Mr. President. Let me -- having clarified what the bill currently is, let me express my objections to the bill, and I think it's important to understand the context within which this is being debated. We have had thirteen exonerations from death row in just the past few years, and I think that all of us would acknowledge -- Mr. President, I'm having a little trouble here.

PRESIDING OFFICER: (SENATOR NOLAND)

Would the Body please give Senator Obama their attention?
Thank you.

SENATOR OBAMA:

I think all of us would acknowledge that that's thirteen innocent people too many to be on death row. Some of us may disagree on the merits of the death penalty. There is some on -- in this Body who are adamantly opposed to the death penalty in any circumstances. There are others who support the death penalty vigorously and see it as an important extension of the community's expression of justice and an important vindication of the heartbreak that have been suffered by victims. I respect both views, and I actually am not somebody who is opposed to the death

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penalty in every, single case. What I will say - and I think that this should be true for those who support the death penalty as well as those who oppose it - is, at minimum, we should agree that innocent people should not be put to death by the State. At minimum. And I don't think that any of us who served on the Commission this summer, including the sponsor of this bill, would disagree with that. So, the question that we're getting to is, given that we're not at the moment debating whether to abolish the death penalty or not, what we're simply debating is: How do we assure an error-free system where if people are on death row and put to death, it is because they belong there? How do we accomplish that given that this is a human system and is going to have some failures? How do we build in some redundancy into the system? How do we make sure that, as best as possible, we are absolutely certain that when we sentence somebody to death, this is the right person? And in that context, my hope was that after the Governor's Commission did its work and issued eighty-five recommendations whereby we might improve the system significantly -- and keep in mind that on the Governor's Commission, there were those who said, after having studied it, "Even if you implemented all of these provisions, there was still too high a possibility of error, and as a consequence, we are opposed to the death penalty." There were some people who -- like the author, Scott Turow, who at least has told me that he changed midstream after studying this. He concluded that you can't create an error-free system. But having said that, they still made recommendations of eighty-five reforms that would, in fact, improve the system and -- and make it, if not fail-safe, then a lot closer to fail-safe than the system that we currently have. Now, out of those eighty-five recommendations, we had extensive hearings during the summer. Additional recommendations came in, and it appeared like there was some significant momentum and movement to do something on this

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problem. It's because of that that I guess it's so disappointing to see what has actually been generated in this document, in this bill that's being presented right now. It turns out that after having looked at this enormous problem, the best we can do, apparently, is a bill that contains, for the most part, provisions that are already law, that are already being executed by either the Supreme Court or the United -- the Illinois Supreme Court or the United Supreme -- States Supreme Court, that essentially codifies various safeguards and rules that have already been put in place, so essentially will have no effect on the system, and then a few provisions that actually, I think, are decent measures but ones that admittedly, I think, are the most modest of the eighty-five recommendations that were made, which isn't to say that they're not significant. Senator Hawkinson has led the way in terms of the Capital Trust Fund. This allows DNA testing to be paid from that fund. I think that's an important provision and I'm glad that it's in there. But for the most part, this is a pretty thin gruel, and from my perspective at least, it is hard for me to go back to my constituency, many of whom are deeply concerned about how the death penalty system operates in this State, and say to them with a straight face that we made best efforts to reform the system. Now, I understand that in -- in the Legislature, one step at a time is a -- is a useful adage, and -- and -- and I am not one who thinks that we have to have the whole ball of wax. I would not support, necessarily, all eighty-five of the provisions that were presented by the Governor's Commission. But surely we can do better than this. And I think that we perpetrate a fraud on the people of Illinois if we pass this bill and hold it up and say this is our best shot at reforming a system that sent thirteen innocent people to death row and who were essentially freed not because of anything within the system, but because of a bunch of journalism students at Northwestern or other

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extraneous forces that somehow, luckily, were able to free these people. In conclusion, let me just say that I -- I recognize that there are legitimate differences in this area. My simple plea would be that if we're going to err in administering justice in this area, then my thinking should be that we should err on the side of not putting innocent people to death and that means that we're going to have to do greater reforms than are presented in this bill. And because I don't think that this bill even goes halfway in making an attempt to do -- to effectuate some serious reforms on this bill, I would urge, at least this side of the aisle but also all those who are serious and want to see a system that -- that works in -- in -- in -- in place, I would urge a No vote.

PRESIDING OFFICER: (SENATOR NOLAND)

Any further discussion? Senator Hendon.

SENATOR HENDON:

Thank you, Mr. President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR NOLAND)

He indicates he will. Senator Hendon.

SENATOR HENDON:

Senator Roskam, you know, we're discussing life and death here today. That's a very serious matter. And I want to ask you: The purpose of your reform package is to save the lives of the innocent from being put to death, is that correct?

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Roskam.

SENATOR ROSKAM:

Senator, the purpose of this amendment is to operate well within the context of where we have come as a State. All of the measures that I mentioned in my opening comments have been enacted and have been perfected since those thirteen cases. We have a tendency as we debate this subject to always look in the rearview

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mirror, as if those fundamental changes haven't taken place. I would submit, Senator, that the things that you and I have voted on in the past few years that have gotten out of this Chamber, that have gotten out of the House, that have -- some of them that you and I had nothing to do with - that is, what the Illinois Supreme Court has done in its rules and in its case law - have really changed this system. There has been some great reforms that have been enacted. So, my attitude, as the chairman of this subcommittee, was to say, "Look, let's not look at the rearview mirror to the extent that it's not instructive. Let's change the system from here forward." And I think with all due respect to my previous -- the previous speaker, this is not a fraud. This is an effort to bring new light, to change a paradigm, to empower a Supreme Court to say, "Look, if you see one of these cases that is wrong, you don't have to manipulate procedural rules anymore, you don't have to go through minutia and nonsense and do legal pirouettes to come up with some rationale; you can simply pull this one out of the pool because you say, as a Supreme Court, it's wrong." And that, Senator, is a sea change in thinking. This is no fraud. This is an effort to change a paradigm and to bring a new view on this issue.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Hendon.

SENATOR HENDON:

Is -- is your purpose with your reform package to save the lives of the innocent or not?

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Roskam.

SENATOR ROSKAM:

Well, Senator, you and I both know the program, and where you ask me direct questions like that, where you're taking me is to a place where I don't really want to go and here's why. If you

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follow your legal conclusion to where I think you're trying to lead me, you'd get my nose stuck in a corner to the point where the only subsequent argument is the abolition of the death penalty, and that's not my position. I don't think that's the position of the State of Illinois. I don't think that's the position of the -- or, of the -- the community with -- within Illinois. I think people support the death penalty and we -- if -- if we nickel-and-dime - and I'm not trying to be pejorative toward you - but -- but if we nickel-and-dime procedure, then we lose sight of the substance of the injustice. So, the procedure and the whole point of that amendment, the fundamental justice amendment, is that procedural rules, procedural changes, they're greatly limited. They can't fundamentally change a system. Now, is this system -- you know, represent the second coming of justice because Peter Roskam has introduced it? No. Do we have more work to do? Clearly. I think we do. But the -- the effort behind this is to enhance the integrity of this system so that you and I can have confidence in it. And I respect people that have a different world view, that have a -- that -- that say, "You know what? There's not really circumstances where I think that someone should be put to death." I think, sort of, the clemency hearings over the past few months have changed that attitude and in some ways, unfortunately, the way it's been played, have shifted the -- shifted the pendulum to a point of rage, I think, on the lot -- part of a lot of people that observed those. But anyways, it's your time, and I'll answer your questions.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Hendon.

SENATOR HENDON:

I don't -- I don't necessarily believe that there are no circumstances whatsoever when the maximum punishment should not apply, but this is life and death. And when we're dealing with

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life and death, we -- we -- this may be the most important vote as a -- as a person, as a human being, as someone who -- who -- who loves human life, that we take here. So my question is -- is leading more toward, why, if you're for reform, did you reject eighty-two of the Governor's Commission's recommendations and only accept three of those?

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Roskam.

SENATOR ROSKAM:

Senator, let me just break down some of the math 'cause there's been a lot of numbers that have been thrown out and sometimes that's instructive and sometimes it's not. There's eighty-five recommendations that the Governor's Commission put forward. The Governor's Office then reduced those to thirty different legislative proposals. So, there's fifty-five proposals that are really not germane to you and I as Senators and have nothing to do with the General Assembly. Either they're -- they're things that the Supreme Court has done or should do, and so forth. So, let's take the eighty-five number and drop it like a hot rock, and now we're talking about thirty. Of those thirty, my attitude was -- what I directed our staff to do and what I tried to do was to take the ideas that were good, solid ideas, in my view, and enact them. The ideas that were sort of symbolism over substance and really didn't matter - and you know, we've been in this business a long time, there's some of that - enact them, too. And the ones that were actually detrimental to the process, that make it very difficult to -- to seek justice in these outrageous cases, don't enact them. So, I made a personal judgment call, as the sponsor of the bill, and that was my thought process and that was the way that -- that I entered into the decision making. So, it's a little bit -- I just want to correct you on the math because I know you haven't heard this before. To characterize

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this as enacting, you know, eighty-two -- or, three out of eighty-five is wrong, and I don't -- I know you don't want to say anything wrong. So, it is -- you know, there's a lot more substance of the Governor's proposal that's in here, and a lot of this, I am relying on this fundamental justice amendment, which I think will address a number of the problems that I know are of a concern to you.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Hendon.

SENATOR HENDON:

...me -- let me be very brief. So, you accepted ten percent of the Governor's recommendation, if you are going by the number thirty, and -- and you rejected ninety percent of the Governor's Commission's recommendation. Let me ask you a question about the -- the part about the police officers because you said some of the police officers do not like it, and that would punish a police officer for perjury. But don't the police officers often -- or, all the time work with the prosecutors on these cases? So why didn't you -- it seems to me like you're picking on and singling out a police officer who commits fraud but -- but you're letting a prosecutor who may have encouraged the witness to lie to get away. Why are you singling out police officers and giving prosecutors who may engage in misconduct, those few who do, a pass? Could you explain that to us?

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Roskam.

SENATOR ROSKAM:

Two reasons, Senator. One is, this is the Governor's -- I'll wait. You with me? One reason is, this is the Governor's recommendation. This is his Commission. The wise people that studied and studied and came up with the recommendations, this is their recommendation. That's reason number one. Reason number

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two, we have no ability to discipline attorneys. That is the -- and prosecutors are attorneys, as you know, and that is solely within the -- within the authority of the Illinois Supreme Court. And if they are perjurers, if -- if they suborn perjury, they lose their law license and they're disbarred.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Hendon.

SENATOR HENDON:

You once reminded me, Senator Roskam, that I was not the only one in the Senate who had a brain and was bright and intelligent, and you're correct. You're bright and intelligent. And since you're so bright and intelligent, if you see something that's wrong, whether it was recommended by the Governor's Office or not, why don't you, as a bright, intelligent, brilliant legislator that you are, put something in place that will protect people who did not commit these heinous crimes from anyone who would send them to death row by perpetuating a fraud, no matter who it -- who it is? Lastly, I'll conclude by saying, of course, I'm urging a No vote. I don't think this goes far enough to be true reform, and I have a real problem with increasing the burden of proof of the innocent person to a clear -- a clear and concise -- convincing evidence instead of the preponderance of evidence. I think that sets the -- raises the standard even higher when we're trying to protect people who did not commit these crimes. And then, clearly, with thirteen people being let off of death row who didn't commit the crimes, we have a problem in Illinois. So, to raise the standard, to me, unless you disagree that you've raised the standard here, I think is an issue.

PRESIDING OFFICER: (SENATOR NOLAND)

Any further discussion? Senator Madigan.

SENATOR L. MADIGAN:

Thank you, Mr. President, Ladies and Gentlemen of the Senate.

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We all know that death penalty reform is one of the most important issues in the State of Illinois, and I think that it's clear that here in Illinois, where thirteen people have been released from death row, reform is needed. And the people of the State of Illinois both want and they deserve the assurance that this State will not execute innocent people. For these reasons, the Governor courageously put in place a moratorium on capital punishment. In addition, he appointed a commission to look at changes, to look at ways that we could reform this system to make sure that we were not going to be executing innocent people. We all know that that commission came down with eighty-five recommendations in April of this year. It has been noted by Senator Roskam appropriately that not all eighty-five of these recommendations need legislative change to take place. Hearings were held by both the Senate and the House over the summer. I think they did very diligent and certainly time-consuming work on this, and now before us we have amendments to House Bill 5657. This is a bill that is held out, admittedly, not perfectly, by Senator Roskam, to fully reform the system here in Illinois, but it is held out to us as a bill that will significantly move ahead reforms for our death penalty system in this State. But, in fact, this bill does not accomplish the goal of reforming the capital punishment system in Illinois. In fact, as Senator Hendon I think appropriately noted for this Body, very few of the reforms that are in the Commission's report are actually addressed in this bill. Certainly some of the most controversial, although arguably the most useful, reforms are not addressed. It doesn't talk about videotaping. It doesn't talk about pre-trial reliability hearings. It doesn't talk about witness identification procedures. It doesn't talk about reducing eligibility factors. I think that when we pass this bill, which I presume that we will, we will still have significant reforms that need to be enacted before we can assure the people of the State of

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Illinois that our death penalty system is looking after those who potentially will be executed in spite of their innocence. I certainly look forward to working with all of you who will continue to be Members of the Legislature and my colleagues. I look forward to working with the new Governor. I look forward to working with law enforcement and State's attorneys and those that have long sought to reform the death penalty system, because I think we truly must address what, for many people, is a life-and-death issue. We need to properly reform our death penalty system, and because this bill does not accomplish that and arguably can be said to make it even more difficult to prove that people have been innocent, I'm going to vote against this bill.

PRESIDING OFFICER: (SENATOR NOLAND)

Any further discussion? Senator Cullerton.

SENATOR CULLERTON:

Yes. Thank you, Mr. Chairman -- Mr. President. Would you -- sponsor yield for a question?

PRESIDING OFFICER: (SENATOR NOLAND)

Indicates he will. Senator Cullerton.

SENATOR CULLERTON:

Before I address the merits of the bill, I wanted to ask you a -- a question, perhaps for legislative intent. We had testimony yesterday about the fundamental just -- fundamentally just provision of the bill from the author of the -- the language, Professor Hoffmann. We talked about whether the Supreme Court was going to be limited to the record of the case or whether they could kind of go -- I think he -- the term he used was the "entire" record. So, do you have any thoughts on legislative intent with regard to how would the -- what could the Supreme Court take into account when they want to decide whether or not they want to change a death sentence to life imprisonment under this provision of this bill?

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PRESIDING OFFICER: (SENATOR NOLAND)

Senator Roskam.

SENATOR ROSKAM:

Senator, I use the broadest language possible and that would be the entire record before them. So, any matter that under the current Supreme Court rules can get before the court in an appropriate posture, they would be able to consider.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Cullerton.

SENATOR CULLERTON:

Thank you. Well, to the bill: As you can hear from the opponents, their concerns are that the bill doesn't go far enough, that there were a number of other recommendations that the Governor's task force had made that are not in the bill. And I personally agree with that. I think that there are a number of provisions that I would like to have had added that would be included in the bill that -- that I could vote on. But I understand that this is a -- a compromise, the Legislature requires compromise, that we're not in control of the Illinois Senate, and that the committee that met throughout the summer -- seven hearings throughout the State -- did -- had a lot of testimony and did a lot of hard work. This is the common denominator that -- that has been proposed. It seems to me that it's -- it's -- as long as it doesn't go backwards, that even if it's an incremental step forward, that we should take it. There were some concerns about whether or not it did go backwards. It's been addressed by an amendment that we adopted today, and as a result, we have something that I think will take a step towards a reform. Now, you can spin it any way you want as to how much of a step it is. Okay? It's not going to -- it's not going to remove the pressure on the next General Assembly to continue with the reforms. It's not going to remove that. But I would -- I would

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kind of warn my colleagues that next year when we're here, even though there's some new Members around here, it's not going to be easy to pass a lot of the reforms that the Governor's task force has recommended. We may not have thirty votes for any more reforms, in which case we wouldn't have anything if this -- if this failed. So, for that reason, I think it is -- is -- is worth noting that it doesn't go far enough, but then, I'm going to vote for the bill. Thank you.

PRESIDING OFFICER: (SENATOR NOLAND)

Any further discussion? Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, I think the additional review by the Supreme Court will help the defendant. I think we have tried to be as fair as we can for the defendant. It is not a perfect bill. We have never passed a perfect bill in the Senate. But it is a step in the right direction. And I think we should be mindful of the fact that we are going out of our way, in many ways, to protect that defendant. We've had four cases of heinous crimes - murders, horrible murders - in my county that deserve the death penalty. These fellows have been able to stall it and stall it for years now. However, we've got to be mindful that the victims didn't ask to be victimized. And I think it's high time that we can be as fair to the defendants, but also to the victims. We have gone out of our way for the first time, and I commend the Governor for his moratorium and also for setting up his committee. I commend the subcommittee, which was bipartisan, for all of their hard work, Senator Roskam, the Chairman. They've done a tremendous job. They've had seven or eight hearings around the State. But please keep in mind that nothing is perfect, but this bill, as Senator Cullerton proudly indicated, is a step in the right direction. But we've got to remember always that sometimes we err on the part

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of the victims, and it's time that we are fair to both. And I certainly support this bill wholeheartedly, and we know there'll be some reforms in the future that'll make it better, but, as Senator Cullerton said, we may not get the -- the bill in the future. So let's stay together and vote for some meaningful reform. Even though it's not the best bill, it still is very, very good in comparison what we had before.

PRESIDING OFFICER: (SENATOR NOLAND)

Any further discussion? Senator Molaro.

SENATOR MOLARO:

Thank you, Mr. President. Nice to see you in that Chair. Look very good in it. Thank you, Members of the Senate. You know...

PRESIDING OFFICER: (SENATOR NOLAND)

Next speaker. Senator Molaro.

SENATOR MOLARO:

Thank you. You know, what we can't forget today, and Senator Roskam said a little bit about it earlier, but I want to just expound on this. Let's do about thirty seconds of history. Thirteen people killed. We've said it ad infinitum. Nobody likes that. That's -- nobody should -- agrees that some innocent people should be on death row. Everybody's against that. If you go talk to the people on the street, probably no matter what district you're from, you probably have where people still believe in the death penalty. And sometimes even the younger they are, they believe in the death penalty. I mean, you watch things on the news and I even have some of my younger children, "Hey, they should fry 'em. They should kill..." I mean, so most people still look for the death penalty. Well, Governor Ryan, long before this ridiculous scandal -- Governor Ryan showed a lot of courage when he came up there, and after reading all about this, he says, "This is broke. We have to fix this." He didn't have a

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lot of ideas, because it's an impossible type of situation. I mean, there's fifty-nine of us that are going to vote on what we think our ideas of the death penalty is. And I think Governor Ryan imposed this moratorium because he thought it was the right thing to do. No one should question his motives. This is a very, very difficult thing to do. And when he did it -- when he did it, he became a hero and a model for the rest of the country and a hero throughout the world. Not because they wanted to get rid of the death penalty, 'cause most people don't. It was finally where someone came up and said, "You know what? There's problems with this death penalty. It's nice to see a Governor from a major State come out and put a moratorium." Almost unheard of. We even debated it on this Floor whether it was legal or not, whether he had the authority to do it. Should it be case by case? Can a Governor do this? But that's how important it was. So here's what happens. Now we have the moratorium. They have the Commission. I don't know how many members were on it, but it was a blue-ribbon panel - prosecutors and public defenders alike, former jurists. I mean, a blue-ribbon panel. They come out nonpartisan. Comes out and they have eighty-five reforms. Some of 'em are a little far-reaching. Some we -- they turned to us for. But what's happening now is, because it was our Governor who started it and it was the State of Illinois that's doing it, for the first time since the Governor put the moratorium, for the first time, the Illinois Senate, after the recommendations, the Illinois Senate today is going to speak for the first time on the death penalty. Right now. Today. Five minutes from now if I finally get done. But we're going to speak on this right now. So, when we use words such as "It's better than nothing", "It does a little bit", "It's kind of okay", words that we use for when we're talking about whether there should be two hygienists or three hygienists and we say, "Well, we're still working on this;

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it's a work in progress", you can't pass a work in progress. When we speak on this for the first time after what we've done that has national and international -- you know, things going on with it, there is no way that we can say, "Well, this is better than nothing", "It's a work in progress." It's too serious for that. We had these recommendations. They came out. I will tell you, May was a little too quick. We couldn't have done it. But now we come up with it about two weeks ago. When was it in committee? Yesterday? I mean, and this is it? This is what we came up with this quickly? I, for one, cannot vote for this, not because there's not some good parts in it - there is - but this cannot be said throughout this State, throughout this country and through this world, that this is what the Illinois Senate -- this is how we're going to fix the problem. These four or five things, as good as they are, no videotaping of confessions, allowing it to be a -- some jailhouse snitch without any other evidence. We all know there's ten or fifteen good things that even if we weren't going to do it, should -- we should debate it. To come up here now and say this is what the -- Illinois stands for -- Illinois State Senate stands for, I think is a mistake. It's too quick. It's too soon. It's too serious. Words like "work in progress" or "We got a lot of way to go", is no good. I -- I can't presuppose what the Governor's going to do, but I'll take a wild guess, and he's probably going to veto it because it doesn't go long enough. I can't speak for the Governor-elect, but if you have thirteen people on death row and a commission comes back with eighty-five proposals, of which maybe thirty or forty we can address, and we look at four or five and every major newspaper in the country's coming out and saying, on this piece of legislation, we missed too many of 'em - everybody's against this in any editorial - I don't know how our Governor does this. So to say, "Well, don't worry, we're going to come back", I just think that

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the message today should be clear and strong, something that can stand the test of time, where the Illinois Senate stands for something and we took a stand today for what we think. Not only the law in this State, but a model should be used throughout the country. And unfortunately, this falls way short and we should vote No.

PRESIDING OFFICER: (SENATOR NOLAND)

Any further discussion? Senator Petka.

SENATOR PETKA:

Thank you very much, Mr. President and Members of this distinguished Body. First of all, I would like to commend the President -- or, the Chairman of the subcommittee, Peter Roskam, in really conducting the fullest and, in my opinion, fairest hearings of any piece of legislation that I've had an opportunity to be associated with. And I think you've done a commendable and remarkable job. During the discussion, we've had a number of Senators, very well-intentioned, very well-meaning, very impassioned, talking about the system being broken and that we have not done enough to fix it. In times past, I have spoken to this Body. I think that most, if not all, realize that I have hands-on, personal experience not only with this issue, but also with the implementation of the laws that currently exist. One of the reasons that I left the Will County State's Attorney's Office in 1987 was because I felt that there were injustices in the system, injustices to people who, unfortunately, were victimized by some of the most egregious, nasty, almost inhuman type of people who -- walking around among us, committing unspeakable crimes. In the past fifteen years, this General Assembly has saw fit to submit to the people of the State of Illinois a victim's bill of rights, which basically, at its core, talked about the need for finality in the system, the need for victims and surviving relatives of -- of victims of crimes to truly have a

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last and final day in court. But as -- during our debate yesterday in -- in the committee and listening again here once again on -- on the Senate Floor, we are caught with two separate and distinct worldviews. One worldview says that we have to adopt something that we ourselves cannot ever be, and that is that we have to be perfect. We have to be absolutely perfect. That is impossible for us as human beings. We -- we are imperfect. In fact, my wife will point out my shortcomings from time to time very generously. But another worldview, and that worldview is that people have what I call the self-preservation instinct that is ingrained within them. And one of the reasons they act this out -- and one of the ways they act this out through our criminal justice system is to try to remove from society those individuals who are most likely on a permanent basis -- to remove them on a permanent basis who are most likely to create very, very serious bodily harm, if not death. We have struggled in the past about how we are going to put this system into a balance where we can ensure that those who are truly guilty get the punishment that most people in this State want and balance that against the -- the assurance that those that we target for prosecution, that, in fact, we have the right people and that they truly deserve the punishment in the case. We have tried reforming the system in the past, and Senator Roskam has pointed out, by granting standing to those on death row on DNA cases. We have tried to pump a huge amount of money into the system to ensure that at the very -- at the trial level, at the -- and at the Appellate Court level and at the Supreme Court level we will get the very best people, the most competent people, to impact on the system. We can try and try to do that but we will always fall short, because we are a system of -- of people who are themselves imperfect. But there's one thing that we can do that will truly reform the system. We have talked about it in the spring. And I am -- I, once again, urge my

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colleagues on the other side of the aisle at this time to thoughtfully reconsider, perhaps in the next General Assembly, that we should make sure that these type of cases get a very special focus, that these aren't part of the whole system of justice, that these type of cases, especially the -- the most serious felony cases, the capital litigation cases, that we have these cases judged by people who have had hands-on experience in the criminal justice system. If we are to place another layer of protection to ensure that we are not going to place a person on death row and -- possibly facing execution and being wrongfully convicted, it seems to me that a very commonsense way of doing just that is to make sure that we've had people who have had hands-on experience in the system, either as prosecutors or as defense lawyers, who will be grilled by Members of this Body to ensure that they have the proper qualifications and then seat them in a court -- a special court that will handle criminal cases and capital cases. Because we can enact all the different types of reforms on -- in the world that we want, but unless we take that extra step, we will have reformed nothing, in my opinion. I voted against this bill in committee, but after careful reflection upon what we seek to do, I -- I concur with the thoughts of Professor Hoffmann and those expressed earlier by Senator Roskam, that we truly do need a mechanism for the Supreme Court not to create chaos in the criminal justice system by looking for procedural errors and nitpick simply to arrive at a result that they don't want this particular individual or individuals to face the death penalty. That's why the -- what we are proposing here today is truly revolutionary - revolutionary - because we are empowering the Supreme Court to set aside verdicts, something that I have to tell you makes me more than a little bit uneasy, but it's something that I think really needs to get done. I think that moving forward today to the next step of attempting to achieve a

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better system of justice starts with a -- a Yes vote on this piece of legislation and I would so urge.

PRESIDING OFFICER: (SENATOR NOLAND)

Further discussion? Senator Roskam, to close.

SENATOR ROSKAM:

We've pretty much heard it all, I'd say, the proponents and the opponents. Let me address a couple of things that were brought up. One is our -- our -- our Senate brother that's going to be heading over to the House, to rest his -- ease -- easy conscience. We have a resolution as it relates to the jailhouse snitch issue. It's not something that we can enact because we don't have the jurisdiction. We've just got to simply call upon the Illinois Supreme Court to promulgate a jury instruction. You know, there was -- and listen, we can talk all day about all of the ideas that are not in this. But let me just raise one, Senator, because it's come up a couple of times, and that is this notion of videotaping. It's come up on several conversations or several statements on the Senate Floor today. Let me tell you the weakness about the videotaping suggestion. The Governor's Commission says, "Well, you need to videotape. And not only do you need to videotape the confession, but you need to videotape the interrogation, too." Now let's think that through for a second. And I understand the rationale for videotaping the interrogation. If you rough somebody up and then you flip the video camera on and they're very compliant because they're afraid and they've been beaten and so forth and they're going to videotape, you need to, they -- they say, take in the whole context. Well, how does that work? If you're a police officer and you're investing {sic} a gang crime, and all of a sudden you're talking to a witness that you think is the witness and all of a sudden you realize, "I'm not talking to the witness; I'm talking to the killer", now, as a police officer, what are you supposed to do under that

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recommendation? Are you supposed to say, "Oh, hang on just one second. Hold that thought, 'cause I got to go get a video camera", or, "I got to go find a room where you can continue that thought, young fellow, and as soon as you continue that thought, then we're going to go ahead with your case." No. That's ridiculous. And think about it. Think about the areas -- I'll tell you, if -- if this recommendation of videotaping were enacted -- I'm from Wheaton, Illinois. Wheaton, Illinois, has enough money to come up with some good videotaping equipment and some good videotaping technology if we all decided that this is the be-all, end-all, do-all, panacea that's going to change the world. We can do that. But do all the communities across Illinois have those kinds of resources? No, they don't. We hear about the -- the -- the resources that aren't available every day that we're down in the General Assembly. So, what happens if we enact that high-minded videotaping idea? Does it hurt my communities? No, it doesn't. Does it hurt other communities throughout the State? I would submit that it does. So, let's be clear. There has never been a bill, there has never been a statute, there's been never anything that's come together that's ever been perfect, except maybe the Ten Commandments. That was the last time a perfect deal came together all at once. So if we're waiting for perfect, Senators, we're going to be waiting a long, long, long time. And when the perfect one comes along, I want to hear from you that you be the Senator that stands on this Senate Floor and says, "I've got the perfect idea. I have the perfect solution and it is here in this Senate bill." Of course, that's not the way we work. We all know that the perfect is the enemy of the good. This is a good bill and I urge you to vote Aye. Thank you.

PRESIDING OFFICER: (SENATOR NOLAND)

The question is, shall House Bill 5657 pass. Those in favor will vote Aye. Opposed, vote Nay. The voting is open. Have all

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voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 46 Ayes, 11 Nays, 0 voting Present. This bill, having -- House Bill 5657, having received the required constitutional majority, is declared passed. ...del Valle, are you seeking -- Senator del Valle.

SENATOR DEL VALLE:

Mr. President, I punched red. It was red on my desk, but it was green at the board. So I want this checked immediately.

PRESIDING OFFICER: (SENATOR NOLAND)

...del Valle, the roll call is correct, and it correctly reflects your intent. The roll calls indicate you're voting No. Earlier we asked for leave to return to House Bill 3080. Senator Petka. Mr. Secretary, please read the bill.

SECRETARY HARRY:

House Bill 3080.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Petka.

SENATOR PETKA:

Thank you, Mr. President, Members of the Senate. House Bill 3080 would expand those who are eligible to benefit under the State Employees Group Insurance Act by providing that a TRS dependent beneficiary who is an unmarried child age nineteen or over and mentally or physically handicapped does not become ineligible to participate by reason of becoming a dependent for purposes of the federal income tax or receiving earned income, as long as it is insufficient to -- for the child to be fully self-sufficient. Mr. President, this bill came out of the House with no Nay votes. Came out of the Committee of Insurance and Pensions unanimously. I -- I move for its passage and I'll be happy to answer any questions.

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PRESIDING OFFICER: (SENATOR NOLAND)

Any further discussion? If not, Senator Petka, to close.

SENATOR PETKA:

Would merely urge an Aye vote. Thank you.

PRESIDING OFFICER: (SENATOR NOLAND)

The question is, shall House Bill 3080 pass. Those in favor will vote Aye. Opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, 0 Nays, 0 voting Present. House Bill 3080, having received the required three-fifths majority, is declared passed. On page 12 of the Calendar is the Order of Motions in Writing to Accept Specific Recommendations for Change. Senator Mahar, House Bill 2. Mr. Secretary -- Madam Secretary, please read the motion.

ACTING SECRETARY HAWKER:

I move to accept the specific recommendations of the Governor as to House Bill 2, in manner and form as follows:

Amendment to House Bill 2

in Acceptance of Governor's Recommendations

Motion filed by Senator Mahar.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Mahar.

SENATOR MAHAR:

Thank you, Mr. President, Members of the Senate. This bill originally amended the Alternative {sic} (Alternate) Fuel Infrastructure Program, which was adopted by the General Assembly several years ago. We're accepting the Governor's recommendations for change, which I shall briefly go over. It -- he eliminates the authority of the Advisory Board. Clarifies that the ethanol fuel research program shall remain in effect, subject to appropriation after the calendar year 2004. Clarifies that the rebate program shall be in effect as long as funds are available

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and may continue as such. Makes clear that the Alternative {sic} Fuel Infrastructure Program is subject to appropriation. And -- and also -- it also eliminates the restriction on the way that the money is received by the grantees and leaves that at the discretion of the Department of Commerce and Community Affairs. And it continues the surcharge program through the calendar year 2002, at which time it will end. I know of no opposition and would move to accept the recommendations of the Governor.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Mahar has moved to accept the specific recommendations of the Governor as to House Bill 2. Any discussion? The question is, shall the Senate accept the specific recommendations of the Governor as to House Bill 2, in the manner and form just stated by Senator Mahar. Those in favor will vote Aye. Those opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are -- 57 Ayes, 0 Nays, 0 voting Present. The specific recommendations of the Governor as to House Bill 2, having received the required constitutional majority vote of the Senate's elect {sic}, are declared accepted. Senator DeLeo, on House Bill 2271. Madam Secretary, read the motion.

ACTING SECRETARY HAWKER:

I move to accept the specific recommendations of the Governor as to House Bill 2271, in manner and form as follows:

Amendment to House Bill 2271

in Acceptance of Governor's Recommendations

Motion filed by Senator DeLeo.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator DeLeo.

SENATOR DeLEO:

Thank you very much, Mr. President, Ladies and Gentlemen of the Senate. I move to accept the specific recommendations -- of

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the Governor on House Bill -- 2271. And it very simply delays the effective date of the home rule exemption Section until January 1st, 2004. I'd ask for adoption.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator DeLeo has moved to accept the specific recommendations of the Governor as to House Bill 2271. Any discussion? The question is, shall the Senate accept the specific recommendations of the Governor as to House Bill 2271, in the manner and form just stated by Senator DeLeo. Those in favor will vote Aye. Those opposed, vote Nay. Voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 57 Ayes, 0 Nays, 0 voting Present. The specific recommendations of the Governor as to House Bill 2271, having received the required constitutional majority vote of the Senators elected, are -- are declared accepted. House Bill 4074. Senator Munoz -- Munoz. Madam Secretary, read the motion, please.

ACTING SECRETARY HAWKER:

I move to accept the specific recommendations of the Governor as to House Bill 4074, in manner and form as follows:

Amendment to House Bill 4074

in Acceptance of Governor's Recommendations

Motion filed by Senator Munoz.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Munoz.

SENATOR MUNOZ:

Thank you, Mr. President. I ask to adopt all the changes on the recommendation of the Governor.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Munoz has moved to accept the specific recommendations of the Governor as to House Bill 4074. Any discussion? The question is, shall the Senate accept the specific recommendations

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of the Governor as to House Bill 4074, in the manner and form just stated by Senator Munoz. Those in favor will vote Aye. Those opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 55 Ayes, 0 Nays, and 0 voting Present. The specific recommendations of the Governor as to House Bill 4074, having received the required constitutional majority vote of the Senators elected, are declared accepted. Senator Madigan, on House Bill 4179. Madam Secretary, please read the motion.

ACTING SECRETARY HAWKER:

I move to accept the specific recommendations of the Governor as to House Bill 4179, in manner and form as follows:

Amendment to House Bill 4179

in Acceptance of Governor's Recommendations

Motion filed by Senator Lisa Madigan.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Madigan.

SENATOR L. MADIGAN:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. I move to accept the specific recommendations for change that the Governor has made on House Bill 4179. It is a bill that passed unanimously out of this Body during our spring Session. We had a -- an inadvertent drafting error that we are trying to correct and add the word "authorized" {sic} ("official") back in when an aggravated assault would occur to an emergency medical technician, otherwise known as an EMT. And I would appreciate your support on this.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Madigan has moved to accept the specific recommendations of the Governor as to House Bill 4179. Any discussion? The question is, shall the Senate accept the specific

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recommendations of the Governor as to House Bill 4179, in the manner and form just stated by Senator Madigan. Those in favor will vote Aye. Those opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, 0 Nays, 0 voting Present. The specific recommendations of the Governor as to House Bill 4179, having received the required constitutional majority vote of Senators elected, are declared accepted. House Bill 4938. Senator Larry Walsh. Madam Secretary, please read the motion.

ACTING SECRETARY HAWKER:

I move to accept the specific recommendations of the Governor as to House Bill 4938, in manner and form as follows:

Amendment to House Bill 4938

in Acceptance of Governor's Recommendations

Motion filed by Senator Walsh.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Walsh.

SENATOR L. WALSH:

Thank you, Mr. President and Members of the Senate. House Bill 4938 amends the State Records Act to include digitalized electronic material and databases and -- in the definition of record, and exempts blank forms from the definition of the record. In our -- in our Act, which passed both houses unanimously, we created two sets of penalties, one a Class B misdemeanor and one a Class 4 felony. The Governor has recommended to run the whole penalty as a Class 4 felony, which we accept.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Walsh has moved to accept the specific recommendations of the Governor as to House Bill 4938. Any discussion? The question is, shall the Senate accept the specific recommendations of the Governor as to House Bill 4938, in the manner and form just

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stated by Senator Walsh. Those in favor will vote Aye. Those opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 57 Ayes, 0 Nays, 0 voting Present. The specific recommendations of the Governor as to House Bill 4938, having received the required constitutional majority vote of Senators elected, are declared accepted. House Bill 5610. Senator Sullivan. Madam Secretary, please read the motion.

ACTING SECRETARY HAWKER:

I move to accept the specific recommendations of the Governor as to House Bill 5610, in manner and form as follows:

Amendment to House Bill 5610

in Acceptance of Governor's Recommendations

Motion filed by Senator Sullivan.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Sullivan.

SENATOR SULLIVAN:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. First of all, Mr. President, you're doing a great job up there. We're going to miss you. House Bill 5610...

PRESIDING OFFICER: (SENATOR NOLAND)

Out of order.

SENATOR SULLIVAN:

The -- the underlying bill legalized the use of a Segway mobile device. This amendment -- this veto from the Governor simply clarifies that the bill does not preempt home rule or non-home rule municipal authority. I ask for an Aye vote.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Sullivan has moved to accept the specific recommendations of the Governor as to House Bill 5610. Any discussion? The question is, shall the Senate accept the specific recommendations of the Governor as to House Bill 5610, in the

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manner and form just stated by Senator Sullivan. Those in favor will vote Aye. Those opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, 0 Nays, and 0 voting Present. The specific recommendations of the Governor as to House Bill 5610, having received the required constitutional majority vote of the Senators elected, are declared accepted.

PRESIDING OFFICER: (SENATOR WATSON)

Mr. Secretary, Committee Reports.

SECRETARY HARRY:

Senators Petka and DeLeo, Co-chairs of the Committee on Executive Appointments...

PRESIDING OFFICER: (SENATOR WATSON)

Excuse me. We have to go into the Executive Session. And we will now proceed to Executive Session for the purpose of advice and consent. Senator Petka.

SENATOR PETKA:

Thank you very much, Mr. President. I would like -- I would move that we would go into Executive Session.

PRESIDING OFFICER: (SENATOR WATSON)

You've heard the motion. All in favor, say Aye. Opposed, Nay. Motion carries, and we are now in Executive Session. Mr. Secretary, Committee Reports.

SECRETARY HARRY:

Senators Petka and DeLeo, Co-chair of the Committee on Executive Appointments, to which was referred the Governor's Message of November 21st, 2002, reported the same back with the recommendation the Senate advise and consent to the following appointments.

PRESIDING OFFICER: (SENATOR WATSON)

Mr. Secretary, have there been any motions filed?

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SECRETARY HARRY:

Yes, Mr. President, a request to separate the question.

Pursuant to Senate Rule 10-1(c), we request the confirmation of Thaddeus Lechowicz, to be a member of the Illinois Labor Relations Board, State Panel, be taken on a separate roll call from those salaried appointments of the Governor remaining from the Governor's Message of November 21, 2002.

Signed by Senators Viverito, Walsh, Halvorson, del Valle and Woolard.

PRESIDING OFFICER: (SENATOR WATSON)

That motion is in order. Senator Petka.

SENATOR PETKA:

First of all, Mr. -- Mr. President, I just want to make sure that the Senate has resolved itself into Executive Session for the purpose of acting on the Governor's appointments set forth in his Message of November 21st, 2002. Mr. President, with respect to the Message of November 21st, 2002, I would now like to read the names of the salaried appointments of which the Senate Committee on Executive Appointments recommends that the Senate do advise and consent.

To be member of the Chicago Transit Authority for a term commencing December 2nd, 2002, and ending September 1st, 2009, Cynthia Panayotovich of Lansing.

To be a member of the Court of Claims for a term ending January 16th, 2006, Zack Stamp of New Berlin.

To be Curator of the Executive Mansion beginning January 1st, 2003, for an unspecified term length, David Bourland of Springfield.

To be the Inspector General in the Department of Children and Family Services for a term ending June 1st, 2005, Denise Kane of Chicago.

To be Chairman of the Illinois Educational Labor Relations

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Board for a term ending December 31st {sic} (21st), 2002, Michael J. Gavin of Joliet.

To be a member of the Illinois Educational Labor Relations Board for a term ending -- or, term commencing January 12, 2003, and ending February 1st, 2004, Joseph P. -- Hannon of Chicago.

To be a member of the Illinois Educational...

PRESIDING OFFICER: (SENATOR WATSON)

Senator Demuzio, state your point.

SENATOR DEMUZIO:

You said that there was only one motion that was filed with respect to these appointments. It was my understanding that there were at least four that were filed.

PRESIDING OFFICER: (SENATOR WATSON)

This is the salaried only that we're -- we're dealing with. Senator Demuzio.

SENATOR DEMUZIO:

The other ones were filed then were unsalaried? And this was the only one that was filed for salaried. Thank you, sir.

PRESIDING OFFICER: (SENATOR WATSON)

That is correct. Senator Petka, to continue.

SENATOR PETKA:

To be a member of the Illinois Educational Labor Relations Board for a term commencing January 9, 2003, ending July 1st, 2004, Laura Kent Donahue, Quincy.

Be a member of the Illinois International Port District Board for a term ending June 1st, 2007, William F. Murphy of Woodridge.

To be a member, and Chairman, of the Illinois Labor Relations Board, Local Panel, for a term commencing November 21st, 2002, and ending January 24th, 2005, Pam McDonough of Springfield.

To be a member of the -- to be members of the Illinois Labor Relations Board, State Panel, for terms ending January 23rd, 2006, Debra Lounsberry of Pawnee, Thomas J. Walsh of LaGrange Park.

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Be member of the Illinois Labor Relations Board, State Panel, for a term commencing January 1st, 2003, and ending January 23rd, 2006, Michael Madigan of Springfield.

Be a member of the Illinois Liquor Control Commission for a term commencing January 1st, 2003, and ending February 1st, 2008, Stephen B. Schnorf of Springfield.

To be a member of the Illinois Toll Highway Authority for a term ending May 1st, 2005, Carl O. Towns of Rockford.

To be a member of the Industrial Commission for a term ending December 31st, 2002, Paul W. Rink of Chicago.

To be a member of the Illinois -- of the Industrial Commission for a term commencing January 1st, 2003, and ending January 17, 2005, Diane Ford of New Berlin.

To be Deputy Commissioner of the Office of Banks & Real Estate for a term commencing January 1st, 2003, and ending January 31st, 2004, Anne Zickus of Palos Hills.

To be a member of the Prisoner Review Board for a term ending January 16, 2006, David A. Frier of Springfield.

To be a member of the Prisoner Review Board for a term commencing January 1st, 2003, and ending January 15, 2007, Mark R. Warnsing of Divernon.

To be a member of the Property Tax Appeal Board for a term commencing December 1st, 2002, and ending January 20th, 2003, Orlando G. Jones, Sr., of Chicago.

Mr. President, having read the salaried appointments from the Governor's Message of November 21st, 2002, I now seek leave to consider the appointments of November 21st, 2002, on a roll call. Mr. President, will you please put this question as required by our rules?

PRESIDING OFFICER: (SENATOR WATSON)

Is there any discussion? Senator Demuzio.

SENATOR DEMUZIO:

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Thank you, Mr. President. Will the gentleman yield for a question?

PRESIDING OFFICER: (SENATOR WATSON)

Senator indicates he'll yield, Senator Demuzio.

SENATOR DEMUZIO:

Senator Petka, do you -- do you think that on December the 4th of this year, with forty days left to go in this administration, that this is a good idea today, to be confirming all these appointees?

PRESIDING OFFICER: (SENATOR WATSON)

Senator Petka.

SENATOR PETKA:

Senator, the -- the Governor of this State has laid before us a -- recommendations and nominations to -- serve in various positions. That person remains the Governor until the second Tuesday of January of -- of 2003. I believe that we are just acting in our traditional advice-and-consent function, and so the answer is yes.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Demuzio.

SENATOR DEMUZIO:

A tradition of advice-and-consent functions. Well, Senator, I have in my hand a transcript of December the 3rd of 1998. Jim Edgar was departing as the Governor to make way for George Ryan. And he had submitted a number of appointments to the Executive Appointments Committee, to the Senate. You and your Members took those members and you put them out to the Floor. And I would like to read your remarks on December the 3rd of 1998. Senator Petka, it says: Thank you, Madam President and Members of the Senate. Article IV {sic}, Section 9 of the Illinois Constitution gives the Governor the right to nominate and, with the advice and consent of the Senate, the right to appoint individuals to positions in State

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government. I think that it is important to note, as a matter of fact -- of constitutional history, that the power to appoint is a jointly -- a joint power to appoint, and it's jointly exercised. The Senate cannot -- cannot nominate and the Governor cannot and should not appoint individuals without the advice and consent of the Senate. Thus, we have a constitutional right and a constitutional duty to help mold and structure government with the Governor of this State. This is all part of the system of check and balance with {sic} mirrors the process followed -- in which we follow the federal government and the federal Constitution. In about six weeks - and this is your remarks on December 3rd, 1998 - we are going to have a new Executive, the Chief Executive, George Ryan, who we believe should have the opportunity to shape State government with his choices for various positions in State government. It is with that in mind that we should use our constitutional power by not - by not - appointing and not advising and consenting in the nominations that have been made by the current Governor, in order that the Governor-elect, Ryan, be afforded the opportunity to work with us in a partnership in molding and structuring that State government. Our action would not be a reflection on any of the qualifications, nor character, nor fitness to serve, of any nominees on the list of November the 5th and November the 19th - of course, of December 3rd, 1998. But again, it would merely reflect our desire to offer an opportunity to the incoming Governor to work with us in partnership, as the Constitution envisions, in structuring a government as we go to the new millennium. And therefore, with that in mind -- well, forget the rest here, but it -- it -- these nominees, when you put -- put the question to -- for us not to confirm those nominees, the roll call on that was -- hold on, there were several hundred of 'em. Had to go to the last page. There were no -- no one voted Aye, 57 voted Nay and no one voted Present. And the

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majority of Senators elected, failing to concur on a record vote, the Senate failed to advise and consent to all the nominations that were read into the record. I was just curious, Senator Petka, in lieu of your original opening statement and the legislative record that you have as of December 3rd of 1998, sir, what has changed during that period of time that you might enlighten us?

PRESIDING OFFICER: (SENATOR WATSON)

Senator Petka.

SENATOR PETKA:

The passage of four years in time, which hopefully has made me not only older, but perhaps a little wiser.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Demuzio.

SENATOR DEMUZIO:

Well, I can hardly quarrel with that -- that personal confession. Thank you very much.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Ronen.

SENATOR RONEN:

Thank you, Mr. President. You know, I was prepared to vote for these until I just heard Senator Demuzio recall those wise remarks of yours four years ago, Senator Petka. And I -- I really think we ought to think about that. I think this Body looked at the same situation we're looking at today four years ago and made a very wise decision. And I think we ought to think very carefully about what we're doing here today. The -- the -- we're talking about appointing people. These eleventh-hour, last-minute decisions by a lame-duck Governor are going to impact public policy and the budget of the State of Illinois years beyond the term of our new Governor-elect. And I think that's just plain wrong. These actions of putting people on boards and commissions

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are just part of a system of trying to thwart the will of the public. The public said very clearly in this last election that we want change. Whether it's making appointments to boards and commissions, whether it's appointing staff to four-year terms of office where they can't be fired after only a thirty-day probation, or whether it's burrowing employees into the jowls and bowels of the bureaucracy so that we can't find them, it's just plain wrong and you all know it. You knew it four years ago, and you know it now. These actions -- if we today approve these -- if we vote for these, what we're saying is that we support politics as usual, that we do not support the will of the people, that things that are in the public good do not matter; all that matters is taking care of mundane issues and friends. That's wrong. It was wrong four years ago. It's wrong today. Let's -- all -- all we are saying is, let's wait on these. Let's give the new Governor-elect and this Senate a chance to work together, as Senator Petka so eloquently pointed out four years ago, to do this right. The people of the State of Illinois have the right to expect that we do that, and I would ask all of my colleagues to either vote No or Present on these eleventh-hour appointments that are thwarting the will of the people of Illinois.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Further discussion? If not, Senator Petka, do you wish to close?

SENATOR PETKA:

I just wish a roll call.

PRESIDING OFFICER: (SENATOR WATSON)

The question is, does the Senate advise and consent to the nomination just made. Those in favor, vote Aye. Opposed, vote No. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there's 45 voting Yes, 4 voting No, 7 voting Present. A

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majority of the Senators elected concurring by record vote, the Senate does advise and consent to the nominations just made. Senator Petka.

SENATOR PETKA:

Thank you very much, Mr. President. With respect to the motion to divide the question concerning the nomination of the salaried appointments of November 21st, 2002, I now seek leave to consider the appointment of Thaddeus Lechowicz of the Labor Relations Board, State Panel, for a term ending January 27, 2003, on a roll call. And, Mr. President, will you put the question as required by our rules?

PRESIDING OFFICER: (SENATOR WATSON)

Is there any discussion? Any discussion on that motion? If not, the question is, does the Senate advise and consent to the nominations just made. Those in favor, vote Aye. Opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? ...the record. On that question, there's 32 voting Yes, 8 voting No, 14 voting Present. A majority of Senators elected concurring by a record vote, the Senate does advise and consent to the nomination just made. Mr. Secretary, have there been any further motions filed?

SECRETARY HARRY:

Yes, Mr. President, a request to separate the question.

Pursuant to Senate Rule 10-1(c), we -- we request that the confirmation of Joyce E. Karon to be a Member of the State Board of Education be taken on a separate roll call from those nonsalaried appointments of the Governor remaining from the Governor's Message of November 21, 2002.

Signed by Senators Jacobs, Demuzio, Welch, O'Daniel and Link.

Another motion:

Pursuant to Senate Rule 10-1(c), we request the confirmation of Gregory N. Kazarian be -- to be a Member of the

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State Board of Education be taken on a separate roll call from those nonsalaried appointments of the Governor remaining from the Governor's Message of November 21st, 2002.

The motion signed by Senators Jacobs, Demuzio, Welch, O'Daniel and Link.

And pursuant to Senate Rule 10-1(c), we request the confirmation of Jack Potter to be a member of the Waukegan Port District Board be taken on a separate roll call from those nonsalaried appointments of the Governor remaining from the Governor's Message of November 21, 2002.

The motion filed by Senators Molaro, Jacobs, Welch, Link and Demuzio.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Petka.

SENATOR PETKA:

Thank you, Mr. President. With respect to the motion to divide the question concerning the nomination of the nonsalaried appointment of November 21st, 2002, I now seek leave to consider the appointment of Joyce Karon to the State Board of Education for a term ending January 14th, 2009, on a roll call. Mr. President, will you put the question as required by our rules?

PRESIDING OFFICER: (SENATOR WATSON)

Discussion? Senator Demuzio.

SENATOR DEMUZIO:

Well, thank you, Mr. President, Ladies and Gentlemen of the Senate. This -- this one I rise in strong objection to. This one and the next one are two appointments to the Illinois State Board of Education. If you'll all recall back when Glen Poshard and -- and -- and George Ryan were running for Governor, most of us had urged the State Board of Education, who was appointed by Edgar, not to appoint Max McGee as the Superintendent. They did so fourteen days before the election. In this particular

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instance, what happened this year is that, again, we had two combatants for Governor, and the State Board of Education decided that they would hire a new Superintendent of Schools, give him a four-year -- three- or four-year, long -- long-term contract into the term of the -- of the next Governor. Now, at some point somewhere along the line, this system has to change, because we are providing for individuals of -- of the lame-duck Governor's party -- a lame-duck Governor and a -- a Board that goes out and hires its own Superintendent based upon its own plans and goals and objectives for education. This should be the prerogative of the Governor, to have some input into the process of both the Board, as well as the Superintendent. There's nothing we can do about the Superintendent now; the person has been hired. But, in fact, it seems to me that the new, incoming Governor ought to have the opportunity to appoint Republicans to that Board that have the same goals and plans and ideas that he does. That doesn't mean that they have to have total unanimity behind what the Governor is attempting to do. It just seems to me that it makes some sense to have the incoming Governor have some input into this process. And I would urge my colleagues to vote Present on these -- on these nominees and hope that perhaps if they do, in fact, fail, that perhaps we can start ourselves onto a new road of providing for really quality education in Illinois with some real significant communication and support between the Chief Executive Officer, the new one, as well as the State Board of Education. So I would -- I would rise and -- and ask our Members to vote Present on this matter.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Klemm.

SENATOR KLEMM:

Yes. Thank you. I'm really quite surprised, because it sounds like it's becoming more political. Here I'm looking at

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one candidate that nobody even told me about that I'm sponsoring as a courtesy, who I know is a -- is an educator who is dedicated to children and spent her life caring about schools and education and not so much politics, is being asked not to be considered to a -- a role that has spent her whole career. I mean, where are we going with this? I don't know if she's Republican or Democrat, and I don't care. It would just seem to me that we should confer with these and not become political on this thing. I -- I think it's a disgrace that we're doing this, and I would certainly support these candidates.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, I don't mind being political at times, but this is one time I think we should all look at what is best for the Board of Education. And I'm rising to support the nomination of Gregory Kazarian, whom I've known since he was born, who is dedicated, absolutely dedicated to education. He's a lawyer, who's married, has three children, and wants the best education for our children in Illinois. And I -- I have known him. He's a fine gentleman, and I know in the community he has preached about getting better education and doing all he can to support it. And I feel he would be a valuable addition to the State Board of Education. And I support him and ask my colleagues to support him also.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Senator Demuzio, for a second time.

SENATOR DEMUZIO:

Well, Senator Geo-Karis made a great speech for Mr. Kazarian, who's not even on this Message. He's the next Message. However, let me simply say, you want to know if it's political? Sure, it's a political process and this person, and I don't want to really

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get into the personalities, is, in fact, a Republican. That person terms {sic} goes till January the 14th of the year -- I'm sorry, 2009. I don't think that's right. I think we ought to vote Present.

PRESIDING OFFICER: (SENATOR WATSON)

Further discussion? Further discussion? If not, Senator Petka, do you wish to close?

SENATOR PETKA:

I would simply urge the recommendation in committee be followed and we vote Aye.

PRESIDING OFFICER: (SENATOR WATSON)

The question is, does the Senate advise and consent to the nomination just made. Those in favor, vote Aye. Opposed, vote No. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 30 voting Yes, 3 voting No, 24 voting Present. A majority of the Senators elected concurring by record vote, the Senate does advise and consent to the nomination just made. And Senator -- Senator Demuzio has asked for verification. Senator Demuzio has requested a verification. Will all the Senators please be in their seat? The Secretary will read the affirmative votes.

SECRETARY HARRY:

The following Members voted in the affirmative: Bomke, Brady, Burzynski, Cronin, Dillard, Donahue, Geo-Karis, Hawkinson, Wendell Jones, Karpiel, Klemm, Mahar, Myers, Noland, O'Malley, O'Shea, Parker, Peterson, Petka, Radogno, Rauschenberger, Roskam, Rupley, Sieben, Stone, Sullivan, Syverson, Watson, Weaver and Mr. President.

PRESIDING OFFICER: (SENATOR WATSON)

Does Senator Demuzio request -- question the presence of any Member?

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SENATOR DEMUZIO:

Senator Rauschenberger.

PRESIDING OFFICER: (SENATOR WATSON)

He's at his chair.

SENATOR DEMUZIO:

Senator Bomke.

PRESIDING OFFICER: (SENATOR WATSON)

He's in his chair, sir.

SENATOR DEMUZIO:

Senator Sieben.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Sieben is in his chair.

SENATOR DEMUZIO:

And Senator Cronin.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Cronin is at the phone booth.

SENATOR DEMUZIO:

Do you know who he's calling? That's -- that's okay. I was just -- just checking. Thank you very much.

PRESIDING OFFICER: (SENATOR WATSON)

On a verified roll call, the Ayes are 30, the Nays are 3, and 24 voting Present. And the motion, having received the required constitutional majority, the Senate does advise and consent, and the -- is declared passed. Senator Petka.

SENATOR PETKA:

Thank you, Mr. President. With respect to the motion to divide the question concerning the nomination of the nonsalaried appointments of November 21st, 2002, I now seek leave to consider the appointment of Gregory Kazarian to the State Board of Education for a term ending January 14, 2009, on a roll call. Mr. President, will you put that question as required by our rules?

PRESIDING OFFICER: (SENATOR WATSON)

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Is there any discussion? Senator Demuzio.

SENATOR DEMUZIO:

Well, I don't want to belabor the point. I would make the same argument. This is another appointment -- appointment to the State Board of Education. It, too, I don't want to involve anyone in the personalities. But, again, the term begins on January the 8th and runs through January of -- I'm sorry, January 8th of '03 and runs to January 14th of '09. I think this incumbent Governor and the -- and the next Governor out to have an opportunity to replace one -- one of these people, and I, therefore, would again ask for a Present vote.

PRESIDING OFFICER: (SENATOR WATSON)

Any further discussion? Is there any further discussion? If not, Senator Petka, to close.

SENATOR PETKA:

I would urge an Aye vote. Thank you.

PRESIDING OFFICER: (SENATOR WATSON)

The question is, does the Senate advise and consent to the nomination just made. Those in favor, vote Aye. Opposed, vote No. The voting is open. Have all voted who wish? Anybody else like to vote? Take the record. There are 31 voting Yes, 3 voting No, 22 voting Present. A majority of the Senators elected concurring by a record vote, the Senate does advise and consent to the nomination just made. Senator Demuzio.

SENATOR DEMUZIO:

Thank you, Mr. President. I was just trying to see if anybody else had gone to the rest room or the woodshed, or telephone calls or anything. Apparently, no. Thank you.

PRESIDING OFFICER: (SENATOR WATSON)

Senator Petka.

SENATOR PETKA:

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Thank you, Mr. President. With respect to the motion to divide the question concerning the nomination of the nonsalaried appointments of November 21st, 2002, I now seek leave to consider the appointment of Jack Potter to the Waukegan Port District Authority for a term ending May 31st, 2007, on a roll call. Mr. President, will you please put the question as required by our rules?

PRESIDING OFFICER: (SENATOR WATSON)

Is there any discussion? Is there any discussion? If not, the question is, does the Senate advise and consent to the nomination just made. Those in favor, vote Aye. Opposed, vote No. The voting is open. Have all voted who wish? Take the record. On that question, there are 30 voting Yes, 2 voting No, 23 voting Present. A majority of the Senators elected by concurring record vote, the Senate does advise and consent to the nominations just made. Senator Petka.

SENATOR PETKA:

Thank you, Mr. President. Now with respect to the -- to the Message of November 21st, I will read the remainder of the nonsalaried appointments of which the Senate Committee on Executive Appointments recommends that the Senate do advise and consent.

...member of the Advisory Board to the Department of Natural Resources for a term ending January 17, 2005, Lawrence Lucas of Glenview.

To be a member of the Advisory Board to the Department of Natural Resources for a term ending January 15, 2007, George Ryan, Jr., of Bourbonnais.

To be a member of the Bi-State Development Agency for a term ending January 15, 2007, David Tanzyus of Collinsville.

To be a member of the Board of Higher Education for a term

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ending January 31st, 2003, Lee Walker of Burr Ridge.

To be a member of the University of Illinois Board of Trustees for a term commencing January 1st, 2003, and ending January 10th, 2005, Thomas Lamont of Springfield.

To be a member of the Capital Development Board for a term ending January 16, 2006, Glyn Ramage of Dupo.

To be a member of the Department of Labor Advisory Board for terms ending January 19, 2004, James Bruner of Jacksonville, David De Young of Orland Park, Dennis Gannon of Orland Park, David Lorig of Chicago, Michael O'Neill of Palos Park, Hedy Ratner of Chicago, Edward Smith of -- Olive Branch.

To be members of the East St. Louis Financial Advisory Authority for terms ending August 30th, 2005, Otis Cowan of Edwardsville, Anthony Grant of Oak Park, Jacqueline Settles of East St. Louis.

To be a member of the Employment Security Advisory Board for a term ending January 20, 2003, Douglas Whitley of Batavia.

To be a member of the Guardianship & Advocacy Commission for a term ending June 30th, 2005, Todd Sieben of Geneseo.

To be a member of the Havana Regional Port District Board for a term ending July 1st, 2004, Murray K. Johnson of Havana.

To be a member of the Havana Regional Port District Board for a term ending July 1st, 2005, Merle F. Tarvin of Havana.

To be members of the Health Facilities Planning Board for terms ending June 30th, 2004, Thomas Beck of Glenview, Fred Benjamin of Glencoe, William J. Marshall of Plainfield, Julie Root of Champaign, Joyce Washington of Chicago.

To be members of the Health Facilities Planning Board for terms ending June 30th, 2005, Philip Bradley of Springfield, Barbara Jo Johnson of Park Ridge, Dennis C. Millirons of Kankakee, Clarence Nagelvoort of Chicago.

To be a member of the Health Facilities Planning Board for a

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term ending -- term commencing January 1st, 2003, ending June 30th, 2005, Debra Lounsberry of Pawnee.

To be members of the Human Resource Investment Council/Workforce Investment Board for terms ending July 1st, 2003, Joseph Angleton of DuQuoin, Dianna Barron of Collinsville, Irwin Bock of Hanover Park, Jim Bush of Palos Heights, Daniel Cosgrove of Springfield, Jo Ann Eckmann of Libertyville, Jacqueline C. Edens of Chicago, Christopher E. Glynn of Morton, Sharon Knotts Green of Barrington, Zelema Harris of Champaign, Ginnie Hartman of Mounds, Anne Irving of Chicago, Hazel A. King of Chicago, Anne Ladky of Chicago, Robert Luther of Charleston, Ronald C. Morehead of -- of Normal, Donald Shewmake of Plainfield, Wayne Watson of Chicago.

To be members of the Human Resource Investment Council/Workforce Investment Board for terms ending July 1st, 2004, Bert J. Docter of South Holland, Julie Hamos of Evanston, Kathryn A. Havens of Bloomington, John B. Hudson of Springfield, Nancy L. Kroll of DeKalb, Brooks L. Lockhart of Chicago, Earl Moldovan of East Peoria, Rosemary Mulligan of Des Plaines, Michael L. Nysten of South Holland, Barbara D. Oilschlager of Grayslake, Janet Payne of Westville, Anthony Perry of Bourbonnais, John D. Rico of Chicago, Blanche Shoup of Galesburg, Charles O. Stewart of Moline, Gregory Sutton of North Aurora, Janette Weatherall of Springfield, Douglas Whitley of Batavia.

To be a member of the Illinois Building Commission for a term ending May 1st, 2003, Steven Wydeveld of Manhattan.

To be members of the Illinois Building Commission for terms ending May 1st, 2004, Bruce Bonczyk of Springfield, Bonnie Henry of Rockford, Robert Juris of New Lenox, Gary Lichthardt of Elgin, Roy Velde of Morrison.

To be members of the Illinois Coal Development Board for terms ending July 1st, 2005, Joseph R. Angleton of DuQuoin, Carolyn J.

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Ehlert of Milan, Phillip Gonet of Springfield, George "Joe" Pearson of Harrisburg.

To be a member of the Illinois Committee for Agricultural Education for a term ending March 13, 2003, Ruth Hambleton of -- of Woodlawn.

To be a member of the Illinois Committee for Agricultural Education for a term ending March 13, 2004, Michael E. Massie of Dahinda.

To be members of the Illinois Committee for Agricultural Education for terms ending March 13, 2005, Jill Carey-Hargrave of Kingston, Lisa M. Martin of Pontiac, Nelson Thorp of Wapella, Jeffrey A. Wood of Downs.

To be a member of the Illinois Community College Board for a term ending June 30th, 2007, James Berkel of Dahinda.

To be a member of the Illinois Comprehensive Health Insurance Plan for a term ending July -- July 1st, 2003, Steve Kinion of Springfield.

To be members of the Illinois Comprehensive Health Insurance Plan for terms ending July 1st, 2004, James Meyer of Naperville, Jay Naftzger of Naperville.

To be members of the Illinois Comprehensive Health Insurance Plan for a term ending July 1st, 2005, Maripat Cline of New Berlin, Jacqueline Garner of Springfield, Mitra Kalelkar of Oak Brook.

To be members of the Illinois Development Finance Authority for a term ending January 20, 2003, Brian Hynes of Chicago.

To be a member of the Illinois Development Finance Authority for a term ending January 7 {sic} (17), 2005, Ira Alper of Glenview.

To be a member of the Illinois Farm Development Authority for a term ending January 15, 2005, Joseph Alford of Girard.

To be a member of the Illinois Farm Development Authority for

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a term ending January 16, 2006, Scott Torrance of Media.

To be a member of the Illinois Gaming Board for a term ending July 1st, 2004, Violet Clark of Chicago.

To be members of the Illinois Gaming Board for terms ending July 1st, 2005, Tobias Barry of Ladd, William E. Dugan of Mt. Prospect, Gary L. Peterlin of Oglesby.

To be a member of the Illinois Health Facilities Authority for a term ending June 30th, 2008, Bruce Simon of Leland Grove.

To be a member of the Illinois Health Facilities Authority for a term ending June 30th, 2009, Thomas F. Jerkovitz of Chatham.

To be members of the Illinois Housing Development Authority for terms ending January 10, 2005, Ron Grotovsky of Mokena, George Hovanec of Springfield, Gerald Sinclair of Salem.

To be members of the Illinois Lottery Control Board for terms ending July 1st, 2003, Joseph T. Brown of Rantoul, Jonathan J. Stein of Wilmette.

To be a member of the Lottery Control Board for a term ending July 1st, 2004, Phillip Siegel of Chicago.

To be members of the Lottery Control Board for terms ending July 1st, 2005, James Hadley of Chicago, Irv Smith of Springfield.

To be a member, and Chairman, of the Illinois Racing Board for a term ending July 1st, 2008, Dennis S. Bookshester of Chicago.

To be members of the Illinois Racing Board for terms ending July 1st, 2008, William Chamblin of Robinson, Leon Shlofrock of Skokie, Robert C. Winchester of Rosiclare.

To be members of the Illinois Research Park Authority for terms ending January 19, 2004, David E. Baker of Chicago, Darcy Davidsmeyer of Kildeer, James E. Walker of Carbondale.

To be members of the Illinois Research Park Authority for terms ending January 17, 2005, Don M. Randel of Chicago, Mary Reynolds of Pleasant Plains.

To be members of the Illinois Research Park Authority for

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terms ending January 16, 2006, Harry {sic} (Henry) S. Bienen of Evanston, David C. Broski of Dunlap, Pam McDonough of Springfield, Gerald W. Shea of Burr Ridge.

To be members of the Illinois State Medical Disciplinary Board for terms ending January 1st, 2007, Edward Rose of Belleville, Douglas Webster of Chicago.

To be a member of the Illinois Student Assistance Commission, term ending June 30th, 2003, Kevin O'Kelly, Downers Grove.

To be a member of the Illinois Student Assistance Commission for a term ending June 30th, 2007, Robert F. Casey, Batavia.

To be members of the Kaskaskia Regional Port District Board, terms ending June 30th, 2005, Charles Bauer of Smithton, Richard Guebert of Red Bud, Robert Keller of Waterloo, Robert Myerscough of Evansville, Nancy J. Schilling of Evansville.

To be members of the Medical Licensing Board for terms ending January 1st, 2006, Dennis Palmer of Aledo, William J. Rademacher of Bloomington.

To be a member of the Metropolitan Pier & Exposition Authority for a term ending January {sic} (June) 1st, 2003, John Miller of Winnetka.

To be a member of the Metropolitan Pier & Exposition Authority, term ending January {sic} (June) 1st, 2007, Guy J. Chipparoni of Wilmette.

To be a member of the Mid-America Intermodal Authority Port District Board for a term ending June 1st, 2007, Gene Blackburn of Plymouth.

To be members of the Natural Resources and Conservation Board for unspecified term lengths, Michael P. Bruen of Libertyville, Ada C. Nielsen of Lake Forest.

To be Public Administrator/Public Guardian of Calhoun County, term ending December 5th, 2005, Sylvia Hitchings of Hamburg.

To be Public Administrator/Public Guardian of Jefferson

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County, term ending December 5th, 2005, Rita Wyciskalla of Scheller.

To be Public Administrator/Public Guardian of Jersey County for a term ending December 5th, 2005, Frank Yocom, Jerseyville.

To be Public Administrator & Public Guardian of Pike County for a term ending December 5th, 2005, Jamie B. Thompson.

To be Public Administrator/Public Guardian of Rock Island County for a term ending December 5th, 2005, Moss Meersman of Moline.

To be Public Administrator/Public Guardian of Sangamon County for a term ending December 5th, 2005, Alfred B. LaBarre of Springfield.

To be Public Administrator/Public Guardian of Vermilion County for a term ending December 5th, 2005, George R. Weller of Danville.

To be members of the Quad Cities Regional Economic Development Authority for terms ending January 19th, 2004, Robert L. Anderson of Moline, Walter J. Sitzmore of Moline.

To be members of the Quad Cities Regional Economic Development Authority, terms ending January 17, 2005, Thomas Getz of Moline, James Patrick Jacobs of Rock Island, Scott Verschoore of Reynolds.

To be members of the Southwest Regional Port District Board for terms ending June 30th, 2003, James Collins of Belleville, Vernon Dennis of Fairview Heights.

To be members of the Southwest Regional Port District Board for terms ending June 30th, 2004, Joseph McCaskill of East St. Louis, Scott Penny of Fairmont City, Victor R. Wicks of East St. Louis.

To be members of the Southwest Regional Port District Board for terms ending June 30th, 2005, Catherine E. Calvert of Lovejoy, Paul Sudmeier of East Carondelet.

To be members of the State Banking Board for terms ending

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December 31st, 2004, Courtney Shea of Chicago, Spiro Zarkos of Westchester.

To be a member of the State Banking Board for -- of Illinois for a term ending December 31st, 2005, Thomas Bugielski of Oak Park.

To be members of the State Board of Education for terms commencing -- members of the State Board of Health for terms ending November 1st, 2002, Kevin Hutchison of Mascoutah, David McCurdy of Elmhurst, Ann O'Sullivan of Mt. Sterling, Richard Sewell of Chicago.

To be members of the State Board of Health for terms ending November 1st, 2003, Mary England of Mt. Vernon, Jane Jackman of -- of Springfield, Janice Linn of Chicago, James McGee, Peoria Heights, Gerald Moss of Highland Park, Javette C. Orgain of Chicago, Susan S. {sic} (C.) Scrimshaw of Chicago, Kevin M. Sherin of Westmont, Herbert E. Whiteley -- Whiteley of Champaign.

To be members of the State Board of Health for terms ending January {sic} (November) 1st, 2004, Steven Derks of Chicago, Jorge Girotti of Elmhurst, Karen Phelan of Chicago.

To be members of the State Board of Health for terms ending November 1st, 2005, Kevin Hutchison of Mascoutah, David B. McCurdy of Elmhurst, Ann O'Sullivan of Mt. Sterling, Richard Sewell of Chicago.

To be a member of the State Police Merit Board for a term ending March 15, 2004, Mary Bricker of Watseka.

To be a member of the State Police Merit Board for a term ending March 20th, 2006, Niranjan S. Shah of Oak Brook.

To be members of the Upper Illinois River Valley Development Authority for terms ending January 19th, 2004, James P. Ghiglieri, of Toluca, Barbara Griffith of McNabb, Dennis Hackett of Morris, William Meagher of LaSalle, John Shaw of Yorkville.

To be members of the Upper Illinois River Valley Development

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Authority, terms ending January 17th, 2005, Don Adams of Mendota, Philip S. McCully of Toluca, Thomas Setchell of Ottawa, William Steep of Seneca.

To be a member of the Will County Exposition -- Metropolitan Exposition & Auditorium Authority for a term ending December 1st, 2004, James Smith of Joliet.

To be members of the Will County Metropolitan Exposition & Auditorium Authority for terms ending December 1st, 2006, Rosalie D'Andrea of Joliet, Lee A. Goodson of Plainfield.

To be member of the Will-Kankakee Regional Development Authority for a term ending January 19, 2004, Albert Potter of Kankakee.

Be a member of the Will-Kankakee Regional Development Authority for a term ending January 17, 2005, Walter J. Charlton of Kankakee.

Mr. President, having read the nonsalaried appointments from the Message -- Governor's Message of November 21st, I now seek leave to consider the appointments of November 21st, 2002, on a roll call. Mr. President, will you put the question as required by our rules?

PRESIDING OFFICER: (SENATOR WATSON)

Is there any discussion? Senator Ronen.

SENATOR RONEN:

Thank you, Mr. President. Senator Petka, I didn't hear all those names. Could you repeat those, please, for me? But -- no, you don't have to respond. I just want to, again, rise in -- in opposition to this -- to this motion, not -- not because we're questioning the -- and I'm going to quote Senator Petka from four years ago -- not to be a reflection on any of the qualifications, nor character, nor fitness to serve, of any nominee on the list. Again, we're just -- I would like to say you were right four years ago. I wish we could do the same thing again and afford the

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incoming Governor a chance to work with this Senate in shaping policy for the Senate, and I would respectfully ask my colleagues to vote No or Present.

PRESIDING OFFICER: (SENATOR WATSON)

Is there any other discussion? Any discussion? If not, the question is, does the Senate advise and consent to the nominations just made. Those in favor, vote Aye. Opposed, vote No. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there's 48 voting Yes, 1 voting No, 1 -- 7, excuse me -- 48 voting Yes, 1 voting No, 7 voting Present. A majority of Senators elected concurring by a record vote, the Senate does advise and consent to the nominations just made. Senator Petka.

SENATOR PETKA:

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

PRESIDING OFFICER: (SENATOR WATSON)

You have heard the motion. Those in favor, say Aye. Opposed, Nay. Motion carries.

PRESIDING OFFICER: (SENATOR NOLAND)

Supplemental Calendar No. 1 has been distributed and is on the Members' desks. On that Order is House Bill 2nd Reading, House Bill 333. Senator Watson, do you wish to read this bill? Mr. Secretary, please read the bill.

SECRETARY HARRY:

House Bill 333.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Executive adopted one amendment.

PRESIDING OFFICER: (SENATOR NOLAND)

Have there been any Floor amendments that have been approved for consideration?

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SECRETARY HARRY:

No further amendments reported -- Amendment No. 2, offered by Senator Watson.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Watson, to explain your amendment.

SENATOR WATSON:

Yes. Thank you, Mr. President. This strikes everything and now becomes the bill, and it impacts the quick-take authority for Southwestern Development Authority. The current date for the quick-take -- in fact, as you'll recall, we extend this from time to time and it's only generally for a couple of years, and we ask 'em to come back and -- and review it again. The original extension was for May 22nd of 1998 to August 30th of 2002. So, obviously, that date has come and gone. We are now asking consideration in the amendment that that extension be now through August 30th of 2003.

PRESIDING OFFICER: (SENATOR NOLAND)

Is there any discussion? Senator Geo-Karis.

SENATOR GEO-KARIS:

Would the sponsor yield for a question?

PRESIDING OFFICER: (SENATOR NOLAND)

Indicates he'll yield.

SENATOR GEO-KARIS:

Senator, does this quick-take provision only affect your area?

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Watson.

SENATOR WATSON:

Yes, ma'am. Southwestern Illinois Development Authority.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Geo-Karis.

SENATOR GEO-KARIS:

And it's limited to that. Is that right?

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PRESIDING OFFICER: (SENATOR NOLAND)

Senator Watson.

SENATOR WATSON:

Yes. It's Madison and St. Clair, is what it is. The Southwestern Illinois Development Authority is an economic development organization that impacts Madison/St. Clair County, and that's all -- the only area it impacts.

PRESIDING OFFICER: (SENATOR NOLAND)

Any further discussion? Senator Watson moves the adoption of Amendment No. 2 to House Bill 333. Those in favor, say Aye. Those opposed, Nay. The Ayes have it. The amendment is adopted. Any further Floor amendments?

SECRETARY HARRY:

No further amendments reported, Mr. President.

PRESIDING OFFICER: (SENATOR NOLAND)

3rd Reading. Messages from the House.

SECRETARY HARRY:

Message from the House by Mr. Rossi, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to wit:

Senate Bill 616, with House Amendments 1 and 2.

We have like Messages on Senate Bill 1128, with House Amendments 1 and 3; and House {sic} Bill 1809, with House Amendment 2.

All passed the House, as amended, December 4th, 2002.

PRESIDING OFFICER: (SENATOR NOLAND)

Senator Cullerton, do you seek recognition?

SENATOR CULLERTON:

Did -- did -- did we vote on the amendment to Senate {sic} Bill -- 333?

PRESIDING OFFICER: (SENATOR NOLAND)

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It was -- it was adopted. Yes. Voice vote. Is there any further business to come before the Senate? If not, Senator O'Shea moves the Senate stand adjourned until the hour of 10 a.m., Thursday, December 5th, 2002. Senate stands adjourned. 10 a.m.