

STATE OF ILLINOIS  
91ST GENERAL ASSEMBLY  
HOUSE OF REPRESENTATIVES  
TRANSCRIPTION DEBATE

119th Legislative Day

April 10, 2000

Speaker Hartke: "The House shall come to order. The House shall come to order. We shall be led in prayer today by Pastor William Beswick of the First Presbyterian Church in Pontiac. Pastor Beswick is the guest of Representative Rutherford. Our guests in the gallery may wish to rise and join us for the invocation and the Pledge of Allegiance. Pastor Beswick."

Pastor Beswick: "Thank you, Sir. And thank you for having me here today, and thanks to Representative Rutherford for asking me to be here. Let's join together in prayer. Our God, our help in ages past, our hope for years to come, our shelter from the stormy blast in our eternal home, we give You thanks for Your presence here this day. You are the Creator of all the universe. There's no one word to use for all of us gathered here together under this roof. We bow our hearts before You, each one of us a little world to him or herself, each with regrets and high hopes of our own, each with a prayer no one else will ever utter, each with words of praise no one else will ever speak. If we're wearied by the struggle of life, strengthen us. If we're proud, humble us. If we're perplexed, enlighten us. If we're lost in meaningless pursuits, gird our wills with Your purpose. If we're encouraged (sic-discouraged) by our failures, hearten us by Your merciful compassion, and if we have sinned, teach us how to repent. If we've been sinned against, teach us how to forgive. If we are selfish, deepen our love for You and for our fellow human beings. And if we are judgmental, silence our tongues 'til we learn our own weaknesses. If we've tried in vain to pray, grant us patience to wait in silence for Your voice. You have plans for us and the power to make them happen. Give these Legislators of our state a knowledge of Your will for them

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and for this state. Let them remember that they have a public trust beyond personal gain or glory, and may they see that no state lives for itself alone, but is responsible to You for the peace and well-being of Your people. Guide them in all the words they speak and the actions they take, that they might be to Your greater glory and honor. Amen."

Speaker Hartke: "We shall be led in the Pledge today by Representative Andrea Moore."

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

Speaker Hartke: "Roll Call for Attendance. Representative Currie, report on the Democrat side."

Currie: "Thank you, Speaker. Please let the record show that Representative Sharp is excused today and Representative Osterman's switch is not working. If you would kindly mark him as present and perhaps the electrician could give us a helping hand."

Speaker Hartke: "Representative Poe."

Poe: "Mr. Speaker, let the record show today that Representative Brent Hassert is excused."

Speaker Hartke: "Mr. Clerk, take the record. One hundred and sixteen Members answering the Roll Call, a quorum is present and we're ready to do the business of the state. Mr. Clerk, an announcement of the Rules."

Clerk Rossi: "The Rules Committee will meet immediately in the Speaker's Conference Room. The Rules Committee will meet immediately in the Speaker's Conference Room. Introduction of Resolutions. House Joint Resolution 62, offered by Representative McGuire; House Joint Resolution 63, offered

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by Representative Hoffman; Senate Joint Resolution 68, offered by Representative Flowers; and Senate Joint Resolution 70, offered by Representative Julie Curry are assigned to the Rules Committee."

Speaker Hartke: "The Chair recognizes Representative Bellock. For what reason do you seek recognition?"

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

Speaker Hartke: "State your point."

Bellock: "I'd like for everybody to welcome three classes who are here from Francis Xavier Awards School in Chicago. They're all up in the gallery, three classes. Thank you."

Speaker Hartke: "Welcome to Springfield. The Chair recognizes the Gentleman from Cook, Representative Delgado. For what reason do you seek recognition?"

Delgado: "Thank you, Mr. Speaker. For a personal privilege."

Speaker Hartke: "State your point."

Delgado: "At this time I'd like a great... we want to still savor our victory from last week's baseball game. And we want to call our Coach Joe Brunsvold down here just for a second."

Speaker Hartke: "Mr. Brunsvold."

Delgado: "On behalf of the House of Representatives and the winning team in the new millennium... on behalf of our teammates we just want to take a second and present to Representative, 'Coach' Joel Brunsvold, the Coach of the year, thanks for believing your team, House of Representatives 2000, and we're going to win 10 more. So here we are, we wanted to thank Joel Brunsvold for putting up with us, for putting up with me all year long trying to get the guys out there and letting them know that we can do it. Joel, thank you."

Speaker Hartke: "Congratulations, Coach. On page 7 of the

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Calendar, on Second Reading, appears Senate Bill 1881.  
Representative Kosel. Mr. Clerk, read the Bill."

Clerk Bolin: "Senate Bill 1881, the Bill's been read a second  
time previously. No Committee Amendments. Floor Amendments  
1 and 2 have been adopted to the Bill. No Motions filed.  
No further Floor Amendments."

Speaker Hartke: "Third Reading. Mr. Clerk, Rules Report."

Clerk Bolin: "Representative Barbara Flynn Currie, Chairperson  
from the Committee on Rules, to which the following  
measures were referred, action taken on April 10, 2000,  
reported the following back: 'direct floor consideration'  
for Motion to Concur in Senate Amendment #1 to House Bill  
477, and Motion to Concur in Senate Amendment #1 to House  
Bill 4021. 'Direct floor consideration' for the following  
Floor Amendments to Senate Bills: Amendment #1 to Senate  
Bill 1231, Amendment #2 to Senate Bill 1298, Amendment #1  
to Senate Bill 1393, Amendment #4 to Senate Bill 1444, and  
Amendment #5 to Senate Bill 1444."

Speaker Hartke: "On page 4 of the Calendar, on Second Reading,  
appears Senate Bill 121. Representative Scott. Out of the  
record. On page 6 of the Calendar, on Second Reading,  
appears Senate Bill 1577. Representative McCarthy. Mr.  
Clerk, read the Bill."

Clerk Bolin: "Senate Bill 1577, the Bill has been read a second  
time previously. Amendment #1 was adopted in committee. No  
further Floor Amendments approved for consideration. No  
Motions filed."

Speaker Hartke: "Third Reading. On page 3 of the Calendar, on  
Third Reading, appears Senate Bill 807. Representative  
Smith. Mr. Clerk, read the Bill."

Clerk Bolin: "Senate Bill 807, a Bill for an Act concerning  
health facility planning. Third Reading of this Senate

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Bill."

Speaker Hartke: "Representative Smith."

Smith: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. We began debate on this last week on Second Reading. This is a reform of the Certificate of Need Program under the Health Facilities Planning Act. And if I could just very briefly, for those of you who may not be familiar with the Health Facilities Planning Board or the Certificate of Need process. Any not-for-profit health facility in the State of Illinois who wishes to add a service or add to their physical plant has to petition the Health Facilities Planning Board for a Certificate of Need. There have been many problems with this process since it was initiated in 1974. It has been virtually unchanged in those 25 plus years. Many of you may be aware of some of the problems that hospitals and other health facilities in your district may have experienced with the board. This is an attempt to address some of those problems. This is not the complete answer to reforming our Certificate of Need process, but this addresses many of the concerns that have been raised by many of the organizations that are involved. First of all, this Bill would set a threshold for which projects would have to go before the board for a Certificate of Need. That threshold is \$6 million. This would also exempt unclinical expenditures from the Certificate of Need process. That would be projects like parking garages, computer systems, roof replacements, et cetera. However, we would require that an annual capital expenditure report be filed with the board. This Bill would ban ex parte communications between members of the board, the staff of the board, and applicants for a Certificate of Need before the board. This changes one of

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the seats on the board that is currently reserved for a proprietary hospital, or a for-profit hospital. This would remove the requirement that that seat be held by a representative of a for-profit hospital and would allow that person just to be from any hospital. There are fewer and fewer for-profit hospitals in the state. This would require an immediate Auditor General report, review by the Auditor General and a report on the success of the Certificate of Need process. This would clarify that the board is subject to the Open Meetings Act, the State Gift Ban Act. As I said last week, it clarifies that fitness centers by hospitals would not... the requirements on them for a Certificate of Need would not be changed by this language. This also incorporates language from Senate Bill 1278 regulating surgical services provided in Illinois by out-of-state providers. It also clarifies that assisted living centers are not subject to Certificate of Need review. And finally, this has a provision which sunsets the entire Act on July 1st of 2003. It is not my intent or Senator Karpel's intent to repeal the Act. But we think this sunset, and many of you have expressed your support for this provision, will bring all the parties involved to the table, will force real and comprehensive reform beyond what this legislation does. I would also mention that there is a Senate Joint Resolution coming over to us which will create a legislative task force to look into this issue. And I would be happy, Mr. Speaker, to answer any questions at this point."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Vermilion, Representative Black."

Black: "Yes, thank you very much, Mr. Speaker. Will the Sponsor yield?"

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Speaker Hartke: "Sponsor will yield."

Black: "Representative, two quick questions and then I'd like to get into some legislative intent, if I could. If I... one question, if I heard you correctly, this Bill eliminates a CON for any nonhealth related capital project, such as a parking garage or parking lot. Did I hear that correctly?"

Smith: "That is correct."

Black: "You know, I don't have any problems with that but do you realize that some hospitals make more money off of their parking lots or their parking operations than any hospital in my district makes net cash flow? I mean, that's the difference in the diversity of Illinois. The only thing that scares me about this Bill is that you have some hospitals in Illinois who make more of a net cash flow from their parking operations than any of the three hospitals in my district make total. But, you know, it's just an observation that I had. The second question I have, assisted living centers will not be required to have a CON, am I to assume that nursing homes still have to?"

Smith: "Yes, that is correct. We created the assisted living statute last year and that was a specific provision of that and this does nothing to change that."

Black: "Okay. All right. If I could, Mr. Speaker, for purposes of legislative intent, we have three or four questions that we'd like to engage in."

Speaker Hartke: "That would be fine."

Black: "All right. Thank you. Representative Smith, some questions that I have deal with ex parte communication. There's a new Section added in, that appears in Senate Bill 807, I believe, is because of many attempts on the Certificate of Need permit process to try and influence planning board members. The language of this Section raises

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some concerns regarding the responsibilities of board members and staff from the Health Facilities Planning Board. Board members often receive written and oral communication from Legislators who wish to express their support or opposition to a proposed project. When these communications are made outside the public comment period, do they constitute an ex parte communication under subsection (d)?"

Smith: "Yes, Representative Black, they would, they do."

Black: "So that is the intent? Okay."

Smith: "Yes, it is."

Black: "Does the receipt of any unsolicited ex parte communication by a board member or staff person constitute the engaging in an ex parte communication under subsection (a) and then that board member or staff member would deem to have been in violation of the Act?"

Smith: "Yes, Representative Black, in general if the communication takes place outside of the official comment period, that would be an ex parte communication, which is prohibited. With respect to the staff, however, there is an exception that permits the staff to provide technical assistance to the applicant."

Black: "If, and I appreciate your answer, if a board member takes the action of reporting any such communication under subsection (c) have they then, would they then be deemed to be in compliance with the provisions of the Section or would they still be in violation?"

Smith: "If the board member or the staff person would make the ex parte communication part of the record, then they've complied with the Act."

Black: "Okay. If a board member then refuses to discuss a project when approached, will this attempt and refusal



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constitute a violation subject to subsection (c) and (f)?"

Smith: "Representative Black, under subsection (d), an ex parte communication is defined as one that reflects on the substance of a pending State Board action. So if the communication never progresses to the substance of the project, then it would not be prohibited under this definition."

Black: "All right. Under subsection (f), what is the appropriate remedy? Is it... would the board member have to recuse himself or herself from voting? If so, that would be tantamount to a 'no' vote since you need 8 affirmative votes for board action. So is the only remedy under subsection (f) for the board member to recuse himself or herself from voting?"

Smith: "Well, subsection (f) does not require recusal of a board member but first the board member should refuse to engage in any such discussions. However, if they do receive communication, it's up to the board to take whatever action is necessary to maintain the fairness of the proceeding. For example, perhaps the affected party would be given an opportunity to respond to the communication."

Black: "Okay. Then obviously, piggybacking on that, the Section seems to be silent regarding the conduct of those seeking to initiate the ex parte communications. Somebody doing that, is it your intent or the Senate Sponsor's intent at some point to put a sanction on those who attempt to violate by coming to a board or staff member and initiate what will later be adjudicated as an ex parte communication?"

Smith: "This Section is patterned after the ex parte provision that applies to all other agencies under the Administrative Procedure Act. So neither contain an expressed penalty for

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those who initiate the ex parte communication. The onus rather is on the decision-maker who have the responsibility to take whatever action is necessary to maintain the fairness of the proceedings."

Black: "Okay. Did you say it would be treated similarly to such communication as under the Illinois Commerce Commission?"

Smith: "That is correct."

Black: "Or did I misunderstand you? Okay. My last comment deals with subsection(c). If written memoranda is filed regarding the process, is the communication still regarded as ex parte since it is now a part of public record?"

Smith: "Yes, the communication is still an ex parte communication. It's up to the board to determine whether simply filing the memorandum under subsection(c) is sufficient or whether any further action is needed to ensure the fairness of the proceedings under subsection(f)."

Black: "Okay. Thank you very much, Representative. I do appreciate your forthright answers in helping us establish legislative intent. Mr. Speaker, to the Bill."

Speaker Hartke: "To the Bill."

Black: "I commend Representative Smith, I think he's done an excellent job on a very, very complicated issue. As I've said before and I think you're going to have to make up your mind on how you vote on this. One of the things I hope we look at is the diversity of the State of Illinois. As I said when we were talking about Amendment #9, there are medical centers throughout Illinois located in communities who have a literally, a plethora of medical choices available to their residents. There are conversely a number of downstate areas, particularly rural counties who no longer have any hospital of any kind. And not only

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are we in downstate often in medically underserved areas, we're often and some could argue in some counties truly aren't served by medical communities, hospitals, et cetera in the true sense of the word at all, as we've seen many of our hospitals close. And I don't know whether the Certificate of Need process as some would say, is to blame for some of that or whether, as I believe the Certificate of Need process has tried to keep a relative level playing field between those hospitals who have vast resources and can have all of the latest hardware and technological equipment and attract those specialists so in need today while trying to maintain some semblance of hospital delivery systems in areas where they don't have those kind of resources. But regardless of how you vote, I do think the Speaker (sic-Sponsor) has done a commendable job on a very complicated issue. And I don't want to raise the specter of regionalism, but it is a concern that I have, that health care resources seem to be flowing into certain areas of the state and that quite frankly, I believe, represents a flowing out of other areas of the state. And that's a very legitimate concern that I have based on where I live and I know I'm not the only one that feels that way. And I thank the Sponsor for his forthright questions... forthright answers to the questions."

Speaker Hartke: "Further discussion? Ladies and Gentlemen let's tone it down. Please. We're on Third Readings. The Chair recognizes the Lady from Sangamon, Representative Klingler."

Klingler: "Thank you very much, Mr. Speaker. I rise to support this Bill that's been negotiated. I believe it's a very commonsense solution to a very critical problem. In my area, I have two tertiary care hospitals and I also have

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one small general hospital. And I've heard from all three hospitals about the importance of this Bill and about the expense and the time that they go to in the Certificate of Need process. I can give one personal example, last week of how... why I think it's so important that nonclinical areas be taken out of the Certificate of Need. I was taking my mother to a hospital for admission and the parking lots, by the way, were free. Every parking space was full, ended up parking about 4 blocks away at a private facility. When this hospital realizes it needs to expand, I think the need of its patients is clear that it should not have to go through an administrative house procedure simply to add on to that parking. I think that the marketplace forces and the forces of Medicaid and medicare reimbursement and insurance reimbursement are strong marketplace concerns and forces that will help dictate and slow down the growth, or eliminate any unnecessary growth. And I would urge support for this Bill."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, Representative McCarthy."

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

Speaker Hartke: "The Sponsor will yield."

McCarthy: "Representative, as we discussed the other day, as amended and as in the final version here on Third Reading, this Bill in no way changes the way that the Health Facilities Planning Board will treat the health and fitness clubs in our state."

Smith: "That's correct, Representative McCarthy."

McCarthy: "Well, thank you for that. One other question and that's about the repealer. Now, over the weekend I had discussions with people back in my district about the Health Facilities Planning Board and this legislation

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repeals the board at what date?"

Smith: "That date is July 1st of 2003."

McCarthy: "Okay, and as the Sponsor of that Repeal Motion, when I left here Friday, I had the feeling that you thought there should be some changes to the board but that it should not be abolished. Would you tell me what, clearly what your position is at this time, since you sponsored the Bill that would repeal the board?"

Smith: "Well, Representative McCarthy, I think I'd like to look on that provision as a sunset provision much as we do a lot of other statutes in the state. It is not my intent or Senator Karpiel's intent or I think any of the supporters of this legislation that the Act would be totally repealed. However, we hope that in that three-year period we can bring everyone together, including the board, and discuss some of the more comprehensive reform measures that we feel need to be taken. So this provision simply will require that to happen, and as Legislators, I think it's encouraging that we can bring all of those groups together and ensure that something does happen and they would have to come back before us obviously, with any changes or recommendations. It's my hope that that's what the task force will do that we'll be setting up under the Joint Resolution I mentioned that's coming to us."

McCarthy: "Thank you, Mr. Speaker, to the Bill."

Speaker Hartke: "To the Bill."

McCarthy: "I would just say that I thank the Sponsor for his work as well as spelling out that the health and fitness clubs will not change as far as their remediations before the board. I think that this is a very important issue. We have many health and fitness clubs throughout this state that are paying taxes, property taxes, sales taxes, income

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taxes and for them to be put out of business by nonprofits, by these hospitals building nonprofit health and fitness centers with all the benefits they have from the nonprofit status is something we should all be concerned with. On a second point as far as the repeal of this board, I think for the 20 plus years that this board has been in existence, it has had some positives, it has had some negatives, but I don't think that it should be completely abolished and I hope that in the three years before the sunset we can all work together to make it a more workable board but something that will work for the benefit of the State of Illinois and especially in those areas that are lesser served that were mentioned by a previous speaker. So I appreciate the Sponsor's work and I hope that we can all work together to continue the operation of the board. Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Will, Representative Kosel. Please."

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

Speaker Hartke: "Sponsor will yield."

Kosel: "Thank you, I would like to point out also as Representative McCarthy did that the intention of this Bill is not to sunset and not continue with this board. This Bill along with Senate Joint Resolution 69 which will be brought over here from Senator Karpziel, will again look at the various functions of this board and review them asking for a report. This gives us an opportunity to look at how these reforms function within that board and how they work to improve the actions of this board. I have spent entirely too much time over the past six weeks in hospitals and I will tell you that there are many needs of hospitals that should not have to go through the Certificate of Need

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process. I commend the Sponsor for his work on this and everyone who was so diligent in coming to this compromise. And I urge you to vote 'yes', thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from DuPage, Representative Cowlshaw."

Cowlshaw: "Thank you very much, Mr. Speaker, Ladies and Gentlemen of the House. Representative Smith, I want to commend you and thank you for your courage in sponsoring this Bill. The statewide major headquarters of the Illinois Hospital and Health Systems Association is located in my district. And hence, I have a large number of constituents who are concerned about its initiatives being approved. So I have particular interest in this from the aspect of the Hospital Association statewide. But I also have a special interest in this because of my understandings of the current attitudes throughout the state and here we don't have anything that's regional. Here, I think this is practically universal and that is that the Illinois Health Facilities Planning Board has created so much fear among the people in this state who care about things like the viability of hospitals, that many people are afraid to speak out about anything that has to do with this board. I certainly hope there's no hospital in your district that is shortly planning to go before the Health Facilities Planning Board asking for a Certificate of Need. One of the other characteristics of my district, Representative Smith, is that it is the fastest growing area in population anywhere in Illinois. The city in which I live has only one hospital. That hospital has to serve this mushrooming population. And so over the last several years has had to go before the Health Facilities Planning Board frequently, sometimes with more

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than one CON request at the same time. Recently, I heard someone whose capacity to make these kinds of judgments I believe we would all trust, mentioned that according to his calculations, which admittedly were somewhat rough, the total amount of cost on the average paid by any patient who goes to that one hospital serving the city I live in, that cost that is attributable to the complexity and the cost for that hospital with the Illinois Health Facilities Planning Board ranges between 7 and 10%. We all know of our concern about health care costs and the cost for all things related to health care including hospitalization. For any hospital in this state to be able to estimate that between 7 and 10% of what it has to cost, what it has to charge its patients, is attributable to the bureaucracy and the complexity of the requirements of the Health Facilities Planning Board ought to alert all of us to the need to reform that board and most of all to reform its procedures. With each passing year those procedures become more burdensome, more costly, they involve more and more information having to be provided. And in some cases the information that is asked for is not readily available so the hospital has to go out and spend a lot of money to get that information. Once again, I commend you for your courage because even as I stand here knowing how much my own constituents need that hospital and how fearful even it is of the Health Facilities Planning Board, I'm not sure that I have the same degree of courage that you do. My knees, in fact, feel a little weak right now. But I'm not really willing to pay an additional 7 to 10% to have something done for my knees simply because of the Health Facilities Planning Board. Thank you very much, Representative Smith, for your courage."



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Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from DuPage, Representative Daniels. Please."

Daniels: "I have a potential conflict of interest, so I'll be voting 'present' on this."

Speaker Hartke: "Thank you."

Daniels: "You're welcome."

Speaker Hartke: "The Chair recognizes the Gentleman from McLean, Representative Brady."

Brady: "Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

Brady: "Representative Smith, I've heard several arguments on this floor regarding this Bill and I want to compliment you for your efforts in trying to improve this situation. But let me ask you a question regarding this Bill. In your opinion, how will this legislation positively impact the quality and the access and the affordability of health care in the State of Illinois?"

Smith: "Well, Representative Brady, I think in a number of ways, but just by streamlining the process if you listen to Representative Cowlshaw's example from her district about the added expense that the hospital in her community can attribute to the Certificate of Need process and the amount of paperwork and requirements that they have to meet to go through that process. We're all concerned about the quality of health care and about the cost of health care, but to require hospitals and other facilities to go through added hoops to do nonclinical projects or to do smaller cost projects I think certainly adds to the time, to the cost of those projects and ultimately all of us as consumers of health care have to bear those costs."

Brady: "So your focus is cost and you're buying Representative Cowlshaw's argument that 6 to 10% of the costs associated

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with these types of expansions are associated with the Planning Board and those are wasteful? Is that your argument?"

Smith: "That is certainly one of the complaints that's been raised, Representative Brady."

Brady: "Then why not repeal the board in its entirety? Why are we just settling for half a loaf? All this work that's gone into this why not just blanketly repeal the board and let everyone equally benefit with those cost savings if that's the impetus of your argument?"

Smith: "Representative Brady, I didn't say that that was the reason for this legislation, the complete reason. I do not support total repeal of the board. I think there is a need for the board and the role that they play in reviewing high dollar projects. I don't think that total repeal would serve us well. But I think certainly have to realize after a... oh, a 25 year plus period, with very little change to this procedure and whereas the changes in health care have been enormous, the board has to be, and the procedures of the board and the Certificate of Need process have to be brought up to reality of modern days."

Brady: "Other than the cost savings then, what are your other reasons for this legislation as we look into access, affordability, and quality?"

Smith: "Certainly the amount of time that is required. I think that many of the projects are very important to the hospitals, the communities where they're located and the amount of time that is added to the Certificate of Need process, delays those projects and to that extent delays the benefit to the community. This really is a question, I think, of whether we trust local hospital boards which are community based. It's kind of an issue of local control, I

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guess, whether we trust them to make certain of these decisions."

Brady: "But as far as access, quality and cost of health care, your emphasis is resources which might be time or might be money spent to receive approval. My question again, then if focusing on what you've told me the attributes of this legislation, that would work well for projects above 6 million, would it not, as well as projects below 6 million. So why not simply repeal the board? In fact, projects above 6 million would receive greater gain if we buy the percentages that both you and Representative Cowlshaw have argued when it comes to financial resources, time resources, and so forth."

Smith: "Well, Representative Brady, as I said I feel there's still a need for the board. I think this is simply streamlining the process."

Brady: "What's the need for the board? You said there's a need, what do you believe that need is?"

Smith: "To review excessive expenditures in health care."

Brady: "Are you suggesting that you can't have excessive expenditures below \$6 million? Seems to me that you are. And you're suggesting that every expenditure above 6 million is excessive."

Smith: "Representative Brady, not that they're going to have a significant impact on health care."

Brady: "Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, Representative O'Connor."

O'Connor: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

O'Connor: "Representative Smith, there is a requirement in the Bill for a reporting of capital expenditures of \$200

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thousand or more. Is that correct?"

Smith: "Yes, Representative O'Connor, one of the provisions of this Bill requires health care facilities to submit an annual report to the Planning Board of any capital expenditure for either a clinical or nonclinical project that is in excess of \$200 thousand. So, this amount is to be adjusted annually for inflation and it will allow the state to monitor the impact of this Bill on capital expenditures by facilities."

O'Connor: "So, it is on a per project basis that the \$200 thousand would be determined. In other words, you do not... this legislation does not contemplate that you would aggregate a series of expenditures less than \$200 thousand and then be... require that to be reported. Is that correct?"

Smith: "That is correct."

O'Connor: "Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Logan, Representative Turner."

Turner, J.: "Thank you, Mr. Speaker. Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

Turner, J.: "Representative, first of all, let me commend you on your hard work for this particular Bill. Your... Senate Bill 807 has a provision regarding ex parte communications and for the record could you state what that is?"

Smith: "Mr. Speaker, could we have a little order?"

Speaker Hartke: "Please, this is the Third Reading deadline. Mr. Turner."

Turner, J.: "Representative, did you not hear my question?"

Smith: "I believe you asked something about ex parte communications, but..."

Turner, J.: "Yes, the Bill as I understand it, has a new

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provision in it regarding ex parte communications. Is that first of all correct?"

Smith: "That is correct, yes it does."

Turner, J.: "All right. And could you, for the record, explain what that new provision regarding ex parte communications states?"

Smith: "The language in this legislation would prevent ex parte communications with the decision makers or the board members, after an application is received by the Planning Board. If the ex parte communication occurs, they have to be made part of the record. Agency staff, however, will still be allowed to provide technical assistance with respect to the application to help those applicants navigate the application process. However, in that case, both parties must document their communications with the agency staff within 10 business days after the communication."

Turner, J.: "Has it been brought to your attention that ex parte communications have taken place in the past and that they are problematical?"

Smith: "Representative Turner, I have heard instances of that as I'm sure you have. And many of the individuals supporting reform of the process feel that this would be important, would be similar to the ban on other boards and commissions in the state, like the Commerce Commission."

Turner, J.: "Now, Representative, the Speaker refer me as... excuse me, several questions with regard to setting the threshold at \$6 million. As I understand it, the threshold originally was at 7 million but it was reduced to 6 million pursuant to a compromise. Is that correct?"

Smith: "Actually, the original proposal was for a \$9 million threshold so, yes, this is a compromise. As the Bill came

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over to us from the Senate, it was a \$7 million threshold and in discussions over the last several weeks, this was a negotiated threshold of \$6 million."

Turner, J.: "And that was agreed upon by the Hospital Association as well as the Illinois State Medical Society?"

Smith: "I'm sorry, Representative Turner, could you repeat that?"

Turner, J.: "That was agreed upon by both the Medical Society and the Hospital Association, correct?"

Smith: "That is correct."

Turner, J.: "And with regard to projects that would be in excess of \$6 million, do you have a percentage of how many actually submitted to the Health Facilities Planning Board that would be percentage wise?"

Smith: "In excess of 6 million?"

Turner, J.: "Yes, or the percentage of less than 6 million, however, is more comfortable."

Smith: "Yeah, the threshold I can tell you in terms of the dollars of the projects that are reviewed. This would only affect about 8% of the dollars that the board has reviewed in the last year. So, then approximately 92% of the dollars are for projects above \$6 million."

Turner, J.: "So, as I understand it then, there would be many, many larger projects that still will have to go through the Certificate of Need process by going to the Health Facilities Planning Board and obtaining a CON before proceeding with any expansion. Is that a fair statement?"

Smith: "Yes, that's more than fair."

Turner, J.: "All right. To the Bill."

Speaker Hartke: "To the Bill."

Turner, J.: "I think I indicated... thank you, Mr. Speaker. I think I indicated before that I support the Bill, I think that's fairly obvious as well, since my name is on the

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board along with Representative Smith. Again, I'd like to commend Representative Smith. He's worked very hard on this. I know, from my perspective, that I have been working on this particular issue for several years without any success and I commend Mr. Smith for taking the Bill, moving it along, perhaps, it is not in the final language that he or I would have wanted, but as part of the process, it is a compromise. Following up on what Representative Klingler said as well, I have heard from my constituents in the 90th District, particularly from my hospitals, and they certainly think that there is the need for change in the CON process. I believe this Bill goes a long way towards doing that and I would encourage an 'aye' vote. Thank you."

Speaker Hartke: "Further discussion? Further discussion? Since no one is seeking recognition, Representative Smith to close."

Smith: "Thank you, Mr. Speaker. This is a very important issue to come before us. Many of you have expressed to me the concerns that you've experienced with projects in your district about the Certificate of Need process. This is a reform of that process. This does not meet all of the... does not answer all the concerns that have been raised, but it takes a significant step forward. We all realize that health care is changing, has changed drastically since the board was created, and the Certificate of Need process was created. This is the first major reform of that process. So, if health care industry is changing, the way we regulate it must change also. This is the first important step in doing that for the Certificate of Need process before the Health Facilities Planning Board. This is reasonable reform. It's been negotiated by all of the

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major provider groups, and I would ask for an 'aye' vote so we can move this forward. And I thank you for your support and your concern that you've expressed to me."

Speaker Hartke: "The question is, 'Shall the House pass Senate Bill 807?' All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On Senate Bill 807, there are 106 Members voting 'yes', 8 Members voting 'no', and 2 Members voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Clerk, for an announcement."

Clerk Rossi: "Rules Report. Representative Barbara Flynn Currie, Chairperson from the Committee on Rules, to which the following measure was referred, action taken on April 10, 2000, reported the same back with the following recommendation: 'approved for consideration' to the Order of Concurrence a Motion to Concur with Senate Amendments 2 and 3 to House Bill 739. Supplemental Calendar #1 is being distributed."

Speaker Hartke: "On page 10 of the Calendar, on Concurrence, is House Bill 3256. Representative Novak. Representative Novak."

Novak: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I move to concur in Senate Amendment #1 to House Bill 3256. The Senate Amendment #1 is a very technical correction. A Senate Republican Staff individual noticed in the underlying Bill that there needed to be a slight modification due to the new changes we made in the Procurement Act a few years ago. And the change is in the wording dealing with a 20-year lease down to a 10-year lease. I can assure you, Ladies and Gentlemen, that the...



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once the Department of Natural Resources assumes financial and legal responsibility of this dam in this community in my district they have no intentions of leasing this dam to any other entity. So we still have to go along with this adjustment due to the new provisions in the Procurement Act Amendments that we passed a few years ago. And I'll be more than happy to entertain any questions."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Vermilion, Representative Black."

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

Black: "Representative, it's very noisy in here..."

Speaker Hartke: "Ladies and Gentlemen, could we please tone it down. Thank you."

Black: "Thank you. Does the Senate Amendment address what you and I talked about when this was in the House, that some of the real estate was privately owned?"

Novak: "No, Representative Black. I received a copy of a letter from the Department of Natural Resources Legal Department that they sent to the mayor of the community of Momence. Their legal counsel is getting that all worked out. This has to do with... I think it's in the second paragraph of the Bill... the underlying Bill. It talks about in the event that the state would like to lease this piece of property, they could lease it for a period of 20 years and I believe a Senate Republican Staff individual said that should not... that should be reduced to 10 years in light of the new Procurement Act changes that we made a number of years ago in the General Assembly."

Black: "Okay."

Novak: "So that's the reason why that technical adjustment was

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made."

Black: "All right. Phil, I could just as easily ask you this question in private but I... I'm just curious because there is a dam in my district and I'm not sure that anybody knows who owns it. I think it was a WPA project. And this Bill has gotten some publicity in the Kankakee paper and that has filtered down into my district."

Novak: "This is a WPA project."

Black: "Was it? Okay."

Novak: "Yes. It was built in the 30's, Bill."

Black: "Has the department given you any idea how many of these things they have picked up over the years?"

Novak: "No, I haven't asked. I think the only... the only one that comes to my mind in our area here is the Kankakee River Dam. I believe years ago, I think in the 50's and I don't know if that was a WPA project itself, could have been a city project. But in the 50's that was deeded over to the State of Illinois."

Black: "Okay. Well I..."

Novak: "It's a good idea probably to find out how many of them are around the state."

Black: "Yeah, I was just curious. I'm going to have some meetings over the summer..."

Novak: "Sure."

Black: "...and I'll probably be in touch with you about this issue."

Novak: "Okay."

Black: "And I appreciate the fact that you've always been forthright about it and it looks like you got it worked out. Thank you very much."

Novak: "Thank you, Representative Black."

Speaker Hartke: "Further discussion? Seeing that no one is

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seeking recognition, Representative Novak to close."

Novak: "Yes, Ladies and Gentlemen, I'd like an 'aye' vote, please. Thank you."

Speaker Hartke: "The question is, 'Shall the House concur in Senate Amendment #1 to House Bill 3256?' This is final action. All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Two people still have not voted. Have all voted who wish? Mr. Clerk, take the record. On this question, there are 96 Members voting 'yes', 19 Members voting 'no', and 0 voting 'present'. And the House does concur in Senate Amendment #1 to House Bill 3256. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 10, on the Calendar, on Concurrence, appears House Bill 32... excuse me 3132. Representative Poe. Mr. Clerk, put the Bill up. Representative Poe."

Poe: "Treat me well guys then there will be chicken later in the week, right? House Bill 3132, this is a Bill that we had in the House to change the way that you could elect commissioners and commissioner form of government. It would have been... our Bill would have changed it to five and by districts. And we wish to concur with the Senate, they made two Amendments or changes. One would that you could run the same Bill and you could run it with three commissioners rather than five. That would be optional to whoever run the referendum. And the second thing... oh, the second thing would be was the county would draw those lines instead of we as the Legislature. And that's the only technical changes and we agreed to it. It passed out of here unanimously, and we'd like for a favorable vote."

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Speaker Hartke: "Is there any discussion? Seeing no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1 to House Bill 3132?' This is final action. All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 114 Members voting 'yes', 2 people voting 'no', and 0 voting 'present'. And the House does concur with Senate Amendment #2... excuse me, Senate Amendment #1 to House Bill 3132. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 11, on the Calendar, on Concurrence, appears House Bill 30... or 4348. Representative Dart. Mr. Clerk, read the Bill. Mr. Dart."

Dart: "Thank you, Mr. Speaker, Members of the House. I move to concur with Senate Amendment #1 to House Bill 4348. What the Senate did was is they had some concerns on some single subject matter concerns. So basically, they extracted the criminal provisions out of the Bill. All that remains are the provisions that we had in here dealing with DCFS, which had no opponents at all. Which was agreed to language and I know of no opposition to the Bill in the form it is now. And I appreciate the support."

Speaker Hartke: "Is there any discussion? Seeing no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1 to House Bill 4348?' This is final action. All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Dart, I'm advised by the parliamentarian that the Motion to Concur is still in

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committee. So we'll have to withdraw this Bill. Want to take it out of the record? Take that Bill out of the record. Mr. Burke, would you like to call House Bill 3260? On page 10, on the Calendar, on Concurrence, appears House Bill 3260. Representative Burke. Mr. Burke."

Burke: "Thank you, Speaker. I would move to concur with Senate Amendment #1 to House Bill 3260. Basically what it does is, this is a measure that was suggested by the Department of Employment and Security and would simply provide that an employer may not manipulate their unemployment rate by contracting with an employee leasing company. If an employer's rate would vary by more than 1.5 points, by contracting with an employee leasing company the employer must continue to pay at its original rate. And again, this was a Amendment that was recommended by the Department of Employment Security. And I would ask for favorable consideration and any questions."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1 to House Bill 3260?' This is final action. All those in favor will signify by voting 'aye'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And the House does concur in Senate Amendment #1 to House Bill 3260. And this Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Stephens. Representative Stephens. House Bill 3073. On page 9, on the Calendar, on Concurrence, appears House Bill 3073. Representative Stephens."

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Stephens: "Thank you, Mr. Speaker. This is a Motion to Concur with Senate Amendment #1. The main part of the underlying Bill had to do with allowing people who sell drugs to children to have their... if they indeed are selling drugs to children, illegal drugs, that they would be subject to having their own children taken away in a court proceeding as having been abused. That portion of the Bill is still intact. This Amendment... there was another part of the Bill that added penalties to... in the... under the endangering a life or health of a child Section of the Criminal Code. We were going to make it a Class III felony. Actually, we found out that our language would have lowered the current penalty so that what... what is done is that this allows the provisions of the underlying Bill to be... to remain. And also allows the current Controlled Substances Act to continue to read... to have penalties ranging from a Class II felony to a Class X felony depending on the circumstances surrounding the sale of those drugs. It was never our intent to lower the penalties for selling drugs and this is Senate Amendment... corrected that. I would move its adoption. I'd be glad to answer any questions."

Speaker Hartke: "Is there any discussion? The question is, 'Shall the House concur in Senate Amendment #1 to House Bill 3073?' This is final action. All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 115 Members voting 'yes', 1 person voting 'no', and 0 voting 'present'... 1 person voting 'no', and 0 voting 'present'. And the House does concur with Senate Amendment #1 to House Bill 3073. And this Bill, having

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received a Constitutional Majority, is hereby declared passed. On page 10, on the Calendar, appears House Bill 3188. Representative Moore. Andrea Moore."

Moore, A.: "Thank you very much, Mr. Speaker, Ladies and Gentlemen of the House. I concur in Senate Amendment #1 which is a technical Amendment, one word change and it was noticed in the statute when this Bill went over to the Senate that there was an inconsistency in the numbers and they made that technical correction. And I would ask your support."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1 to House Bill 3188?' This is final action. All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And the House does concur with Senate Amendment #1 to House Bill 3188. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 10, on Concurrence, appears House Bill 3478. Representative Lyons, Representative Joe Lyons."

Lyons, J.: "Thank you, Speaker, Ladies and Gentlemen of the House. I move to concur with House Bill 3478 and Senate Amendment #1. Basically what... what the Senate did was... what we tried to do here but ran out of time do it and that was basically two things. Technical Amendments, one dealing with revenue and the motor fuel funds on how it would be collected and how it would be distributed. And second of all, the fire marshall's concerns that he would promulgate rules on the strictest accordance along to the

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National Fire Protection Society Standards. So these were two technical parts of the Bill that we didn't have time to clean up in here, the Senate did it. And I move for your favorable votes on this concurrence."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Vermilion, Representative Black."

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Hartke: "The Sponsor will yield."

Black: "Representative, I need to just make sure that I understand this from a downstate perspective. I was under the impression that at a construction site in my district when we do a highway or whatever, we can take a fuel wagon out, and in fact, have done so. Fuel equipment, construction equipment, other people or construction workers' pickup trucks, et cetera. Has that... is that practice been illegal?"

Lyons, J.: "To my... to the trucks, Representative Black, yes. To the heavy equipment, no."

Black: "Okay. So in effect when I see pickup trucks, three-quarter ton or ton pickup trucks with a tank in the back and you've seen them I'm sure. They're right up against the cab and they have a dual tank. One has maybe 100 gallons of diesel, the other might have 75 gallons of gasoline and they'll use that truck to fill vehicles at a construction site. So what you're telling me is we have... we've been doing that outside the law, unless that truck is only fueling construction equipment on the site, correct?"

Lyons, J.: "Correct. That's right, Representative."

Black: "So, this Bill now makes that practice legal in all 102 counties or only Cook?"

Lyons, J.: "Just the Cook and the collar counties around Cook



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County, Representative."

Black: "Was there a reason for that? I mean, I know that the population density... there certainly is more construction in that area than mine. But I... what am I going to tell a contractor back home when they say, well 'Why is this legal in six or seven counties and illegal in ours?'"

Lyons, J.: "Representative, to my knowledge it was done to accommodate the downstate truck stops and the gas stations that service these types of vehicles..."

Black: "Okay, yeah."

Lyons, J.: "...in the rural areas."

Black: "Okay. Now does this in any way impact... and remember now, agriculture's always been treated a little differently fuel tax wise and everything else. Many farmers will have a fuel tank in the back of their pickup, go out to the south 40 to fuel the tractor or the combine while they're planting or harvesting. Nothing in this Bill will... would restrict the farmers' ability to do that, correct?"

Lyons, J.: "Correct."

Black: "Okay. Now, the Department of Revenue expressed some concerns earlier, that has been addressed in the Senate Amendment, correct?"

Lyons, J.: "That was the purpose of their... part of the purpose of their Amendment was to correct what we did not here... do in the House."

Black: "Okay. And no one in the County of Cook or the collars has expressed any concern. Is this going to put more fuel wagons on the road? I'm wondering if there's any kind of a traffic safety problem because some of these tanker trucks are designed for that purpose and some quite frankly, are not. They may have a 250 gallon tank pushed in the back of a pickup truck and if somebody rear ends that rascal, that

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wasn't designed to haul 250 gallons of gasoline. And, you know, the traffic, the congestion in your area is a heck of a lot worse than mine. Has anybody expressed a possible concern? Or do these delivery trucks have to meet all applicable safety standards?"

Lyons, J.: "Representative Black, there is that whole environmental concern and the safety liability concern has been addressed to meet the standards by the U.S. Department of Transportation..."

Black: "Okay. So this is going to..."

Lyons, J.: "Illinois Department of Transportation."

Black: "...this is going to preclude a general contractor from saying, 'Hot dog, I'm going to throw a 200 gallon tank in the back of my pickup and I can fuel all my vehicles at my construction site.' And he... he gets on the toll road on his way to a construction site, somebody smacks the rear end of that pickup, we've got a problem."

Lyons, J.: "Yeah, he will not be allowed to do that, Representative."

Black: "Okay, fine. Thank you very much."

Speaker Hartke: "Further discussion? Seeing that no one is seeking recognition, Representative Lyons, to close."

Lyons, J.: "I ask for your favorable vote."

Speaker Hartke: "The question is, 'Shall the House concur in Senate Amendment #1 to House Bill 3478?' This is final action. All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 113 Members voting 'yes', 0 voting 'no'... 3 Members voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby

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declared passed. On page 8, on Concurrence, appears House Bill 477. Representative Cross. Mr. Cross in the chamber? We'll take that out of the record. On page 9, on the Calendar, appears House Bill 2574. Representative Bradley. Mr. Bradley, on Senate Amendments #1, 3, and 4."

Bradley: "I defer on this to Representative Barbara Currie for full explanation."

Speaker Hartke: "Representative Currie."

Currie: "Thank you, Speaker and Members of the House. I move the House do concur in Senate Amendments 1, 3, and 4 to House Bill 2574. You will remember that last year we passed a Bill, Senate Bill 13, that said that we... that doctors would no longer have to file triplicate prescriptions when they are offering a prescription for a controlled substance. This legislation is cleanup language. In one Section we failed to strike the language that said that the triplicate was not necessary. So the Department of Professional Regulation and the Department of Human Services would appreciate it if we would pass this legislation quickly. The other parts of the Amendments have to do with adding and subtracting from various of the controlled substances schedules. I know of no opposition to the Bill. And I would appreciate your support. It is technical in nature and it's important to do this so that the new program can go into effect expeditiously."

Speaker Hartke: "Is there any discussion? The Chair recognizes Representative Black."

Black: "Thank you very much, Mr. Speaker. Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

Black: "Representative Currie, there's just one thing I don't understand. In Senate Amendment #3 allowing for a facsimile prescription of a controlled substance, that

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would seem to me to raise, obviously it didn't, but wouldn't that raise some questions with the department or those who monitor such prescriptions of controlled substances that we'd allow a facsimile prescription to be... to be honored? I don't understand why that's... why that's in there."

Currie: "I think this only has to do with hospices that are certified by Medicare and I believe that it had to do with the question whether the dispensing physician was actually on the premises at a particular moment in time."

Black: "Okay. So it would not than be allowed... an individual manages to take a prescription pad from a doctor..."

Currie: "Right."

Black: "...he or she couldn't write on there and fax it to the corner drugstore and then go pick up a controlled substance?"

Currie: "You're exactly right. In fact the person who sends the fax has to keep that as if it were an original prescription for two years in the same manner that an actual written prescription signed by the prescriber would be."

Black: "Okay, fine. Thank you very much."

Speaker Hartke: "Further discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1, 3, and 4 to House Bill 2574?' This is final action. All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there were 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And the House does concur in Senate Amendments #1, 2... excuse me 1, 3, and 4 to House Bill 2574. And this Bill, having

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received a Constitutional Majority, is hereby declared passed. On page 8 of Concurrence, appears House Bill 477. Representative Cross, Senate Amendment #1."

Cross: "Thank you, Mr. Speaker. I'm sure all of you recall when this Bill passed last year out of here 115-0, it dealt with the withdrawal of a general partner in a limited partnership situation. This is an initiative of the Bar Association. I'm not aware of any opposition. The Senate Member... the Senate Amendment merely changed the dates in which this becomes law, from 1999 to the year 2000 in all the places where the date appeared in the Bill. I'm not aware of any opposition with this Senate Amendment, and I'd appreciate an 'aye' vote on the Motion. Thank you."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1 to House Bill 477?' This is final action. All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And the House does concur in Senate Amendment #1 to House Bill 477. This Bill, having received a Constitutional Majority, is hereby declared passed. On page 11, on Concurrence, appears House Bill 4021. Representative Coulson on Amendment #1. Representative Coulson."

Coulson: "Thank you, Mr. Speaker. I move to concur in Senate Amendment 1 to House Bill 4021. And what this does is it basically provides a sunset for the Great Start Program."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House

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concur in Senate Amendment #1 to House Bill 4021?' This is final action. All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 114 Members voting 'yes', 1 person voting 'no', and 0 voting 'present'. And the House does concur in Senate Amendment #1 to House Bill 4021. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 11, on the Calendar, on Concurrence, appears House Bill 3936. Senate Amendment #1, Mr. Smith. Mike Smith, on Senate Amendment #1."

Smith: "Thank you, Mr. Speaker. I move to concur in Senate Amendment #1 to House Bill 3936."

Speaker Hartke: "Would you care to explain what the Amendment did?"

Smith: "Yeah, Mr. Speaker, could we take this out of the record?"

Speaker Hartke: "Take this out of the record. On page 10, on the Calendar, on Concurrences, appears House Bill 3312. Representative Stephens on Amendment #1 and 2."

Stephens: "Thank you, Mr. Speaker. This Bill... originally it went to the Senate, it was the creating the Vietnam Veterans' license plate. The Senate amended the Bill. Senate Amendment #1 creates the Organ Donor Plate, that is the... excuse me, okay. This... the Senate Amendment #1 creates the Organ Donor Awareness special license plate. This was... is done in commemoration of the memory of Walter Payton. The Secretary of State... this is the Secretary of State's initiative. They obviously are a proponent of the Amendment. It's basically to increase organ donor awareness. The plate will bear the recognition of the great football player, Walter Payton and promote

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organ donor awareness. And funds from the additional license fee for the plate will go to the Regional Organ Bank of Illinois and to the Mid-America Transplant Services. The second Amendment the Senate added has to do with creating a World War II veterans' memorial license plate. It's similar language that we have for the Korean War veteran and with passage of this Bill the Vietnam War veteran. I would be glad to respond to any questions and I would move concurrence in Senate Amendments 1 and 2."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1 and 2 to House Bill 3312?' All those in favor shall vote 'yes'; those opposed vote 'no.' The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 113 Members voting 'yes', 2 Members voting 'no', and 0 voting 'present'. And the House does concur in Senate Amendment #1 and 2 to House Bill 3312. And this Bill, having received a Constitutional Majority, is hereby declared passed. The Chair recognizes the Gentleman from Cook, Representative Acevedo. For what reason do you seek recognition?"

Acevedo: "Yeah, Mr. Speaker, at this time I'd like to move to table House Resolution 741."

Speaker Hartke: "You've heard the Gentleman's Motion. All those in favor signify by saying 'aye'; opposed 'no'. In the opinion of the Chair, 'ayes' have it. And the Resolution is tabled. On page 10, on Concurrence, appears House Bill 3435. Representative Moffitt on Senate Amendment #1."

Moffitt: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. I move to concur with Senate Amendment #1. It

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simply provides that the provision of tax caps or what's officially known as Property Tax Extension Limitation Law, will still apply. That was the intent, but this spells it out that it definitely still applies."

Speaker Hartke: "Is there any discussion? Is there any discussion? Seeing no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1 to House Bill 3435?' This is final action. All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And the House does concur with Senate Amendment #1 to House Bill 3435. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 11, on Concurrence, appears House Bill 4043. Representative Osmond, on Senate Amendment #1."

Osmond: "Thank you, Mr. Speaker. I move to concur with Senate Amendment #1. It changes the fines that a local liquor commissioner may impose for violations to their liquor ordinances."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1 to House Bill 4043?' This is final action. All those in favor will signify by voting 'yes', those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 115 Members voting 'yes', 0 voting 'no', and 1 person voting 'present'. And the House does concur with Senate Amendment #1 to House Bill 4043. And this Bill, having received a Constitutional



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Majority, is hereby declared passed. On page 11, on the Calendar, appears House Bill 4097. Senate Amendment #1, Representative Wait."

Wait: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I move to concur with Senate Amendment #1. All it does basically is define parole as being mandatory supervised release, that's what we call it now. And I'd ask for your support."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Lady from Cook, Representative Silva, discussion on the Amendment."

Silva: "It was my intent to vote 'aye' on House Bill 4043."

Speaker Hartke: "Let's get back to you after we finish the discussion on this Bill. Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1 to House Bill 40... 4097?' This is final action. All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And the House does concur with Senate Amendment #1 to House Bill 4097. And this Bill, having received a Constitutional Majority, is hereby declared passed. The Chair recognizes the Lady from Cook, Representative Silva."

Silva: "Speaker, it was my intent to vote 'aye' on House Bill 4043."

Speaker Hartke: "Yes, Representative Silva, the Journal will so reflect your wishes. On page 12 of the Calendar, on Concurrence, appears House Bill 4433. On Senate Amendment #1, Representative Sommer. On Senate Amendment #1."

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Sommer: "Thank you, Mr. Speaker. I move to concur in Senate Amendment #1 to House Bill 4433. The Amendment adds some language to bring it in conformity with Federal Law. Also specifies to put into statute some of the current coverages provided for women's health and added some coverage for oral surgery. Happy to answer any questions."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House concur in Senate Amendment #1 to House Bill 4433?' This is final action. All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And the House does concur with Senate Amendment #1 to House Bill 4433. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 12, on Concurrence, appears House Joint Resolution 40, Senate Amendment #1. Representative Mathias."

Mathias: "Thank you, Mr. Speaker. We previously passed House Joint Resolution 40 to add certain names of Lincoln, Reagan and Grant. What Senate Amendment does... Senate Amendment 1 does is to add three more names to the Bill, and those names are, Governor Adlai Stevenson, Mayors Richard J. Daley, and Harold Washington. And I ask that you concur in Senate Amendment #1. Thank you."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Livingston, Representative Rutherford."

Rutherford: "Thank you. The Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

Rutherford: "I... I'm sorry, Representative, I missed that. This

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is for Stevenson, Washington to name I-39 after them?"

Mathias: "No, it isn't. This is for medallions."

Rutherford: "So, we're not going to name I-39 after Mayor Washington, after Senator Stevenson?"

Mathias: "Not in this Bill."

Rutherford: "Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Vermilion, Representative Black."

Black: "Thank you very much, Mr. Speaker. The Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

Black: "I don't have the Senate Amendment, hang on just a second. Oh I see, we're adding three, okay. These medallions are not going to be legal coin of the realm are they? Are we going to be able to spend them?"

Mathias: "No, these are commemorative medallions."

Black: "Oh, commemorative. And who will sell them? The Treasurer?"

Mathias: "That's correct."

Black: "Too bad we couldn't work out a deal with the mint, the United States Mint. Who's going to... who's going to strike them? Are we going to subcontract that to the mint or some company here in Illinois that does that? I don't know of a company that does, that's why I asked the question."

Mathias: "I'm not sure exactly which company is going to be doing this. I assume that the Treasurer would put this up for bid."

Black: "Okay. Do you anticipate that there might be several additions to this list over the next few years?"

Mathias: "Well if it becomes popular, I assume that the Treasurer's Office will be back to add some additional names."

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Black: "Well I... Representative, there's one name that I... several names on this list that I don't see. I mean, Michael J. Madigan. Wouldn't his name... shouldn't his name be on this medallion list? Lee A. Daniels, Chuck Aloysius Hartke, I mean, Joel Brunsvold, who's probably going to retire because he finally won a softball game or where does this list stop?"

Mathias: "I suppose as long as there's organizations that are willing to get the... receive the benefit of this Bill, the list is... could be endless."

Black: "I mean I... I can see a medallion with Ron Lawfer on one side and a dairy cow on the other. Why it will be a big seller up in the Northwest part of the state. Duane Noland, former Member of the House, now Senator, we could put his likeness on a medallion, he'd fit. Now I... I just don't understand... are we going to make money off of this? Is this the idea?"

Mathias: "Yes."

Black: "Ahhh."

Mathias: "The idea is that we will make money on this for the state."

Black: "Well I... I can see right now that... I mean the House Democrats, I'd say that Speaker Hartke will order dozens and dozens of Mayor Daley's medallions to hand out down there in Effingham. So... well this is... I... this is one of those good ideas, Representative. I... I don't how I can vote against it but I wish I could think of a reason 'cause I would if I could. But I appreciate you bringing this to my attention and I'm going to find a group to put my name on one of these things just as soon as possible."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Madison, Representative Steve Davis."

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Davis, S.: "Yes, thank you, Speaker. Will the Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

Davis, S.: "Yes, Representative, can you tell us the cost of these medallions? How much that we're going to have to pay to have them minted and how much they're going to sell them to the organizations for?"

Mathias: "I'm sorry with all the noise here, I couldn't hear your question."

Davis, S.: "I'd like to know what the cost of the medallions are and the cost of the manufacturer of the medallions?"

Mathias: "We know they will be a contracted out and put up for bid, but I'm not sure of the exact cost of the medallions."

Davis, S.: "So we don't even know how much we're going to sell them to the organizations for, who are then going to... what are the... are the organizations going to resell them to the public or..."

Mathias: "I believe..."

Davis, S.: "...how is that going to work?"

Mathias: "Yeah, I believe that the vendors will share the proceeds from the sale of medallions with the... with a not-for-profit organization. This will be used for fund raisers for not-for-profit organizations."

Davis, S.: "I am happy to see that at least in the Senate that they came back with three Democrats to be able to honor in the State of Illinois. And I too, like Representative Black, am curious how they came up with those three particular names. Who was the Senate Sponsor and do you know how they came up with those particular names, and why Speaker Madigan wasn't one of them that was to be honored?"

Mathias: "I don't know how they came up with the names. I believe Senate... Senate Amendment #1 was sponsored in the Senate by Senator Jones."

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Davis, S.: "Well Representative, I know this came before the Constitutional Officers Committee and you did a fine job of your presentation in committee. And I won't keep you any longer, but I am happy to see that we added three Democrats to go along with the three Republicans to honor in the State of Illinois. Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Rock Island, Representative Boland."

Boland: "Yes, thank you, Mr. Speaker. Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

Boland: "Sorry because of all the noise on the floor, I didn't hear all those names. Would you go through them again?"

Mathias: "Yes. The original Bill... the original Bill provided that Abraham Lincoln, Ronald Reagan, and Ulysses Grant, should be commemorated by the State Treasurer in accordance with the previously enacted Commemorative Medallions Act. Senate Amendment 1 adds to those names, the names of Mayors Richard J. Daley, and Harold Washington, as well as Governor Adlai Stevenson."

Boland: "And how much... do you have any estimate of how much money this will raise?"

Mathias: "No, I don't have that estimate because it will depend on... it will be put up for bid. So it will depend on the how the bidding goes."

Boland: "Well, will the money go to the state or does the money go to certain organizations, historic organizations and so forth?"

Mathias: "It will go to not-for-profit corporations along with the vendors, whoever the actual sellers are."

Boland: "And... and these not-for-profit outfits will be chosen by bid or how will they be chosen?"

Mathias: "Actually it will be up to the organization that brings

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the idea to the Treasurer's Office. They would make that determination. In other words, if you want to..."

Boland: "Okay. Thank you very much."

Mathias: "Thank you."

Speaker Hartke: "Further discussion? Seeing no one is seeking recognition, Representative Mathias to close."

Mathias: "I ask your favorable vote to concur in Senate Amendment #1 to HJR 40."

Speaker Hartke: "The question is, 'Shall the House concur in Senate Amendment #1 to House Joint Resolution 40?' This is final action. All those in favor signify by voting 'aye'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And the House does concur with Senate Amendment #1 to House Joint Resolution 40. And this Bill... and this Resolution, having a Constitutional Majority, is hereby declared passed. On page 11, on Concurrence, appears House Bill 3936. Representative Smith, on Senate Amendment #1. You're not ready yet. Out of the record. Page 9, on Concurrence, appears House Bill 739. Representative Cross. Representative Cross."

Cross: "Thank you, Mr. Speaker. I move to concur on both Senate Amendments #2 and 3 with respect to House Bill 739. I want to... I think most people are aware of what's contained in 739. It's the language dealing with the unlawful use of a weapon that..."

Speaker Hartke: "Ladies and Gentlemen, this is a very important debate. Let's please tone it down and listen to the presenter. Representative Cross."

Cross: "Just for the record, so we're clear, Senate Amendment #2

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is the substance or the gut of the Bill and becomes the Bill. Senate Amendment #3 removes the word 'affiliate' with respect to the definition of what a gang is or gang activity and removes that term out of Senate Amendment #2. I want to, before I explain the Bill, just to recognize a couple of people. First of all, Representative Winkel has been very helpful and very instrumental in coming to a resolution on this and working on a compromise and of course, the Governor's Office and the Governor himself has been very, very crucial and very helpful in making this happen. And I think we now have a compromise and a Bill that is agreeable to most if not all people and it took a lot of time and I appreciate the efforts of a lot of people, but particularly those two. This Bill maintains the offense of unlawful use of weapon and it will remain a Class A misdemeanor. A Class A misdemeanor, for those of you that don't know, is punishable by up to a year in jail and a \$2500 fine. The second offense, within this Amendment #2, is the creation of aggravated unlawful use of weapon which creates a Class IV felony. A state's attorney could charge someone with aggravated unlawful use of weapon and as a result have a felony charge if the following situations or factors occur or are evident. And I say 'could charge', it's not mandatory. One, the firearm possessed was encased and loaded and immediately accessible at the time of the offense, or two, the firearm possessed was uncased, unloaded and the ammunition for the weapon was immediately accessible at the time of the offense, or third, the person possessing the weapon had not been issued a currently valid FOID card; four, the person possessing the weapon was a member of an organized street gang; fifth, the person possessing the weapon was previously adjudicated



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of a felony offense as a juvenile, or six, the person committing the offense of the UUW or aggravated UUW was in violation of the Cannabis Control or Controlled Substance Act. Next, if the person had an order of protection issued against he or she within the last two years. The last two would be; the person was engaged in the commission or attempting to commit another felony or misdemeanor involving the use or threat of violence against the person or property of another; ninth, the person was under 21 and in possession of a handgun unless the person was engaged in lawful activities under the Wildlife Code. That's the substance of the aggravated UUW Section. The other changes in this Bill; someone who's a felon who commits the aggravated unlawful use of a weapon charge would now be guilty of a Class II; increases, additionally, the penalty for possession of a weapon in a bar from a Class A misdemeanor to a Class IV felony with the second or subsequent offense being a Class III misdemeanor. Finally, this Bill also requires that the State Police now give notice to any current holder of a valid FOID card, notice that their card is gonna expire in 60 days instead of the now 30 days and they're required to have notice sent by first class mail. Those are the substantive changes or substantive portions of this Bill. I'll be glad to answer any questions."

Speaker Hartke: "Is there any discussion on Senate Amendments #2 and 3? Representative Logan... Turner, from Logan."

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

Speaker Hartke: "Sponsor will yield."

Turner, J.: "Representative Cross, first of all, the explanation you just gave, does it apply to Senate Amendment #2 or Senate Amendment #3?"

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Cross: "John, Senate Amendment #2 is the Bill itself. As I said earlier and it was a little loud in here, Senate Amendment #3 we removed the term 'affiliated' in the context of 'affiliated with a street gang'. There was some concern about the word 'affiliated'; the Senate removed that. That's all Senate Amendment does is take out the word 'affiliate' that was in Senate Amendment #2."

Turner, J.: "All right. So we're gonna be voting on both Senate Amendment #2 and 3 at the same time, then?"

Cross: "Yeah. The Motion is to Concur in both Senate Amendments 2 and 3, John."

Turner, J.: "Okay. For legislative intent, Representative Cross, there are certain questions I need to ask, and I think you're aware of what they are, but if we could go through these, perhaps, it will help the Membership as well as give some legislative intent for guidance to the courts, should that become necessary. What criteria must a firearm owner meet in order to transport a firearm?"

Cross: "John, we were very clear in the Bill and as you know, the current law provides this and it's reiterated again in this Amendment. And it reads that the weapons are broken down... the weapon needs to be broken down in a nonfunctioning state or it's not immediately accessible or it's unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owners Identification Card. And, John, why don't I go ahead and give you a definition of what 'case' is. Case is defined in the Wildlife Code, Chapter 520, 'case means a container specifically designed for the purpose of housing a gun or bow and arrow device which completely encloses such gun or bow and arrow device by being zipped, snapped, buckled,

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tied or otherwise fashioned with no portion of the gun or bow and arrow device exposed.' And as you know, that's contained... in fact, you were helpful in pointing out in the Wildlife Code where the definition of 'case' is."

Turner, J.: "With regard to the FOID card requirement, does that apply to someone who is not from Illinois?"

Cross: "We do not... we are not... the State Police are not authorized to issue FOID cards to those people that are not residents of the State of Illinois, John."

Turner, J.: "You gave three criteria, just a moment ago, before the definition for a 'case' which you read from the Wildlife Code. Is it a fair assumption to say so that a person transporting a firearm only needs to meet one of the three criteria and not all of them?"

Cross: "That is... that's correct, John."

Turner, J.: "What is meant by 'immediately accessible'?"

Cross: "Good question and maybe the best way to answer that or at least to for purposes of this discussion is to cite one of the cases that the Supreme Court has referred to or that has ruled on would be People v. Liss. And one of the sentences out of that case reads as follows, 'we think a reasonable construction of this statute is that there must be a concealment of the weapon, it must be on or about the person and it must be so placed that it may be used without appreciable change in the position of the owner.'"

Turner, J.: "And in layman's terms would you consider that to be talking about basically at arm's length?"

Cross: "Yes."

Turner, J.: "Did you say 'yes'? How will this affect owners of pickup trucks, sport utility vehicles or minivans where there is no trunk and one might consider the entire passenger compartment accessible?"

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Cross: "Somewhat, John, like I indicated earlier in the three Sections that are in the law now and remain in the law, as long as the person has a valid FOID card you can transport an unloaded firearm, as long as it's enclosed in a container; second, a person can legally transport a firearm by placing it in an area that is not immediately accessible, and third, you can... as long as you transport the firearm and it is broken down in a nonfunctioning state. I think, in those scenarios, any of those three, the person's okay."

Turner, J.: "All right. I believe you've already given the definition of a 'case'. Now, let me ask you this question. Would a locked container or compartment in a vehicle qualify for a place that a gun could be stored?"

Cross: "John, can you repeat that question?"

Turner, J.: "Would a locked container or compartment in a vehicle qualify?"

Cross: "In what con... I know you're trying to clear some things up for legislative intent. If your question is whether or not that's immediately accessible if something is locked or in a container, as you're describing, I think that I would interpret that to be not immediately accessible, if that's what you're asking."

Turner, J.: "Well, what I'm getting at is when you talk about an enclosed container."

Cross: "I think that would qualify."

Turner, J.: "You think it does qualify?"

Cross: "Yes."

Turner, J.: "With regard to the location of the ammunition, can you give us an explanation of what your language means?"

Cross: "John, one of the criterias that exists for there to be an aggravated UUW it reads the following, it's in the statute;

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'the firearm possessed was uncased, loaded, and immediately accessible at the time of the offense or the firearm possessed was uncased, unloaded, and the ammunition for the weapon was immediately accessible at the time of the offense.' Those are criterias that would cause one to be charged, potentially charged, with the aggravated UUW."

Turner, J.: "If a person had been issued a FOID card and had an unloaded firearm in a case or container, could it be located anywhere in the vehicle and be legal?"

Cross: "Yes."

Turner, J.: "I'm sorry. Did you say 'yes'?"

Cross: "Yes."

Turner, J.: "And the Bill, as I understand it, also makes carrying a firearm in a bar a felony? Is that correct?"

Cross: "That is correct."

Turner, J.: "How does that apply to a banquet facility, like a Ducks Unlimited or a Quail Unlimited dinner where there might be a raffle or auction of a firearm and they happen to have a liquor license?"

Cross: "This Bill is very clear within it, John, and it says that the subsection that we're talking about does not apply to any auction or raffle of a firearm held pursuant to a license or permit issued by a governmental body nor does it apply to persons engaged in firearm safety training courses."

Turner, J.: "What types of licenses would qualify under this exemption?"

Cross: "Either you'd get a license issued by a municipality or county for the raffle and I think, the State Board of Elections can also issue raffles or licenses like when a political action committee's involved that they want to have a raffle."

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Turner, J.: "All right. So the object here is not to stop any group from raffling off or auctioning off firearms at fund raisers if they lease a banquet hall that has a liquor license?"

Cross: "I think many of us have been to Ducks Unlimited banquets or Pheasants Forever banquets where they do raffle off shotguns or the like and where you might be in an American Legion Hall and the idea... I've been to those events, the idea's to not prohibit that and we do not, as far as I'm concerned, under the language of this Bill."

Turner, J.: "And if the group holding the raffle or auction is transferring the firearms through a dealer who has been issued a license under the Gun Control Act of 1968 as a federally licensed firearms dealer, that license in and of itself would meet this exemption? Correct?"

Cross: "Yes."

Speaker Hartke: "Mr. Turner, anything further?"

Turner, J.: "Yes, Mr. Speaker."

Speaker Hartke: "Oh, I thought you were completed."

Turner, J.: "Well, I'm gettin' close. Representative Cross, a couple of other questions and just a couple of comments to the Bill. I know that there is a provision that it would appear to seem that the same conduct that is a felony for a 21-year-old would only be a misdemeanor for a 20-year-old. Could you explain or give an explanation for that provision?"

Cross: "John, we... just a couple responses to that. One, there was a good deal of debate while we were here in December about the concern of gang members being the necessary target of this legislation or at least one of the groups. And this was an attempt to recognize the activity of gang members or young kids in certain parts of the state that

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are active in gangs. Second of all, we do make a distinction, I know you've got some concerns about the age difference. We do make a distinction of ages already under the unlawful possession charge in a separate Section of the statute. I think it deals with we treat under 21 and maybe 18 differently. So that's how we got there. That was an attempt to..."

Turner, J.: "Okay. But then... "

Cross: "...recognize some concerns people had back in December."

Turner, J.: "But I am reading the Bill correctly, then, that the same conduct that would make a 21-year-old only a misdemeanor would make a 20-year-old a felon. Am I reading that correctly?"

Cross: "Assuming that person falls into certain criteria of the Bill's and it is charged... in the Bill and is charged accordingly. You do see a distinction for under 21. You're correct."

Turner, J.: "All right. Another provision that gives me some concern is under paragraph (g); 'the person possessing the weapon had a order of protection issued against him or her within the previous two years.' As a learned counselor yourself, I know that you recognize that orders of protection are granted fairly easily, in fact, they're done on an ex parte basis. One individual comes into court, makes some allegations and a judge generally to be very careful and error on the safe side, will grant an order of protection. Sometimes those might be dismissed five days later or even a day or two later or certainly, many times within 21 days. And I'm wondering why we have this provision where an order of protection is actually issued, but later on lifted, why we would have a special law concerning that person where the order of protection was

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issued against him or her?"

Cross: "John, can you... I apologize. Can you repeat that one more time?"

Turner, J.: "The number? Okay, I'm on Section..."

Cross: "What Section? I just wanted to see where you..."

Turner, J.: "... page 12, subparagraph (G). It appears to me that if an order of protection has been issued within two years, whether or not it's been dismissed, dropped, what have you, that the person could be charged with aggravated unlawful use of weapons."

Cross: "Well..."

Turner, J.: "And it's my question is to why that language is included?"

Cross: "I think one of the reasons... and John, this is a provision that actually the Senate suggested and I can't give you the total rationale for why they did it. I think, you're aware if I'm... I don't have the FOID card Section in front of me right now, but I don't believe you can even get a FOID card if there's a order of protection entered, currently, in place against you. I'm trying to guess how the Senate thinks, but I think the general lifespan of an order of protection is for a period of up to two years. And I believe that... I guess they would have thought that because they're generally a period of up to a period of two years that..."

Turner, J.: "But even if the language... I'm hoping... I'm reading..."

Cross: "I understand what your point is."

Turner, J.: "Okay. That it does say, 'an order of protection issued against him or her within the previous two years.' That is the language, then?"

Cross: "It is the language and as I said, I think the rationale



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must be or would have been, as I said, I can't speak for the Senate, but that as a general rule they normally last for a period of up to two years. Certainly, there are... John, I wouldn't disagree that there are gonna be some times that an order of protection may be lifted, maybe a divorce case is resolved. Frankly, I think you make a good point and I'm trying to give you some rationale of how they got there, but I think that would be the rationale."

Turner, J.: "To the Bill."

Speaker Hartke: "To the Bill."

Turner, J.: "First of all, I'd like to thank and commend Representative Cross. He has worked extremely hard on this piece of legislation, it's been very difficult. There have been many arguments, certainly, persons on both sides of the issue and he's tried to address everybody's concerns. And he's in an impossible situation 'cause it's the kind of provision where you simply cannot please anyone and perhaps can't please anyone at all. And so, Representative Cross, you are to be commended for the hard work that you did. I'll tell the Members of the Body that I could vote either way on this. I can see some good things with the measure and I can see some things that aren't good. One of the bad things about the measure is something that we brought up many times on this House Floor before and that is that you can take a law-abiding citizen who has no criminal history, who has no felonious intent, who has no criminal intent of any kind whatsoever, but simply chooses to have a gun in his or her vehicle and to have it there for his or her own protection and own safety for self defense. And unfortunately, in trying to carve legislation that meets the needs of downstate and in the City of Chicago, what we're left with here, today, is the decision whether or not

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we want to make those persons felons. The way the Bill is drafted there certainly could be, in many instances, a person who does carry a weapon and should not be doing so, but does so for his or her own safety and is otherwise law abiding, again, has no criminal intent, does have a valid FOID card, but has the weapon there for protection, could be charged with a felony. Now, commending again Representative Cross, however, he has put into the statute the offense of aggravated unlawful use of weapons, so that does give the prosecutor the discretion in the circumstances I've just described to charge the individual as a misdemeanor rather than a felon. Now, we did already have, however, the prosecutorial discretion of charging attempt UUV to knock down a UUV felony to a misdemeanor. So while I do commend the Sponsor and all those who worked on this for putting in the aggravated portion in the statute which still allows the prosecutor to go ahead with that discretion or exercise the discretion for the misdemeanor that was still available or was available anyway under attempt. I think what gives me the most problem with this legislation and I'm gonna listen to... I see Representative Black has his light on. Hopefully, there'll be some other questions 'cause I honestly haven't decided how to vote on this yet. But what gives me the most concern is that something just to revisit a problem that I brought to the Speaker's attention before and bring one more time is that I had a Bill, about two weeks ago, that was taken from me with a hostile Amendment. That Bill would have prohibited the Mayor of the City of Chicago or the Aldermen of the City of Chicago from carrying weapons. Now, I know the Mayor supports this particular measure that's on the board today. And this particular measure on

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the board today, as I've already indicated, can make a felon out of someone who's just an ordinary, everyday citizen for utilizing, not utilizing, but carrying a weapon in a vehicle for his or her own safety. On the other hand, on the other hand, when I attempted to bring a Bill which would make the Mayor of Chicago and the Aldermen from the City of Chicago to be held under the same law as what we're gonna pass today, and all the other citizens of the State of Illinois, that Bill was taken from me with a hostile Amendment. So we're left today with the law that allows the aldermen to carry a weapon for their protection. No, they won't be a felon. No, they won't be a misdemeanor. They won't have any charge whatsoever brought against them because that Bill was killed because they're authorized to carry. They're authorized to carry because they think they might need the protection of that weapon in certain instances and they know darn good and well they're not gonna use it unless they are gonna use it for their own protection. So I don't believe it's fair to give them the special privileges that they're going to have by killing the Bill that I brought forward and then today, voting for a Bill that makes a felon out of somebody in Logan County, Illinois or Vermilion County, Illinois or Kendall County, Illinois or any other county in the State of Illinois who doesn't happen to be an alderman who wishes to carry a weapon for their own safety and protection. It's a classic example where those doing the governing are making special exceptions and exemptions for themselves and not passing those on to the everyday person who also might want to have the protection of having that weapon. Now, that bothers me to a great end and it should bother everybody in this chamber. To vote for this knowing what happened to the

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Bill that I personally had which was seized from me with a hostile Amendment. So in any event, who did it, it was asked. Well, it wasn't our party, Representative Skinner, that did it. And I suspect that the Mayor of the City of Chicago's very happy with House Bill 739, as it is being amended and wants it to be passed. But keep in mind that he had his way with his party in seizing my Bill and making sure that his own aldermen could still carry a weapon for their own protection and again, they're not gonna be felons or misdemeanants. They're not even gonna be charged because they're exempt. So, Mr. Speaker, I can honestly say I don't know how I'm going to vote on this because the way the process has worked has been unequivocally wrong. On the other hand, there have been concessions made and I'll be listening with interest to the rest of the debate. And thank you for the Membership for their patience. Thank you, Mr. Speaker."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, Representative Morrow."

Morrow: "Thank you, Mr. Speaker. Will the Gentleman yield?"

Speaker Hartke: "The Gentleman will yield."

Morrow: "Representative Cross, when you got up to talk about House Bill 739, you mentioned the state's attorney. Could you clarify what Section in Amendment #3 deals with language that gives the state's attorney latitude as to whether or not they're gonna charge someone with a felony or misdemeanor?"

Cross: "Actually, Charles, that would be referring to Senate Amendment 2. Senate Amendment 3 just removes one word."

Morrow: "Okay. Senate Amendment 2. Could you show me that language in the..."

Cross: "There's no specific language, Charles, in this Bill that

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actually says the state's attorney can do this or do that. There are two Sections; there's the unlawful use of weapon and there's the aggravated unlawful use of weapon. The state's attorney, whoever it is, he or she, can make a decision whether to charge someone with the unlawful use or the aggravated unlawful use and that's the current law. That's the law with respect to any criminal offense. The state's attorney in his or her discretion can decide how they want to charge somebody. This is the authority they have as elected officials how they want to charge someone."

Morrow: "Well, right now, I'm concerned that if you have a law-abiding citizen who's caught with his gun going to his garage to make sure that when his wife comes in at night putting the car up, is he gonna be charged with a misdemeanor or with a felony? A law-abiding citizen."

Cross: "If, Charles, if he's on his own property, he wouldn't be breaking the law under this Bill."

Morrow: "He wouldn't be breaking the law. But it says... there's a Section in here that defines whether he's on his own property and there's language in there that says that if you're in the alley, you can still be charged with a crime."

Cross: "Well, what it... and, Charles, there are two parts to this. One reads, 'carries on or about his or her person or in any vehicle or concealed on or about his or her person except when on his or her land or in his or her abode or fixed place of business.' Then it talks about, it does say an alley and you're right, that you could be in violation if you're in an alley, but in that same Section it doesn't apply, again, when you're on his or... when it says, 'when on his or her own land or in his or her own abode or fixed place of business.'"

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Morrow: "Okay"

Cross: "So if you... and I'm reading right from the Amendment and that's the current law."

Morrow: "Okay. I'm clear on that. But I'm still a little confused about the state's attorney ability to determine whether or not a person in my district can be charged with a misdemeanor or a felony. I'm just very confused about that."

Cross: "The state's attorney can do this on any offense. They can make a decision whether or not they charge someone with speeding or not speeding, whether they want to charge someone with battery or aggravated battery, whether they want to charge someone with... I guess, there are different levels of murder charges, there are different levels of drug charges. They always have the discretion, whenever, on whether or not... there could be the scenario here where they have the ability to charge someone with a felony and decide to go with the misdemeanor. In fact, under the current law, if we did nothing today, sometimes the state's attorney will tell ya, they won't charge someone with a UUW, they'll charge 'em with a FOID violation. When the law was a felony for that five year period before the court threw it out, they wouldn't charge 'em with the felony sometimes they'd charge 'em with the FOID card violation. They always have that discretion, is all I'm saying. They could also, every time, charge 'em with a felony if they want to if they fit the criteria."

Morrow: "Okay. One last question. Is there any language in here that would require the state's attorney to keep a record of who they choose to file as... whom they choose to charge as a felony or a misdemeanor? Is there anything in here that says that they got to keep out race or sex, in other words,

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racial profiling?"

Cross: "There's nothing that mandates or requires that in this Bill, Charles, or in either Amendment."

Morrow: "To the Bill."

Speaker Hartke: "To the Bill."

Morrow: "I'm very concerned about this Bill. I don't know how I'm gonna vote on it, also. I really have concerns about leaving the discretion up to the state's attorney, at least in the City of Chicago where, depending on what ward you live in, what neighborhood you live in, you're not gonna be charged with a harsher crime than if you might live in a not so affluent ward or not so affluent a part of the City of Chicago. I, also, am in agreement with one of my colleagues who has a legitimate complaint about how his Bill was misused in the Senate. I don't think one class of citizen should be exempt from anybody else. So I really don't know how I'm gonna vote on House Bill 739, but we really need to be very careful on allowing other people to live by one class of standard and some people aren't able to enjoy those same rights. Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Cook, Monique Davis. Representative Davis."

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

Speaker Hartke: "The Sponsor will yield."

Davis, M.: "Okay. According to one Section, it says that... tell me about the wildlife part. If a person is carrying a weapon and it has something to do with wildlife..."

Cross: "Representative, are you talking about and just so I'm clear, are you talking about page 12? I don't know if you have the Amendment in front of you..."

Davis, M.: "I did have, I don't now."

Cross: "...but one of the criteria reads, 'the person possessing

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the weapon' or one of the qualifiers for the aggravated Section is, 'the person possessing the weapon was under 21 years of age and in possession of a handgun, unless the person under 21 is engaged in lawful activities...'

Davis, M.: "That's what I want to know."

Cross: "...under the Wildlife Code."

Davis, M.: "That's the one..."

Cross: "Wildlife..."

Davis, M.: "...about wildlife and also Section 24. something. Okay. Explain those two for me. Those exceptions."

Cross: "There are Sections of the Wildlife Code that allows someone to hunt. Maybe there are actually Sections of the state where you can hunt with a handgun. Deer season, I believe, you can use a pistol. And that's what we're talking about, where you might be lawfully hunting under age 21."

Davis, M.: "Who would determine if these, whoever had this weapon, had the weapon under the Wildlife Code? How would that be determined?"

Cross: "Well, as often... first of all, they're gonna have to be actually engaged in hunting, but that determination and they'll have to follow the laws that are applicable under the Wildlife Code with respect to hunting. But whether or not they're violating or not is a decision that's either gonna be made by a police officer, a sheriff's deputy, a State Police officer, a Department of Natural Resources officer and ultimately, the state's attorney."

Davis, M.: "So if the person has the weapon you say, under the Wildlife Code, they wouldn't be charged with anything? Is that correct?"

Cross: "They'd have to actually be in the act of hunting, in the context of hunting, Representative. I mean..."



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Davis, M.: "They would have to be actually hunting, not going to or from hunting? Could they be on their way to hunt or coming home from hunting or..."

Cross: "They'd actually have to be engaged in the act of hunting."

Davis, M.: "They'd have to be engaged in hunting. And what about the Section 24.1. What does that indicate? It's right there, I guess, on that same page."

Cross: "And Representative, I'm not trying to be coy with you, but I'm not sure what your question is with respect to 24.1."

Davis, M.: "Well, it has to do with... it's that same Section where you're dealing with... for people under the age of 21 years. It says something in reference to if they're engaged or something in reference to the Wildlife Code or Section, I think, 24.1, 'cause I wanted to know what that Section dealt with."

Cross: "The only Section I know that you're dealing... that you're asking, is what I... that we referenced earlier, but all right hold on, let me... what's your question, Monique?"

Davis, M.: "It doesn't point out what the Section deals with. It simply says that if a person is 21 or under and they're in possession of a weapon, in reference to the Wildlife Code or Section 24- whatever..."

Cross: "Okay. Those three Sections you're talking about, I'll give 'em to you."

Davis: "Okay."

Cross: "One deals with target or practicing... practice shooting at an established target range, whether public and private; three, is licensed hunters, trappers or fishermen while engaged in hunting, and then there's one more. And I see

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what you're talking 24.2 (b) 1, (b) 3 and 24.2 (f) and once again, another target shooting at a range. Those are the three Sections."

Davis, M.: "So if a person is engaged in hunting or could they be on their way to the range or on their way home from the range?"

Cross: "If they're doing any of those three things that we mentioned and they're transporting, while they're doing 'em there, and they transport lawfully, there and back, they can do that under age 21."

Davis, M.: "Under 21? Okay. Thank you very much."

Cross: "All right."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Vermilion, Representative Black."

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Hartke: "I think he will."

Black: "Representative, I think Representative Turner made some very cogent points. And that I don't understand why the Illinois Municipal League continually opposes legislation that would say locally-elected officials cannot carry a firearm, as they can now, if the municipality has an ordinance and they take, I think, it's a 40-hour training course. I think Representative Turner made some very good comments on that. The press never seems to catch on to the fact that some of the biggest proponents of this law in '94 and again now, are authorized to carry firearms, so, it just doesn't seem to be consistent. But be that as it may, let me ask you a question that I think caused a lot of trouble with the '94 law, that I voted for and many other people in the chamber voted for, and then it caused all kinds of problems. And I know you and Representative

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Turner discussed this in intent, but I want to make sure because I thought I understood this in '94. I own a van; the van has no trunk. I have always assumed, under the Wildlife Code and under common sense provisions, that I could carry a cased shotgun with a case of shells inside the case in my van. Now, I want to make sure because this is where we got in trouble on the '94 law. There are those law enforcement officers that would say, 'Ah hah, you have an unloaded shotgun, properly cased, but you have a box of shotgun shells in the case.' And it could be construed as being readily accessible to the driver or passenger compartment since I have no trunk. And if you hit your brakes hard and you know this if you've got the back seat of your van out, the case can slide forward and literally could be sitting right next to the driver. Now, is there any scenario where I or any other legal, lawful owner of a firearm on my way to hunt pheasant or on my way to shoot skeet with an uncased... excuse me, an unloaded shotgun, properly cased, but a box of shotgun shells inside that case as well, is there any way I can be charged with UUW?"

Cross: "Bill, with respect to your scenario, first of all, the location of the ammunition has never been an issue that I'm aware of, but to be very specific and very clear, the current law and the law proposed under this Amendment is very specific that says this, none of these Sections apply. It's not even a misdemeanor. It's certainly not a felony. If it's unloaded and enclosed in a case, provided you have the valid FOID card, but it's very clear that it says, 'unloaded and enclosed in a case'. I personally feel that even in the back of the van you go to the second exemption that talks about not immediately accessible. I would argue that that's not even accessible. But forget that argument

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for a second, under your question, under your scenario under the law it's very clear that if it's unloaded and enclosed in a case, you're okay."

Black: "What about the scenario that we heard in the Special Session in December, that again, a lawful and legal owner of a weapon, properly cased and unloaded is stopped along the road or in a community where guns are outlawed, let's say, and the zipper on the case was broken to the point where a portion, say the stock or the barrel of the gun, was protruding because the case either was broken or the zipper or the lock mechanism had not been properly fastened. Now, is there any scenario where that individual would face a UUI charge?"

Cross: "Well, the laws, and Representative Turner asked me for the definition of 'cased' earlier, and it says under definition of case, 'container that... which completely encloses such gun or bow and arrow device by being zipped, snapped, buckled, tied or otherwise fastened with no portion of the gun or bow and arrow device exposed'. Sometimes these get to be questions for the jury or questions for the state's attorney or questions for a judge. If it's not zipped or it's not enclosed, I think you're treading on an area that you potentially could have a problem. Once again, that's a decision for a state's attorney and I think, most hunters, and we've talked about this, know that you need to have the gun enclosed and or encased and that you have to have it properly zippered or closed in some manner. So you could ask a hundred 'what ifs' and I..."

Black: "Yeah, I can understand."

Cross: "...guess I'll again refer to the Section in the statute that we're trying to pass here as well as the definition of

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'case', I think you need to have it completely zipped myself, to be safe."

Black: "So if I know and one of my cases is broken, there's about six inches out where the stock of the gun would be, there's about a six-inch gap because the case is probably 25 years old, so I know that. So it would be incumbent upon me to buy a new case, otherwise, I could potentially be at risk, right?"

Cross: "If someone was coming into my law office and I happened to be an attorney and they asked a legal question, I'd say go buy a new case and make sure the zipper works. If you're asking the safest scenario for a guy or gal that hunts or trap shoots..."

Black: "Okay."

Cross: "...I think you make sure you have a case that closes properly."

Black: "What about, and again, this is one scenario we heard over and over in December, somebody is out hunting or shooting skeet and they get a call, there's an emergency at home. And they're in a hurry to leave so they don't case the weapon. They clear the shotgun, throw the shotgun in the back of the van, but it is not cased. It is, obviously, unloaded, but not cased. In that case, would the owner of said weapon be at risk of UUW?"

Cross: "Well, again, Bill, it's gonna depend on the Conservation Officer and ultimately, the state's attorney and perhaps ultimately, a judge or a jury. But you have the other two exemptions; one, being if it's broken down in a nonfunctioning state. I don't know if, in your question, there's that potential. The other is, of course, whether or not it's immediately accessible. I, again, argue that in the back of a van, certainly the back of a trunk, but in

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the back of a van or the far back of a SUV, that many people hunt... utilize to hunt, that that would be immediately accessible. Not immediately accessible, excuse me."

Black: "As I... until you started your discussion, the only thing I knew about this Bill, is what I had read in various newspaper accounts over the weekend. And I'm sure you're not surprised some of those accounts varied quite widely in what the Bill said and what it didn't say. As I recall, one of the newspaper articles said that if I had my shotgun unloaded, plugged, but unloaded and plugged in the front seat of my car, that would be a misdemeanor. Now, from what I've heard you say, that's not the case."

Cross: "Excuse my ignorance, I'm not sure what 'plugged' means and I apologize."

Black: "I have a wooden block in the chamber. Now, obviously, I can take the wooden block out relatively easy, but there's no way you can load it unless you knew how to activate the mechanism to get the block out."

Cross: "There are those that are suggesting and that's still functioning."

Black: "Yeah. Oh, absolutely it would be functional. So that would be at risk. Now, in all due respect, I have to say, ya know, my dad taught me gun safety many, many years ago. And as I told some people who were all over me in December about this, I don't see any legitimate reason for a law-abiding, lawful, legal gun owner to transport a loaded gun in the front seat of a car. If I've been out pheasant hunting and I'm on my way home and my shotgun is in the front seat of my van in the passenger seat, fully loaded, I don't think I have any leg to stand on that I shouldn't be charged. That is not the way you transport a gun under

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legal and lawful conditions and that's prohibited under this, as it should be. But let me ask you the question that I'm gonna get when I go home; number one, is the National Rifle Association and the Illinois State Rifle Association in favor of, neutral, or opposed to this compromise legislation?"

Cross: "As you know we haven't had a committee hearing on this. My understanding, in the Senate, when it was before the, I think, Exec Committee, the National Rifle Association signed in as neutral."

Black: "You don't know about ISRA, though, right?"

Cross: "To the best of my knowledge, they didn't sign in."

Black: "That's one of the reasons I wish this Bill had gone to a committee in the House, but that's not my call. I think what happened in December with a lot of people, who don't have an inherent fear of firearms, is that they thought somehow the '94 Bill made concealed carry illegal. And if I remember Illinois law, concealed carry in Illinois is not legal and never has been. Is that correct?"

Cross: "That's my understanding and once again, I'm not trying to be coy with a que... there may have been a time years and years ago, but in recent times, that's my understanding."

Black: "All right. I can't remember the last time we voted on that issue, it might have been '94, it might have been '92, I can't remember. We have voted on concealed carry before and those of us... I mean there's a record out there everybody can find out how we voted on concealed carry, but that's not the issue in this Bill. There is no way, under your Bill, that I can legally carry a loaded firearm in my car underneath my front seat or in my glove compartment or in the console of my car. There is no way legally that I can do that, a loaded handgun, even though it might be

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cased. If it's in the passenger compartment of my car, that is currently illegal, is it not?"

Cross: "Correct. Unless one of the three exemptions apply, Bill, and I don't believe you're given... at best you could have a loaded vehicle (sic-firearm) in your trunk, but in the passenger compartment, I don't believe any of the exemptions apply."

Black: "Okay."

Cross: "Correct."

Black: "And I don't want to obfuscate the issue, but I think, Representative Turner's already touched on it and that's the issue of whether or not you would be a misdemeanor under that situation or a felon. Now, when you talk about prosecutorial discretion, would the prosecutor have any discretion in a case... let's take a night manager of a store who goes to the bank at 11:00 every night to make a night deposit. He has a loaded weapon in his car and for whatever the reason he is stopped and that loaded weapon is discovered. Is there any prosecutorial discretion in a case like that, should this Bill become law or is that strictly up to the prosecutor?"

Cross: "It's always up to the prosecutor. The prosecutor in that scenario could charge with the felony which I think under the scenario it would be there, but the prosecutor could so elect to charge the misdemeanor Section, could so elect to charge a FOID card violation. Prosecutors in all 102 counties and I don't say this in any flippant way, always have that option and discretion as to how they charge and to what they charge."

Black: "All right. I thank you very much for the work you've done and the forthright answers you've given. It's a very... thank you very much. Mr. Speaker, to the Bill."



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Speaker Hartke: "To the Bill."

Black: "Once again, what appears to be something very straightforward and simple to some people causes some of us some concern and a lot of that, whether you like it or not, a lot of that depends on where we live. Now, I'll grant you, I'm just an old country boy trying to survive and I look upon firearms a little differently than my daughter, for example. My daughter lives in the suburbs, married and has a child of her own. Her views and mine are generations apart and I think, you're seeing that more and more, quite frankly. My father grew up and was very comfortable with firearms, would hunt, and in fact, during the depression and I believe what he tells me, that was the way they supplemented food on their table. I had my first shotgun when I was 14. My father taught me how to use that safely. I've been hunting hundreds of times, skeet shooting. I don't have the inherent fear of firearms that some people in the chamber do. Can they be misused? Absolutely. Should there be some people that probably shouldn't have them? Very true. There are some people that probably shouldn't have a driver's license or a car and I can think of two I saw on the way over here today. But I hope that what we get into later, when we vote on this Bill, is not construed as those of us who simply want to ignore the realities of the larger cities, a vis-a-vis, what we think the world was like 50 years ago. I applaud the work that Representative Cross and others have done. I voted for the original '94 Bill, more than a hundred of us did. I'm not personally aware that any of the problems we heard about in December, in fact, ever happened. I can't find any case number, docket number, where a lawful, a legal gun owner was charged with UUC under the original Safe Neighborhoods

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Bill. But I think Representative Turner has pointed out some of the difficulties that some of us face. Maybe it's a regional difference, maybe it's a cultural difference, maybe it's the difference in the way we grew up or the neighborhoods in which we live, I don't know. And like Representative Turner, I still don't know how I'm gonna vote on this Bill. So, hopefully, in the debate that follows, we can continue to shed some light on the issue. Gosh knows, there's been an awful lot of heat generated over the issue since December. So what we do here, obviously, I hope put some of that to rest. My only fear is, it may create as many problems as we solve. But I do appreciate Representative Cross's work on it and I certainly appreciate the answers to my questions."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Cook, Representative Dart."

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

Speaker Hartke: "Sponsor will yield."

Dart: "Representative, just so I'm clear, too. The previous speaker, I thought, hit the nail on the head. The issue of prosecutorial discretion, that's always existed. I mean this Bill doesn't impact that one way or the other, correct?"

Cross: "Correct."

Dart: "And the '94 Bill that we had on the books, state's attorneys from all the counties in the state had the ability to charge or not to charge then?"

Cross: "Correct, as always."

Dart: "Now, the other provision of this Bill dealing with a gun having to be in a broken down state, that's not new language, that's already an existing law, too. Is it not correct?"

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Cross: "That is correct."

Dart: "What is it, as best as you can, what's the... under this Bill here, under this Amendment, what is the scenario for an individual who has a gun on them when it's gonna be a misdemeanor?"

Cross: "I'll give you one we wrote down, Tom. A 25-year-old person driving down the highway with an unloaded shotgun on the seat next to him. Wouldn't be... not in a gang, never adjudicated of a felony as a juvenile, wasn't committing a crime at the time of the stop and had a valid FOID card. That would be a scenario where someone might be charged with a Class A misdemeanor."

Dart: "But if that person had a joint on them at the time, that would be the felony would kick in then, correct?"

Cross: "Potentially, if the state's attorney so chooses."

Dart: "Okay. But I mean and I know we've been talking in terms of the discretion or no discretion, but the reality of it is, just as when we decide we're gonna make a certain offense, a death penalty eligible offense, what we're stating here from the Legislature, when you hit these different criteria, you've violated the law in a felony offense and the state's attorney should be prosecuting those. As I say, we haven't removed the discretion, but we're telling them just like in the area of death penalties, it isn't as if we're suggesting that, 'Oh, and by the way, we want you to try this as a capital case and oh, and by the way if you want to, try this way.' We are giving them what we want as the policy of the state though, correct?"

Cross: "Yes."

Dart: "Is there any concern at all with, I know somebody had brought up a concern about there being any conflict with

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armed violence. Was that dealt with in the Senate?"

Cross: "It's a very good question, Tom. We had... in one of the initial... in one of the later drafts, there was the concern, and actually, if you look at paragraph (H) on page 12 it says, 'the person possessing the weapon was engaged in a commission or attempted commission of a misdemeanor.' That actually referred to felony at another time. And there was the concern that we would have... as you know, armed violence is a Class X, we didn't want to have... run into conflict there. And actually, I think, several people and one including from the Mayor's Office, suggested and maybe even from the Governor's Office, several people said that you don't want to run that risk of it being a... having conflict with a Class X Section, so that's why we referenced just to a misdemeanor. Same with the Cannabis Control Act, we only reference misdemeanors. We had felony, but we didn't want to violate some of the other... some higher level offenses. So we did address it. To be specific... to specifically answer your question, we did address it and that's the Section we addressed."

Dart: "Okay. And what's the present penalty, right now, for a UUW by a felon? I don't have that."

Cross: "I think it's a Class II, Tom."

Dart: "It's a Class II and..."

Cross: "I believe, I'm not... pretty sure it is. We're checking, right now, but maybe you know, but I think it's a Class II."

Dart: "No, I don't. Honestly, I didn't. My only point was I think it may be a Class II as well, and if it is, then we don't have any problems with this because they said... an individual who is a convicted felon who's convicted of this I show as an aggravated UUW by a felon is a Class II. I

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just wanted to make sure it was in concert with the existing statute, a UUW by a felon."

Cross: "Currently a Class III and we're making it a Class II."

Dart: "So did we change that Section as well, though?"

Cross: "I'm sorry. It stays a Class III, if the aggravating fac... and if any... if the aggravating factors apply, it then becomes a Class II."

Dart: "Okay. So if you're a convicted felon and you're caught with a gun on you, right now, would you be charged as a UUW by a felon or would you be charged under an aggravated UUW or both, I guess?"

Cross: "Tom, I don't know why you couldn't charge 'em under both. I'm not sure what... I think you... don't know what would prohibit that."

Dart: "Okay. I don't think so either, but I was just concerned to make sure we didn't have anything that was in conflict of each other or the same Act was gonna lead to two separate penalties that could be one be greater than the other."

Cross: "And I hope I've answered your questions. We've had Joe Brikell looked at this and someone from the Cook County's State's Attorneys Office and then someone from the Mayor's Office and someone... a lot of people have looked at it and I think we've taken... we haven't gotten into that problem. Certainly, if we have, we need to address it, but I think we're okay on that."

Dart: "Okay. And you're just..."

Cross: "And I understand what you're saying and I think we're okay."

Dart: "And just so that my final question is, is there anything in this Bill that deals with an individual who's caught for the first time, who doesn't have a background, getting in

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an expungable probation?"

Cross: "No."

Dart: "No. Okay, thank you."

Speaker Hartke: "Further discussion? Seeing nobody is seeking recognition, Representative Cross to close."

Cross: "Thank you, Mr. Speaker. I would obviously appreciate a 'yes' vote on the Motion to Concur. This is House Bill 739, passed out of the Senate 58-0. I know that this has been a contentious issue over the last four months and never gonna make everybody happy, but I think a lot of work has gone into this. I want to recognize Representative Daniels' efforts in sticking with this and making sure that we stayed on it and came up with others in agreement that I think is trying to recognize the regional differences in this state and recognizes some problems that exist in the more urban areas. So having said that, I would appreciate a 'yes' vote on Senate Amendments #2 and 3 on my Motion to Concur."

Speaker Hartke: "The question is, 'Shall the House concur in Senate Amendments #2 and 3 to House Bill 739?' This is final action. All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question, there are 92 Members voting 'yes', 16 Members voting 'no', 8 Members voting 'present'. And the House does concur with Senate Amendments #2 and 3 to House Bill 739. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 3, on Third Reading, appears Senate Bill 1359. Representative Fritchey. Mr. Clerk, read the Bill."

Clerk Rossi: "Senate Bill 1359, a Bill for an Act to reenact the

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amendatory changes to the WIC Vendor Management Act. Third Reading of this Senate Bill."

Speaker Hartke: "Representative Fritchey."

Fritchey: "Thank you, Speaker. Senate Bill 1359 amends the WIC Vendor Management Act by reenacting amendatory changes to the Act that were previously instituted by Public Act 88-680. As a result of a previously... previous ruling of the Illinois Supreme Court, certain provisions were declared unconstitutional. And there was a question regarding single subject issues and this Bill seeks to address that question and clarify the Act."

Speaker Hartke: "Is there any discussion? Seeing none, the question is, 'Shall the House pass Senate Bill 1359?' All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On Senate Bill 1359, there were 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 3, on Third Reading, appears Senate Bill 1361. Representative Brosnahan. Mr. Clerk, read the Bill."

Clerk Rossi: "Senate Bill 1361, a Bill for an Act to reenact various provisions of Public Act 88-680 amending the Illinois Vehicle Code. Third Reading of this Senate Bill."

Speaker Hartke: "Representative Brosnahan."

Brosnahan: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Senate Bill 1361 reenacts Article 20, the Safe Neighborhoods Act, that was declared unconstitutional by the Illinois Supreme Court. This Bill amends the Vehicle Code and provides for minimum and enhanced penalties for driving with a revoked or suspended license and also

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driving under the influence of alcohol. Specifically, what this Bill does, it requires a mandatory minimum sentence of 7 days in jail with 30 days community service for driving on a suspended license, if the suspension is based on a violation 11501 or a DUI. It also requires a mandatory minimum sentence of 48 consecutive hours in jail or 100 hours of community service for a second DUI conviction committed within 5 years of a prior DUI. It also increases the maximum sentence for aggravated DUI which is a Class IV felony, from 1 to 3 years in the Illinois Department of Corrections, to a period of 1 to 12 years in the Illinois Department of Corrections, where there is a motor vehicle accident and that action resulted in great bodily harm, permanent disability, or disfigurement. And I'd be happy to answer any questions."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House pass Senate Bill 1361?' All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On Senate Bill 1361, there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 3, on Third Reading, appears Senate Bill 1362. Representative Dart. Mr. Clerk, read the Bill."

Clerk Rossi: "Senate Bill 1362, a Bill for an Act to reenact provisions of the Rights of Crime Victims and Witnesses Act. Third Reading of this Senate Bill."

Speaker Hartke: "Representative Dart."

Dart: "Thank you, Mr. Speaker, Members of the House. (1362) is a reenactment of the Safe Neighborhoods Act with regards to



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provisions dealing with crime victim notification. Provides numerous safeguards so that victims are notified when individuals are going to be released from prison and so that they under... are aware of the process itself when the trial's proceeding. I would appreciate a favorable vote."

Speaker Hartke: "Is there any discussion? Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House pass Senate Bill 1362?' All those in favor signify by voting 'aye'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On Senate Bill 1362, there were 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 3, on the Calendar, appears Senate Bill 1363. Representative Turner. Mr. Clerk, read the Bill."

Clerk Rossi: "Senate Bill 1363, a Bill for an Act to reenact provisions of the Firearm Owners Identification Card Act. Third Reading of this Senate Bill."

Speaker Hartke: "Representative Turner."

Turner, J.: "Thank you, Mr. Speaker. This Bill amends the Firearm Owners Identification Card Act, increases the FOID Act to make the following Class A misdemeanors, Class IV felonies or Class III felonies. Number one, possessing a firearm with an expired FOID card if the person is qualified for renewal is a Class A; possessing a firearm without a valid FOID card if otherwise eligible is a Class A, Class IV for second and subsequent offenses; possessing a firearm with an expired FOID card if the person is not eligible for renewal is a Class III; possessing firearm

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without a valid FOID card if the person is not eligible for a FOID card or has a revoked would be a Class III; transferring a firearm or ammunition to anyone in the state when the buyer transferee does not display a valid FOID card is a Class IV; all other violations are Class A. These provisions are part of the package that were declared unconstitutional by the Illinois Supreme Court. I know of no opposition whatsoever to any of these provisions as they are simply reenactive provisions of the Safe Neighborhoods Act, which were not controversial in anyway. Would appreciate an 'aye' vote."

Speaker Hartke: "Is there any discussion? The Chair recognizes the Gentleman from Kendall, Mr. Cross."

Cross: "Well thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

Turner, J.: "No, I won't yield, Representative Cross."

Cross: "Never mind. I don't have any..."

Speaker Hartke: "Further discussion? Seeing no one is seeking recognition, the question is, 'Shall the House pass Senate Bill 1363?' All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On Senate Bill 1363, there are 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 3, on the Calendar, on Third Reading, appears Senate Bill 1364. Representative Righter. Mr. Clerk, read the Bill."

Clerk Rossi: "Senate Bill 1364, a Bill for an Act to reenact provisions of the Unified Code of Corrections. Third Reading of this Senate Bill."

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Speaker Hartke: "Representative Righter."

Righter: "Thank you, Mr. Speaker. Senate Bill 1364 reenacts certain provisions of the Safe Neighborhoods Act that were struck down unconstitutional in December of last year with regards to the Code of Corrections. Three of those provisions will be reenacted. The first would require immediate notification of local law enforcement authorities upon the release or escape of certain committed persons, including juveniles. Second provision, reenacts the Amendment regarding certain FOID Card Act violations and making them nonprobationable when the person charged did not have the legal authority to have a firearm in the first place. And third, reenacts the mandatory minimum sentence of 30 consecutive days in the county jail, 40 days of periodic imprisonment or 720 hours of community service for a person who violates the DUI laws when their license was suspended or revoked for DUI."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House pass Senate Bill 1364?' All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On Senate Bill 1364, there were 116 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. On page 5, on the Calendar, on Second Reading, appears Senate Bill 1365. Representative Cross. Mr. Clerk, read the Bill."

Clerk Bolin: "Senate Bill 1365, the Bill has been read a second time, previously. No Committee Amendments. No Floor Amendments. No Motions filed."

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Speaker Hartke: "Third Reading. Mr. Clerk, read the Bill."

Clerk Bolin: "Senate Bill 1365, a Bill for an Act to reenact certain criminal provisions of Public Act 88-680. Third Reading of this Senate Bill."

Speaker Hartke: "Representative Cross."

Cross: "Thank you, Mr. Speaker. I think this is the final, one of the final Bills dealing with the reenactment... it's not the final but deals with the reenactment of Safe Neighborhood: creates the offense of gunrunning; created the offense of defacing identification marks on firearms; created a new subsection under the violation of the bail bond. I don't know of any opposition to it and I will be glad to answer any questions."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House pass Senate Bill 1365?' All those in favor signify by voting 'yes'; those opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk... Mr. Mautino, would you care to vote on this issue? Mr. Clerk, take the record. On Senate Bill 1365, there are 115 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. The Chair recognizes Representative Crotty. House Joint Resolution 61."

Crotty: "Thank you, Mr. Speaker. At this time I move that we waive the..."

Speaker Hartke: "The question is to move the..."

Crotty: "...posting requirements..."

Speaker Hartke: "...Motion to move or suspend the..."

Crotty: "...and send it to committee."

Speaker Hartke: "...posting requirements on House Joint

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Resolution 61? Is there leave? Leave is granted. The Chair recognizes Representative Lopez."

Lopez: "Thank you, Mr. Speaker. According to House Rules, I move to waive the posting requirement for House Joint Resolution 50."

Speaker Hartke: "Mr. Lopez moves to suspend the posting requirements for House Joint Resolution 50. Is there leave? Leave is granted. Committee Announcements. Mr. Clerk."

Clerk Bolin: "A committee schedule has been passed out. A new revised schedule will be passed out shortly."

Speaker Hartke: "Mr. Morrow."

Morrow: "Thank you, Mr. Speaker. I should have waited until you passed out the revised schedule. But to the Members that are on the Transportation Committee and the Members on the Appropriation of Public Safety, at 9 a.m. tomorrow in Room 114 we will hold a hearing on the Tollway Authority report that was passed out last week. All those who are on those committees, we would like you to be in attendance. And any other Members of the General Assembly that would like to come, you're welcome. Nine o'clock. I was going to try to change it to 10 o'clock, but based on the House Committee schedule there's another committee due in Room 114 at 11. And I feel we need more than one hour. So 9 a.m., Joint Hearing, Transportation, Appropriation of Public Safety in Room 114. Thank you."

Speaker Hartke: "The revised committee schedules are now being distributed. Mr. Clerk."

Clerk Rossi: "A revised House committee schedule is being passed out. The following committees will meet Tuesday, April, 11th at 9 a.m. in Room 114, the Approp-Public Safety Transportation Committee, at 11 a.m. in Room 114, the

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Elementary and Secondary Education Committee, at 11 a.m. in D-1, the Environment and Energy Committee, at 11 a.m. in C-1, the Judiciary-I Civil Law Committee, at 11 a.m. in 122-B, the Mental Health and Patient Abuse Committee, at 11 a.m. in Room 118, the Revenue Committee. The following committees will meet at 11:30 a.m.: In Room 114 the Human Services Committee, and in Room 118 the Insurance Committee. The Executive Committee will meet at 12 noon in Room 118."

Speaker Hartke: "Seeing that no one is seeking recognition, Representative Osterman now moves, allowing perfunctory time for the Clerk, that the House stand adjourned until the hour of 1 p.m. on April, 11th. All those in favor signify by saying 'aye'; opposed 'no'. In the opinion of the Chair, the 'ayes' have it. And the House stands adjourned until the hour of 1 p.m. on April 11th."

Clerk Rossi: "House Perfunctory Session will come to order. Introduction of Resolutions. House Joint Resolution 64, offered by Representative Novak, is assigned to the Rules Committee. Introduction and First Reading of Senate Joint Resolution Constitutional Amendment #18, offered by Representative Steve Davis. BE IT RESOLVED, BY THE SENATE OF THE NINETY-FIRST GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this Resolution a proposition to amend Article V of the Illinois Constitution by changing Sections 1, 3, 7, and 18 and by repealing Section 17 as follows: SECTION 1. OFFICERS. The Executive Branch shall include a Governor, Lieutenant Governor, Attorney General, Secretary of State, and State

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Financial Officer ~~Comptroller-and-Treasurer~~ elected by the electors of the State. They shall keep the public records and maintain a residence at the seat of government during their terms of office. SECTION 3. ELIGIBILITY. To be eligible to hold the office of Governor, Lieutenant Governor, Attorney General, Secretary of State, or State Financial Officer, a person must be a United States citizen, at least 25 years old, and a resident of this State for the three years preceding his or her election. SECTION 7. VACANCIES IN OTHER ELECTIVE OFFICES. If the Attorney General, Secretary of State, or State Financial Officer ~~Comptroller-or-Treasurer~~ fails to qualify or if the his office becomes vacant, the Governor shall fill the office by appointment. The appointee shall hold office until the elected officer qualifies or until a successor is elected and qualified as may be provided by law and shall not be subject to removal by the Governor. If the Lieutenant Governor fails to qualify or if the his office becomes vacant, it shall remain vacant until the end of the term. SECTION 17. COMPTROLLER - DUTIES (REPEALED). The ~~Comptroller, in accordance with law, shall maintain the State's central fiscal accounts, and order payments into and out of the funds held by the Treasurer.~~ SECTION 18. STATE FINANCIAL OFFICER TREASURER - DUTIES. The State Financial Officer Treasurer, in accordance with law, shall (i) maintain the State's central fiscal accounts, and order payments into and out of the funds held by him or her, (ii) be responsible for the safekeeping and investment of monies and securities deposited with him or her, and for their disbursement upon his or her order, and (iii) have the duties and powers that may be prescribed by law of the ~~Comptroller.~~ SCHEDULE: A State Financial Officer, but not

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a Comptroller or Treasurer, shall be elected in 2002 and thereafter. This Constitutional Amendment otherwise takes effect upon the conclusion of the terms of the Comptroller and the Treasurer elected in 1998. There being no further business, the House Perfunctory Session stands adjourned."