

STATE OF ILLINOIS
92ND GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES
TRANSCRIPTION DEBATE

36th Legislative Day

March 29, 2001

Speaker Madigan: "The House shall come to order. The Members shall be in their chairs. We shall be led in prayer today by Dr. John Beukema of the Western Springs Baptist Church in Western Springs. Dr. Beukema is the guest of Representative Eileen Lyons. The guests in the gallery may wish to rise and join us for the invocation and the Pledge of Allegiance."

Dr. Beukema: "Let's pray. Sovereign Lord, we do not have to ask that You be here, for You are always present. Yet we do ask for eyes to see You, minds to think of You, and courage to follow You. For all of us who may be feeling regret or failure, free us today with Your forgiveness. For any experiencing personal turmoil right now, calm us with Your peace. For those of us encountering some form of weakness today, Lord, energize us with Your power. For those struggling over a decision at this very moment and moments to come, we need You to enlighten us with Your wisdom. And as some of us confront stress, pain, uncertainty, inspire us with hope and satisfy us with Your unfailing love. Our God, cause us to cling to You not only in moments of crisis, but also in the ordinary cycles of our everyday existence. For You, Oh God, are the rock and You never change. And I ask this in the powerful name of the Father, the Son, and the Holy Spirit. Amen."

Speaker Madigan: "We shall be led in the Pledge of Allegiance by Representative Black."

Black - 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 Madigan: "Roll Call for Attendance. Representative Currie."

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Currie: "Thank you, Speaker. Please let the record show that Representative Forby is excused this morning."

Speaker Madigan: "Mr. Poe."

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

Speaker Madigan: "Mr. Clerk, take the record. There being 116 Members responding to the Attendance Roll Call, there is a quorum present. Mr. Clerk."

Clerk Rossi: "Committee Reports. Representative Burke, Chairperson from the Committee on Executive, to which the following measure/s was/were referred, action taken on Thursday, March 29, 2001, reported the same back with the following recommendation/s: 'be adopted' Floor Amendment #3 to House Bill 3188 and Floor Amendment #3 to House Bill 3247."

Speaker Madigan: "Mr. Bill Mitchell, do you wish to call House Bill 544? Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 544, a Bill for an Act concerning recreation funding. Third Reading of this House Bill."

Speaker Madigan: "Mr. Mitchell."

Mitchell, B.: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. House Bill 544 is... would allow individuals competing in an off-highway vehicle event to pay a \$5 fee rather than a \$30 sticker fee for individuals. The \$30 sticker fee, as you know, is good for three years. If an individual raced in seven events, it would be more economical for a person to purchase a sticker rather than the \$5 fee. DNR is, to my understanding, neutral on this Bill."

Speaker Madigan: "The Gentleman moves for the passage of the Bill. There being no discussion, the question is, 'Shall this Bill pass?' Those in favor signify by voting... The

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Chair recognizes Representative Soto. Soto."

Soto: "Yes, thank you, Speaker and Members of the House. Point of personal privilege. I have some..."

Speaker Madigan: "Representative, could we wait until we finish the Bill? Okay. So, the question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? This is a Third Reading Roll Call. Have all voted who wish? The Clerk shall take the record. On this question, there are 116 people voting 'yes', 0 voting 'no'. This Bill, having received a Constitutional Majority, is hereby declared passed. Representative Soto."

Soto: "Thank you, Speaker and Members of the House. Point of personal privilege. Behind me in the gallery I have three visitors from my district. First one is, Rick Estrada and the second one is Mercedes Soto. Can we give them a hand, please? Thank you. From my community agencies."

Speaker Madigan: "Mr. Black."

Black: "Thank you very much, Mr. Speaker. I rise for a point of personal privilege."

Speaker Madigan: "State your point."

Black: "Thank you. Ladies and Gentlemen of the House, it's been called to my attention that yesterday during the debate on the recreational vehicle Bill sponsored by my good friend, Representative Tenhouse, that I may have inadvertently offended a Member of the Body. Let me... If that's the way my exuberance in stating my position for the Bill was taken, I apologize. I never intend to embarrass or mock any Member of this chamber. I have been known to use a rural humor to get my point across. And I make no apologies for my exuberance when I'm defending or attacking an idea or a concept, but I hope I have never, and I don't

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believe I have, nor I hope that I ever will, intentionally mock or offend any Member of this chamber. I may attack your idea, I may attack your facts, but I should never, and I don't believe I have, and if you take it that way, I apologize. I have never, to the best of my knowledge, ever attacked an individual or mocked an individual or tried to make fun of an individual. And if my remarks are taken or were taken in that fashion yesterday, I apologize, it was certainly not my intent."

Speaker Madigan: "Mr. Arthur Turner, did you wish to call House Bill 3075? Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 3075, a Bill for an Act concerning criminal law. Third Reading of this House Bill."

Speaker Madigan: "Mr. Turner."

Turner, A.: "Thank you, Mr. Speaker. House Bill 3075 contains the same language that was in House Bill 3538, which passed out of this Assembly in the 91st General Assembly. Basically, it does this, it makes the theft from items from a evidence storage facility used by law enforcements or by the clerk of a court a Class X felony. Thefts of such items as a firearm, cannabis, controlled substance, and/or money would be punishable by a prison term of six to 30 years. And I move for the favorable adoption of House Bill 3075."

Speaker Madigan: "Mr. Parke."

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

Speaker Madigan: "The Sponsor yields."

Parke: "Representative, since we're just getting started here at the procedure of acclimating our minds to the issue at hand, let me just ask a couple questions. In committee, did anybody speak in opposition to your Bill?"

Turner, A.: "Not that I'm aware of, Representative."

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Parke: "And could you just tell us what will be better in the State of Illinois if we pass this legislation?"

Turner, A.: "Well, it would send out a message to... You know, there's been a number of media exposes on dirty cops and there've been exposes that have shown where items... numerous items have been stolen from evidence facilities. So, it would send a message to police officers and people... not only police officers, but those working in the criminal justice system. Because, in many cases, it's not the officer, but it could be a clerk or a person working in that facility that, you know, theft of those items is a pretty serious offense."

Parke: "So, are we increasing the penalties for this? Or are you forming... Or is this a new class of prosecution?"

Turner, A.: "It would be a new Class X felony. It would be punishable by a Class X. I mean, theft is theft, so that would not necessarily be brand new, but theft from a storage facility... evidence storage facility certainly would be a new charge."

Parke: "Now, is it any piece of evidence stolen, or is there a limit on the financial amount, or is it just drugs, or is just weapons, or is it anything?"

Turner, A.: "Well, we say... In the Bill, we're specifying weapons, firearm, drugs, cannabis, and/or controlled substances, and we say money. But I think that jewelry would also be included in that."

Parke: "Okay. So... But again, as far as you know, nobody's objecting and that this has pretty well been received as a good idea?"

Turner, A.: "I don't see any... Yeah, no one that I know is opposed to the Bill."

Parke: "All right."

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Turner, A.: "I think that this is good legislation."

Parke: "Well, thank you very much. I think the... To the Bill. The people of Illinois have not very often, but enough that we've seen evidence missing from evidence storage areas that required for us to... for the law enforcement officers to prosecute crime when they find it and without having some of that, it is... it's hard to prosecute sometimes. And so, all that work and taxpayer money has gone down the drain. So, I will rise in support of my colleague's legislation."

Speaker Madigan: "Mr. John Turner."

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

Speaker Madigan: "The Sponsor yields."

Turner, J.: "Representative, I have some concerns about your Bill. Are you sure we really want to make it a Class X felony? For example, if somebody steals a dollar, it says money in your Bill, if somebody steals a gram of cannabis... I know it's a serious offense to take something from a facility, but you also include the clerk of the circuit court. But I can just think of many factual situations where, for example, as I've just indicated, a couple bucks are taken or just a small amount of cannabis is taken, which is being held in evidence. Do we really want to make those people guilty of a Class X felony, six to 30 years in the penitentiary without the possibility of probation?"

Turner, A.: "Representative, you know, in most situations, if this was theft from someone's home, theft from a garage, from an office building, I would... you know, I would be more favorable to what you're saying in terms of, you know, are we really want to send this message out in terms of Class X. But because this evidence is evidence that can be

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used in a case that could very well send someone else to jail for an extended period of time, it could be the evidence that proves someone's guilt or innocence. And because of the nature of the stuff stolen and where it's taken from, I think that we should send a message to that individual that we will not tolerate theft of evidence from either storage facilities or from the clerk's office."

Turner, J.: "Is this an initiative of the State's Attorneys Association or Cook County State's Attorney? I guess, what's the genesis of your Bill?"

Turner, A.: "Representative, I'm not sure. I know that the State Police is a proponent of the Bill. But I, you know... And quite honestly, I can't tell you where the Bill came from, other than I know that the State Police does support it."

Turner, J.: "Okay. I asked the question 'cause I'm just wondering why... and I agree this is a serious offense... why they chose or why you would choose a Class X felony when, you know, you could choose a Class I, which carries a very substantial penalty. But it just seems that there are some circumstances where six years in the penitentiary might just be too heavy-handed. But... To the Bill, Representative. I'll vote for your Bill. But when it moves over to the Senate, I really would hope that whatever Senator picks up the Bill, that you will talk to them about whether maybe you... maybe the Class X is just too much and maybe you could put it as a Class I. But if you feel that strongly about it, I suppose you won't. But... I will support it, but I would hope you would talk to the Senator who picks it up."

Speaker Madigan: "This matter is on Standard Debate. We have now had three proponents speak in support of the Bill, which means that there shall be no more proponents. Mr. Turner

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to close."

Turner, A.: "Thank you, Mr. Speaker and Ladies and Gentlemen. I'd just approve a favorable 'aye' vote on this Bill. I think that this issue is a very serious issue. And as I say, the victim is not just the individual... I should say, the items stolen from that individual, but it certainly affects that person's life. And it could very well mean the difference between guilty and not guilty."

Speaker Madigan: "Those in favor of the Bill, vote 'aye'; those opposed vote 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 116 people voting 'yes', 0 voting 'no'. This Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Tom Ryder. Mr. Tom Ryder, did you wish to call House Bill 1824? Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 1824, a Bill for an Act concerning the Health Care Cost Containment Council. Third Reading of this House Bill."

Speaker Madigan: "Mr. Ryder."

Ryder: "Thank you, Mr. Speaker. This would place the Illinois Health Care Cost Containment Council under the supervision and direction of the Illinois Department of Public Health. Recently, we expanded some of the duties of Illinois Health Care Cost Containment Council, which is to collect, analyze, and report health care cost and utilization data. We also ask the Department of Public Health to do that. So, I'm asking for this change in governance to be accomplished so that we can avoid some duplication and enhance the work of the Council. And I'd be happy to answer any questions."

Speaker Madigan: "The Gentleman moves for the passage of the

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Bill. There being no discussion, the question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 113 people voting 'yes', 1 person voting 'no'. This Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Giles, House Bill 479. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 479, a Bill for an Act concerning the Department of Commerce and Community Affairs. Third Reading of this House Bill."

Giles: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. House Bill 479 allows the Governor to declare an economic emergency for a given Illinois community, solely if there is a sustained high level of poverty or unemployment in the community. I'm going to refer to Representative Wyvetter Younge to continue to explain the Amendments that are added on this legislation. And I ask for a favorable vote."

Speaker Madigan: "The Gentleman moves for the passage of the Bill. There being no discussion, the question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? Please record yourself. Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 116 people voting 'yes', 0 voting 'no'. This Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Giles, House Bill 677. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 677, a Bill for an Act concerning

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military leave of absence. Third Reading of this House Bill."

Speaker Madigan: "Mr. Giles."

Giles: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. House Bill 677. What this Bill seeks to do is to include school district officer employees as a part of those granted military leave under the Military Leave Act. Military leave allows for full-time employees to receive regular compensation while they are fulfilling their commitment in the military. School employees who is given the choice of training during the nonschool session, these individuals instead chooses to train during a school session, they may not receive compensation from the school district. This legislation passed the committee 21 to 0. And at this current time, there's no opposition to this Bill. And I ask for it's favorable passage."

Speaker Madigan: "The Gentleman moves for the passage of the Bill. The question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 116 people voting 'yes', 0 voting 'no'. This Bill, having received a Constitutional Majority, is hereby declared passed. Representative May, do you wish to call House Bill 312? 312. Do you wish to call the Bill? The Lady indicates she does not wish to call the Bill. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 312, a Bill for an Act in relation to aging. Third Reading of this House Bill."

May: "Thank you, Mr. Speaker and Members of the House. I bring to you House Bill 312, which amends the Illinois Act on

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Aging. House Bill 312 increases the active threshold for the community care program so that senior citizens can remain in their homes and prevent institutionalization. The community care program provides homemaker and housekeeping services which are vital to keep these seniors living independently and that they have their own dignity in their community as they age in place. The threshold has been static at \$10 thousand for 20 years. House Bill 312 increases the eligibility standard to an asset threshold of \$20 thousand which accounts for the cost of living based on the CPI index for those 20 years. In fact, one analysis by the Jane Adams Senior Center consensus shows that the comparative cost for \$10 thousand in 1979 dollars today at the 2001 equivalent is \$27,900. Not only are we helping our aging parents and grandparents remain in their home, but we are being proactive in addressing a mandate at the federal level. The Supreme Court ruled, in the famous Olmstead decision, that seniors and disabled in this country must be cared for in the least restrictive environment. House Bill 312 helps meet this intent. The Bill is supported by the Illinois Home Care Alliance, the Catholic Conference of Illinois, the Lutheran Advocacy Network Illinois, the Ada S. McKinley Foundation, the Illinois Center for Independent Living, the Coalition for Citizens of Disabilities in Illinois, the Alzheimer's Association, Service Employees Union Local 880. And I'm happy to report that there are 75 sponsors on this important piece of legislation. I'll be happy to take and answer your questions. Thank you."

Speaker Madigan: "The Lady moves for the passage of the Bill. The Chair recognizes Mr. Black. This Bill is on the Order of Standard Debate. Mr. Black, state your position. Are

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you a proponent or a respondent? Or do you know?"

Black: "Respondent. I need to ask some questions, Mr. Speaker."

Speaker Madigan: "You can't decide?"

Black: "I'm afraid to make a decision after so much heck from yesterday."

Speaker Madigan: "The Lady yields..."

Black: "Thank you so much."

Speaker Madigan: "...to this Gentleman from Danville."

Black: "Thank you very much. Representative, what is the genesis of this Bill? Where did it come from, who brought it to you?"

May: "Actually, the esteemed Representative Feigenholtz brought this wonderful legislation through committee. Esteemed."

Black: "Was this... Did this emanate from a senior group in her district or..."

May: "I think senior... I've heard from senior groups also, too. I'm very responsible to senior groups as far as drug costs. And Grandma May, who lived to be 103, may she rest in peace, was cared for at home and my father-in-law... And I think that home health givers help people remain independent and actually people can... people really thrive when they are in their home environment. I think the general feeling is that if people are institutionalized, their health and well-being deteriorates."

Black: "What is the current asset level for participation?"

May: "Ten thousand."

Black: "All right. And what is exempted from the 10 thousand?"

May: "Sure."

Black: "Is your primary residence exempt?"

May: "Yes, your residence, your car, and your clothing and personal effects are exempted."

Black: "What if your residence is on the tax rolls valued at a

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half a million dollars and the car in the driveway is a 1999 Mercedes?"

May: "The Department of Aging... Actually, this is one of their excellent programs. And the Department of Aging has determined that the asset threshold is really a more accurate depiction of someone, because a senior is not working, they don't have the income, but they also have strong income standards, also. I think that, you know, perhaps in Vermilion County, how many \$300 thousand houses are there in Vermilion County?"

Black: "Are you comfortable that there are safeguards in the legislation that would not allow a passthrough of assets or a hiding of assets i.e., moving your CD's, your savings account into the... into your grandchildren's name..."

May: "Yes."

Black: "...or your children's name?"

May: "Yes."

Black: "So, you think there are adequate safeguards?"

May: "I do believe so, because they do, if there is any in... they look at income level, too. But if there is any income, there can be a copay. I am very comfortable with that. They also... This is only for a single person. So if I can remember all of the exemptions. But for a married person, they either need to be on public aid or have a spouse who is already in the community care program. So, the Department of (sic-Public) Aid does an excellent job in screening."

Black: "Okay. All right. And if you would refresh my memory. I have had cases like this in my district where a spouse would like to apply to be the caregiver. I believe, correct me if I'm wrong, I believe that currently the Department of Aging will say, no, we cannot do that, we

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cannot enter into a payment for a spouse to take care of the spouse, even though the income level may be met. Is that correct? It's been some time since I've checked on that, but it seems..."

May: "I'm not actually sure on that. But by the mere fact that a spouse must be on public aid or in a nursing home, they're screened out. This is not just providing cleaning help or a maid for someone..."

Black: "No, I understand that."

May: "These are people who are screened by the Department of Aging and licensed homemakers to do shopping, to make sure that they are eating adequate meals, that are healthy and nutritious meals. So, these are licensed..."

Black: "Okay."

May: "...people who are doing it, it is not a maid."

Black: "If you could be kind enough, I'm sure, Mr. Dewese or somebody could find out for us. I know I'm going to get asked that at some point as this Bill is publicized whether or not a spouse can be paid to provide in-home care for the spouse. And I really don't know, I can't... My recollection is faulty as to whether that's allowed or not."

May: "I would be happy to. I think that by the..."

Black: "Thank you very much."

May: "...strict criteria, they are not included."

Black: "The only other question I have, Representative, the Department of Aging indicates they are opposed to this measure. Is it based on cost, or do they have some other concerns?"

May: "It is absolutely only based on cost. The Department of Aging is an advocate. This is one of their finest programs. I'm sorry, I'm looking through Representative

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Schoenberg here pouring his coffee as I address this question. They have estimated an overly aggressive 33 million. But for this program to be expanded... But I'd like to point out, that although it may be costly for the Department of Aging, it actually will save money for the taxpayers of the State of Illinois. The limit... The homemakers' services cost about \$5 thousand a year, whereas if someone has to go into a skilled care facility even at the low end in the Southern part of the state or in rural areas, that can be \$26 thousand. So, that they save \$20 thousand for every department they serve. The cost in the Department of Aging, which we think will be less than the 33 million stated, could be quadrupled in the Department of Public Aid because these people would have to go on public aid and go into a skilled care facility."

Black: "Now, this 30-plus million dollars that the Department is estimating, I assume is not included in their proposed FY'02 budget. Is that your understanding?"

May: "I think that as the budget gets hammered out, and I hope we all get to vote on it and give some input, I believe it will need to be hammered out and they'll have to talk to the Department of Public Aid and talk about this, yes."

Black: "Will you be sponsoring an Amendment to the Appropriation Committees to include this in their budget?"

May: "I will work and I'm sure Representative Feigenholtz, the esteemed Feigenholtz, Representative Feigenholtz, who has interest in this Bill, we will all work together, yes, to make sure that we get this funded."

Black: "Fine. Thank you very much, Representative."

Speaker Madigan: "This matter is on the Order of Standard Debate. I believe we have now had two people speak in support of the Bill. There shall be one more speaking in support of

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the Bill. Representative Feigenholtz."

Feigenholtz: "Thank you very much, Mr. Speaker and Members of the House. Representative Black just asked a very good question about the Department of Aging that I'd like to clarify on behalf of Representative May. When we were in the Appropriations Committee a few weeks ago with the Department of Aging, it turned out that we discovered they had lapsed \$1.8 million in their line for this program. And we will continue to negotiate with them because they, by administrative rule, can move that asset limit from 10 to 11 to 12 to 13 thousand dollars. But elected not to do so. We're trying to figure out why, because obviously, we would like to get as many seniors who want home care and to get into the CCP program as opposed to being institutionalized into this program. Thank you. I encourage all of you to support this. In committee, this Bill had enormous bipartisan support. And we're hoping to get this one all the way to the Governor's desk."

Speaker Madigan: "The question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 116 people voting 'yes', 0 voting 'no'. This Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Righter. Mr. Dale Righter, House Bill 305. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 305, a Bill for an Act amending the State Finance Act. Third Reading of this House Bill."

Righter: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. House Bill 305 eliminates the diversions from the Road Fund over a four-year period beginning in fiscal year 2004 and ending in fiscal year 2007. House Amendment 1,

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which was attached last week, becomes the Bill. With that Amendment, the Secretary of State Jesse White, is a proponent of the legislation. And I'm happy to answer any questions."

Speaker Madigan: "The Gentleman moves for the passage of the Bill. There being no discussion, the question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Two people have not voted. The Clerk shall take the record. On this question, there are 116 people voting 'yes', 0 voting 'no'. This Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Hultgren, House Bill 3209. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 3209, a Bill for an Act concerning freedom of information. Third Reading of this House Bill."

Hultgren: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. This is a Bill, a simple Amendment to the Freedom of Information Act. The concern was brought by the Cook County Assessor's Office. And the concern is a lot of money is spent by public bodies to create computer graphic systems. And much money is put into these things. And under the Freedom of Information Act, people have been able to go in and get access to statistics and graphics that have been put together, and then go off and sell those other places. So, what this is doing is adding... Where there's already some exemptions within the Freedom of Information Act, it's adding the computer graphic systems to be placed in that. And I'd be happy to answer any questions."

Speaker Madigan: "The Gentleman moves for the passage of the

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Bill. The Chair recognizes Mr. Beaubien."

Beaubien: "Yes, will the Sponsor yield, please?"

Speaker Madigan: "The Sponsor yields."

Beaubien: "Yes, Representative, is there a definition for the term 'computer graphic systems'?"

Hultgren: "Yes, there is. And for purposes of legislative intent, I will read in. For the purposes of the Freedom of Information Act, computer graphic system is a term used to describe an organized collection of computer hardware, software, graphic data designed to efficiently capture, store, update, manipulate, analyze, and display all forms of geographically referenced information. It also can be described as a base layer of aerial photography on which any combination of street, hydrographic, excuse me, hydrographic, and rail networks, or parcel boundaries may be overlaid."

Speaker Madigan: "The Gentleman moves for the passage of the Bill. The question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 116 people voting 'yes', 0 voting 'no'. This Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Brady. Mr. Dan Brady, House Bill 3054. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 3054, a Bill for an Act concerning death registrations. Third Reading of this House Bill."

Brady: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. House Bill 3054, as proposed, would allow all death certificates in the state to be filed electronically, similar to birth certificates that have been automated since 1991. The 91st General Assembly passed a very

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similar Bill and it was signed into law. The problem with that is that it was not written to affect local registrars statewide. It only included the state registrar. The electronic filing system will provide a more immediate distribution of certified copies to families and save time for funeral directors, physicians, coroners, registrars, and the Department of Public Health. The program will be supported through a Surcharge Fund with a \$2 increase for each additional certified copy. After the sunset period of January 1, 2003, a four-way distribution of 25% will occur to the Police Training Board, Public Health, local registrar, and the Necropsy Board. The Bill will not access the fee to any organization chartered by Congress, i.e., the Red Cross or the Veterans Administration. There are no known opponents to the Bill. And I'd be happy to answer any questions. And I'd ask for your 'yes' vote."

Speaker Madigan: "The Gentleman moves for the passage of the Bill. There being no discussion, the question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 96 'ayes' and 19 'noes'. This Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Dan Burke, House Bill 48. Mr. Clerk, read the Bill. 48. House Bill 48."

Clerk Rossi: "House Bill 48, a Bill for an Act concerning the regulation of surgical assistants. Third Reading of this House Bill."

Speaker Madigan: "Mr. Burke."

Burke: "Thank you, Mr. Speaker. House Bill 48 originally started out as a licensure initiative to license surgical

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assistants in our state. After Amendments have been passed, this issue now is concerning compensation to surgical assistants. We have the support of the Illinois State Medical Society, the Illinois Hospital and Health Systems Association, and of course, the Illinois Surgical Assistant Association. The matter passed out of the Executive Committee, unanimously. And I'd be very happy to answer any questions."

Speaker Madigan: "The Gentleman moves for the passage of the Bill. The Chair recognizes Mr. Black."

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

Speaker Madigan: "The Sponsor yields."

Black: "Representative, I heard you indicate it's no longer a licensing issue. The issue, then, must be whether or not an insurance company will be asked to pay the costs for a surgical assistant who is present in the operating room. Would that be the ultimate purpose of the Bill?"

Burke: "You are correct in that."

Black: "All right. What exactly is a surgical assistant?"

Burke: "As you might imagine today, Representative, with the increasing costs of medical care and certainly costs associated with surgeries and the very often need to have a second individual in the operating room with a surgeon, individuals who are certified as surgical assistants would actually engage in surgeries. They are there under the direct supervision of a M.D. surgeon and they actually participate in open heart surgeries, orthopedic procedures, any number of surgical procedures that are performed. They are expert in what they do and they strictly act as a second set of hands for surgeons."

Black: "I..."

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Burke: "Very often in years previous when there was the opportunity to employ the use of another M.D. in a surgical situation, that's the preferable way to handle it. As you, again, certainly understand the costs are increasing and it is not any longer cost effective to have that second surgeon in the operating room."

Black: "Well, I'm in agreement with your Bill. I want to make sure that I understand it. Obviously, in downstate areas, rural hospitals in particular, the chances of having two surgeons present would not be very good in most cases. But without licensure, who determines whether a surgical assistant is, in fact, qualified to be in the operating room on any given procedure?"

Burke: "Well, ultimately, it would, indeed, be the surgeons choice. They have regular surgical assistants that they would operate with. They understand their techniques, they are very confident in their training and their certification. Hospitals would certainly review the special skills of these individuals before they would be admitted to the operating room in any hospital in our state. But literally, surgical assistants are very highly trained specialized health care professionals who must graduate from a surgical assisting program, work another three years under several surgeons, and who as mentors, would document their experience. And they must pass a very stringent exam which consists of a written, oral, and practical portion on surgical techniques. And they also maintain 50 continuing education units annually."

Black: "All right. So, you've answered my question. I just wanted to make sure that it couldn't be someone that had worked with the surgeon, as they say, a receptionist for years and the surgeon say, you know, you've been around the

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process and I think you're very efficient so, come on in and you can help me out. I mean, but there, obviously, are standards that would not allow that to happen. Okay. I appreciate that insight. The only... The last question I have, and I'm not sure why the Illinois Life Insurance Council would slip this Bill in opposition. Are they fearful of the training or requirements of the assistant or what precipitated their opposition?"

Burke: "Representative, you've surprised me. I don't recall there being any witness slip filed in committee."

Black: "Let me correct that, I just checked with staff. They did not slip it. They had contacted staff after this Bill had moved. They may not even be aware of the Amendment, but they have indicated to our staff that they have some concerns about the Bill. And I don't know what those concerns are. But I did misspeak, they did not slip the Bill in committee."

Burke: "And your suggestion that they are opposed actually is a surprise again..."

Black: "Okay."

Burke: "...because they have not contacted myself or..."

Black: "Well, I... And I'm sure that they, you know, they will probab... hopefully be in touch with you as the Bill moves to the process in the Senate. Representative, I thank you very much for your forthright answers to the questions and I would say, for my downstate colleagues, I daresay this Bill probably has a more immediate impact on us than the urbanized areas where you do have, obviously, more practicing surgeons than we do. I think it makes eminent good sense with the standards that you indicated are already in existence. And I stand in support of your Bill."

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Burke: "Thank you, Representative."

Speaker Madigan: "The question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 116 people voting 'yes', 0 voting 'no'. This Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Brosnahan, House Bill 654. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 654, a Bill for an Act in relation to persons with disabilities. Third Reading of this House Bill."

Speaker Madigan: "Mr. Brosnahan."

Brosnahan: "Thank you, Mr. Speaker. House Bill 654 does two things. This Bill's introduced in the past two General Assemblies. It's passed overwhelmingly. The first thing this Bill does is it amends the Mental Health and Developmental Disabilities Administrative Act. Currently, the Department of Human Service, they must provide service need reports regarding autism to the General Assembly. It does not include in this report, a recommended plan on providing family support mechanisms to enable persons with autisms to remain in a family home environment. Under this Bill, that will do that. The Department of Human Services does not oppose this measure in the Bill. The second part of this Bill amends the Public Aid Code. The Public Aid Code, right now, already provides benefits to disabled children under the age of 18 who require a level of care provided by a hospital, skilled nursing facility, or intermediate care facility, but they receive this care at home. House Bill 654 makes certain that once these individuals reach the age of 18, that their level of

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benefits remain the same. The whole point of this Bill is that chronological age alone should not determine the level of benefits that disabled children receive. Many times what happens is families make sacrifices for a long amount of years to keep these disabled children at home and provide care. And then when they reach the age of 18, it seems that the rug is pulled out from under 'em, their benefits are slashed, and many of these families are forced to put their children in nursing homes, even though their first choice would be to keep 'em at home. So, that's why I believe this Bill is very important. And I would be happy to answer any questions. Thank you."

Speaker Madigan: "Mr. Black."

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

Speaker Madigan: "The Sponsor yields."

Black: "Representative, we have a question that staff has brought to my attention. If you'll look in your Bill... On page 1 of the Bill beginning on line 21, the language says, 'shall include in the report a plan to provide family support mechanisms to enable persons with autism to remain in a family home environment'. And as we go through the Bill, staff was unclear as to the language of the Bill. Are you including, simply, individuals with autism or is it your intent to include all developmentally disabled people over the age of 18 in the Bill? Because we don't see that language about DD."

Brosnahan: "Representative Black, actually this Bill is really broken into two different parts. The first part of this Bill just amends Section 57 of the Mental Health and Developmental Disabilities Administrative Act. That part deals solely with the DHS plan on children with autism.

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Then the second part of the Bill amends the Public Aid Code that involves children with severe disabilities. So, it's really two separate issues of this Bill. The first part just deals with children with autism, the second part deals with children with severe disabilities."

Black: "All right. So, the second part, then, would be on page 6, line 26? I think that's the language that includes people, 'older than 18 years of age...'"

Brosnahan: "That's correct."

Black: "...and have received benefits'. Okay, fine."

Brosnahan: "That's correct."

Black: "All right. Thank you very much."

Brosnahan: "Thank you."

Speaker Madigan: "The question is, 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 116 people voting 'yes', 0 voting 'no'. This Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Osterman, House Bill 2139. Mr. Clerk, read the Bill. Mr. Turner in the Chair."

Clerk Rossi: "House Bill 2139, a Bill for an Act concerning elections. Third Reading of this House Bill."

Osterman: "Thank you, Mr. Speaker and Members of the House. House Bill 2139 amends the Election Code to provide that individuals that are sworn in as election judges are able to take a day off of work to serve as an election judge without penalty from their employer if they give their employer 20 days notice. The intent of this Bill is to try to open up the election process to people that want to become election judges and help our election process out. And I'm ready to answer any questions. Thank you."

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Speaker Turner, A.: "Seeing none, the question is, 'Shall House Bill... The Lady from Cook, Representative Mulligan."

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

Speaker Turner, A.: "He indicates he will."

Mulligan: "Representative, isn't there a Bill in to make Election Day a holiday?"

Osterman: "I believe there is a Bill that says that there would be holiday. I don't know if that was passed out or not."

Mulligan: "And didn't we just recently allow young people to have time off from high school in order to be election judges which certainly filled up a lot of the spots in our community?"

Osterman: "I believe we did."

Mulligan: "So, how can you reconcile with an employer to give someone time off? And would they have to pay them for that day and then they'd also be paid for an Election Day? Or would they..."

Osterman: "They would not be paid for the day that they're off. This Bill would, basically, say that they would not be penalized other than if they're caught... if... They wouldn't be paid for the day, so they would be... it'd be similar to jury duty."

Mulligan: "So they would not get..."

Osterman: " Here's one of the things though, in Cook County, as well as in other parts of the state, there is a problem with election judges... having a lot of election judges. Even though we've made efforts with having high school kids do that, there are frequently election (sic-judge) shortages. So, this Bill gives people that want to become election judges the opportunity to take a day off of work, if they give their employer 20 days notice, which I think is pretty significant."

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Mulligan: "So, the employer would not have to pay them. They would be paid as an election judge and that would be their compensation. They would just not have to penalize them?"

Osterman: "Correct."

Mulligan: "Would they not be charged either a personal day or a vacation day, either?"

Osterman: "No, they would not."

Mulligan: "Thank you."

Speaker Turner, A.: "The Gentleman from Cook, Representative Parke."

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

Speaker Turner, A.: "He indicates he will."

Parke: "Representative, are you saying that this is mandatory that a business must... they allow them to take the day off and to be an election judge, is that what you're saying here?"

Osterman: "It says that if an employee gives their employer 20 days notice, that they shall be given the day off, yes."

Parke: "Do you limit how many people can use this written notice? Can it be 50 people?"

Osterman: "It could be as many as need to or want to."

Parke: "Thank you. Mr. Speaker, to the Bill. Ladies and Gentlemen, we understand the purpose of this legislation. The Sponsor's well intended. But let me tell you something, you get a small businessman with four or five employees and three of 'em are gonna be election judges and they have to take the day off, that man or woman running that business has got to shut that company down in some cases, 'cause they won't have the employees there. This is not what we ought to be doing. It's a voluntary thing. I would like to... This should be a Resolution encouraging businessmen and women to allow their employees to take off

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time. But for us to mandate this to business, another mandate, what is going on here with these... all these Bills? You keep telling businesses how they're gonna operate in this state. I mean, you keep passing laws like this and we're gonna have an unfriendly business climate and wonder where the jobs are going. They're gone because we continue to put on unfunded mandates onto the small businessmen and women of this state. I'm gonna vote 'no'."

Speaker Turner, A.: "The Gentleman from Lake, Representative Osmond."

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

Speaker Turner, A.: "He indicates he will."

Osmond: "I share the same concerns that Representative Parke has. I think that the impact on the one or two or three employee businesses would be a lot more significant than it would certainly be for a hundred or 200. I'm concerned, as well, that if a teacher wanted to be a judge, where they would find substitute teachers. I think that would fall under it. And without some limitations and without some guidelines on this, I think that the impact... we'd see a lot of unintended consequences on this, I'm afraid. I like the spirit of it, but I'm gonna vote 'no' because of the impact that it could have on our smallest of businesses. Thank you."

Speaker Turner, A.: "The Gentleman from Vermilion, Representative Black."

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

Speaker Turner, A.: "He indicates he will."

Black: "Representative, let me make sure I understand this. If I own a small business, but I run two shifts, and I have 15 employees, and the 20 day notice is good but seven of my

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first shift workers request this and five of my second shift workers request it, while I'd like to be a good citizen and I understand the difficulty in getting election judges, what then is my protection as an employer? I could maybe let one go from first shift, and maybe two from second shift. My concern is, what if they just come in and say, look, I'm taking the time off, you don't have to pay me. There isn't anything you can do about it. And I can say, holy mackerel, my whole production schedule is shot. That's a scenario that could very well happen. Perhaps you could..."

Osterman: "Representative Black, I find that an unlikely scenario, unless someone who owns the business happens to be a public official that wants to have as many election judges as possible. In reality, I think that people that are election judges, they're not all working, they're not all employed. In my district, I have retired people, senior citizens, at-home moms that want to participate in the election process. I don't see the huge significance it'll have on the business community. I appreciate, you know, that there are concerns about that, but we're putting... you know, we're talking about state mandates. We had a Bill yesterday that's gonna have error detection for voting machines. There's other legislation for optical scanners. Who are the people that are in those booths on the election days to make sure we have a safe, fair election process? It's the election judges. They're the ones that are there, you and I aren't there. They're the ones that make sure that we have a good process. So, I think this an effort to try to get as many people involved in the process as possible. I don't find that there are going to be businesses being shut down to participate in

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this."

Black: "All right. And I can appreciate that. I know for the first time this last election, last November, was the first time that I saw some of the high school students who were election judges helping out under a law we passed a couple of years ago. And it does get more and more difficult. And the election judges are certainly, in my precinct anyway, are getting up in years. But, I guess my concern is that if I'm motivated to do that, couldn't I just go to my employer now and say, look, I'd like to be an election judge, they advertise in the paper, they're very... all precincts are short of election judges, I'd like the day off at no pay. I mean, couldn't that already be done?"

Osterman: "It could be. And an employer might do that. The reality of it is that election judges, for the most part, are appointed on a two-year basis. So, many election judges are doing it... have done it for the last five years."

Black: "Right."

Osterman: "The employer's know that they take that day off. So, I don't think this is going to be earthshattering where businesses around the state are gonna be shut down."

Black: "Well, I would tend to agree with that. Did the Retail Merchants contact you, do they have concerns about the Bill?"

Osterman: "No, they did not. And I actually brought this Bill to the Illinois Chamber of Commerce and brought it to their attention. They had not slipped the Bill in committee, it was unanimous vote in committee. I brought the Bill to them and said, look, I want you to look at it. They are opposed to it, but their opposition was not that..."

Black: "Okay."

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Osterman: "...you know, strong to me."

Black: "All right. But you said the Illinois Chamber does oppose the initiative, correct?"

Osterman: "They oppose the initiative."

Black: "Okay. Fine. Thank you very much."

Speaker Turner, A.: "The Gentleman from Jackson, Representative Bost."

Bost: "Will the Sponsor yield?"

Speaker Turner, A.: "He indicates he will."

Bost: "I want to make sure that I understand. This is... can be placed on all businesses regardless of the number of employees?"

Osterman: "Yes."

Bost: "So, if I have... Let's say we have a brokerage and two people work in a brokerage, the owner and then the one assistant, now all of a sudden that person, and they might... their workload might be to the point that they've got to be there to handle that. Now all of a sudden, because of this notification, they're gonna have to shut down their day's work or at least half their day's work based on the fact that we... And I understand what you're trying to do. We all want judges, but now you're attacking maybe small businesses with two employees. You haven't put it as 10 employees, you haven't put any level. Is there some way that you could do that with this legislation, 'cause I think it's..."

Osterman: "If the Bill's voted out today and the Senate wants to make some modifications limiting the size, I'd be open to that."

Bost: "Okay."

Osterman: "But honestly, I mean, if there's..."

Bost: "I just wanted to clarify that and I want... To the Bill,

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Mr. Speaker. Ladies and Gentlemen, listen to what people were saying here earlier on this Bill. We're saying that your 'mom and pop' businesses, maybe one employee, two employee... two employees where you've got the owner and you've got one other person trying to operate a business, we're going to tell them that automatically, because they put in a letter, that they are going to have to shut down their business for that day because they can't continue operation for that day. What are we saying here? Folks, I think we've got a real problem. Now, if we could put a level on that, and I think that should be done before it leaves here, I think then you have a sensible Bill. But right now, this is poor legislation. Thank you."

Osterman: "This Bill also gives 20 days written notification. That's almost three weeks where the employer could try to, you know, work out a situation where the business is going to be hurting for the day."

Speaker Turner, A.: "Representative Osterman to close."

Osterman: "Just ask for an 'aye' vote. Thank you."

Speaker Turner, A.: "The question is, 'Shall House Bill 2139 pass?' All those in favor should vote 'aye'; all those opposed vote 'no'. The voting is now open. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 54 voting 'aye', 59 voting 'no', 2 voting 'present'. This Bill... The Gentleman from Cook, Representative Osterman. The Gentleman requests Postponed Consideration on this Bill. The Lady from Cook, Representative Davis, on House Bill 335. Read the Bill, Mr. Clerk."

Clerk Bolin: "House Bill 335, a Bill for an Act in relation to vehicles. Third Reading of this House Bill."

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Speaker Turner, A.: "The Lady from Cook, Representative Davis."

Davis, M.: "Thank you, Mr. Speaker. House Bill 335 is a legislation that asks for a statistical study on police stops of motor vehicles. And it asks that a report be provided whether the search of the car occurred or the search of a person occurred. It asks that the law enforcement agency with Amendment #4 report to the Secretary of State and that Amendment #4 also reduced or gave a sunset of two years to this statistical study. And I'll be available for questions."

Speaker Turner, A.: "The Gentleman from Coles, Representative Righter. For what reason do you rise?"

Righter: "Will the Sponsor yield?"

Speaker Turner, A.: "She indicates she will."

Righter: "Thank you, Mr. Speaker. Representative Davis, first I want to ask you some questions about the scope of the Bill. How is the Bill limited or is it limited in terms of the number of law enforcement agencies. Is it just State Police, is it local agencies, is it the county sheriff's department?"

Davis, M.: "All police authorities."

Righter: "It's all police agencies?"

Davis, M.: "All police authorities."

Righter: "Okay. Is... Do you think then there'll be a... require a change in the citation form that is used by law enforcement officials when a person gets pulled over and they write them a speeding ticket on the citation form? Are they gonna have to have new citation forms or other paperwork printed up in order to complete the information that you're requesting?"

Davis, M.: "Representative, the cost is about \$350 thousand. And... I said it will add about \$350 thousand for adding, I

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think it's two or three new fields, to what's already asked."

Righter: "And I'm sorry, Representative. I still didn't hear that. I heard you say \$350 thousand, but I didn't hear the rest of it."

Davis, M.: "Three hundred fifty thousand dollars for all of the new information reporting."

Righter: "That's the cost of it?"

Davis, M.: "Yes, it is."

Righter: "Now... The cost now, is that the cost to whom, to all the agencies altogether?"

Davis, M.: "Yes, it is. That's the estimated cost."

Righter: "Okay. So, that includes the cost to the sheriff's department in my five counties and all the cities and villages and all of them, that includes the cost to all of them, also?"

Davis, M.: "It would be included, Representative, in the 350 thousand, as far as we know."

Righter: "Is there anything in the Bill that would provide any funding to the law enforcement agencies, in this regard, to help them cope with these costs?"

Davis, M.: "No, there really isn't any new dollars that will be added, no."

Righter: "Do you think that there... I mean, if we from Springfield are going to tell these local law enforcement agencies to collect this information, should we not also give them the tools to collect that information?"

Davis, M.: "Are you asking if we should give them additional funding for this purpose?"

Righter: "Yes."

Davis, M.: "Well, I imagine we could at some future date, Representative, but this Bill does not do that."

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Righter: "Okay. Do you have a piece of legislation elsewhere this year that is an appropriation to the law enforcement agencies to cope with this cost?"

Davis, M.: "We don't at this point and I don't foresee that. However, I am and will be... I will be working with Attorney General Ryan and other police officials. In reference to this legislation, we'll be meeting on Monday morning and the Secretary of State will be involved and we will determine, I guess in those meetings, whether an appropriation will be needed. At this point, there is no appropriation with this legislation."

Righter: "Now, Representative, I want to talk a little bit about how the individual law enforcement officers accomplish what it is that you're wanting them to accomplish. Now in the Bill, they are asked to collect data on race, age, and gender. Is that correct, is it just those three categories?"

Davis, M.: "Yes."

Righter: "Okay. Can you tell me what the point is in collecting information with regards to their separate category for... with regards to their age? I mean, are you concerned that there is a measure of age discrimination going on when law enforcement officers are pulling over people?"

Davis, M.: "Sometimes, Representative, young African-American males are pulled over for racial profiling. And if that be the case, it would be indicated in this statistical study."

Righter: "Now you're talking about just... I'm just asking the question about age."

Davis, M.: "That's what I was speaking of."

Righter: "Okay. What about... Will this require... If that's your concern, will this Bill require the law enforcement officers to record the age of non-African-American

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detainees? Are you concerned about the age of the people being pulled over who happen not to be African American?"

Davis, M.: "We're trying to get an accurate study and we're collecting the data that will help to make it... statistical data that will help to make this an accurate study. If we collect it all, we'll have an opportunity. If we... You know, if we don't collect it all, then we can say that we don't have enough information to make a determination."

Righter: "You use the term that we need to collect some accurate information to do a study. I guess my understanding usually is, is we pursue statistical studies because we believe that there may be a problem in a certain specific area. And my question with regards to age is, what is the issue with regards to age here that this Body should be concerned with, with regards to detainees?"

Davis, M.: "Well..."

Righter: "Regardless of the race."

Davis, M.: "Regardless to the race, you could find, Representative, that certain age groups are racially profiled, whereas others are generally not. You could find that some young people are stopped just because they are young. But, hopefully, this data collection will help us to come to some conclusion in reference to age, or gender, or race."

Righter: "I'd like to ask the same question regarding gender. Is... Have we received some information or is there a study out there that tells us that there may be some potential profiling with regards to police officers pulling over males more often than females or the other way around?"

Davis, M.: "We haven't had a number of complaints along those lines, Representative. But to have complete and accurate

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data, gender should be included."

Righter: "And I assume for the same reason that you commented earlier, racial profiling among certain races may be along certain genders?"

Davis, M.: "Right."

Righter: "Okay. Now, law enforcement officials, by their very nature, are police officers. They're out there to enforce the law, make arrests, protect the public. Are you concerned about trying to change their role by asking questions with regards to someone's race? I mean, are you concerned about the amount of time that that may take away from them or pull their attention away from maybe some of the other things that we, here in this chamber, expect them to be doing?"

Davis, M.: "Representative, no police officer is to ask a motorist his or her race. It is what the police officer perceive the race to be. And I think I agree with Attorney General Ashcroft who calls racial profiling a tragedy, who states that it is extremely important that Congress do a government study on how the practice occurs during local traffic stops. Ashcroft also states, that this Bill should allow law enforcement agencies to collect the data and if necessary, provide sensitivity training, if needed, for those officers who may find they are racially profiling."

Righter: "This Bill... The United State's Attorney General has given a specific comment on House Bill 335?"

Davis, M.: "Representative, he doesn't know about 335."

Righter: "I thought you said that he says this Bill."

Davis, M.: "But he knows about statistical study..."

Righter: "Okay."

Davis, M.: "...racial profiling Bills."

Righter: "Okay."

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Davis, M.: "And this Bill is mirroring the Missouri Bill that passed out of the Missouri House of Representatives."

Righter: "The last question I want to ask, Representative, is is that it's generally recognized that the Attorney General is the chief law enforcement officer. And since the issue of racial profiling, which is certainly an issue that we have to address, that issue is one that strictly pertains to law enforcement. Why is the responsibility for this Bill taken away from Jim Ryan and given to the Secretary of State's Office?"

Davis, M.: "Well, it wasn't a matter of taking it away from Jim Ryan, but it was a matter of it being an offense that occurs while one is driving. And it is the Secretary of State who issues drivers license, vehicle license plates. And you know, at this point, it is not a criminal matter so we thought the Secretary of State would be the individual or the group to compile the data and provide it to the Governor and the Illinois General Assembly. We already have 14 states who are compiling this statistical information."

Righter: "Okay. Thank you, Representative. Thank you, Mr. Speaker."

Davis, M.: "You're welcome, Sir."

Speaker Turner, A.: "The Gentleman from Madison, Representative Hoffman. For what reason do you rise?"

Hoffman: "Thank you, Mr. Speaker. To the Bill. House Bill 335 was initially introduced by me, but Representative Davis has been an advocate, has worked very, very hard on this issue for many, many years. Therefore, I think it's appropriate that she carry House Bill 335. I'd just like to real briefly, for the purpose of the Body, explain the history of the language that is contained in House Bill 335

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and what I envision happening over the next several weeks. House Bill 335 mirrors the language that recently passed and became law in Missouri. Former Governor Carnahan signed this into the law. It's being implemented in Missouri. And I think that Illinois, and Illinois residents, and Illinois citizens, and this Legislature needs to stand up and say that we are going to be as progressive, with regards to civil rights, in this state, as other states in the union. The issue of racial profiling is not one that's gonna go away. And I think we, as a Body, need to take a strong stance saying that we're not going to tolerate it. Number one, let me just talk, as a former law enforcement official, what I see... why I believe this Bill is so important. As a former law enforcement official, I think it's so vitally important that the general public believe that law enforcement is acting in their best interest. And rightly or wrongly, there's a perception among many of us, and many in the minority community, that that's not happening, that racial profiling is a reality. And I think you cannot deny that it is a reality and is happening, even if you believe it's only happening in a limited number of instances. All House Bill 335 says is we're going to go on record saying we in this General Assembly are not going to tolerate this type of civil rights violations, that we in this General Assembly are going to say that local law enforcement is going to be required to maintain data in order to determine whether racial profiling is happening. That's all this Bill is doing. Now, from my standpoint and Representative Davis's standpoint, we met with Attorney General Jim Ryan, we've agreed with people over in the Senate, as well as other law enforcement officials, to sit down to begin to

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discuss this issue to figure out what we can do in this state to make sure, number one, we're not putting unnecessary burdens on law enforcement, but we're getting to the heart of the issue. And the heart of the issue is making sure that racial profiling stops and we, in this state, go on record saying we're not going to tolerate it. So, from our standpoint, what we would like to do is we'd like to move this Bill over to the Senate. We're gonna continue to meet with the Attorney General of the State of Illinois who has gone on record saying that he is against this type of practice, racial profiling, and meet with various law enforcement agencies to figure out how we can do it to lessen their burden, but still go on record and make sure that racial profiling's not going to exist and we're not going to tolerate it in this state. For that reason, I ask that you support this legislation, one that has been put in place in Missouri, and you give us an 'aye' vote."

Speaker Turner, A.: "The Gentleman from DuPage, Representative Johnson. For what reason do you rise?"

Johnson: "Will the Sponsor yield?"

Speaker Turner, A.: "She indicates she will."

Johnson: "Representative Davis, you know, I really appreciate the work and concern that you've put into this issue now for some years. And I just have a couple questions and maybe Jay just answered most of them, but it's my understanding that it's your intent that this Bill is, in fact, a work in process, were it to move out of here."

Davis, M.: "That is correct."

Johnson: "Because certainly, as I read the Bill and as I look at the issues addressed in this Bill, it appears as though we are already jumping to some conclusions before we even have

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the data. And that goes to saying we will implement these training programs, et cetera, which a number of our police departments already are. But, you know, as long as I have your assurance that this is, in fact, a work in progress, and hopefully, the Senate looks at this and can continue to deal with it, I agree with Jay, this is an issue that we do need to pay attention to, we do need to come to grips with. And the answer can't be to just continue to say, no, no, no. We've got to move something forward to begin, at least, to address the situation to find out, first of all, if in fact, it really does exist, secondly, how law enforcement can work around these sorts of issues and not be a chilling effect or develop a quota system, if you will, in terms of who we arrest, who we don't arrest. But basically, that in fact the prejudice, in terms of the stops, are stopped, in fact, if that is what is occurring. And it's for that reason, Monique, I'm gonna support this piece to move it over. But I know that this is going to be a difficult issue and it's one that we all need to continue to work on."

Davis, M.: "Thank you, Representative Johnson. And it is a work..."

Speaker Turner, A.: "Gentleman."

Davis, M.: "...in progress."

Speaker Turner, A.: "The Gentleman from Champaign, Representative Winkel."

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

Speaker Turner, A.: "She indicates she will."

Winkel: "Representative, how does this Bill differ from your effort last year?"

Davis, M.: "This Bill is, as Jay Hoffman stated, mirrors the Bill that came out of the Missouri House. And I think last year

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we had confined the authority to the State Police and... It applies to all traffic stops and I think last year and the year before that, it applied to the State Police and it also had a great deal of training and so forth in the other Bill, sensitivity training and so forth."

Winkel: "So none of that is in this Bill?"

Davis, M.: "This also includes the training, yes, sensitivity training, if it's, you know, needed."

Winkel: "Well, what... And it's not that I'm not gonna support your Bill, I haven't... I need some answers yet, I'm still deciding. But, how does your Bill this year differ from the one you introduced last year?"

Davis, M.: "The previous Bills, I think we've passed three out of this Body, we only collected data when a citation was issued. This legislation, similar to Missouri, collects data on each stop."

Winkel: "Now, this applies not just to the State Police, but to all?"

Davis, M.: "That is correct."

Winkel: "And how is this data collected, then?"

Davis, M.: "It is... You know, the police currently have a checkoff on their citations or tickets. This information, most of it is basically already required. I think the new information would be the race of the person stopped, whether a search... Well, rather a search occurred is already in their requirement. But this asks, if a search occurs, whether further legal action is required."

Winkel: "Okay. Now, I think that we passed a Bill, probably years ago, that removed the requirement that our drivers license have the race of the person on it. So, that's not on the drivers license?"

Davis, M.: "No, it is not."

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Winkel: "Now, here's a concern that I've got and it's not always an easy issue. I think we saw that in our most recent census that people... It's not such a straightforward answer anymore as to what a person's race or ethnic background is."

Davis, M.: "Well, as we stated initially, it is the perception of the officer. He doesn't have to be accurate. If he perceives a person to be Caucasian, he will check off Caucasian. If he perceives them to be Latino, he will check that, or African American. It is his perception. And you are absolutely correct, we did remove race from the drivers license a few years ago."

Winkel: "Right. And I support that, I think that was a good move. But I guess my concern then is, if you're relying on the officer to report his or her perception of race or ethnic background, how does one check that? How does... where's the accountability? I mean, who can double-check that to see that that information... And I'm not suggesting that law enforcement would report it inaccurately on purpose, but who would actually check that? I noticed that in your Bill it goes to the Secretary of State's Office instead of the Attorney General. But regardless of where it goes, how would anybody know whether or not that information that's being reported is accurate?"

Davis, M.: "We would have to accept the word of the officer. It's a compromise. But in order to collect the data, we would have to depend upon the honesty of the officer. And most of the officers, we're sure, would be acc... you know, factual. We believe they would be."

Winkel: "Yeah, I agree that that's... That would be my assumption, also. And I think that's a good assumption. But you would agree, though, that there's no way to really

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check and double-check to make sure that the information is accurate, though. That's..."

Davis, M.: "No, there wouldn't be at this time. No, you're absolutely correct. But we do believe that most officers will accurately, you know, check off the correct perception that they have."

Winkel: "Representative, let's say that there's a traffic stop and there's four people in the car. Tell me, under your Bill, what is required of the officer in that instance?"

Davis, M.: "I'm sorry, I didn't hear you."

Winkel: "Let's say hypothetically that there is a traffic stop. The officer pulls over a car, there's four people, the driver and three occupants, what is it that the police officer must do?"

Davis, M.: "He merely... He's only dealing with the driver. He's not concerned with the other passengers in the car. And he would check off the race that he perceived the person to be, the sex, the age. He would check off if he searches the car. And after searching the car, if he found there was contraband or a need for further legal action, he would check that off. And that is all."

Winkel: "So, under your Bill, the identification of race or ethnic background, is solely as to the driver of the vehicle?"

Davis, M.: "That is correct, Representative."

Winkel: "Now, is that information collected on every stop or only where there's a citation issued?"

Davis, M.: "On every stop, at this point. Now, after we go to the Senate and continue meeting, that could change. But at this point, in the legislation, it is every stop."

Winkel: "Is there any sort of existing form that the officer would fill out or would that have to be something that... I

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mean, the case where there's not a citation, is this something that... How does the officer record this?"

Davis, M.: "The form will be de... We could use the form that Missouri used."

Winkel: "Well, this will... In other words, we need all new forms."

Davis, M.: "This will..."

Winkel: "In a case where... I mean, I can see where you have a citation and you could have a box and you could mark down, you know, the race or ethnic background of a person. I can understand that. But in a case where there's a stop without a citation, you'd need a separate form, is that not correct, to report this information?"

Davis, M.: "No, you would record it on the very same form. And..."

Winkel: "But I mean, if there's not a citation issued, you'd still fill out the ticket?"

Davis, M.: "You would need another form."

Winkel: "Okay. So, all the police organizations throughout the State of Illinois, including the State Police and all our local police departments, would have yet another form?"

Davis, M.: "Well, the Secretary of State could issue that form."

Winkel: "Okay. So... But it would require all of our police officers, who are out on the streets doing traffic enforcement, they will have to have, in addition to the citation form, they're gonna have to have yet another form available in the case where they don't issue a citation, so that they can report the information to require it."

Davis, M.: "Similar to Missouri and 14 other states, yes."

Winkel: "Now, who bears the cost of that new form?"

Davis, M.: "Well, the Secretary of State could bear the cost of providing it. But I'm sure, in our negotiations with the

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Attorney General and the Members of the Senate and those who are in... a part of this task force, we would come up with that solution."

Winkel: "Well, you'd agree that, obviously, there's going to be a substantial cost attached to coming up..."

Davis, M.: "Well, according to the information of estimates we have at this point, it's no more than approximately \$350 thousand for the entire state."

Winkel: "So, it will cost another \$350 thousand a year?"

Davis, M.: "For the whole state."

Winkel: "Now, why have you... You've changed your Bill that this information is reported to the Secretary of State instead of the Attorney General's Office, am I correct in that?"

Davis, M.: "Yes, we did, Amendment #4."

Winkel: "Now, why is that?"

Davis, M.: "Because people felt that it had more to do with drivers licenses, vehicle plates, and those are issues under the Secretary of State's Office. And the Attorney General usually deals with criminal matters. And at this point, there's no criminal matter or issue involved. We are collecting data of a driver who's issued a drivers license and who's issued a drivers plate from the Secretary of State's Office."

Winkel: "Now, Representative, how many traffic stops are there per year in the State of Illinois?"

Davis, M.: "How many... I would have no idea, but after we do this study we will know."

Winkel: "Well, no, I think it's important for us to know that up front. I mean, again, I'm not rising against your Bill and I'm not trying to defeat your Bill, but I do have to understand. Do we have an estimate of how many traffic stops that there are? Because I can see that you're

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probably gonna have millions of stops and this data is gonna be overwhelming unless you have, you know, dedicated staff to go through the data, to collect the data, to analyze the data, and to come up with a report. Is there a report that'll come back to the General Assembly?"

Davis, M.: "There is a report and... The other difference you ask between my... the other Bills that passed and this one is, this Bill sunsets in two years. The others, I think one was five years and one had absolutely no sunset date at all. But this Bill does sunset, it..."

Speaker Turner, A.: "The Gentleman will bring his remarks to a close."

Winkel: "Well, Representative, my question though, is not when it sunsets and I do notice that you have a sunset provision in two years. My question is, how much will it cost to compile this data and to analyze it and to put it into a report and does that report come back to the General Assembly?"

Davis, M.: "Well, the mandates notes that were filed didn't come up with any estimate of the analysis for that data. Now, this is something we spoke with Attorney General Jim Ryan in reference to and that will be something on the table as this Bill moves to the Senate, Representative."

Winkel: "Well, my concern here... Mr. Speaker, to the Bill."

Turner, A.: "Thank you."

Winkel: "My concern here is that we're not giving enough consideration to the mountain of data that's gonna be collected from potentially... I think it would be more than simply hundreds of thousands, there's probably millions of traffic stops that we have during the year by the State Police and by all the local police agencies. I think \$350 thousand for this new form is probably a very... Well, I'm

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not sure how accurate that is since we don't know how many traffic stops there will be. But if we have all of these traffic stops during the year, I think we're severely underestimating the fiscal impact of compiling this data and analyzing this data and putting it into a report. I think that's gonna take a great deal of money and I think we need to spend a great deal of time and more effort to figure that out. So, I'm glad to see that there's a sunset of two years, but I think there's a great deal of work that still needs to be done on this Bill. I don't think it's quite ready yet. Thank you."

Speaker Turner, A.: "Thank you. I'd like to remind the Body that this issue's on Standard Debate. We've heard from three oppo... three proponents or two proponents, one opponent, we're going to hear from one more and we will then take the vote. The Gentleman from Cook, Representative Giles."

Giles: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. I would like to speak to the Bill. House Bill 335 is a very important piece of legislation. We've heard a lot of different comments and I'm going to speak to you as a individual who have been a victim. I am a African-American male, grew up in the City of Chicago. I'm gonna make it very real for you, for some who cannot relate. As a young man at the age of... between 22 and 30, I have been approximately stopped about five times and during these stops, simply because I was an African-American male. I was not speeding. I was a young man with a high profile car, a brand new high profile car and once I was pulled over and asked for license and registration which was proper and in order, the officer simply told me to be on my way and everything is all right and I questioned why was I stopped and I never got a valid

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answer, a satisfactory answer. Of course, my civil rights was violated as a young man and I'm sure there's many who have had their rights violated who have not come forth to complain. I'm sure there's many who will... I'm sure we could fill this room if we had the individuals who have had this sim... who have had similar experiences. Let me just say that, you know, as a young man that I had a perfect driving record and I had to go through that. I could have easily have been upset and angry with the police and angry with any law enforcement officer, but my parents raised me differently, raised me to respect the law, raised me to respect the law enforcement officers, raised me to respect the system and I still respect the system today. But, however, the reality is that sometimes the system's fails you. And so today, we're talking about gathering data and information that can begin to address and to correct the wrong. And let me just say that, of course, if you pull my voting record, I'm tough on crime. I have a district in which I have to be tough on crime. And there are some individuals who's ridin' around in cars that need to be stopped because they're about to do something wrong. And there are individuals that if they were stopped maybe we could have prevented a lot of unwanted situations in our society. But, however, no one should be stopped because of their ethnicity, because of the color of their skin. No one should be stopped because they wear a hat the wrong way. And let me just say, let me give you a current example. Every year I travel around November to visit my mother in Arkansas and I go through and forgive me who represent these districts and I go... and I'm gonna tell it like it is. And I go through Cairo and I go through Effingham and guess what, almost every trip I get stopped.

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This is today. We're not talkin' about something ten, fifteen years ago. This is today. I had my young brother with me and he was driving in his cap and he is a young man, but do not have a record, hard-working young man with a family and he just slightly had his hat accidentally worn the wrong way. And we saw the State Troop comin' in the opposite direction and I had a good eye contact at 'em and guess what, that officer comin' towards me had a visible look at me and began to pull around and follow us and to proceed to stop us. Naturally, we was not speeding. We had proper license, proper registration and of course, I asked the reason, once the officer approached the vehicle, I asked 'im, 'Well, officer what is the problem?' And he said, well, of course, just so happened he see the legislative plates and he says, 'Well, well, I thought you were speeding, but I saw that you were passin' a vehicle, so therefore, you were not speeding at this time.' Now, you may say, well, you were speeding. But let me assure you, we were not speeding. That's an example that I have to go through and if you have not gone through that, you do not understand what this situation is all about. Let me just say that, it is truly hard to understand if it has not happened to you. And as a young African-American male, these are the issues that..."

Speaker Turner, A.: "Gentlemen, bring your remarks to a close."

Giles: "Thank you, Mr. Speaker. These are issues that I have to deal with even today. And we have a lot of situations in which there are a lot of young people who could be frustrated, who could be against the law because these situations arises every day. And let me just say that I think that we really need to take a look at this and address this. And we had a very severe situation in one of

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the other states in which a young man who turned out to be an attorney, I believe, that was the State of Pennsylvania. And he was stopped and pulled over and he was harassed and to the point where it became abusive, because he felt like his civil rights was violated and it was. And that turned out to be an ugly situation which turned out to be a lawsuit. Let me just say that I think we need to look at this and we need to begin to understand that these situations can escalate and become a very problematic situation in our society and we need to pro-act as this legislation is trying to do and collect the data so that another young man, another young woman will not have to go through this. Thank you, Mr. Speaker."

Speaker Turner, A.: "The Lady from Cook, Representative Davis to close."

Davis, M.: "Thank you, Mr. Speaker. I merely want to say that President Bush, Attorney General Ashcroft, State Attorney General Ryan and 12 states agree that this statistical information is very valuable. Four states have developed policies against profiling. New Jersey and Highland Park experienced costly lawsuits. The cost of racial profiling is much more than collecting the data. I appreciate all the support from my colleagues. And I urge an 'aye' vote."

Speaker Turner, A.: "The Lady asks, 'Should House Bill 335 pass?' All those in favor should vote 'aye'; all those opposed say (sic-vote) 'no'. In the opin... The voting is now open. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 91 voting 'aye', 24 voting 'no', 0 'presents'. This Bill, having received the Constitutional Majority, is hereby declared passed. The Lady from Grundy, Representative O'Brien, on House Bill 1709. Read the Bill,

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Mr. Clerk."

Clerk Rossi: "House Bill 1709, a Bill for an Act in relation to highways. Third Reading of this House Bill."

Speaker Turner, A.: "The Lady from Grundy, Representative O'Brien."

O'Brien: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. House Bill 1709 would increase the... for township highway commissioners would increase the amount of money that they're spending before they have to go out to bid. All municipalities and counties are required to have contracts that are gonna exceed \$10 thousand before they're required to go to bid, townships have been at 5,000. It just doesn't make any sense because it costs these townships a lot of money even to go through the bid process and they can't really do anything for under \$5,000. So, we just want to bring them in line with municipalities, counties, State Government, where they have to go out to bid. The second provision would allow the township highway commissioner, if he's using or she is using only township funds for a project that does not exceed \$5,000 to do so without getting the prior approval of the county superintendent of highways. There's no opposition to the Bill and I would be happy to answer any questions."

Speaker Turner, A.: "Seeing no questions, the question is, 'Shall House Bill 1709 pass?' All those in favor should vote 'aye'; all those opposed vote 'no'. The voting is now open. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 115 voting 'aye', 0 'noes', 0 'presents'. This Bill, having received the Constitutional Majority, is hereby declared passed. The Gentleman from Rock Island, Representative Boland, for what reason do you

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rise?"

Boland: "Thank you, Mr. Speaker. I inadvertently pressed the wrong button on House Bill 335. I'm a cosponsor of that Bill and I wanna be 'yes' instead of 'no'."

Speaker Turner, A.: "The record will so reflect, Representative. The Gentleman from Cook, Representative McCarthy, on House Bill 3140. Read the Bill, Mr. Clerk."

Clerk Rossi: "House Bill 3140, the Bill has been read a second time, previously. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Turner, A.: "Third Reading. Representative Shirley Jones on House Bill 3148. Read the Bill, Mr. Clerk."

Clerk Rossi: "House Bill 3148, a Bill for an Act concerning voter registration. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Turner, A.: "Third Reading. Mr. Clerk, what's the status of House Bill 2381?"

Clerk Rossi: "House Bill 2381, a Bill for an Act in relation to taxation. Second Reading of this House Bill. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Turner, A.: "Third Reading. The Lady from Peoria, Representative Slone. Read the Bill... House Bill 793, Mr. Clerk."

Clerk Rossi: "House Bill 793 is on the Order of House Bills-Third Reading."

Speaker Turner, A.: "Bring the Bill back to Second. What's the status of House Bill 211, Mr. Clerk?"

Clerk Rossi: "House Bill 211 has been read a second time, previously. No Committee Amendments. No Floor Amendments. No Motions filed."

Speaker Turner, A.: "Third Reading. The Gentleman from

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Effingham, Representative Hartke, on House Bill 3188. Read the Bill, Mr. Clerk."

Clerk Rossi: "House Bill 3188, a Bill for an Act concerning civil procedure. Second Reading of this House Bill. Amendment #1 was adopted in committee. No Motions have been filed. Floor Amendment #2, offered by Representative Hartke, has been approved for consideration."

Hartke: "Thank you very much, Mr. Speaker and Members of the House. Amendment #2 is the Amendment to the quick-take Bill that we do out here every year. This language in Amendment #2 affects the City of Effingham, my home district. And I'd appreciate an 'aye' vote."

Speaker Turner, A.: "The question is, 'Shall Amendment #2 pass?' All in favor say 'aye'; all those opposed say 'no'. In the opinion of the Chair, the 'ayes' have it. And Amendment #2 is adopted. Further Amendments?"

Clerk Rossi: "Floor Amendment #3 offered by Representative Hartke."

Speaker Turner, A.: "The Gentleman from Effingham, Representative Hartke."

Hartke: "Amendment #3 is again part of the quick-take Bill. This Amendment is offered by the City of Aurora."

Speaker Turner, A.: "The question is, 'Shall Amendment #3 pass?' All those in favor say 'aye'; all those opposed say 'no'. In the opinion of the Chair, the 'ayes' have it. And Amendment #3 is adopted. Further Amendments?"

Clerk Rossi: "No further Amendments."

Speaker Turner, A.: "The Gentleman requests leave to leave the Bill on Second Reading. the Gentleman from Cook, Representative Durkin on House Bill 1842. Read the Bill, Mr. Clerk."

Clerk Rossi: "House Bill 1842, a Bill for an Act in relation to

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criminal law. Third Reading of this House Bill."

Speaker Turner, A.: "The Gentleman from Cook, Representative Durkin."

Durkin: "Thank you very much, Mr. Speaker. House Bill 1842 is one of the three Bills that I'll be presenting which are the result of two and a half works (sic-weeks) from the special committee on prosecutorial misconduct. I just want to start and say I appreciate the work that people have done over the past two years. At times, this committee's work has seemed tedious and is sometimes boring, but I think that we did a very good job by conducting a number of hearings which I think addressed some of the problems which we've seen over the past few years within the criminal justice system. The purpose of this committee has never been to be punitive nor to be... show any animosity towards law enforcement. The whole purpose of this committee was to find solutions to problems which we've seen over the past few years. Specifically, we've seen problems on the death row cases being reversed, we've had 13 over the past two years. And I think a number of these issues which I'm gonna bring up address, I think, fairness within the criminal justice system, but also, I think, are gonna go a long way to insure that person gets their day in court and that the whole aspect of a fair trial is something which we embedded within our law. And I am ready to ans... I'd like to start with 1842 which is we are going to allow, under this Bill for the first time in Illinois Law, the use of depositions in criminal cases. This Bill restricts deposition use to capital murder cases and also, murder where natural life is the only sentence. Presently, the law in Illinois does not allow for depositions in criminal cases. Civil cases, as we all know, have used depositions

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for a number of years. In Cook County, if you have a \$5 thousand soft tissue injury, you can depose anybody who was at the intersection of the accident and ask them what their observations were, what they were doing there and all the other who, what, where, when types of questions. However, if you're a defendant and you are subject to capital punishment and two people have identified you from a block away and indicated that you were the perpetrator of the crime, there was no mechanism in the law to allow for the deposition of that witness. That was... This was a suggestion that was made to the committee and presently, I explored and did some research into two states that presently allow for pretrial depositions, the states of Florida and also the state of Indiana and as you know, neither one of those states are very liberal, they're very conservative. The evidence which we took from that committee is that depositions of witnesses make good cases better and weak cases were exposed earlier. That was the words which came out of the deputy district attorney of Lake County, Indiana and that was also mimicked in the Florida experience. So, I think that in the long run what this is gonna do it's gonna help the administration of justice. It's gonna make eye witnesses... eye-witness testimony more credible. For those who believe, that when our Governor mentioned the issue of moratorium, he said, 'What do you do about eye-witness test... weak eye-witness testimony?' Do you allow that eye-witness testimony to be subject to pretrial deposition? Do you allow them to be subject to that question and answering and if they're consistent through the deposition and also a trial, it's gonna make the case stronger. But if you find that there is weaknesses in the case earlier, I think what it does it

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resolves cases and maybe you shouldn't have to move forward with the cases. And that is what I said earlier, it'll make the good cases better and the weak cases will be exposed for what they are. This Bill has a broad range of support. Not only the Illinois State Bar Association, but also received the support of the Cook County Board, John Stroger, the Illinois Chiefs of Police Association, the Illinois Sheriffs Association, I believe, Illinois State's Attorneys Association, as well. I'm ready to answer any questions on this, Mr. Speaker."

Speaker Turner, A.: "The Gentleman from Cook, Representative Dart."

Dart: "Thank you. Will the Sponsor yield?"

Speaker Turner, A.: "He indicates he will."

Dart: "Jim, just a couple of quick questions here. Does the defendant have the right to be present during the depositions?"

Durkin: "No."

Dart: "Now, I know that the way the Constitution is written it allows the defendant to be present at all stages of the trial and throughout. How is it that this overcomes constitutional concerns about the fact that the defendant will not be allowed at this rather important stage of a trial?"

Durkin: "This is a discovery deposition. It's not an evidence dep. The whole analysis comes out whether or not the defendant must be present comes down to whether or not this is a critical stage within the criminal justice system. The defendant is not allowed to be present within the grand jury, which I think is probably one of the most critical stages. I think, that also... I've discussed this with a number of Members. If we made this an evidence deposition,

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then I think there'd be a question about the presence of the defendant and it would deny him the right of confrontation, so to speak, or not being present for a proceeding which we believe to be important. But under this proposal, I feel very comfortable that by not having defendant's present there it's going to keep this legislation... will be found constitutional if it is challenged and we're not denying him of any type of due process rights as well."

Dart: "So, then basically Jim, what you're saying then is that the... this will not be considered a critical stage of the trial then for constitutional and legal reasons?"

Durkin: "That is the analysis which has been traditional whether or not this is a critical stage within the trial process. I don't believe a discovery deposition is."

Dart: "Okay. But what about in the scenario where a defendant is going pro se, where he's his own attorney? Does this address that?"

Durkin: "That would be a motion that the court wants to... The pro se defendant if he's... the same way they treat 'em presently. I mean, there is counsel which sometimes is appointed to sit with him at the bench for purposes... at times. I'm gonna leave that in the hands of the court and let them make that decision of whether or not they need to have counsel present. But I don't believe this is a critical mat... doesn't fall within the critical stages... critical-stage analysis which would require the presence of counsel."

Dart: "But there's quite a few of the defendants who do proceed pro se truly do it. They don't even want... And I've been there for those trials where they don't even want the court-appointed attorney to be sitting with 'em. Is there

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any reference in the Bill as to when that scenario arises? When you have the defendant who says, I want nobody there, I wanna be there by myself. How is it that this Bill addresses that so that that person can avail himself of the depositions just like the person who is represented by counsel?"

Durkin: "It doesn't exactly go into the pro se situation which happens in less than 1% of the cases that we are talking about and we're talking a very limited type of case. It doesn't address that, but I believe I'm gonna leave it in the hands of the court, 'cause you have to go to the court and you have to have leave, get leave and show good cause why you are seeking this deposition. So, I'm gonna leave this and let the court make that decision."

Dart: "So, that I guess what you're suggesting then that in that situation the defendant would have the opportunity to go in front of the court and say, your honor I'm proceeding pro se in this matter and I would like to seek the court's leave to conduct these depositions myself in that capacity."

Durkin: "Arguably he could probably make that motion which he's... if the court grants it, that's fine. I mean, and if the court wants to allow him counsel that's fine. He can do that, as well. A court can appoint that. And that is why we've got a funding mechanism in the Bill to take care of that, as well. But I believe that that's something that should be left to the discretion of the courts. I believe it's something which is... It's a very limited type of situation in which that's gonna occur, so I don't think... It doesn't address it per se in this legislation. That's why I think that there's a mechanism in here which will give the court latitude to make the decision whether

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or not it is appropriate under the circumstances."

Dart: "Yeah and I couldn't agree with you more that the number of defendants that proceed pro se is so miniscule, but it does occur and the ones that I've witnessed have been in some of the more high profile cases where they have decided that they've had enough of the public defender and they don't like anybody, they don't want anything to do with it. And I'm just trying to make it clear for...

Durkin: "Sure."

Dart: "... 'cause as you know and I know, it's those oddball cases are the ones that end up at the Supreme Court and the ones that cause all the problems. And I'm just saying for the purpose of legislative intent, when that oddball situation occurs where you have the pro se defendant, his avenue then is to proceed to the court and to seek leave of the court to be allowed to carry on the deposition."

Durkin: "He would be able to make that motion. However, as you know as well as I do, for these types of cases no court is gonna allow someone to go pro se when state is seeking death. It's just not something which I've ever seen nor I think any court in the State of Illinois is gonna allow, because you're going to... That's an automatic built in reversal, I believe, upon conviction."

Dart: "Yeah. But I mean, ultimately, the defendant has his right to proceed in the form and fashion he wants and if he has decided to go pro se, even if you have an appointed counsel with him, I have seen defendants who and I know you have as well, who are less than, let's say, reasonable and I can see very well they're gonna sit there and say, listen this is the accuser here, this is one of the eyeball witnesses and I know him, he's in an opposing gang, I want to take his deposition and I want to proceed that way. I'm just

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trying to make it clear that in your legislation then you've allowed for the latitude for that situation if it does occur."

Durkin: "Yes."

Dart: "Okay. One final area I just want to talk about. With the requirement of the timeliness of the depositions, it's required to be done... Is it... Was it 90 days?"

Durkin: "Ninety days upon the notification of the intent to call these individuals as witnesses. That was the suggestion brought from the Attorney General's Office to me to put at least some type of... so these cases do not go on in perpetuity. First of all, we're talkin' the state right now has 120 days to declare whether or not they are going to seek death and we're saying that upon notification within their discovery that they're gonna call x... you know, witness x, y, or z then there's a 90 day requirement and unless you can show good cause why you could not comply with the 90 days. And I think that once again, we're givin' the court latitude, particularly when you're... the whole purpose is to move the process along a little quicker."

Dart: "Sure, sure."

Durkin: "And I think that in the long run it's gonna benefit the prosecutors. And this is what the Attorney General said, they wanna be able to depose these witnesses who are sometimes can be troublesome, the gang witness. You wanna get them on paper as early as you can, as opposed to waiting about two and a half years after they have been confronted numerous times by either friends, people from the neighborhood or from defense attorneys. So, this in the long run is gonna benefit the prosecution."

Dart: "Okay. And the prosecution right now, presently, does put

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most of these people on paper. I know, a friend of both of ours who's finished the Ceriale case in which he had virtually everybody was on paper in that case. So, I mean they do do that now. But what you're sayin' though, is in those instances where the do... cause is shown, you can extend that 90-day requirement beyond that, but there has to be an affirmative showing, is that it?"

Durkin: "I believe the legislation just puts the onus on the individual who has not complied, has not produced the individual to establish why they haven't been able to produce 'em."

Dart: "Okay."

Durkin: "But, you know, we're talkin' about putting, you know, in the Ceriale case, yes they are on paper. However, this was the grand jury, as you know, or the court reporter save and I think this is a cleaner way of moving along when they've been available for cross-examination. This is gonna make the cases better in the long run when they do disappear."

Dart: "Yeah, but as far as sort of helping the prosecutor, what you were talkin' about, by putting them in the grand jury, the prosecutors were able to get everything they wanted out of it. And of course, they did not have the cross-examination, but that was part of the benefit for the prosecutor, was you were able to get 'em on paper. But I guess, as I said, my only concern was there is that ability to extend it if there does need to be that."

Durkin: "Yes, there is legis... there is a safety valve in there to at least if there is... establish at least with some minimal requirement of cause why they're... have not been able to complete the deposition within that time frame. The court is allowed to give latitude to either party to continue that for them to complete that task."

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Dart: "Thank you."

Turner, A.: "The Gentleman from Lake, Representative Osmond. For what reason do you rise? Osmond."

Osmond: "Thank you. Will the Sponsor yield?"

Speaker Turner, A.: "He indicates he will."

Osmond: "Jim, during our committee hearings there were a number of issues that came up. I think the one that we looked at most, as far as objections, was the cost factor for state's attorneys and public defenders as far as the deposition costs. How does this Bill address that?"

Durkin: "Quite easily. First of all, this is going... we are going to tap into the Capital Litigation Trust Fund, as we know, came out of the... which we passed two years ago and the language in this legislation allows for the funding to be taken out of that fund. Also, before you make... you order the transcript, there has to be a showing before the court, the court has to order the production of that transcript and you have to show, first of all, that the witnesses are material. At least put some type of stopgap which presently that language I took out of Florida within the deposition log that they have, but it is gonna be funded out of the Capital Litigation Trust Fund."

Osmond: "And if I'm not mistaken, there are certain individuals that are not subject to deposition under this Bill. Who are some of those people that are not?"

Durkin: "Certainly, I mean, as I... This is a very dramatic leap within the area of criminal procedure in Illinois. And I wanted to make this very limited as we can. I've excluded police officers, victims, and also family members. Police officers, you have an opportunity to cross-examine them at various stages during the criminal justice process. First of all, at the preliminary hearing stage or either at the

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motion to quash arrest, motion to suppress statements. I don't think it also is necessary, while it is a murder case there can be victims, there can be a loved one who was murdered and the... I'm giving you example of the home invasion where one person is killed, the other one survives, the other one is a witness, a witness to what happened. I don't think they need to be subjected to a deposition. And also the family member, the son or daughter who watches the father pummel the mother to death in front of their eyes. They should not be subject to a deposition. So, I've limited this to eyewitness testimony, persons who state that they overheard the accused admit to a crime, but also alibi witnesses, which makes this reciprocal, allows the state to depose an alibi witness who... and as I said, I'm trying to make this as balanced as I can. So, we have it very limited under those three scenarios which I just stated."

Osmond: "Thank you. I'm in strong support of this Bill. As a nonattorney on the committee, I was frankly surprised that we couldn't depose witnesses in the criminal case anyways. I think this is going to help us bring fairness back to our system and more confidence in the legal system. And I urge all of my colleagues to support this and the other two Bills that Representative Durkin will be presenting. Thank you."

Speaker Turner, A.: "The Gentleman from Cook, Representative Brosnahan."

Brosnahan: "... yield?"

Speaker Turner, A.: "He indicates he will."

Brosnahan: "Jim, you know I've been listening to your answers and in your answers, in response to Representative Dart's question about a pro se defendant, and I heard you mention

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that you think a defendant can make a motion to a judge and ask that he be allowed to attend the deposition. Jim, I'm sure this Bill is probably gonna fly out of here, but I would just suggest to you maybe, when I look at the language of this Bill on page 3, 'the defendant shall be barred from attending any discovery deposition'. I think, when it goes across the hall, I really think you should give maybe some serious consideration to asking about an Amendment to be put on because to me, when I read this language, I really don't see how a defendant... sure they can make a motion, but when I read the plain language of the Bill, I really don't see that as a viable option. So, I think maybe you might want to think about an Amendment across the hall there. Now, another a question I had, Jim, is right now a prosecutor or a police officer, you can tell a victim of a crime, maybe a state's witness, that they have the absolute right not to talk to a defense attorney if they call you on the phone or if they go to your house or if an investigator for the defendant tries to contact you. Right now, a state's attorney or a police officer tells them you have a right not to talk to 'em. So, obviously, this brings about a big change in that. We're telling witnesses that you have to attend a deposition. My question is, what happens if a witness decides not to testify at a deposition? Is there anything in this Bill that would bar that witness's testimony at trial or what would the remedy be if you have a witness saying that he will not testify at a deposition?"

Durkin: "Well, once again, I make mention of that in subsection (k) which we are going to allow that those types of situations will be governed under the Code of Civil Procedure in which you can have a rule to show cause and

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maybe at some point let the court make a decision, which they have broad range decisions they do under the Civil Code to determine what they are to do with that witness. So, I'm gonna allow that to the discretion of the court."

Brosnahan: "Okay. Now, Jim, I know and I don't know if they've been adopted yet, but supposedly, the Illinois Supreme Court, they're gonna come up with some recommendations from Rules that are gonna address this area and I know there's been some reports of what they may be. Could you tell us what the difference is between your legislation and what those purposed Supreme Court rules are gonna be?"

Durkin: "Certainly. The Supreme Court rules are applying, I believe, just to capital cases. But they're gonna open it up for every witness, for police, the victim, where they watch... where they survive the attack and their spouses does not survive, they allow for any witness. This is very limited to the eyewitness testimony, a third party confession held by witness. Excludes, as I told you before, excludes that group of individuals, police officers, the victim's family members."

Brosnahan: "Okay."

Durkin: "That's the distinction."

Brosnahan: "That was my understanding as well and that's why I think this piece of legislation is obviously a lot more favorable to victims of crime and the witnesses. Thank you."

Speaker Turner, A.: "The Gentleman from Champaign, Representative Winkel. For what reason do you rise?"

Winkel: "Thank you, Mr. Speaker. I'll be brief. I wanted to compliment Representative Durkin on all the hard work that's taken place in the Prosecutorial Misconduct Committee and I think this is the first of three Bills that

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he'll be presenting. I rise in strong support of this Bill. It goes to the very heart of the problem in preparing for death penalty cases. I'm more familiar, myself, with civil litigation and we've had depositions in civil litigation, noncriminal matters, for years. It makes absolute sense to have depositions available, particularly in a death penalty case, where both sides need to be prepared, where the defense needs to have access to the facts. And quite frankly, a lot of the reversals that we've seen and the mistrials that we've seen in years past could have been, I believe, avoided had we had depositions in the past. I think Representative Durkin's Bill is reasonable. I think it's long overdue. And I support it. Thank you."

Speaker Turner, A.: "The Gentleman asks, 'Should House Bill 1842 pass?' All those in favor should vote 'aye'; all those opposed vote 'no'. And the voting is now open. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 115 voting 'aye', 0 'nays', 0 'presents'. And this Bill, having received a Constitutional Majority, is hereby declared passed. The Gentleman from Cook, Representative Durkin, on House Bill 1843. Read the Bill, Mr. Clerk."

Clerk Rossi: "House Bill 1843, a Bill for an Act in relation to criminal law. Third Reading of this House Bill."

Speaker Turner, A.: "Representative Durkin."

Durkin: "Thank you, Mr. Speaker. House Bill 1843 is the second Bill which is part of the Prosecutorial Misconduct Committee. This Bill is a... it's a codification of a Supreme Court case in the early 1960s, Brady v. Maryland, which came down in 1963 which put an affirmative obligation

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upon the prosecution to release and to disclose favorable evidence to the defense. But also, within this Bill it not only places the affirmative obligation, the codification is the first part of the Bill. The second part of the Bill is... it's the sanction portion when there is a situation where exculpatory evidence is not disclosed. It only becomes a situation when someone's been convicted, whether it's a misdemeanor or if it's a person who is sitting on death row. We've seen a number of cases which people have been released because there have been Brady violations. That means a report which was central to their defense was not disclosed. So, what this Bill does, first of all, it puts the requirements of Brady into law, but also states when there is a violation of Brady and material is determined to be Brady material, then following conviction, the remedy or the mechanism which is gonna go in place states that the prosecution must show by clear and convincing evidence that the outcome would not have been challenged or changed because of the nondisclosure. I think it's important that we codify this type of language, 'cause we do this on a regular basis. We codify decisions that we think are important and I think, Brady v. Maryland is probably one of the most significant criminal procedure cases which has come down in years. This legislation, this Amendment... not Amendment, House Bill 1843, is about granting a person a right to a fair trial giving them their day in court. I think what this does, it puts an emphasis on the fact that Brady violations should be taken very serious and that there are sanctions in the law by statute when there is noncompliance. I'm ready to answer any questions, Mr. Speaker."

Speaker Turner, A.: "The Gentleman from Lake, the only nonlawyer

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on the committee, Representative Osmond."

Osmond: "Thank you, Mr. Speaker. There were several nonlawyer Members and all of Representative Durkin's Bills, I think, had been met with unanimous consent. This issue again, with the... whose responsibility is it to conduct a fair hearing? And opposition to committee from witnesses felt that this would be ground-breaking legislation in the country and that no other state would have gone and been this bold in it and Representative Durkin, to his credit, said that's exactly why we need this legislation, because the burden of proof should be on the state. And the state's attorneys, in my estimation, are the ones that are responsible for conducting a fair hearing and if there is evidence out there that should have been turned over, then that's part of their obligation to do that. And it is a question, there was the thought about the need for too tough to communicate with the law officers. Well, I think that's a burden that we have to overcome. That's part of our process and yes, it will be challenging for them to do it, but I think that's the role that they have to accept and to bring forth so that we do return credibility to our justice system. The testimony, I think, Representative Durkin, if you'll refresh my memory on this, I think there's another obligation in there that if a person is convicted that there are some additional requirements from the State's Attorneys Office to show that the evidence left out was not significant. Maybe you could explain that to me. When a person's convicted and they find out that there is some evidence that was not disclosed, what burden does the State's Attorneys Office have in that case?"

Durkin: "Well, first of all, there has to be an establishment that this evidence which was not disclosed is material and

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favorable. Present law states that it's the defendant's obligation to be the movement to establish why it would have changed... perhaps it would have changed the outcome of the trial. What we're doing in this is shifting the burden where I think it should be, on the prosecution. The issue was brought up before the committee is that Brady material was not disclosed to me and I'm the one who is... I have a client who's sitting within the Department of Corrections. This is material which would have gone, we believe, would have changed the outcome of the trial. Why should I be the movement... movement? Why should I have to move forward? It was not my fault that I didn't get that information, to me that makes complete sense. So, what we're doing is... Basically, all we're doing is shifting the burden over from the defense to the prosecution to establish why it would not have changed the outcome of the trial."

Osmond: "I think Representative Howard asked a very good question in committee with regards to whether or not a jury should be brought back into the process. Representative Durkin, when that question came up about jury notification and there was some concern from witnesses that if somebody had been declared it was... did that not relate back to the judge making a determination as to whether or not the evidence was important enough to make a decision on?"

Durkin: "Certainly. It was brought up in committee, but that's what courts do on a regular basis, day in and day out. They've been doing that for years at post-trial motions in which they rule on whether or not there are evidentiary flaws within the course of the trial. It is not the... That is not the function of the jury to determine whether or not there's been an evidentiary violation. That is the

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sole discretion of the court and that's what we're allowing under this legislation."

Osmond: "So, that really doesn't break any new ground with regards to the appeal process that way?"

Durkin: "No, it doesn't."

Osmond: "Well, again, I rise in support of this Bill. It's a fairness issue. It leaves the burden of proof on the state's attorney, where it should be. And, again, I think this is going to restore the confidence in our system. And I urge all a 'yes' vote."

Speaker Turner, A.: "The Lady from Cook, Representative Howard."

Howard: "I heard my name used in debate and I had wanted to speak on this issue anyway. I commend Representative Durkin for this legislation because I think that it certainly goes a long way toward making certain that the citizens of our state can regain the confidence necessary in the criminal justice system. I certainly hope that all of the persons who serve with me on that committee, in fact, are as convinced as I am that this is the right vote, a 'yes' vote. And I certainly hope that the Members, the other Members of the Legislature, will join with me and Representative Durkin and making certain that this Bill passes out by an unanimous vote. Thank you."

Speaker Turner, A.: "Representative Durkin to close."

Durkin: "Thank you very much, Mr. Speaker. As I said before, what this Bill does is it codifies which, I think, is an important aspect of the criminal procedure process, that's the issue of the disclosure of Brady material. And what this does it just gives a person their day in court. It's about fairness. And I believe that this is important enough to make it a part of our State Law. And I'm asking for a favorable consideration by the House."

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Speaker Turner, A.: "The question is, 'Shall House Bill 1843 pass?' All those in favor should vote 'aye'; all those opposed vote 'no'. The voting is now open. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 115 voting 'aye', 0 'noes', 0 'presents'. And this Bill, having received the Constitutional Majority, is hereby declared passed. Representative Durkin on House Bill 1844. Read the Bill, Mr. Clerk."

Clerk Bolin: "House Bill 1844, a Bill for an Act in relation to criminal law. Third Reading of this House Bill."

Speaker Turner, A.: "The Gentleman from Cook, Representative Durkin."

Durkin: "Thank you very much, Mr. Speaker. House Bill 1844 is the last Bill which came from the Committee on Prosecutorial Misconduct. I think this Bill is very significant 'cause we are making, once again, a very dramatic change in the law, but I think it's very important with what we're trying to do in this legislation. This Bill's gonna address the problem which we've seen with jailhouse informant testimony. Not only is it a nationwide problem, but also it's a problem within the State of Illinois. This Bill does not state that you cannot use this testimony, but what we're trying to do is state that when if you are going to use this type of testimony before a jury, that the court should conduct... a court must conduct a pretrial reliability hearing before it goes to the jury. I think jailhouse informant testimony always should be looked at with a jaundiced eye. We have another... I kind of equate this with a number of things we've done in the past. Representative, we've had certain types of hearsay exceptions specifically 115-10.2,

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115-10.4, which are refusal to testify despite a court order and also, when you have a person dies and they had given a prior statement. Those are nonfirmly rooted hearsay exceptions which we cannot just summarily use before the court. There's a reason why, because there is an issue of the reliability of that testimony and I've equated that type of hearing with what I'm trying to do under this informant testimony. Let me just give you some examples of some of the issues that have problems we've seen through the nation. In the 1980s, let me... this goes back to California. There was a controversy over the handling of jailhouse informants. One of them was the name of Leslie White, he was so... he was the dean of jailhouse informants. He was so advanced in creating confessions for inmates that he demonstrated his methods on 60 Minutes and he later revealed an in-prison school where more experienced inmates taught recently incarcerated prisoners how to create confessions of others. There was another case which came out of Florida which goes to the heart of what the problems with using informant testimony. This was a case of Willie Falcone and Sal Milgueda who were tried and the prosecution used 27 informants against them. These two gentlemen were found not guilty. Quotes from the defense attorney was what happened in this case is that their worst witnesses spilled over and poisoned the better witnesses. We were able to create not just reasonable doubt, but to prove perjury and when you prove perjury about witnesses A, B, and C, then the jury automatically distrusts witnesses D, E, and F. The defense attorney followed, he said some of the witnesses were so bad they infected those who were not so bad. In Illinois, of the 13 people who were released, five of them were convicted in

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part on jailhouse informant testimony. It has become a problem nationwide, but also here in Illinois. We would be the first state with this legislation which would put the brakes on this type of testimony. I think it's important, 'cause we're not saying as I said before that you can't use this testimony, we're just telling you, prove its reliability before it goes before the jury, because that can be very damaging. What this also'll do, I think it's also important to note when you have this type of hearing and there is a fine air of reliability, it's gonna make that case stronger at the appellate stage. So, this is, once again, it's an issue of fairness and it's about eliminating untrustworthy evidence that goes before the jury and putting reliable evidence before the jury. I'm ready to answer any questions, Mr. Speaker."

Speaker Turner, A.: "The Gentleman from Cook, Representative Brosnahan."

Brosnahan: "Will the Sponsor yield?"

Speaker Turner, A.: "He indicates he will."

Brosnahan: "All right. Jim, I'd like to direct your attention on page 1 of your Bill, paragraph 5. My question is, is this recantation that you're referring to, is it limited only to those recantations made to law enforcement or does it apply to any recantation?"

Durkin: "If the state has knowledge of it whether it's to anyone. If they have knowledge that there's been a recantation whether it's in law enforcement or not, this legislation doesn't... if they have knowledge of it, they have a duty to disclose that information."

Brosnahan: "Okay. 'Cause obviously there's gonna be a lot of situations where I think claims are gonna be made later that maybe recantations were made to inmates that the

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state's gonna have no idea about until after the fact. So, I just wanted to make clear about that. Now, another question I had is down to paragraph 6 in which you state that the prosecution shall disclose other cases of which the prosecution is aware in which the informant testified in prior trials and maybe the inducements they were given. Is it your intent that this prior deal or this prior testimony would be admissible at trial?"

Durkin: "I'll leave that to the court to make that decision if it's prior testimony and if they, for some reason, the defense wants to use it for impeachment, that's certainly within the grounds. I'll leave that in the province of the court. Under this legislation, that is not something I'd considered, but however, if the court wants to use that, I mean, I'm going to allow them to use it. I'm not gonna... I mean..."

Brosnahan: "Okay."

Durkin: "I'm not gonna allow it, but..."

Brosnahan: "But under your legislation..."

Durkin: "... the thing is, I'll let the court make that decision. If there is a... I'm sorry, Jim, go ahead."

Brosnahan: "Okay. But under your legislation, it doesn't automat... it doesn't make it automatically admissible at trial... any prior deals? Correct?"

Durkin: "Jim, I'm having a hard time hearing. Could you just repeat that question again?"

Brosnahan: "Under this legislation, it doesn't make that prior deal automatically admissible against the informant, it seems to me. Correct?"

Durkin: "Well, as you know, I have in this... states that there's been a prior deal. As we know, these individuals are not testifying out of the good of their heart, it's for a

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reason. They are looking for some type of benefit. But the fact is, it's only when the prosecution is aware. I mean, some people on the defense side said just by putting, you know, they should eliminate the awareness and this should be just when they have testified, even if the prosecution doesn't know, that's something which should be challenged at a later point. But I think it's reasonable to say when the prosecution is aware of this person's testimony, prior testimony in which they've cut a deal on another case, then they have an obligation to disclose that information."

Brosnahan: "Okay. And that's gonna be up to the trial judge whether that could be admitted against the witness, correct?"

Durkin: "Yes, that's what I said. That's correct."

Brosnahan: "Okay. Now, if we go to paragraph 7, 'any other information relevant to the informant's credibility'. And to me, Jim, that seems like a very broad statement. I know I'm sure that includes maybe a prior rap sheet, but what other examples maybe can you give me, 'cause that just seems very broad to me."

Durkin: "Well, I don't think so. I think if the prosecution does have information, I mean, this is not complete... this is not exhaustive. This list of matters which I've asked him to disclose and as you know, every case is different. And so, when there is something which I believe the prosecution comes along they have an ethical obligation to disclose that to the defense which I think which may go to the credibility of that witness, that jailhouse informant."

Brosnahan: "Okay. Now, Jim, the last question I have it relates to the hearing. The court's gonna conduct a hearing and the state's gonna have to show by clear and convincing

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evidence that the informant's testimony is reliable. How does that change with the present law is right now?"

Durkin: "Oh, certainly. Right now, there's no pretrial reliability hearing. If you have a jailhouse informant, he is put on the stand and he is allowed to testify. We're changing the law and I'm gonna... as I've stated when in my opening, that I am equating this type of hearing with what we do with certain types of hearsay exceptions. Things which, as I stated before, the nonfirmly rooted hearsay exceptions which there is a requirement of a pretrial reliability hearing, showing guarantees of trustworthiness. And a matter of fact, I think you may have cosponsored a couple of those Bills which I sponsored which were now part of the Criminal Code of Procedure, 115-10.2, 115-10.4. I'm also following what the reasoning behind having this pretrial reliability hearing also came out of legis... what is presently done in the federal courts under the Daubert v. Merrell Dow Pharmaceuticals and also the Kumho Tire cases. In a federal courthouse, if you're an expert witness and if you're to testify for money, perhaps, on a tire defect, manufacturing defect and you're being paid, you have to be submitted through a pretrial reliability hearing before the court. Makes sense. However, in Illinois if you're a jailhouse informant and you state that, my cellmate came to me and admitted to a crime, you're not subject to that. There's something wrong with that and I think that, as I said, there should be... this should be always looked with a jaundiced eye and I think that the court should act as the gatekeeper of reliable evidence for putting the court in their proper function and their proper role as the gatekeeper of that type of testimony."

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Brosnahan: "Okay. Thank you."

Speaker Turner, A.: "The Lady from Cook, Representative Yarbrough."

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

Speaker Turner, A.: "He indicates he will."

Yarbrough: "I wanna commend the Sponsor of this Bill. I think it's gonna go a long way in righting some of the wrongs. One thing about this particular Bill, jailhouse snitch testimony is notoriously unreliable for the simple reason that such informants, they have every reason to concoct stories to get lighter sentences. This proposal will ask the judges to make sure that the most dubious jailhouse informant testimony never sees the light of a courtroom. I wanna commend the Sponsor and urge an 'aye' vote."

Speaker Turner, A.: "The Gentleman from Logan, Representative Turner. John Turner."

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

Speaker Turner, A.: "He indicates he will."

Turner, J.: "Jim, we've discussed this in committee and I had a couple of concerns at that time. And the first one is, I'm not sure that the Bill really spells out how this hearing is called or noticed in front of the judge and then, exactly how the hearing is conducted. Could you at least, since it's not in the Bill, state for the record how you would envision this would occur?"

Durkin: "John, the same way in which a 115-10 hearing is presently conducted. When you have certain types of children testimony, but also as I've mentioned before, certain hearsay exceptions in which the state, if they are seeking to use certain type of testimony, then they have the obligation of putting forth an evidentiary hearing before the court to establish that this is credible and

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reliable... whatever burden and this one we're asking clear and convincing. I'm leaving it, you know, this type of situation. It was a good question you brought in committee, but I'll look at this as gonna be a totality of the circumstances. You can look at a number of factors in which the prosecution will bring forward and that whether the informant testified received benefits for testifying in any other cases, the specificity of the informant's testimony, how the informant obtained the statements, the existence of any type of independent corroboration of the statement, any changes in the informant's statements and the informant's criminal history. As I said, it's a totality circumstances in which presently, I believe, is how you move forward into 115-10 hearing."

Turner, J.: "All right. You give me too much credit, because I can't remember exactly how a 115-10 hearing is conducted. But did you mention, that hearsay is admissible in a 115-10?"

Durkin: "Well, as you know and I think that you've helped me with a few of those cases over the past... few of those laws over the past few years. Under 157-35 and 115-10.2 and .4, if you want to pull the statute out, 115-10.2 was a residual hearsay exception which came out of the federal rules of evidence when a witness refuses to testify despite a court order and they have given a prior statement. At that time, if they still refuse, the court is allowed to put that statement in, if they can show that the statement has a certain degrees of reliability and indicia of trustworthiness. The same with the 115-10.4, that is, you know, the death exception, When a person dies prior to trial, but they have given a statement. The state can at one point they can make the motion to move forward if they

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can show that there is certain degrees of reliability and indicia within the statement to put that before the jury. That's... I've equated that type of procedure with this type, what we're doing under this legislation."

Turner, J.: "Do you intend for this legislation to apply to all criminal cases or only murder cases?"

Durkin: "All."

Turner, J.: "All criminal cases, then. All right. Including misdemeanors and or like felonies and I would think that misdemeanants..."

Durkin: "I have not seen one for misdemeanor..."

Turner, J.: "... would not occur for..."

Durkin: "... but they use them for other felonies. But I think... No they're not used as, you know, to that great extent, but I think it'd be wise to keep it open for all criminal cases."

Turner, J.: "I know you've worked very hard on this Bill, as well as the other two pieces of legislation that you just passed out of here, unanimously. And as to the first one, I think the state's attorneys lifted their opposition. As to the one we just passed a few minutes ago, I think the state's attorneys were still opposed, although, at least in my judgement it was not a real firm opposition. This one strikes me as a bit different that the state's attorney are very much opposed."

Durkin: "There's..."

Turner, J.: "And what is their concern?"

Durkin: "There is... This one's interesting. The supporters of this Bill. I mean, President John Stroger of the Cook County board, who recently paid out 30... \$26 million on a wrongful conviction to four individuals, part of it dealt with jailhouse informant testimony. The Cook County

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Sheriff, Michael Sheehan, has endorsed this proposal. The Kane County Sheriff, Ken Ramsey, has endorsed this proposal. And I think it's very significant when those two individuals who are the jailers of these informants take that type of stand, 'cause they know what they're all about. The Cook County jail is the largest free-standing jail in the United States and I think it's very significant when he makes a statement that this is responsible and this is good legislation and this is gonna advance the truth-seeking process."

Turner, J.: "Okay. But getting back to the state's attorneys, they still are opposed are they not?"

Durkin: "They are opposed. The Attorney General slipped it in committee and said that they are supportive in concept. That's a new one, never heard of that, but they..."

Turner, J.: "All right. You say the..."

Durkin: "The State's Attorneys..."

Turner, J.: "... Attorney General is supportive in concept."

Durkin: "Yes, he did. That was what their... in committee, I don't know if you recall, that was what their..."

Turner, J.: "Okay."

Durkin: "... how they slipped it in committee. But state's attorneys are opposed to the legislation, though."

Turner, J.: "What happens in a bench trial? This just is nonapplicable?"

Durkin: "There's a waiver provision in this legislation, but right now, as we do with 115-10, they can conduct a hearing along with the trial, at the bench trial. It's done frequently when you have..."

Turner, J.: "Well, no, I'm trying to envision. We have a bench trial and then the court would have to make a finding that the testimony is reliable by clear and convincing evidence

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before you would proceed to go to trial and then that same court would be judging whether there's proof beyond a reasonable doubt?"

Durkin: "Well, hypothetically, that could happen. But the thing is, you know, as I said, there's a waiver provision in here, you know, and I've seen how these hearings have been conducted before in which the court is going to incorporate his ruling within during the course of the bench trial. And I don't envision any logistical or mechanical problems with the operation of this."

Turner, J.: "Well, okay, Jim. I didn't... You say there is a waiver in the Bill, so that it only applies to juries? Is that what you meant when you said there was a waiver?"

Durkin: "That's correct. On page 2, line 10."

Turner, J.: "Oh, yes. The defendant can waive the hearing, but it is your intention then, if there is a bench trial that the court would actually conduct this hearing be... even though there's no jury involved?"

Durkin: "Sure, it happens all the time. I've had juries and motion, simultaneous hearings, particularly in narcotics cases, where they will have the motion to quash simultaneously with the actual bench trial. It happens quite frequently and I envision that in that situation the court would be able to address both... if he wants to address the reliability and he also can make a decision, you know, based on the finding of the guilt or innocence following his finding of the reliability, unless the defendant waives."

Turner, J.: "Representative, thank you for answering my questions. To the Bill. I think that you've done some excellent work here. I still believe that this Bill needs to be tweaked just a bit. I think that some additional

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language in subparagraph (d) would be helpful. I, also, have a concern about having the court make this finding before the case actually gets to a jury. In a small way, at least, it invades upon the providence of the jury. In some situations a jury, where subparagraph (d) is invoked, are simply not gonna be in a position to hear evidence that they otherwise would have heard. Normally, as you know, whether it be a civil case or a criminal case, it is up to the jury to decide whether testimony is reliable. It's up for a jury to weigh the credibility of the person who is testifying. Subparagraph (d), in some instances, will take that discretion authority away from the jury and that still gives me concern, as well as the other factors I had mentioned. But, again, Representative Durkin, I commend you for your work."

Speaker Turner, A.: "The Gentleman from Coles, Representative Righter."

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

Speaker Turner, A.: "He indicates he will."

Righter: "Representative Durkin, I want to ask a few questions regarding the issue of informants and the burden of proof that is imposed by this Bill. First, can you liken and I think that you've tried to liken and maybe you can elaborate on that, this provision in this Bill to other areas in criminal law that already exist in the Code of Criminal Procedure?"

Durkin: "Yes, I've brought that up before what... A matter of fact is I mentioned to Representative Turner, even though I'm trying not to use his name in debate and I'm sure he won't get up for anymore questions. I liken it to the Sections that became law within the last four years and that's under the Code of Criminal Procedure 115-10.2,

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115-10.4. Those are, as I said before, that's the situation, it's a hearsay exception on refusal to testify despite a court order that's 115-10.2 and also, refusal to testify. I mean, not refusal, but when there is a... when the witness dies and they have given a prior statement. Both those situations, those are deemed as nonfirmly rooted hearsay exceptions which don't go automatically before the trier of fact. There must be some type of... You must conduct a pretrial reliability hearing and we're talking about what is required. In getting back to those situations, that's what the Ohio v. Roberts Supreme Court case has mandated. That's the type of procedure which I think we need to follow, but I also made mention of what is presently being done in the federal courts when you have expert testimony under the Daubert and also the Kumho tire case in which a person as civil litigant is seeking to hire an expert... hires an expert to testify based on some type of... when they have some type of expert testimony based on scientific knowledge, but also testimony based on any type of other specialized knowledge. To me, I think, a jailhouse informant falls under that specialized knowledge exception. We do that in civil cases and I think it's important if we are gonna seek... in some situations we are seeking to execute someone and we're basing it on informant testimony, I think that that person should be looked at with a jaundiced eye. And you know, if they're not... if the admission's not captured on a wire, I think the court should act as the gatekeeper of this type of evidence. So, as I said, I've likened it to 115-10.2 and 115-10.4."

Righter: "Representative, in both of those Sections and with regards to expert testimony, though, what you are doing there is you are taking testimony, whether it's rendering

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an opinion or in the other two cases, just allowing the testimony at all. You're allowing testimony in that is otherwise barred under the normal... rules of evidence, correct? Those are allowing in evidence... Normally you wouldn't allow someone to give an opinion unless they're first ruled to be an expert?"

Durkin: "As we're doin' with this. We're allowing testimony in, but we're making sure it's reliable, but you know..."

Righter: "Okay. But..."

Durkin: "... your point, yes. That's what the previous examples I gave..."

Righter: "Yes."

Durkin: "... we're allowing testimony in."

Righter: "All right. I guess the point I'm making is that this provision in your Bill is not really analogous to those because what you're doing in this Bill is taking testimony that is, otherwise under the law right now, allowed and pulling it out whereas in these other three Sections that you're citing, you're taking evidence that otherwise would not be allowed and qualifying it and insuring its reliability before it goes in. Is that fair to say?"

Durkin: "You're absolutely correct, you know it. I am... think jailhouse informant testimony, I'm not here to defend it, I never will. And I think... I'll make this statement, this stuff should... is unreliable. Start with the proposition that it's unreliable and move to reliability through the hearing. That is what we do with 115-10 and the prior hearsay exceptions. I don't see any difference."

Righter: "Representative Durkin, who... where's the State's Attorneys Association on this Bill? Maybe you've already mentioned that and if you have..."

Durkin: "They're in opposition."

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Righter: "Okay. Are there state's attorneys offices that you know of who have contacted you who are in favor of the Bill?"

Durkin: "I have not received a... The only person who is... the Attorney General has stated in committee that they are supportive of the concept of the pretrial reliability hearing and they made no further statement to that approval."

Righter: "The other concern that I've got, Representative Durkin, has to do with this actual hearing that takes place before the trial where you have the so-called informant on the stand and he's being questioned by both sides. The defense attorney will be allowed to inquire, will he or she not?"

Durkin: "I'll let the state make that decision if they want to put the informant on the stand, unless they feel that they have evidence which is they feel is sufficient to carry them over the threshold which I've set out in the Bill. If the state wants to put 'em on the stand, they're more than welcome to put 'em on the stand."

Righter: "Can you, in your opinion, Representative Durkin, or won't in most cases, the state have to put the informant on the stand to meet the burden of proof that you've got in the Bill?"

Durkin: "If they do, I think it's great because as I said before, the whole purpose of this is to cipher out... is to get rid of the bad evidence ahead of trial. If you're gonna put this person through a reliability hearing and then they testify, I think and the court makes a finding reliability, I think it's gonna go a long way upon following conviction before the appellate court and the supreme court. When there's a challenge to that type of... to the reliability of that evidence, but if they wanna put 'em on, if they

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think that's gonna... it's going to help them cross this hurdle of this pretrial reliability hearing, then I suggest that they do it."

Righter: "Well..."

Durkin: "I mean, these people should not be protected. I don't think we should be treating them with kid gloves. We should treat..."

Righter: "Well..."

Durkin: "... 'em from what they are. They're there, as I said before, not out of the goodness of their heart. They're there to testify for something in exchange. They're doing it for a reason."

Righter: "Well, I understand that, Representative Durkin, and you know, aside from treating people with kids' (sic-kid) gloves and things like that... What I'm asking you, is in your practical experience as a prosecutor, in most instances don't you believe that the state will have to put the informant on the stand in order to meet the burden of proof that you've got in the Bill?"

Durkin: "If they do, I think it's great and I would encourage..."

Righter: "What do you think? Do you think they will have to? That's what I'm asking, not whether you think it's good or not. Do you think as a practical matter, will the state in most instances have to put the person on the stand?"

Durkin: "It depends on what other type of... if they have corroborating evidence that's... I'm gonna leave that to the discretion. Maybe they will. I think probably if they are gonna choose this type of testimony. I think it's the best practice is to put 'em on the stand and allow 'em to be screened prior to trial."

Righter: "Now, under the Bill that we passed just two Bills ago, House Bill 1842, Representative, would a person who

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witnesses or hears a confession be an exempt party under your deposition Bill that we just passed?"

Durkin: "Absolutely not."

Righter: "Okay. They are not."

Durkin: "Jailhouse informants, let's put 'em subject to the pretrial depositions, as well. That was clearly my intent in the first place and you know, the more scrutiny we put into this individual under testimony the better, that they would be subject under... they would not be exempt under this legislation."

Righter: "Are you concerned, Representative Durkin, about the ability of... in these special hearings when the informant is on the stand, for the defense attorney to go on what we hear all the time in court as a 'fishing expedition' in asking questions, very detailed questions, maybe not so much for the reason of determining the informant's reliability, but simply drawing out some testimony, get it on the record so that two weeks later, a month later when the court... when the case goes to trial, he then already has or she already then has a written record and it can simply go off that in an effort to trip up the informant, not on an issue of substance, but just an attempt to make the informant look bad to the jury?"

Durkin: "This is an adversarial proceeding and that's what the criminal justice process is about. If someone's gonna out lawyer the prosecution, you know, that's not anything we're gonna be able to cure, nor is the Supreme Court. But if these people are gonna be on paper and you're gonna use them from a deposition to impeach them at the hearing, you know, that's something which I think is acceptable and I think it's proper to do under these situations, 'cause we're dealing with a special type of individual people who

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have caused, in some instances, terrible tragedies within the state, but also throughout the nation."

Righter: "Thank you, Representative. Thank you, Mr. Speaker."

Speaker Turner, A.: "The Gentleman from Champaign, Representative Winkel."

Winkel: "Thank you, Mr. Speaker. To the Bill. I think this is a wise provision that's being presented in this Bill. I think under current law where we treat jailhouse informants just as if they were any other witness, I think is flawed. If there was one criticism that we heard over and over again during the hearings before the House Prosecutorial Misconduct Committee it was about the jailhouse snitch, the jailhouse informant. And I think that this makes the process fairer. I don't think it's an undue burden on the prosecution to have these preliminary hearings on reliability, I think it makes eminent sense. And so, I think it goes a long ways again to ensuring the integrity of the system and I think it's a wise move and I commend the Sponsor of the Bill. I intend to support the Bill."

Speaker Turner, A.: "The Gentleman from Cook, Representative Durkin to close."

Durkin: "Thank you very much, Mr. Speaker and Ladies and Gentlemen of the House. As I said, this has been a somewhat of a long and arduous process over the past two years, but I think, as I said before, the purposes of the legislation is not to be punitive against law enforcement, but what we're trying to do is advance the truth-seeking process. Illinois, it shouldn't come as any type of surprise to anybody that Illinois is under a cloud. I was recently in New York testifying on issues and everyone is looking at Illinois because of the moratorium, that's taken on national and international significance. They're

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looking for change in Illinois and if people think we don't need change, I can give you 13 good reasons why. But let me just give you, just going through this last Bill, one last item about another, you know, tremendous jailhouse informant. Marion Pruett, back in the late 80s in Los Angeles, as a jailhouse informant he pinned an inmate's murder on another, he was released as a result of his testimony. He went on to commit a string of bank robberies and murders. After being reincarcerated, he admitted that he had committed the original murder that led to his release. That is the type of problem we're trying to stop. These individuals turning the criminal justice system upside down because of their motivations to seek release and to avoid responsibility. This is, I believe, a responsible answer to a significant problem which I said is now a nationwide, but also here in Illinois. And I thank you very much, Mr. Speaker and Ladies and Gentlemen of the House. And I ask for your full support."

Speaker Turner, A.: "The question is, 'Shall House Bill 1844 pass?' All those in favor should vote 'aye'; all those opposed vote 'no'. The voting is now open. Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, we have 105 'ayes', 10 'noes', 0 'presents'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Speaker Madigan in the Chair."

Speaker Madigan: "Ladies and Gentlemen, the next Bill will be House Bill 1900 by Mr. Parke. This Bill is concerned with notification where there is an abortion by a minor. The Bill was thoroughly debated on Second Reading. I would suggest that every Member of the House knows now how they plan to vote. The Chair would propose that we have three

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proponents and three opponents and go to Roll Call. The first proponent will be Mr. Parke. Five minutes. And the Clerk will read the Bill."

Clerk Rossi: "House Bill 1900, a Bill for an Act concerning abortions. Third Reading of this House Bill."

Speaker Madigan: "Mr. Parke for five minutes."

Parke: "Mr. Speaker, Ladies and Gentlemen of the House. One of the hardest parts of being a parent is communicating with our teenage children. House Bill 1900 is good public policy because it strengthens families and protects minors' interests. The great majority of parents need and want to be involved in their children's lives. Illinois has become an abortion capital of the Midwest because we have no laws requiring family involvement. There has always been exceptions and problems with any major piece of legislation affecting families. However, for the great majority of our families this is good public policy. Parent involvement in minor abortions is to ensure parental rights by requiring that at least one parent is notified before their minor daughter has an abortion. Parents are responsible for paying medical bills incurred with any complications following an abortion, therefore, they should be informed of the abortion decision. Public opinion polls consistently show a majority of Americans understand the value of parental involvement and support requirement... requiring parental notification before a minor's abortion. Eighty percent of the public favor parental notification laws according to the Washington Post, July 1, 1992, the New York Times, January 16, 1998. To ensure teenage girls benefit from the best possible counsel and care before, during, and after an abortion decision, most teenage girls are not prepared for the possible aftermath, either

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physical, emotional, or psychological of an abortion. They need their parents to be involved and informed. It is indefensible for government which can legally require parents involvement to do by default to encourage girls to exclude their parents during this time in their lives. To protect teenage girls from potentially dangerous medical situation before, during, and after abortion. Parents must give counsel for other medical procedures excluding emergencies which include ear piercing, tattoos, the distribution of aspirin in a school setting. Minors often need their parents to sign school report cards and approve school field trips. Why should abortion be an exception? Parental involvement laws decrease the risk of medical complication connected with the abortion by allowing parents, parents, to be involved in the important medical information and history their daughters may not know or provide. Parent involvement increases the likelihood the teenager will receive the needed follow-up care after the abortion. Ladies and Gentlemen, if we look around us, in the states around us, every state surrounding Illinois, we find that there is one form of either consent or approval on all these states. There has not been serious ramifications. If we had heard of serious ramification of this legislation, it would have been all over the papers, but there's not. These programs work. This legislation is common sense. It is a way of protecting our 13, 14-year-old daughters who have to have an abortion. Ladies and Gentlemen, this is good public policy. I ask for your support. And I stand ready to answer questions."

Speaker Madigan: "Representative Mulligan, I presume you rise as an opponent?"

Mulligan: "Actually, Mr. Speaker, no. I'm just rising with

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another opinion on the Bill as amended, but I intend to support the Bill as amended and I wanted to offer a differing opinion."

Speaker Madigan: "So, Representative Mulligan will be recognized as a proponent of the Bill for five minutes."

Mulligan: "Thank you, Mr. Speaker. House Bill 1900, as amended, is something that we can support. I think there is a misconception on the part of many people, particularly anti-choice people that pro-choice people are pro-abortion, that is definitely not the case. What we are is against government interference for the simple reason that it's very hard to craft a Bill that covers all situations. House Bill 1900, as amended, does make allowances for an abused young woman, young women that don't live with their parents, someone that is a victim of incest, particularly with a relative, someone that lives with mom where the boyfriend is the person that made the young girl pregnant. And I think what we're really looking for here is someplace for that young woman to turn to so that she doesn't go unaided or to an inappropriate place. It may not necessarily be to get an abortion, it may go to someone that says, yeah, we can go talk to mom and dad, it's gonna be all right or it may be someone that will take her to the correct law enforcement authorities to report abuse. In any instance, the object here and what the object of a good faith Amendment put on a Bill was, is to make sure that young women are protected and do not go to inappropriate places to get an abortion. I intend to vote 'yes' for this Bill for the simple reason that I think we made a good faith attempt to amend this Bill in order to protect those young women. If the Bill returns with these provisions stripped out, that will be another instance and I think it

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will show less than good faith and people that say they're only worried about young women and people aiding them rather than sending young women off or getting control of a campaign piece or to get control of an abortion issue, I think the object here and what we're all looking for is an attempt on our part to make sure that young women have all options at their availability to be protected in whatever their decision may be, whether it is to have an abortion or whether to have a baby. And if they have been abused, to get some assistance there so that there will be no further abuse. So, I will stand in support of this Bill as it is amended and say that many of the people here who work for this Amendment did it in good faith, rather than as it was being portrayed to kill the Bill. I do not think that's where we were going with this at all. I think we're strictly looking for young women to be protected, although I still can say I think it's very hard for any legislation to cover all situations and that's why I think pro-choice people would prefer not to have government involvement, but in this case I will stand in support and pledge my vote on the Bill as amended."

Speaker Madigan: "As previously announced, there will be one more proponent of the Bill. The two people seeking recognition are Mr. Reitz and Representative Erwin, in that order. So, Mr. Reitz is a proponent to the Bill for five minutes and there shall be no more proponents of the Bill. Mr. Reitz."

Reitz: "Thank you, Mr. Speaker. I'd like to commend Representative Parke and everyone that's worked on this Bill. I think it's the right thing to do. I think Illinois has over the past few years, especially without this, without any type of law there to help to stop abortions where it seemed to be the hole in the middle of

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the donut. We've seen that we continually have young women cross our borders that come over to have abortions in my area that come over from Missouri. And all the states surrounding us has stronger laws, have some sort of parental notification, parental consent, and hopefully, this legislation will stop that. I don't agree with the Amendment that was put on, but I still... I think that this Bill will help and it's moved through the process and we'll see how that moves along. But I really think this is the right thing to do. I think parents have the right on a number of different things, as Representative Parke noted, for if you cut your finger and go to the hospital, you have to get your parents' permission to do anything and I think this is the right thing. At least we're going to notify them and I think it's good public policy. And I'd appreciate everyone's support on this piece of legislation. Thank you."

Speaker Madigan: "For what purpose does Representative Erwin seek recognition?"

Erwin: "To oppose the Bill, Mr. Speaker."

Speaker Madigan: "Five minutes, thank you."

Erwin: "I don't think it will take five minutes but, thank you, Speaker. I rise to oppose House Bill 1900. When Representative Parke and others who I know, worked on this Bill I appreciate that there have been changes made in House Bill 1900. From my prospective, it is, let us say, less bad. In the end, I'm afraid that I do need to oppose it, because I am concerned that while other precautions were put in the Bill, I am very concerned about the right of access to reproductive health choices by young women and in circumstances in families that are not, as I know was mentioned in floor debate on the Amendment, the Ozzie and

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Harriet families, that we thought existed, they may never have in fact, but we thought existed during the '50's. The fact of the matter is, that this Bill does still require women to jump through lots of hoops, I believe, to make a very, very difficult decision. And at a time when we're dealing with serious issues of coverage for mental illness, and I know the Conference of Women Legislators is working on mental health coverage for children and young people, at a time when we're trying to look at startling statistics, about young people committing suicide, I am concerned, albeit possibly unintended consequences, because I don't doubt the sincerity of those who have negotiated this Bill. I do believe that this Bill creates barriers into the law that I do not believe should exist. So, with all due respect to all of those who I know have worked on it, I still oppose this Bill, and would urge those of you who are concerned about adequate access for reproductive choice for women, to consider opposing the Bill, thank you."

Speaker Madigan: "The question is 'Shall this Bill pass?'. Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 96 'ayes', 15 'noes'. This Bill having received a Constitutional Majority, is hereby declared passed. Mr. Winters, Mr. Winters. House Bill 3295, Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 3295, a Bill for an Act concerning library districts. Third Reading of this House Bill."

Winters: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I apologize for being out of breath. 3295 changes the Election Code for annexation in library districts, and

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I... Currently the library districts can only annex through election. This would allow, in case it were 51% of the property owners sign a petition. I'd be happy to answer any questions after I catch my breath."

Speaker Madigan: "The Gentleman moves for the passage of the Bill. There being no discussion, the question is, 'Shall this Bill pass?'. What purpose does Mr. McCarthy seek recognition?"

McCarthy: "I rise to oppose the Bill, Mr. Speaker."

Speaker Madigan: "Mr. McCarthy."

McCarthy: "Thank you ma... thank you very much, Mr. Speaker, Ladies and Gentlemen of the House. Will the Sponsor yield?"

Speaker McCarthy: "The Sponsor yields."

McCarthy: "Thank you. Representative, as we spoke in committee, and you've been very good about sharing information with me after the committee meeting. I did inform you that I still had great problems with this Bill. Basically, my number one problem is that it takes away the right of the people to have a referendum in order to become a member of a library district. We... and especially in the south suburbs of Chicago, have very strong problems with our property tax system and this is a way, would you admit, that this is a way that they can have an addition to their property tax bill without benefit of a referendum?"

Winters: "Well, your first statement was, 'it takes away the right to have an election' and that is incorrect. It offers an alternative method for annexation. The library district or the people wishing to annex can choose the method. Similar to a park district, they can either do it through election or they can do it with a petition signed by more than... by a majority of all property owners, in

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which case, they would have the availability of a back door referendum. The opponents of an annexation... I lost my mic... oh, there we go. With 10% of the property owners can petition for an election to deannex. So, they haven't given up the right, but they have an alternative method, with a back door referendum to turn it down."

McCarthy: "Correct, and I didn't mean to imply that, but the question still stands, that this can add a line to their property tax without benefit of a referendum."

Winters: "You're correct. But again, it is the ultimate election in having to have more than half of all eligible voters, all property owners. In fact, some people who are not voters, will have a say... The library district would have to have more than a majority of all of the potential voters, sign a petition saying that they wish to be annexed."

McCarthy: "Well, I would say with you... Would you then state that the elimination of the secret ballot would still make this the ultimate election?"

Winters: "Well, again they have the right of a secret ballot on the back door referendum. There is a secret ballot, if they wish to deannex."

McCarthy: "Why... What do you mean by a back door referendum? I don't under..."

Winters: "Well, it's a referendum that would take place after the annexation. They then would have the right to come back and say whether or not they would approve."

McCarthy: "So, if a majority of the members of this area were able to sign a petition and get the property tax line added onto their property tax bill, then you're saying that they can come back later in a referendum and take it off."

Winters: "Correct."

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McCarthy: "Okay, well, I think that's putting the, you know, cart in front of the horse there. Because now the procedure to do this without the vote of a referendum, in the park district legislation, they allow both connection and then disconnection, by the same procedure. Now in fairness, it would seem that if you're going to add this procedure so that library districts can join by this 51%, why did you choose not to allow them to disconnect instead of just connect?"

Winters: "To tell you the truth, I was unaware of the disconnection for por... portion of the park district legislation. We were only aware, the library district that would like this provision in law, came to me and said, we would like to do annexation through petition. I was not aware of and our staff was not aware of that the deannexation provisions were also there. It's something that we can certainly clean up."

McCarthy: "Well, thank you. And a..."

Winters: "And if you'd like to put that on in the Senate, I think, you know, I think that would be certainly be applicable."

McCarthy: "Okay, well I think that would make it a little bit better, but truthfully, my major disagreement is the absence of the ballot, to tell you the truth. And to the Bill, Mr. Speaker. I, I have no doubt that the intent of the Bill is honorable. I know that Representative Winters wants to extend library service to people who do not have it today and make it a little bit easier. But I just think that, you know, standing in front of someone's house and asking them to sign a petition and putting the public pressure on them right there, it eliminates the ballot, that we can all go in there and vote our conscience. We

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have the right of secrecy when we're, we're voting for or against a referendum, voting for or against a candidate. And I just think this is dangerous to say that we're gonna to add a line to your property taxes. We're gonna increase your tax load, and we're gonna to do this. And you could be a member of this taxing district, and have never even spoken to anybody about this. If they don't need you, if they get the 51% before they come to your house, this could just appear on the bill. And I think all of us should be a little bit worried about this happening and then coming back and saying you as a Member of the General Assembly voted to add this line or make the procedure available to add the line and no one's even spoken to me about that. And I don't think that's what the, you know, the intent was when they first brought it up. But I do think it's a dangerous precedent. I, truthfully, think the park district legislation should be changed to take away this. But this Bill was to add another people on to this, who can add to our property tax bills. And those of us who have, especially tax cap areas, I think this would be a dangerous 'yes' vote. So, I respect the Sponsor, but I also respectfully ask the Body to vote 'no' on this measure."

Speaker Madigan: "Mr. Hoeft."

Hoeft: "Thank you, Mr. Speaker. Sponsor yield?"

Speaker Madigan: "Sponsor yields."

Hoeft: "Is there any restrictions in terms of the size of the parcels coming on? Could it be just one person, can it be three? Is it... Do you have it restricted at ten?"

Winters: "No, there's no restriction."

Hoeft: "Let me ask each one of you to look at your school district boundaries. In 1948, this Body created a Bill which said anyone can petition into school districts

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throughout the State of Illinois. We had 14 thousand school districts and we wanted to consolidate them and individual farmers, groups of people in subdivisions, could petition a school board, and a school board could not stop that. And we started to have the most convoluted boundaries in school districts in the State of Illinois. People were brought into school districts that did not want to because their neighbors had signed petitions and they had to, because they were caught within a subdivision. Ladies and Gentlemen, think about how badly the boundary of a library board could be drawn, going into a variety of different counties or townships. I think that this is a well intended Bill, but the consequences of this in certain areas of the state could really be profound. And again, an example of that is the mess that we have in school district boundaries in the State of Illinois. I intend to vote 'no'."

Winters: "If I could respond, Representative. I think the school district argument that you bring up has some applicability, but it is not the same as the library district, in that a library district is a voluntary district. Not everybody has to be in a library district. It is really much more closely aligned with the Park District Act, where if a neighborhood wants to be part of a park district, they can voluntarily join. This is similar to a library district. We mandate that everybody be in a school district. The issue you bring up of the convoluted lines has not become a problem in the Park District Act. And since we're modeling this after the Park District Act, I don't think that it will be a concern."

Speaker Madigan: "Mr. Winters to close."

Winters: "Again, I would urge the House to adopt this. It is

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a... an alternative method, there is a... also, in stature already a way to have a referendum to back out an annexation. It is a... brought forward by one of the library districts in my own district that really would like to have this additional tool, and I urge its adoption. Thank you."

Speaker Madigan: "The question is 'Shall this Bill pass?' Those in favor signify by voting 'yes'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question there are 4 'yes', 103 'no'. The Bill fails. Mr. Hassert. Mr. Hassert, House Bill 3247. Mr. Clerk, what is the status of House Bill 3247?"

Clerk Rossi: "House Bill 3247 has been read a second time, previously. Amendment #1 and 2 were adopted to the Bill. No Motions have been filed. Floor Amendment #3, offered by Representative Hassert, has been approved for consideration."

Speaker Madigan: "Mr. Hassert."

Hassert: "Thank you, Mr. Speaker and Members of the General Assembly. Amendment #3 is just another Amendment from the IDOT transfer Bill. It deals with, over here at the Supreme Court Building in a alley that has to be vacated for some improvements. I'll be happy to try to answer any questions."

Speaker Madigan: "The Gentleman moves for the adoption of the Amendment. Those in favor say 'yes'; those opposed say 'no'. The 'ayes' have it, the Amendment is adopted. Are there any further Amendments?"

Clerk Rossi: "No further Amendments."

Speaker Madigan: "Third Reading. On page 35 of the Calendar, on

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the Order of Resolutions there appears HJR 2.
Representative Klingler."

Klingler: "Thank you, Speaker. House Joint Resolution 2, actually is an outgrowth of a Bill which passed this chamber last Session and ended up being signed into law. And this Bill provided a tax credit to employers who provided on-site day care. Unfortunately, since that time, only one employer statewide has apparently taking advantage of that tax credit. And the Lieutenant Governor and the Governor under the Family-Friendly Workplace Task Force want to work with the Department of Commerce and Community Affairs and the Department of Revenue to track the usage of these tax credits and analyze and try to determine why they've not been further used and to promote this tax credit availability. This passed the committee unanimously, and I would urge support for this Resolution."

Speaker Madigan: "The Lady moves for the adoption of the Resolution. There being no discussion, the question is, 'Shall the Resolution be adopted?' Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it. The Resolution is adopted. HJR 8, Mr. Black."

Black: "Thank you very much, Mr. Speaker and Ladies and Gentlemen of the House. HJR 8 is a Resolution urging the Department of Human Services to immediately enact a moratorium on existing and future construction of state-run Woman, Infants, and Children Program stores. The genesis of this Resolution, was at one time, when there were no grocery stores in many areas for the WIC Program, the state stepped in and constructed or leased space and ran these. Most of those problems have now been addressed and it's the fear of the retail community that the state continues to build these and go into competition with private business."

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That's what the Resolution does."

Speaker Madigan: "Mr. Black moves for the adoption of the Resolution. There being no discussion, the question is, 'Shall the Resolution be adopted?' Those in favor say 'yes'; those opposed say 'no'. The 'ayes' have it. The Resolution is adopted."

Speaker Hartke: "Representative Hartke in the Chair. For what reason does Representative Cross seek recognition?"

Cross: "I hate to slow things down, I know we're moving at a rather fast pace, Mr. Speaker. But I asked yesterday about... talked about the Agreed Bill Lists. There was gonna be considerable consideration given to the idea of, not counting the Agreed Bill List Bills on our list of five. Has there been considerable consideration given to that suggestion or are you just gonna put it off awhile and get back to us?"

Speaker Hartke: "That Bill is still under review."

Cross: "Can we expect an answer on that issue of considerable consideration within the next 24 to 48 hours, or is it something we may never get an answer on? It seems like we're standing around doing nothing. Maybe it's our imagination."

Speaker Hartke: "That's still under review. We're still considering that."

Cross: "Are you review... Are you thinking about it now?"

Speaker Hartke: "No."

Cross: "Are you gonna think about it anytime soon? Or are you just going to ignore us?"

Speaker Hartke: "I'm going to plan on ignoring you right now, but it's still under review."

Cross: "Can I just tell you that you're very good at that."

Speaker Hartke: "Yes. House Bill 294, Representative Beaubien."

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Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 294, a Bill for an Act concerning vehicles. Third Reading of this House Bill."

Speaker Hartke: "Representative Beaubien."

Beaubien: "Thank you, Mr. Speaker. This Bill has been debated, I think, every year since I've been here for the last four years, so I will make my statements relatively brief and take questions afterwards. The primary enforcement of seat belts is an idea whose time I think has come. The statistics and data by the National Safety Council, other organizations, the State Police, the Police Associations, unequivocally indicate that the value of wearing seat belts, in terms of human lives, serious injuries, and considerable monetary loss to the state. The estimates for Illinois, if with the 15% increase in usage, would end up with the result of 129 saved lives, 4 thousand serious injuries avoided, and \$285 million in costs, many of which are on the state, in terms of medical insurance and other related costs. Eighteen states at this current time have primary offenses and as I talk to people around the House Floor, there seems to be little doubt that people accept the data. We've had enough years of experience and comprehensive data taken from the national government, state governments that there's really no question on that. To the Bill itself. The Bill provides for primary enforcement on seat belts. In other words, the law enforcement officer may stop you for not wearing a seat belt and for that cause alone. The Amendment, which I will read, I think, is self explanatory. 'A law enforcement officer may not search or inspect a motor vehicle, it's contents, the driver, or a passenger solely because of the violation of this Section.' This Bill is supported by

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MADD, the various police associations throughout the State of Illinois, including the Illinois State Police, the Illinois State Police Association, the Illinois Sheriffs' Association, IDOT, virtually all the insurance companies, State Farm, et cetera, the Northwest Municipal Conference, and I daresay, if we had more time we'd have numerous additional Sponsors. I'm available for 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: "The Sponsor will yield."

Black: "Representative, are you aware or in... there is a perception among many of us in the chamber that when the seat belt law was passed, there were people who stated that if we were to pass the seat belt law, they would not come back and ask that it be made a primary offense. I wasn't here at that time. I don't know whether that statement was made. Did anyone approach you, or did your research find that that, in fact, was said?"

Beaubien: "I, as yourself, have heard that at the time that the seat belt law was passed, it was passed on the condition that it would not come back and make a primary offence. This is a different Legislature and a different time."

Black: "I, I understand."

Beaubien: "We now have data that clearly indicates the positive effects of using additional seat belts, and a 15% raise from 70 to 85 is very reasonable."

Black: "No, I, I understand that. Is... and I know we can't get into legislative intent. But there are times when you take your car out of the driveway and unfortunately this is the American way, you drive a block to the drug store or the

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filling station, and you may just forget to put the seat belt on. And in that block, a police officer sees you, much easier now, with the shoulder belt than it used to be, when we only had lap belts and decides you're in violation. You explain to the officer, you know, I just live a block down the street. I was only going to the grocery store, I just forgot. But the law doesn't recognize that. I mean, if you're going to move your car, the belt must be on, correct?"

Beaubien: "That's correct, and I think that would be wonderful if we did. I do realize that, that does happen. I'll probably do it, even with the law, when you're just running down the street. But we need to learn to wear our seat belts."

Black: "All right. I thank you for your answers. Thank you very much."

Beaubien: "Thank you."

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

Currie: "Thank you, Speaker and Members of the House. I rise in support of House Bill 294. This measure is about saving lives, particularly, children's lives. The evidence is clear that parents who buckle up are ever so much more likely to make sure their children are buckled up, than parents who do not. This is really not about collecting fines, collecting moving vehicle citations. It's really about the opportunity for an educational campaign. A campaign, that I believe, will raise seat belt usage in Illinois, at least an additional 15%. It's been the law of Illinois for more than 15 years. The children belong in car seats. They belong in safe places, safe havens in moving vehicles. In order to make that law effective, we

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really have to turn to the parents, and I believe Representative Beaubien's Bill will save not only adult lives, but the lives of our most precious product, our state's children. I support and 'aye' vote."

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

Davis, M: "Thank you, Mr. Speaker. I, too, rise in support of this legislation. And I believe that those citizens who want to be safe as they travel up and down the highways, will have no trouble buckling up a seat belt. I'm a grandmother of four young men, and I often tell them, the least you can do is buckle up and provide your own body with safe travel. I think with the racial profiling Bill, that we just passed, it will help to hinder any profiling that could occur from having this as a law. I think it's a good Bill. I commend the Sponsor and we are trying to make citizens in the State of Illinois safe. We want to protect them from harm and buckling up that seat belt will certainly help to do that. I urge an 'aye' vote."

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

Delgado: "Thank you, Mr. Speaker. To the Bill."

Speaker Hartke: "To the Bill."

Delgado: "As the previous speaker pointed out, that's on the highway level. Everything is okay on the highway level. As to... matter of fact, Mr. Speaker, if I might, Mr. Speaker, actually will the Sponsor yield?"

Speaker Hartke: "The Sponsor will yield."

Delgado: "Representative, when you... when you... the provision that talks about probable cause. What is... how do you define probable cause?"

Beaubien: "I don't know that it talks about probable cause, with

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the Bill itself."

Delgado: "Excuse me?"

Beaubien: "I don't believe the Bill talks about probable cause. It basically says that you can stop someone, in the event that you see them not wearing a seat belt. I assume you have to have probable cause to do that. I assume it'd be a visual, a visual look."

Delgado: "Did this Bill, at one point, have a provision in it that indicated that they could stop and search the vehicle?"

Beaubien: "I'm sorry, Representative, I just can't hear you."

Delgado: "Mr. Chair, may we have some order in the chamber, Mr. Chair? We, we... the Representative doesn't hear us."

Speaker Hartke: "Shh... Ladies and Gentlemen, please, thank you."

Delgado: "In you... In your legislation did you, did you have language in the Bill, that addressed stopping the car for a ticket, for the lack of seat belt and then the ability to search that vehicle?"

Beaubien: "That's what the Bill does deal, deal with, yes. It deals with the ability to stop a vehicle for not... of solely not wearing a seat belt and it provides that you may not search a car, solely for a stop based upon a seat belt violation."

Delgado: "Okay, so it... so if, but if they have probable cause, after that stop, then they could search that vehicle, is that correct?"

Beaubien: "That's correct, yes, that's right."

Delgado: "So, if someone has their, their, maybe umbrella underneath their seat, and the back of the, the handle, the black handle is sticking out, and the officer sees you without your seat belt, stops you and then is able to say, 'What do you have under your seat there? And you say, 'Oh,

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that's my umbrella'. So that officer has probable cause to assume, 'Oh, well, let me have you step out of your car, 'cause I want to check and see what it is myself. It might be a gun handle.' Is that, is that what the probable cause would be?"

Beaubien: "This does not address that, but yes, I believe that could happen. If they... it's called a plain view, if they come up and see something that's clearly obvious, a loaded gun in the front seat, but yes, you're talking about the umbrella sticking out. I believe that the officer would have the authority to consider doing that. Now, whether that's..."

Delgado: "So, that would be at the discretion of the police officer, is that correct?"

Beaubien: "That's correct."

Delgado: "Okay, so to the Bill, Mr. Speaker."

Speaker Hartke: "To the Bill, again."

Delgado: "My concern with this Bill, and I am gonna to vote 'present' on this Bill. I know your intention is very noble, and this is good safety. This is good safety for children in cars. And as the previous speaker spoke about highway driving, I understand that, but when you're in the inner cities and larger city areas, you're gonna have... there are unfortunately, those out there who will use probable cause, or use the seat belt ticket ability to have probable cause and just go into your vehicle, when the real intention was to search that vehicle and in my communities that still remains an issue. I do suggest that this is a very good piece of legislation up to the point of probable cause and I do have some concern with that. And for that reason, I'll provide a 'present' vote on this Bill, understanding that I do know you, Mark, I know you well,

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and I know that you care about safety of people and especially children. And for that reason, I support that Bill to that extent and I know that your intention is never to just give a free ride to police officers that may be unscrupulous to go ahead in and search vehicles just for the sake of searching it, and I know that's not your intention. I commend you on the Bill, however, I will go with a 'present' vote on it. And I hope we can continue to work on this legislation in the next few years."

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

Slone: "To Mr. Speaker, Ladies and Gentlemen, I rise in strong support of this Bill. We just recently had a very tragic accident that occurred to the daughter of one of the, one of the editorial writers of our newspaper in Peoria was killed in a car crash, in which the two other passengers who were... the passenger and driver who were wearing seat belts walked away from the accident and this young lady was, was killed. I think that, that the safety considerations here are overriding and we should give our police officers the power to do primary enforcement for the safety of our children. I would hope that you would join Mr. Beaubien in voting 'aye' on this Bill."

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

Beaubien: "Yes, I would like to take the time before I start to thank Representative Delgado for his comments and remarks. And I know that he agonized very hard over this Bill and I appreciate his efforts. I'll be very brief once again. The statistics show that it's very beneficial, in many areas to wear seat belts. We need to improve our usage in Illinois from 70 to 85% at a minimum. And I'd like to

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leave everyone with one thought, as referred to by another speaker earlier. Statistically, if the adults in the car are buckled up, there's a probabilit... 80% probability the children will be. If the adults in the car are not buckled up, 24% of the children are only buckled and the rest are potential missiles in a fender bender, subject to very serious injury, and I urge an 'aye' vote."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 294?' 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? Please record yourselves. Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On House Bill 294, there are 61 Members voting 'yes', 40 Members voting 'no', 15 Members voting 'present'. And This Bill, having received a Constitutional Majority, is hereby declared passed. House Bill 2236, Representative Franks. Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 2236, a Bill for an Act concerning discount prescription drugs for senior citizens. Third Reading of this House Bill."

Speaker Hartke: "Representative Franks. Ladies and Gentlemen, please give your attention to Representative Franks."

Franks: "Thank you, Mr. Speaker..."

Speaker Hartke: "Shh."

Franks: "And Members of the Assembly. The lack of medicare prescription coverage for our elderly population is the biggest single gap in health coverage that our nation faces. We aren't prepared to wait for Washington to fix the problem with huge government expenditures. Instead, today, we are here to fix the problem and to save the state money. Tommy Thompson, President Bush's Secretary of

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Health and Human Services, recently stated that the states should seek, negotiated discounts for their drug purchases. That's what we're gonna to do today. Because throughout Illinois, senior citizens are not following doctors orders, because they can't afford to buy their prescription drugs anymore. Approximately 45% of our seniors, about 500 thousand don't have any prescription drug coverage. Seniors in Illinois and around the nation, must often choose between food and their prescribed medicines. More than one in eight have been forced into these conditions. These seniors, and thousands more like them across Illinois, need our help and they need our help now. Thank you. For many seniors, the proper medications at home can spell the difference between maintaining an active and independent life-style or being homebound or hospitalized. But prescriptions are becoming harder and harder to fill for thousands of Illinois, seniors. Prescription drug costs has skyrocketed over the past several years, 15% alone in 2000. Last year, over \$145 billion was spent nationwide by our seniors for prescription drugs. And for the typical senior, that's several prescriptions for arthritis and hypertension, for instance. The long-term cost of pharmacy visits are just devastating. Now, while senior citizens make up only 12% of our... of the population, they account for over 37% of the drugs prescribed. This, this legis... this legislation will help those 45% of those seniors without the prescription drug coverage. Unlike large corporations and institutional customers, like HMO's and federal agencies with the market power to buy drugs at discounted prices, individual customers are left paying the highest prices. Prescription drugs in the United States are the world's highest,

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averaging 32% higher than in Canada, 40% higher than in Mexico, and 60% higher than in the United Kingdom. These are the same drugs, made in the same factories, and then shipped in the same boxes, that our seniors have to purchase here. So what's the bottom line? The most profitable industry in the country is charging the highest prices in the world to our most vulnerable citizens. This is bad medicine. It's bad economics, and it's bad public policy. Illinois seniors should not have to pay more than everyone else for prescription drugs. Illinois seniors should not have to subsidize the rest of the world's prescription drugs by paying higher prices than everyone else, in every other country. So the Bill that we're bringing to you today, it has four major components. It establishes a prescription drug discount program, that which will be administered by the Central Management Services, who would negotiate the best rates for all their drug purchases for the state and then extend the same rates to our seniors. CMS already purchases for mental health, developmental disabled, veterans facilities, and the state employee prescription grou... insurance program. To join our program you have to be a resident of the state and be 65 years old or older, and you'd pay a \$25 annual fee. There is no deductible. There's no copay and there's no paperwork. That's easy. Seniors and disabled citizens already covered under the existing Pharmaceutical Assistance Act, could purchase prescription drugs not covered by the Act at discounted prices. Our Bill applies to all medications. Currently, purchasing for the pharmaceutical assistance program, is done by the Department of Revenue. We want CMS to be able to purchase for the entire state. Right now, the State of Illinois

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spends over a billion dollars, a billion dollars to purchase prescription drugs. That's more than 2% of our entire state budget. We've got to bring those prices down and help our seniors. Our plan would greatly benefit the seniors at little or no cost to the taxpayers. We believe that this is good medicine. It's good economics and it's the right public policy. I'll be glad to answer any questions."

Speaker Hartke: "Thank you very much, Mr. Franks. I might admonish the members in the gallery. There shall be no... there shall be no demonstrations from the gallery. The Chair recognizes Representative Ryder. The Chair recognizes Representative Franks as a proponent. There will be two more proponents and three opponents to this Bill, then Mr. Franks will close and we'll go to a vote. Mr. Righter."

Right: "Thank you, Mr. Speaker. First I'd like to request a verification on the vote."

Speaker Hartke: "Verification has been requested and will be granted."

Righter: "Thank you, Mr. Speaker. To the Bill. Mr. Speaker, the issue of prescription drug assistance has become a major, if not the major, issue in this state over the last two years. It is the major issue for seniors in our state who need help with escalating prices. Unfortunately, over the last two years, it has become little more than a political football to some of the people in this chamber. House Bill 2236 demonstrates that political football. Now, all of us here, in this chamber, Mr. Speaker, disagree often from issue to issue. But one thing I think that we can agree on, is that one of the ideals that we're supposed to fulfill here, one of the jobs that we need to do here, is

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that we need to look out for the people who need the help the worst, the people, who cannot help themselves in the areas to help them live, to help them survive. I think that's an ideal that we all agree on. But this Bill does not reflect that ideal. Why? Here's a few reasons. First of all, the average discount given by this Bill is 15 to 35%, regardless of the type of drug, whether it helps you breathe, it helps you... your heart pump, or it helps with some convenience in your life. Second, this Bill applies to multimillionaires just the same as it does to low income or low to moderate income seniors. Third, this applies to all drugs, all drugs, again, whether you have heart disease, or lung disease or osteoporosis or you want to take a drug that makes you feel a little bit better about yourself when you look in the mirror this morning. There's no difference. This plan covers all of those drugs. And perhaps, worst of all, there is no requirement anywhere in this Bill that the pharmaceutical companies, the same pharmaceutical companies that last year the Sponsor of House Bill 2236 demonized on this floor, and who just did it again, that they come to the table and negotiate any bargains at all. They are not required to reduce their profits by one percentage point. They are not required to reduce the price they charge to any of the seniors in our state by one dime. And that is probably the worst failing of this Bill of all. This Bill is not real help. But you do not have to believe me, Mr. Speaker, or all the other Republicans in this House. Listen to the AARP, the American Association of Retired Persons. The largest senior group in this state and in this country, says 'no' to House Bill 2236. They recognize that the chances for seniors getting real help under this Bill are negligible at

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best. Why? Because of the reason I just stated. The pharmaceutical companies are not required under this Bill to come to the table and negotiate any discounts at all. This Bill sends a message that we are just as concerned, regardless... with regards to your discount, we're concer... just as concerned about the discount you may receive for Viagra or a hair growth treatment as we are for a drug that will help you with your heart, or your lungs, or your bones. We are just as concerned about the amount of your discount, whether you make \$1 thousand a year, \$10 thousand a year, or a million dollars a year. And this Bill sends a message that we are more concerned about the pharmaceutical companies and their profits than we are about the seniors and the taxpayers. This Bill is a wink and a nudge to the pharmaceutical companies, that we all stand here... the proponents of this Bill all stand here and say, 'Absolutely, we're gonna deliver discounts to you,' and then a wink to the pharmaceutical companies that we're not going to make you come to the table, we're not going to make you shave anything off of your profits. We're really not going to hurt them at all, at your expense. Ladies and Gentlemen, House Bill 2236 is a bad Bill. It's not a Bill that helps the seniors. You can believe me or the Republicans in the chamber or the AARP. And I am proud to stand here on behalf of the Republican Members in this House and say 'no'. Thank you, Mr. Speaker."

Speaker Hartke: "Ladies and Gentlemen of the gallery. House Rules prohibit demonstrations. Please refrain yourselves during the debate. We will now hear from a proponent, Representative Lang."

Lang: "Thank you, Mr. Speaker, Ladies and Gentlemen. The

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previous speaker announced very clearly that the Republican side of the aisle feels this is a bad Bill and a bad vote. That speaks volumes about what we're doing here in this chamber. This should be a vote that's a no-brainer for all of us. This should be a vote of conscious, not a vote pandering to pharmaceutical industry, pandering to the insurance industry, talking to special interests that are hiding behind corners and all over this building, lurking. What we ought to be talking about here are the kinds of people that are in the gallery today. Thousands and millions of senior citizens all over this state that cry out for some attention by this General Assembly. Last year we passed a very similar Bill out of this chamber, that went over to the Senate and never saw the light of day. This Bill is an important piece of legislation for the people that live in our state... in the State of Illinois. It's time that we addressed people issues on the floor of this House. It's time that we addressed the issues that matter to the people that live in the State of Illinois. If you would travel the state with me, and I hope some of you will do that, as I talk to people, what I hear from them is, 'Forget about that stuff on the front page, forget about those things you will never resolve. Why don't you start working on things you can resolve in Springfield? Why don't you spend as much energy taking care of the health of senior citizens as you do taking care of the Chicago Bears, or as you do taking care of gambling interests, or as you do building roads?' Now those things may have been important, in fact, I voted for most of them. But when will we take the real energy, the real time we use in Springfield and address regular ordinary citizens that live in the State of Illinois? This is your opportunity to

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do that. This is a Bill that says, there's no down side, to voting 'yes', there's only an up side. To those who are prepared to vote 'no' in some knee jerk fashion, I say, who are you trying to help? What are we doing here on the floor of this House if we allow senior citizens all over this state to have to sell their homes that they've fully paid off to buy their arthritis medication? What do we say if we vote 'no' on a Bill that requires senior citizens to take their pets arthritis medication, because it's cheaper than their own? What do we say to people that have to send relatives and friends to Canada and Mexico to buy their pharmaceuticals, because it's cheaper there? Ladies and Gentlemen, this doesn't hurt anybody. This only helps millions of ordinary citizens that live in the State of Illinois. For those of you who believe that it's the people of this state that deserve a little attention, to those of you who believe that it's time to change the direction of Illinois government, I ask you to join those of us on this side of the aisle who believe in those things. We have spent too much of our time and too much of our energy on issues that really don't matter very much when you talk to people in their homes and you sit around their dinner table with them, and you say what's going on in your family? What can we do to help you? And they tell us over and over again, that the State of Illinois has lost its way, that the State of Illinois isn't interested in regular, ordinary people. This is your opportunity. A 'yes' vote will tell you and your constituents how you feel about them. They will later have an opportunity to tell you, how they feel about you. Don't turn your back on the regular citizens of our state. Don't pander to some special interest that doesn't matter in your district.

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What matters in the district are the people that live there. It's time we took a vote for them and I would invite those on the other side of the aisle to join us in this historic effort. Thank you very much."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from Cook, excuse... yeah, it's Cook, Representative Mulligan, to stand in opposition. Representative Mulligan."

Mulligan: "Thank you, Mr. Speaker. Basically, I feel there's a lot of misconceptions out there. And I don't think that either side of the aisle is interested in anything other than seeing that the senior citizens in Illinois get the best prescription drug coverage that they can get. Currently, what happens under our Medicaid program and 66% of that is driven by long-term care or assistance to the aged, the blind, and the disabled is that we pick up, the State of Illinois, picks up their medicare premiums and since medicare does not cover their drugs, the State of Illinois, under the Medicaid program covers those drugs. Many people, in the State of Illinois feel it is an entitlement for them to divest themselves of their assets in order to go into a nursing home on Medicaid. The State of Illinois, basically, supports that and covers those drug payments that medicare doesn't. The other misconception we have here are but... what the federally negotiated rates actually are. On generic and food drug, the rebate paid is 11.5%. On a brand name drug, it is 20%. Therefore, if your drug, and we're not saying that this is the cost, but in round numbers, if your drug costs \$100, all a rebate sign would do, would be give you \$20 off on a brand name drug or 11.50 off on a generic drug. The current Illinois program covers the first \$2 thousand of drugs, under the

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Circuit Breaker Program. This is an excellent program. A Bill like this, precludes discussion on expanding that program. A Bill like this, precludes a discussion on public policy. It precludes Illinois making a statement to the Federal Government about them making a significant inclusion, in medicare for funding drugs for the aged people. It precludes meaningful negotiations on seeking better ways to provide ways of paying for drugs. In order for the state to be able to negotiate those rebates, they have to seek a waiver from the Federal Government. So, a lot of the misconceptions on this Bill, the Sponsors would like you to think that, basically, this is going to give you fullpayment. It is not. It will probably, in all instances, give you less than what you are currently getting under the expanded circuit breaker. What does this Bill do? Well, I'm not running for Governor, so opposing this, doesn't support me in any way. I'm not running in an area that would say don't do this. What it does do, is it stops you from having a meaningful discussion from Legislators and all it does is put out a campaign piece or a political brochure. It certainly does not cover the payment of your drugs. Actually, last year this Bill was talked about when everyone already knew that the circuit breaker was going to be expanded. The Conference of Women Legislators supported that and we gave you that additional \$2 thousand. The program that we supported, that helps the seniors in my district makes a significant impact in who pays for the drugs. Would we like to go further with that? Yes. Does this Bill keep us from having a discussion of that? Absolutely. What it does, is it puts in the political arena instead of the compassionate arena of getting your drugs paid for, it bounces it out to a

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political campaign piece. That's a shame. Some of you should really think about that, when you're voting for this. The object here is to make a meaningful difference in what we're doing, make a statement to the Federal Government, continue to make sure that we can fund the Circuit Breaker Program, not support pay... a program that in other states is in the federal courts that would wreck the Circuit Breaker Program that we currently have. As a Minority Spokesman of Human Service Appropriations, I support what's happening with Medicaid. I support the fact that we're supporting seniors and paying their medicare payments and also in picking up the drugs that medicare does not cover. This Bill does not help you in any way, shape, or form."

Speaker Hartke: "Further discussion? The Chair recognizes Representative Crotty from Cook County as a proponent of the Bill."

Crotty: "Thank you, Mr. Speaker. Once, Mr. Speaker, this to me, is probably one of the most important issues that we're going to be discussing again this Session, and I would really like everyone to please give their attention to it. Once again, I stand in very strong support of this measure. Even in committee, we had a couple come down and testify, I didn't even know the couple, but the Gentleman had come up and mentioned that he and his wife both, who his wife was sitting next to him, make \$1,100 a month with their pension and Social Security. I don't call that a millionaire, as was once stated... I don't call them a millionaire. Now, making \$1,100 he also shared with us, that he and his wife spend \$1,200 a month for prescriptions. Now, you want to talk about fuzzy math, I ask you how could someone live like that? Well, quite frankly he told us. He works three

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jobs. Many of us that are sitting here today, have the very same benefit that we're able to give the seniors in the State of Illinois with a 'yes' vote. We talked about a previous speaker, spoke that our seniors would only get 15 to 35% off. I know many women here, for any other commodity, would get in their cars and go to a sale, if they could get something 15 to 35% off. When we talk about the circuit breaker, which I most certainly support, look at us? Every single Session we look at expanding it by income, or expanding it by adding another prescription. This doesn't do that, and this covers the 45% of the seniors that don't get coverage through our circuit breaker. That still pays \$60 or \$80 per pill. This is not a time to talk about being Republican, being Democrat, which side of the aisle we're sitting on. We all, we all serve the seniors in the State of Illinois. I ask that every single one of us join Jack Franks as cosponsors of this Bill. Whether you be a Republican or whether you be a Democrat and help the many seniors that have driven down here today, that depend on us for their help. They've waited way too long, and they can't wait any longer. Thank you very much for your attention and I ask... and I ask for a 'yes' vote."

Speaker Hartke: "Is there anyone else standing in opposition to this Bill? Representative Franks to close."

Franks: "Thank you, Mr. Speaker. I'm disappointed with my colleagues who got up to talk against this Bill. In committee, nobody voted against it, because there's no reason to vote against it. Now let me tell you, when we were here last year, your Leader lied about this Bill and this year, it's just new lies, that's all. But they don't mean anything. We passed a Bill out of here allowing for

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purchasing, that I sponsored for insurance, that a Republican Legislator had. This is very similar, putting people in a buying club. You know what I... it boils down to this. You guys don't get it. When seniors walk in to a pharmacy they open their wallet and they buy their prescription drugs with their own money. What this Bill will do, will allow them to go into a pharmacy open their wallet and spend less of their money to buy those prescription drugs. And it's not gonna cost the state a penny. The Illinois Economic and Fiscal Commission came out with their note and said it's not gonna cost anything. What you also don't get, is most seniors aren't eligible for the circuit breaker. Circuit breaker's wonderful, but it doesn't go far enough. We can't cover all our seniors. Right... when we voted for it last year, everyone of us voted for it, and we were told it would cost \$70 million. Well, the Governor came back and said, 'you know what, we need 105 million.' And I'm glad that we're going to give it to him. But now, we can give every senior a discount without any cost to the State of Illinois. And that's what we ought to be doing. I believe that this Bill was a referendum on my reelection. The other side lied about it and they said we don't need it and the people sent me back to fight for this. And this problem we've got, this problem isn't going away and neither am I. Today, let's help those seniors. Let's lead the country. Let's listen to President Bush. Let's listen to Secretary Thompson. Let's negotiate discounts for our seniors. Let's help those people that have helped us. Vote 'yes', please."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 2236?' All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. There

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has been a request for a verification. Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On House Bill 2236, there are 62 Members voting 'yes', 50 Members voting 'no', 5 Members voting 'present'. Mr. Clerk, would you verify the affirmative vote."

Clerk Rossi: "Poll of those voting in the affirmative. Representatives Acevedo, Boland, Bradley, Brosnahan, Brunsvold."

Speaker Hartke: "Excuse me, Mr. Clerk. Representative Righter."

Righter: "Thank you, Mr. Speaker. We're not gonna persist in our verification request."

Speaker Hartke: "Thank you. House Bill 2236, having received 62 'yes' votes, 50 'no' votes, 5 voting 'present'. This Bill, having received a Constitutional Majority, is hereby declared passed. For what purpose... what purpose does the Lady from Cook, Representative Monique Davis seek recognition?"

Davis, M.: "I seek repara... I seek recognition, because I want to state that we have a very important witness with us, and it's Mr. Herb Franks, President of the Illinois State Bar Association, and he is the father of Representative Franks."

Speaker Hartke: "Welcome to the House chamber. The Chair recognizes the Lady from Cook, Representative Jones, Lou Jones. For what reason do you seek recognition?"

Jones, L.: "Thank you, Mr. Speaker. The record... House Bill 335, I'm recorded as not voting. I'd like the record to reflect that I was an 'aye' vote."

Speaker Hartke: "The Journal will refl... the Journal will reflect your wishes. The Chair recognizes Representative McAuliffe from Cook County. For what reason do you seek recognition?"

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McAuliffe: "Today is my office mate, Bill Mitchell's birthday. I'd like to have a big round of applause and we have birthday cake for both sides of the aisle, right in the front, Bill Mitchell."

Speaker Hartke: "Congratulations, happy birthday, Bill. How old are you? 41. The Chair recognizes Representative Crotty. For what reason do you seek recognition?"

Crotty: "Well, on a point of personal privilege, I'm..."

Speaker Hartke: "State your point."

Crotty: "I'm very happy to meet Mr. Franks, who is Representative Jack Franks' dad, but I'd also like to introduce to the House, my mom, Jen, who's up in the gallery and I'm very happy she came down. And I'm glad she's getting her prescription drugs at a discount price."

Speaker Hartke: "The Chair recognizes the Gentleman from Franklin, Representative Forby."

Forby: "Point of person, Mr. Speaker."

Speaker Hartke: "State your point."

Forby: "I want to announce to all the seniors from down in my district, the 117th, the 118th district down there. Will you please stand up?"

Speaker Hartke: "Welcome to Springfield. The Chair recognizes Representative Giles. For what reason do you seek recognition?"

Giles: "Thank you, Mr. Speaker. On a point of personal privilege."

Speaker Hartke: "State your point."

Giles: "Today, one of my good colleagues here, Representative Todd Stroger, we have his wife here, Mrs. Jeanine Stroger. Let's welcome her here today."

Speaker Hartke: "Welcome to the chamber, Mrs. Stroger. The Chair recognizes the Lady from Cook again, Representative Monique

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Davis."

Davis, M.: "Point of personal privilege, Mr. Speaker."

Speaker Hartke: "State your point."

Davis, M.: "We also have with us, Mr. Tobias Barry, the former whip in the Illinois General Assembly, who is now Judge Barry."

Speaker Hartke: "Welcome to the chamber, Judge. House Bill 5. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 5, a Bill for an Act amending the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act. Third Reading of this House Bill."

Speaker Hartke: "Representative Daniels."

Daniels: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. House Bill 5, which I'm pleased to join with Speaker Mike Madigan in sponsoring, is truly the Circuit Breaker Bill and the relief in prescription drugs for senior citizens. This expands the program in Illinois, known as the Circuit Breaker Program, that is known as the best in the country. This is legislation that we all passed last year, unanimously, signed into law, without a lot of fanfare, without a lot of cheering, without a lot of work. We just went right to work, with the American Association of Retired Persons, added to our prescription drug program to offer meaningful and true relief to Illinois citizens. This legislation gave hundreds of thousands of Illinois seniors the opportunity to receive the first \$2 thousand in covered prescription drugs virtuously free of cost. I'd like again to thank our partners in passing this landmark legislation. Our friends at the AARP, an organization of which I'm proud, am a proud card-carrying member. However, as good as that legislation

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was, I agreed with the AARP, that the Circuit Breaker Program can and should be improved. House Bill 5, sets forth these improvements with three main initiatives: first, the list of eligible prescription drugs must be expanded as soon as possible, including antibiotics, drugs used in the treatment of osteoporosis and medicine to help cancer victims cope with the physically debilitating side effects of cancer treatment, must be included in the Circuit Breaker Program, to offer a truly viable program for our greatest generation. All of these drugs are among those most commonly prescribed for our seniors and it is imperative that we include them as quickly as possible. Secondly, as I announced last fall when we passed the expanded program, I strongly believe that we need to increase the income eligibility cap by about \$7 thousand for three levels of eligibility. Staff has estimated between 50 and 75 thousand Illinois seniors will benefit from this increase. And finally, during the implementation phase of this program last summer, a technical flaw was described. Currently, the program operates two different cycles, both set by law. The eligibility cap runs on a fiscal year basis, but the premium year is based on the date of a senior's application approval. House Bill 5, seeks to align everything to a calendar year basis which is consistent with medicare. All told, these improvements will cost the state an estimated \$40 million, one that we can afford in a \$50 billion budget. But let's remember that President Bush's National Prescription Drug Plan calls for block grants to states with existing programs, which could pay for most or all of these increases to our budget. However, even without help from national program, I believe that Illinois can afford this very important addition to

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our State Circuit Breaker Program. Ladies and Gentlemen, let me remind you, that this is AARP's Bill. I complemented them on the work they have done in bringing this to our attention. And with your positive vote for House Bill 5, you will once again be adding to the country's greatest prescription drug program in law today. Not promises, not hype, not rooting, not cheering, but actual law today that we can make the senior citizen prescription drug program continue to be the best in the country today. I ask for your favorable support."

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

Reitz: "Thank you, Mr. Speaker. I'd like to commend Leader Daniels and Speaker Madigan on this Bill. I think it's definitely the right move. We need to, to increase that. We have a number of seniors that are having a hard time making that and I'd like to ask if it's possible to be added as a cosponsor on this Bill, and this is something that all of us see everyday as we move about our districts, we have helped. The Bill we just passed, previously, will help even more in this case. But this... there are a lot of people in middle-income families that are being left behind. But if we're able to increase the thresholds by the amounts contained in this Bill and increase the afflictions that are covered by this, I think it's great. And I certainly commend Mr. Daniels on this effort. Thank you."

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

Daniels: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. This Bill will increase the eligibility for the

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program to \$35 thousand for a married couple. This Bill will again, enforce the fact that Illinois is a leader, a leader in the country today. No other state in the Union today has a Circuit Breaker Prescription Drug Coverage Plan, as effective and as good as Illinois is today. This is not a Bill that we stand before you with hype, and stand before you and make promises that won't come true because of exorbitant cause (sic-costs), this is a Bill that will become law with your help. I ask for your favorable support."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 5?' 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 117 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And the House does pass House Bill 5. And this Bill, having received a Constitutional Majority, is hereby declared passed. House Bill 1069, Representative Hoffman. Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 1069, a Bill for an Act in relation to gambling. Third Reading of this House Bill."

Speaker Hartke: "Shh, please. Representative Hoffman, please present the Bill."

Hoffman: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. House Bill 1069 addresses a unique problem that we have at Fairmount Racetrack, which is the horse racing track that is located in my district, in Collinsville, Illinois. Fairmount Racetrack, for years was, I believe, the only racetrack in Illinois that raced both, both thoroughbred horses and standardbred horses. What has happened is, they have discontinued the racing of

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standardbred horses. So the issue, then, became what happens with the purse money? The money that is bet on out-of-state simulcast races, that used to go towards... split between standardbred and thoroughbreds. We, in Collinsville and the surrounding area, rely greatly upon the Fairmount Racetrack and the economy and the jobs that it provides, not only for the direct jobs, but also for the jobs that are provided to the individuals who provide the feed, who provide services to the racetrack. The Agricultural economy around our area is, is dependent upon the Fairmount Racetrack experience. So, what this Bill would do, is it would insure that live racing continues at Fairmount Racetrack. It would insure that they have at least the same number of live racing dates that they currently have and had in the year 2000, and would make sure that the people and the horse and the breed that races at Fairmount Racetrack actually receive the money that is bet as a result of the simulcast. I ask for your 'aye' vote."

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

Cross: "Thank you, Mr. Speaker. Can we take this off Short Debate, please?"

Speaker Hartke: "Excuse me."

Cross: "Can we take this off Short Debate?"

Speaker Hartke: "There are not that many individuals seeking recognition."

Cross: "Well, I think there are going to be people rec..."

Hartke: "That's fine."

Cross: "Okay. Well, so you're gonna take it off Short Debate?"

Speaker Hartke: "Yes, yes."

Cross: "All right."

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Speaker Hartke: "Representative Cross."

Cross: "Will the Sponsor yield?"

Speaker Hartke: "Sponsor will yield."

Cross: "Jay I... thanks. I, one, I have a major concern and maybe I'm reading the Bill incorrectly. But one of the concerns I have, I know others on this side of the aisle have, is whether or not this Bill dilutes or outright takes money away from our county fairs. A good bit of our, a good bit of our county fairs..."

Hoffman: "This does not take one dime away from any county fairs."

Cross: "What?"

Hoffman: "This does not take one dime away from county fairs."

Cross: "Okay, it doesn't affect the fund that goes into the Department of Natural Resources or Conservation?"

Hoffman: "No."

Cross: "Sends money at all?"

Hoffman: "No."

Cross: "Does it affect the DuQuoin County Fair in... at all in any adverse way?"

Hoffman: "No."

Cross: "Does it provide any... is there any negative affect to off-track betting parlors around the state?"

Hoffman: "No."

Cross: "It doesn't affect them in any adverse way?"

Hoffman: "I don't know... no, because there'd be more races raced live at Fairmont Racetrack than are currently raced. So the people who work there, would be able to work. It has no affect at all on off-track betting parlors."

Cross: "Well, then Jay, where's the... you're picking up extra money out of this Bill."

Hoffman: "No, here's what... you know maybe what I'll do."

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Cross: "There's no money..."

Hoffman: "Can I explain it to you?"

Cross: "I'd love for you to, because there's a lot of... it's a little, it's a little loud around here and maybe we did miss you, but there's a lot of confusion."

Hoffman: "Well, I'll even tell you who the opposition is. I'll explain it to you so everybody knows how to vote, when they vote their district. Okay? I don't have any problem with that, but it doesn't... right now the money does not go to county fairs and this would not affect off-track betting parlors. Here's what happens, back I believe four or five years ago, Representative... what was it?... 1995, you may recall, Representative Kubik had a Bill and the Bill allowed for what is called, out-of-state racing simulcast in Illinois. In other words, we used to not be able to show in Illinois the Kentucky Derby and bet on it. We used to not be able to show California races, the Breeders' Cup, but now we can. And in conjunction with that Bill, we designed for Fairmount Racetrack, because it was the only racetrack that raced both standardbreds and thoroughbreds a way to distribute for the purses, the prize money, that money that is bet on those simulcasts. Here is how it was distributed. For any race that is run between six in the morning or six at night and is bet at a Fairmount Racetrack or a Fairmount betting parlor, it would go... that money would go to thoroughbred purses. Any amount that is bet from 6:00 p.m. 'til 6:00 a.m. would go to standardbred purses. Well, about a year and a half ago, Representative Cross, a year and a half ago, they discontinued the racing of standardbred horses. Well, what then happens to the money that is bet from 6:00 p.m. to 6:00 a.m.? It's about \$2.7 million a year, okay? And that money went to purses

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that standardbreds would race for. Unfortunately, they no longer race at Fairmount. All this Bill would do is say, if whoever races at Fairmount Racetrack gets to keep, whatever breed races, gets to keep the money bet, for their purse money. So if somebody were to... right now thoroughbreds are the ones that race at Fairmount. So they would be able to run for that money that's bet. It doesn't have... it doesn't take any money away from county fairs. If somebody came along and bought Fairmount and wanted to race standardbred horses, the harness horses, they then would be able to keep the money bet at Fairmount for their running. So that's, that's the nexus of the Bill. The opponents are the people that no longer race at Fairmount, some of the harness horsemen, 'cause they would like that money to follow them to different areas of the state. When we passed in 1995 the original Bill, it was very clear, and Representative Kubik even indicated at that time, that the money that was bet at Fairmount was to stay at Fairmount, and was to a live racing at Fairmount, for the jobs it provided, for the agricultural opportunity provided and that's what the... is the crux of this Bill. I hope that that..."

Cross: "All right. What?"

Hoffman: "Did that help you?"

Cross: "No. But, but Representative Poe's gonna ask some questions. 'Cause I and... it didn't help me and I'm sorry, but thanks."

Hoffman: "I did my best."

Cross: "I know."

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

Poe: "Speaker, will the Sponsor yield?"

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Speaker Hartke: "Sponsor will yield."

Poe: "Mr. Hoffman, would this, would this Bill nullify the agreement that was made in 1995, with that commission that was set up by horse breeders?"

Hoffman: "This would change the law that was passed in 1995. The agreement at the time was for people who raced at Fairmount Racetrack, the live racing at Fairmount. You gotta understand, back in 1995 when this was passed, there was, there was a law that was in place that required a number of live racing dates for thoroughbreds and a number of live racing dates for standardbreds. The law said that you had to race so many days. Unfortunately, that law was declared unconstitutional. So at the time when 1995, when this was passed, nobody anticipated, or at least I didn't, at least I didn't as a Representative of the area in which the racetrack is located, anticipate the fact that standardbreds would no longer race there. Because there was a law that required them to do it. We didn't anticipate this happening. Otherwise, when Representative Kubik carried that Bill at that time, I would have made sure that that this was addressed. But we didn't anticipate it, because the law said otherwise."

Poe: "Did the owner of Fairmount solely make the decision that he wasn't going to race standardbreds there anymore?"

Hoffman: "It is my understanding, that was a business decision that was made by the owner. Let me tell you this. I was not supportive of that decision. I would have liked to see standardbreds still race at Fairmount. Unfortunately, that business decision was made by the people who own the business. I don't own that business. I personally believe... would like to see that happen. Unfortunately, they don't race there. The people who work there have..."

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are now cut down to, I believe, 80 days of live racing, and so the full-time employees, become part-time employees. The thoroughbreds who, who used to race there, no longer have money to race for 'cause the purses are not high enough, because the money that's spent there is not staying there."

Poe: "If a... to question a little bit about the... they, how many OTB's does Fairmount Racetrack own?"

Hoffman: "It's my understanding, I think they have seven licenses, but they may only have six open. Okay, so I don't want to give you the wrong..."

Poe: "Okay, the point I would like to make, and I hope the Membership would understand, I have one of those in Springfield. People, people that go to my OTB and vote and they vote on standardbreds horse racing, and now you want to take the money that there gonna collect and make in my area and carry it to the Fairmount Racetrack. Is that my understanding, what you're wanting to do?"

Hoffman: "Well, if it weren't for the live racing at Fairmount Racetrack, there would be no OTB, that is incidentally, is owned by Fairmount Racetrack here in Springfield. See, the bottom line is... I'm not, I've never been, I wouldn't be standing here before you, if it wasn't for the fact that I have to be, because of my district and because of the number of jobs, an advocate for live racing. I don't think that anybody should be able to have a license in this state in order to have OTB's or any other type of horse-racing related, if they don't race live. Because when you race live, you put people to work, you have places for the horses to run, people who raise the horses have a place to run. So, that's what I'm an advocate of. Now, in order to do that, you have to have money, purse money, prize money

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if you will, for people to race for. And right now, because we didn't anticipate this in 1995, the prize money is not sufficient to continue the 150 days of live racing."

Poe: "How do you, how do you feel this is gonna affect the standardbreds that are bred and born in Illinois?"

Hoffman: "I think that the standardbreds who are, who are bred and born in Illinois can still race at the places that race harness in Chicago. Right now, they can't race at Fairmount, anyway. What we're saying is the people who are racing live and the breed that is racing live gets to keep the purses, period."

Poe: "Could you give me a little update on the lawsuit in that area and has that been settled?"

Hoffman: "It's my understanding, that there's... that there was a lawsuit that was filed by the... I think the standardbred industry, but I'm not sure. Somebody filed a lawsuit, okay? And there was a decision that is, and the lawsuit, it's my understanding either has been stayed or will be appealed to the appellate court."

Poe: "At this time, though, the ruling ruled in favor of the standardbreds, but they're gonna appeal it to try to get that overturned, am I correct?"

Hoffman: "I'll be honest with you, I'm not as familiar with the lawsuit as potentially I could be. It's my understanding that whoever lost the lawsuit, is intending to appeal that lawsuit. I think the lawsuit was generally ruled in favor of the standardbred industry, yes. But I don't know the exact ruling. Okay?"

Poe: "Mr. Speaker, to the Bill."

Speaker Hartke: "To the Bill."

Poe: "You know, Ladies and Gentlemen I wish you'd listen to this. There's seven offtrack betting parlors scattered around

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Central Illinois and Southern Illinois. They bet on standardbreds and that money goes into a purse that was supposed to go to help the standardbred industry. What's happening, we're gonna run that all down to one area. It's gonna help one person in the state and we're gonna penalize all the standardbred breeders in our state. There is an alternative. The alternative is that we have the DuQuoin State Fair, we have the Illinois State Fair. We can put that money in those purses and we could go ahead and help those, this industry of standardbreds that are born and grown in Illinois and we could make that business very viable, and it's very viable to agriculture when you look at the grain, the hay, and those kind of things. So, I think, what we're doing here, we're trying to rob money from one industry and put it in another and I'd ask you to vote 'no' on this Bill."

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

Lang: "Thank you, Mr. Speaker. Ladies and Gentlemen, I rise in support of the Gentleman's good Bill. As many of you know, I've been following the actions of the horseracing industry very carefully and have been involved in many negotiations regarding legislation to help the horsemen and the track owners and everyone involved. But this is less about horses and less about OTB's and less about all these other things we've talked about, than it is about simple economic development in Representative Hoffman's area of the state. Fairmount Racetrack employs 1,500 people, and their jobs are at risk. There are many owners of horses, many people that keep the track clean and sell the tickets and sell the food, people who keep the grounds in order. These people's jobs are at risk, because of the changes we have made have,

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have exported some of the dollars out of Fairmount, out of Representative Hoffman's district to other areas of the state. And all he's looking for in this Bill, is simple economic justice for his region of the state and to make sure 1,500 people don't lose their jobs. So there's a lot of red herrings here, a lot of things that really have nothing to do with the Bill. This is not about OTB's. This is not about gambling. This is about a racetrack that already exists and making sure it can stay viable and open by simply a little shifting around of the money that's already in the pot for gambling. This isn't new money. This is a little shifting around of dollars to adjust ourselves to where we thought we were going to be when we passed the original Bill. Things have changed since then and because of that Fairmount is at risk. The Metro East Area, specifically, needs more economic development and to take economic opportunities away from that region and to take jobs away from that region at a time when they really need the help, would be a shame. So it is a, it is a strong vote of support, Representative Hoffman should have on this very good Bill."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from Jefferson, Mr. Jones. John Jones."

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

Speaker Hartke: "The Sponsor will yield."

Jones, J.: "Representative Hoffman, you're probably aware I have House Bill 618 to address this issue a little bit, and my Bill would take those funds that you're talking about and put it in the Springfield Fair (sic-Illinois) and the DuQuoin Fair, so that we can have standardbred racing. My understanding a week ago is that we had negotiations going on and you and I were gonna hold these Bills. I've only

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had one communication since then with the parties. Maybe you can enlighten me of where the negotiations are at right now."

Hoffman: "I think the problem is, Representative, is they have talked, they continue to talk, as a matter of fact, they talked this morning. And as... I think they've broken down and I don't know... I personally hope that when we send this over to the Senate, if we do, or if we don't, we continue to talk. I want to make sure that the standardbred industry is still viable in Illinois. I am not out to hurt the standardbred industry, I have to protect the jobs of my district. However, as of right now, I see no choice but to move this Bill. I wish I didn't have to, but I have to."

Jones, J.: "I guess... You know, I'm probably in the same predicament you are. Of course, I've got people that are standardbred and thoroughbred racers, both. In fact, one of my closest friend is a thoroughbred racer at Fairmount Park almost daily. And it's very difficult for me to not support a Bill of yours with friends like that. And I'm not here to try to take jobs away from anybody, but I think that, in the long run, that's exactly what we're gonna do because the standardbred racing is gonna suffer drastically if we don't do something for them. So, I strongly, at this moment, oppose your Bill, but I would hope that if your Bill passes today, that we could accommodate the standardbred people and move House Bill 618 over to the Senate and hopefully, we can continue those negotiations. Because I think that's where it needs to be done at and it needs to be negotiated out. It doesn't need to be us passing laws to solve some people's personal problems, really is what it amounts to. Because a owner of a track

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in the State of Illinois has chosen not to raise standardbreds anymore, that track has made a lot of money off of standardbreds. And I know, in your earlier statement, you said, it wasn't of your doing and if you had any say-so in it, they would still be raising standardbreds. So, I understand where you're coming from, but I just want you to know that I'm gonna have to run my Bill now and hopefully pass it and get it over into the Senate and maybe continue those negotiations. But, you know, I see no need in this Bill right now. I see... We got another week, we could both hold our Bills for another week. But you've chosen to run yours, so I'm gonna choose to run mine, also."

Speaker Hartke: "Further discussion? The Chair recognizes the Gentleman from St. Clair, Representative Holbrook."

Holbrook: "Will the Sponsor yield?"

Speaker Hartke: "The Sponsor will yield."

Holbrook: "Jay, the money from this off-track betting parlor, where is it coming from, from which off-track betting parlor is it going to go to Fairmount?"

Hoffman: "I apologize, I couldn't hear."

Holbrook: "From which off-track betting parlor will this revenue come to keep this... to keep Fairmount open?"

Hoffman: "It's only from all... It would be not only from the off-track betting parlors, it would be all the off-track betting parlors that are currently owned by Fairmount and the ones that... and the money that is bet on out-of-state races, I believe, on simulcast races, at Fairmount Racetrack itself."

Holbrook: "The vast majority of the funds will be coming from the off-track betting parlor in our area right there that this track is running ..."

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Hoffman: "Well, yeah, I mean... I guess you could call it an off-track betting parlor, but it's actually the track itself where they show simulcast races from races that are being run in other states. So, most of the money and the biggest handle or the biggest amount of money, obviously, comes from what is bet there."

Holbrook: "Your intent isn't to milk the whole state to keep our track open then, is it?"

Hoffman: "No, no, not at all."

Holbrook: "And if that track closes down, there isn't gonna be anything left and there's not gonna be any jobs there for the rest of this, is there?"

Hoffman: "Well, that's what... that's why I got the Bill. We can't afford economically, nor can the agricultural industry around us, nor can the people who work directly for the racetrack, or the people who provide services, or the people who raise the horses, or the people who sell the feed can afford for this to close. That's why we have the Bill. This is gonna keep that track open. It's gonna keep it viable, gonna keep workers working, and keep the economy going in our area."

Holbrook: "So, this is the last track in Southern Illinois. If it folds, this is it, right?"

Hoffman: "Well, in the rational basis and the intent of the Bill, the rational basis for treating Madison County differently from other counties with horseracing tracks is to maintain full-time horseracing in Madison County at Fairmount Park. Fairmount Park, as you indicated, Representative, is the only horseracing facility operating outside of Chicagoland area in Illinois. Madison County has a much smaller pool of customers than sister tracks located in Chicagoland area. That's why we have this Bill, that's why we have the

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provisions in the Bill. And that's why we need it to pass."

Holbrook: "That's why it's a fabulous Bill and I'm cosponsoring it with you. And I urge an 'aye' vote."

Hoffman: "You only cosponsor fabulous Bills, Representative."

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

Black: "Thank you very much, Mr. Speaker and Ladies and Gentlemen of the House. I rise in opposition to the Bill. This is a very complicated issue. And I'm not after the Sponsor. What we're seeing here is symptomatic of the difficulty that the whole horseracing industry is in, competition from off-track, excuse me, competition from riverboats, the lottery, changing social mores. If you go to a racetrack today, take a guess at what the average age is? You don't see many young people going to the horse tracks like you did 35 years ago. The entire horseracing industry's in trouble. But this Bill doesn't solve that. What the Bill does is take money that's earned by the standardbred horsemen from wagers on their televised races, the trotters, and then it gives a good percentage of those wagers to this track in Madison County, who will then use that money to boost the purse for thoroughbred racers. Now, the thoroughbred racers did nothing in the process to get that money other than by passing this Bill that diverts some of the income stream from the trotters racing on the OTB televised network, sending it to the track in Madison County, boosting the purses for the thoroughbred racers. We're cannibalizing an industry that doesn't need to be cannibalized. We need to sit down and figure out how to keep the Illinois horseracing business viable. There are thousands of people in Illinois that make their living off

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this by raising, training horses, by growing crops that the horses eat, by selling tack. It goes on and on and on. This Bill does nothing to solve the underlying problem of the horseracing business. In fact, in my opinion, it cannibalizes it and it does not treat standardbred owners fairly. It... In fact, it takes some of their money that's wagered on their races, sends it to another track where it can be added to thoroughbred purses. I don't think it does anything to help the overall health of the horseracing business in Illinois. That's the primary reason I rise in opposition."

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

Hoffman: "Well, let me just, real briefly... I respect the comments from the opponents. But let me real briefly say this because he's not here to talk. As you can see, Representative Stephens is a cosponsor of this Bill. And the reason he's a cosponsor and Representative Holbrook and others in our area is because it's so vitally important economically in our area. I wish I didn't have to stand up here with this Bill, but I'll tell you what it does. There is no expansion of gambling, so if you're concerned about that, this does not expand gambling at all in the State of Illinois. In addition, the thoroughbred industry, obviously, is in favor of this, the AFL-CIO and the workers are in favor of this. And this will not affect any other racetrack. It's only effect will affect the racetrack that's located in Madison County in our area that provides jobs to Representative Stephen's district, Representative Davis's district, Representative Younge's district, Represent... my district, and all throughout South... Southern and Southwestern Illinois. This Bill will make

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sure that people in our area will continue to work, period. I promise and I vow to the Sponsor... to the opponents that we'll continue to talk, because I, personally, believe that the viability of the standardbred industry is very important. I just ask for you to join me in supporting jobs, join Representative Holbrook, Representative Davis, and the other Sponsors of the Bill, including Representative Stephens, in giving me an 'aye' vote. Thank you very much."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 1069?' 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 House Bill 1069, there are 66 Members voting 'yes', 48 Members voting 'no', and 3 Members voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. House Bill 264, Representative Flowers. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 264, a Bill for an Act concerning managed care plans. Third Reading of this House Bill."

Speaker Hartke: "Representative Flowers."

Flowers: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. In 1999, the General Assembly proudly passed the Managed Care Reform and Patients (sic-Patient Rights) Right Act offering a comprehensive protection for consumer health care in the State of Illinois. Managed care liability, then, was heavily debated during the negotiations for this Act, but that was not included in the final version. In 1999, I'm very proud to say that our Supreme Court, our Supreme Court, spoke on behalf of the people of the State of Illinois and they said... they ruled that HMO's can, in

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fact, be held liable for medical malpractice. In the Petrovich v. Share Health Plan, the court ruled that HMO's will be held liable under the theories of a parent agency and implied agency. House Bill 264 established that liability in statute. The Supreme Court Petrovich Decision make it possible for patients to sue their HMO's for medical malpractice if they are proven to be vicarious liable. However, that can be difficult to prove and many legal analysts feel that the Petrovich actually give HMO's a road map for avoiding liability by specifying that doctors are independent contractors rather than employees of the plan. I think it is fair to say that the average patient is not a lawyer, has not read all of the relevant law cases, and therefore, does not make such a fine distinction between whether or not a doctor is the employee or an independent contractor. If you ask a patient who their doctor works for, they will probably give you the name of the HMO, instead of the... saying that the doctor is an independent contractor. Once again, Ladies and Gentlemen, House Bill 264 will give the right to sue for HMO's malpractice. Let me state, at the onset, that the intent of my legislation is not to create a bonanza for trial lawyers. Instead, what I'm seeking to do is to bring a measure of accountability to this multidysfunctional system. Accountability is a very popular word these days. We want to hold government accountable. We want to hold welfare recipients accountable. We want to hold criminals accountable. What I want to do and what our constituents want us to do is to hold HMO's accountable when they practice medicine with a financial well-being on their shareholders as their first and foremost consideration, rather than the physical and the mental well-being of their

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patients as their top concern. HMO's would have you to believe that their primary mission is to provide health care services, this is not quite correct. Their primary mission, the reason for their existence, is to make money for their shareholders and provide health care services if the means through... and is the means of which they do provide for their shareholders. To make money, their incentive system require them to limit care. In general, limiting care and applying strict cost accounting system is desirable. Healthcare is a scarce resource. And to guarantee that as many as possible receive good quality care, a system that curtails on frivolous expenditures and waste is desirable. But in their zeal to contain costs, some plans unchecked by the possibility that they may be sued deny their doctors the ability to pursue a medical prudent course of action. To close, Ladies and Gentlemen, let me just repeat my basic message. All systems needs checks and balances. Exempting HMO's from financial liability for their decisions making them one of the few entities that cannot be sued, removes what should be a paramount consideration for their decision-making process. House Bill 264 remedies this because it puts patient well-being first, instead of their shareholders. I'll be more than happy to answer any questions you may have in regards to House Bill 264."

Speaker Hartke: "This Bill's on Standard Debate. We will have three proponents and three opponents to this measure and then the Sponsor will close. Representative Klingler, do you stand in opposition to the Bill?"

Klingler: "Yes, I do."

Speaker Hartke: "Proceed."

Klingler: "Thank you very much, Mr. Speaker. I rise in

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opposition to House Bill 264. As many of you know, I had worked very hard in the previous General Assembly, for passage of Managed Care (sic-Reform and Patient Rights) Patient's Right Act. However, I feel that what this Bill does is undercut some of the very hard reforms that we worked at in the last General Assembly. One of the things that we were concerned about is that when there are concerns about scope of treatment, referral to a doctor, being allowed specific high-level treatments in advanced cases, that this issue be decided very quickly if a patient is denied that service by the HMO. Consequently, we set up two systems of appeals within the managed care Act. First, was a system of internal reviews which would have to be addressed in a very expeditious basis. If the patient or the physician was unhappy with this, there would then be external reviews. And what's very critical, Ladies and Gentlemen, is that one provision is that the external reviews would be by physicians and persons in that medical specialty. So, for example, if there were a dispute on an obstetrical patient, the review panel would be physicians in obstetrics, not orthopedic surgeons or anesthesiologists. So, it would have to be by their particular specialty. I've talked with the Department of Insurance and there yet has not been enough time to evaluate the reforms that we did in the past. I think our goal is to get quick treatment for our patient and fast resolutions of disputes. As you know, civil lawsuits can go on for years and years and years, and this is not what we want for our health care system. I think that we need to get... give the previous Bill time to work. And I would urge all of you to support... to vote 'no', especially those who supported this in the past. Remember, this

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undermines what we worked on so closely before. Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes Representative Franks. Are you for the Bill or opposed?"

Franks: "I am a proponent of the Bill. Will the Sponsor yield?"

Speaker Hartke: "Proceed. The Sponsor will yield."

Franks: "Representative, you spoke briefly about the case law in Petrovich, which allowed for the individuals to sue HMO's under vicarious liability standards. Are you aware that when that case was heard that the Illinois State Medical Society had wrote a brief in support of the plaintiff in order to sue HMO's?"

Flowers: "No, I was not aware."

Franks: "Okay. Is the Illinois State Medical Society in support of this Bill?"

Flowers: "I have not spoken to 'em lately, but I would assume so."

Franks: "So would I, based on the fact that they wrote a brief in support of that."

Flowers: "Yes."

Franks: "Now, is it your intention that the principal of organizations, of any organizations, that they need to be held accountable, correct?"

Flowers: "You're absolutely right, Sir."

Franks: "Do you believe that there should be an exception for HMO's?"

Flowers: "There should be no exceptions for the HMO's, taken into consideration that they hold themselves out to be an insurance company, as opposed to doctors, and they're making medical decisions that will cause people their death."

Franks: "Well, that's exactly what the Supreme Court of the State

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of Illinois said in the Jones case. Now, the Jones case came out after the Petrovich case and that's another Supreme Court. What they talked about there is institutional negligence. And they held HMO's accountable based on an institutional negligence, also known as direct corporate negligence. Are you aware of that?"

Flowers: "I am aware of it, Sir."

Franks: "So, what this Bill... what it would really do is just codify existing Supreme Court case laws, is that true?"

Flowers: "You're absolutely right. And you've stated two and there's three others."

Franks: "Thank you. To the Bill, Mr. Speaker."

Speaker Hartke: "To the Bill."

Franks: "This Bill is one of the most important Bills that we're gonna have up this year. What it's gonna do is require HMO's that are making medical decisions that affect everyone of us and your loved ones and your constituents, and make them be accountable. Because when they turn down doctors' orders, if they're held, and it's found that their decision was negligent, then they should be held accountable. I really applaud Representative Flowers for bringing this forward. This is one of my top priorities and one of my top five. And I'm glad to have... to work with Representative Flowers on this. So, I'm asking all my Republican friends to vote for Leader Daniels and vote for this Bill. Thank you."

Speaker Hartke: "Further discussion? The Chair recognizes the Lady from DuPage, Representative Cowlshaw. Do you stand in opposition?"

Cowlshaw: "Thank you, Mr. Speaker. I regret to inform you that you can't really count me as either an opponent or a proponent, I just have an editorial comment. Mr. Speaker,

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probably to put it as succinctly as possible, this is the Full Employment for All Attorneys Act. Vote accordingly."

Speaker Hartke: "Speaking in support of the Bill, the Chair recognizes Representative Scully."

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

Speaker Hartke: "The Sponsor will yield."

Scully: "Representative Flowers, what is the standard of care that your Bill will impose on HMO's?"

Flowers: "Relatively simple, Representative. The standard of care is merely ordinary care, which is a very minimum standard to impose."

Scully: "Has the Supreme Court... You mentioned earlier that the Supreme Court had recognized the right of consumers to sue HMO's, is that correct?"

Flowers: "Yes."

Scully: "Can we... Are we able to simply rely upon the courts to handle this situation?"

Flowers: "No, we can't. Because for case law to develop through the court system, the courts are only capable of dealing with cases as the cases are brought to the court and must limit the court rulings to the precise questions before the court. The courts are not capable of creating the comprehensive resolution to a problem, such as the current crisis in obtaining proper medical care, and are forcing HMO's to recognize their liability under their insurance contract. This Bill is such a comprehensive solution to the catastrophic problem of skyrocketing health care costs and insurance companies who are focused totally on their bottom line with no fear of being held accountable for the failure to exercise, once again, ordinary care. This Bill would make the HMO's accountable. You asked earlier, Sir, that if we can rely on the courts to solve this problem, it

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will take the courts a decade to assemble a body of decisions on a case by case that is equivalent to this comprehensive legislation. The responsibility to create these comprehensive solutions rests with the General Assembly. That's the reason why the people of the State of Illinois sent us here. Thank you."

Scully: "Thank you, Representative. Another question, are the patients able to simply get their medicare and deal with the insurance issues later?"

Flowers: "You know, Representative, the answer to that question is 'no'. And it's not even realistic to think that they can. In light of the incredible high costs of medical care, the decisions by HMO's to deny coverage will usually cause the medical care to be withheld since few patients can afford the health care services themselves, especially if they have been paying insurance premiums each and every month. And that is why this Bill... And this is what really this Bill is all about, forcing the insurance companies to step up to the plate and abide by their insurance contract and to hold those insurers liable if they don't."

Scully: "Representative, thank you very much for your responses. To the Bill. Mr. Speaker and Ladies and Gentlemen of the House, I want to thank the Representative for her very excellent questions and for the courage to bring forward this kind of legislation to deal in a comprehensive manner with the problem of skyrocketing health care costs. As the Representative stated, the courts have already given consumers the right to file suit, but it's not realistic to think that the courts are able to come up with a comprehensive solution to this problem. The job of developing those comprehensive solutions resides right here

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in the House of Representatives. Thank you very much, Representative, for sponsoring this Bill. And I'm proud to be a cosponsor."

Speaker Hartke: "Further discussion and final speaker? The Chair recognizes Representative Krause, standing in opposition. Representative Krause."

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

Speaker Hartke: "The Sponsor will yield."

Krause: "Representative, as has been stated, we..."

Flowers: "Pardon me. I'm sorry."

Krause: "That is fine."

Flowers: "Excuse me, Mr. Speaker, can you bring the noise level down, please?"

Speaker Hartke: "Ladies and Gentlemen, shh, please."

Krause: "As has been stated, Representative, the Illinois courts have ruled in several cases that there is a cause of action against HMO's, is that correct?"

Flowers:: "That is correct."

Krause: "And does this legislation that you propose codify the cases that the court has ruled on? Have you taken those statements along with the defenses and put them in the legislation?"

Flowers: "It... Not completely, Representative, no."

Krause: "When we discussed your legislation in Health Care Committee, one of the statements that I made to you is, of course, the importance of the Patients' Bill of Rights that you and I had worked on and that has been passed and that you referenced."

Flowers: "Yes."

Krause: "As part of that legislation, I think one of its strengths is the requirement that there be provided to a

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patient an immediate right for appeal, does it not? And in some cases, it does provide for a 24-hour emergency appeal to get a decision where some care has been denied."

Flowers: "Representative, you're absolutely right. And it is at that point, Representative, that is during the course of a patient trying to get their health care."

Krause: "Well, but..."

Flowers: "But, if the HMO... If all that has been exhausted and the HMO deny that patient care, because of the external review, because of the internal review, they then have a right to go to court."

Krause: "Without a doubt. But should we not provide, in this legislation first, the requirement that there be exhaust at those remedies."

Flowers: "No, because..."

Krause: "So that we have people know of the benefit, what they are interested in and what they are... What we want them to do is to have an immediate appeal to resolve whether or not..."

Flowers: "Oh, Representative, you know what? I understand exactly what you're saying, but you tell that to a person that has a limited time to live. See, the HMO's have lots of money. They can afford to stall for as long as they want to, but there's a time limit on my illness in which I have to either live or either be cured."

Krause: "And without a doubt..."

Flowers: "And so therefore, I don't have the time to play, nor do I have the moneys to exert like the HMO's have."

Krause: "Not at all, what our legislation provides for in the Patients' Bill of Rights is, in fact, that they must rule within 24 hours. Don't send them to the courthouse where it takes several years..."

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Flowers: "Excuse me, Representative. We are talking about the denial of care."

Krause: "...have them follow the 24 hours."

Flowers: "No, the denial of care. That's to say whether or not they can have the care or not. If that HMO deny or either stall time, that patient should have the right to sue. And then, Representative, I don't know, I really don't know, how do you explain that to the Jones' mother whose daughter will never be the same because of the institutional misconduct of that HMO?"

Krause: "Because it provides for a..."

Flowers: "I don't know her daughter will never be the same..."

Krause: "...24-hour immediate appeal..."

Flowers: "...Representative. Excuse me, she..."

Krause: "...is what should be done."

Flowers: "She went through the external review, she went to the internal review, she was denied the care, Representative."

Krause: "This is what should be..."

Flowers: "And the malpractice occurred..."

Krause: "...provided in this Bill."

Flowers: "...as a result of the care..."

Krause: "This Bill provides..."

Flowers: "...being denied."

Krause: "...for that legislation and should be followed before the person goes to court, where they are delayed for a number of years. If this legislation had provided..."

Flowers: "The malpractice has..."

Krause: "If I may please answer..."

Flowers: "...occurred, Representative, there's no..."

Krause: "...the statement."

Flowers: "...place for them to go but straight..."

Krause: "What this legislation fails to do..."

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Flowers: "...to court according to our Supreme Courts."

Krause: "No, your legislation fails to require them to follow those appeals to get any immediate result."

Flowers: "This is America, Representative."

Krause: "Sending them to go to..."

Flowers: "This is America, I..."

Krause: "...court is not the way..."

Flowers: "...can go straight to court..."

Krause: "...to require them to do that at all."

Flowers: "...from McDonald's filling a hot cup of coffee, I should be able to go to court for my life."

Krause: "Mr. Speaker, to the Bill."

Speaker Hartke: "To the Bill."

Krause: "One of the very basic strengths of the Patients' Bill of Rights is to require an external review so that a patient, in fact, can in an emergency situation, have a hearing within 24 hours, not months and months spent filing in a court and seeking, finally, to have a court review. If this legislation had required an immediate following of the Patients' Bill of Rights so that there would be 24 hours, rather than send them to a court, we then would be addressing the true needs of a patient. This legislation also removed the arbitration clause that I felt was also necessary, again, to try to move this matter along. Under the Texas law, these were all requirements before, before, a lawsuit could be filed. I would also just like to comment on the statement about Leader Daniels that was made by a previous speaker and that was not appropriate. Leader Daniels has always been a supporter and a leader in the Patients' Bill of Rights and supported the legislation. And I think that those comments were inappropriate. On the Bill, though, also I think it was stated in the committee

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that the Med Society was neutral on the slips that was filed. As stated, I think that the Patients' Bill of Rights should be filed... followed first. It has the standards to give the expeditious review that is necessary. This legislation does not do it and it should not be supported."

Speaker Hartke: "Representative Flowers to close. Representative Cross, for what reason do you seek recognition?"

Cross: "We just want to request a verification. And Mr. Speaker, I understand you're splitting it up three and three, but I assume that we can still ask for a verification in addition to the opponents and proponents speaking."

Speaker Hartke: "Sure. Your request will be granted."

Cross: "Thank you."

Speaker Hartke: "Representative Flowers to close."

Flowers: "You know, Mr. Speaker... Ladies and Gentlemen of the House, the Bill in which we just debated is about human rights. It's about business people making medical decision and withholding because the bottom line is how much will they profit from the harm in which they are able to cause you and keep for themselves. HMO's, Mr. Speaker and Ladies and Gentlemen of the House, has a duty to perform to their shareholders. And if you think I'm kidding, I challenge each and every last one of you to look in the business section of the newspaper and check your stocks. And every time you go to a doctor, you are making that doctor sick because you're costing him money and you're costing his business money. Mr. Speaker, Ladies and Gentlemen of the House, we have passed a very good Patient Bill of Rights in the Illinois House of Representatives. We have the appeal process. We have the external review. We have the internal review. We have the utilization. But the

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financial incentives that the HMO's have, they don't mind withholding a test that will cost you your life. They would rather pay for the \$300 or the \$3 thousand it would have cost to test because of the longevity of your illness may cost them even more. That's not the message that our Supreme Court of the State of Illinois has sent. The only thing this legislation is doing is codifying what our Supreme Court has said. And I say to those HMO's who are worried about this being an employment for the trial lawyers, they need not apply. If you do not interfere with the doctor/patient relationship, don't worry about being sued, it doesn't apply to you. The only thing this Bill is asking for in three locations, it's asking for, quite simply, ordinary care. Ordinary care. Mrs. Petrovich is dead, Ladies and Gentlemen. No amount of money's could ever bring her back. Mrs. Jones' baby is impaired for the rest of her life. No other... no amount of money would be able to bring her back. Mr. Speaker, Ladies and Gentlemen of the House, I urge, on behalf of the people of the State of Illinois, an 'aye' vote. And in closing, before I close, because we do have a doctor in the House, I would like for you to hear from Dr. Miller and hear his perspective. So, Representative Miller, would you please continue my close for me? Thank you."

Speaker Hartke: "You have one minute, Mr. Miller."

Miller: "My name was used in debate. A point of personal privilege. I do stand in support of this Bill. The mere fact that do... they do... HMO's do offer incentives. By that mere fact, states the fact that there is a financial issue involved in this and it does interfere between the patient/doctor relationship. It is so important that we pass this legislation. It is so important that we say to

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the citizens of Illinois that we aren't gonna have big businesses interfering with that relationship. And I would like to remind that most of the insurance companies have offices and buildings on Michigan Avenues, not the physicians. And so, I do rise in strong support of this legislation and hope my colleagues vote in support of it. Thank you."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 264?' All those in favor will signify by voting 'yes'; those opposed vote 'no'. The voting is open. There has been a request for a verification. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On House Bill 264, there are 62 Members voting 'yes', 53 Members voting 'no', 1 Member voting 'present'. Mr. Clerk, verify the affirmative votes."

Clerk Rossi: "Poll of those voting in the affirmative: Representatives Acevedo. Boland. Bradley. Brady. Brosnahan. Brunsvold. Bugielski. Burke. Capparelli. Collins. Crotty. Currie. Curry. Dart. Davis, M. Davis, S. Delgado. Erwin. Feigenholtz. Flowers. Forby. Fowler. Franks. Fritchey. Garrett. Giles. Granberg. Hamos. Hannig. Hartke. Hoffman. Holbrook. Howard. Jones, L. Jones, S. Kenner. Lang. Lyons, J. May. McCarthy. McGuire. McKeon. Mendoza. Miller. Morrow. Murphy. Novak. O'Brien. Osterman. Reitz. Ryan. Schoenberg. Scott. Scully. Slone. Smith. Soto. Stroger. Turner, A. Yarbrough. Younge. Mr. Speaker."

Speaker Hartke: "Representative Cross."

Cross: "Doug Scott."

Speaker Hartke: "Representative Doug Scott's standing in his chair. Representative Connie Howard, who would like to be

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recognized to be verified. Yes."

Cross: "Representative Fowler."

Speaker Hartke: "Representative Fowler is in his chair."

Cross: "Well, that was a good one guys. Art Turner."

Speaker Hartke: "Representative Art Turner is in the back of the chamber waving at you."

Cross: "Representative Hamos."

Speaker Hartke: "Representative Hamos is standing in front of her desk talking to Representative Erwin."

Cross: "Representative Stroger."

Speaker Hartke: "Representative Stroger is standing here in front of the well."

Cross: "Representative Ryan."

Speaker Hartke: "Representative Ryan is behind his chair."

Cross: "I'm sorry. Representative Davis."

Speaker Hartke: "Representative Davis, Monique or Stephen?"

Cross: "Well, it depends which one's not here."

Speaker Hartke: "They're both in their chairs."

Cross: "Well, then, I'm not even gonna ask. Representative..."

Speaker Hartke: "Excuse me, Representative Schoenberg wishes to be verified and Representative Hamos. Okay."

Cross: "I... Just one second, if I could have ... Mr. Speaker."

Speaker Hartke: "On House Bill 264, there are 62 Members voting 'yes', 53 Members voting 'no', 1 person voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. House Bill 2470, Representative Franks. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 2470, a Bill for an Act in relation to public aid. Third Reading of this House Bill."

Speaker Hartke: "The Bill's on Short Debate. Representative Franks."

Franks: "Thank you, Mr. Speaker. House Bill 2470 passed out of

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committee with no one voting against it and only one person voting 'present'. What it does is it provides that a medicare beneficiary or a beneficiary under the Pharmaceutical Assistance Act or under the Circuit Breaker Act is entitled to obtain prescription drugs at prices based on a pharmacy's Medicaid reimbursement rate. This has been done in California and in Vermont and it's been quite successful. Here in Illinois, we have about 1.4 million individuals that are Medicaid eligible, costing the state approximately a billion dollars for prescription drugs. We also have the Pharmaceutical Assistance Act, which costs the state in excess of \$100 million. This Bill is great for any senior or disabled who is medicare eligible. On the average savings on the prescription drugs is approximately 25%, sometimes saving up to 70%. There is very little cost to the state. I'd be glad to answer any questions."

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

Mulligan: "Thank you, Mr. Speaker. I fully intend to support this Bill, but I would just like it noted for the record that Medicaid-eligible patients are to get that rate, the State of Illinois pays for their drugs. The average elderly person in a nursing home gets approximately a thousand dollars a year coverage in that. Our current circuit breaker already covers 2 thousand up front, which is more than you would normally use under Medicaid. So, although we will certainly support this Bill, I don't see an explanation of what difference it is from what we currently already do. Thank you."

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

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seeking recognition, Representative Franks to close."

Franks: "I ask for an 'aye' vote."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 2470?' 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 House Bill 2470, 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. House (sic-Joint) Resolution 6, Representative Poe."

Poe: "Mr. Speaker, this is a Resolution we passed a year ago and again this year. And what it is, is for the veterans of Illinois and it declares that June 14 to July 14 as American Flag Month in the state."

Speaker Hartke: "Is there any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House pass House Joint Resolution 6?' All those in favor signify by saying 'aye'; opposed 'no'. In the opinion of the chair, the 'ayes' have it, and the Resolution is adopted. House Joint Resolution 12, Representative Poe."

Poe: "Mr. Speaker and Ladies and Gentlemen of the House, this is an issue that come out of the Rural Affairs Conference and it urges the Governor to work with the General Assembly to implement the recommendation of the Governor's Rural Affairs Council Report. It's a Lieutenant Governor's initiative. And this is something that there's follow-up legislation on these areas that we've already had in the House. We'd ask for your approval."

Speaker Hartke: "Any discussion? Seeing that no one is seeking recognition, the question is, 'Shall the House adopt House Joint Resolution 12?' All those in favor signify by saying

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'aye'; opposed 'no'. In the opinion of the Chair, the 'ayes' have it. And House Joint Resolution 12 is adopted. House Joint Resolution 16."

Poe: "We're just moving right through these, Mr. Speaker. This here's a Bill that I brought a year ago and it was in a Bill form and I found out that it was quite a bit of opposition, so I thought maybe we need to have a Mandatory Insurance Advisory Task Force. And what this is, it's been ten years since we've changed the insurance laws for uninsured motorists in Illinois who have had accidents. I think the insurance industry decided that maybe it's time that we have a study and a task force to look into this and maybe clamp down. I know in my district, and I'm sure very many of yours, we have very many calls from constituents that people are in accidents, they don't have insurance, and this is a way, I think, that maybe we could tighten it up a little bit and make it a lot better. So, I'd ask for your approval of this task force."

Speaker Hartke: "Is there any discussion on House Joint Resolution 16? Seeing that no one is seeking recognition, the question is, 'Shall the House pass House Joint Resolution 16?' 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 House Joint Resolution 16, there are 114 Members voting 'yes', 0 voting 'no', and 0 voting 'present'. And this Joint Resolution, having received a Constitutional Majority, is hereby declared passed. The Chair recognizes Representative Monique Davis. For what reason do you seek recognition?"

Davis, M.: "I rise for a point of personal privilege, Mr. Speaker."

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Speaker Hartke: "State your point."

Davis, M.: "We'd like to introduce Mr. Loren Golden, who will be sworn in as the next Illinois State Bar President in June of 2002. Mr. Loren Golden is down with a group of friends to watch us pass this great legislation that we've been passing today. Would you give a warm welcome to Mr. Golden?"

Speaker Hartke: "Welcome to the Illinois House. Mr. Clerk, what is the status of House Bill 1901? 1901."

Clerk Rossi: "House Bill 1901 is on the Order of House Bills-Third Reading."

Speaker Hartke: "Move that Bill back to the Order of Second Reading for the purposes of an Amendment at the request of the Sponsor. On Second Reading appears House Bill 279, Representative Burke. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 279 has been read a second time, previously. Amendments 1 and 2 have been adopted to the Bill. No Motions have been filed. No Floor Amendments approved for consideration."

Speaker Hartke: "Third Reading. On Third Reading appears House Bill 418, Representative Morrow. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 418, a Bill for an Act concerning property transactions. Third Reading of this House Bill."

Speaker Hartke: "Representative Morrow."

Morrow: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. House Bill 418 creates the Transportation and Toll Highway Property Transaction Act. Requires the Department of Transportation and the Illinois State Toll Highway Authority to disclose to the Department of Central Management Services info concerning the acquisition of real property using state moneys, including the identity of the

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owners, the fair market value, the purchase price, the bidding method, and the state use. Requires that the price at which the Department of Transportation sells real property to the Toll Highway Authority be within 5% of its fair market value. Requires that the fair market value of real properties exchanged by the Department and the Authority be within 5% of each other. I'd be glad to answer any questions on House Bill 418."

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

Cross: "Thank you, Mr. Speaker. Representative, are you creating a new Act?"

Morrow: "Yes."

Cross: "We had a little trouble hearing you when you were explaining your Bill. What... Why... What's the point of the Act or the purpose of the Act?"

Morrow: "Well, it's actually twofold, Representative Cross. IDOT is, basically, the land acquisition agency of the state. Many of the roads that have become tollways were acquired... or the land, rather, that are now tollways were acquired by IDOT and they were never reimbursed by the Tollway Authority for the purchase of the land. Also, Representative Cross, this Bill is trying to address the issue in the South suburbs in the City of Chicago with the ideal of the Governor... the Governor's ideal of wishing the Bill to a third airport at Peotone. There are several parcels of land out at Peotone that may be... that is under consideration by IDOT for purchase, and we want to know who owns that land. Over 70 land trusts out there or 70 parcels of land out there in blind trust. We want to know who the owners are, because not only are we talking about land for the airport, we're talking about land speculation.

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We're also looking at land that may be used for parking lots, for restaurants, and for hotels. This... If the proposal for Peotone is ever completed, it's a lot of money that's gonna be spent out there. If you were here for the Governor's address, he is talking about proposing to spend \$70 million for land acquisition in Peotone. My Bill does not say whether he can... how he has to use the money or whether or not he can use the money. It's saying that if you purchase land, let us know who's gonna benefit from the purchase. And if the IDOT purchases land that's gonna then be transferred to the Tollway Authority that you identify what the purpose of the land is gonna be used for, identify the bidding method of how the land was purchased, and then identify the purchase price."

Cross: "Charles, I'm looking at one paragraph that I... that seems to have nothing to do with the airport or Peotone. It reads, 'the authority shall disclose to the Department of Central Management Services the acquisition of real property related to the I-355 Corridor Extension for the route south of I-355 from I-55 to I-80'. Why would that be included in this Bill?"

Morrow: "Well, Representative, you saying that the south corridor of I-355 has nothing to do with Peotone?"

Cross: "It... Well, it may have something to do with Peotone in the sense of having a get... may provide a mechanism to get there, but there certainly have been reasons to extend 355 south of 55 down to I-80 for a long time even prior to the... even to the discussion stage of Peotone. But, I guess I'm just not sure what connection you're making to it."

Morrow: "Well, I tell you how, Representative. If you look in your files, you should have a fiscal note from the Illinois

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Tollway Authority dated March 16, 2001, from Thomas Cuculich, the Executive Director of the Tollway Authority. Mr... Ms. Klink, she's the Chief General Clerk, Ms. Klink per fiscal note at the following is an initial estimate of the fiscal impact of House Bill 418. It is our understanding that the Illinois Department of Transportation has expended \$51 million to acquire property associated with potential future tollway extensions."

Cross: "How do ya... And Charles, we won't spend a lot time on this, I guess. But it says, in addition to the language I read to you, 'purchased in whole in part with state moneys, whether purchased before, on, or after the effective date of this Act.' How are you gonna enforce purchases made before this Act, in terms of the requirements under this Bill? Do you really think you can constitutionally do that? You must be, you must think so."

Morrow: "Well, where is that where it says before? I see where it says, in Section 10(a), 'the Department shall disclose to the Department of Central Management Services all acquisitions of real property purchased on or after the effective date.'"

Cross: "Well, Charles, I am not going to spend a lot of time on it, but I'm looking on page... Section 10, paragraph (c), line 24 and line 25."

Morrow: "Okay. You're talking about the Section (c). I'm sorry, Representative, you are correct."

Cross: "All right. Thanks a lot."

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

Mathias: "Will the Sponsor yield?"

Speaker Hartke: "The Sponsor will yield."

Mathias: "Representative, in the Bill it also mentions beside the

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notification requirements, there's also a requirement that IDOT sell property to the Toll Highway Authority within a certain percentage of it's fair market value, I believe 5%, is that correct?"

Morrow: "That's correct."

Mathias: "Now, does that apply to property that IDOT may have purchased, that the \$50 million that you mentioned before, does that apply to that property?"

Morrow: "Well, right now they have not... They have not used the 51 million, yet. They have a \$51 million pool in order to purchase property for potential future tollway use. So, yes, that would apply to that."

Mathias: "What about property that IDOT has purchased, for example, for the south or north extension of either 355 or the north extension of 53 that's already been purchased by IDOT, would this Bill apply to that property that IDOT already owns?"

Morrow: "Yes, if IDOT owns it, yes."

Mathias: "So, let's say under the scenario that IDOT bought this property a number of years ago, they've been accumulating this property on the south end and on the north end for a number of years. And let's say they got a good deal in purchasing this property some time ago. Now, under your Bill, they have to sell the property to the Tollway Authority at a profit. Is that correct? If the property exceeded..."

Morrow: "At fair market value."

Mathias: "But not at the fair market value that they purchased the property, at today's fair market value?"

Morrow: "Yes."

Mathias: "It seems to me that, from what you've said and from what others have said, the Governor said, and I know a

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number of Representatives, Representative Schoenberg has said, the Tollway Authority is in trouble, it doesn't have enough money to pay for the maintenance of the roads that it has today, according to them. And now you're asking them to pay even more to purchase property that IDOT has already purchased on behalf of the state at a profit and it will take away more needed dollars from the Tollway Authority to... in order to extend the south or north end of Route 53, is that correct?"

Morrow: "Well, Representative Mathias, is IDOT in the business of purchasing land for tollway use or is IDOT in the business of purchasing land for freeway use?"

Mathias: "I think IDOT's in the purchase (sic-business) of purchasing land to alleviate the traffic congestion in our state."

Morrow: "Well, but the moneys used by IDOT to acquicess (sic-access) land comes out of General Revenue Funds, right? It comes out of General Revenue Funds. IDOT should not be the land acquisition agency for other agencies. If IDOT wants to purchase land for its own use, I have no problem with that. But when it purchases land that is then transferred to the Tollway Authority and there's no reimbursement, I do have a problem with that. I could have expanded this Bill, Representative Mathias, to include all state agencies because IDOT has purchased land that has then been transferred to other state agencies where they did not get reimbursed. I'm not saying that they cannot transfer the land, all I'm saying is, be reimbursed for the... at fair market value for the land that you purchased originally for Illinois Department of Tollway or Illinois Department of Transportation use. That's all I'm saying."

Mathias: "To the Bill, Mr. Speaker."

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Speaker Hartke: "To the Bill."

Mathias: "I just think in today's day and age, where the Tollway Authority needs much needed dollars to fix the toll roads that they have today and to make future purchases, that we should not be taking away more dollars from the Tollway Authority. Thank you, Mr. Speaker."

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

Schoenberg: "Thank you, Mr. Speaker. I would like to rise in support of House Bill 418. And first of all, I'd like to commend Mr. Morrow for many years of hard work on this issue. It was Mr. Morrow's efforts several years ago in... on this issue that resulted in bringing about legislation that closed the gap that used to previously exist between how land was acquired by the Toll Highway Authority and how land was acquired by the Department of Transportation. Mr. Mathias asked, 'Why do we have to do this for land that was previously purchased?' Well, the reason why we have to do this for land that was previously purchased is because, until the law was changed recently, the Toll Highway Authority used to argue that they were not... that they didn't have to follow the same tougher standard as the Department of Transportation set by the Federal Government in disclosure of real estate transactions because the tollway argued that their money really wasn't tax money. It's toll money, not tax money. And in their... through that logic, they said that they were exempt from being held to a higher standard as the Department of Transportation was. The Toll Highway Authority has since changed that under pressure from people, most notably Mr. Morrow, who has really been thoroughly on top of this issue. Mr. Speaker and Ladies and Gentlemen of the House, this... one

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of the prior speakers also asked, I believe it was Mr. Cross, asked why this is necessary in the context of the I-355 extension. The Governor's plan... The Governor's current proposal relative to the tollway, as announced earlier this week, features a \$2 billion indebtedness. A major component of that is over... is \$700 million for construction of the I-355 extension. Now, whether you're for the I-355 extension or against the I-355 extension, the fact of the matter is, Mr. Morrow is absolutely correct, we need to have more sunshine on real estate acquisition and disclosure. For all too long, there's been a shell game in terms of being able to know who is buying and who is selling. And I think we need to stand behind Mr. Morrow because he's absolutely correct. And I urge an 'aye' vote on House Bill 418."

Speaker Hartke: "Further discussion? Seeing none, Representative Morrow to close."

Morrow: "Thank you, Mr. Speaker. First of all, let's get one thing straight. This Bill is not saying to the Governor that you can't build Peotone and this Bill is not saying to the Governor that you can build Peotone. All this Bill is saying is that, if you're gonna purchase land, let us know who owns it, let us know what the market value is, let us know what the purchase price is. For many of you that are new to this General Assembly, when Governor Edgar first proposed Peotone, as Chairman of the Appropriation of Public Safety, I introduced a Bill that authorized him to spend \$7 million in land acquisition for Peotone. I'm not anti-Peotone. I'm not pro-Peotone. But until I see a Bill that comes on this floor that says, let's create a Peotone, I want to make sure that the citizens of the State of Illinois are equally protected and their taxpaying dollars

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are equally protected from land speculators in Peotone, if there will be a Peotone. My Bill is just saying, let us know who owns the land, who... what the purchase price is, what the bidding method is, and what use is the land gonna be used for. We should not be holding land that may be eventually a restaurant. We should not have state land that should be eventually a hotel. If we're gonna buy land, make the land be used for state uses only. I urge a 'green' vote on House Bill 418. Thank you."

Speaker Hartke: "The question is, 'Shall the House pass House Bill 418?' 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 House Bill 418, there are 94 Members voting 'yes', 21 Members voting 'no', and 0 voting 'present'. And this Bill, having received a Constitutional Majority, is hereby declared passed. Mr. Clerk, what is the status of House Bill 1004?"

Clerk Bolin: "House Bill 1004 is on the Order of Consideration Postponed."

Speaker Hartke: "Please move that Bill back to Second Reading, for the purposes of an Amendment, at the request of the Sponsor. House Bill 914, Mr. Capparelli. Mr. Clerk, read the Bill."

Clerk Bolin: "House Bill 914, a Bill for an Act concerning local government. Second Reading of this House Bill. Amendments 1, 2, and 3 were adopted in committee. No Floor Amendments have been approved for consideration. No Motions filed. A home rule note has been requested on the Bill and has not been filed."

Speaker Hartke: "Let the Bill remain on Second Reading. Mr. Clerk, committee announcements."

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Clerk Bolin: "The following committees will meet tomorrow morning; the Aging Committee will meet at 8:00 a.m. in Room 114, the Appropriations-Elementary & Secondary Education Committee will meet at 8:00 a.m., and the Appropriations-Public Safety Committee will meet at 8:00 a.m."

Speaker Hartke: "Allowing perfunctory time for the Clerk... Representative Morrow, for what reason do you seek recognition?"

Morrow: "Thank you, Mr. Speaker. The hearing for the Committee on Appropriation of Public Safety has been cancelled. You guys sleep in late tomorrow."

Speaker Hartke: "Allowing perfunctory time for the Clerk, Representative Lang now moves that the House stand adjourned until the hour of 10:00 a.m. on March 30. All those in favor signify by saying 'aye'; opposed 'no'. In the opinion of the Chair, the 'ayes' have it, and the House does stand adjourned."

Clerk Rossi: "House Perfunctory Session will come to order. Introduction and First Reading of Senate Bills. Senate Bill 5, offered by Representative O'Connor, a Bill for an Act in relation to firearms. Senate Bill 15, offered by Representative Dart, a Bill for an Act concerning taxation. Senate Bill 20, offered by Representative Coulson, a Bill for an Act in relation the Illinois Vehicle Code. Senate Bill 49, offered by Representative Leitch, a Bill for an Act concerning home mortgages. Senate Bill 76, offered by Representative Rutherford, a Bill for an Act to amend the uniformed disposition of unclaimed property. Senate Bill 207, offered by Representative Cowlshaw, A Bill for an Act concerning taxes. Senate Bill 1293, offered by Representative Jerry Mitchell, a Bill for an Act concerning

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education. Senate Bill 1493, offered by Representative Daniels, a Bill for an Act in relation to senior citizens and disabled persons. Senate Bill 1049, offered by Representative Bill Mitchell, a Bill for an Act concerning criminal law. Senate Bill 1109, offered by Representative Hannig, a Bill for an Act concerning the circulation of election petitions. Senate Bill 1135, offered by Representative Art Turner, a Bill for an Act concerning taxes. Senate Bill 1150, offered by Representative Coulson, A Bill for an Act concerning access to data. Senate Bill 1152, offered by Representative Saviano, a Bill for an Act relating to Governors State University. Senate Bill 1176, offered by Representative Tenhouse, a Bill for an Act in relation to taxes. Senate Bill 1177, offered by Representative Tenhouse, a Bill for an Act concerning taxation. Senate Bill 825, offered by Representative Tenhouse, a Bill for an Act in relation to transportation. Senate Bill 853, offered by Representative Tenhouse, a Bill for an Act concerning taxes. Senate Bill 854, offered by Representative Tenhouse, a Bill for an Act in relation to taxes. Senate Bill 855, offered by Representative Peterson or Representative Tenhouse, A Bill for an Act concerning taxation. Senate Bill 862, offered by Representative Tenhouse, a Bill for an Act concerning the regulation of certain financial activities. Senate Bill 873, offered by Representative Tenhouse, a Bill for an Act in relation to public aid. Senate Bill 877, offered by Representative Tenhouse, a Bill for an Act concerning military expenditures. Senate Bill 884, offered by Representative Tenhouse, a Bill for an Act concerning public aid. Senate Bill 900, offered by Representative Klingler, a Bill for an Act in relation to real property. Senate Bill 931, offered

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by Representative Black, a Bill for an Act in relation to facilities to the Appellate Court for the Fourth Judicial District. Senate Bill 962, offered by Representative Mautino, a Bill for an Act concerning the comprehensive health insurance plan. Senate Bill 1019, offered by Representative Soto, a Bill for an Act concerning employment. Introduction and First Reading of these Senate Bills. Introduction of Resolutions. House Resolution 168, offered by Representative Younge; House Resolution 169, offered by Representative Steve Davis; House Resolution 171, offered by Representative Granberg; House Resolution 176, offered by Representative Howard; House Resolution 180, offered by Representative Acevedo; House Joint Resolution 20, offered by Representative Ryder; House Joint Resolution 21, offered by Representative Hoffman; House Joint Resolution 22, offered by Representative Johnson are assigned to the Rules Committee. Senate Bill 994, offered by Representative Poe, a Bill for an Act concerning agriculture. First Reading of this Senate Bill. House Perfunctory Session now stands adjourned."