

STATE OF ILLINOIS
87th GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

98th Legislative Day

April 30, 1992

PRESIDENT ROCK:

The hour of twelve-thirty having arrived, the Senate will please come to order. Will the Members be at their desks, and will our guests in the gallery please rise. Prayer this afternoon by the Reverend Jeff Blevins, Western Oaks Baptist Church, Springfield, Illinois. Reverend.

THE REVEREND JEFF BLEVINS:

(Prayer by the Reverend Jeff Blevins)

PRESIDENT ROCK:

Thank you, Reverend. Reading of the Journal, Madam Secretary. Senator Hall.

SENATOR HALL:

Thank -- thank you, Mr. President, Ladies and Gentlemen of the Senate. I move that reading and approval of the Journals of Thursday, April 23rd; Tuesday, April 28th; and Wednesday, April 29th, in the year 1992, be postponed, pending arrival of the printed Journals.

PRESIDENT ROCK:

You've heard the motion as placed by Senator Hall. Is there any discussion? If not, all in favor, indicate by saying Aye. All opposed. The Ayes have it. The motion carries, and it is so ordered. Committee Reports.

SECRETARY HAWKER:

Please be advised that effective today, April 30, 1992, Senator Jan Joyce will serve on the following Senate standing committees: Energy and Environment - Vice Chairman; Agriculture and Conservation; Elections and Reapportionment; Executive; Finance and Credit Regulations; and the Committee on Committees. Thank you for your attention to this matter.

Signed by -- by Senator Vadalabene, Chairman of the Committee on Committees.

Senator Marovitz, Chairman of the Committee on Executive,

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reports Senate Bills numbered 1541, 1564, 1565, 1600, 1605, 1740, 1747, 1770, 1897, 1937, 2108, 2127, 2140, 2166, 2192, 2204 and 2225 Do Pass; and Senate Bills numbered 1620, 1700, 1773, 1984 and 2161 Do Pass, as Amended.

Senator Jones, Chairman of the Committee on Insurance, Pensions and Licensed Activities, reports Senate Bills numbered 1468, 1486, 1521, 1546, 1638, 1650, 1661, 1808, 1815, 1901, 1941, 2119, 2125 and 2197 Do Pass; and Senate Bills numbered 1516, 1533, 1771, 1803, 1807, 1909, 1912, 1922, 1923, 2056 and 2153 Do Pass, as Amended.

Senator J.E. Joyce, Chairman of the Committee on Judiciary II, reports Senate Bills numbered 1499, 1555, 1693 and 2165 Do Pass; and Senate Bills numbered 1964 and 2114 Do Pass, as Amended.

Senator Rea, Chairman of the Committee on Labor, reports Senate Bills numbered 1590, 1657, 1787, 1788, 1907, 1986 and 2057 Do Pass; Senate Bill 1722 Do Pass, as Amended; and Senate Bills numbered 1481 and 1692 <sic> (1672) Do Not Pass.

Senator Cullerton, Chairman of the Committee on Local Government, reports Senate Bills numbered 1606, 1625, 1628, 1635, 1679, 1684, 1828, 1830, 1831, 1858, 1862, 1927, 1971, 2049, 2053, 2090, 2091, 2092, 2093, 2097, 2098, 2099, 2105 <sic> (2101) and 2205 Do Pass; Senate Bills numbered 1731, 1776, 2139 and 2147 Do Pass, as Amended; and Senate Bill 1558 Do Not Pass.

Senator Severns, Chairman of the Committee on State Government Organization and Administration, reports Senate Bills numbered 1667, 1794, 1806, 1860, 1911, 1945, 1983, 2128, 2131 and 2162 Do Pass; and Senate Bills numbered 1677, 1783, 1908, 1934, 2066, 2087 and 2151 Do Pass, as Amended.

Senator Luft, Chairman of the Committee on Revenue, reports Senate Bills numbered 1526, 1557, 1641, 1665, 1796, 1925, 1935, 1956, 1976, 1977, 2100, 2120, 2135, 2183 and 2229 Do Pass; and Senate Bills numbered 1474, 1490, 1649, 1951, 2048, 2051 and 2156

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Do Pass, as Amended.

Senator Alexander, Chairman of the Committee on Elections and Reapportionment, reports Senate Bills numbered 1636, 1713 and 1992
Do Pass.

PRESIDENT ROCK:

Message -- Message from the Comptroller.

SECRETARY HAWKER:

Pursuant to Public Act 87-748, I have nominated and -- and -- nominated the following named persons to the State Mandates Board of Review, and respectfully ask concurrence in the confirmation of this appointment by your honorable Body.

Dawn Clark Netsch, Comptroller.

PRESIDENT ROCK:

Committee on Executive Appointments. Resolutions.

SECRETARY HAWKER:

Senate Resolution 1209 offered by Senator Marovitz.

Senate Resolution 1210 offered by Senator Luft.

And Senate Resolution 1211 offered by Senator Luft.

They are all congratulatory.

PRESIDENT ROCK:

Consent Calendar. Senator Geo-Karis, for what purpose do you arise?

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, on -- on two points of personal privilege. First point: I'd like to introduce to this astute Assembly, Connie Lovinger, a very respected real estate broker from Lake County, Illinois, in my district; also, Steve Wittmer, her associate. They're sitting in the President's Gallery upstairs. I'd like you to help me welcome them. That's my first point.

PRESIDENT ROCK:

Will our guests please stand and be recognized. Welcome to

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Springfield.

SENATOR GEO-KARIS:

My second point is: I'd like to welcome the newly appointed Senator, Jan Joyce, to grace this auspicious House. I'm glad to see we have seven women instead of six. Now they -- they outdo us on the Republican side, but I'd like to extend my welcome and say I hope that you will fight for gasohol and alcohol fuels as hard as your husband did, because I'm all for them. Welcome.

PRESIDENT ROCK:

Senator Joyce, welcome. Senator Demuzio, for what purpose do you arise?

SENATOR DEMUZIO:

Well, thank you, Mr. President. I know Senator Geo-Karis was so envious of the fact that we now have another woman Senator on this side of the aisle, that she has taken great pride in that. Hopefully, we'll have some more women Senators on the other side of the aisle, perhaps, before too long. But I would also like to recognize that we have lost a J.J. Joyce, and we are gaining a J.J. Joyce. So welcome to the Senate. It's rather historic. I think, Senator Smith, as I recall correctly, succeeded her husband, Fred. I don't know of any others. So welcome J.J. Joyce to the Illinois Senate.

PRESIDENT ROCK:

Senator Joyce, welcome. Senator Ralph Dunn, for what purpose do you arise, sir?

SENATOR R. DUNN:

Thank you, Mr. President. A matter of personal privilege. I'd like to introduce to this Body my daughter, Catherine Sunnquist, and five ladies who are with them. They are all speech correctionists, so watch your language. I'd like for them to rise. They're in the President's Gallery.

PRESIDENT ROCK:

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Will our guests please rise and be recognized. Welcome to Springfield. Senator Geo-Karis, for what purpose do you arise?

SENATOR GEO-KARIS:

On another point of personal privilege. Mr. President, Ladies and Gentlemen of the Senate, I'm delighted to welcome to this lovely House a number of my new constituents from Libertyville, and they're all up there with Dotty Watson, their program chairman. They're are affiliated -- they usually meet at the Presbyterian Church. And I'm just delighted to have them join us today, and welcome. Please help me welcome them.

PRESIDENT ROCK:

Will our guests please stand and be recognized. Welcome to Springfield. Is there anybody left in Lake County, Geo? Chair will recognize Senator Janet Joyce.

SENATOR J.J. JOYCE:

Thank you. I rise on a personal privilege. I would like to recognize some friends of ours that came down for my swearing in last night - Pat and Madeline O'Brien of Manteno. They're in the visitors' gallery.

PRESIDENT ROCK:

Will our guests please stand and be recognized. Welcome. Senator Berman. Senator Brookins, would you mind affording Senator Berman access? Can we take the conferences off the Floor? Staff, please. Thank you. Thank you.

SENATOR BERMAN:

Thank you, Mr. President. Ladies and Gentlemen of the Senate, on behalf of Senators Carroll, Marovitz and myself, we wanted to take a moment, as we have done each year for a number of years, to call attention this day to the Holocaust Memorial recognition. We have distributed on the desk of each one of you -- we have distributed on the desk of each one of you the program that was available to us at eleven o'clock this morning, and I recognize

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that the very heavy committee schedule prevented most of you from attending. I do want to acknowledge the presence of Senator Rock and Senator DeAngelis at the commemoration ceremony. For those of us who live in this country, it's beyond our comprehension to think of what happened through the systematic, legally authorized extermination of six million Jews, including a million and a half children. In addition to those six million Jews, there were six million non-Jews who perished as a result of Nazi atrocities. Let me give you a little idea of numbers. When we talk about six million, I'm not sure any of us can picture what that is. But I know how deep each one of us feels when one of our loved ones passes away. My wife and I, a few weeks ago, had the privilege of visiting Israel again, and we went through what is called Yad Vashen, the memorial to the Holocaust, and there is a small museum that has been erected there. The artist who did this took five candles and constructed in this small housing mirrors that the reflection of those five candles generated six million reflections of those candles. And when you looked at that you got a slight feeling of the numbers. Let me take just another moment and read to you statistics, which does a great disservice to what we're talking about. But what I'm about to read to you is the -- Jewish population in European countries in 1939 and 1945. The Balkans - 1939, nine hundred and ninety-nine thousand Jews; 1945, five hundred thousand Jews. Czechoslovakia - three hundred and fifteen thousand Jews down to forty-four thousand. Germany - two hundred and forty thousand down to eighty thousand. Poland - three million three hundred and fifty thousand in 1939; in 1945, fifty thousand. Austria - sixty thousand down to seven thousand. France - two hundred and seventy thousand down to two hundred thousand. Yugoslavia - seventy-five thousand down to twelve thousand. Belgium - ninety thousand down to forty thousand. Greece - seventy-four thousand down to twelve thousand. The

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Netherlands - from a hundred and forty thousand down to twenty thousand. Romania - eight hundred thousand down to four hundred and thirty thousand. And USSR - from three million twenty thousand to two million six hundred thousand. Italy - fifty thousand down to thirty-three thousand. Luxembourg - three thousand to one thousand. Norway - two thousand to one thousand. Those are only numbers, Ladies and Gentlemen. But I invite you, please take this program. And I invite you all to turn to the back page of this program and read with me the inscription on the walls of a cellar in Cologne, Germany, where Jews hid from the Nazis.

"I believe in the sun, even when it is not shining. I believe in love, when feeling it not. I believe in God, even when he is silent."

Thank you, Mr. President.

PRESIDENT ROCK:

Ladies and Gentlemen, if I can turn your attention to page 11 on the Calendar, the next and the only order of business will be the consideration of the Constitutional Amendments. They will be read a third time, and then will be debated and dealt with. Senator Brookins, for what purpose do you arise?

SENATOR BROOKINS:

Mr. President, I rise on a point of personal privilege.

PRESIDENT ROCK:

State your point.

SENATOR BROOKINS:

I had the occasion - me and some of my colleagues - to visit Israel two years ago. And we visited the museum that Senator Berman just alluded to. And we can sympathize, and know that it was a tragedy, and something that we, as Americans, should never allow to happen again anywhere in the world. And therefore, I know that I would be remiss, along with my community, if not

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reaching out and protecting of this type of thing and preventing it from ever happening again. But also I know that the way that that happened and the way that that started is because of incidents which we just saw on TV, over and over and over again. And we, as Americans, and especially from the State of Illinois, need to say and look at what has -- that tragedy that happened in California and never allow that to happen here in Illinois. I think it's alright thinking Americans and law-abiding citizens that it is truly a wrong, and a wrong that has been perpetrated and should have some type of corrections. And I'd like to thank you, Mr. President, for the opportunity to say them few words.

PRESIDENT ROCK:

Senator Geo-Karis, for what purpose do you arise?

SENATOR GEO-KARIS:

Mr. President and -- and Ladies and Gentlemen of the Senate, a point of personal privilege. I regret that I was not able to attend the Holocaust ceremonies. Unfortunately, I had a bill and I did not get out of committee until almost 11:30. But I certainly commend Senator Berman and his associates for putting on a very fine remembrance of a very horrible situation that happened, and hopefully it'll never happen again. On another matter, Mr. President: After you read your amendments for the third time, we're calling for a Republican Caucus immediately, before any vote is taken on those amendments. Republican Caucus after the reading of those amendments, before any vote is taken.

PRESIDENT ROCK:

Well, I think the appropriate time would be to have the caucus now, and then we'll come out and read them and argue them.

SENATOR GEO-KARIS:

All right. Can we have our...

PRESIDENT ROCK:

Yes, that request is, as always, in order. All right. Ladies

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and Gentlemen, there will be a Republican Caucus immediately in Senator Philip's Office. The Senate will stand in recess until the hour of 1:45. 1:45, -- Senator Philip, for what purpose do you arise, sir?

SENATOR PHILIP:

Thank you, Mr. President. I -- I have, on good authority, the fact that Virginia and Alan Macdonald have been married fifty-one years today. Anybody who can be happily married for fifty-one years, God bless you - a long life. He's a wonderful guy and you're a great lady.

PRESIDENT ROCK:

Senator Macdonald, congratulations. Senator -- Senator Macdonald.

SENATOR MACDONALD:

Thank you, Mr. President and Mr. Minority Leader. I want to bring you greetings from the bridegroom; he wishes that he could be here with us today. He thought I possibly was going to be able to be home this afternoon, but because of the Judiciary Committee, that won't be possible. So one more year, among our fifty-one, we are going to be spending our anniversary separately, but together. Thank you.

PRESIDENT ROCK:

Congratulations, Senator Macdonald. All right. Ladies and Gentlemen, there'll be a Republican Caucus in Senator Philip's Office immediately. And the Senate will stand in recess until the hour of 1:45; at which time, we will go immediately to the Order of Constitutional Amendments 3rd Reading. Senate stands in recess.

(RECESS)

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(SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR DEMUZIO)

...(machine cutoff)...hour of 2:45 -- 1:45 having arrived, the Senate will come to order. Resolutions.

SECRETARY HAWKER:

Senate Resolution 1212, 1213 and 1214 offered by Senator Topinka.

They're all congratulatory.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Consent Calendar. Senator Schaffer, for what purpose do you arise?

SENATOR SCHAFFER:

Mr....

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Schaffer.

SENATOR SCHAFFER:

Hello. Mr. President, I have a Senate Joint Resolution, which I had talked to the Chair about, it's a congratulatory joint resolution, and would like to waive the appropriate rules and move it immediately to get it over to the House.

PRESIDING OFFICER: (SENATOR DEMUZIO)

What's the number?

SENATOR SCHAFFER:

151, I believe. Secretary, correct me if I'm wrong.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Have we read it in? Has it been read in? All right. You've -- you've heard -- you've heard the request of Senator Schaffer. Senate Joint Resolution 151, which is congratulatory, which was -- has already been -- has been read in, with leave of the Body, Senator Schaffer wishes to expedite its passage. So Senate Joint

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Resolution 151, Senator Schaffer indicates it's congratulatory. All in favor of the adoption of Senate Joint Resolution 151 will indicate by saying Aye. Opposed, Nay. The Ayes have it. Senate Joint Resolution 151 is adopted. WCIA-TV has requested permission to videotape. Is leave granted? Leave is granted. On page 11, Constitutional Amendments 3rd Reading, is House Joint Resolution 28. Senator Leverenz, are you ready? House Joint Resolution 28, Madam Secretary.

SECRETARY HAWKER:

House Joint Resolution Constitutional Amendment No. 28.

(Secretary reads HJRCA No. 28)

3rd Reading of the resolution.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Leverenz.

SENATOR LEVERENZ:

Thank you, Mr. President. The Constitutional Amendment that is before us is, of course, on victims' rights. They have all been read. I would encourage all of us to -- to vote for this proposition so that it would be on the ballot in the fall. I'm sure that everyone here believes that victims should be treated with fairness and respect throughout the entire criminal justice process; to be able to communicate with the prosecution; to receive notices of pending court action; to actually attend the court proceedings open to the accused; and receive information concerning the disposition of the case and release of the accused. We would then be the seventh state to have this in the Constitution, and would put a victim on the same standing as the person accused. Answer any questions that you might have. This has passed the House, of course, with a 117 affirmative votes, 0 voting No. I would really appreciate the same roll call here in the Senate.

PRESIDING OFFICER: (SENATOR DEMUZIO)

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All right. Question -- Senator Hawkinson.

SENATOR HAWKINSON:

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

PRESIDING OFFICER: (SENATOR DEMUZIO)

Indicates he will yield, Senator Hawkinson.

SENATOR HAWKINSON:

Senator, many of these important rights are already part of our Statutes, but my question goes to page 2, subsection (b), which says, "The General Assembly may provide by law for the enforcement of this Section." And my question is, why do you have the word "may" instead of the word "shall"?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Leverenz.

SENATOR LEVERENZ:

I believe, in my personal view also, that it is better to do it permissively rather than to mandate by using the word "shall." That leaves us draft anything that you or I or anyone else in either Chamber deem appropriate.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Senator Hawkinson.

SENATOR HAWKINSON:

Is the intent of the amendment that the General Assembly have the -- the power, then, to provide for an enforcement mechanism rather than some method of direct access to judicial enforcement of this amendment?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Leverenz.

SENATOR LEVERENZ:

It would be that the General Assembly, then, would be able to provide for the enforcement, and look for your personal wisdom in crafting that.

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PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Davidson.

SENATOR DAVIDSON:

Question of the sponsor.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Indicates he will yield, Senator Davidson.

SENATOR DAVIDSON:

Well, which was just alleged that -- and I know part of it is correct, that we already have most of these points that are in this Constitutional Amendment already in State Statutes in existence. What is the necessity of this bill at this time -- or this Constitutional Amendment, excuse me?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Leverenz.

SENATOR LEVERENZ:

In some cases, the Statutes - I personally believe - have been disregarded. The fact of the matter is, the victims in your district are no different than the victims in my district. And you and I know that many people point to the protections that are embodied in the Constitution - even though they may be in law in the Statute - being put on an equal plane with that of the accused having protections in the Constitution. Rights of the victim are silent in the Constitution. And I would hope that you would agree with me and a number of others that they should be, in fact, in the Constitution.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Davidson.

SENATOR DAVIDSON:

Well, sounds more rhetoric than fact. Question I want to know - is this an exercise in futility? The fact that it's already State Statute; it's already enforced. And I know some of them are there, because two of them I passed, which let Illinois

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participate in the federal funds available for crime victims in Illinois. Person who's in another state, and they didn't have such an opportunity. But to me this looks like an exercise in futility. And that cost -- 'cause it's going to cost eight hundred thousand dollars to put this amendment on the ballot if it passes. This is a cost that, at this fiscal crisis we have, I think might be a duplication of what we already have in Statutes. What's in the Statutes there, you're not going to change one way or the other and you're certainly not going to repeal any of it. At least the -- the feel I hear of the people in this Chamber that they're not going to repeal anything that helps protect the victims' rights.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Macdonald.

SENATOR MACDONALD:

Thank you, Mr. President. A question for the sponsor, please.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Indicates he will yield, Senator Macdonald.

SENATOR MACDONALD:

Just for the record, Senator Leverenz: In -- in Section 10 - or not Section 10, but item 10 - on the second page, where we have the right to restitution - and I certainly have no problem with that right - but can we have a little further definition? And, if such a right is a constitutional right, if there are costs involved, who would -- who would pay the costs?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Leverenz.

SENATOR LEVERENZ:

I would believe they would be fines or other forms of restitution. However, on page 2, that line that you referred to on line 3, says (10) The right of restitution. It goes on to say the General Assembly may provide by law... And in the next - (c)

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The General Assembly may provide for an assessment against the convicted defendants to pay for crime victims' rights. These are things that -- first of all, we want the actual boilerplate and protections of the victim to be put in the Constitution. How it is implemented and how those fines or -- are put together, or assessed, or how they are worded, would be part of the Statute and the enforcement, and it would be created by the Members here in this Chamber and the House.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, many of the items that have been set forth in this resolution are already in the law, but having a Constitutional Amendment I think would have far more teeth. The fact that in this one there's a right to notification of court proceedings - the victim should know - the right to communicate with the prosecution; the right to make a statement to the -- to the court of sentencing; and the right to timely disposition of the case following the arrest of the accused; and the right to be reasonably protected from the accused throughout the criminal justice process. Our Constitution of Illinois certainly sets out many rights for the accused. It's high time that we supported the rights of the victims and stop victimizing the victims, and I support this amendment.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Welch.

SENATOR WELCH:

Had a question of the sponsor.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Indicates he will yield, Senator Welch.

SENATOR WELCH:

In Section 8.1, the number (6), it says that the crime victims

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shall have the following rights, and number (6) is "The right to timely disposition of the case following the arrest of the accused." Does that include the appeal process? If an individual would be convicted, and let's say it was a murder case, and his -- the deceased's relatives, I guess, would be victims of that crime as well - would they be able to require that the death penalty be carried out within a certain time frame? Is this meant to apply to appeals or not?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Leverenz.

SENATOR LEVERENZ:

I believe that it would not rush the entire process. I believe that the individual's entire appeal rights are not addressed in here, or time frame of doing so is not addressed in here, in terms of rushing it or eliminating any of the rights of appeals of the accused - or in this case, a convicted person. So other than that, I don't know how to answer your question. And if I haven't, ask again.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Welch.

SENATOR WELCH:

Well, I thought that it might be helpful to clarify this, in case it does become part of the Constitution. I -- I would assume that what you're talking about is just limiting this to the initial trial stage, if there is a -- all the way through a finding of -- of guilt or innocence. I -- I would assume that would be the intent. And at that point, the constitutional requirements would be fulfilled. Is that your intention?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Leverenz.

SENATOR LEVERENZ:

That is correct.

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PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Barkhausen.

SENATOR BARKHAUSEN:

Mr. President and Members, I don't think that an excessive amount of time should be taken on something that's going to probably pass overwhelmingly. But I, in light of some of the questions that have been raised, think that the thought ought to be pursued a little further as to whether what we're doing here is entirely necessary, and whether - given the amount of money that it takes for the electorate to consider a Constitutional Amendment and to mail the information to them - whether in this situation we ought to be taking this step. As has been mentioned, we have by Statute not only extended the rights that would be purportedly afforded by this Constitutional Amendment, but in my opinion, we have gone beyond it. Listed in the amendment are ten would-be enumerated rights. There are already in -- in -- in the Statute, in what is entitled the Bill of Rights for Victims and Witnesses of Violent Crime, Section 1404, there are some twenty-four enumerated rights. And in addition to those spelled out in that Section of our Statutes, we have separately provided a Crime Victims' Compensation Act, which provisions are administered by the Attorney General's Office, and we have also provided a right to restitution as a condition of probation or conditional discharge in certain cases. So not to for a moment stand athwart the enforcement of rights for the victims of crimes, but simply to suggest under the circumstances that a -- a proper vote on this for some of us may -- may be a Present vote, rather than an Aye vote.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Further discussion? If not, Senator Leverenz may close.

SENATOR LEVERENZ:

Thank you, Mr. President. And I personally appreciate the

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prior speaker's comments, except for the last. I would even encourage him to vote in the affirmative on this measure. We will be the seventh state to have this. I think the power of the Constitution goes without saying. It has more power and effect than anything that might be in State Statute. I believe that victims should also have a level playing field, just as -- as the accused has. And an attorney, especially, would want probably to be able to point to this in the Constitution, rather than a State Statute. I'd ask for your affirmative vote. I am very grateful to be the Senate sponsor, as well as being joined by the other Members of the Chamber. I ask for your affirmative vote, and have this pass overwhelmingly, hopefully, to make it unanimous.

PRESIDING OFFICER: (SENATOR DEMUZIO)

The question is, shall House Joint Resolution Constitutional Amendment 28 be adopted and approved. Those in favor will vote Aye. Those opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, the Ayes are 49, the Nays are 1, -- I'm sorry, 4 voting Present. House Joint Resolution Constitutional -- Amendment 28, having received a three-fifths constitutional majority, is declared adopted and approved. House Joint Resolution Constitutional Amendment 29, Madam -- I'm sorry. Senator Collins, for what purpose do you arise?

SENATOR COLLINS:

Point of personal privilege.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Yes. State your point.

SENATOR COLLINS:

Mr. President and Members of the Senate, we have the pleasure of having visiting us today the seventh and eighth grade classes along with their -- instructor, Mrs. Deal from Oak Park, the Saint

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Edmond's School. And I'd just like for them -- they're behind the President in the President's Gallery. I'd just like to have them stand and be recognized by the Senate.

PRESIDING OFFICER: (SENATOR DEMUZIO)

If our guests in the Gallery will please rise - be recognized by the Senate. Welcome to Springfield. All right. House -- House Joint Resolution Constitutional Amendment 29, Madam Secretary.

SECRETARY HAWKER:

House Joint Resolution Constitutional Amendment 29.

(Secretary reads HJRCA No. 29)

3rd Reading of the resolution.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Luft. You -- you should say something positive.

SENATOR LUFT:

Thank you, Mr. President. I rise before you today with Plan D. Those of you on the Revenue Committee who have sat through numerous meetings on mandates are going to be presented with a -- or are being presented with a Constitutional Amendment in attempt to satisfy local governments' concerns on what we, as a State Body, are doing to them with mandates. I initiated the hearings in Revenue because I am truly concerned, and I think all of us have seen what the Federal Government is doing to us with mandates, especially unfunded mandates. I prefer to do this by legislation, but I have been asked to run this to see if, in fact, it would meet with your approval. I'm not convinced that this is the perfect model. In fact, we dealt with a model similar to this with Senator Watson's Constitutional Amendment the other week. The main differences between this resolution -- or Constitutional Amendment and Senator Watson's, I believe, was this applies also to executive actions because -- or Joint Committee on Administrative Rules, because they seem to be implementing

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mandates through that order. And there was some concern whether Senator Watson's Constitutional Amendment did not apply to continuing appropriations. Briefly, there are three sections to the Constitutional Amendment stating what a State mandate is, defining what a funded mandate is, and simply saying that a State mandate that is not funded is not enforceable while not funded, unless the bill implementing the mandate was passed with the concurrence of three-fifths vote of both Houses. I would try to answer any questions on the Constitutional Amendment at this time.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Discussion? Senator Fawell.

SENATOR FAWELL:

Thank you very much. Will the sponsor yield for a question?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Indicates he will. Senator Fawell.

SENATOR FAWELL:

Senator, I am -- I am asking this question because there is presently a bill that will be on the Floor that refers to the State perhaps picking up the mandates that we have placed upon the county as far as the due process funding, and, of course, this means judges and -- not only judges, which we do fund now, but courthouse and jails and bailiffs and clerks and the whole bit. I just wanted - for the record - that without the passage of that bill, you are not talking about that; that's not an automatic thing in this Constitutional Amendment. Am I right?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Luft.

SENATOR LUFT:

I have -- the only bill that I know on State mandates that's on the Calendar is my bill, I think, that came out of Revenue. This -- if you read what a State mandate is - it is an -- it's for an -- mandates an expenditure of funds by a unit of local

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government or school district. In order to implement that law, there has to be an appropriation.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Fawell.

SENATOR FAWELL:

That's my -- that's my question. We, as a State, have mandated, for instance, that -- that the county must put certain individuals in jail and -- and that there must be courthouses and there must be bailiffs and all the paraphernalia that go with this -- clerks, and so on. Senator Lechowicz has got a bill that he got out of Local Government yesterday that said if they don't want to pay for it, they don't have to. And I want to make sure we're not getting ourselves in that kind of bind if we don't pass his bill. That's what I'm asking.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Luft.

SENATOR LUFT:

If we provide the mandate without the cost, regardless of the mandate, the mandate is not enforceable unless the appropriation is passed or it is passed -- the mandate is passed by this Body and the House with three-fifths majority vote.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Fawell.

SENATOR FAWELL:

And that's prospective; it's not -- it's not anything that we have passed now -- so we're not going to all of a sudden have to pay for all the jails and what have you. Am I right? Unless we pass Mr. -- Senator Lechowicz's bill.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Luft.

SENATOR LUFT:

You're wrong. This Constitutional Amendment applies to

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existing as well as any new mandate that may be passed by the Legislature.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Fawell.

SENATOR FAWELL:

Well, then -- well, then, to the amendment: You know, I -- I like the sound of the amendment. It sounds great, except if we pass the Constitutional Amendment regarding the schools, we've doubled the income tax. We pass this bill -- I mean this Constitutional Amendment, the ceiling's the limit. Each courtroom, at least in my neck of the -- woods, costs approximately a hundred thousand dollars to maintain; that's without -- that's without the jails. What you are talking about then, Senator Luft, is that we will from now on and -- and -- we will be required to maintain the courthouse - all the courthouses in the State, all the jails in the State, all the bailiffs, all the clerks, everything that -- that has to do with the judicial system and the system of justice - perhaps even the sheriffs and the State's attorneys and the whole gamut. Is that what we are about to partake on?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Luft, I hope you heard that question. I wouldn't want to ask her to repeat it. Senator Luft.

SENATOR LUFT:

Would you repeat that question, please?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Fawell, perhaps a short version?

SENATOR LUFT:

Let me -- let me explain to the Senate...

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Luft.

SENATOR LUFT:

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...what we're having with...(microphone malfunction)...

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Luft.

SENATOR LUFT:

It's the interpretation of the legal minds on our side of the aisle - and the not-so-legal minds on the -- this side of the aisle - that this Constitutional Amendment, which was intended, I believe, to be prospective in nature, within the text of this amendment, does not call for that. And I gave you, therefore, an honest answer; that I believe - and the people around me believe - that this bill would take into consideration every mandate that's been passed by the State of Illinois and would require that someone research the history of this Body to see if those mandates were in fact passed by three-fifths vote. That's what I believe - and those around me believe - to be the text of this. I have offered my body to carry this bill -- Constitutional Amendment, and I am here to do what I suggested that I would.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Schuneman.

SENATOR SCHUNEMAN:

Thank you, Mr. President. Well, simply to continue that argument or debate, Senator: I appreciate your -- your honesty, because I think most of us on this Floor assumed that this amendment, or this proposed Constitutional Amendment, would be prospective in nature. But if, in fact, it is as you suggest - and as our staff now suggests to us that it may be - if, in fact, it may also be retroactive, then I think we had better go pretty slowly, because we, I'm sure, have a number of mandates - some of which are unknown to us at this time - that we may be bypassing this amendment or offering the amendment -- that we may be putting ourselves in a position to have to pay for. And so I raise that concern for those Members who may not have been paying much

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attention here - that this is not, apparently, exactly the same proposal that we passed out of here last week.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Further discussion? Senator Berman.

SENATOR BERMAN:

Thank you, Mr. President. Ladies and Gentlemen of the Senate, I want to pick up where the last two speakers left off, and I invite -- I want to -- the record to reenforce the very candid, honest response of the sponsor here. Paragraph (c) of this amendment - proposed amendment - says a State mandate that is not funded is not enforceable while not funded. That makes this Constitutional Amendment apply to every requirement, based upon not the passage of the bill, but the passage of the funding. Every year we appropriate money. Let me give you a hypothetical which is not a rash hypothetical, and I'll put it in the form of a question, and I'd like the sponsor -- all right. I'm giving you my constitutional interpretation. We -- we have in the Illinois School Code a requirement for the provision of special education to every child that fits that category after analysis as to his or her educational needs. That's a bill that we passed a number of years ago, providing for special education for the disabled children. There is no argument - and I don't think I will hear anyone even raise their hand - we do not fully fund special education. And just for the record, even if we fully funded the categoricals, we haven't fully funded -- special education. That means a hypothetical school district, starting the year after this amendment is approved, if it were approved, and we pass our usual appropriations - and let's say that we found money and we fully fund the categorical line item for special education - under this amendment, that school district could deny special education to a child in that class, in that school, because we didn't fully fund special education - not the line item, but the requirement for

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delivery of service. Now, Senator Luft, you've heard my explanation. My first question is: Do you disagree with that analysis? And then my -- first I'll -- I'll ask for a comment on that analysis. Do you see that that could be done under -- if this is adopted?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Luft.

SENATOR LUFT:

Senator Berman, you see what's behind me? A group of lawyers. I have five opinions on that right now. Mr. President, would you take this out of the record?

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Sponsor requests it be taken out of the record. Take it out of the record. Resolutions, Madam Secretary. Senator Karpziel. Resolutions.

SECRETARY HAWKER:

Senate Joint Resolution 153 offered by Senator Karpziel. It is a death resolution.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator -- Senator Karpziel. Senator Karpziel. We are on your -- Senator, we are on your amendment -- on your resolution, your joint resolution - congratulatory? Has to leave here? Huh? It's a death resolution that has to leave here today in order to get over to the House? It's a joint resolution? No.

SENATOR KARPIEL:

Well, as long as you're calling on me, I guess I'll do it. This is a death resolution, and you want me to move the -- the rules?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator -- Senator, it has your name on it.

SENATOR KARPIEL:

I just filed a death resolution that's a -- I mean, it's not a

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congratulatory one, but it goes under that heading.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Well, Senator, it's -- it is my error. I -- I had not read the resolution, but it says it is a Senate joint resolution. It is a death resolution. If you...

SENATOR KARPIEL:

I'm sorry, Mr. President; I don't know what I'm supposed to do.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Consent Calendar. Further business to come before the Senate? Senator Jacobs.

SENATOR JACOBS:

Point of personal privilege. It was brought to my attention that one of our doorkeepers had a birthday yesterday, and he was eighty-five, and I think that speaks well for Harvey Turner and his longevity.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Senator -- congratulations, Harv. Congratulations. Senator Butler, for what purpose do you arise?

SENATOR BUTLER:

Thank you, Mr. President. A point of personal privilege.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Senator -- state your point.

SENATOR BUTLER:

Ladies and Gentlemen, I would like to introduce to you a group of special young people who have been observing government in action here this afternoon from the accelerated government class from Maine Township High School East in my hometown of Park Ridge. Please say hello to the group of young people led by their teacher, Paul Carlson. And another -- I'm sorry.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Welcome to Springfield. All right. Senator Thomas Dunn, for

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what purpose do you arise?

SENATOR T. DUNN:

Thank you, Mr. President. I would request waiving the posting notice for Senate Bill 1800 tomorrow to assign it to a subcommittee.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Well, it's my understanding that the posting of all bills has already been waived. Is that not correct? Senator Dunn, you want to restate your motion?

SENATOR T. DUNN:

Yes, Mr. President. I'd like to waive the posting requirement for Senate Bill 1800 - up tomorrow morning - for purposes of assigning it to a subcommittee.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. You've heard the request of Senator Dunn. Those in favor, indicate by saying Aye. Opposed, Nay. The Ayes have it. So adopted. Further business to come before the Senate? If not, Senator -- Senator Rea.

SENATOR REA:

Thank you, Mr. President. I would like to introduce a special group from my hometown from the government class of the Christopher High School and their teacher, Jeff Gosset, up here in the gallery behind me. Let's welcome them to Springfield.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Welcome to Springfield. Senator Jacobs, for what purpose do you arise?

SENATOR JACOBS:

Thank you, Mr. President. Finance and Credit Regulations will meet immediately in Room 212. And if everybody gets there, we'll be out of there very, very shortly.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Senator Marovitz, for what purpose do you arise?

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Senator Marovitz.

SENATOR MAROVITZ:

Yes, thank you very much. I'd like to waive the appropriate requirement so that Senate Resolution 1209 can be read today. That's an agreed resolution. There's a -- a -- an event going on tomorrow. We just want to be able to get the resolution. It's an agreed amendment.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Is the resolution congratulatory?

SENATOR MAROVITZ:

Yes.

PRESIDING OFFICER: (SENATOR DEMUZIO)

It'll be on the Consent Calendar in the morning, and I'm sure they'll have it prepared for you to take with you.

SENATOR MAROVITZ:

Well -- but the problem is that if we -- if we put it on the Consent Calendar today by waiving the requirements, then we can have the resolution ready in script form tomorrow. Yeah.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Done. Further -- Senator O'Daniel.

SENATOR O'DANIEL:

Thank you, Mr. President. The Agriculture and Conservation Committee will meet tomorrow morning at ten o'clock sharp in Room 212.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Berman.

SENATOR BERMAN:

Thank you, Mr. President. Would the Members of the Elementary and Secondary Education Committee, pursuant to the notice posted, please meet at my desk now, upon adjournment. We will finish up the meeting that was recessed yesterday - at my desk, upon adjournment.

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PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Geo-Karis, for what purpose do you arise? All right.
Senator Holmberg, for what purpose do you arise? Senator
Holmberg.

SENATOR HOLMBERG:

To all Members of the Higher Education Committee, we'll meet
immediately after adjournment in Room 400. The meeting should
just take a very few minutes. So if you come very quickly, we'll
be through with our business shortly.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further business to come before the Senate?
Senator Karpel, let me apologize to you. I had -- I was told
that you wanted to expedite that resolution today. I was told it
was congratulatory in nature. We have now straightened it out. I
just want to let you know that -- that I -- I apologize, and come
back tomorrow and we'll be open for business. Further business to
come before the Senate? If not, Senator Hall moves that the
Senate stand adjourned till tomorrow at the hour of 12:00 noon.
Senate stands adjourned.

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