

STATE OF ILLINOIS  
89TH GENERAL ASSEMBLY  
REGULAR SESSION  
SENATE TRANSCRIPT

66th Legislative Day

November 16, 1995

PRESIDENT PHILIP:

The regular Session of the 89th General Assembly will please come to order. Will the Members please be at their desks, and will our guests in the galleries please rise. Our prayer today will be given by Reverend Gerry Comstock, Unity Church, Springfield, Illinois. Reverend Comstock.

THE REVEREND GERRY COMSTOCK:

(Prayer by the Reverend Gerry Comstock)

PRESIDENT PHILIP:

...(machine cutoff)...Sieben will lead us in the Pledge of Allegiance. Senator Sieben.

SENATOR SIEBEN:

(Pledge of Allegiance, led by Senator Sieben)

PRESIDENT PHILIP:

Reading of the Journal. Senator Butler.

SENATOR BUTLER:

Mr. President, I move that reading and approval of the Journal of Tuesday, November 14th and Wednesday, November 15th, in the year 1995, be postponed, pending arrival of the printed Journals.

PRESIDENT PHILIP:

Senator Butler moves to postpone the reading and the approval of the Journals, pending the arrival of the printed transcripts. There being no objection, so ordered. Messages from the House.

SECRETARY HARRY:

Message from the House by Mr. McLennand, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has refused to recede from their Amendments 1 and 2 to a bill of the following title, to wit:

Senate Bill 388.

I am further directed to inform the Senate that the House of Representatives requests a First Committee of Conference.

Action taken by the House, November 15th, 1995.

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PRESIDENT PHILIP:

...(machine cutoff)...DeAngelis moves that the Senate accede to the request of the House that a conference committee be appointed. All those in favor, signify by saying Aye. Those opposed, Nay. The Ayes have it. The motion's carried. We have two requests to film our proceedings today from CLTV News and Channel 20. Is there leave? Leave is granted. Committee Reports.

SECRETARY HARRY:

Senator Hawkinson, Chair of the Committee on Judiciary, reports Senate Bill 1140, the First Conference Committee Report, Be Approved for Consideration; and Senate Bill 721, the Second Conference Committee Report, Be Approved for Consideration.

Senator Klemm <sic> (Walsh), Chair <sic> of the Committee on Local Government and Elections, reports House Bill 211, the First Conference Committee Report, Be Approved for Consideration.

And Senator Mahar, Chair of the Committee on Environment and Energy, reports House Bill 901, First Conference Committee Report, Be Approved for Consideration; and Senate Bill 598, the motion to concur with House Amendment 2, Be Adopted.

PRESIDENT PHILIP:

The top of page 2, House Bills 3rd Reading. House Bill 1124. Senator Fawell. Read the bill.

SECRETARY HARRY:

House Bill 1124.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDENT PHILIP:

Senator Fawell.

SENATOR FAWELL:

Thank you very much. This is a bill that has been worked on for actually about a year. There are three amendments to it. The

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Amendment No. 1 really becomes the bill and it makes various changes regarding the towing and the disposal of abandoned vehicles. It has been agreed to by everybody, including the -- the State Police, the towing industry, the Secretary of State. I don't believe there is any opposition whatsoever to this bill. The second amendment is an -- a clean-up amendment for Secretary George Ryan on the hearing officers for the new car dealers. It is a bill that we passed last year that allows them, when they have problems with their franchise, to come in and get their disputes settled here in the State of Illinois, rather than having to go to Detroit. And -- and the third part is a -- an amendment that cleans up Amendment No. 1 that Senator Hawkinson had some problems with the original language. It removes any problems as far as liens are concerned and -- and the notice of posting. I will be glad to answer any questions.

PRESIDENT PHILIP:

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

SENATOR FAWELL:

I ask for your favorable vote.

PRESIDENT PHILIP:

All right. The question is, shall House Bill 1124 pass. Those in favor will vote Aye. Those opposed, Nay. The voting is open. Have you all voted who wish? Have you all voted who wish? Take the record. On the question, there are 53 Ayes, no Nays, 6 not voting. House Bill 1124, having received the required three-fifths majority, is declared passed. On the bottom of page 2, Secretary... The Order of Motions in Writing, the middle of page 3, House Bill 544. Senator Mahar. Senator Mahar? Read the motion, please.

SECRETARY HARRY:

I move to accept the specific recommendations of the Governor

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as to House Bill 544, in manner and form as follows:

Amendment to House Bill 544

in Acceptance of Governor's Recommendations

Filed by Senator Mahar.

PRESIDENT PHILIP:

Senator Mahar.

SENATOR MAHAR:

Thank you, Mr. President. Thank you, Mr. President. The -- this is the version that we passed two weeks ago, where the Governor amendatorily vetoed out the proportionate share for brownfields. The reason that we are revisiting this today, this has one other element, which is not controversial to my knowledge, that Senate Bill 46 didn't have. And it would relieve licensed industrial hygienists, who do environmental audits, from the requirement of having to have a bond for such purposes. It would treat them the same as licensed engineers. Due to the fact industrial hygienists have been licensed by the Illinois EPA for two years and are subject to discipline and regulation by the agency, there is no need for this additional bonding requirement. In a separate bill this passed unanimously out of our committee and that's the only reason we're revisiting this issue.

PRESIDENT PHILIP:

Senator Mahar moves to accept the specific recommendations of -- of the Governor to House Bill 544. Any discussion? Any discussion? If not, the question is, shall the Senate accept the specific recommendation of the Governor as to House Bill 544, in the manner and the form just stated by Senator Mahar. All those in favor will vote Aye. Those opposed, Nay. The voting is open. ...you all voted who wish? Have you all voted who wish? Take the record. On the question, there are 56 Yeas, 1 Nay, 2 not voting. The specific recommendation of the Governor as to House Bill 544, having received the required constitutional majority, is here --

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declared accepted. Appears we've cleaned up the regular Calendar. Should be a Supplemental on the Floor here shortly. The intention of the Chair, that we would go to the Supplemental Calendar as soon as it's on the Floor. Senator Garcia, for what purpose do you rise?

SENATOR GARCIA:

Thank you, Mr. President. I rise for a point of personal -- for a point of order.

PRESIDENT PHILIP:

State your point.

SENATOR GARCIA:

Mr. President, I'd like the record to reflect that Senator Palmer is not here today. Personal business has kept her in Chicago.

PRESIDENT PHILIP:

The record will so indicate.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Philip, for what purpose do you rise?

SENATOR PHILIP:

Thank you, Madam President. Point of personal privilege. Senator Klemm...

PRESIDING OFFICER: (SENATOR DONAHUE)

Please state point -- your point.

SENATOR PHILIP:

...is out of the hospital, home convalescing from pneumonia, and I would wish the record would so indicate. Also, to bring the Members up to date, where I think we're going to be and how soon we're going to get out of here today: we will have one -- probably two Supplemental Calendars - I would hope we would have no more - and hopefully would get out of here sometime around noon.

PRESIDING OFFICER: (SENATOR DONAHUE)

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

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SENATOR GEO-KARIS:

Point of personal privilege.

PRESIDING OFFICER: (SENATOR DONAHUE)

Please state your point.

SENATOR GEO-KARIS:

I'd like to introduce to this astute Assembly two folks that are here from the College of Lake County: the acting president, Gretchen Neff, and the Doctor -- Doctor Charles Schulze from the -- who's one of the vice presidents of the College of Lake County. And they're up in our gallery. And in addition, I'd like to introduce one of our arbitrators, Mrs. Joann Fratianno Atsaves, who's been doing a very good job, and she lives in our county and belongs in Senator Barkhausen's district, and I'd like you all to welcome them.

PRESIDING OFFICER: (SENATOR DONAHUE)

Would you please rise and be welcomed by the Senate? ... (machine cutoff) ... are on -- now on Supplemental Calendar No. 1. I believe they have all been distributed. Top of page 2 is Senate Bill -- or, Secretary's Desk, Concurrence. Senate Bill 598. Senator Maitland. Mr. Secretary.

SECRETARY HARRY:

Senate Bill 598, with House Amendment No. 2.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Maitland.

SENATOR MAITLAND:

Thank you very much, Madam President and Members of the Senate. Senate Bill 598 passed this Body last spring with fifty-six affirmative votes. It went to the House, and pursuant to an agreement over there, it was amended downward to exempt everyone but the local telecommunication -- local services. I'm in support of this motion to concur, and so, Madam -- Madam President, I move the Senate do concur in -- in House Amendment

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No. 1 <sic>.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Is there any discussion? Seeing none, this is final action. This is final action. And the question is, shall the Senate concur in House Amendment No. 1 to Senate Bill -- House Amendment No. 2 to Senate Bill 598. Those in favor will vote Aye. Opposed, Nay, and the voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, no Nays, 1 voting Present. The Senate does concur in House Amendment No. 2 to Senate Bill 598, and the bill, having received the required three-fifths majority vote, is declared passed. On the Order of Conference Committee Reports is House Bill 122. Senator Woodyard. House Bill 122. Senator Woodyard. Senator Woodyard. Mr. Secretary, do you have filed a conference committee report on House Bill 122?

SECRETARY HARRY:

First Conference Committee Report on House Bill 122.

PRESIDING OFFICER: (SENATOR DONAHUE)

Chair recognizes Senator Woodyard.

SENATOR WOODYARD:

Thank you, Madam President, Members of the Senate. This bill... I'm sorry.

PRESIDING OFFICER: (SENATOR DONAHUE)

Excuse me, Senator Woodyard, just a second. We'll be able to move a lot quicker, folks, if you just pay attention. Senator Woodyard.

SENATOR WOODYARD:

Yes, thank you, Madam President. This bill -- the conference committee now -- now contains three parts, including the original bill. And I don't know of any of these three parts that are controversial at all. The original bill was a result of an

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incident that happened over in my district, was sponsored by Representative Bill Black, in the House. It seems that a State trooper was...(microphone cutoff)... Will you take this out of the record?

PRESIDING OFFICER: (SENATOR DONAHUE)

Out of the record.

SENATOR WOODYARD:

Senator Raica is always asking me to take a bill out of the record. All right.

PRESIDING OFFICER: (SENATOR DONAHUE)

We'll stand at ease for just a moment, please.

(SENATE STANDS AT EASE)

(SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR DONAHUE)

...reconvene. Committee Reports.

SECRETARY HARRY:

Senator Weaver, Chair of the Committee on Rules, reports the following Legislative Measures have been assigned to committees: Re-referred from Higher Education Committee to the Rules Committee - House Bill 122 (First Conference Committee Report); referred to the Committee on Public Health and Welfare - Conference Committee Report 1 to House Bill 1868; referred to the Committee on State Government Operations - Conference Committee Report 1 to Senate Bill 388; and Be Approved for Consideration - House Bill 122 (First Conference Committee Report).

PRESIDING OFFICER: (SENATOR DONAHUE)

WAND-TV seeks leave of the Body to film our proceedings. Is



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leave granted? Leave is granted. Now on the Order of Conference Committee Reports is House Bill 122. Mr. Secretary.

SECRETARY HARRY:

First Conference Committee Report on House Bill 122.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Woodyard.

SENATOR WOODYARD:

Thank you, Madam President. Let's try this one again. I do apologize to the Body; I had not realized that Rules had not met yet. As I indicated, the underlying bill was proposed by Representative Bill Black, due to an incident that happened in our district in which a -- an Illinois State trooper was killed in the line of duty, and the law already in force says that the surviving dependents of a State trooper killed in the line of duty are entitled to an Illinois State scholarship. Well, in this particular case, the widow of the State trooper moved to Indiana, and thus, this disallowed the opportunity for her son to attend an Illinois school on an Illinois scholarship. And this portion of the bill deals with that kind of thing. There are two other provisions. This would allow, I should say, ISAC to award that scholarship, and it would affect very few, if maybe only one individual. There are two other portions to this conference committee report. One, Senator Fitzgerald - and if there are any questions on this particular portion, I would like to allude to -- to him answering those questions - that portion is more of a technical cleanup to the optional retirement plan on downstate and suburban teachers. And if there are any questions on that optional retirement plan, I think Senator Fitzgerald could answer that. The third provision of this deals with the community college system, and with your permission, I would like to yield to Senator Fawell to present that portion of the conference committee.

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PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Fawell.

SENATOR FAWELL:

Thank you very much. The third portion of this bill deals with the community colleges, the Higher Board of Ed, and an agreement that has been reached by -- by all concerned. We have had several meetings with the Governor's staff, with the Community College State Board, with the community college presidents, with the Higher Board of Ed, with some members of the higher education community, and with the Governor's people. This is the -- the first step in the agreement that was reached on -- on what the community colleges will be able to do in lieu of an override of the bill that we passed that separated the community colleges from the Higher Board of Ed. All it does is restructures the joint Education Committee by changing the number of members from six to eight and two of those members will be from the Community College Board. I'll be glad to answer any questions.

PRESIDING OFFICER: (SENATOR DONAHUE)

Are there any questions? Senator Demuzio.

SENATOR DEMUZIO:

Thank you very much, Mr. -- Madam President, Ladies and Gentlemen of the Senate. There is one provision in this bill that concerns me, and I know that this, as was represented, does, in fact, implement part of the agreement that was struck by the Governor and the Chairman of the Board of -- Community College Board. In restructuring this Board, if someone could answer a question for me, I -- I know that the -- part of the agreement is for the Governor to actively involve himself in removing vocational education from the Board of Higher Education, for example, and transferring that to the Community College Board. I know another part of the agreement was to command DCCA to make the one-stop job shopping and the manpower services that are currently

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being deployed in Illinois, and will be deployed under the block grants, under the jurisdiction of the Community College Board and away from the local vendors and the administrators of those programs that we currently have now. What other portions of the agreement that was struck between the Governor and the Chairman of the Community College Board do you see being implemented as a result of this -- of this legislation?

PRESIDING OFFICER: (SENATOR DONAHUE)

Before the Senator answers, can I ask all you Senators to please be in your seats, take your conferences off the Floor. Let's keep our conversations quiet, please. Senator Fawell.

SENATOR FAWELL:

The only thing that this bill does is it talks about the joint Education Committee appointments. As I said, there will be eight on this Board rather than -- than six, and the eight will be two appointed from the Board of Higher Education, two appointed from the State Board of Education, two appointed from the Illinois Community College Board, and two appointed from the Human Resource Investment Council.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Demuzio.

SENATOR DEMUZIO:

Well, you also -- can you inform us as to what are the other portions of the agreement that were struck between the Governor and the Chairman of the Board of -- Community College Board that would be implemented by virtue of changing the structure of this Committee? For example, can you explain to me, who are the two members of the Human Resources Investment Council? What is the Human Resources Investment Council?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Fawell.

SENATOR FAWELL:

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The Human -- Human Resource Investment Council, I believe, is a council that the Governor has set up to look at the -- the -- the retraining programs and that type of thing.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Demuzio.

SENATOR DEMUZIO:

Well, I guess that's precisely my point. It is my understanding that the Human Resources Council is one that is a combination of the Illinois Council on Vocational Education and the Jobs Training Coordinating Council. And what this, in effect, is saying is that those individuals who are currently running programs in our local communities under the Manpower Training Acts, money that is flowing from the federal government through the State government, that there is going to be a concentrated effort as a result of the agreement that was struck between the Governor and Harry Crisp, the board -- Chairman of Community College Board, that these monies will now be funneled through the Community College Board, rather than through those individual vendors. Now, I'm not sure that that's such a good policy. The fact is, however, that this doesn't do anything other than restructure that Committee and commands them to come back to the General Assembly with whatever recommendations that they may have. For example, I know that there's going to be a continued concentrated effort to move the vocational education group out of the Board of Higher Education and into the Community College Board. That takes authorizing legislation by the General Assembly. There are a number of other things that this new group now will be able to give more authority to the Community College Board, less to the State Board of Education, and less to the Board of Higher Education. And I want to point that out for the record, because that's precisely what you are doing in this legislation. I'm prepared to support it this morning, but I want everyone to

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know that I don't agree with everything that was struck in the agreement between the Governor and the Community College Board Chairman as a result of the veto last year. And -- and this whole thing has resulted from the fact that the Community College Board wanted to get out of the jurisdiction of the -- out of the Board of Higher Education. Governor vetoed that bill. There was a number of things that he agreed to do. This is now the implementing factor.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any further discussion? Any further discussion? Senator Woodyard, to close.

SENATOR WOODYARD:

Thank you very much, Madam President. Senator Demuzio, I hope what you have indicated does not occur, because I have been a very strong supporter of -- of adult education not being under the community college system, and I don't -- and certainly it would require something a lot further than this legislation dealing with the Board appointments. As I did indicate, the pension part -- portion of the bill, primarily technical. It's stuff that we've had in the past. The underlying bill passed overwhelmingly back in the House dealing with the widow's pension of a -- of a State trooper, and you've just heard the explanation of -- of the community college portion. With that, I would ask support for adoption of the conference committee report.

PRESIDING OFFICER: (SENATOR DONAHUE)

The question is, shall the Senate adopt the Conference Committee Report on House Bill -- 122 -- on House Bill 122. Those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 57 Ayes, no Nays, none voting Present. The Senate does adopt the Conference Committee Report on House Bill 122, and the bill, having received

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the required three-fifths majority vote, is declared passed. ... (microphone cutoff)... the illness of Senator Klemm, Senator Peterson will be carrying House Bill 211. With leave of the Body? Leave is granted. Mr. Secretary.

SECRETARY HARRY:

First Conference Committee Report on House Bill 211.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Peterson, on House Bill 211.

SENATOR PETERSON:

Thank you, Madam President. Conference Committee Report on House Bill 211 basically increases the assessor education requirements to those townships less than fifteen thousand. It will be phased in over a two-term period, the first one beginning in 1996 for those people running in the 1997 election. They will have to get certified by the Department of Revenue. And for the much smaller townships which have districts between ten million and twenty-five million nonfarm EAV and one million and less in commercial will have to December 1st, the year 2000, to get their education requirements completed. This will affect approximately three hundred and seventy-five assessors. And this has been agreed to by the assessors' division in the Township Officials of Illinois, and is supported by the Taxpayers' Federation and the Department of Revenue. And I ask for an affirmative vote on Conference Committee Report No. 1 on House Bill 211.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Senator Trotter.

SENATOR TROTTER:

Thank you very much, Madam President. I just wanted to say that I am in favor of -- of this bill; however, I just want a few questions just for the record. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield. Senator Trotter.

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SENATOR TROTTER:

Yes. Senator, how will this -- this program be paid for?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Peterson.

SENATOR PETERSON:

Currently, the law provides that the township, because all these other assessors in townships over fifteen thousand have to have the requirements of certification is paid for by the township. And when they complete the requirements and are certified, then they receive a stipend from the Department of Revenue on a yearly basis, as long as their credentials are kept in order.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

Okay. So the -- those individuals who are interested to become assessors, pay for it up front and they will be reimbursed? Is that how it works?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Peterson.

SENATOR PETERSON:

That's correct, Senator. In ninety-nine percent of the cases, the township does pay for the education requirements, because I believe in the Statute, it requires the township to pay for those requirements so that they can stay certified or become certified.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

Okay. And then -- and what is the cost?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Peterson.

SENATOR PETERSON:

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I believe the -- the estimate is between two hundred and twenty-five to four hundred and fifty dollars.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

So, this is not considered an unfunded mandate on the townships?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Peterson.

SENATOR PETERSON:

Not to my knowledge, because they're already required to do it for the other assessors who are in townships above fifteen thousand.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

Thank you.

PRESIDING OFFICER: (SENATOR DONAHUE)

All right, sir. Further discussion? Senator Demuzio.

SENATOR DEMUZIO:

Well, I -- I think the assessors are going to be awfully surprised next year when they find out they have to do all this new training, but -- thank you.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there further discussion? Senator Watson.

SENATOR WATSON:

Yes. Thank you. A question of the sponsor.

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Watson.

SENATOR WATSON:

Is it my understanding that the required education will be before you are -- before you're a candidate -- or I mean -- as --



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before you're elected? Is that correct?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Peterson.

SENATOR PETERSON:

That's correct. When you file your petitions, you have to file a certification that you have the requirements and that's certified by the Department of Revenue.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Madigan.

SENATOR MADIGAN:

Thank you, Madam President. Question of the sponsor.

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Madigan.

SENATOR MADIGAN:

Senator Peterson, are you aware of any thoughts or any legislation that the Assessors' Association may be bringing forth additionally in the spring?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Peterson.

SENATOR PETERSON:

Not to my knowledge. This was supposed to be their major piece of legislation. They wanted it completed now, because they felt that would give the assessors that weren't certified more time to meet the requirements. The Department of Revenue says they can easily meet the requirements within one year.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Weaver.

SENATOR WEAVER:

Well, thank you, Madam President. Senator, I have received some information from the towns -- from the Assessors' Association, saying that they are going to present legislation this spring to -- I don't know what all that includes. I have a

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packet in my office that I have not studied yet, because they -- they don't have it in bill form yet. But I understood they were coming with a package next spring that would affect assessors statewide and consider education.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Peterson.

SENATOR PETERSON:

Well, as you know, I'm a conferee on the Conference Committee Report. The lead sponsor is Senator Klemm. But I did go to Peoria last week and spoke to the assessors' division and no one at that time said that they had any big legislative agenda. That may be true, but I am not aware of it, Senator.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there further discussion? Senator Karpziel.

SENATOR KARPIEL:

Thank you, Madam President. Question of the sponsor.

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Karpziel.

SENATOR KARPIEL:

Senator Peterson, I'm sorry, I may have missed the first part of the -- this debate, but in the townships that are covered by this, don't the assessors already have to have some kind of a CIAO <sic> (CIAO), or something?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Peterson.

SENATOR PETERSON:

All the collar counties that have fifteen thousand population or more are certified. This affects townships with less than fifteen thousand in population and with -- and then it goes down to the amount of assessed valuation between commercial and farm. If you're a real rural township, you have to the year 2001 to be certified.

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PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Karpel.

SENATOR KARPIEL:

Well then, the certification in this bill is no different than the certification the collar counties already have?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Peterson.

SENATOR PETERSON:

This is the same requirement that the townships in the collar counties are required now; we're extending it to the more rural townships.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there further discussion? Further discussion? Seeing none, Senator Peterson, to close.

SENATOR PETERSON:

Thank you, Madam President. I think the conference committee has been well debated, and I ask for an affirmative vote on the First Conference Committee Report on House Bill 211.

PRESIDING OFFICER: (SENATOR DONAHUE)

The question is, shall House Bill -- or, Senate adopt the Conference Committee Report on House Bill 211. Those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 46 Ayes, 5 Nays, 4 voting Present. The Senate does adopt the Conference Committee Report on House Bill 211, and the bill, having received the required constitutional majority, is declared passed. Senator Mahar, on House Bill 901. Mr. Secretary, do we have a conference committee on file?

SECRETARY HARRY:

First Conference Committee Report on House Bill 901.

PRESIDING OFFICER: (SENATOR DONAHUE)

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Senator Mahar.

SENATOR MAHAR:

Thank you, Madam President. This I would hope to be the final version, the final proposal, dealing with the issue which has commonly become known as brownfields. It is very similar to what we have voted on in the past and what was vetoed by the Governor. It still has the three-tiered, risk-based approach to identifying sites; it has the issue of proportionate share; and it has a mechanism for generation of additional dollars for the purpose of the State's portion or obligation to clean up the sites, which has become known as the "orphan shares". With that, I would be happy to entertain any questions.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Senator Welch.

SENATOR WELCH:

I have a question of the sponsor.

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Welch.

SENATOR WELCH:

Senator Mahar, did you say this continues the -- this has proportionate share, changing the existing law? It does.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Mahar.

SENATOR MAHAR:

Yes, it does.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

And do you anticipate this will create fewer lawsuits or more lawsuits, because of the proportionate share provision?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Mahar.

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SENATOR MAHAR:

Well it's my hope that it'll create fewer lawsuits. What we are doing is -- is going away from the State's obligation to pick up the money or find people who have contributed and really have the private sector the one who will remediate these sites, and that is based upon the fact that there will have to be less litigation and there'll be less cost in cleaning up the sites based upon the three-tiered, risk-based approach.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

Senator, how is it going to be determined who is responsible? If you have a -- a corner in a city where there are four gasoline stations, for instance, and they find pollution, underground pollution, at one of the four, and let's say they're not involved in the -- the underground tank program. How are they going to determine which of the four are the ones that caused it, unless they dig up each corner's gas tanks? How do you figure out the proportionate share?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Mahar.

SENATOR MAHAR:

Well, first of all the underground tank program is not involved in -- in the brownfields legislation, as are other entities that are not exempt under federal law. But to your question as to who is going to promulgate the rules, it will be the Pollution Control Board who has -- who is responsible for adopting rules and procedures within eighteen months of the effective date of this Act.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

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Senator, how -- how are we going to figure out, when there's a dispute, as to who is responsible? Isn't that going to have to be decided by a judge; or, if it's a -- not brought to court, won't the State have to pick up the charge for cleaning up that property?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Mahar.

SENATOR MAHAR:

Well, that -- there's no indication that -- of course, litigation is always possible, Senator Welch, as you know. And, of course, we have added more money in for the orphan shares - four to five million dollars. But once again, I would suggest to you and to the Members of this Body that what you're going to find as a net result of this bill is the private sector going in, raising capital, getting loans from banks, and cleaning up the site themselves, without any obligation of the taxpayers to participate.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

Well, I'd just like to say I think that's a great theory, but I don't think it's going to work that way. I think people are going to point to the neighbor and say, "It wasn't me who polluted this property; it was the neighbor", or "It was the guy before me", or "Somebody just abandoned these gallon drums full of toxic waste on the property and they spilled. We had nothing to do with it." I think trying to prove who is responsible under this is going to be an impossible task, and it's going to result in one of two things: It's going to result in the taxpayers picking up the tab for cleaning up these properties, or it's going to result in continuing contamination of property in the State of Illinois.

PRESIDING OFFICER: (SENATOR DONAHUE)

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Further discussion? Senator Trotter.

SENATOR TROTTER:

Thank you very much. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Trotter.

SENATOR TROTTER:

Senator Mahar, as you know, this -- this has been debated over and over, but seemingly in this legislation, the problem that I had with it is still there, and that is, of course, with the orphan shares. With this bill moving away from the -- the joint and several liability issue, who is going to pick up the cost of paying for those orphan shares?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Mahar.

SENATOR MAHAR:

Thank you, Madam President. What this bill contains, as far -- as far as the State's additional revenue to assist in covering the State's portion of these obligations, is a transfer of two million dollars per year from the Solid Waste Management Fund to the Hazardous Waste Fund. In addition, the -- the Agency indicates that they normally get through cost recovery about twenty-five percent, which they estimated as an additional two million dollars. And finally, with the support of the bankers -- Illinois Bankers and the real estate industry, they've agreed to an assessment or a fee of the lessor of twenty-five hundred dollars or the amount equal to the costs incurred for the site by the EPA on No Further Remediation Letters. We anticipate this raising somewhere around a million dollars. So we -- we figure about a -- four, maybe five, million dollars will go in annually to this -- to cover the State's portion of our obligation.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

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SENATOR TROTTER:

So all those millions of dollars you just added up, what was the total number? Million here, million there, is that -- what is that?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Mahar.

SENATOR MAHAR:

It's about four to five million.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

USEPA estimates that to clean up one site is going to cost twenty-four million. So where is the other nineteen million going to come from?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Mahar.

SENATOR MAHAR:

Purpose of this bill is to reduce the cost to remediate sites, based upon the health and safety risk to what the final end use of the site will be. If it is a site that is deemed to be a hazard to public safety, they're going to have to clean it up to the same requirements as it is today. However, if you have an industrial site and an owner wishes to come in and purchase that site and use it as an industrial site, they're not going to have to clean up the contamination to the point where you can eat the dirt. Rather, they will clean it up to the point where you can use that site, possibly capping it, and it's going to greatly reduce the cost to clean up the site. In a -- in an -- in a example like that, there will be no State participation. The third party or the buyer of the property will pick up the total cost.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.



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SENATOR TROTTER:

Let -- let me try to get a little more specific, then. In the City of Chicago which has more industrial sites than -- than probably any place else in -- in the State, currently from the Solid Waste Management Fund, they are receiving two hundred thousand dollars for -- for grants for household waste and sixty thousand dollars for -- to enforce illegal dumping. Is there any guarantee that the City of Chicago will still be getting these dollars, with this bill that you're passing or attempting to pass?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Mahar.

SENATOR MAHAR:

What we're doing is eliminating that program for planning grants, which all of the local units of government two years ago should have incorporated. And, Senator Trotter, as you know, in committee, the City of Chicago put in a witness slip in support of this bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

Yes, I understand that they did put in a slip, but that was one of those reluctant kind of slips. Certainly they will get some benefits from there -- from that, but yet and still, there's going to be from -- from our numbers, it's going to be more of a detriment for us who live in that community, in which I do live, on the southeast side where these dumps are. So even though the -- the wisdom of the City might have been there because there are some -- some benefits, there are still some problems and big problems with this. And I also have a problem with this -- this bill. Does this -- this have anything to do with the LUST Fund?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Mahar.

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SENATOR MAHAR:

No, Senator Trotter, it has nothing to do with the LUST Fund.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

Only -- only because of the -- the board records as the EPA LUST Program and -- which means, if it was, I had some additional questions, if it had anything to do with that.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there further discussion? Further discussion? Seeing none, Senator Mahar, to close.

SENATOR MAHAR:

Well, thank you, Madam President, and Members of the -- the Senate. This is probably, as I've stated on this Floor in the past, probably the biggest jobs bill that will come before us in some time. The sites that are out there that are contaminated remain contaminated, are -- are not being put back into the private sector, not being utilized. There are no jobs; there's no commercial value to them. That's going to change with this bill. And, Senator Trotter, I think you're absolutely correct. There are many instances in the City of Chicago where this bill is going to greatly benefit. You're going to see entrepreneurs in your neighborhood coming in, taking the risk, putting in their own money, being able to borrow money from the bankers around -- around this company, investing their own capital, and consequently, returning those properties not only to the tax rolls, but to job producing -- jobs for the people of the great State of Illinois. And I would ask all of us to support the First Conference Committee Report on House Bill 901.

PRESIDING OFFICER: (SENATOR DONAHUE)

The question is, shall the Senate adopt the Conference Committee Report on House Bill 901. Those in favor will vote Aye.

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Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 44 Ayes, 10 Nays, 2 voting Present. The Senate does adopt the Conference Committee Report on House Bill 901, and the bill, having received the required constitutional majority, is declared passed. Bottom of page 2. Conference Committee Reports on your Supplemental Calendar No. 1 is Senate Bill 1140. Senator Geo-Karis. Mr. Secretary, do you have a conference committee report on file?

SECRETARY HARRY:

Yes, Madam President. First Conference Committee Report on Senate Bill 1140.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Geo-Karis.

SENATOR GEO-KARIS:

Madam President and Ladies and Gentlemen of the Senate, this is the First Conference Report on Senate Bill 1140, and it cleans up a number of technical errors. And it also has -- main provision of which is Amendment 3, and which was approved by the State Bar and the Chicago Bar. It -- it says, in determining whether a child is in the physical custody of one of his parents, the court shall consider all relevant factors, including: the child's age; the circumstances of the initial transfer of possession of the child; the integration of the child into the family setting of the nonparental parent -- petitioner; the length of time the child has spent in the family setting of the nonparental petitioner; whether both of the child's parents have voluntarily relinquished possession of the child; and whether the child's father, if not married to the child's father <sic>, has acknowledged that he is the child's -- mother rather, has acknowledged that he is the child's father or has been declared to be the child's father by a court of competent jurisdiction. It

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amends the Illinois Marriage and Dissolution (of Marriage) Act because under current law, a parent has standing if he or she files a petition to divorce, legal separation, or -- invalidity of marriage. Any other person has standing by filing a petition for custody of the child, is not in the physical custody of one of his parents. I ask for a favorable consideration. This has been debated for quite awhile and it's -- it has the effect of allowing a trial judge to consider the child's welfare in situations like Baby Richard, where a child has lived for a long time in a home and bonded with the home and so forth. I'd appreciate a favorable vote.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Senator Thomas Dunn.

SENATOR DUNN:

Just to comment on the bill, Madam President, with all due respect to the fine lady that is sponsoring this bill. If we all wonder why we're a litigious society, it happens right here on this Floor with bills like this. As you know, there is no more heated disputes than when divorce occurs and children are involved. There's no situation where passions run higher. And what this bill does is to further the war between spouses, between grandparents, and between almost anyone who wants to stick their nose in -- under the family tent. This is a very bad bill. This bill encourages lawsuits. This bill encourages disputes between families. And I urge a No vote.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Trotter.

SENATOR TROTTER:

Thank you very much. I -- I didn't hear her full explanation of the bill. But would the Senator yield?

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates she'll yield, Senator Trotter.

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SENATOR TROTTER:

Senator Geo-Karis, in this bill, if -- if a woman leaves a home because of some violent domestic problem and leaves a child with a friend or a family member for safekeeping, would she have to end up defending herself or -- to get her children back or defend her rights to get her -- her -- custody back of her child?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Geo-Karis.

SENATOR GEO-KARIS:

It is not the intent of this legislation to negatively impact the custodial rights of domestic violence victims, solely on the basis of domestic violence.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

Okay. The -- it's not the intent, but seemingly the way -- the way I heard you explain it, that -- that's the -- the way it comes out. I mean, so is it specific in the -- in the -- in the writings -- in the bill? Do you know a part in the bill that specifically says this will not infringe on custodial rights of the parent?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Geo-Karis.

SENATOR GEO-KARIS:

It will not because it will be strictly upon the decision of the judge. The judge has to weigh all of the evidence.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Thank you, Madam President. Would the sponsor yield for a question?

PRESIDING OFFICER: (SENATOR DONAHUE)

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Indicates she'll yield, Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Senator, I'm concerned from the perspective of DCFS and involving ourselves in -- in family custody. I got a question maybe you can answer for me. If -- if I were to -- to place a child with -- with an extended family member in a plan of care - you know, where I -- I'll be back in six weeks; we're going to be gone; we've got commitments in Idaho or whatever we've got - would -- would this bill -- could this bill lead to that -- that -- that -- that placement -- whoever I placed that child with having standing in a court of law to sue for custody?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Geo-Karis.

SENATOR GEO-KARIS:

That would be one of the factors the judge will look at. If -- certainly, if you had to do it for six weeks, no -- no judge is going to be in his right mind by making a change.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Senator Geo-Karis, currently under our Statutes if I place a child in a plan of care with an extended family member, does -- does that extended family member have standing in court? Can the trial judge consider them to have standing in court?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Geo-Karis.

SENATOR GEO-KARIS:

I think -- I think the judge can consider it now. Whether he grants it or not, that's another question. But I feel that the judge can consider it now.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Rauschenberger.

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SENATOR RAUSCHENBERGER:

I -- well, I guess one of my concerns, Senator, is that this provision could lead to more voluntary placements or more voluntary relinquishments, temporarily, of -- of guardianship rights of children to DCFS to avoid having to, perhaps, litigate to -- to get children back. Currently if there's no plan of care, DCFS can intervene or the family member that the child is placed with. But if there's a plan of care and a definite time period, I -- I just don't feel comfortable in -- in putting that burden on trial court judges to try to -- try to do that. So I would respectfully have problems with the way this is drafted. Thank you.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Collins.

SENATOR COLLINS:

Question of the sponsor. Senator Geo...

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates she'll yield, Senator Collins.

SENATOR COLLINS:

Let me -- let me -- would you please just respond specifically to a question, for clarity, for me, and let me give you an example. If a woman who had been divorced or a single woman had a child and, for whatever reason, had to maybe -- let's say she went to the hospital and she left this child in the custody of her girlfriend. And, let's just say that she died in the hospital, and, of course, the child would be in the custody -- temporary custody of her girlfriend. Are you saying that this girlfriend then would have legal standing in the courts over maybe even the -- the actual father or the relatives of this child, or have equal standing in court?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Geo-Karis.

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SENATOR GEO-KARIS:

This does not give legal standing ipso facto to the girlfriend. These are factors that the judge would have to consider. And she doesn't automatically have standing. She can petition, but it's a court decision that counts. And the court's going to take all these things into consideration as to whether the interests of the child is going to be served by whom. If there's another parent, fine. If the parent shows a willingness to take the child and is capable of doing so, certainly he won't be precluded, he or she.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Collins.

SENATOR COLLINS:

Senator, would not she or anybody else have the -- right now without this bill, have a right to petition the court? I'm not saying that you would grant automatically -- just because we're passing this -- this law will give her a right to adopt the child. But I'm saying, should she not, under -- without this law, have -- or you or anyone else, have the right to go into court and petition for the adoption of any child that you had temporarily in your custody? Why do we need this law? And let me say something, Senator Geo-Karis. I think that the bill that we passed -- there was a consensus and a lot of work going into the law that we passed on providing some -- I think some pretty solid alternatives to women for temporary custody of their children due to illness or if, in fact, that they had a terminal illness or something -- they had to go out of town, to -- to provide for some protection for children just in case something happened to their parent or for a temporary guardian when they even wanted to go on vacations. And I think for you to bring before this Body a bill just to address some individual or specific case is why we get off track. Why don't you just let the laws we have on the books work? I think



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there is enough -- there are enough provisions under that law for anybody to go into court and petition for custody of this particular child in this particular case your working on. I don't think we should be taking this action at this time and I would just suggest you vote No.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Parker.

SENATOR PARKER:

Thank you, Madam President, Ladies and Gentlemen of the Senate. I commend the sponsor on trying to address problems that do need to be addressed, and I -- I think there is some good things in this bill. However, I have one concern that was brought to my attention that I really didn't realize fully was a part of this bill, and that has to do with the possibility when a woman is in a case of domestic violence. And I think some of the Senators here have brought this up and I'd like the Senator to -- if she would leave for a question, to try and address this issue.

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates she'll yield, Senator Parker.

SENATOR PARKER:

It's my understanding -- and this has happened in cases where a woman in a domestic violence situation will leave her child with her mother for a couple of days or so. And then if she comes back and gets her child, if that grandmother wants to keep that child, there is no standing, as I understand it now, in the courts for her to be able to keep that child. Is that the case?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Geo-Karis.

SENATOR GEO-KARIS:

There still would not be standing, unless it -- it -- because it's not the intent of this legislation to negatively impact the custodial rights of domestic violence victims solely on the basis

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of domestic violence. So the grandparent wouldn't have any more standing than the mother. It's my -- this is my understanding, because that's my intent. But...

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Parker.

SENATOR PARKER:

I understand that. I think now there's no standing, and I think what, my understanding is, this bill does is put the possibility of standing in there, so that the grandmother now could go to court, could possibly have standing; where the judge now would have to make a decision; where you have lawyers there that can actually -- take a long time before this decision is made, and where then the child would be at an uncertain position, as far as which parent or grandparent that child is actually living in. So it is putting more of that opportunity with the courts. And I -- is that the case?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Geo-Karis.

SENATOR GEO-KARIS:

I'm sorry, I didn't hear your last comment, Senator Parker.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Parker.

SENATOR PARKER:

I'll try and remember all I said. I think that, my understanding is, now what could happen with this bill is that the grandmother could go to court, say "I have kept this child for a couple of days." There is a possibility the grandmother would have standing, so now the judge is involved in the decision. And the lawyers could take a long time with the judge, with the whole process, and possibly that child would be in limbo, as far as -- as going with its mother or its grandmother, for a year or two. Whereas, the present law that we have now, the grandmother would

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have no standing and that -- very quickly that decision would be made. And so, what I'm concerned about is the possibility of that child being in a difficult situation for a long period of time, with this legislation.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Geo-Karis.

SENATOR GEO-KARIS:

I realize now that there are some problems that some of my colleagues feel are there. And that was not my intention to make problems; my intention was to sponsor this legislation to eliminate some of the problems. But since I don't want to cross my colleagues on both sides who've had some real concerns, I would like to ask that this Report then be denied and I'm going to ask for a Second Conference Report.

PRESIDING OFFICER: (SENATOR DONAHUE)

Question is, shall the Senate adopt Conference Committee Report No. 1 on House <sic> Bill 1140. Those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 5 Ayes, 41 Nays, none voting Present. The Senate -- Conference Committee Report is not adopted, and the Secretary will so inform the House. Senator Geo-Karis, for...

SENATOR GEO-KARIS:

Madam President, I'd like to ask for a Second Conference Report on Senate Bill 1140.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Sieben, for what purpose do you rise?

SENATOR SIEBEN:

For the purpose of an announcement.

PRESIDING OFFICER: (SENATOR DONAHUE)

Please state it.

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SENATOR SIEBEN:

Thank you, Madam President. To inform the Members, the State Government Operations Committee will meet at 11:35 today, in Room -- in Room 212, for the purpose of considering the First Conference Committee Report on Senate Bill 388. That's at 11:35 in Room 212.

PRESIDING OFFICER: (SENATOR DONAHUE)

State Government Operations Committee will meet in 212 at 11:30. Senator Raica, for what purpose do you rise?

SENATOR RAICA:

Thank you, Madam President. At your pleasure, the Public Health Committee will also meet in Room 400, at 11:30, for the purpose of looking at one bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Public Health, Room 400, 11:30. We will stand in recess till the call of the Chair, but I can give you at least some idea: It will be in the neighborhood of 11:45. Senate stands in recess.

(SENATE STANDS IN RECESS)

(SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR MAITLAND)

...(machine cutoff)...will reconvene. Committee Reports.

SECRETARY HARRY:

Senator Raica, Chair of the Committee on Public Health and Welfare, reports House Bill 1868, the First Conference Committee Report, Be Approved for Consideration.

And Senator Sieben, Chair of the Committee on State Government Operations, reports Senate Bill 388, the First Conference

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Committee Report, Be Approved for Consideration.

PRESIDING OFFICER: (SENATOR MAITLAND)

Ladies and Gentlemen, if I could have your attention please. For all those who are within earshot of my voice, if you would come to the Floor. The sooner we get moving this afternoon, the sooner we'll be finished. We have a number of issues to deal with yet. We will be dealing and starting with -- with Supplemental Calendar No. 2. Conference Committee Reports, House Bill 1868, Senate Bill 388 and Senate Bill 721, in that order. So would you please come to the Floor as quickly as possible, please. ...Dudycz, for what purpose do you arise, sir? All right, Ladies and Gentlemen, on Supplemental Calendar 2, in the Order of Concurrence, Committee Reports. Mr. Secretary, do you have on file a Conference Committee Report on House Bill 1868?

SECRETARY HARRY:

Yes, Mr. President. First Conference Committee Report on House Bill 1868.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Raica.

SENATOR RAICA:

Thank you, Mr. President. House Bill 1868 was requested as clean-up language by the Illinois Retailers' Association and also the Illinois Med Society. The first portion of the bill, the language -- I'm sorry -- the State Bar Association and the Land Title Association - and it's intended to clarify the Section of the Public Aid Code which allows the State to recover assets from estates which deal with Medicaid recipients after they're deceased. Basically, during the 1985 -- or, I'm sorry, spring Session of 1995, the Legislature passed a law which expanded the ability of the Department of Public Aid to place liens on real property of Medicaid recipients. After the recipient is deceased, the State can claim the property as a means of reimbursement for

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Medicaid services provided. The law was inadvertently drafted, such that it creates a hidden lien that cannot be discovered by searching public records. The lien could also be -- inadvertently travel to subsequent owner of property even if he or she has no relation to the former Medicaid recipient. This language that was drafted by the Realtors clarifies the Public Aid liens so that it is recorded and someone would be able to recover that property. The second portion of it was recommended by the Illinois State Med Society and is clean-up language which basically states that this bill amends the Illinois Insurance Code and the Code of Criminal Procedure to provide for record preservation via optical imaging in the same manner as photography or microfilm protects and preserves records. This is merely putting this part into the Code as it is in the Criminal Code -- or Code of Civil Procedure, and I just ask for its adoption.

PRESIDING OFFICER: (SENATOR MAITLAND)

Is there discussion? Is there discussion? If not, the question is, shall the Senate adopt the Conference Committee Report on House Bill 1868? Those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take -- take the record, Mr. Secretary. On that question, there are 56 Ayes, no Nays, 1 Member voting Present. The Senate does adopt the Conference Committee Report on House Bill 1868, and the bill, having received the required three-fifths majority, is declared passed. On page -- on Supplemental Calendar 2 is Senate Bill 388. Mr. Secretary, do you have on file a Conference Committee Report on Senate Bill 388?

SECRETARY HARRY:

Yes, Mr. President. First Conference Committee Report on Senate Bill 388.

PRESIDING OFFICER: (SENATOR MAITLAND)

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Senator DeAngelis.

SENATOR DeANGELIS:

Thank you, Mr. President. Conference Committee Report No. 1 to Senate Bill 388 is a topic that we've all been discussing for quite awhile and is a product of some serious negotiations for quite a period of time. As we are all aware, on January 1st, the Office of Inspector General for the Department of Mental Health would sunset out without a bill that would extend it, and this bill first and foremost extends that date to January 1st, 2000. Secondly, it requires that that Inspector General report directly to the Director. Third, it expands the authority of the Inspector General into community facilities, but along with that, it does, in fact, define more specifically what those -- the authority of that Inspector General is. Requires certain promulgation of rules and has a prohibition against them going into another investigation that's there already, and it limits the authority of that Inspector General to more of an investigative authority. It also establishes an appeal process of -- by any agency for an action of the Inspector General. Be happy to answer any questions that anyone might have.

PRESIDING OFFICER: (SENATOR MAITLAND)

Is there discussion? Senator Watson.

SENATOR WATSON:

Yes, thank you, Mr. President. This is an effort to establish legislative intent and I have some questions here that I would like to ask of the sponsor, if he will yield.

PRESIDING OFFICER: (SENATOR MAITLAND)

Indicates he will yield, Senator Watson.

SENATOR WATSON:

Yes, thank you. Is the purpose of this office to investigate reports of abuse or neglect in all facilities State-operated and community-funded, licensed or certified by the Department of

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Mental Health?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator DeAngelis.

SENATOR DeANGELIS:

Yes. This legislation authorizes the Inspector General to investigate cases of abuse and neglect in any facility or program that is licensed or certified by the Department of Mental Health and Developmental Disabilities or that is funded by the Department and is not licensed or certified by any other State agency.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Watson.

SENATOR WATSON:

Can initial investigations be done by phone and mail to determine the validity of a report?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator DeAngelis.

SENATOR DeANGELIS:

The legislation requires the Inspector General to promulgate rules establishing criteria for determining, based on the nature of the allegation, the appropriate method of investigation, which may include site visits, telephone contacts or requests for written responses from the agency. The new Inspector General has assured me that she intends to prioritize the urgency of these investigations.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Watson.

SENATOR WATSON:

Does this office have any authority to investigate problems with providers related to their licensure or certification by the Department of Mental Health?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator DeAngelis.



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SENATOR DeANGELIS:

No. This legislation specifically prohibits the Office of the Inspector General from having any involvement in the routine programmatic licensure or certification operations of the Department or any of its funded agencies. As you know, in the past, this office was deeply involved in the licensure and certification process. This provision is intended to prohibit the continued involvement in those areas.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Watson.

SENATOR WATSON:

Is it correct that this office and the Inspector General will now report to the Director of the Department of Mental Health and Developmental Disabilities? And if that's accurate, then will the Office of -- the Inspector General had reported to no one in -- in the past?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator DeAngelis.

SENATOR DeANGELIS:

This legislation does require the Inspector General to report directly to the Director of Mental Health and Developmental Disabilities. You are correct, Senator Watson. In the past, the Inspector General did not report to anyone and many argue the lack of oversight of that office created many of the problems that have plagued the office.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Watson.

SENATOR WATSON:

When can the Inspector General, as authorized by this bill, participate in investigating -- investigations being done by State departments other than the Department of Mental Health?

PRESIDING OFFICER: (SENATOR MAITLAND)

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Senator DeAngelis.

SENATOR DeANGELIS:

When another State agency specifically requests in writing the OIG's involvement, the Inspector General is permitted to cooperate in investigations of abuse and neglect of persons with developmental disabilities or mental illness. This is the only way that this office is authorized to participate in those investigations.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Watson.

SENATOR WATSON:

How will providers being investigated be protected from unjust portrayals by the press when the report of abuse or neglect is determined to be false?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator DeAngelis.

SENATOR DeANGELIS:

Any allegations of abuse and neglect are to remain confidential until a final report is completed. Any final reports regarding unsubstantiated or unfounded allegations shall remain confidential.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Watson.

SENATOR WATSON:

Does the language prohibiting the Office of Inspector General from supervising or having involvement in the routine, programmatic, licensure, or certification operations prevent the Inspector General from providing relevant information to the Bureau of Licensure and Certification? Are we preventing contact between the two divisions?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator DeAngelis.

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SENATOR DeANGELIS:

This legislation is not intended to prevent all contact between the two divisions, but it -- the legislation specifically provides that the rules shall be promulgated to clarify how the Office of the Inspector General shall interact with the Bureau of Licensure and Certification.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator del Valle.

SENATOR DEL VALLE:

Thank you, Mr. President. Question for the sponsor.

PRESIDING OFFICER: (SENATOR MAITLAND)

He indicates he will yield, Senator del Valle.

SENATOR DEL VALLE:

Senator DeAngelis, is there a sunset provision in this bill?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator DeAngelis.

SENATOR DeANGELIS:

Yes, Senator del Valle. It's January 1st, 2000.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator del Valle.

SENATOR DEL VALLE:

Well, I -- I'm going to support this bill. I -- I think it is an important step in the right direction, given that we are going to provide the Inspector General with the authority needed to be able to look at community-based agencies that receive funding from the Department of Mental Health. I think that that is something that is long overdue. But I'm really disappointed with the fact that we have put in a sunset provision here. I don't know when we're all going to be convinced that this position is not only needed, but should -- should be permanent and should be independent and free to conduct its work. You mentioned the previous Inspector General and I know a lot of the -- the problems

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- so-called problems - that were identified were blamed on the previous Inspector General, but I have to say to you that I think the problems are with some of the providers that do not want the scrutiny. They do not want this type of position, and I say to the providers today, many of the associations that have been concerned about this bill, that if they want to gain credibility, more credibility with the public and particularly with the families of clients, that it is extremely, extremely important that they are subject to the same kind of scrutiny that State institutions are subject to. That is the only way we can ensure the protection of the clients in these facilities. And I say to them that while they certainly have a victory here in their eyes because they've managed to get the Governor to agree to a sunset, I would hope that that sunset provision is not held over the current or the future Inspector General as a way of getting the Inspector General to ease off, because that's not what we want. What we want is an Inspector General who is not threatened by the trade associations and by the large influential providers who have thus far succeeded in not making the Inspector General's position within the Department of Mental Health and Developmental Disabilities the kind of office that is going to truly protect clients.

PRESIDING OFFICER: (SENATOR MAITLAND)

Don Kaiser of WCIA-Channel 3 requests permission to videotape, and Seth Perlman of Associated Press requests leave to take still photos. Is leave granted? Leave is granted. Further discussion? Senator Geo-Karis.

SENATOR GEO-KARIS:

Sponsor yield for a question?

PRESIDING OFFICER: (SENATOR MAITLAND)

Indicates he will yield, Senator Geo-Karis.

SENATOR GEO-KARIS:

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I understand that the bill as presently constituted in a conference report will be for four years for the Inspector General?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator DeAngelis.

SENATOR DeANGELIS:

Yes, till January 1st, 2000.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Geo-Karis.

SENATOR GEO-KARIS:

I understand also that if there is a complaint made about any private provider for mental health cases, that the Inspector General will be allowed to go in and investigate any complaint of -- of abuse or anything like that.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator DeAngelis.

SENATOR DeANGELIS:

The Inspector General is allowed to investigate a complaint of abuse by a community or private provider.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Demuzio.

SENATOR DEMUZIO:

Yeah. Thank you, Mr. President, Ladies and Gentlemen of the Senate. I'd like to ask Senator DeAngelis a question, if I may.

PRESIDING OFFICER: (SENATOR MAITLAND)

Indicates he will yield, Senator Demuzio.

SENATOR DEMUZIO:

Senator DeAngelis, I'm sorry I didn't hear the first part of your presentation. Did you represent this bill as to be a bill that came out of the Audit Commission?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator DeAngelis.

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SENATOR DeANGELIS:

No.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Demuzio.

SENATOR DEMUZIO:

Well, let me just suggest and associate, I think, myself with the remarks that have been made by Senator del Valle. True oversight means oversight - means you're not subjected to anyone. Under this new provision, which is better than nothing, oversight now is under the direction of the Director of Mental Health. So it is unfortunate that we are curtailing the Inspector General's duties, but I guess this is better than nothing.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator DeAngelis, to close.

SENATOR DeANGELIS:

I just ask for a favorable roll call.

PRESIDING OFFICER: (SENATOR MAITLAND)

The question is, shall the Senate adopt the Conference Committee Report on Senate Bill 388. Those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. On that question, there are 56 Ayes, no Nays, no Members voting Present. The Senate does adopt the Conference Committee Report on Senate Bill 388, and the bill, having received the required three-fifths majority, is declared passed. Senator DeAngelis, for what purpose do you arise, sir?

SENATOR DeANGELIS:

Just on a note of personal privilege. Seated in the gallery, and I would like for her to stand, is the new Inspector General, Pat Curtis. Pat...

PRESIDING OFFICER: (SENATOR MAITLAND)

...Curtis, would you stand and be recognized.

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SENATOR DeANGELIS:

Pat Curtis, our new Inspector General.

PRESIDING OFFICER: (SENATOR MAITLAND)

Thank you, Senator. Supplemental Calendar 2, on the Order of Conference Committee Reports. Mr. Secretary, has there been a Conference Committee Report filed on Senate Bill 721.

SECRETARY HARRY:

Yes, Mr. President, a Second Conference Committee Report on Senate Bill 721.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Bomke.

SENATOR BOMKE:

Thank you, Mr. President. This bill covers a number of different areas and parts, and I will briefly cover the parts for your information. Under enhanced penalties: It transfers to criminal court for carjacking automatic transfer to adult court for fifteen- and sixteen-year-olds charged with aggravated vehicular hijacking when committed with a firearm; transfer of thirteen- and fourteen-year-olds to criminal court for first degree murder in connection with aggravated criminal sexual assault, criminal sexual assault and aggravated kidnapping. Mandatory life sentence requires a sentence of life imprisonment for a thirteen- to sixteen-year-old who murders a child under twelve in connection with criminal sexual assault, aggravated criminal sexual assault and aggravated kidnapping. Predatory criminal sexual assault covers defendants at least seventeen years old who sexually penetrate a person under thirteen. If the victim suffers great bodily harm that causes permanent disability or is life-threatening, the penalty is significantly enhanced from six to thirty years, to fifty to sixty years, and because this is a Class X felony, the defendant must serve at least eighty-five percent of the time. Increases penalties for marijuana - the

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manufacturing, sale, delivery, possession and trafficking thereof. Registration and notification of sex offenders, registration of sex offenders - adds kidnapping and unlawful restraint of a person under eighteen by someone other than a parent to the list of offenses for which registration is required. (Child) Sex Offender Community Notification Law - allows for the public access to the names, addresses and conviction information of persons registered under the Sex Offender Registration Act for a sex offense committed against a child under eighteen. The State Police will develop a list of sex offenders and facilities eligible to receive the information. Local law enforcement will notify schools and child care facilities of offenders in their county or, in Cook County, either by their police district or township. Other law enforcement provisions include reporting dates of the Sentencing Commission. The Sentencing Commission established by truth-in-sentencing legislation was required to report by March 1st, 1996. Commission needs more time to compile useful reports, so the reporting period is extended to March 1st, 1997. On fitness to stand trial due to medication - psychotropic medication may affect a defendant's ability to participate in his or her own defense. As a result, defendants may not challenge their convictions on the basis of using such medication if the issue is not raised before the conviction. Triennial-scheduled parole hearings - allows the Prisoner Review Board to reschedule parole hearings every three years rather than every year, if the Board determines upon denying parole that the -- it is unreasonable to expect parole would be granted before a scheduled rehearing. This simply reenacts a law passed in 1988 that was declared unconstitutional by the Illinois Supreme Court. The U.S. Supreme Court has recently upheld a California law, and the Board believes the court will consider its opinion in light of this decision. And last, the underground storage tank -- the -- imposes



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environmental impact fees of sixty dollars per seventy-five hundred gallon tanker truckloads of fuel to be deposited in underground storage tanks. The yearly revenue is estimated to generate about forty-six million dollars. This legislation does a couple of things. First, it protects our children from predators that might prey upon them. In addition, it will go a long way to clean up the environment and not to lose sight of the concern of the small businesses and individuals that have been affected by the depleted LUST Fund. Thank you, Mr. President.

PRESIDING OFFICER: (SENATOR MAITLAND)

Is there discussion? Senator Madigan.

END OF TAPE

TAPE 2

SENATOR MADIGAN:

Thank you, Mr. President. And with all due respect, I think everyone knows what is incorporated in this legislation. Senator Bomke has done an excellent job of explaining the legislation. And with all due respect, I would move the previous question.

PRESIDING OFFICER: (SENATOR MAITLAND)

The previous question has been moved. Let me indicate to you, there are seven Members wishing to speak: Senator Carroll, Senator Molaro, Dunn, Shaw, Cullerton, Jacobs and Senator Raica. Further discussion? Senator Carroll.

SENATOR CARROLL:

Thank you, Mr. President. My question's really to the Chair as a parliamentary inquiry. Since this bill basically deals with sex offenses and notification and there is a Section on

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underground storage, is that germane to the rest of the bill?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Carroll, I'm prepared to make that ruling. The provisions contained in this Conference Committee Report are germane, as well as all relate to the same general subject matter, that being public safety. Senator Carroll.

SENATOR CARROLL:

So that then, Mr. President, what the Chair is ruling, that it's okay to put LUST into sex. Thank you, Mr. President.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Molaro.

SENATOR MOLARO:

Thank you, Mr. President. Well, we're stuck here again with a type of crime bill that has I don't know -- I wouldn't even count how many provisions in it, and obviously most of them are pretty good. There's a couple of new ones. And I'll be as brief of -- brief as I can, 'cause I know we want to get home. One of which you should all take a look at rather quickly -- and maybe I'll do this real quick and then you can answer 'em one at a time. One you should look at comes way at the end and it has to do with electronic monitoring in the workplace - eavesdropping. Basically here's what this bill says: Right now in Illinois - say I own some telecommunication firm - right now in Illinois if -- if -- I have an employee that is going to call and try to talk somebody into buying a credit card. So you have the conversation between the employee and the prospective buyer of the credit card. Right now under Illinois law if I call and I'm an employee, I must tell this prospective customer that I want to record or monitor the conversation. That's what you must do now. What this bill does, it allows the owner of the company with just the consent of the employee to tape and monitor the conversation without telling you, the customer, that they're doing it. Now, that opens up to a lot

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of abuses. You can call somebody up; you could try to get somebody at certain times of the day; say some things on there and catch 'em saying some pretty rotten stuff. Catch somebody at the wrong time, they might use fowl language. They could record your conversation. And you know what all -- the only thing we have in the bill, it says that we cannot use it to prosecute someone. You can't turn it over to the State's attorney's office. But it doesn't say you can't sell it to Hard Copy if they catch one of our Members or one of our family members saying something we shouldn't. This is crazy that we would allow someone to tape conversations of mine without letting me know that I'm being taped. That doesn't make any sense. I'll go to one of the other parts - part about the notification law. Nobody is against notifying someone that there may be a sex offender living in and around your neighborhood. Who could be against that? But this isn't well thought out. It talks about the discretion of the police department. There's questions like: If we're worried about a child sex offender living with us, what about a child murderer? Why aren't we notified about him? Why isn't that in the bill? What about a child kidnapper? Why isn't that in the bill? Then we have problems with if I own my home and now I'm notified that a sex offender bought the house two doors down. Now I go to sell my place. Am I under a duty to let somebody else know? When the word gets out that a sex offender just bought a house two doors down, does that lower my property values? Can I sue somebody? Does -- the broker under a duty to tell people? What are we going to do when all these things come up? If I buy a house and I'm not told and my child and beloved one is -- does sex, can I go and grab the person that told me the house -- sold me the house and said you didn't let me know about it? All these things aren't in the bill. I have no idea. We're going to leave it to the discretion of the police department. Now, how often do

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you notify? So if I own a ten flat and there -- somebody -- one of my tenants, do I have to -- am I -- do I have to inform every tenant that the person in 3A is a known sex offender? Do the police have to notify every month? To everybody in the neighborhood? There's no provisions in this bill. It's not written well; it doesn't make any sense. Here we are again haphazardly jumping into something because of something that happened in the newspaper. We have to be responsible here. Everybody's against this. Everybody should know when a sex offender comes in. But we have to be responsible and not willy-nilly make bills that make no sense and just throw it out to the public and say let the Supreme Court or the police departments figure this out. We should figure it out and we should take the time to do it. The last thing I'll bring up on the bill: We are now making a part of the bill that -- it's called automatic transfer. Right now if you're fifteen, sixteen years old and you commit murder, you're automatically tried as an adult. Now we're going to lower that age to thirteen. You commit murder, you're automatically tried as an adult. Nobody likes a thirteen-year-old murderer. We're all against that. It's horrible what's going on out there. I don't know where thirteen came. How many studies? How many task force? Why not twelve? Why not nine? Why not four years old? Where did thirteen come from? Was it willy-nilly again, just in response to something -- some tragedy that happened? We have judges out there. Every thirteen-year-old that you could come up with in these horrible instances that committed some horrible murder, the judge will look at it; he'll try them as an adult. The State's attorneys will ask them to be tried as an adult. Why do we, us fifty-nine people, have to make that decision for some judge that's elected by the people, that knows more about the law or forgot more about the law than we'll ever know? That's what they do. They're judicial court judges. Let

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them decide. Let them take it under advisement. After hearing all of the facts presented by the State's attorney, they'll decide if the thirteen-year-old should be put away without the possibility of parole, which is what this calls for. That's not correct; we're not doing the right thing here. But once again we're stuck with sixty-five other good things. And I just think it's unfair and we should consider every part of this bill as a whole. Thank you.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Tom Dunn.

SENATOR DUNN:

Thank you, Mr. President. I first became concerned with this issue back in March of 1994 and introduced a bill dealing with sex offenders and called for their registration for life and for enforcing the fact that if they didn't register that their -- their -- they could be revoked on their parole, and some of those things were adopted in legislation we passed this spring. This spring in March I introduced a -- a bill that really was a combination of the Washington state law and the New Jersey law dealing with Megan's Law, concerning notification to the public. Unfortunately, in August of this year, in my district, a ten-year-old boy was killed by an individual who lived about two miles from my own home, and that individual is charged, of course, with murder. The individual who committed this offense was twenty-seven and had been incarcerated on a twenty-five-year sentence, served twelve years and got out. And he was in for murdering a five-year-old child. This bill is not perfect, as you will hear in the debate, but it is a step in the right direction, and I join Senator Bomke in an attempt to create a valid good system. It could be better. It doesn't cover the situation that occurred in my district because it doesn't have in the offense of first degree murder of a child. I wish that were in; it's not in.

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I'm not totally sold on the notification plan that's in there, but it's a step. We can modify these next year if we have to. This is a tragedy. We all know that. This is an attempt to do something about it - something meaningful, to protect children. I urge an Aye vote.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Raica.

SENATOR RAICA:

Thank you, Mr. President and Members of the General Assembly. This bill before us is actually going to be very difficult to vote against, only because it's been such of an issue throughout the State of Illinois, and not really in any specific area more than another, but actually throughout the State of Illinois. So, number one, every -- obviously it's going to be very difficult to -- to vote against. However, there are, I would hope, an attempt by the General Assembly to maybe go a step further next year in actually putting in safeguards. And let me just explain why. After looking at the bill, number one, Senator Molaro stated that the onus is almost put on law enforcement or local police officials. I would have a tendency to disagree respectfully and say that the onus isn't put on the local police officers or the State Police officers, but actually on the offender. And let me just give you my reasoning why. On page 2, line 11, Section 110, it states, "Registration. At the time a child sex offender registers under Section 3 of the Sex Offender Registration Act or reports a change of address under Section 6 of that Act, the offender shall notify the law enforcement agency having jurisdiction with whom the offender registers or reports a change of address that the offender is a child sex offender." Looking at the Code under Section 3, it states: Duty to register. Any child sex offender - any child sex offender - shall register within thirty days of his coming into the county, any county, in which he

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resides or temporarily domiciled for more than thirty days, register with the chief of police of the municipality in which he resides, or in the event no police chief exists or if he resides in an unincorporated area, he shall register with the sheriff of that county. My concern, Ladies and Gentlemen of the Senate, is that when you're dealing with sex offenders, number one, these are people who are repeat offenders, almost automatically, one, and two, they're beyond rehabilitation. So the next time you probably ever hear of this offender he has committed his second or third or fourth sex crime against a child. The problem that I have is that the -- when he is discharged from prison, we're taking on the onus that he will in good faith register himself with a police agency when he decides to move into some part of this State. My problem is, he probably will never ever do that, 'cause we're asking him to be a stand-up individual. Actually, might as well just have him raise his right hand and promise not to commit any sex crimes, and we know that won't happen. But my problem is, why Corrections, in my opinion, should be involved is Corrections should at least make notification to the State Police and State Police to at least units of local government, but at least even if the State Police were notified by Corrections that an individual who has committed a sexual assault or crime against a child is immediately notified that he or she is being released from prison. And the only reason I'm saying that is I do not feel the offender is going to be an individual with character, number one, and will onusly <sic> go up to an individual of the law enforcement and state that he is being released from prison. So although this is a -- a very emotional - if I can use that word - bill, my concern is that we have not put a safeguard in this legislation in allowing - and I hate to give Corrections another phone call to make - but someone has to know that this individual has been discharged from prison and is out among the population of this

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State of Illinois. I do rise in support of this bill; however, I do hope the General Assembly comes back in -- in January and at least puts a check and balance system in place, 'cause my fear, as we have read in the newspapers, there are not a lot of parole officers throughout this State to even watch over these individuals more or less have this person go and report to, and I hope that this person doesn't fall through the cracks, and I would hope that we would prevent that from happening.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Jacobs.

SENATOR JACOBS:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. First of all, may I be the first to wish you all Merry Christmas. We have been delivered our first present today in the way of Senate Bill 721. It's an important bill. It's one that we're all concerned with. Couple questions of the sponsor if he would yield.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Bomke. Indicates he will yield, Senator.

SENATOR JACOBS:

Senator, when we discussed this bill when it went out and we made it a shell bill, I think we asked whether everything would be in this bill when it come back that was in the previous bill. I think your response was one I thought was pretty good and you -- and I cut myself off right after that because I had to chuckle -- was you said take a good Republican's word on it. Is everything in this today that was in it before it went to another conference committee report?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Bomke.

SENATOR BOMKE:

Senator, there -- there were some technical things that had to



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be worked out in that previous bill of two days ago. I would not impugn your intelligence by taking you word for word, paragraph for paragraph, or page for page through it. But the bill -- I would ask that you look at the merits of the bill today and vote on that bill. Thank you.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Jacobs.

SENATOR JACOBS:

Well, first of all, it's my understanding that in Conference Committee Report No. 1 there was a provision that would have required each prison inmate getting nonemergency medical or dental services outside of the prison to make a two-dollar co-payment to the Department of Corrections to help defray those costs, which I think is a good deal. That evidently was taken out. Can you tell me why that might have been taken out?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Bomke.

SENATOR BOMKE:

Thank you, Mr. President. The House has a similar bill that's moving, probably as we speak, with that in it. That's why that was removed from this bill.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Jacobs.

SENATOR JACOBS:

One more question, then I'd like to have a closing comment. It's my understanding - and correct me if I'm wrong, Senator Bomke - that the State Police have indicated that they cannot participate in this because they cannot afford it. Is that correct?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Bomke.

SENATOR BOMKE:

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I'm not aware of it.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Jacobs.

SENATOR JACOBS:

Well, that's -- that's an understanding I had. It's unfortunate, Senator Bomke, 'cause we are going home today. I know that this is a very important bill. I plan on voting Yes with you on it, but I think maybe there was a lesson to be learned in this bill, or maybe some truth in this bill. Whenever you said, "Take a good Republican's word on it; everything's going to be in there", I think that you should ensure in the future that it is in there or at least not put forth the good Republican word. Thank you.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Cullerton.

SENATOR CULLERTON:

Thank you, Mr. President, Members of the Senate. Would the sponsor yield for a question?

PRESIDING OFFICER: (SENATOR MAITLAND)

Indicates he will yield, Senator Cullerton.

SENATOR CULLERTON:

Senator Bomke, in the -- in the Judiciary Committee, the Municipal League indicated that they were opposed to a portion of the bill because it would impose some costs on local governments. Is the State Mandates Act waived in this bill?

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Bomke.

SENATOR BOMKE:

Thank you for the question. It is a good question. The mandate is not waived in this particular case. There is some concern about the law enforcement's involvement. Discussions are -- are on -- still ongoing.

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PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Cullerton.

SENATOR CULLERTON:

I see. So we're -- the discussions are ongoing, but in the meantime we're going to pass this bill and the Governor's going to sign it, and the additional cost to local government will be mandated by the General Assembly. I would just like to speak more or less to the procedure by which we come to this vote. And I think it's unfortunate, because there are people -- majority -- overwhelming majority of the people in the Senate have already voted for the LUST Fund tax increase and -- and it's passed the Senate, and I think that there's no question that a majority of the Senate overwhelmingly would support most of the criminal law provisions that are here. But I believe that this bill will not become law, unfortunately, because of the way in which it was packaged. I believe that this is one of those rare cases where the Supreme Court will decide that this is violative of the Constitution. And it's unfortunate that it has to happen that way. The reason for that is because this particular case is so clear that it violates the single subject rule of the Constitution, which is Article IV, Section 8(d). The cases are -- are very clear. What -- what they've said in the past -- the Supreme Court has said that you cannot pass legislation by combining two different bills in one bill, which standing alone could not muster the necessary votes for passage. And that's indeed what happened in the House with the LUST bill. Here's the roll call. The bill was called; it lost 42 to 61. So they couldn't pass it in the House, so they came back here, put the LUST bill in with the criminal law bill and said it had something to do with public safety, which, when you think about it, every bill that's introduced could say that it has to do with public safety. And so there's -- it makes a mockery of the single

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subject rule. So what's going to happen is this is going pass, there's going to be a lawsuit filed, probably by the Democratic Leader in the House, there's going to be an injunction, and the -- the tax, if collected, is probably going to go into an escrow until the -- the Supreme Court decides. And the Supreme Court has said in -- in a recent case dealing with McCormick Place tax that they think that the General Assembly has become very lax in following the Constitution, and they didn't overturn that particular case, but they said that if the General Assembly continues its poor record of policing itself, we reserve the right to revisit this issue on another day and decide the continuing propriety of ignoring this constitutional violation. So I think what's unfortunate is that because of the politics over in the House, this -- these -- both of these bills are going to never become law because of the way in which it was packaged. It's unfortunate. We should pass the criminal law bill separately; we should pass the LUST bill again, and let the House deal with it. Thank you.

PRESIDING OFFICER: (SENATOR MAITLAND)

Is there further discussion? Further discussion? Senator Bomke, you wish to close, sir?

SENATOR BOMKE:

Thank you. I just want to clarify something that was indicated earlier. My comments of two days ago -- I want to clarify my comments. I did not say that everything that was in that bill would be in this bill. What I did say was, this would be a better bill, and I believe it is. I believe this bill epitomizes what we're here this fall Veto Session to do. It will go along way in protecting those that are -- that we cherish. I have a thirteen-year-old daughter, a nine-year-old son. There's nothing more important to me, and I know to you, than our children. This will go along way in protecting them against the

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predators that might prey on them. It will also protect the environment that they will live in for years to come. In addition, we don't want to lose sight of the fact of the many businesses, particularly small businesses, that are suffering because there's no money in the LUST Fund. It doesn't discriminate. It affects businesses from Chicago to Cairo. There are businesses and individuals who have gone bankrupt. Some of them are on the verge. Many of them are holding their breath, waiting for our vote. This is a good bill and I would urge you to concur with it. Thank you.

PRESIDING OFFICER: (SENATOR MAITLAND)

The question is, shall the Senate adopt the Conference Committee Report on Senate Bill 721. Those in favor will vote Aye. Opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. On that question, there are 49 Ayes, no Nays, 7 Members voting Present. The Senate does adopt the Conference Committee Report on Senate Bill 721, and the bill, having received the required three-fifths majority, is declared passed. First bill. Congratulations, Senator Bomke. Messages from the House, Mr. Secretary.

SECRETARY HARRY:

Message from the House by Mr. McLennand, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to wit:

House Joint Resolution 77.

(Secretary reads HJR No. 77)

Adopted by the House, November 16th, 1995.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Weaver moves to suspend the rules for the purpose of

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the immediate consideration and adoption of House Joint Resolution 77. Those in favor will say Aye. Opposed, Nay. The Ayes have it. The rules are suspended. Senator Weaver now has moved for the adoption of House Joint Resolution 77. Those in favor, say Aye. Opposed, Nay. The Ayes have it, and the resolution is adopted. Ladies and Gentlemen, let's just stand by for a few -- Resolutions.

SECRETARY HARRY:

Senate Resolution 127, offered by Senator Demuzio.

It's a death resolution, Mr. President.

PRESIDING OFFICER: (SENATOR MAITLAND)

Consent Calendar. All right. Ladies and Gentlemen, we will now proceed to the Order of Resolutions Consent Calendar. With leave of the Body, all of those read in today will be added to the Consent Calendar. Mr. Secretary, have there been any objections filed to any resolution on the Consent Calendar?

SECRETARY HARRY:

No objections have been filed, Mr. President.

PRESIDING OFFICER: (SENATOR MAITLAND)

If not, the question is, shall the resolutions on the Consent Calendar be adopted. All those in favor, say Aye. Opposed, Nay. The motion carries, and the resolutions are adopted. Introduction of Bills.

SECRETARY HARRY:

Senate Bill 1247, offered by Senator Hendon.

(Secretary reads title of bill)

Senate Bill 1248, offered by Senator Mahar.

(Secretary reads title of bill)

And Senate Bill 1249, by Senator O'Malley.

(Secretary reads title of bill)

1st Reading of the bills.

PRESIDING OFFICER: (SENATOR MAITLAND)

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All right. Ladies and Gentlemen, any further business to come before the Senate? If not, pursuant to the adjournment resolution, the Senate stands adjourned, and wish all of you a very happy holiday season.

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