

STATE OF ILLINOIS
89TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

30th Legislative Day

March 22, 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 gallery please rise. Our prayer today will be given by the Reverend Daryl Fansler, United Methodist Church, Petersburg, Illinois. Reverend Fansler.

THE REVEREND DARYL FANSLER:

(Prayer by the Reverend Daryl Fansler)

PRESIDENT PHILIP:

We'll remain standing for the Pledge of Allegiance, led by Senator Geo-Karis.

SENATOR GEO-KARIS:

(Pledge of Allegiance, led by Senator Geo-Karis)

PRESIDENT PHILIP:

May I have your attention for a minute, please? I'm very saddened to announce the passing of Senator Hall. He's been a friend and a Member for a good many years. We do not have the details at this point. We're -- we're assuming the service will be either Friday or Saturday, but we're waiting for the family to give us the details. As soon as we have the details, we will certainly give everybody a memo and make the announcement on the Floor. Reading of the Journal. Senator Butler.

SENATOR BUTLER:

Mr. President, I move that reading and approval of the Journal of Tuesday, May 20th <sic> (March 21st), in the year 1995, be postponed, pending arrival of the printed Journal.

PRESIDENT PHILIP:

Senator Butler moves to postpone the reading and the approval of the Journal, pending the arrival of the printed transcript. There being no objection, so ordered. Committee Reports.

SECRETARY HARRY:

Senator Fawell, Chair of the Committee on Transportation,

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reports Senate Bill 1026 Do Pass; Senate Bills 283, 1096 and 1154 Do Pass, as Amended; and Senate Joint Resolution 23, Be Adopted, as Amended.

Senator Cronin, Chair of the Committee on Education, reports Senate Bills 1015 and 1019 Do Pass; Senate Bills 943, 1007 and 1018 Do Pass, as Amended; Senate Amendment 1 to Senate Bill 50 Be Adopted, and Senate Amendment 2 to Senate Bill 1035 Be Adopted.

Senator Sieben, Chair of the Committee on State Government Operations, reports Senate Bills 336, 337, 1149 and 1150 Do Pass; Senate Bill 458 Do Pass, as Amended; Senate Amendment 1 to Senate Bill 388 Be Approved for Consideration, Senate Amendment 2 to Senate Bill 457 Be Approved for Consideration, and Senate Amendment 1 to Senate Bill 763 Be Approved for Consideration; and Senate Joint Resolution 24 Be Adopted, as Amended.

PRESIDENT PHILIP:

Messages from the House.

SECRETARY HARRY:

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

Mr. President - I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to wit:

House Bills 113, 122, 153, 175, 182, 197, 234, 309, 370, 150, 413, 471 and 507.

All passed the House, March 21st, 1995.

PRESIDENT PHILIP:

Resolutions.

SECRETARY HARRY:

Senate Resolution 40, offered by Senator O'Daniel and all Members.

It's a death resolution, Mr. President.

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Consent Calendar.

SECRETARY HARRY:

Senate Joint Resolution 36, offered by Senator Sieben.

And Senate Joint Resolution 37, offered by Senators Sieben and Burzynski.

They're both substantive.

PRESIDENT PHILIP:

On page 2 today -- of today's Calendar, in the Order of Senate Bills 2nd Reading, will the Members please move their bills. Senate Bill 62. Senator Klemm. Take it out of the record. Senate Bill 64. Senator Raica. Senator Raica. Take it out of the record. Senate Bill 76. Senator Peterson. Take it out of the record. Senate Bill 100. Senator Raica. Take it out of the record. Senate Bill 133. Senator Peterson. Senator Peterson. Take it out of the record. Senate Bill 134. Senator Peterson. Take it out of the record. Senate Bill 192. Senator Hasara. Senator Hasara. Take it out of the record. Senate Bill 245. Senator Dudycz. Senator Dudycz. Take it out of the record. Senate Bill 246. Senator Dudycz. Take it out of the record. Senate Bill 236. Senator Ralph Dunn. Senator Ralph Dunn. Take it out of the record. Senate Bill 276. Take it out of the record. Senate Bill 326. Senator Syverson. Senator Syverson. Take it out of the record. Senate Bill 354. Senator Barkhausen. Senator Barkhausen. Take it out of the record. Senate Bill 355. Senator Barkhausen. Take it out of the record. Senate Bill 442. Senator Woodyard. Well, God bless you, Senator Woodyard. Read the bill.

SECRETARY HARRY:

Senate Bill 442.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Insurance, Pensions and Licensed Activities adopted Amendment No. 1.

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

SECRETARY HARRY:

No further amendments reported, Mr. President.

PRESIDENT PHILIP:

3rd Reading. Senate Bill 444. Senator Peterson. Take it out of the record. Senate Bill 448. Senator Woodyard. Senator Woodyard. Take it out of the record. Senate Bill 459. Senator Maitland. Senator Maitland. Take it out of the record. Senate Bill 472. Senator Peterson. Take it out of the record. Senate Bill 539. Senator Fawell. Senator Fawell. Read the bill.

SECRETARY HARRY:

Senate Bill 539...

PRESIDENT PHILIP:

Take it out of the record. Senator Fawell? Senate Bill 549. Read the bill.

SECRETARY HARRY:

Senate Bill 549.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments.

PRESIDENT PHILIP:

3rd Reading. Senate Bill 595. Senator Rauschenberger. Senator Rauschenberger. Read the bill.

SECRETARY HARRY:

Senate Bill 595.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments.

PRESIDENT PHILIP:

3rd Reading. ...Bill 640. Senator Hasara. Take it out of the record. Senate Bill 664. Senator Tom Dunn. Senator Tom Dunn. Take it out of the record. Senate Bill 679. Senator Woodyard. Senator Woodyard. Take it out of the record. Senate

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Bill 690. Senator Weaver. Take it out of the record. Senate Bill 728. Senator Woodyard. Senator Woodyard. Take it out of the record. Senate Bill 760. Senator Lauzen. Senator Lauzen. Take it out of the record. Senate Bill 761. Senator Maitland. Senator Maitland. Take it out of the record.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senate Bill 805. Senator O'Malley. Senator O'Malley, 805. Read the bill, Mr. Secretary.

SECRETARY HARRY:

Senate Bill 805.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments.

PRESIDING OFFICER: (SENATOR DeANGELIS)

3rd Reading. Senate Bill 934. Senator Barkhausen. Take it out of the record. Senate Bill 942. Senator Sieben. Senator Sieben. Take it out of the record. Senate Bill 1124. Senator Butler. Read the bill.

SECRETARY HARRY:

Senate Bill 1124.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Executive adopted Amendment No. 1.

PRESIDING OFFICER: (SENATOR DeANGELIS)

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

SECRETARY HARRY:

No further amendments reported, Mr. President.

PRESIDING OFFICER: (SENATOR DeANGELIS)

3rd Reading. With leave of the Body, we'll return to Senate Bill 326. Senator Syverson. Mr. Secretary. Read the bill, Mr. Secretary.

SECRETARY HARRY:

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Senate Bill 326.

(Secretary reads title of bill)

2nd Reading of the bill. The Committee on Revenue adopted Amendments 1 and 2.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Hasara.

SENATOR HASARA:

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

PRESIDING OFFICER: (SENATOR DeANGELIS)

State your point.

SENATOR HASARA:

I have a young lady standing here today, who is, as of today, a legal registered voter. Today is April Gulley's eighteenth birthday. She's a Page over here, and she's also the daughter of Becky Gulley, Senator Mahar's secretary. Let's wish April a happy eighteenth birthday.

PRESIDING OFFICER: (SENATOR DeANGELIS)

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

SECRETARY HARRY:

No further amendments reported, Mr. President.

PRESIDING OFFICER: (SENATOR DeANGELIS)

3rd Reading. Senator Dudycz, on Senate Bill 245. Read the bill, Mr. Secretary.

SECRETARY HARRY:

Senate Bill 245.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments.

PRESIDING OFFICER: (SENATOR DeANGELIS)

3rd Reading. Senate Bill 246. Senator Dudycz. Read the bill, Mr. Secretary.

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SECRETARY HARRY:

Senate Bill 246.

(Secretary reads title of bill)

2nd Reading of the bill. No committee or Floor amendments.

PRESIDING OFFICER: (SENATOR DeANGELIS)

3rd Reading. Are there any other Members who have bills on 2nd Reading that wished them called? For what purpose does Senator Peterson seek recognition?

SENATOR PETERSON:

Thank you, Mr. President. I would like leave of the Body to table Senate Bill 76 and Senate Bill 444.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Peterson moves that Senate Bill 76 be tabled. All those in favor, say Aye. Opposed, say No. The Ayes have it. Senator Peterson moves that Senate Bill 444 be tabled. All those in favor, say Aye. Opposed, say No. The Ayes have it. Senator Woodyard.

SENATOR WOODYARD:

Yes. Thank you, Mr. President. I would move to table Senate Bill 707.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Woodyard moves that Senate Bill 707 be tabled. All those in favor, say Aye. Opposed, say No. The Ayes have it and Senate Bill 707 is tabled. For what purpose does Senator Mahar seek recognition?

SENATOR MAHAR:

Thank you, Mr. President. For the purpose of an announcement.

PRESIDING OFFICER: (SENATOR DeANGELIS)

State your announcement.

SENATOR MAHAR:

The Senate Environment and Energy Committee will meet at 10 o'clock in Room 400 tomorrow morning, as opposed to 9 o'clock,

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and I would like the Calendar to so reflect that.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Committee Reports.

SECRETARY HARRY:

Senator Hawkinson, Chair of the Committee on Judiciary, reports Senate Bills 635, 836, 866, 958, 972, 989 and 995 Do Pass; and Senate Bills 147, 940, 983, 1129 and 1204 Do Pass, as Amended.

Senator Klemm, Chair of the Committee on Local Government and Elections, reports Senate Bills 284, 507, 774, 821, 1111, 1193, 1194 and 1211 Do Pass; Senate Bills 441, 822, 850, 932, 947, 948, 951, 956, 974 and 1066 Do Pass, as Amended; and Senate Amendment 1 to Senate Bill 80 Be Adopted.

Senator Weaver, Chair of the Committee on Rules, reports the following Legislative Measures have been assigned to committees: Referred to the Committee on Environment and Energy - Senate Amendment 2 to Senate Bill 182; to the Committee on Executive - Senate Amendment 1 to Senate Bill 679; and Be Approved for Consideration - Senate Amendment 3 to Senate Bill 212, Senate Amendment 3 to Senate Bill 326, and Senate Amendment 2 to Senate Bill 327.

PRESIDING OFFICER: (SENATOR DeANGELIS)

On page 4 of today's Calendar is the Order of Senate Bills 3rd Reading. Will the Members please arrive on the Floor? Senator Hawkinson. Senate Bill 5. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 5.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Hawkinson.

SENATOR HAWKINSON:

Thank you, Mr. President. Senate Bill 5, sponsored by myself

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and Senator Jones, is -- is the new rules regarding the permanency hearing officer legislation. This arose initially a year ago January, 1994. The Governor's Office, the former Chief Judge of the Circuit Court in Cook -- Cook County, the four Legislative Leaders and the former Chairman of the Cook County Board convened a task force that Senator Dunn and myself and others participated in, to deal with the juvenile justice system in Cook County. Last year we passed legislation that had permanency planning hearing officers in that process. That process has been observed now, in operation for over a years -- over a year, and -- and based on that experience, the Governor's special council, the Circuit Court of Cook County and others have reached an agreement on these permanency planning amendments which we think will go a long way towards improving the juvenile system in Cook County and these permanency planning hearings. I would ask for your support on Senate Bill 5.

PRESIDING OFFICER: (SENATOR DeANGELIS)

The question is, shall Senate Bill 5 pass. Those in favor will vote Aye. The opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 58 Ayes, none voting Nay, none voting Present. Senate Bill 5, having received the required constitutional majority, is declared passed. Senate Bill 21. Senator Butler. Take it out of the record. Senate Bill 34. Senator Fawell. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 34.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Fawell.

SENATOR FAWELL:

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Thank you -- thank you very much. The amendment becomes the bill and it says no persons may make or receive payments for circulating a petition if any part of the payment is based upon the number of signatures solicited or procured. This was brought to my attention by a Tribune article, that certain Members of my Party were asked to pass petitions and get paid for them. The only opposition that I have heard from is from the LaRouche Party. And I would ask for a favorable vote; be willing to answer any questions.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Garcia, of the LaRouche Party.

SENATOR GARCIA:

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

PRESIDING OFFICER: (SENATOR DeANGELIS)

Sponsor says she will.

SENATOR GARCIA:

Thank you. Senator Fawell, can you explain to me what constitutes a payment, in this case?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Fawell.

SENATOR FAWELL:

Money.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Garcia.

SENATOR GARCIA:

Does this mean only cash or checks? What about other incentives like groceries, food, auto parts, a stereo, color TV, things of that sort?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Fawell.

SENATOR FAWELL:

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No. What we're talking about is -- is cash on the barrelhead, when somebody goes and pays for the signatures on a petition.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Garcia.

SENATOR GARCIA:

Thank you. I -- I have no objection to the specification that cash certainly not be used, because I agree, I think, with the intent of the bill. But I think that we may want to consider looking at this a little bit more profoundly before we move it, because I think we ought to be as specific as possible. Thank you.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Jacobs.

SENATOR JACOBS:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. I, too, am a little confused. Senator, would you yield for a question, please?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator says she will.

SENATOR JACOBS:

Whenever the person circulates the petition, are you saying the person signing the petition can't get paid or the person circulating the petition cannot get paid?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Fawell.

SENATOR FAWELL:

Circulate -- the language says circulating. The reason this particular language is being used is there have been a number of states that have attempted to do this, and there's always been a constitutional question and the Supreme Court has knocked down other language, such as I had in the original bill. This is the only language that has been so far upheld by the courts.

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PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Jacobs.

SENATOR JACOBS:

That was -- that was my next question. I know I had looked at introducing some legislation. In fact, I did introduce it, and I'm holding it because I have concerns of the constitutional issues of free speech, and that was to limit how much one can -- can spend in a senatorial or legislative campaign. There's always the age-old argument, when you tell somebody else in the private sector how they can spend their money, you are violating their rights. And I think, under any circumstances, to say that you cannot pay -- and I don't pay for these things; I go out and do them myself. But the point of the matter is, is that when you limit somebody's ability to purchase, you also limit their ability to free speech, and that's a problem that I have with your -- your piece of legislation. I don't know if it's an overriding problem, Senator, but it's one that I -- I have a definite concern with.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Fawell, to close.

SENATOR FAWELL:

Thank you very much. This language is modeled on statutes in Maine, North Dakota and Washington State. I think it's time that -- that is -- this is done. Both parties have spent a great deal of -- of money knocking off people who have gone out and hired even out-of-state people to come in and pass petitions. We certainly had it with the Steve Baer incident. I think this is good bill. It'll stop some of this practice, and I ask for your Aye vote.

PRESIDING OFFICER: (SENATOR DeANGELIS)

The question is, shall Senate Bill 34 pass. And those in favor will vote Aye, and the opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have

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all voted who wish? Take the record. On that question, there are 54 Ayes, none voting Nay, 2 voting Present. Senate Bill 34, having received the required constitutional majority, is declared passed. Senator Maitland, do you wish Senate Bill 50 returned to 2nd Reading for the purpose of an amendment? Senator Maitland seeks leave of the Body to return Senate Bill 50 to the Order of 2nd Reading for the purpose of an amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is Senate Bill 50. Mr. Secretary -- or, Madam Secretary, excuse me, are there any Floor amendments approved for consideration?

ACTING SECRETARY HAWKER:

Floor Amendment No. 1, offered by Senator Maitland.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Maitland, to explain your amendment.

SENATOR MAITLAND:

Thank you very much, Mr. President and Members of the Senate. Senate Amendment No. 1 makes the bill take effect in 2002, rather than 1998. There was obviously some concern that we were affecting the regional superintendents that were elected in -- in November of '94. The -- the concern was -- was recognized, and so we made the -- make the change and I would -- would move for the adoption, Mr. President.

PRESIDING OFFICER: (SENATOR DeANGELIS)

All those in favor of Floor Amendment No. 1 to Senate Bill 50, say Aye. All those opposed, say No. The Ayes have it. Any other Floor amendments approved?

ACTING SECRETARY HAWKER:

No further amendments reported, Mr. President.

PRESIDING OFFICER: (SENATOR DeANGELIS)

3rd Reading. Senate -- KTVL, from St. Louis, requests permission to tape. Is leave granted? Leave is granted. Senator -- Senator Petka, on Senate Bill 69. Read the bill, Madam

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Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 69.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Petka, to explain his bill.

SENATOR PETKA:

Thank you, Mr. President, Members of the Senate. Senate Bill 69 would permit a State's attorney in Illinois to move for a discretionary transfer to adult court for a minor ten to twelve years of age who is charged with the offense of first degree murder. This amends the Criminal Code of the State of Illinois to permit criminal prosecutions of -- of what are now referred to as minors, who are ten years of age, eleven, and twelve. Perhaps a little history is in order. Before we recodified our current law, Illinois had an infancy rate for all crimes of ten years old. In 1961, we raised the age of infancy in Illinois to thirteen. There was a very humane reason for doing this. At that time we were trying to shield those of -- who might be perceived of tender years from their own physical and emotional and intellectual immaturity. Unfortunately, the realities of 1995 indicate that the reasons for the bill are that that exclusion no longer exists. And because of that, Mr. President, Members of the Senate, I believe that Senate Bill 69 is in the best interests of the people of the State of Illinois.

PRESIDING OFFICER: (SENATOR DeANGELIS)

The question is, shall Senate Bill 69 pass. Those in favor will vote Aye. The opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 49 Ayes, none voting Nay, 5 voting Present. Senate Bill 69, having received the

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required constitutional majority, is declared passed. Senate Bill 78. Senator Rauschenberger. Take it out of the record. Senate Bill 80. Senator Raica. Read the bill, Madam Secretary. Senator Raica, do you wish this bill returned to 2nd Reading for purpose of an amendment? Senator Raica seeks -- the leave of the Body to return Senate Bill 80 to the Order of 2nd Reading for the purpose of an amendment. Hearing no objection, leave is granted. On the Order of 2nd Reading is Senate Bill 80. Madam Secretary, are there any Floor amendments approved for consideration?

ACTING SECRETARY HAWKER:

Floor Amendment No. 1, offered by Senator Raica.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Raica, explain your amendment.

SENATOR RAICA:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. What Amendment 1 does to Senate Bill 80 is make the bill very specific to my district, Senator Molaro's district and Senator Viverito's district, in adding the definition of -- or the geographic boundaries of McCook and very specific to the McCook project. And that's what this amendment does.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Raica has moved the adoption of Floor Amendment No. 1 to Senate Bill 80. All those in favor, say Aye. Opposed, say No. The amendment passes. Any further amendments approved for -- for consideration?

ACTING SECRETARY HAWKER:

No further amendments reported, Mr. President.

PRESIDING OFFICER: (SENATOR DeANGELIS)

3rd Reading. Senate Bill 83. Senator Sieben. Senator Sieben. Take it out of the record. Senate Bill 86. Senator Fawell. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

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Senate Bill 86.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Fawell.

SENATOR FAWELL:

Thank you very much. This is a bill that was brought to me by Cleo Terry, who used to be the Director of DCFS, and she's now the Director of the Bensenville Home Society. When she got up there, she noticed that people who apply for a child who is born in a foreign country, before they get that child and -- and, first of all, they have to become foster parents for that child, which is sort of dumb, but that's the way it is. And they have to have their fingerprints run through the INS, which is the -- now, and I called the INS and I found out they ran those fingerprints in truth through the -- through the FBI files. What we then ask the parents to do is again submit their fingerprints, and again we submit them, only this time we submit them to the FBI, when they want to adopt this child. Now, it's the same fingerprints, and what this does is eliminate sending them through the FBI the second time. It'll be a cost savings to the State. It will allow these parents to get -- adopt these children much quicker. It will stop us from having to pay foster care payments while this process is going ahead. And if I -- if you have any questions, I'll be glad to answer them.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Welch.

SENATOR WELCH:

I had a question of the sponsor.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Sponsor says she will yield.

SENATOR WELCH:

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Senator Fawell, have -- have there been any instances where the State Police have caught or -- or found foster parents who should not have been adopting children because of the fingerprint check?

PRESIDING OFFICER: (SENATOR DeANGELIS)

It is very noisy here. Please keep your activities to a minimum, and those who ought not to be on the Floor, please get off. Senator Fawell, go ahead.

SENATOR FAWELL:

It's not on.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Fawell.

SENATOR FAWELL:

What we have done is, we have put the State Police back in with an amendment, so that part is taken care of. This is supported by DCFS. It's just a matter of trying to get this process done quicker.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Welch.

SENATOR WELCH:

So, this still only applies to parents adopting children who are born in foreign countries. Is that correct? Okay.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Garcia.

SENATOR GARCIA:

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

PRESIDING OFFICER: (SENATOR DeANGELIS)

Sponsor says she will.

SENATOR GARCIA:

Senator Fawell, is the purpose of this bill to speed up the adoption process for foreign-born children?

PRESIDING OFFICER: (SENATOR DeANGELIS)

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Senator Fawell.

SENATOR FAWELL:

Yes.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Garcia.

SENATOR GARCIA:

That's what I thought, and I think that this is a good bill and I urge any Aye vote.

PRESIDING OFFICER: (SENATOR DeANGELIS)

The question is, shall Senate Bill 86 pass. Those in favor will vote Aye. The opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 58 Ayes, none voting Nay, none voting Present. Senate Bill 86, having received the required constitutional majority, is declared passed. Senator Sieben wishes leave to return to Senate Bill 83 that we just passed. Senator Sieben, you have leave. Madam Secretary, please read the bill.

ACTING SECRETARY HAWKER:

Senate Bill 83.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Sieben.

SENATOR SIEBEN:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. This legislation does amend the Unemployment Insurance Act so that the Director of that Department is allowed to give information to local law enforcement agencies in the matter of apprehending criminals. It comes at the request of the State's Attorney in Whiteside County and Senator Jacobs. Senator Jacobs and I have worked together to prepare this legislation. I know of no

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opposition. I'd ask for an Aye vote.

PRESIDING OFFICER: (SENATOR DeANGELIS)

The question is, shall Senate Bill 83 pass. Those in favor will vote Aye. The opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, none voting Nay, none voting Present. Senate Bill 83, having received the constitutional majority -- required constitutional majority, is declared passed. Senator Fawell, on Senate Bill 89. Senator Fawell. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 89.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Fawell.

SENATOR FAWELL:

Thank you very much. This is a bill I'm sure you've all heard about. You've all gotten letters from my constituents. This changes the observance of -- of Halloween to the last Friday in the month of October. In addition to the reasons why the children want this bill, there are -- there are a couple of other reasons. Number one, the teachers have told me, quietly, part of the problem is these children are so full of sugar that they cannot teach them the rest of the week. And so they'd rather have the parents put up with that than -- than the schools. And the second thing is, of course, daylight saving time is also still on. Does not change Halloween, per se. Of course, Halloween is -- is the Hallows' Eve, but it does observe the observation of Halloween. And for my cherubs back in Glen Ellyn, I wish you'd vote for this bill, so I can send it over to the House and let them do as they will.

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PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, I think this is a very good bill, because making it the last Friday of October would be very sensible. The kids are out of school on Saturday. They can go ahead and treat to their heart's content on Friday. And it's a much more sensible bill than having the kids go in the middle of the week and causing more problems for children getting up the next morning to go to school and so forth. So I'm speaking in favor of the bill and hope it passes.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Molaro.

SENATOR MOLARO:

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

PRESIDING OFFICER: (SENATOR DeANGELIS)

Sponsor says she will yield.

SENATOR MOLARO:

Why -- what was the reason we didn't pick Saturday?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Fawell.

SENATOR FAWELL:

The -- this -- this was the children's idea. And they are dressed up in their Halloween costumes on Friday, and -- and they picked the Friday.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Molaro.

SENATOR MOLARO:

Which -- which children? No. The reason I bring it up, and I'm trying not to be funny here, is, obviously, when they get out of school on Friday, if we're going to do this, we'll probably have all these kids getting out on Friday. They're not getting off

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school. They would come home. By the time they go out, it does get dark, and there you have a lot of them going out at night. If it were a Saturday -- if we're actually going to take the time and pass a law doing this, on Saturday, if we made that Halloween, they could go out during the day on Saturday. This way we'd get all these trick-or-treaters and young kids not out on Friday night. So what was the reason Friday instead of Saturday?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Fawell.

SENATOR FAWELL:

I assume it was just because they were eager to get out as quickly as possible and get as much candy as possible. I -- you know -- I -- I honestly -- I'm honestly not sure. I -- I -- I -- what -- what attracted me to the bill at all was the fact, daylight saving time is still on. Having grandchildren that went out last week, I always thought it was kind of dumb that -- that Halloween always came in right after daylight saving time went off.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Syverson, for what reason do you rise?

SENATOR SYVERSON:

I just wanted to answer Senator Molaro's question. It was very -- really very simple. Bev was contacted by many pastors and priests, and they did not want the kids bouncing off the walls Sunday morning in church after eating candy all night. And that's why they chose Friday night so they could be at home, so we as parents can suffer all day with the kids. Very simple.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Walsh.

SENATOR WALSH:

Thank you, Mr. President. Well, I stand in opposition to this bill, and one of my concerns is a law-enforcement concern. I can

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remember a -- a couple of Halloweens that -- that came on -- on Friday were always usually wilder Halloweens - not myself, but some of the kids in the neighborhood. I can remember being a little bit -- a little bit crazier. So, I think that just for a law enforcement side of it. I think it's a good idea though that this bill, if it does pass, does come before daylight savings time goes into effect, so there will be an hour longer of -- of daylight. However, we could possibly take a look at changing daylight savings time to being a week later and having the -- the same effect.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Parker.

SENATOR PARKER:

Thank you, Mr. President. I want to compliment the sponsor of the bill for her efforts, because she did come before a group of schoolchildren and her intentions are good. However, I stand in opposition to the bill for two reasons. First of all, because we are here, at the State level, again trying to tell the local municipalities when they should actually say that they would like to have Halloween, because now that is actually done by the local governments and the local villages. Second, I want to speak on behalf of the mothers who work and the parents. Because I remember in my area where I live, where they did have it on Friday, where Halloween was actually going to be on Saturday and how the parents were upset and the mothers were upset because finally on Saturday, they could be home with their children for Halloween, and have that enjoyment and then they -- they shifted it over to Friday. So on behalf of the parents, I -- I would ask you to oppose the bill and on the -- behalf of the municipalities. However, I do give credit to the children and they -- they are learning the process of how you do or you do not get a law passed in the State of Illinois. Thank you.

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PRESIDING OFFICER: (SENATOR DeANGELIS)

Station WSEC wishes permission to videotape the proceedings. Is leave granted? Leave is granted. Senator Burzynski.

SENATOR BURZYNSKI:

Thank you, Mr. President. I, too, rise in opposition to this bill. I commend the children of -- of Senator Fawell's district for becoming involved and expressing their concerns and being a part of the political activity here in Springfield. But for communities such as mine, this bill is very prohibitive and certainly creates a lot of concern. In Sycamore we have the Annual Pumpkin Festival, where we have about a hundred and thirty thousand people in our community over that weekend prior to. And it certainly would create some concern for me having children out on the street trick-or-treating when we have that many people. So I would urge a No vote on this particular legislation.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Any further discussion? Senator Fawell, to close.

SENATOR FAWELL:

Thank you very much. You know, this is an effort of -- of a group of students, third graders, who did ask that this be done for us. They are watching this process. You might be interested in knowing that CBS, NBC, WGN, WGN-TV have also all contacted me about this, along with the Tribune and the Herald and a few other newspapers. And I see that a number of them are here in the press. They -- the Candy Association also, by the way, has been -- has come out in favor of this. Turns out we are the - which I did not know - we are the candy capital of the United States, and so they have actually come out in favor of this. I would appreciate an Aye vote and let my poor Rep over in the House deal with this, and let's show the kids we are truly interested in what they are doing.

PRESIDING OFFICER: (SENATOR DeANGELIS)

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The question is, shall Senate Bill 89 pass. Those in favor will vote Aye. The opposed will vote Nay. The voting is open. Have all voted who wish? Take the record. On that question, there are 20 Ayes, 31 Nays, none voting Present. Senate Bill 89, having not received the required constitutional majority, is declared failed. Senator Sieben. Senate Bill 111. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 111.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Sieben.

SENATOR SIEBEN:

Thank you, Mr. President and Members of the Senate. This legislation was requested by the Chief of Police in the City of Freeport, who asks that the criminal damages to a city police car be made the same as criminal damage to a State police car. And that's all this bill does. It would make the criminal penalty the same for damage to a city police car that we impose on damage to a State police car. I'd ask for an Aye vote.

PRESIDING OFFICER: (SENATOR DeANGELIS)

The question is, shall Senate Bill 111 pass. Those in favor will vote Aye. The opposed, vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 57 Ayes, none voting Nay, none voting Present. Senate Bill 111, having received the required constitutional majority, is declared passed. Senate Bill 112. Senator Woodyard. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 112.

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(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Woodyard.

SENATOR WOODYARD:

Thank you, Mr. President, Members of the Senate. The bill was requested by the Chairman of the County Board of Iroquois County dealing with per diem on county regional planning commission members. I believe that Iroquois County is probably the fourth-largest geographical county in the State and they've had problems trying to get members on the commission. They wanted a permissive authorization to be able to pay those -- those members per diem. The committee felt that we should cap that. We came back with an amendment saying that it could be no more per diem than the county board members themselves actually get. That's what the bill does. I'd be glad to answer any questions or solicit your Aye vote.

PRESIDING OFFICER: (SENATOR DeANGELIS)

The question is, shall Senate Bill 112 pass. Those in favor will vote Aye. The opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 57 Ayes, none voting Nay, none voting Present. Senate Bill 112, having received the required constitutional majority, is declared passed. Senate Bill 124. Senator Dillard. Senator Dillard. Take it out of the record. Senate Bill 141. Senator Woodyard. Senator Woodyard. Take it out of the record. Senate Bill 146. Senator Hendon. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 146.

(Secretary reads title of bill)

3rd Reading of the bill.

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PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Hendon.

SENATOR HENDON:

Thank you, Mr. President. This measure will take a -- make sure that a person who is convicted of criminal sexual abuse, or criminal sexual assault, against a minor would not be able to change their name while in prison without going through the same process as someone who has a felony conviction for a very grievous crime such as this can do. And this is just to protect the children from people who have raped or sexually exploited a child, from being able to change their name and come out and do it again. And I ask for a favorable vote.

PRESIDING OFFICER: (SENATOR DeANGELIS)

The question is, shall Senate Bill 146 pass. Those in favor will vote Aye. The opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 58 Ayes, none voting Nay, none voting Present. Senate Bill 146, having received the required constitutional majority, is declared passed. Senator -- 161. Senator Cullerton. Take it out of the record. Senate Bill 162. Senator Klemm. Senator Klemm. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 162.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Klemm.

SENATOR KLEMM:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Senate Bill 162 codifies the Gasoline Storage Act by allowing the political subdivisions, which would be your municipalities, to

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have restrictions, as far as zoning goes; that they would have to meet the zoning requirements of a municipality before aboveground storage gasoline tank would be placed. As you know, the State Fire Marshal regulates it now. The State Fire Marshal has concurrently given municipalities those rights, and we wanted to codify it so that there'd be no misunderstanding that it's just for the zoning and it -- and it's limited to that. The amendment took out the concerns about regulations that was too restrictive. We allow the Fire Marshal to find out about the safety and the storage of those aboveground tanks. This would prevent, perhaps, a storage tank going into a residential area that is not appropriate. This allows the municipalities and the State Fire Marshal to work concurrently together. And I, with the amendment, removed all the objections that we were aware of, and I do ask for your support.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Donahue.

SENATOR DONAHUE:

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

PRESIDING OFFICER: (SENATOR DeANGELIS)

Sponsor says he will yield.

SENATOR DONAHUE:

Senator Klemm, in committee we had -- the Illinois Farm Bureau had some concerns about this. Have we resolved and answered their questions, and have they removed their opposition?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Klemm.

SENATOR KLEMM:

Yes. At the committee, I wasn't aware that they had -- had an opposition to it. I did talk to them prior -- or after the committee on March 16th, at 11:12 a.m. Talked to Mr. Rae Payne. He said with the amendment they were comfortable now with the

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bill. It took away their objections and they have no objection no longer.

PRESIDING OFFICER: (SENATOR DeANGELIS)

The question is, shall Senate Bill 162 pass. Those in favor will vote Aye. The opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 58 Ayes, none voting Nay, none voting Present. Senate Bill 162, having received the required constitutional majority, is declared passed. Senate Bill 167. Senator Klemm. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 167.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Klemm.

SENATOR KLEMM:

Thank you, Mr. President and Ladies and Gentlemen of the Senate. Senate Bill 167 amends the Medicare plan to utilize the use of local public health departments through the inclusion of willing providers. Currently, Illinois has eighty-nine Department of Public Health-certified local health departments serving nearly ninety-nine percent of the State's population with essential public health services. What Senate Bill 167 does is to allow those public health departments to be included under the services of a managed care entity under the Medicaid Plan Plus. The vast majority of the services are required to be covered by the managed care entity and we'd like to include the local health entities if we can, and that's what the bill does.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Geo-Karis.

SENATOR GEO-KARIS:

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Mr. President and Ladies and Gentlemen of the Senate, I want to declare that I have possibly a conflict here because I do -- am a member of a hospital board and I do work for a hospital. But I'm going to vote my conscience, and I support the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Thank you, Mr. President and Members of the Senate. As one of the people who was involved in the negotiations of the Mediplan Plus, and as we worked through the issues of any willing provider, I'd just notify Members of the Chamber that by passing this bill you're reopening the negotiations and -- and changing the dynamics of Mediplan Plus. This -- this bill does not permit, it mandates the inclusion of public health departments as in any willing -- in the any-willing-provider clause. Currently, if -- if the HMO decides or if the Department decides, they can negotiate with county departments of health. By broadening the any-willing-provider clause, you make it more difficult to manage care in the State of Illinois. There are lots of groups who requested and worked very hard to be included in the any-willing-provider language. I would suggest that the sponsor has the best intentions, that there's absolutely nothing wrong with county health departments, but they should contract and negotiate for their right to be a provider. We should not include them in the any-willing-provider language. The effect of this will be to open up that clause again and you could very well see an avalanche of bills as people try to use the legislative process to avoid the negotiation process. I would urge everyone to -- to thoughtfully vote No.

PRESIDING OFFICER: (SENATOR DeANGELIS)

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

SENATOR KLEMM:

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Well, thank you, Mr. President. What we're trying to do is include the local health departments which provide the services that are required by the managed care entities. When we talked about it, over one-third of these local health department agencies are certified to provide home health agencies, which is one of the requirements. The services that they provide are required. We don't believe they should be excluded and they're not included in the negotiations. This bill would require that they be included as a willing provider. Now, some local health departments, if they're unable to provide those services, would not be included. It's just those that can do the services. And it seems to me that it's logical that I can take a local health department that has lower costs, been able to provide greater services, that can meet those requirements, to let them be used. They're locally accessible to everyone. I know they serve a great deal of minorities. I understand that, and they need the service. To exclude them, even if they have the services available, would be a drastic error. We at least have to include those local health departments that have already been included by the Department of Public Health. And I do ask for your support on this important legislation.

PRESIDING OFFICER: (SENATOR DeANGELIS)

The question is, shall Senate Bill 167 pass. Those in favor will vote Aye. The opposed will vote Nay. And the voting is now open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are -- there are 50 Ayes, 5 voting Nay, none voting Present. Senate Bill 167, having received the required constitutional majority, is declared passed. Senate Bill 169. Senator Syverson. Take it out of the record. Senate Bill 175. Senator Klemm. Senator Klemm, while you're on a roll. 175. Read the bill, Madam Secretary.

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ACTING SECRETARY HAWKER:

Senate Bill 175.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Klemm.

SENATOR KLEMM:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Last year we -- you helped us pass the Employer Notification Law that was to have that those employees of schools, or working with young people, who are convicted of sex or drug offenses, that their employer be notified that they had that conviction. We found out that if we expand that notification for at least those who are in the school system, that at least that notification should be sent to the regional superintendent of education and they, in turn, should send a notice to the State Board of Education. We needed to be able to have the consolidation of at least somebody knowing that somebody had been convicted of those serious crimes. And all this does is ask for that notification to be sent to the school officials.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Molaro.

SENATOR MOLARO:

Sponsor yield?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Sponsor says he will.

SENATOR MOLARO:

Our analysis says, if you --if you're given court supervision, you still are part of this particular bill. Is that true?

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Klemm.

SENATOR KLEMM:

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Yes, that was included last year.

PRESIDING OFFICER: (SENATOR DeANGELIS)

Senator Molaro. The question is, shall Senate Bill 175 pass. Those in favor will vote Aye. The opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, there are 56 Ayes, none voting Nay, 1 voting Present. Senate Bill 175, having received the required constitutional majority, is declared passed. Senate Bill 177. Senator Welch. Senator Welch. Take it out of the record. Senate Bill 182. Senator Rauschenberger. Take it out of the record. Senate Bill 203. Senator Trotter. Take it out of the record. Senate Bill 207. Senator Watson. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 207.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Watson.

SENATOR WATSON:

Yes, thank you, Madam President. This bill does exactly what the -- the Calendar says. The dollar figure that's attached to it is the one-hundred-dollar figure for a full-time student and fifty dollars for part time. It increases the Monetary Award Program maximum grant to thirty-nine hundred dollars for full time, and one thousand nine hundred and fifty dollars for part time. The -- the four-million-dollar fiscal impact is in the Governor's budget. He does support the legislation, obviously, and so do all the Members of the Higher Education Committee who -- who voted for this. It passed out unanimously. I would appreciate your support.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Any discussion? Seeing none, the

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question is, shall Senate Bill 207 pass. 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. The Ayes are 58, the Nays are 0, none voting Present. Senate Bill 207, having received the required constitutional majority, is declared passed. Senator DeAngelis, do you wish to have Senate Bill 212 returned to the Order of 2nd Reading for the purposes of an amendment? Is leave granted? Leave is granted. Senate Bill 212 is on 2nd Reading. Madam Secretary, read the bill -- or, have there been any amendments approved for consideration?

ACTING SECRETARY HAWKER:

Amendment No. 3, offered by Senator DeAngelis.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator DeAngelis, on Amendment No. 3.

SENATOR DeANGELIS:

Thank you, Madam President. Amendment No. 3 is purely a technical amendment. It clears up a -- an error in the bill. This bill applies to the City College of Chicago. It was placed in the collar county Section and now is put in the Cook County Section to correct the problem.

PRESIDING OFFICER: (SENATOR DONAHUE)

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

ACTING SECRETARY HAWKER:

No further amendments reported, Madam President.

PRESIDING OFFICER: (SENATOR DONAHUE)

3rd Reading. Senator Thomas Dunn, on Senate Bill 227. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 227.

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(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Dunn.

SENATOR T. DUNN:

Thank you, Madam President. Currently, the State is obligated to pay and to reimburse local school districts for the cost of tuition involving children that are orphans or dependents, abandoned or maladjusted children. The State has been failing to do this, and for the 1993-94 school year, the current arrearage by the State is 1.3 million dollars. This, in essence, turns out to be a mandate upon local school districts, that we mandate they educate these children, but we don't follow up with our own law that says we must reimburse them. So this would correct this problem and take that money out of GRF every year, and ensure that these school districts that are mandated to educate would be fully paid.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any discussion? Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Would the sponsor yield for a question?

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Is the sponsor familiar with House legislation that passed both Chambers and was signed by the Governor last year dealing with the orphanage line?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Dunn.

SENATOR T. DUNN:

Yes, and I don't think it corrects the problem.

PRESIDING OFFICER: (SENATOR DONAHUE)

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Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Didn't that legislation say that if the State Board failed in any given year to fully fund the orphanage line, that in the following year they would have to make up that appropriation first out of their discretionary funds?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Dunn.

SENATOR T. DUNN:

The answer is yes, but, mysteriously, they've never caught up.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

The -- the bill did not contemplate a -- a -- a backfilling of past obligation. What it did contemplate was forward action to provide it fully funded. Is this -- is this line not fully funded in this year's budget?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Dunn.

SENATOR T. DUNN:

That's correct.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Rauschenberger.

SENATOR RAUSCHENBERGER:

Well, I appreciate the intentions of the sponsor, and I think it's an important thing that we -- that the State own up to its obligations. I would caution Members of the General Assembly that a continuing appropriation is -- is truly a very aggressive tool to use in dealing with any categorical. It's been used once by this Chamber, since I've been elected, to deal with the pension funding crisis, where the scale in proportion was close to thirteen billion dollars. I would recommend that -- that the

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General Assembly think very carefully before we begin taking program by program and creating continuing appropriations. I -- I would recommend, as the Appropriation Chair and in my knowledge of the budget, that -- that is not a necessary tool, particularly in this case, when the House bill last year dealt with the problem, and I would recommend - although the sponsor is well-intentioned - a No vote.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senate -- or, further discussion? Senator Butler.

SENATOR BUTLER:

Thank you. Ladies and Gentlemen, I rise in support of this bill. My district, I think, has the -- the largest institution of this kind in the State; that's Maryville Academy. It is true, as Senator Rauschenberger pointed out, we were going to kind of rob Peter to pay Paul, by taking money from the next appropriation to -- to back pay what was missed. I think this is a good idea. It finally sets this thing up for payment on a regular basis. Keep in mind, these kids are wards of the State and what we're asking to do, we're asking the school districts to pick up the tab that should be rightfully paid for by the State. So I would urge a Yes vote on this.

PRESIDING OFFICER: (SENATOR DONAHUE)

Any further discussion? Any further discussion? Senator Thomas Dunn, to close.

SENATOR T. DUNN:

Thank you, Madam President. Well, to Senator Rauschenberger: Senator Rauschenberger, you are currently owed 1.3 million dollars in your school district and -- and I think that for those of us who always talk about how we're not for unfunded mandates, this is your opportunity to fund something that we ordered local school districts to do, but we're not paying them. Put your money where your mouth is. Vote Yes.

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March 22, 1995

PRESIDING OFFICER: (SENATOR DONAHUE)

Question is, shall Senate Bill 227 pass. 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 45 Ayes, 9 Nays, and 2 voting Present. Senate Bill 227, having received the required constitutional majority, is declared passed. Senator O'Malley, on Senate Bill 229. Read the bill, Madam Secretary.

ACTING SECRETARY HAWKER:

Senate Bill 229.

(Secretary reads title of bill)

3rd Reading of the bill.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

Thank you, Madam President. Senate Bill 229, as amended, does the following: Current law prohibits possession of a key, tool, instrument, explosive, device, drawing, print or mold of a key with the intent to use it to commit a theft from a coin-operated machine. This bill adds substance -- the word "substance", since a salt solution is often poured into a vending machine to cause a malfunction. There was an amendment that came out, as a result of the discussions in committee, that made the penalty for damaging the machine the same as the criminal damage to property currently -- the -- the penalty currently in existence under the law. There was also an expanded definition of "substance", the effect of which is it does not include items purchased through a coin-operated machine at the location or acquired as condiments at the location of the coin-operated machine. Lastly, the legislation provides for a civil cause of action for treble damages, similar to legislation that passed previously last year.

PRESIDING OFFICER: (SENATOR DONAHUE)

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Is there any discussion? 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 O'Malley, since you're making this a felony, do you have any prison impact note or some -- some indication of how many more people will be going to prison because of this and what the cost would be of housing these individuals in prison for breaking into a Coca-Cola machine?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

I -- it's my understanding, Senator Welch, that because we made the penalty identical to the penalty associated with criminal damage to property, that there is -- there is no impact.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

I'm not sure I understand that. You're -- you're making -- what's the current penalty for breaking into a Coke machine?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

It -- it would be the same. A Class 4 -- a Class 4 felony for over three hundred dollars.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

Well, then why do we need a separate piece of legislation dealing with vending machines if it's already criminal damage to

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property and you have exactly the same penalty? Isn't this redundant?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

Senator Welch, we're attempting to make sure that the penalties were the same. That was all we were up to.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

Well, wait a minute. You just said that they were the same; that if you damage a Coca-Cola machine, it's treated as if it were criminal damage to property and now you're saying that - well, just in case it isn't, we need this bill. Either it is or it's not. What's been the history of individuals who broke into Coke vending machines? How many years have they gotten in jail? There must be...(microphone cutoff)...as a basis for this legislation.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

The -- the difference, Senator Welch, is -- is the expansion of the language that has to do with, you know, a key, tool, instrument, explosive, device, drawing, print, mold of a key, et cetera, including a substance.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Welch.

SENATOR WELCH:

Well, I've got a -- a note from the Department of Corrections, says that the correction impact note is that it will have a fiscal impact of 1.263 million dollars. Where's Senator Rauschenberger? He was the one who was just raising Cain about the last two bills ruining the budget. Where is he on this one? He's our -- he's

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our fiscal manager here in the Senate. Well, this has a fiscal impact of 1.2 million dollars. So it's apparently not going to just continue existing law. It's going to make a change and it's going to cost us money. So I'm not sure that those extra spaces that may be available in jail should be utilized to put people away for breaking into a local Coca-Cola machine. That seems to me to be not a wise choice of bed space.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Demuzio.

SENATOR DEMUZIO:

Well I just wanted to ask the sponsor a question, if I might.

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Demuzio.

SENATOR DEMUZIO:

I don't see any definition of a coin-operated machine. Does that mean that if one of those penny gum -- gum machines -- is that one of those coin-operated machines, where you put a penny in and get some gum?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

I -- I -- I believe the answer to your question, Senator Demuzio, is yes. The only comment I would make about it is, I'm not -- as far as the criminal damage goes, it has to deal with -- three hundred dollars is the threshold for this -- for this particular criminal penalty to be involved.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Demuzio.

SENATOR DEMUZIO:

Well, yeah, there's -- some of those machines are -- are pretty big. So if it's over three hundred dollars, and you get into this bubble gum machine with one of the devices that are

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defined in your bill, like a screwdriver or something, you're guilty of a Class 3 felony and -- you go to jail and do not pass go, and all that stuff?

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Is that a question, Senator Demuzio?
Further discussion? Senator Trotter.

SENATOR TROTTER:

Thank you, Madam President. Will the sponsor yield?

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates he'll yield, Senator Trotter.

SENATOR TROTTER:

Senator O'Malley, just looking at the -- the bill itself, we see here that this has -- this bill has two criminal intents. What intent are you proposing that a prosecuting attorney go after, since you have two intents here in the same Statute?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

It's my understanding, Senator Trotter, that it would require two levels of intent. One -- one being -- and I know that's the question you're getting to. One is to actually have this tool or device that would be used to commit the crime, and then the actual use of that -- that tool in the commission of the crime.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Trotter.

SENATOR TROTTER:

So what we have here is -- so if the defendant who is trying to damage a coin-operated machine, if we can get them on that and then, in fact, if we do catch them doing that, then we have to look at the intent on if he was intending to steal from the coin-operated machine?

PRESIDING OFFICER: (SENATOR DONAHUE)

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Senator O'Malley.

SENATOR O'MALLEY:

Senator, I do not understand your question. Would you please repeat it?

PRESIDING OFFICER: (SENATOR DONAHUE)

If we could have your attention, please, folks. This is -- some debate is being discussed. Let's keep it down. Senator Trotter.

SENATOR TROTTER:

And I guess part of that is because I don't understand the intent of this legislation. What -- what we see here, that we have two similar -- not -- two separate intents in the same Statute. So I'm just curious of what the prosecuting attorney -- what is he putting his hat on, as far as if he's going to try this kind of case?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

Senator, there's a -- Senator, I'm going to -- I'm going to defer to Senator Petka on this question.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley yields to Senator Petka.

SENATOR PETKA:

Senator, I hope I can answer your question. The underlying bill, before the amendment was adopted, created an additional category of instrumentation that could be used in the offense of criminal damage to property. That category was a -- defined as a substance, which was -- which is carried upon a person, which is sprayed into the machine itself. If you carry that substance with the intent to commit criminal damage to property, that -- that turns that substance -- the use of that substance into a crime itself. It's not different -- or it's similar to possession of

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burglary tools. If you have a screwdriver in your pocket and you're caught near a -- breaking into a car, you could be charged with having the screwdriver in your pocket, because it's an instrument that could be used in the commission of a burglary.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? All you have to do is put your light on, Senator Trotter.

SENATOR TROTTER:

But wouldn't it not intend -- there be intent -- separate -- have to be a separate Statute for you to proceed with that -- that kind of action for the screwdriver or for this substance that is being used?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Petka.

SENATOR PETKA:

No, sir. What -- what you are looking at is the underlying offense. For example, a person who is committing a burglary, the Statute has what we call a mens rea. Within the Statute itself, possession of -- the instrument, like a screwdriver or a pair of pliers, requires a different intent. That is the -- the possession of intent of that -- the intent to possess that instrument for the purpose of committing a burglary.

PRESIDING OFFICER: (SENATOR DONAHUE)

Further discussion? Senator Jacobs.

SENATOR JACOBS:

Thank you, Mr. -- Madam President, Ladies and Gentlemen of the Senate. Will the sponsor yield for a question?

PRESIDING OFFICER: (SENATOR DONAHUE)

Indicates they'll yield, Senator Jacobs.

SENATOR JACOBS:

Senator, I see where in the bill - and correct me if I'm wrong - if -- if it's still in there, that the owner of the machine may

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recover treble actual damages, reasonable attorney's fees, and costs. Why would -- if -- if that's -- is that the case, sir?

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator O'Malley.

SENATOR O'MALLEY:

Senator, that -- that language is still in the bill, even with the amendment, and it's an attempt to create a civil remedy for the owners of the machines.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Jacobs.

SENATOR JACOBS:

I understand that. Having been in the vending business many years ago, it is frustrating whenever you get a few machines broken into. But I have a little problem with -- with giving triple damages for a machine. Some of these machines can be quite expensive anymore. Some of the machines can get up into the thousands and thousands of dollars, and when you're going to give them triple damages, it appears to me that that becomes a little bit of a windfall for the owner of the property. And I think that maybe treble damages may be a little bit high, in this case.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any further discussion? Senator O'Malley, to close.

SENATOR O'MALLEY:

Thank you, Madam President. I want to just make sure that I do clarify Senator Welch's remarks about the fiscal impact. I think the note that you're referring to, Senator, in the estimate of a million two, is over a period of ten years, and that -- that note was prior to the offering and -- and inclusion of the amendment. It's the opinion of our staff that there is not going to be a fiscal impact, because we're not really changing the penalty, criminally. And -- and this also had to do with a -- the -- the -- the note itself actually had to do with a -- a more

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serious penalty than what's in the legislation as it's amended. So I -- I would request your support of this legislation, and thank you very much.

PRESIDING OFFICER: (SENATOR DONAHUE)

The question is, shall Senate Bill 229 pass. 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 48 Ayes, 3 Nays, 2 voting Present. Senate Bill 229, having received the required constitutional majority, is declared passed. That effectively concludes our Session for today. Senator Burzynski, for what purpose do you rise?

SENATOR BURZYNSKI:

For the purpose of an announcement.

PRESIDING OFFICER: (SENATOR DONAHUE)

State your point.

SENATOR BURZYNSKI:

Just to remind the Members of the Committee on Executive Appointments that we'll be meeting promptly at noon tomorrow in Room 212. Like for all Members to be there promptly, as we go into Session immediately thereafter.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Raica, for what purpose do you rise?

SENATOR RAICA:

Point of personal privilege, Mr. -- Madam President.

PRESIDING OFFICER: (SENATOR DONAHUE)

State your point.

SENATOR RAICA:

The Public Health and Welfare Committee will meet today at approximately 2:45; however, there have been four Republican Members and twenty-one Democrat Members who have asked to have their bills held. I would just like to caution Members that if

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they intend on moving the bills out of Public Health prior to the deadline, they're right at that deadline, 'cause there's no possible way that we'd be able to move these bills if they continue to put them on hold. I would only ask that the twenty-one Democrats that want those bills moved out consider moving them out today or by the next meeting, because the Chair will have no control after that and they may not meet the deadline, and I do not want to be held responsible. So, in A-1 of the Stratton, we will meet approximately 2:45.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Demuzio, for what purpose do you rise? Your mike's on, sir. Senator Karpiel, for what purpose do you rise?

SENATOR KARPIEL:

Thank you, Madam President. Just to announce that the Senate Executive Committee will meet at 2:30 in Room 212. Please be prompt. We're going to get going early and fast, and hopefully get out of there soon.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Hawkinson, for what purpose do you rise?

SENATOR HAWKINSON:

Thank you, Madam President. Purposes of an announcement. Senate Judiciary Committee is in recess and will reconvene tomorrow, Thursday, at 3:30.

PRESIDING OFFICER: (SENATOR DONAHUE)

Senator Madigan, for what purpose do you rise?

SENATOR MADIGAN:

Thank you, Madam President. Purpose of an announcement, that the Senate Insurance, Pensions and Licensed Activities Committee will meet at 2:30 in Room 400. We've got a lot of bills, and I would ask all the Members to be prompt and on time. Thank you.

PRESIDING OFFICER: (SENATOR DONAHUE)

Is there any further business? Any further business to come

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before the Senate. If not, Senator Klemm moves that the Senate stand adjourned until 12:30. 12:30, Thursday, March 23rd. Senate stands adjourned.

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