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ALBANY, NEW YORK

February 8, 1993

2:51 p.m.

REGULAR SESSION

LT. GOVERNOR STAN LUNDINE, President

STEPHEN F. SLOAN, Secretary

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P R O C E E D I N G S

THE PRESIDENT: Senate will come to order. Ask the Senators to find their places. I would like to ask everyone to rise and repeat the Pledge of Allegiance with me.

(Whereupon the Senate joined in the Pledge of Allegiance to the Flag. )

Please be seated.

In the absence of clergy, may we bow our heads in a moment of silence.

(Whereupon there was a moment of silence. )

Thank you. The Secretary will read the Journal.

SENATOR MEGA: Mr. President.

THE PRESIDENT: Senator Mega.

SENATOR MEGA: I would like to announce an immediate meeting of the Judiciary Committee in Room 302. Judiciary Committee in Room 302. Thank you.

332. Thank you.

THE PRESIDENT: 332, immediate meeting of the Judiciary Committee.

1                   Now we will read the Journal,  
2                   please, Mr. Secretary.

3                   THE SECRETARY: In Senate,  
4                   Friday, February 5. The Senate met pursuant to  
5                   adjournment. Senator Farley in the chair upon  
6                   designation of the Temporary President. The  
7                   Journal of Thursday, February 4, was read and  
8                   approved. On motion, Senate adjourned.

9                   THE PRESIDENT: Hearing no  
10                  objection, the Journal stands approved as read.

11                  Presentation of petitions.

12                  Messages from the Assembly.

13                  Messages from the Governor.

14                  Reports of standing committees.

15                  Reports of select committees.

16                  Communications and reports from  
17                  state officers.

18                  Motions and resolutions.

19                  The Calendar.

20                  THE SECRETARY: On page 4,  
21                  Calendar Number 12, by Senator Halperin, Senate  
22                  Bill Number 106A, an act to amend the Penal Law,  
23                  in relation to increasing the penalties for

1           loitering.

2                           THE PRESIDENT:  Read the last  
3           section.

4                           THE SECRETARY:  Section 2.  This  
5           act shall take effect immediately.

6                           THE PRESIDENT:  Call the roll.  
7                           (The Secretary called the roll. )

8                           THE SECRETARY:  Ayes 37.

9                           THE PRESIDENT:  The bill is  
10          passed.

11                          THE SECRETARY:  Calendar Number  
12          34, by Senator Bruno, Senate Bill Number 240, an  
13          act to amend the General Obligations Law, in  
14          relation to additional liability.

15                          THE PRESIDENT:  Read the last  
16          section.

17                          THE SECRETARY:  Section 2.  This  
18          act shall take effect immediately.

19                          THE PRESIDENT:  Call the roll.  
20                          (The Secretary called the roll. )

21                          THE SECRETARY:  Ayes 37.

22                          THE PRESIDENT:  The bill is  
23          passed.

1                   THE SECRETARY:  Calendar Number  
2                   35, by Senator Stafford, Senate Bill Number 442,  
3                   an act to amend the Real Property Law, in  
4                   relation to authorizing a voluntary  
5                   administration to execute a discharge of  
6                   mortgage.

7                   THE PRESIDENT:  Read the last  
8                   section.

9                   THE SECRETARY:  Section 2.  This  
10                  act shall take effect immediately.

11                  THE PRESIDENT:  Call the roll.  
12                  (The Secretary called the roll. )

13                  THE SECRETARY:  Ayes 38.

14                  THE PRESIDENT:  The bill is  
15                  passed.

16                  THE SECRETARY:  Calendar Number  
17                  38, by Senator Skelos, Senate Bill Number 631,  
18                  an act to amend the Executive Law.

19                  THE PRESIDENT:  Read the last  
20                  section.

21                  THE SECRETARY:  Section 2.  This  
22                  act shall take effect immediately.

23                  THE PRESIDENT:  Call the roll.

1 (The Secretary called the roll. )

2 THE SECRETARY: Ayes 38.

3 THE PRESIDENT: The bill is  
4 passed.

5 THE SECRETARY: Calendar Number  
6 40, by Senator Levy, Senate Bill Number 73, an  
7 act to amend the Vehicle and Traffic Law, in  
8 relation to pedestrian right of way in cross  
9 walks.

10 THE PRESIDENT: Read the last  
11 section.

12 THE SECRETARY: Section 2. This  
13 act shall take effect immediately.

14 THE PRESIDENT: Call the roll.

15 (The Secretary called the roll. )

16 THE SECRETARY: Ayes 38. Nays

17 1. Senator Kuhl recorded -

18 Ayes 37. Nays 2. Senator Kuhl  
19 and Senator Wright recorded in the negative.

20 THE PRESIDENT: The bill is  
21 passed.

22 THE SECRETARY: Calendar Number  
23 41, by Senator Levy, Senate Bill Number 74, an

1 act to amend the Highway Law and the Executive  
2 Law.

3 THE PRESIDENT: Read the last  
4 section.

5 THE SECRETARY: Section 2. This  
6 act shall take effect immediately.

7 THE PRESIDENT: Call the roll.  
8 (The Secretary called the roll. )

9 THE SECRETARY: Ayes 39.

10 THE PRESIDENT: The bill is  
11 passed.

12 THE SECRETARY: Calendar Number  
13 42, by Senator Levy, Senate Bill Number 78, an  
14 act to amend the General Business Law, in  
15 relation to disclosure of insurance coverage.

16 THE PRESIDENT: Read the last  
17 section.

18 THE SECRETARY: Section 2. This  
19 act shall take effect immediately.

20 THE PRESIDENT: Call the roll.  
21 (The Secretary called the roll. )

22 THE SECRETARY: Ayes 38. Nays

23 1. Senator DeFrancisco recorded in the

1 negative.

2 THE PRESIDENT: The bill is  
3 passed.

4 THE SECRETARY: Calendar Number  
5 43, by Senator Stafford, Senate Bill Number 435.

6 SENATOR GOLD: Lay it aside.

7 THE PRESIDENT: The bill is laid  
8 aside.

9 THE SECRETARY: Calendar Number  
10 44, by Senator LaValle, Senate Bill Number 610,  
11 an act to amend the Vehicle and Traffic Law.

12 THE PRESIDENT: Read the last  
13 section.

14 THE SECRETARY: Section 2. This  
15 act shall take effect immediately.

16 THE PRESIDENT: Call the roll.

17 (The Secretary called the roll. )

18 THE SECRETARY: Ayes 40.

19 THE PRESIDENT: The bill is  
20 passed.

21 THE SECRETARY: Calendar Number  
22 45, by Senator Saland, Senate Bill Number 678,  
23 an act to amend the Highway Law.

1 SENATOR GOLD: Lay it aside.

2 THE PRESIDENT: The bill is laid  
3 aside.

4 That completes action on the  
5 non-controversial calendar.

6 Senator Present. Senate will be  
7 in order.

8 SENATOR PRESENT: Mr. President.  
9 Will you call up Calendar 45, please.

10 THE PRESIDENT: Secretary will  
11 read.

12 THE SECRETARY: On page 5,  
13 Calendar Number 45, by Senator Saland, Senate  
14 Bill Number 678, an act to amend the Highway  
15 Law, in relation to state arterial highways in  
16 the city of beacon.

17 SENATOR GOLD: Can we have a  
18 short explanation?

19 THE PRESIDENT: Request for a  
20 short explanation. Senator Saland.

21 SENATOR SALAND: Thank you, Mr.  
22 President. As my colleague Senator Larkin says,  
23 it's a good bill, Senator. But let me tell you

1 as briefly as I can.

2 There is a section of Route 9D  
3 which is a state road which runs through the  
4 city of Beacon, a portion of which was in effect  
5 abandoned by the state. The state effectively  
6 said to the city of Beacon usual take over this  
7 strip of Route 9D which just happened to be a  
8 strip that had a bridge on it, a bridge that was  
9 in need of repair.

10 The city of Beacon feels, I think  
11 with justification, that inasmuch as that's part  
12 of, really, Route 9D, inasmuch as they really  
13 didn't ask for the responsibility of the bridge,  
14 that it would be appropriate for those repairs  
15 to be made by the state, who was responsible for  
16 it for all those so many years.

17 SENATOR GOLD: Mr. President.

18 THE PRESIDENT: Senator Gold.

19 SENATOR GOLD: In spite of the  
20 comments of Senator Larkin, I may vote for it  
21 anyway, but I wanted to point out that there is  
22 a memorandum in opposition by the Department.  
23 Are you aware of that, Senator?

1                   SENATOR SALAND: No, I'm not, but  
2                   it wouldn't surprise me.

3                   SENATOR GOLD: All right. I just  
4                   wanted to point that out.

5                   THE PRESIDENT: Read the last  
6                   section.

7                   THE SECRETARY: Section 2. This  
8                   act shall take effect immediately.

9                   THE PRESIDENT: Call the roll.  
10                  (The Secretary called the roll. )

11                  THE SECRETARY: Ayes 41. Nays  
12                  2. Senators Dollinger and Jones recorded in the  
13                  negative.

14                  THE PRESIDENT: The bill is  
15                  passed.

16                  Senator Present.

17                  SENATOR PRESENT: Mr. President.  
18                  I would like the chamber to stand at ease for a  
19                  few minutes.

20                  THE PRESIDENT: Senate will stand  
21                  at ease.

22                  SENATOR GOODMAN: Mr. President.

23                  THE PRESIDENT: Senate will come

1 to order. Senator Goodman.

2 SENATOR GOODMAN: Mr. President.  
3 There will be an immediate meeting of the Senate  
4 Committee on Investigations, Taxation and  
5 Government Operations just outside the chamber  
6 in the anteroom for the convenience of the  
7 Senators. That meeting will commence  
8 immediately. Thank you.

9 THE PRESIDENT: Senator Present.

10 SENATOR PRESENT: Mr. President.  
11 We will stand at ease awaiting that committee's  
12 report.

13 SENATOR PRESENT: Mr. President.

14 ACTING PRESIDENT FARLEY: Senate  
15 will to to order. Senator Present.

16 SENATOR PRESENT: Mr. President.  
17 The meeting that was previously called by  
18 Senator Goodman will be held in Room 332.

19 ACTING PRESIDENT FARLEY:  
20 Senator, hold on. I don't think you can be  
21 heard. I'd ask that you hold the conversations  
22 down.

23 Senator Present.

1 SENATOR PRESENT: Mr. President.

2 A few moments ago, Senator Goodman called a  
3 meeting of his committee. That meeting is going  
4 to be held in Room 332, immediately.

5 ACTING PRESIDENT FARLEY: Senator  
6 Goodman's meeting will be held in Room 332,  
7 immediately.

8 (Whereupon, at 3:05 p.m., Senate  
9 was at ease.)

10 (Whereupon at 4:34 p.m., the  
11 Senate reconvened. )

12 THE PRESIDENT: Senate will come  
13 to order.

14 Senator Present.

15 SENATOR PRESENT: Mr. President.  
16 Can we return to report of standing committees.

17 THE PRESIDENT: Secretary will  
18 read.

19 THE SECRETARY: Senator Trunzo  
20 from the Committee on Civil Service and Pensions  
21 reports the following bills directly for third  
22 reading:

23 Senate Bill Number 582, by

1 Senator Trunzo and others, an act to amend the  
2 Civil Service Law.

3 Senate Bill 934, by Senator Bruno  
4 and others, Civil Service Law, in relation to  
5 authorized absence for volunteer firefighters.

6 Also, Senate Bill Number 1278, by  
7 Senator Trunzo and others, Civil Service Law.

8 Senator Daly from the Committee  
9 on Corporations, Authorities and Commissions  
10 reports the following bills directly for third  
11 reading:

12 Senate Bill Number 92, by Senator  
13 Maltese and others, Public Authorities Law.

14 Senate Bill Number 134, by  
15 Senator Padavan, an act to amend the Public  
16 Authorities Law and the State Finance Law.

17 725, by Senator Babbush and  
18 others, amends Chapter 606 of the Laws of 1902.

19 Senate Bill Number 1141, by  
20 Senators Volker and Present, an act to amend the  
21 Business Corporation Law.

22 Senate Bill Number 1272, by  
23 Senator Marchi, Not-For-Profit Corporation Law.

1                   And Senate Bill Number 1530, by  
2                   Senator Nozzolio, an act to amend Chapter 108 of  
3                   the Laws of 1924.

4                   Senator Mega, from the Committee  
5                   on Judiciary reports the following bill  
6                   directly:

7                   Senate Bill Number 1650, by  
8                   Senator Marino, proposing amendment to the  
9                   Constitution.

10                  THE PRESIDENT: Without  
11                  objection, third reading.

12                  THE SECRETARY: Senator Goodman,  
13                  from the Committee on Investigations, Taxation  
14                  and Government Operations reports the following  
15                  bills directly for third reading:

16                  Senate Bill Number 1509, by  
17                  Senator Daly, an act to amend the Tax Law, in  
18                  relation to sales and use taxes to be imposed in  
19                  the county of Monroe.

20                  Also, Senate Bill Number 1751, by  
21                  Senator Volker, an act to amend Chapter 3 of the  
22                  Laws of 1993, amending the Tax Law.

23                  Both bills reported directly for

1 third reading.

2 THE PRESIDENT: Without  
3 objection, third reading.

4 Senator Present.

5 SENATOR PRESENT: Mr. President.  
6 Call up 1508, please.

7 THE PRESIDENT: The Secretary  
8 will read.

9 THE SECRETARY: Calendar Number  
10 46, Senate Bill Number 1508, by Senator Daly, an  
11 act to amend the Tax Law, in relation to sales  
12 and use taxes to be imposed in the county of  
13 Monroe.

14 THE PRESIDENT: Explanation is  
15 requested. Senator Daly.

16 SENATOR DALY: Mr. President.  
17 This is a chapter amendment to a bill we passed  
18 two weeks ago which would allow the county of  
19 Monroe to increase its sales tax from 7-1/2 to 8  
20 percent. The most important part of this bill  
21 establishes that the revenues from the 1  
22 percent, total 1 percent, are to be divided with  
23 75 percent to Monroe County solely for county

1 purposes, 25 percent being split between the  
2 school districts and the cities and towns in  
3 Monroe County.

4 It also extends the sales tax  
5 from December 1st, 1993, to November 30, 1995.

6 SENATOR DOLLINGER: Will Senator  
7 Daly yield?

8 THE PRESIDENT: Senator  
9 Dollinger.

10 SENATOR DALY: I will yield.

11 SENATOR DOLLINGER: Senator Daly,  
12 I just have a couple quick questions. One is,  
13 as I understand the bill, Section 3 will be a  
14 sort of free-floating provision. I'm, as a  
15 newcomer, I guess not familiar with it.

16 SENATOR DALY: I'm sorry. Mr.  
17 President. I can't hear the Senator.

18 SENATOR DOLLINGER: Excuse me.  
19 As I understand it, Section 3 of the combined  
20 Senate/Assembly Bill 1508 and 2570, Section 3,  
21 which is the section that deals with the  
22 distribution formula, talks about the concept of  
23 distribution. As I understand, that is going to

1 be a free-floating bill. That is not going to  
2 be a amendment to any provision of the Tax Law;  
3 is that correct?

4 SENATOR DALY: Yes, it is.

5 SENATOR DOLLINGER: I guess I  
6 just don't understand why it is free floating  
7 and not appended to a portion of the Tax Law.

8 SENATOR DALY: Basically, that  
9 section of the bill allows -- I should say, it  
10 distributes the tax monies, the additional 1  
11 percent that the county derives after December  
12 1st of this year. Between now and December 1st,  
13 all of the monies go to the county of Monroe.  
14 After December 1st, the monies are then split on  
15 a 75-25 basis.

16 SENATOR DOLLINGER: Okay. I  
17 guess my question is why that portion of this  
18 bill is not appended to a portion of the Tax  
19 Law.

20 SENATOR DALY: Pardon me. I am  
21 told, Mr. President, that since this is a  
22 temporary part and not a permanent part of the  
23 Tax Law; in other words, this extends from

1 December 1, 1993, until December 1, 1995, if  
2 before December 1, 1994, the county authorizes  
3 the continued breakdown of those monies. It is  
4 not a permanent part of the Tax Law because it  
5 expires on December 1, 1995.

6 SENATOR DOLLINGER: Thank you,  
7 Mr. President.

8 THE PRESIDENT: Last section.  
9 Oh, I'm sorry. Senator Dollinger.

10 SENATOR GOLD: Senator, do you  
11 want to speak on the bill itself?

12 THE PRESIDENT: Senator Dollinger  
13 is recognized.

14 SENATOR DOLLINGER: Again,  
15 apologize for my lack of familiarity with the  
16 process.

17 This is a bill I rise to speak in  
18 favor of. This is a compromise, as most of you  
19 know, that has been wrought out over the course  
20 of the last couple of weeks since we first  
21 looked at a sales tax bill for Monroe County.  
22 When I voted against the first edition of this  
23 proposal, I did so because, although the

1 discussion was by some that this should have  
2 been home rule, I think this is real home rule.

3 This is the product of a  
4 compromise between members of delegations and  
5 local officials about how best to distribute the  
6 taxing power and the taxing wealth in Monroe  
7 County. It is my hope that in the future -  
8 there are already discussions between the people  
9 who are involved in this process -- that there  
10 will be a further conference regarding the  
11 taxing power and that we'll look at the spending  
12 of a potential income tax, sales tax and  
13 property taxes throughout Monroe County.

14 It is my hope that this is the  
15 first step in greater accord and greater  
16 understanding in giving true meaning to the  
17 principle of home rule.

18 I will vote in favor, Mr.  
19 President.

20 THE PRESIDENT: Read the last  
21 section.

22 THE SECRETARY: Section 2. This  
23 act shall take effect immediately.

1 THE PRESIDENT: Call the roll.  
2 (The Secretary called the roll. )  
3 THE SECRETARY: Ayes 56. Nays  
4 1. Senator Libous recorded in the negative.  
5 THE PRESIDENT: The bill is  
6 passed.  
7 THE SECRETARY: Calendar Number  
8 47, by Senator Volker, Senate Bill Number 1751,  
9 an act to amend a Chapter of the Laws of 1993  
10 amending the Tax Law.  
11 SENATOR PRESENT: Mr. President.  
12 THE PRESIDENT: Senator Present.  
13 SENATOR PRESENT: Is there a  
14 message of necessity at the desk?  
15 THE PRESIDENT: There is a  
16 message at the desk.  
17 SENATOR PRESENT: I move we  
18 accept the message.  
19 THE PRESIDENT: On the motion.  
20 All those in favor, say aye.  
21 (Response of "Aye.")  
22 Those opposed, nay.  
23 (There was no response. )

1           The ayes have it. The motion is  
2           agreed to. The message is accepted.

3           Senator Volker.

4           SENATOR VOLKER: Yes, just very  
5           quickly in explanation. This bill is just a  
6           chapter amendment to the enabling legislation  
7           for the sales tax in Erie County that we passed  
8           I guess several weeks ago. What happened is the  
9           county Legislature missed the deadline, and this  
10          extends the deadline to February 11 and gives  
11          them a little more time to get their act  
12          together and pass it. That's all it does.

13          THE PRESIDENT: Read the last  
14          section.

15          THE SECRETARY: Section 2. This  
16          act shall take effect immediately.

17          THE PRESIDENT: Call the roll.

18          (The Secretary called the roll. )

19          THE SECRETARY: Ayes 56. Nays  
20          1. Senator Libous recorded in the negative.

21          THE PRESIDENT: The bill is  
22          passed.

23          Senator Present.

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SENATOR PRESENT: Mr. President.

There being no further business, I move that we adjourn until tomorrow at 3:00 p.m.

THE PRESIDENT: Senate stands adjourned.

(Whereupon at 4:42 p.m., the Senate adjourned. )