ALBANY, NEW YORK

February 8, 1993

2:51 p.m.

REGULAR SESSION

LT. GOVERNOR STAN LUNDINE, President

STEPHEN F. SLOAN, Secretary

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.

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

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

The Calendar.

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

loitering.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 37.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 37.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 38.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 38.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 38. Nays 1. Senator Kuhl recorded -

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

THE PRESIDENT: The bill is passed.

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

act to amend the Highway Law and the Executive Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 39.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 38. Nays 1. Senator DeFrancisco recorded in the

negative.

THE PRESIDENT: The bill is passed.

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

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 40.

THE PRESIDENT: The bill is passed.

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

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

That completes action on the non-controversial calendar.

Senator Present. Senate will be in order.

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

THE PRESIDENT: Secretary will road.

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

SENATOR GOLD: Can we have a short explanation?

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

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

as briefly as I can.

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

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

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

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

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

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

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

THE PRESIDENT: The bill is passed.

Senator Present.

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

THE PRESIDENT: Senate will stand at ease.

SENATOR GOODMAN: Mr. President.

THE PRESIDENT: Senate will come

to order. Senator Goodman.

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

THE PRESIDENT: Senator Present.

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

SENATOR PRESENT: Mr. President.

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

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

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

Senator Present.

SENATOR PRESENT: Mr. President. A few moments ago, Senator Goodman called a meeting of his committee. That meeting is going to be held in Room 332, immediately.

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

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

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

THE PRESIDENT: Senate will come to order.

Senator Present.

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

THE PRESIDENT: Secretary will read.

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

Senate Bill Number 582, by

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

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

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

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

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

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

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

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

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

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

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

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

THE PRESIDENT: Without objection, third reading.

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

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

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

Both bills reported directly for

third reading.

THE PRESIDENT: Without objection, third reading.

Senator Present.

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

THE PRESIDENT: The Secretary will read.

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

THE PRESIDENT: Explanation is requested. Senator Daly.

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

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

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

SENATOR DOLLINGER: Will Senator Daly yield?

THE PRESIDENT: Senator Dollinger.

SENATOR DALY: I will yield.

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

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

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

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

SENATOR DALY: Yes, it is.

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

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

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

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

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

SENATOR DOLLINGER: Thank you, Mr. President.

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

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

THE PRESIDENT: Senator Dollinger is recognized.

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

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

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

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

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

I will vote in favor, Mr. President.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 47, by Senator Volker, Senate Bill Number 1751, an act to amend a Chapter of the Laws of 1993 amending the Tax Law.

SENATOR PRESENT: Mr. President.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: Is there a message of necessity at the desk?

THE PRESIDENT: There is a message at the desk.

SENATOR PRESENT: I move we accept the message.

THE PRESIDENT: On the motion. All those in favor, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response. )

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

Senator Volker.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

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

THE PRESIDENT: The bill is passed.

Senator Present.

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. )