ALBANY, NEW YORK

May 12, 1993

12:01 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: Senate will come to order. Senators will find their seats.

Please rise for the Pledge of Allegiance.

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

In the absence of visiting clergy, we will bow our heads for a moment of silent prayer.

(Whereupon there was a moment of silence. )

The Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Tuesday May 11th. The Senate met pursuant to adjournment. The Journal of Monday, May 10, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FARLEY: Hearing no objection, the Journal will stand approved as read.

The order of business:

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.

Senator Libous.

SENATOR LIBOUS: Yes, Mr. President.

ACTING PRESIDENT FARLEY: Whoops! Senator Present.

SENATOR PRESENT: Whoop.

ACTING PRESIDENT FARLEY: Sorry.

SENATOR PRESENT: It's all right. Go ahead.

SENATOR LIBOUS: Thank you, Mr. President and Senator Present.

On behalf of Senator Johnson, I want to star Calendar Number 438.

ACTING PRESIDENT FARLEY: The bill is starred at the request of the sponsor.

Senator Present.

SENATOR PRESENT: Mr. President, will you recognize Senator Volker, please.

SENATOR VOLKER: Mr. President, I believe there is a privileged resolution at the desk, and I would appreciate it if you would read the title of the resolution, please.

ACTING PRESIDENT FARLEY: The Secretary will read the title of Senator Volker's resolution.

THE SECRETARY: Legislative Resolution, by Senator Volker and others. Legislative Resolution commending Mr. Marv Levy for his leadership and commitment as Head Coach of the Buffalo Bills.

SENATOR VOLKER: Mr. President. Let me just say, first of all, I believe that all the Western New York people -- they should be -- are on this resolution. And anyone else that would like to go on, I can assure my Jet fans and Giant fans, or whatever, that there is nothing derogatory in this resolution about any other football team or individual. This is

strictly a resolution commending Marv Levy.

He is to be recognized at an award presentation in Buffalo on the 18th of May, and Assemblyman Eve and myself thought it would be appropriate for us to do a legislative resolution commending him. So if there is anybody who would like to go on this resolution also, we would be willing to do it.

ACTING PRESIDENT FARLEY: Approach the desk.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold, why do you rise?

SENATOR GOLD: I would like to go on the resolution because Senator Stachowski has convinced me that the Bills are the only New York State football team. So I certainly want to be supportive.

ACTING PRESIDENT FARLEY: All in favor of the resolution, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response. )

The resolution is adopted.

Senator Present.

SENATOR PRESENT: Mr. President, will you recognize Senator Padavan, please.

ACTING PRESIDENT FARLEY: Senator Padavan.

SENATOR PADAVAN: Yes, Mr. President. I believe you have a privileged resolution. I request that it be read and adopted.

ACTING PRESIDENT FARLEY: We do.

THE SECRETARY: Legislative Resolution, by Senator Padavan, congratulating Brigadier General Francis T. Terrill upon receiving command of the 77th United States Army Reserve Command.

SENATOR PADAVAN: Move its adoption.

ACTING PRESIDENT FARLEY: All in favor of adopting the resolution, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response. )

The resolution is adopted.

Senator Present.

SENATOR PRESENT: Mr. President, will you recognize Senator Maltese, please.

ACTING PRESIDENT FARLEY: Senator Maltese.

SENATOR MALTESE: Mr. President, I believe you have a privileged resolution at the desk. I ask that its title be read and move for its immediate adoption.

SENATOR PADAVAN: Mr. President, I wish to step back just for a moment. If any member of the body would like to be a sponsor of that resolution.

ACTING PRESIDENT FARLEY: Senator Padavan's resolution is open to anyone in the house if you wish to go on it.

The Secretary will read Senator Maltese's resolution title.

THE SECRETARY: Legislative Resolution, by Senator Maltese and others, mourning the death of F. Clifton White, distinguished citizen.

ACTING PRESIDENT FARLEY: All in favor of the resolution, say aye.

(Response of "Aye.").

Those opposed, nay.

(There was no response. )

The resolution is adopted.

Senator Present.

SENATOR PRESENT: Mr. President, will you recognize Senator Libous, please?

ACTING PRESIDENT FARLEY: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. I believe there is a privileged resolution at the desk. I ask that its title be read and I move for its immediate adoption, please.

ACTING PRESIDENT FARLEY: Secretary will read Senator Libous' resolution.

THE SECRETARY: Legislative Resolution, by Senator Libous, commemorating the dedication of the Binghamton University Small Business Development Center as the Jack McGuire Small Business Development Center at a ceremony

to take place on May 14, 1993.

ACTING PRESIDENT FARLEY: All those in favor of adopting the resolution, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response. )

The resolution is adopted.

Senator Present.

SENATOR PRESENT: Mr. President, would you call on Senator Saland, please.

ACTING PRESIDENT FARLEY: Senator Saland.

SENATOR SALAND: Thank you, Mr. President. I believe also there is a privileged resolution at the desk. I would ask that its title be read and move its adoption.

ACTING PRESIDENT FARLEY: Secretary will read Senator Saland's resolution.

THE SECRETARY: Legislative Resolution, by Senator Saland, honoring Investigator Gregory J. Harland upon the occasion of his designation as recipient of the

Superintendent's Commendation Award on Thursday May 13, 1993.

ACTING PRESIDENT FARLEY: All in favor of adopting the resolution, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response. )

The resolution is adopted.

We have some substitutions, Senator Present.

SENATOR PRESENT: Mr. President, let's do the housekeeping, then go to non-controversial.

ACTING PRESIDENT FARLEY: All right. The Secretary will read the substitutions.

THE SECRETARY: On page 7 of today's calendar, Senator Sears moves to discharge the Committee on Transportation from Assembly Bill Number 6169 and substitute it for the identical Calendar Number 755.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 8, Senator Levy moves to discharge the Committee on Transportation from Assembly Bill Number 793A, and substitute it for the identical Calendar Number 768.

ACTING PRESIDENT FARLEY: Substitution is ordered.

THE SECRETARY: On page 15, Senator Cook moves to discharge the Committee on Health from Assembly Bill Number 4966 and substitute it for the identical Calendar Number 826.

ACTING PRESIDENT FARLEY: Substitution is ordered.

THE SECRETARY: On page 15, Senator Tully moves to discharge the Committee on Social Services from Assembly Bill Number 2200 and substitute it for the identical Calendar Number 831.

ACTING PRESIDENT FARLEY: Substitution is ordered.

THE SECRETARY: On page 19, Senator Maltese moves to discharge the Committee

on Codes from Assembly Bill Number 6449 and substitute it for the identical Calendar Number 863.

ACTING PRESIDENT FARLEY: Substitution is ordered.

Senator Libous, do you have a motion?

SENATOR LIBOUS: Thank you, Mr. President. If we can return back to motions, I have some housekeeping.

ACTING PRESIDENT FARLEY: Sure.

SENATOR LIBOUS: I would like to remove a sponsor star on my bill, Calendar Number 581.

ACTING PRESIDENT FARLEY: Star is removed at the request of the sponsor.

SENATOR LIBOUS: And on behalf of my colleague and friend, Senator Norman Levy, I would like to, on page 47, offer the following amendments to Calendar Number 277, Assembly Print Number 195B and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: So

ordered.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President. On page 38, I would like to place a sponsor star on Calendar Number 644, Senate 4560.

ACTING PRESIDENT FARLEY: Bill is starred at the request of the sponsor.

Are there any other motions on the floor?

(There was no response. )

Hearing none, Senator Present, we are ready for the non-controversial.

SENATOR PRESENT: Continue with the non-controversial, please.

ACTING PRESIDENT FARLEY: Secretary will read.

THE SECRETARY: On page 24, Calendar Number 56, by Senator Marchi, Senate Bill Number 1272A, an act to amend the Not-for-Profit Corporation Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 39.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 334, by Senator Saland.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 500, by Senator Cook, Senate Bill Number 3031A, an act to amend the Real Property Law, in relation to when a conveyance shall not be accepted.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll. )

THE SECRETARY: 42.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 601, by Senator Velella, Senate Bill Number 4049, an act to amend the Insurance Law, in relation to risk-based capital requirements.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 42.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 608, by Senator Trunzo, Senate Bill Number 4592, an act to amend the Civil Service Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 626, by Senator Sears, Senate Bill Number 4208, an act to amend the Agriculture and Markets Law, in relation to requirements for unit pricing of consumer commodities.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 42.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 635, by Senator DeFrancisco, Senate Bill Number 4485, authorizing the city of Syracuse to replace residential water service pipes.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 42.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: May I explain my vote.

ACTING PRESIDENT FARLEY: Without objection.

SENATOR DeFRANCISCO: I just wanted to explain that what this bill does because it became very topical. In fact, today in today's USA Today reports that 819 cities have a lead pipe risk and also an article in the New York Times which indicates that there are substantial cities throughout the state of New York including Utica, Yonkers, Mount Vernon, Syracuse, New Rochelle, Jamaica, Buffalo, New York and Elmira that exceed the standards of

water purity, too much lead in the pipes.

Basically, all this bill would do, and it became apparent to me when I was president of the City Council, would give the cities authority to do what they basically do in sidewalks. If there is a sidewalk that's defective adjacent to a property owner's home, the city can replace the sidewalk and bill the resident for this charge over a period of time adding it to the tax rolls. This is basically what this bill does for the city of Syracuse for lead pipes; namely, as to that lateral pipe going to the home, it authorizes the city to - at the request of the home owner, to up-front the money and spread the payments over time so that those who cannot pay the up-front money can have the capability of replacing these dangerous pipes.

The reason I took the time to mention this, it only applies in the city of Syracuse, and I would think, in view of the publicity and the concern throughout the country, those of you have from other cities

might want to consider an approach for your locality.

ACTING PRESIDENT FARLEY: Secretary will read.

THE SECRETARY: Calendar Number 660, by Senator Daly.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 661, by Senator Spano, Senate Bill Number 4337, an act to amend the Social Services Law, in relation to model waivers.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 662, by Senator Holland, Senate Bill Number 4479.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number

670, by Senator Libous, Senate Bill Number 4088, an act to amend the Penal Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 42.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 673, by Senator Saland.

SENATOR GOLD: Lay it aside for Senator Galiber.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 679, by Senator Stafford, Senate Bill Number 433, an act to amend the Highway Law, in relation to abandonment of certain town highways.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 682, by Senator Stafford, Senate Bill -

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 691, by Senator Halperin, Senate Bill Number 4094, an act to amend the Public Housing Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 44.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 492, by Senator Hannon, Senate Bill Number 4408,

an act to amend the Private Housing Finance Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 44.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 696, by Senator Spano, Senate Bill Number 1410, an act in relation to prohibiting the transfer of or abandonment of real property.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 44.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 697, by Senator Spano, Senate Bill Number 2826, an act to amend the Mental Hygiene Law, the Social Services Law, and the Estate, Powers and Trusts Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 48.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 700, by Senator Spano, Senate Bill Number 4466, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 48.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 815, by Senator DeFrancisco, Senate Bill Number 4904, an act to amend the Tax Law, in relation to establishment of flood victims tax credit.

SENATOR JONES: Lay it aside.

SENATOR GOLD: Lay it aside for Senator Halperin.

ACTING PRESIDENT FARLEY: That's the first time through, Senator Present.

SENATOR PRESENT: Mr. President, let's take up the controversial calendar, please.

ACTING PRESIDENT FARLEY: Controversial. Secretary will read.

THE SECRETARY: On page 29, Calendar Number 334, by Senator Saland -

SENATOR GOLD: Last section.

ACTING PRESIDENT FARLEY: Last section.

THE SECRETARY: -- Senate Bill Number 796, an act to amend the General Business Law.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 48.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: On page 37, Calendar Number 608, by Senator Trunzo, Senate Bill Number 4592, Civil Service Law.

SENATOR GOLD: Can we have a day on this?

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number

661, by Senator Spano, Senate Bill Number 4337, an act to amend the Social Services Law.

SENATOR GOLD: Last section.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 662, by Senator Holland, Senate Bill Number 4479 -

SENATOR GOLD: Explanation.

THE SECRETARY: -- an act to amend the Social Services Law.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number

673, by Senator Saland, Senate Bill Number 4417, Criminal Procedure Law and the Family Court Act, in relation to access to records.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR GOLD: Hold it up.

ACTING PRESIDENT FARLEY: Hold it up.

SENATOR GALIBER: Can we have an explanation on this?

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT FARLEY: Lay it aside temporarily.

THE SECRETARY: Calendar Number 679, by Senator Stafford, Senate Bill Number 433, an act to amend the Highway Law, in relation to abandonment of certain town highways.

SENATOR GOLD: Can we wait one second? I'm trying to get somebody.

SENATOR PRESENT: Lay it aside temporarily and come back to it.

ACTING PRESIDENT FARLEY: Lay it aside temporarily.

THE SECRETARY: Calendar Number 682, by Senator Stafford, Senate Bill 2399, an act to amend the Highway Law, in relation to control of vegetation within the right of way of highways.

(Whereupon, Senator Kuhl was in the chair.)

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay it aside.

THE SECRETARY: Calendar Number 815, by Senator DeFrancisco, Senate Bill 4904, an act to amend the Tax Law.

ACTING PRESIDENT KUHL: Last section.

Senator Jones.

SENATOR JONES: Mr. President, would the sponsor just yield to a question?

ACTING PRESIDENT KUHL: Senator DeFrancisco? He yields.

SENATOR JONES: I'm just concerned. I continue to be concerned about Monroe County and I was wondering if you have any new information that indicates they will eventually come under this bill and your other bill that you -

SENATOR DeFRANCISCO: The way that the bill reads presently is these tax credits would go to individuals for uncompensated expenses from the flood up to a maximum of $5,000. The counties that are named in the bill are obviously included, in addition to any county after the bill was printed that was designated by the SBA as a disaster area. Those who have already been designated are Herkimer, Lewis, Madison, Oneida, and Otsego. Those are in. I just learned from Senator Kuhl moments ago that Yates and Schuyler have been approved. Pending are Monroe, Chemung, Genesee, Livingston, Ontario, Orleans and Steuben. So as soon as and if they are, in fact designated, they will also be eligible.

ACTING PRESIDENT KUHL: Senator

Solomon.

SENATOR SOLOMON: Mr. President, will Senator DeFrancisco yield, please.

ACTING PRESIDENT KUHL: Does the Senator yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: Senator does.

SENATOR SOLOMON: Senator, regarding this legislation, is this specifically related to one particular event?

SENATOR DeFRANCISCO: I barely can hear you. I'm sorry. Can we have some order?

ACTING PRESIDENT KUHL: Senator raises a good point. May we have some order in the house, please.

Senator Solomon.

SENATOR SOLOMON: Thank you. Senator, is this specific legislation related to one particular event?

SENATOR DeFRANCISCO: No. I think what occurred, over the course of the

winter, there was a record snowfall in Central New York, and added to that record snowfall which occurred over many, many months and record rain in April of about eight inches of rain. When those two things happened together, it caused substantial flooding in each of the counties. So I believe we are not talking about an event that occurred on one day. It was over a period of time.

And one other point I would like to mention that this bill is identical to the bill that we passed in this house earlier this session providing tax credits to those victims of the bombing at the World Trade Center, and that was an event that occurred on one day, and we felt that that was significant enough to provide this relief.

SENATOR SOLOMON: Senator, if you will continue to yield. I have not read the entire bill so I'm just going off -- reading off your memo. We in downstate in December had a tremendous storm, northeaster, that affected Kings County, Staten Island, Queens County,

Nassau County and Suffolk County, where there was substantial damage that impacted a number of our businesses, a number of our home owners, et cetera. Would any one of those people be qualified or those businesses, rather, be qualified for a tax credit under this bill?

SENATOR DeFRANCISCO: No. This applies only to calendar year 1993. A similar bill could have been or still can be, I would imagine, introduced or requested. I was a president of the City Council in December of 1992.

SENATOR SOLOMON: Thank you. On the bill. I consider this a fairly decent piece of legislation. However, downstate New York suffered terribly. I think there were some other counties, Westchester County probably, suffered terribly during the December storm. In parts of my district and the waterfront in Coney Island, we had businesses who suffered tremendous losses. Some of them were eligible for SBA loans. We had some businesses that were wiped out. We had a butcher who literally lost

thousands upon thousands of dollars worth of goods; and I suspect if you look at the entire shoreline, a number of us had businesses that lost substantial amounts of money that was not compensated for or has not been compensated for. And I believe that when you draw a piece of legislation like this, it should be sufficiently broad so it does not just cover the particular area of the state.

And, unfortunately, the past calendar year, the past 12 months, we have had some tremendous problems created by weather, including the flooding upstate obviously. Some people may have suffered some damage from the March snowstorm in other parts of the state. And we downstate suffered tremendous damage from that northeaster storm.

And I would think and hope that, in the future, bills such as this encompass the entire state of New York and not leave out districts that stretch, in the instance of the December storm, from the tip of Montauk Point all the way through Kings County and Staten

Island and lower Westchester County.

Thank you.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 53.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, take up Calendar 662, please.

THE SECRETARY: Calendar Number 662, by Senator Holland, Senate Bill Number 4479, Social Services Law, in relation to abuse of assistance and care.

SENATOR GALIBER: Explanation.

ACTING PRESIDENT KUHL: Explana tion has been asked for, Senator Holland.

SENATOR HOLLAND: Mr. President.

As you know, in the budget this year there was a continuation of the fingerprinting program in Onondaga and Rockland Counties. Just two weeks ago, we passed a bill in this house that would make fingerprinting mandatory throughout the state of New York.

We have some questions as to whether that bill is going to pass in the Assembly, but we still believe that fraud and abuse and testimony in the hearings we've had still indicates that fraud and abuse could be up to as much as ten percent of our Medicaid and welfare budget in the state of New York. So we believe we must still deliver the services to the people that require the services, however, do whatever we can to reduce the fraud and abuse.

Therefore, we are introducing another fingerprint bill that says individual counties can opt into the fingerprint program on their own. It would be a local option fingerprint bill only for home relief and three counties have already indicated their interest,

that they would like to opt in. They are Nassau, Suffolk and Erie. We would certainly, if we can possibly do it, like to reimburse these counties in the future if they opt in; but in the meantime, they would be responsible for paying for it also.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Will Senator Holland yield?

ACTING PRESIDENT KUHL: Senator yields.

SENATOR LEICHTER: We debated this whole issue of fingerprinting earlier this session. I remember Senator Galiber spoke very eloquently and very perceptively on it, and I don't want to revisit that whole lengthy debate, but one of the points that I thought was telling was that we now have a demonstration program going on, which we established, and I think many of us on this side of the aisle even went along with the idea. Fine, let's have a demonstration program and let's see what it shows. And as I

recollect -- that's really my question to you - those demonstration programs have not concluded, very they?

SENATOR HOLLAND: Have not what, sir?

SENATOR LEICHTER: Have not concluded. We don't have the report from these demonstration programs, right?

SENATOR HOLLAND: They have not concluded because we just extended it in the budget, Senator, but we do have a report that was issued in March, I believe, as required by the first bill that was passed.

SENATOR LEICHTER: Senator, will you be so good as to yield some more.

SENATOR HOLLAND: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR LEICHTER: The reports that we have, whether they're interim reports or preliminary reports, whatever, my understanding was -- I haven't seen them, but that's what I gathered from the debate and the discussions,

that they really didn't show that there were any great savings if any savings at all. Isn't that correct?

SENATOR HOLLAND: Yes, that is absolutely correct, Senator. By putting a fingerprint demonstration program in county of Rockland which only has one entry point, we are not going to eliminate a lot of people although we have eliminated a few. What we need to do in this state, and I think most people agree with us on this, Senator, is we have to have fingerprinting at least in the major population areas where the major number of welfare recipients reside in order to eliminate people who are double dipping into the system and reduce the fraud and abuse. It's certainly good to have it in Rockland and Onondaga County to show that the system works as it has in Los Angeles. We need to expand it.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Just briefly

on the bill.

ACTING PRESIDENT KUHL: On the bill.

SENATOR LEICHTER: Colleagues on the other side of the aisle strike me as being so committed to a particular conclusion and they were so sure of it they said, "Set up a demonstration project." Now that demonstration project doesn't establish what they thought it would. So they say, "Well, it wasn't a good demonstration project. Let's go ahead and have some other demonstration projects."

Senator, I think we ought to conclude the demonstration projects that we set up which was in Onondaga County and Rockland Counties. That was the recommendation of the department. Let's see what it shows. Maybe then we can make an assessment. Maybe we can conclude as you seem to jump to the conclusion that they were not good demonstration projects and that we need to have other demonstration projects, but we certainly ought to finish what we started before jumping ahead into something

else.

And for that reason, I'm going to oppose that bill.

ACTING PRESIDENT KUHL: Last section. Excuse me.

Senator Montgomery.

SENATOR MONTGOMERY: Yes. Senator Holland, would you -

ACTING PRESIDENT KUHL: Are you asking Senator Holland -

SENATOR MONTGOMERY: Would you yield?

ACTING PRESIDENT KUHL: -- to yield, Senator Montgomery?

SENATOR MONTGOMERY: Yes, thank you.

SENATOR HOLLAND: Certainly.

ACTING PRESIDENT KUHL: The Senator does.

SENATOR MONTGOMERY: I know, Senator Holland, that part of your intent for your legislation is to try to address the issue of Medicaid fraud, and I certainly applaud your

efforts in that way. But I would just like to ask you in regards to this particular piece of legislation is it not true that we have been finding in recent years when there has been an aggressive move to try to deal with Medicaid, it's been the provider that has really yielded Medicaid fraud on the part of the providers; that has really yielded to a large extent a lot of the fraud in terms of theft of funding and services and that sort of thing?

SENATOR HOLLAND: Senator, there is fraud and abuse in the provider area and in the client area. There was more found in the provider area because we had a system set up not only in the Social Services Department through computer systems, et cetera, to catch those, but also we had Mr. Kuriansky's organization that was looking into the provider area.

Now, last year with your help in the budget and the Governor's suggestion, we set up the office of Welfare Inspector General, who is looking into the client area in opposition to Kuriansky. And the real answer to your question

is, Senator, and you probably agree, there's bad guys and good guys wherever you go, and there's fraud and abuse in the provider area and also in the client area.

This particular thing is to look for double dippers in the client area in the home relief section of that.

SENATOR MONTGOMERY: Yes. If you will continue to yield, Senator?

It's my understanding that a lot of fraud and abuse on the part of clients is in collusion, in fact, with the providers so that they really could not do it unless there was a partner in that abusive situation.

SENATOR HOLLAND: Senator, you're absolutely right again. That happens in the city of New York with Medicaid mills and pharmacies, et cetera. This particular bill is just to get home relief double dippers out of the system, at least the initial part of it is.

SENATOR MONTGOMERY: Yes. Senator, just one more question. As it stands now -- the Department of Social Services, I

believe it is -- are they not instituting, in the process of instituting a very sophisticated system, computer system so that anyone who comes in with a card can be put through the system and identified fairly quickly as a possible abuser of the services by the provider as well as by the Department who will be receiving that information?

SENATOR HOLLAND: The question is, is the Department of Social Services trying to set up a computer -

SENATOR MONTGOMERY: -- a computer system -

SENATOR HOLLAND: -- system statewide.

SENATOR MONTGOMERY: -- yes.

SENATOR HOLLAND: Yes, they would very much like to do that, Senator. We have talked to Commissioner Bane and Mike Dowling and everybody else over there. They don't have the money. We don't have the money at this time to make that a statewide operation. That would certainly help. There are a lot of systems that

would help, yes.

SENATOR MONTGOMERY: Okay. Thank you. Thank you, Senator.

I -

ACTING PRESIDENT KUHL: Senator Montgomery on the bill.

SENATOR MONTGOMERY: On the bill, Mr. President.

I would just like to reiterate again that I certainly applaud Senator Holland's efforts to try and deal with the issue of fraud and abuse in Medicaid. I, too, resent having the state be somehow part of a system where this kind of abuse takes place and we cannot deliver quality services to people for whom the system was established. So -- but on the other hand, I feel that this particular measure is more punitive and will possibly hurt the people that we're trying to help more than it will help the state in recovering and recouping funds. It has been proven, based on the activities of the investigative units within Social Services, that a targeted effort to identify where the fraud is

taking place, particularly on the part of providers yields a very positive outcome, and I am in support of that.

I am also in support of a system being put in place which will allow us to identify abusers of the system very quickly, early on, before we lose millions and millions of dollars based on fraudulent activities that go on over a period of time.

So I'm not going to vote for this legislation because I really think that this goes in the opposite direction of what Senator Holland actually intends to do; and that is, deal with fraud and abuse of this system where it really counts and in the most efficient and productive way for the state. So I am not opposed to Senator Holland's intent to deal with fraud, but I am opposed to this measure which I think will be more punitive and penalize people and will not yield any benefit to the state.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 662 are Senators Connor, Dollinger, Espada, Galiber, Gold, Gonzalez, Leichter, Markowitz, Montgomery, Ohrenstein, Oppenheimer and Smith. Ayes 42, nays 12.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, will you take up Calendar 679, please.

ACTING PRESIDENT KUHL: Clerk will read.

THE SECRETARY: Calendar 679, by Senator Stafford, Senate Bill Number 433, an act to amend the Highway Law.

SENATOR OPPENHEIMER:

Explanation.

ACTING PRESIDENT KUHL:

Explanation has been asked for.

Senator Stafford.

SENATOR STAFFORD: Mr. President, we have passed a bill like this a number of times in the past sessions, and in effect, if there is a road that's been maintained on state property and the town wants to continue to maintain it, then it cannot be closed unilaterally.

Someone said to me last year, well, why don't we do this for all parts of the state? So that's what we've done with this bill.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: This is our annual go around. It's too bad that Senator Stafford and I are just never going to come to

an agreement on this particular bill.

This specifically overrides the state's land master plan for the Adirondack Park, and that's why we simply won't see, I think, ever eye to eye on this. It invites motor vehicles into areas that have been determined to be wilderness areas, and wilderness area does not well co-exist with motor -

SENATOR STAFFORD: Will Senator yield?

SENATOR OPPENHEIMER: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR STAFFORD: This is the first time in 28 years I have ever asked anybody to yield. I figure there's always got to be a first. Are you aware -- this is not personal obviously. Others have made this -

Are you aware that the wilderness area you're talking about you stand and hear cars on the Northway?

SENATOR OPPENHEIMER: Yes,

Senator Stafford.

I recognize one of the problems of this particular area is precisely that, that it is in very close to a population area of the Adirondack Park. That is one of the problems. It is also one of the benefits that this kind of wilderness environment can be there for people who are living in more densely populated areas than other areas of the Adirondack Park.

This is the Pharaoh Mountain area, and it has been classified as wilderness in our state land master plan, and the classification clearly says that there cannot be motorized traffic in these areas.

Now, approximately half of the state forest lands in the Adirondacks are classified as "wild forests," and those areas, "wild forests," do permit motorized traffic. So I think we're simply going against the state's plan. This is a one-house bill, and it has been coming back year after year, and I feel to destroy the wilderness character in those areas that the state has determined to prohibit

vehicle traffic, we ought to abide by what the state planners have and the environmentalists have proposed.

That you, Mr. President.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 679 are Senators Dollinger, Espada, Gold, Halperin, Jones, Leichter, Montgomery and Oppenheimer. Ayes 47, nays 8.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President. Unless there is further housekeeping action

needed here, let's do it.

ACTING PRESIDENT KUHL: There is, Senator Present.

May we return to motions and resolutions.

Senator Mega.

SENATOR MEGA: Mr. President, on behalf of Senator Levy, I wish to call up his bill, Calendar Number 768, Assembly Print 793A.

THE SECRETARY: By member of the Assembly Bragman, Assembly Bill Number 793A, an act to amend the Vehicle and Traffic Law, substituted earlier today.

SENATOR MEGA: I now move to reconsider the vote by which this Assembly bill was substituted for Senator Levy's bill, Print Number 5537, on 5-12.

ACTING PRESIDENT KUHL: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration. )

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill

is before the house.

SENATOR MEGA: I now move that Assembly Bill Number 7938 be recommitted to the Committee on Transportation and Senator Levy's bill be restored to the order of First Report Calendar.

ACTING PRESIDENT KUHL: Without objection.

SENATOR MEGA: Thank you.

SENATOR LACK: Mr. President.

ACTING PRESIDENT KUHL: Senator Lack.

SENATOR LACK: Mr. President, will you please star Calendar 685.

ACTING PRESIDENT KUHL: Calendar 685 is starred at the request of the sponsor.

SENATOR LACK: Thank you.

ACTING PRESIDENT KUHL: Senator Sheffer.

SENATOR SHEFFER: Mr. President, I ask for unanimous consent to be recorded in the negative on Calendar 679, please.

ACTING PRESIDENT KUHL: Without

objection so ordered.

Any other business?

(There was no response. )

Senator Present.

SENATOR PRESENT: Mr. President, there being no further business, I move that we adjourn until Monday, May 17th, 2:30 p.m., intervening days being legislative days.

(Whereupon at 12:45 p.m., the Senate adjourned. )