ALBANY, NEW YORK

June 24, 1993

2:24 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: The Senate will come to order. Senators will please find their seats. If you will please rise with me for the Pledge of Allegiance to the Flag.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

Today we're pleased to have with us as visiting clergy the Rabbi Hyman Levine, Bayside Terrace Jewish Center of Bayside, New York.

Rabbi Levine.

RABBI LEVINE: Would you all kindly rise for the opening prayer.

Ever living God, Creator of all, we invoke Thy divine blessing upon the men and women of this assemblage of New York State Senators, who appreciate and value the spiritual gift of representative government. Bestow upon them courage and judicious judgment, for they are charged with the responsibilities of guiding and conducting the affairs of our beloved state. May they never lose sight of their

obligations to advance the good and welfare of all the people within its borders. May this noble body be inspired to formulate policies which will ensure justice and peace for every one.

Heavenly Father, endow all of the people of this state with understanding that we are sisters and brothers sharing our common humanity, duties and ideals. Amidst a strife torn world and ever increasing divisiveness everywhere, we pray that the time may not be distant when the darkness of prejudice will give way to the light of Thy love, O Lord, and may the light of Thy love help us to usher in that long awaited era when everyone will enjoy the blessings of freedom from want and fear, when peace and harmony will fill the hearts of all Thy children everywhere. Amen.

ACTING PRESIDENT FARLEY: Thank you, Rabbi.

SENATOR STAVISKY: Mr. President.

ACTING PRESIDENT FARLEY: Senator Stavisky.

SENATOR STAVISKY: I know it's not customary to make any remarks, but I do wish the record to reflect that Rabbi Levine is the spiritual leader of the Bay Terrace Jewish Center and, by the way, he represents Senator Onorato. He has seniority over both of us in the representation spiritually.

ACTING PRESIDENT FARLEY: Thank you. Thank you, sir.

The Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Wednesday, June 23rd. The Senate met pursuant to adjournment, Senator Farley in the Chair upon designation of the Temporary President. The Journal of Tuesday, June 22nd, 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. We have some motions on the floor.

Senator Present.

SENATOR PRESENT: Mr. President, I would move that we adopt the Resolution Calendar that's on our desks.

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

((Response of "Aye.")

Those opposed nay.

(There was no response.)

The Resolution Calendar is adopted.

I thought that we passed it. Senator Present, our good Secretary passed over the report of a standing committee, if I may back up and do that. Secretary will read a

report of a standing committee.

THE SECRETARY: Senator Marino, from the Committee on Rules, reports the following bills directly for third reading:

Senate Bill Number 26-A, by Senator Tully, an act to amend the Public Health Law;

1493, by Senator Espada, authorizing the city of New York to reconvey its interest in certain real property;

1568, by Senator Johnson, an act to amend the Tax Law;

1589, by Senator Onorato, authorizing the city of New York to reconvey its interest in certain real property;

2020-A, by Senator Spano and others, Mental Hygiene Law and the General Municipal Law;

3110, by Senator Skelos, an act to amend the General Business Law;

3176, by Senator LaValle, an act to amend the Education Law;

3944, by Senator Sears,

Agriculture and Markets Law;

4099-A, by Senator Spano, Vehicle and Traffic Law;

4186, by Senator Bruno, an act to amend the Public Authorities Law;

4247, by Senator Tully, authorizing the assessor of the county of Nassau to accept an application for exemption;

5253, by Senator -- Senators Daly and others, Real Property Law;

5666-A, by Senator Trunzo, Civil Service Law, in relation to the duration of civil service eligible lists;

5672, by -- 5672-A, by Senator Saland, Agriculture and Markets Law;

5917, by Senator Johnson, an act to amend the Education Law;

5918, by Senator Padavan, Mental Hygiene Law;

5921, by Senator Trunzo, amends Chapter 509 of the Laws of 1992;

5959, by Senator Maltese, Civil Service Law;

5991, by the Senate Committee on Rules, Racing, Pari-mutuel Wagering and Breeding Law;

All bills reported directly for third reading.

ACTING PRESIDENT FARLEY: All bills are reported directly to third reading.

Senator Present.

SENATOR PRESENT: Mr. President, I believe Senator Marino has a privileged resolution at the desk. May we have the title read and acted upon.

ACTING PRESIDENT FARLEY: Would the Secretary please read Senator Marino's privileged resolution.

THE SECRETARY: Legislative Resolution, by Senator Marino, honoring William Pattison of Hauppauge upon the occasion of his retirement following a distinguished career of 33 years with the Nassau County Police Department.

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 Kuhl, do you have a motion?

SENATOR KUHL: Yes, Mr. President. I have several of them. On behalf of Senator Seward, on page number 7, I offer the following amendments to Calendar Number 315, Senate Print Number 2518, and ask that said bill retain its place on third reading.

ACTING PRESIDENT FARLEY: Bill will retain its place; amendments are received.

SENATOR KUHL: Also on behalf of Senator Daly, on page 11, I offer the following amendments to Calendar Number 651, Senate Print 4583-A and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection, the bill will retain its place.

SENATOR KUHL: And on behalf of Senator Spano, on page 35, I offer the following

amendments to Calendar Number 1297, Senate Print 5909, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Amendments are received. The bills will retain their places.

Senator Volker.

SENATOR VOLKER: Mr. President, on page 22, I offer the following amendments to Calendar Number 907, Senate Print Number 4870-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Amendments are received. Bill will retain its place.

Senator Marchi.

SENATOR MARCHI: Mr. President, on page 22, I offer the following amendments on Calendar Number 900, Senate Print Number 3919-B and request in an it retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection, amendments are received, the bill

will retain its place.

Senator Mega.

SENATOR MEGA: Mr. President, on behalf of Senator Stafford, on page 29, I offer the following amendments to Calendar Number 1236, Senate Print Number 5866, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection.

SENATOR MEGA: On behalf of Senator Skelos, Mr. President, I wish to call up his Senate Print 568-A, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT FARLEY: Secretary will read 568-A.

THE SECRETARY: By Senator Skelos, an act to amend the Real Property Law and the Banking Law, in relation to reverse mortgages.

SENATOR MEGA: I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT FARLEY: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is before the house.

Senator Mega.

SENATOR MEGA: I now offer up the following amendments.

ACTING PRESIDENT FARLEY: Amendments are received. The bill will retain its place.

Senator Present, we have some subs.

SENATOR PRESENT: Leet's make the substitutions.

ACTING PRESIDENT FARLEY: Secretary will read the substitutions.

THE SECRETARY: On page 6, Senator Levy moves to discharge the Committee on Rules from Assembly Bill Number 6113-B and substitute it for the identical Third Reading

186.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 33, Senator Trunzo moves to discharge the Committee on Rules from Assembly Bill Number 7979 and substitute it for the identical Third Reading 1279.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 33, Senator Larkin moves to discharge the Committee on Local Government from Assembly Bill Number 2634 and substitute it for the identical Calendar Number 1281.

ACTING PRESIDENT FARLEY: Substitution is ordered.

THE SECRETARY: On page 33, Senator Nozzolio moves to discharge the Committee on Rules from Assembly Bill Number 8035-A, and substitute it for the identical Third Reading 1283.

ACTING PRESIDENT FARLEY:

Substitution is ordered.

THE SECRETARY: On page 34, Senator Wright moves to discharge the Committee on Rules from Assembly Bill Number 6837, and substitute it for the identical Third Reading 1286.

ACTING PRESIDENT FARLEY: Substitution is ordered.

THE SECRETARY: On page 34, Senator Wright moves to discharge the Committee on Rules from Assembly Bill Number 6838 and substitute it for the identical Third Reading 1289.

ACTING PRESIDENT FARLEY: Substitution is ordered.

THE SECRETARY: On page 34, Senator Wright moves to discharge the Committee on Rules from Assembly Bill Number 6842 and substitute it for the identical Third Reading 1290.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 36,

Senator Volker moves to discharge the Committee on Rules from Assembly Bill Number 8420 and substitute it for the identical Third Reading 1299.

ACTING PRESIDENT FARLEY: Substitution ordered.

THE SECRETARY: On page 42, Senator Libous moves to discharge the Committee on Rules from Assembly Bill Number 6199-B and substitute it for the identical Third Reading 894.

ACTING PRESIDENT FARLEY: Substitution ordered.

Are there any other motions on the floor?

Senator Present.

SENATOR PRESENT: Mr. President, take up the non-controversial calendar.

ACTING PRESIDENT FARLEY: Non-controversial, the Secretary will read.

THE SECRETARY: On page 8, Calendar Number 395, by Senator Kuhl.

SENATOR KUHL: Lay it aside for

the day, please.

ACTING PRESIDENT FARLEY: Laid aside for the day.

THE SECRETARY: Calendar Number 806, by Senator Larkin, Senate Bill Number 2744-A, an act to amend the Education Law.

ACTING PRESIDENT FARLEY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 808, by Senator Cook, Senate Bill Number 4341-A, an act to amend the Education 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 35.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 1158, by member of the Assembly Connelly, Assembly Bill Number 2396-A.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 1185, by Senator Masiello.

SENATOR GOLD: Can we have a day on that?

ACTING PRESIDENT FARLEY: Senator -- lay it aside for the day, Senator Present.

(Senator Present nods head.)

THE SECRETARY: Calendar Number -

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator

Gold.

SENATOR GOLD: Yes, Senate 808 which we just passed, I'm informed that Senator Oppenheimer wanted that laid aside. Could we reconsider that vote, please.

ACTING PRESIDENT FARLEY: Call the roll on reconsideration of 808.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT FARLEY: Lay the bill aside.

THE SECRETARY: Calendar Number 1217, by Senator Hannon, Senate Bill Number -

SENATOR PRESENT: Lay aside for today.

ACTING PRESIDENT FARLEY: Laid aside for the day.

THE SECRETARY: Calendar Number 1234, by Senator Seward, Senate Bill Number 5808, an act to amend the Public Service 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 37.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1250, by Senator Hannon.

SENATOR GOLD: Lay aside.

SENATOR PRESENT: Lay aside for the day, please.

ACTING PRESIDENT FARLEY: Lay aside for today.

THE SECRETARY: Calendar Number 1251, by Senator Lack, Senate Bill Number 5263.

SENATOR PRESENT: Lay this aside for the day.

ACTING PRESIDENT FARLEY: Lay this aside for today.

THE SECRETARY: Calendar Number 1255, by Senator Holland.

SENATOR HOLLAND: Lay aside for the day, please.

ACTING PRESIDENT FARLEY: Laid aside for the day.

THE SECRETARY: Calendar Number 1260, by the Senate Committee on Rules, Senate Bill Number 5853, an act to amend the General Municipal Law, in relation to -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1262, by Senator Johnson, Senate Bill Number 5900, an act to amend the Environmental Conservation Law and the Economic -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1263, by Senator Johnson, Senate Bill -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1264, by Senator Trunzo, Senate Bill Number 5931, amend the Administrative Code of the city of New York.

ACTING PRESIDENT FARLEY: Senator Trunzo has a home rule message here at the desk. You can 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 37.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1269, by Senator Padavan, Senate Bill Number 3211-A, Administrative Code of the city of New York.

SENATOR GOLD: Can we have a day on that?

SENATOR PADAVAN: Lay it aside temporarily.

ACTING PRESIDENT FARLEY: Laid aside temporarily.

THE SECRETARY: Calendar Number 1270, by Senator Stachowski, Senate Bill Number 3355, authorizing the re-opening of the 20-year retirement plan to police officers.

ACTING PRESIDENT FARLEY: There's a home rule message here at the desk. You can 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, nays one, Senator Galiber recorded in the negative.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1271, by Senator Kuhl, Senate Bill Number 3718, an act to amend the Public Officers Law.

SENATOR GOLD: Wasn't this passed last week, this one?

SENATOR KUHL: No.

SENATOR GOLD: All right.

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 41.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1272, by Senator Spano, Senate Bill Number 3747, authorizing Robert Leib to make application for a disability retirement allowance.

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, nays 3, Senators Galiber, Gold and Leichter recorded in the negative.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 1273, by Senator Holland, Senate Bill Number 3763, relation to allowing certain employees of the East Ramapo Central School District to transfer service credit.

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, nays 3, Senators Galiber, Gold and Leichter recorded in the negative.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number

1274, by Senator Wright, Senate Bill Number 3811-A, State Administrative Procedure Act.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 1275, by Senator Tully, Senate Bill Number 4492-A, an act to amend the Insurance -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT FARLEY: Laid aside.

THE SECRETARY: Calendar Number 1276, by Senator Cook, Senate Bill Number 4593, making certain findings and determinations with respect to certain bond anticipation renewal notes.

ACTING PRESIDENT FARLEY: There's a home rule message here at the desk. You can 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: That bill is passed.

THE SECRETARY: Calendar Number 1277, by Senator Spano, Senate Bill Number 4645, in relation to employees of the Mental Hygiene Legal Services.

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 1278, by Senator Velella, Senate Bill Number 4669-A, Retirement and Social Security Law and

the Administrative Code of the city of New York.

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 1279, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 7979, amends Chapter 929 of the Laws of 1986, amending the Tax 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 1280, by Senator Stafford, Senate Bill Number 4811, an act to amend the Tax 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 1281, substituted earlier today, by member of the Assembly Robach, Assembly Bill Number 2634, Real Property Tax 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 43.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1282, by Senator Cook, Senate Bill Number 5480, authorizing the town of Rosendale to discontinue the use of certain park lands.

ACTING PRESIDENT FARLEY: There's a home rule message here at the desk. You can 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 43.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1283, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8035-A, an act to amend the Town 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 1284, by Senator Pataki, Senate Bill Number 5692, Retirement and Social Security Law.

ACTING PRESIDENT FARLEY: Senator Pataki has a home rule message here, so you can 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 1285, by Senator Spano, Senate Bill Number 5741, amends Chapter 166 of the Laws of 1991, amending the Tax 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 1286, substituted earlier today, by member of the Assembly Seabrook, Assembly Bill Number 6837, State Administrative Procedure Act.

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: That bill is passed.

THE SECRETARY: Calendar Number 1287, by Senator Wright, Senate Bill Number 5818, State Administrative Procedure Act.

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 1288, by Senator Wright, Senate Bill Number 5819-A, State Administrative Procedure Act.

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.

SENATOR LEICHTER: Could we have that laid aside, please.

ACTING PRESIDENT FARLEY: Withdraw the roll call.

SENATOR GOLD: No, go on.

ACTING PRESIDENT FARLEY: Continue the roll call on 1288.

THE SECRETARY: Ayes 44.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 1289, substituted yearly earlier today, by

member of the Assembly Seabrook, State Administrative Procedure Act.

SENATOR GOLD: Lay aside for Senator Leichter.

ACTING PRESIDENT FARLEY: Lay that bill aside for Senator Leichter.

THE SECRETARY: Calendar Number 1290, substituted earlier today, by member of the Assembly Seabrook, Assembly Bill Number 6842, State Administrative Procedure Act.

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 45.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1291, by Senator Bruno, Senate Bill Number 5825, relation to the allocation and utilization of

certain monies.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 1292, by Senator Seward, Senate Bill Number 5834, an act to amend the Environmental Conservation Law.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay aside.

THE SECRETARY: Calendar Number 1294, by Senator Padavan, Senate Bill Number 5838, an act to amend the General Municipal Law and the Personal Property 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 46.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1295, by Senator Mega, Senate Bill Number 5841-A, proposing an amendment to the Constitution.

ACTING PRESIDENT FARLEY: Laid aside.

SENATOR GOLD: Can we have a day on that?

SENATOR PRESENT: Lay it aside for today.

ACTING PRESIDENT FARLEY: Laid aside for today.

THE SECRETARY: Calendar Number 1296, by Senator Jones, Senate Bill Number 5891, making certain findings and determinations with respect to certain revenue anticipation notes.

ACTING PRESIDENT FARLEY: Senator Jones has a home rule message here at the desk. You can 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 46.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1298, Senator Stafford moves to discharge the Committee on Rules from Assembly Bill Number 8498 and substitute it for the identical Third Reading 1298.

ACTING PRESIDENT FARLEY: Substitution ordered. Read the last section of Senator Stafford's bill.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT FARLEY: The

bill is passed.

THE SECRETARY: Calendar Number 1299, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8420, an act to amend the General Business 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 46.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 1300, by the Senate Committee on Rules, Senate Bill Number 5962, amends Chapter 1040 of the Laws of 1981.

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 46.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, shall we take up the controversial calendar, please.

ACTING PRESIDENT FARLEY: Whatever you wish. The controversial calendar.

THE SECRETARY: On page 17, Calendar Number 808, by Senator Cook, Senate Bill Number 4341-A, an act to amend the Education Law.

SENATOR GOLD: Yeah, Mr. President. If the Majority Leader would consent to just pass it temporarily, Senator Oppenheimer is on her way into the chamber but maybe we can do something and come back, and we'll take care of it today.

SENATOR PRESENT: Lay it aside

temporarily.

ACTING PRESIDENT FARLEY: Lay it aside temporarily.

THE SECRETARY: On page 27, Calendar Number 1158, by member of the Assembly Connelly, Assembly Bill Number 2396-A, Environmental Conservation Law.

SENATOR GOLD: Explanation.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside temporarily.

THE SECRETARY: Calendar Number 1260, by the Senate Committee on Rules, Senate Bill Number 5853, an act to amend the General Municipal Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for.

SENATOR MALTESE: Mr. President.

ACTING PRESIDENT FARLEY: Senator Maltese.

SENATOR MALTESE: This bill provides that no rule or regulation affecting

the operation of a city, town or village police department may be promulgated, amended or enforced to decrease the number of police officers assigned to individual police vehicles without a detailed comprehensive review of the safety risks involved as well as the impact the amendments would have upon the safety of the police officers involved and the community which the officers would serve.

After this review, any determination made subsequent to this review required by these provisions would be review able de novo by the Industrial Board of Appeals.

Mr. President, the problem of police cars, cars manned by law enforcement officers, manned by single law enforcement officers, is one that has come up in this chamber many times. There is no question that police officers who are alone in cars are more susceptible to attack, to injury and ultimately to death.

We have an absolute obligation,

Mr. President, to try to protect as much as possible our police officers. I have here a table which was forwarded to me by the Federal Bureau of Investigation, the Law Enforcement Support Section. It refers to a title, Law Enforcement Officers Feloniously Killed 1982 to 1991, circumstances by type of assignment. It goes on at length, Mr. President, but the main point which I wish to allude to in reference to this legislation is the fact that out of - during that time span, out of a total of 743 officers killed, 94 were killed in a vehicle manned by two officers and during that very same time, 237 were killed when they were alone in a police vehicle responding to a call. In addition, of those who had called for assistance or were in some way assisted, an additional 131 were killed.

Now, Mr. President, at a time when we are demanding of our police officers more and more discretion, when we are demanding of them that they refrain from unnecessary shooting, even the unnecessary drawing of their

weapons from the holsters, it seems to me that we must provide adequate back-up in the form of at least this legislation, that at the very least where there may be a municipal authority that is willing, for the sake of various fiscal considerations to put the lives of our officers on the line, the least we can do for those very same officers, is provide that we should have some type of a comprehensive review and that that review shall then be subject to some type of a determination by the Industrial Board of - of Appeals.

Mr. President, I wish to point out, I'm not going to -- another paragraph which I believe has reference to this from the Criminal Justice Newsletter dated January of 1993, and this is a lengthy article -- I don't see the author, but it may be just an editorial -- a lengthy article referring to, in a comprehensive study made of deaths of police officers over a two-year period, and they speak -- I'm sorry, a period between '81 and '90. The reference is made of all the officers killed

between '81 and '90, 49 percent were assigned to single officer vehicle patrol at the time of their death.

Now, Mr. President, they, in addition, refer to the fact that, in an analysis made of these police officers, all the police officers killed within this period of time, that the majority of them were described by their colleagues and comrades as trusting men. In addition, they were described as people who were very reluctant to draw their weapons. As a matter of fact, a great deal of them had never drawn their weapon, not only at the time of the -- at the time of their slayings, but in the period that they were police officers before that, and this -- this report indicates that - and the report, by the way, was also done by the Federal Bureau of Investigation.

It says, Many of the officers' procedural errors -- and they refer to errors that were made outside a suggested course of conduct by the FBI, not necessarily the course of conduct prescribed by the local municipality

that they were working for, and they say many of the officers' procedural errors consisted of dropping their guard in various ways, failing to call for back-up support when needed, acting alone prior to the arrival of back-up, failing to search a suspect completely, and so on.

The point -- and, in addition, alluding to what I had previously indicated, about the types of demeanor and action that we require instantaneously from these officers, the FBI noted that 85 percent of the victim officers had not discharged their service weapons.

Now, Mr. President, it seems to me at the least, as I had indicated previously, that we should provide this measure of support. We are not demanding that they have two or three of four officer -- four officers in a police car. It would be nice if fiscal situations were such across the country and across the state that we could -- that we could have that luxury but at the very same time, before these officers put their lives on the line, it seems to me that we ought to be able to prescribe some course of

conduct that has to be undertaken by municipal authorities prior to leaving them unprotected in their police cars.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President, it really seems to me that some of our colleagues here really want to be doing something else. I think they want to leave us or I think they want to become police commissioners or superintendents of police, and I'm going to give to Police Commissioner Maltese and Police Commissioner Velella, I'm going to give you the Civil Service News, about what openings there are in the city of New York or around the nation that would utilize your apparently profound understanding of police work. But until you get one of those jobs, I would hope that in this chamber, Senator Maltese, you would do the job of a Senator instead of this shameless intrusion into the affairs of the city of New York.

You know, if -- it is really in so many respects humorous to see you, a voice for conservatism, a voice for less intrusion on the part of government in the affairs of localities, to get up and to mandate -- mandate upon your City this sort of an additional cost in -- in putting two police officers in each police car.

Well, you say, Well, I'm not man dating it, but you're setting up a system that really makes it impossibility for the City. This should be a matter that's determined by the police commissioner. He has the responsibil ity. The mayor has the responsibility and it's also a matter for collective bargaining.

But whenever it comes to a matter that the police union wants, the Majority in this house is just handmaiden to the police, doesn't matter how irrational, how unreasonable it is, you're going to put that bill in and you're going to be for it.

At the very least, Senator Maltese, you ought to have, it seems to me

enough consistency to say, and I'm putting in also a bill that's going to raise money for the city of New York so they can pay for that. You're one of the big complainers about how the city of New York isn't doing services in the education and this and that, although frankly, I don't see you fighting for the city of New York when it comes to money, but when it comes to mandates -- mandates -- you're right up there.

Sure, put more police officers in -- in police cars. Senator, that's going to cost a lot of money. It means other services aren't going to be provided, and I'd be interested to see, we were recently joined here in this chamber by a local official, Senator Wright, who I understand was a very distinguished local official. Wonder how he'd feel if the Legislature said whatever his community was -- it was in northern New York State -- this Legislature said how many police officers he had to have in a police car or in some other respects.

We elect good local officials;

hopefully, they're good local officials. They have the responsibility. I'm going to be interested seeing how Senator Wright votes on this. But where is our consistency? Where - where -- where do we have any compass that guides us as to what our responsibilities are and what our responsibilities are not?

I don't see anything wrong if Senator Maltese, as a local official coming from New York, urged the mayor to do this, urged the police commissioner to do it. By the way, I don't think your arguments are at all compelling; in fact, some of the arguments that you -- that you made were, frankly, against your bill. But it is a matter that has to be determined by the locality. They've got to pay the bill. They're responsible for the -- for the police and for this continuous interference by this chamber in the affairs of the city of New York City, particularly when it involves the police. And where anything the police does, this chamber cravenly will vote it and that's not in the interests of the people of the city

of New York, and it's just such wrong government. It's not what we should be doing up here. We don't have the expertise.

I could tell you 50 things, Senator Maltese, we ought to be doing that are not being done, most of which are being held up by the Majority and you're going to get into your private conference and close the doors and behind those closed doors you're going to make decisions affecting the public, and most of them are refusal to put out bills that at least ought to be debated.

I'd like to see you fight for some of those things because that's what our job is and not to tell the New York City Police Department how they're to run the department for the safety of the people of the city of New York.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Mr. Chairman, I rise in answer to a question -- would the sponsor answer a question?

ACTING PRESIDENT FARLEY: Senator Maltese, would you yield to Senator Dollinger?

SENATOR MALTESE: Yes.

SENATOR DOLLINGER: Senator, I understand that your proposal is part of the General Municipal Law and would affect cities, towns and villages.

SENATOR MALTESE: Yes, that's correct.

SENATOR DOLLINGER: And it requires a detailed risk analysis as a part of the -

SENATOR MALTESE: Well, Mr. President, the analysis would be detailed, yes.

SENATOR DOLLINGER: What would be the anticipated cost to a village of the type of analysis that you're talking about?

SENATOR MALTESE: Mr. President, I believe when we're speaking of these types of analysis, ordinarily just as very expeditiously I was able to obtain information from the Federal Bureau of Investigation and other law enforcement agencies apparently stand ready to

provide information, it would not be so much a question of the analysis of a great deal of voluminous information. It would be, I think, as we so often see in villages and towns and in some cities, a certain amount of common sense or "horse sense" as we need to say.

I think the evaluation of the risks to police officers of law enforcement officers, when you reduce personnel in cars responding to police emergencies, would not require the expenditure of a great deal of money, would not require the expenditure of a great deal of time, but would require the application of common sense to circumstances that would arise or could reasonably be expected to arise in the performance of these police officers' duties.

SENATOR DOLLINGER: If Senator Maltese will continue to yield to another question.

ACTING PRESIDENT FARLEY: Senator Dollinger. Would you yield to another question?

SENATOR MALTESE: Certainly.

SENATOR DOLLINGER: Senator, there's nothing in this bill that requires the application of common sense, is there?

SENATOR MALTESE: Unfortunately, there isn't, and unfortunately, it seems to be a thing that seems to be happening in a great deal of our legislative efforts.

SENATOR DOLLINGER: But this requires a detailed analysis, study, in essence it's a public impact study, is it not?

SENATOR MALTESE: Undoubtedly it is a study that would have a bearing on the safety of the public and the safety of the police officers and the community that they serve.

SENATOR DOLLINGER: Who is going to pay the cost -- again through you, Mr. President, who is going to pay the cost of that study? Your bill, again, doesn't say who is going to pay the cost.

SENATOR MALTESE: Mr. President, the municipalities or the villages and the towns

would, I think, incur that cost in the course of the normal operations of their municipal forms of government. It would not be an onerous cost. It would not be a burdensome cost and, as a practical matter, considering what's involved, the lives of our police officers and the members of the community they serve, it would certainly be a cost worth undertaking.

SENATOR DOLLINGER: Through you, again, Mr. President.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: If the cost is so insignificant, why doesn't the bill provide that the state of New York will pay that cost since we certainly wouldn't want to impose an unfunded mandate to perform this service on the part of villages which may have very small police departments, on towns which may have very moderate size police departments or on cities like New York or Rochester that have very large police departments? Why doesn't the bill require that the state of New York pick up that cost as

insignificant as it may be?

SENATOR MALTESE: Mr. President, the costs indicated, while I believe they would be insignificant, they would also be buttressed by the review to the -- to the labor board. Mr. President, that cost, if it proved, in the enactment of this, after the enactment of this legislation, to be burdensome or onerous, I would be glad to sponsor legislation calling for that cost to be incurred and borne by the state of New York.

SENATOR DOLLINGER: In other words, if it -- through you, Mr. President, in other words, if it costs a lot of money, you'll pay for it, but you're not willing to require that we pay for it under the current legislation?

SENATOR MALTESE: Mr. President, it would seem that, when you have a public servant, whether he be a -- an elected or appointed official of a village or a town or a city, there are certain burdens and obligations he assumes, and one is to protect the -- first,

probably the paramount and possibly most important duty and obligation is to protect the lives of those residents residing within that area of government. This is the paramount consideration for them.

It would seem, then, that they would be perfectly willing to undertake not only whatever obligations are called for in this bill, but to whatever insignificant costs would be also called for or incurred as a result of this bill.

SENATOR DOLLINGER: Through you again -

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Through you again, Mr. President, if Senator Maltese would yield to another question.

ACTING PRESIDENT FARLEY: Would you yield to another question?

SENATOR DOLLINGER: Who pays the cost of the de novo appeal to the Industrial Board of Appeals, and I assume the inevitable

court appeal on after that?

SENATOR MALTESE: Mr. President, those -- the appeal is a relatively simple appeal. It could be done by simple petition. It could be done by a written petition which would not require more than one paragraph of - of writing or a piece of paper calling for the appeal.

The appeal ordinarily would go to the board; in this case it -- it would be required de novo simply because it could perhaps go into an investigation or go into an analysis that would be possibly inadequate or possibly not as detailed as it should be, so that the board, the Industrial Board, would be able to look at it de novo to see whether or not the decision of the local government should be confirmed or affirmed.

SENATOR DOLLINGER: Just one final question again, Mr. President, through you to Senator Maltese.

ACTING PRESIDENT FARLEY: One question.

SENATOR DOLLINGER: What knowledge do you have that the New York State Industrial Board of Appeals has any experience or expertise in resolving issues related to public safety in villages or towns throughout New York State? What is the basis for their knowledge that gives them the particular expertise to be able to do that?

My understanding of the Industrial Board of Appeals that it considers wage disputes, prevailing wage disputes, things under our New York State Labor Law. Are you aware of anything else in New York State law that gives the New York State Industrial Board of Appeals jurisdiction over public safety?

SENATOR MALTESE: Mr. President, I was hoping that Senator Dollinger would ask that question.

SENATOR DOLLINGER: I tried.

SENATOR MALTESE: I have before me the Labor Law, section 21, and it cites the powers and duties of the Commissioner and the Industrial Labor Boards, and it provides that

they shall provide a method of encouraging employers and employees in their efforts to reduce the number of safety and health hazards arising -- safety; I stress the word "safety" and health hazards arising from undesirable, inappropriate or unnecessary working conditions at the work place and of stimulating employers and employees to instigate new, and to perfect existing programs for providing safe and healthful working conditions.

It seems to me, Mr. President, that there couldn't be anything that would be more conducive to violating a section that calls for safety and health, overseeing -- the possible overseeing of safety and health hazards, and this board again presumably would hear these types of petitions from across the entire state and would have more expertise in handling them.

As far as whether or not they would know intimately the problems of villages or towns, that would depend on -- on the Governor's appointees to this board and those

that -- those members of the board, those three members of the board who would be subject to Senate confirmation.

SENATOR DOLLINGER: Thank you. Mr. President, on the bill.

ACTING PRESIDENT FARLEY: On the bill, Senator Dollinger.

SENATOR DOLLINGER: I think Senator Maltese's reaction -- response to my question highlights the problem with this bill, one of the problems with this bill. The section that he read gives the Industrial Board of Appeals jurisdiction over certain labor relations issues that affect public health and safety, for example, the state OSHA rules.

I think there are other areas in which the New York State Board of Industrial Appeals has jurisdiction, but we don't turn over to the Industrial Board of Appeals the issues of public safety. We've got a whole apparatus of public safety. We've got a Department of Criminal Justice. We've got all kinds of experience sitting in agency buildings in this

city to deal with criminal justice issues that deal with public safety issues.

If there's a review that ought to be planned, it ought to go there. It shouldn't go to the Board of Industrial Appeals. We're directing it to the wrong place, and I would submit, Mr. President, that that's the over simplification from which this proposal suffers.

I'd just give one quick example. You have a village, a little tiny village, that has a police department. They're going to reduce the number of people on the vehicles. The mayor of the village runs on a campaign in which he says I'm going to reduce the number of people in the cars from two to one. He runs, he wins a hundred to nothing, on that campaign because the taxpayers conclude they don't want to pay for that additional public safety. Whatever benefit there may be to it, and I agree, Senator Maltese, there may be some benefit of having two people in a car or three officers in a car. As Senator Leichter said,

there may be an advantage to having five of them in a car, but the public rises up and says, unanimously a hundred to nothing, we don't want to pay for that.

What this law would do is say, Oh-oh that isn't your decision, sorry, public. Even though you unanimously elected one person who ran on that platform we're going to require you, the town, the village, to spend and I disagree with Senator Maltese, compare it to an environmental impact statement, I think if you look at the legislative history of environmental impact statements, you will see that when we originally embarked on that course of conduct, we said, Oh, don't worry, environmental impact statements won't be a big deal; you'll put a couple pieces together; you'll describe how many trees there are, and it will all be taken care of. It won't be a big problem.

Instead, in this comprehensive detailed study of public safety, I submit that that is going to cost an awful lot of money to the local communities, that it's constantly

going to be appealed to the board, Industrial Board of Appeals, because of the nature of the labor dispute that gives rise to those kinds of discussions.

We have a labor relations agency; it's called the Public Employment Relations Board. They can deal with all those problems. This has been a violation of the Taylor Law. Instead, this is going to put a huge cost on every town, village and city that is desperately trying to meet the public safety needs of its communities and, at the same time, provide and protect its police officers.

Both of those are laudable and important public safety objectives, but we can't tie the hands of local communities by giving to the board -- the Industrial Board of Appeals the right to decide whether they can reduce their staff.

That's a decision, and I agree with Senator Leichter, that should be made by local officials who are elected by the people and accountable to them and not made by the

Industrial Board of Appeals, a group of unelected commissioners that, from my community, will be 225 miles away.

I submit that this bill stems from a -- from a very, very simplified view of what will become a complicated, time-consuming, onerous mandate on all of our villages and all of our towns, and our cities as well.

I submit that this legislation, and I understand the spirit from which it arises, will create a terrible unfunded mandate, a terribly oppressive mandate to our local communities that are trying to deal with the difficult problem of providing cost-effective public safety. Pass this bill, and you're taking away the local control that I've heard from the other side of the aisle that you so desperately want to preserve.

ACTING PRESIDENT FARLEY: Senator Galiber.

SENATOR GALIBER: Senator Maltese, will you yield for a question?

SENATOR MALTESE: Yes.

ACTING PRESIDENT FARLEY: Senator Maltese, would you yield to a question?

SENATOR GALIBER: Not quite a question; I would just like to make a statement.

I find myself in a brand new district, a little section of Westchester County. I have a lot of colleagues on your side who have parts of Westchester County, but the particular area, after they finished cutting me up in reapportionment, is called Mount Vernon.

Now, Mount Vernon is a nice calm little city, poor city, because they've done everything right. At the present time we are desperately, along with Senator Velella, with a few others, trying to find some way to get money back into Westchester.

Mandates, I'm sure, most of the time we are in agreement. We have to do something about mandating costs on the local government. But here's a situation, and Senator Guy Velella and I have been trying to do something about it.

Would you be willing to fight - authorize the utility tax in Mount Vernon so that you pay for some of this? Would you be willing to take the monies that they have contracted they have with the police officers now and campaign for it? Would you tell the police officers to do away with the increases and make this study available?

And the answer probably is, no, to the latter category, and I merely point this out to you, Senator, because I disagree with the bill, but the localities especially, all of them, are going to be hit, but the small localities are going to be hit the hardest. A million dollars? A million, two million perhaps is peppercorns, if we had the opportunity to look; maybe a member item on your side of the aisle. It's a lot of money for these small hamlets. They cannot afford this even if it was a good piece of legislation. They cannot afford it.

The question is -- I'll get to the question -- is how do you account, what can

we possibly do? How, under your legislation, even if it passes, and I'm sure it's only a one-house bill, the fact of how in good conscience these small little villages, the small cities, the impact that it's going to be -- going to have on them, and you said yourself that you would be willing to put into your legislation, I believe, means to finance this where the small towns, villages, cities, if you will, cannot afford it.

More importantly, would you be interested or concerned enough or to the point where you would take the utility tax to these small cities or hamlets, the Medicaid - mandated Medicaid relief that we talk about at least for that area which is opposed by some, would you be willing in conjunction with this piece of legislation, to support those other means in which to fund this program which is not a good bill in the first place, but it's interesting just to find out. What is your attitude about those small hamlets and cities that cannot afford this at all, even if it were

to pass?

SENATOR MALTESE: Mr. President, I fully appreciate that my most articulate colleague is asking the question more in a rhetorical sense, but I frequently have voted for and as a matter of fact, in many, many instances, voted for the means for the localities, since I believe in local government, to finance expenditures that they voted to enact, and since I've been in this house and in this chamber have voted for a great deal more taxes than I ever believed I would and ever thought I would, and a great deal more than I like to do.

At the same time, I feel that we have an obligation to, when we took the oath as Senators, we are not simply micromanaging the affairs of a police department whether it's in Mount Vernon or whether it's in the city of New York. I do -- I strongly disagree with my colleague, Senator Leichter, who talks about our intrusion into the affairs of the city of New York. He specifically alluded to the city of

New York, which he represents and I represent. Last I saw, I not only represent the city of New York, but I reside there and my family resides there.

I believe that we have not only the right but the obligation to attempt to protect the lives of our police officers when they are doing their sworn duty.

A question was -- was just -- was asked as to whether -- who supports this bill. The support we have, and we did not seek it but this is the support of the people who brought this circumstance to our attention, was the Police Benevolent Association, the Sergeants' Benevolent Association, the Lieutenants' Benevolent Association, and many of their representatives.

Now, when I speak about trying to protect the lives of individual police officers in cars, I don't superimpose my own judgment. I don't superimpose my own knowledge or wisdom as far as the necessity for these police officers. I am listening, I am hearing the plea of the

representatives, the duly elected representa tives of those selfsame police officers who are saying to me, perhaps those officials who are in charge of government, perhaps those officials who are leading government would put fiscal considerations ahead of the lives of these same police officers.

And, Mr. President, I don't know that our good mayor's opinion, and a Mayor that I respect, or our police commissioner, Ray Kelly's opinion is any better than mine. Certainly, Ray Kelly's opinion I would respect, but a police commissioner, as we've seen in the recent history of New York City, is not always free to act non-politically. I don't know that I would put the mayor's opinion or value the mayor's opinion any more than I would put perhaps our present President's opinion as far as commanding a military unit in the field or any military unit.

So I don't know that -- and we have to say that we are waging a war, a war on crime. We just previously spoke about all these

police officers gunned down as they were trying to do their duty. So what I'm saying is that, at the least, I am arguing on a platform that is being sustained and upheld by police officers who told me that it is their learned opinion this was necessary, and I am willing to accede to their opinions before I accede to the opinions of anybody in this house, no matter what their previous service was.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yes. Would Senator Maltese yield to a question?

SENATOR MALTESE: Yes.

SENATOR GOLD: Senator, you've been very gracious in yielding and while I'm not trying to take advantage, but first of all, Senator, have you held any hearings on this bill?

SENATOR MALTESE: No.

SENATOR GOLD: Senator, you said you have support from the PBA, et cetera. Is that the New York City or does it go past the

New York City?

SENATOR MALTESE: The New York City.

SENATOR GOLD: New York City, and the last question I have is, you read some information earlier, you said it came from the FBI, about incidents where people, I guess, were shot or injured or killed in one-person situations, was that?

SENATOR MALTESE: Yes.

SENATOR GOLD: Yeah. Senator, my impression from hearing that was the officers perhaps weren't trained properly. In other words, you were giving the information such as the officer didn't do this, the officer wasn't alert, the officer didn't get his gun out, didn't do this, didn't call for back-up.

Didn't you make a perfect argument, Senator Maltese, that you basically have a training issue here, not a one-person or two-person in a car, but whether or not people are being trained, properly so; therefore, if the City were to go to one person in a car,

let's say, if the training program was proper, they hopefully would not have officers who would be part of your statistics.

SENATOR MALTESE: Mr. President, I -- the point I was hoping to make is, first of all, I feel that the figures do stand for themselves and stand on their own feet vis-a-vis the numbers. Certainly we can surmise from the -- the disproportionate number of the -- for instance, the 237 in the one-officer vehicles as opposed to the 94 in the two-officer vehicle.

The point I attempted to make as to the training, quite correctly, what Senator Gold said was buttressed by FBI investigations. What they were attempting to do is save the lives of officers in future circumstances. But we are all subject to human facility. These police officers, when I referred to the fact that they were described by their friends and comrades and relatives as trusting individuals, as people now under the new guidelines well suited for police work, people who would try to respond in a friendly manner rather than an

aggressive or threatening manner, and my point was that these people are human beings and when we put one person alone in a police car, he is not going to be as well protected and he may make these very mistakes that the FBI report pointed out, and he would be less subject to making those mistakes if he had a companion, he or she had a companion with them or if they had the security of the training program that Senator Gold spoke of.

But we are not at this point in time speaking about a training program. We're trying to speak about providing additional personnel in the police cars. If Senator Gold wants to put in a bill that would provide additional training with the funds provided for the police, these police officers in municipalities, towns and villages, I'd be glad to share in that legislation with him.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT FARLEY: Senator Gold.

SENATOR GOLD: Yeah. Senator

Maltese yield to a question? But first of all I find it fascinating that you say I should put in a bill for better training and provide the funds when you want to put in the program initially and don't want to fund it. I mean, come on, Senator.

But first of all, Senator, I have a question, but I want to point out you're saying that we have police officers today who are friendlier and the new kind of police officer requires back-up because they're friendlier.

Senator, isn't there a difference between a police officer being careful, the word "careful" versus whether he's courteous or rude? I would hope that there are no rude police officers, but even if they are, I hope they're careful. The two words don't -- have different meanings. So, Senator, the fact that we hope that police officers today are not abrasive and not overwhelming doesn't mean they shouldn't be careful.

But my question, Senator, is the

following: In terms of the -- of the FBI study, how many police vehicles are there that are operated by two police officers, versus the number that are operated by one officer?

SENATOR MALTESE: I don't have that information, and it wasn't in the portion of the study that was given to us.

SENATOR GOLD: All right. Thank you. Mr. President, on the bill.

ACTING PRESIDENT FARLEY: On the bill, Senator Gold.

SENATOR GOLD: Yeah, Mr. President. To start at the end there, the figures given by Senator Maltese are really valueless. They are valueless. If you have in a room 90 women and 10 men, it is more likely that something happened as regards the women than men. That's the numbers.

The fact that there were more police officers involved in incidents in one-driver cars than two means nothing unless you know what the relative percentages are. If the norm in America is for officers to be one to

a vehicle, then by percentages there are going to be more incidents for officers in the one vehicle, so the only way Senator Maltese can make an argument that one is safer or not safer than the other is if we know that the incidents are even to begin with.

But, Senator Maltese, I asked you if you held a hearing. Now, the other day I was very proud to stand up and support Senator Velella when he wanted to aid in getting 9 millimeter or semi-automatic weapons into the hands of police officers in the city of New York and that bill passed overwhelmingly. But you may recall, I said at that time, Senator Maltese, that when the issue came up, I held a hearing.

Now, that wasn't a hearing for show. I was asked to hold that hearing by Milton Mollen, who worked for the mayor at the time, and he said to me, "Manny, if you hold a hearing the City will present to you its arguments and you will understand them." I held the hearing. The City came; they gave their

arguments. The PBA came, gave their arguments and then, with both sides of the coin, Senator Maltese, I came to a decision and I supported Senator Velella.

You have come to a conclusion listening to the plaintiff's case and saying at the end of the plaintiff's case, I render judgment without giving the defendant a chance to get into the courtroom. The City's case was not presented at any hearing, was not presented to you because you didn't give that equal opportunity.

This bill, Senator Stachowski, just so you understand, is a statewide bill because, if it wasn't, he'd need a home rule message and I assume he can't get a home rule message, so you have to make it a statewide bill. It is only an issue, I gather, for Senator Maltese with the PBA in New York City.

And lastly, Senator Maltese, I would like to point out something that you already know because I happen to respect your mind, and I know you are a bright gentleman.

You want to protect police officers in the city of New York. Walk down the hall and tell Senator Marino that Senator Padavan, Senator Oppenheimer and many others have a bill that would get these assault weapons off the streets. Now you're doing something. Now you're doing something.

If you have one or two police officers in a car and they drive up and get pummeled by Tek-9s and other semi-automatic weapons, so under your bill you'll have two, God forbid, dead officers instead of one, God forbid, dead officer. I mean that's what you're doing.

I haven't met any policemen in the city of New York, Senator, that say, Senator Maltese, give us two people in a car and also keep us the assault weapons out there because they're good for the City. That's hogwash and, while I am proud to be a sponsor of Senator Oppenheimere's bill -- if it's destined to be a Padavan bill, then I congratulate Senator Padavan -- let's get it out. That will do

something.

And in closing, I said that's the last, I got to use a different word. In closing I'll point out one other thing. The politics of spending the taxpayers' money is a fascinating, fascinating subject. God forbid you have a child, as happened in New Jersey, who falls into a little swamp hole in a playground. It doesn't matter how many millions of dollars go into that rescue effort. It doesn't matter. Why doesn't it matter? Because the television is there, the press is there. It becomes a national event. Matter of fact, in that movie RADIO DAYS, they did a take-off on that with one little child, but now, forget the one child on television, where everybody is rooting for the child and you get into more obtuse situations and we go crazy with money in a different direction.

Senator, this bill, if you want to do it, requires money, that's all. It requires money, and just to say we're going to throw -- we'll find the money, there will be money, maybe we'll see the money; I mean we got

to do it. That's all, and if we're not putting up the money, if we're not doing other things, I don't think we should play that game with the PBA or with anybody else. We just shouldn't do it.

There are a lot of issues that are involved with the police department and with the mayor. I happy to respect the New York City PBA very much, and they've been -- been respectful towards me. They are a political unit; we all know that. I understand there were ads in some of the papers today blasting the mayor. They obviously are a political unit. Every union is.

But, Senator, this is just not a right way to go, and I don't even think it's good politics for your side of the aisle. I don't know when the day is going to come, some day it will come, when your constituents as well as mine -- I'm talking to my upstate colleagues -- are really going to start to read what happens up here and who votes on what.

I think the philosophy of the

Republican Party is, if a tree falls in a forest does it make noise? Nobody knows, and you hope that nobody will ever report what you do up here so you can do whatever you want. But in those little towns and hamlets, I mean one of them, if this was to become a law or even if it doesn't, somebody is going to read that some of you gentlemen decide that this is something that could happen and affect them, and they're going to wake up.

It is a statewide bill, and it is not only terrible for the city of New York; it is awful for upstate New York.

ACTING PRESIDENT FARLEY: Senator Stachowski.

SENATOR STACHOWSKI: Just on the bill. When I first saw it, I really didn't have a problem with it, considering it was, I thought, a New York City bill put out by a New York City person, even though it was Rules. I knew when Senator Maltese stood up that he was representing the people that he represented in the city of New York, but when I became aware

that it is a statewide bill, I have a big problem with it in that I don't know that all the towns and villages and cities that may be looking at police reorganization and may get along very well with their police officers and their municipal government officials and have worked all this through and negotiated any kind of change out, that suddenly they're in the middle of this process maybe currently, and since this bill takes effect immediately and if it were to pass both houses and get signed by the Governor who often talks about proposals that will do what the people want with local governments, that suddenly these towns, villages and other cities than the city of New York would become a victim of this legislation, have to go through a study that we don't have any idea what it costs, but I'm sure it's not free, and then they have to start -- keep continuing to have two-men police cars even if their village is very small, and they decided it's not safe enough to do this and maybe they have a dual coverage of the local sheriff's department also,

to help support the one-car units, and that all this does is incur an expense that their taxpayers can't afford and this study that we don't know what it costs as to that problem and as a result people lose their jobs or programs that they need go out of effect.

For that reason, I can't support this bill, and basically it's nothing more than another unfunded mandate. Earlier this year we passed a bill saying we're not going to do any unfunded mandates. We've done a -- I think a second concurrent resolution saying we're not going to do any unfunded mandates, and that only counts when we're talking about somebody else's program here.

Senator Maltese can get up and say, "I don't know what this costs and if it does cost money, well, then next year I'll put the money in," or we'll get the money for him and we'll give him the money. Well, the fact is by Constitution, you can't do that. If the study is done and the expense is incurred, you can't give a community a gift. Give them the

money for a study they already did? That's a gift. We can't do that, and it sounds great but you can't do it.

And I can remember the days when I first got to the Senate or maybe I'm even thinking back to when I was in the county legislature, and I used to get mail from the chairman of the Conservative Party Serph' Maltese, Don't be for unfunded mandates. Well, when he was chairman of the Conservative Party, Serph' Maltese was not for unfunded mandates. Guess that doesn't matter any more.

I'm not only going to oppose the bill; I'm going to ask for a slow roll call.

ACTING PRESIDENT FARLEY: Senator Oppenheimer.

SENATOR OPPENHEIMER: Oh. Thank you, Mr. President.

My colleague just now said it's an unfunded mandate. It's more than an unfunded mandate, an unfunded mandate. It's -- it's just ridiculous. I mean I have to speak to you as a mayor of many years of a small community.

If you're talking about decreasing the number of police officers assigned to a patrol car, if there's a safety risk, I mean our patrol cars in my community when I was there, we had 50-some police officers, they all rode singly. If we were to decrease, it would be a car without an officer and that doesn't seem too likely. It just is not possible in a small community. Every single person that is there is essential and needed and for the most part we carry only one -- one police patrolman to every car and there's no way that we could increase it. There's no way we could fund a study.

I mean the whole thing makes absolutely no sense. I mean you have to be at the local level just to know how nonsensical this is. I'm voting no.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I already commented on the text of the bill.

One of the things that Senator Maltese said after he spoke after me, really drove home the message and, Senator, I couldn't agree with you more. We sort of moved down the same logic and then we depart.

I agree with you that I didn't run for this office to make a decision about what goes on in the village of East Rochester, which is in my colleague, Senator Jones' district. I don't represent any villages. I represent two towns and a major city, but I wasn't elected to make that judgment about what goes on in a small village, and I -- I don't think you were either. I don't think anyone is in this chamber.

But we have a very simple choice. We can either leave that decision to local officials in those villages who were elected to make that choice or we can do what your bill suggests, which is take it out of the elected officials' hands and give it to a bunch of bureaucrats who are called the Industrial Board of Appeals.

We can take the most vital thing that happens in a local community, that is public safety, I agree with you it's the most vital thing that happens, and we can take that and turn it to a group of five or seven nameless, faceless bureaucrats that live in - in Albany and that work out of Albany.

Whatever happened to the concept of home rule? This isn't home rule. This is rule by the IBA. This isn't rule by elected officials. This is rule by bureaucrats, unelected officials. This proposal takes the most precious decision at the local level, public safety, and transforms it into something that's the subject of a detailed comprehensive study, reviewed by the Industrial Board of Appeals who makes a final and binding decision on the local community where, even if the local community says it's all we can afford, the Industrial Board of Appeals is going to say, Aah, it isn't true you can't afford it. Go out, tax your people more to pay for it.

If it isn't through the

Industrial Board of Appeals, where will they go? They'll go to the courts. We might as well turn the public safety over to the bureaucrats or -

ACTING PRESIDENT FARLEY: Senator Maltese.

SENATOR MALTESE: Excuse me, Senator Dollinger.

Mr. President, may I lay the bill aside.

ACTING PRESIDENT FARLEY: Lay the bill aside.

Secretary will read. Senator Present.

SENATOR PRESENT: Mr. President, can we call up Calendar 808 which was laid aside.

ACTING PRESIDENT FARLEY: Secretary will read Calendar 808.

THE SECRETARY: Calendar Number 808, by Senator Cook, an act to amend the Education 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Johnson, Senate Bill Number 5900, an act to amend the Environmental Conservation -

SENATOR OPPENHEIMER: Explanation.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 1263, by Senator Johnson, Senate Bill Number 5929.

SENATOR GOLD: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay the

bill aside.

THE SECRETARY: Calendar Number 1269, by Senator Padavan, Senate Bill Number 3211-A, Administrative Code of the city of New York.

ACTING PRESIDENT FARLEY: There's a home rule message here at the desk. You can 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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 1274, by Senator Wright, Senate Bill Number 3811-A, State Administrative Procedure Act.

ACTING PRESIDENT FARLEY: Read the last section.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT FARLEY:

Explanation. Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

The bill provides amendments to the State Administrative Procedure Act to require that, when a model plan is called for in terms of achieving compliance efforts, that that model plan be developed by the agency and be published for the use of those individuals being required to comply.

SENATOR LEICHTER: Senator -

SENATOR WRIGHT: Certainly, Senator. I look forward to these exchanges.

SENATOR LEICHTER: I have no objection.

SENATOR WRIGHT: Thank you, Senator.

SENATOR LEICHTER: Thank you, Senator.

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 50.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Goodman.

SENATOR GOODMAN: Oh, no.

THE SECRETARY: Calendar Number 1275, by Senator Tully, Senate Bill Number 4492-A, an act to amend the Insurance Law.

SENATOR SOLOMON: Explanation.

ACTING PRESIDENT FARLEY: Explanation has been asked for. Senator Tully. A year older today.

SENATOR TULLY: Thank you, Mr. President.

This bill changes the advisory review panel created by this Legislature in Chapter 1 of 1993 which oversees the activities of Empire Blue Cross and Blue Shield to a special review board and gives it authority and power to approve all contracts other than policy

contracts as well as to review and ensure the accuracy of premium rate increase applications submitted by the corporation to the Department.

This bill, in actuality, is something that was previously discussed by this house with the other house and the Governor in 1993. This bill was originally proposed with these powers in it at that time, and these powers were rejected at that time by the Governor and by the Assembly, and I think the record is clear that had this power been given at that time that it was requested, many of the things which have taken place might not have otherwise ensued.

We have a tremendous responsibility to the people that we represent, particularly to the 8 million subscribers of this company which is the largest company of its type in the United States. This type of oversight is without a doubt -

SENATOR GOLD: Mr. President.

SENATOR TULLY: -- absolutely necessary.

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

SENATOR GOLD: I hate to interrupt, but we've just passed Senator Padavan's bill, I think it's 1269, and I just want to make sure it doesn't leave the house quite yet. There was a question that was just raised and a phone call I had and, if we could just hold that, please.

ACTING PRESIDENT FARLEY: Has it left?

SENATOR GOLD: No, no.

ACTING PRESIDENT FARLEY: No, it was just on its way out the door.

SENATOR GOLD: All right. Thank you. So please hold.

ACTING PRESIDENT FARLEY: Senator Tully, you have the floor.

SENATOR TULLY: Thank you, Mr. President.

The company in question, Empire Blue Cross and Blue Shield, has reported to this Legislature losses of $250 million in the last

two years, at the same time they received rate increases from Superintendent Curiale, the regulator, and the Insurance Department, four times.

This Legislature relied upon information which was presented to them by that company in creating and enacting a law on community rating and open enrollment.

Mr. President, I submit that this is a law whose time has come. Its time had come earlier in January. It must be enacted as quickly as possible. Thank you.

ACTING PRESIDENT FARLEY: Senator Solomon.

SENATOR SOLOMON: Mr. President, I'm glad, Senator Tully, you ended on that note, but before I ask you a question regarding that comment, I'd just like to ask you, part of this bill -

ACTING PRESIDENT FARLEY: Senator Tully, would you yield to a question?

SENATOR SOLOMON: Would you yield, please, Senator?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT FARLEY: Yes, he will yield to your question.

SENATOR SOLOMON: Senator, this bill has no limits on contracts that must be submitted to the board, no minimum limits, am I correct?

SENATOR TULLY: That is correct, Mr. President. The only exclusion on contracts is premium contracts, the policy contract.

SENATOR SOLOMON: O.K. So Senator Tully, if you will yield.

ACTING PRESIDENT FARLEY: I think he will.

SENATOR SOLOMON: So, Senator, if Empire Blue Cross/Blue Shield wants to purchase a thousand dollars worth of Number 2 pencils then that contract would have to go to this board?

SENATOR TULLY: Mr. President, all contracts, whether they be for a pencil, a thousand dollars worth of pencils or any other

type of contract other than policy contracts, if the board seeks and wishes to review them are subject to the review of Empire under this legislation, that's correct, and maybe if they had that type of authority in the past, we wouldn't have been slickered as we were.

SENATOR SOLOMON: Mr. President, that -- Senator, I wasn't slickered. I voted against this bill, by the way -

ACTING PRESIDENT FARLEY: Senator Tully.

SENATOR SOLOMON: -- on community rating, because I thought there was something wrong with the Blues, but what I'm concerned with is by having every contract, we have - we've had instances, I believe there are instances of both review and oversight before where you set a minimum amount of dollars. Wouldn't it be wiser in terms of the number of dollars that come out of Blue Cross -- Empire Blue Cross/Blue Shield, since it's literally hundreds of millions, actually probably billions of dollars every year, to set a minimum on the

contracts, say contracts under $500,000 so they can at least deal with some day-to-day purchases whether it be, as I say, pencils or some paper cups?

I think this might have been drafted incorrectly.

ACTING PRESIDENT FARLEY: Senator Tully.

SENATOR TULLY: Mr. President, I appreciate the concern exhibited by Senator Solomon, but I'm sure even he knows that things of that nature many times are not the subject of contracts. I know in this Legislature, when we need pencils, perhaps there's a request for proposals, they're not really in the nature of contract form, and many times people might send someone, in the case of Empire Blue Cross/Blue Shield out to the office store to pick up a couple of dozen boxes of pencils.

If those are the things he is concerned with, I don't think really from a practical standpoint that the board would concern themselves with it, but I would be

really, really upset if we attempted to put a dollar figure on something that we couldn't watch based on the track record of this company.

We can always go the other way, if we determine that it's too stringent and if we determine, in our wisdom, that we are restricting commerce and restricting development of this company and an opportunity to do what's right for people it represents, we can always amend it. But right now, I think strict, strict measures are called for.

SENATOR SOLOMON: Senator, if you will continue to yield. How many -- how many contracts does Empire Blue Cross/Blue Shield enter into not including insurance contracts with the insureds?

SENATOR TULLY: There is no - absolutely no way that I would have of knowing that, which is one of the reasons we want to give the authority to the board to determine it, but obviously, you know, Senator, that it would include certain actuarial contracts which are

most significant, like Deloitte-Touche, that type of contract that we know has existed. It would include employment contracts such as the one that was entered into with the former CEO, Mr. Cardone, where he received $600,000 in compensation, an increase of $100,000 in one year, at the time they were asking for enormous rate increases. It would include computer contracts, Mr. President, which we know now are the subject of inquiry by a number of agencies.

This should have been the law, Mr. President. The Governor and the Assembly should have agreed to it and Superintendent Curiale knew or should have known about many of the things that are now coming out in the paper, and it's a disgrace.

SENATOR SOLOMON: Senator - Senator, if you will yield to two more questions.

ACTING PRESIDENT FARLEY: I feel he will.

SENATOR SOLOMON: How much money did we appropriate for this board, the advisory

committee which will become a board?

SENATOR TULLY: Mr. President, the people who serve on the board we are fortunate to have pro bono. There is $150,000 appropriated for such staff as they will find necessary.

SENATOR SOLOMON: O.K. Senator, if you will yield to just one last question. I notice you were obviously upset at the revelations of Empire Blue Cross/Blue Shield, as we all were, and I always took some of the figures that they gave me as a grain of salt because they lost $100 million on an HMO in five years which I thought was pretty incredible, and their response had been that they were losing less money, when they were questioned about it.

That's one of the reasons I voted against community rating. Senator, do you feel at this point in the structure within the next month, that we should help the Blues or bail them out in any other way or means at this point in time, get them some additional funds?

SENATOR TULLY: Mr. President, I

think Senator Solomon knows full well that the Legislature -- very much, I doubt that we'll hear anything in the next month, but the Legislature will no doubt be faced with a rate increase request, not the Legislature but the Superintendent of Insurance will be consulted and requested to do something with respect to helping Blue Cross/Blue Shield out.

It's a very, very difficult situation because I have not yet heard from Senator Solomon as to what we in the Legislature should do or what the Governor should do or what the Superintendent should do if Empire Blue Cross and Blue Shield were to fall apart, if it were to fold, if it were to disappear, who would then insure these 8 million people?

Only this week, the head of the AFL-CIO came to my office. Two and a half million of his people are insured by Blue Cross and Blue Shield and he asked me, is there any difficulty, is there anything we should be worried about, because he's reading the newspaper too. There are many, many people out

there who are fearful that they will have no health insurance.

The issue then resolves itself into one as to whether or not there has been sufficient oversight; has there been sufficient regulation? And I remember, Senator Solomon, when he debated, and I for one wouldn't say for the world that maybe there was an issue and position between people who felt on the one hand that Empire Blue Cross and Blue Shield needed something and commercial insurers on the other hand who had their spokesmen in this house felt that maybe they shouldn't get anything because there's always been an opposition between the two, but I think the record of what was said at the time that bill was debated will speak for itself, as all of Senator Solomon's comments at the time -- at that time will speak for themselves.

But I believe now we're dealing with something separate and apart from past history, and we're dealing with something separate and apart from what might be a rate

increase. We're saying now that that which we had in place was insufficient to preclude the occurrences that have happened. We're talking about hundreds of millions of dollars. We're talking about investigations, not only by the U. S. Attorney's office, by the Manhattan district attorney's office, by other agencies who have been contacted, who have exhibited interest in not only the civil end of this, but in the criminal end.

The story is yet to unfold. It's a difficult postulate at least, but we have to do something as quickly as possible. We should have done it in January, but we need to do it now.

SENATOR SOLOMON: Thank you. On the bill.

ACTING PRESIDENT FARLEY: On the bill, Senator Solomon.

SENATOR SOLOMON: Senator Tully, I think we should have did something a year ago when we passed the community rating. In view of that, in January we came in with another bail

out which I'm glad you have this bill. Those of you in this house should be aware Empire Blue Cross/Blue Shield was against this because it did include this advisory board because they considered it too much oversight.

But what I'm concerned about is we have a piece of legislation here which should have looked at some numbers in terms of setting some minimum standards of contracts to review. I don't -- I believe Empire Blue Cross/Blue Shield probably has large numbers of contracts that deal with purchases of paper and supplies, et cetera, that may not have to be reviewed because they probably take that on bid, probably contractual relationships in regard to that or can be determined to be contracts.

What I'm concerned about is you have a bill here which, in fact, could literally cause the opposite effect in overburdening this board by not letting it focus on the major contracts that they have to look at, but every piece of paper that comes across, and I believe that they're going to be understaffed in terms

of the budget that's been allocated to them to adhere to this bill.

The concept is correct. We should have had this board of oversight a long time ago. There are a lot of problems with the Blues. Those problems have been evidenced over the years, and fortunately, I guess we should all thank the New York Times for revealing a lot of the problems and it turned a lot of people around, and they realized that sometimes when you have a group that's supposedly not-for-profit, and they come before this chamber and the Legislature, and they say certain things maybe you should examine what those people are saying, especially when they mount multi-million dollar lobbying efforts and campaigns to all our constituents.

But again, this bill, I believe, goes in the right direction but I'm afraid that it could literally be overburdened by its own language by overloading the system, by having them required to review each and every contract that comes before them with the small amount of

staffing that they currently have.

I should, in fact, add that it's a multi-billion dollar corporation and they're going to have less staff than many of the legislators in this house currently have, and that's where I think the problems are going to be.

SENATOR TULLY: Mr. President.

ACTING PRESIDENT DALY: Senator Tully.

SENATOR TULLY: Again, when this bill was originally proposed and we did debate it on the floor, and I remember particularly a colloquy between myself and my colleague, Senator Leichter, I indicated that the powers which we proposed at that time which were not included in the bill but which are proposed now were exactly the same powers that were put into place by this Legislature in 1975 when we created the Emergency Financial Control Board to bring the city of New York out of bankruptcy, and that same faith that dealt with the same type contracts resulted in the City coming out

of bankruptcy and back into the bond market, and I submit that what worked for New York City will work for this state in this case.

ACTING PRESIDENT DALY: Last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT DALY: The bill is passed.

THE SECRETARY: Calendar Number 1289, substituted earlier today, by member of the Assembly Seabrook, Assembly Bill Number 6838, State Administrative Procedure Act.

SENATOR GOLD: Last section.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT DALY: Senator Wright.

SENATOR WRIGHT: Mr. President, this bill incorporates current informal

procedures being utilized by the Office of Business and Regulatory Assistance and it incorporates it in statute to give it statutory authority.

ACTING PRESIDENT DALY: Last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT DALY: The bill is passed.

THE SECRETARY: Calendar Number 1291, by Senator Bruno, Senate Bill Number 5825, an act in relation to allocation and utilization of certain monies.

ACTING PRESIDENT DALY: Senator Gold. Last -- last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT DALY: The bill is passed.

THE SECRETARY: Calendar Number 1292, by Senator Seward.

SENATOR OPPENHEIMER: Explanation.

ACTING PRESIDENT DALY: Explanation requested. Senator Seward.

SENATOR SEWARD: Yes, Mr. President.

This legislation would allow artists' materials manufacturers to apply a brush stroke of paint to their packages so as to display the true color of the paint that's within the package.

SENATOR OPPENHEIMER: As I understand this bill, Senator Seward -- I sympathize with what you're trying to do and were I to have a company in -- in my district, a

major corporation that needed assistance, I also would try and do what I could to help that company, but I really have to object to this bill. This does something that I don't think we want to set a precedent on. I think the company that's requesting this is named Golden Artist? If Senator will yield? It is Golden Artist. O.K.

ACTING PRESIDENT DALY: Senator Seward, will you yield?

SENATOR SEWARD: Yes, that's a - the artist materials manufacturer that I happen to be familiar with that is in a bind because of the need for relief.

SENATOR OPPENHEIMER: I understand that, and I do empathize. However, I've got -- there really is a major problem here. Golden Artist wanted an exemption from the Hazardous Packaging Act. The DEC has refused to give them this exemption. This legislation was introduced in order to override the DEC's refusal to give the exemption.

It really sets a terrible

precedent for other companies to come in and ask for special -- special attention, special exception to our statute. The Hazardous Packaging Act is a national standard which is being enforced by 13 other states.

When this Legislature passed the Hazardous Packaging Act in '91 -- 1991, it was to be effective the following year in '92, we were doing it to protect consumers from toxic labels and to reduce toxins that end up in our solid waste stream. Cadmium, which is the issue we're dealing with today, cadmium, is one of the most hazardous materials which can cause harmful effects on the health of the general public, and there is no justification to allow an exemption for this hazardous material which would only encourage other corporations to ask for exemptions from hazardous materials, and I feel we have to treat this very seriously, even though we are, you know, concerned about individual corporations.

This goes against our law; it goes against the DEC's determination, and I

think by statute, we should not be overriding the DEC, that is simply trying to enforce our laws, this law which we passed in 1991 and went into effect last year.

So I would urge those who are concerned about hazardous materials entering our waste stream to certainly vote against this bill.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT DALY: Senator Seward.

SENATOR SEWARD: Just a few comments to close the discussion on this. I'm familiar with the administrative hearing to which Senator Oppenheimer refers, and it is true that Golden Paints did go through that process, and I -- I certainly supported the legislation that passed a few years ago.

I think it's an important issue and we do need to cut down the toxic materials that are involved in packaging. But getting back to this hearing procedure, Golden, in fact, did go to that hearing to show that they had no

practical alternative which is allowability, waivers are allowable under the existing law that we all voted for, and the problem is that the DEC interpretation of the packaging component as it relates to the cadmium was that they only looked at the stroke of paint itself that's on the outside packages, not the entire package, and only that interpretation on the part of DEC is what threw this company out in terms of being granted relief under the existing law.

What I'm attempting to do under this legislation is to provide Environmental Conservation with some further guidance in terms of a very, very small portion of a market for a very specific purpose, and that is to allow this paint company to have, in fact, truth in advertising by showing on the outside of the package the true color of the paint inside.

This is very, very important, particularly to artists. This company markets to well known artists all over the world, and the color, the precise color, is an important

part of their unique marketing and, for that reason only, I'm moving the bill.

ACTING PRESIDENT DALY: Last section.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT DALY: Senator Gold.

SENATOR GOLD: Senator Seward, would you yield to a question?

SENATOR SEWARD: Yes, I will.

ACTING PRESIDENT DALY: Senator would yield.

SENATOR GOLD: Senator, as has been noted on other occasions, the Legislature in New York operates a little differently than the Congress. In Congress, they will have the Environmental Act of 1993, and it will have 50 different sections in it, so they may pass 2- or 300 bills a year. We pass thousands.

Senator, the point I'm trying to get at, it's one thing to break up the areas of concern, and that I understand. It's another thing to take that final stretch, Mr.

President.

ACTING PRESIDENT DALY: Senator -- can we have some order in the house, please.

SENATOR GOLD: It's another thing, Senator Seward, to take a -- a different kind of stretch where, for example, we are now stretching. We don't have pension laws; we have 89 pension laws. Everybody gets their own pension law and we stretch it in to some other areas. Instead of having statewide bills in some areas, every little town gets their own bill for that one.

Now, Senator, we're being asked to give individual exemptions where people can't work it through a department, and I'm just wondering at what point, Senator Seward, this Legislature stops being a court of last resort over the Court of Appeals of the state of New York, over every single department? I mean it just philosophically, when do we stop doing that?

SENATOR SEWARD: We could -- is

that a question?

SENATOR GOLD: Yeah, I respect you as a theologician, something like that. Theologian.

SENATOR SEWARD: We could have a great philosophical discussion on that, and in fact, the -- I certainly would hope that many of the regulatory relief bills that I know Senator Wright is moving through this house would ultimately some day down the road provide the relief we're looking for. However, I -- looking at a situation here today where current law does allow for the exemption.

This -- this company is operating within the law today in terms of the amount of cadmium in the certain groups of paints that they manufacture. However, the problem comes in is in DEC's interpretation of the law that we passed a few years ago, in fact looking at that packaging component only, as I said, at that stroke of paint versus the entire label which describes the paint and what's in it and all of those things that's the -- that's the thrust of

the legislation.

We could be here and philosophically discuss the matter 'til the end of session. I think, however, it's important to point out that this is a very, very small change. I interpret it as being a measure which gives DEC some additional guidance and direction as they interpret this particular section of the law.

SENATOR GOLD: Mr. President, will you yield to another question?

ACTING PRESIDENT DALY: Will you yield to Senator Gold? Will you yield to another question?

SENATOR SEWARD: Yes, I will.

ACTING PRESIDENT DALY: Senator will yield.

SENATOR GOLD: Senator, I ask you a general question. I want to zero it in in a little more. I understand that Senator Wright and Assemblyman Seabrook have all these bills and everything, but what I'm getting at, Senator, is that aside from the fact that there

are people who believe this should be a full-time job and want this session to go on ad infinitum, the fact of the matter is that we set some generalized rules that we think are good for people.

Now, in doing that, there is always going to be -- now, we're not talking about administrative agencies now. We're talking about the Legislature. There's always going to be a firm here or there along the way that needs a little blip.

It's like reapportionment. You know, you go along and you got a straight line and all of a sudden, you got a little blip and you wonder why and you say, I don't know, and you find out somebody lives there who wants to be in this district rather than another district.

I've listened to Senator Oppenheimer, and I just see enormous sense in what she is saying, and I see enormous sense in the concept that we shouldn't be making these blips all over the place because one person or

another doesn't fit in to what we have determined is good policy, and I say, why are we doing it? Why should we do it here in such a dangerous area, as has been beautifully pointed out by one of our great legislators from the great county of Westchester?

SENATOR SEWARD: Well, Senator, many times the laws that are passed and have been on the books a while need some further refinement, and that's why we come back with additional bills to provide that refinement.

I just would point out once again, Mr. President, that the current law allows a packaging component to contain cadmium up to 250 parts per million by weight. Now, Golden's packaging has a label with a brush stroke of the pigment.

Now, this label does meet the requirements that are in the law today. However, DEC has interpreted the packaging component to be the brush stroke only and not the entire label. That is a situation which leads me to introduce a bill to provide

Environmental Conservation with some additional guidance in terms of how they interpret this legislation as it relates to this very specific group and category of paints that are specifically designed for artists' materials.

ACTING PRESIDENT DALY: Senator Oppenheimer.

SENATOR OPPENHEIMER: I truly empathize, and I was a painter, and I -- I think, I guess will the Senator yield for a question?

ACTING PRESIDENT DALY: Would the Senator yield?

SENATOR SEWARD: Yes, I will.

ACTING PRESIDENT DALY: Yes, he will.

SENATOR OPPENHEIMER: Is there no alternative? I mean I would think that there would be some possible alternative to the utilization of this tiny patch that you're referring to that's on the label? There -- has the company -- obviously, it must have fully explored absolutely every alternative?

SENATOR SEWARD: Well, Senator, I did -- I did discuss this with the company and in fact, they -- the problem is this: It -- for marketing this very unique product to a very unique group of potential customers, it's very important that they show the true color of the paint. Call it artists' temperament or what have you.

That particular segment, that market is very, very particular in terms of the exact color. Now, Golden has, you'd say, well, why not just print out a sheet of paper which would have different colors printed on it through dyes, for example? The problem with that is it does not reflect the true color of the paint that would be inside of the container, and that's the bind that we find ourselves in.

I'm certainly not looking to unravel the fine work that was done in the legislation a couple of years ago, but this one small segment, this one small segment of our dwindling manufacturing base in New York State needs this type of relief so that they can

continue to market their products worldwide and provide jobs for the people of our state.

SENATOR OPPENHEIMER: On the bill, Mr. President.

ACTING PRESIDENT DALY: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: While I understand the problem here, and I -- I do feel sympathetically, and I do recognize, as I said, having painted at one time, that it is very important to -- to have the true, the essential color on the exterior of the package, you know, describing what's contained.

I think the bottom line is that these kind of exceptions, if -- if requested once probably would set a precedent for many, many more exceptions to our Hazardous Packaging Act and -- and I feel that it's such an important act to our health and to our environmental health, that I -- I will still have to say that I would urge a no vote for those who are concerned about their health and -- and where this hazardous material ends up in

our waste stream.

ACTING PRESIDENT DALY: Last section.

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

ACTING PRESIDENT DALY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1292 are Senators Dollinger, Gold, Jones, Leichter, Ohrenstein, Onorato, Oppenheimer, Pataki and Stachowski. Ayes 44 -- ayes 44, nays 9.

ACTING PRESIDENT DALY: The bill is passed.

Senator Present.

SENATOR PRESENT: Would you recognize the Majority Leader, please.

ACTING PRESIDENT DALY: Senator Marino.

SENATOR MARINO: Mr. President, I thought the members might like to know that I've just been advised that the former Speaker, Mel

Miller's conviction has been overturned, so I'm -- I just wanted to announce that the members should be pleased, as I am, that this conviction has been overturned, congratulate the former Speaker and want to reiterate my -- my feeling that he's always been an honest and -- an honest person with great integrity. It's -- that's the only announcement I have.

ACTING PRESIDENT DALY: Senator Present.

SENATOR PRESENT: Do you have any housekeeping chores?

ACTING PRESIDENT DALY: Yes, we do.

SENATOR PRESENT: Take care of them, please. (To Senator Cook) We did your bill. I'm sorry about that.

THE SECRETARY: On page 23, Senator Libous moves to discharge the Committee on Rules from Assembly Bill Number 7189-A, and substitute it for the identical Third Reading 921.

ACTING PRESIDENT DALY:

Substitution ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. On behalf of Senator Farley, on page 22, I offer up the following amendments to Calendar Number 889, Senate Print 2728-A, and ask the said bill retain its place on the Third Reading Calendar.

Also, Mr. President.

ACTING PRESIDENT DALY: Senator Kuhl.

SENATOR KUHL: Also, Mr. President, on behalf of Senator DeFrancisco, on page 18, I offer the following amendments to Calendar Number 846, Senate Print 4477, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT DALY: Amendments accepted.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT DALY: Senator Seward.

SENATOR SEWARD: On behalf of

Senator Padavan, on page 29, I offer the following amendments to Calendar Number 1213, Senate Print Number 4704-A, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT DALY: Amendments accepted.

Senator Kuhl again.

SENATOR KUHL: Yes, Mr. President, on behalf of Senator Spano, I wish to call up his bill, Senate Print 1533, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT DALY: Secretary will read.

THE SECRETARY: By Senator Spano, Senate Bill Number 1533, an act to amend the Penal Law.

SENATOR KUHL: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT DALY: Call the roll on reconsideration.

(The Secretary called the roll on

reconsideration.)

THE SECRETARY: Ayes 53.

SENATOR KUHL: Offer up the following amendments, Mr. President.

ACTING PRESIDENT DALY: Amendments accepted.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT DALY: Senator Holland.

SENATOR HOLLAND: Mr. President, on behalf of Senator Wright, on page 28, I offer the following amendments to Calendar Number 1193, Senate Print 5768, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT DALY: Amendment accepted. Senator Seward.

SENATOR SEWARD: Yes.

ACTING PRESIDENT DALY: Senator Holland still has the floor.

SENATOR HOLLAND: On behalf of Senator Saland, on page 38, I offer the following amendments to Calendar Number 200, Senate Print Number 766, and ask that the said

bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT DALY: Amendment accepted. Senator Seward.

SENATOR SEWARD: I defer to Senator Libous.

ACTING PRESIDENT DALY: Senator Libous.

SENATOR LIBOUS: Mr. President, please remove a star from Calendar 3927-B, Calendar 894.

ACTING PRESIDENT DALY: Star is removed.

SENATOR LIBOUS: Thank you, Mr. President.

ACTING PRESIDENT DALY: That concludes, I think, the housekeeping business.

SENATOR PRESENT: Mr. President, there being no further business, I move that we adjourn until tomorrow at 11:00 a.m.

ACTING PRESIDENT DALY: Senate stands adjourned until tomorrow at 11:00 a.m.

(Whereupon, at 4:25 p.m., the

Senate adjourned.)