ALBANY, NEW YORK

July 3, 1993

3:00 p.m.

REGULAR SESSION

LT. GOVERNOR STAN LUNDINE, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. I'd like to ask everyone present to rise and repeat the Pledge of Allegiance with me.

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

Please be seated.

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

(A moment of silence was observed.)

Secretary will read the Journal.

THE SECRETARY: In Senate, Friday, July 2nd. The Senate met pursuant to adjournment. The Journal of Thursday, July 1st, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without - hearing no objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

Senate Bill Number 1809-A, by Senator Goodman, an act to amend the Vehicle and Traffic Law;

1885, by Senator Spano, an act to amend the Alcoholic Beverage Control Law;

2230, by Senator Velella, an act to amend the Insurance Law;

3436-B, by Senator Montgomery, authorizing the Commissioner of General Services to lease to not-for-profit organizations;

3654, by Senator Johnson, an act to amend the Tax Law;

4022, by Senator Sheffer, New York State Archives Partnership Trust Act;

407 -- 4047-B, by Senator Sears, Criminal Procedure Law;

4132-B, by Senator Sheffer, to

create a council known as the New York State Quality Council;

4221-A, by Senator Goodman, amends Chapter 746 of the Laws of 1988;

4906-C, by Senator Goodman, Public Authorities Law;

4986-A, by Senator Velella, an act to amend the Insurance Law;

5133-A, by Senator Farley, an act to amend the Tax Law;

5264-A, by Senator Cook, an act to amend the Public Health Law;

5671, by Senator Trunzo, Administrative Code of the city of New York;

5885-B, by Senator Trunzo, Retirement and Social Security Law;

5976, by Senator Johnson, Environmental Conservation Law;

6005, by Senator Goodman, an act to amend the General Business Law;

6036, by Senator Daly, Public Authorities Law;

6068, by Senator Marchi,

Environmental Conservation Law;

And Senate Bill Number 6114, by Senator Trunzo, an act to amend the Executive Law;

Also Senate Bill Number 6142, by the Committee on Rules, an act to amend the Executive Law.

All bills reported directly for third reading.

THE PRESIDENT: Third reading.

Senator Present.

SENATOR PRESENT: Mr. President, I believe Senator Marino has a privileged resolution at the desk and Senator Marino has said that anyone who wants to be an additional sponsor of this may. May we have the title read and have it acted upon?

THE PRESIDENT: Secretary will read the title.

THE SECRETARY: Legislative Resolution, by Senators Marino, Hannon, LaValle, Johnson and Skelos: Congratulating the New York Islanders Hockey team upon the occasion of

winning the 1993 Lester Padgett Division Championship and in recognition of their outstanding play and courageous effort during the National Hockey League season and Wales Conference Play-offs.

THE PRESIDENT: On the resolution, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. If there are any Senators who want to be sponsors, look for the sponsors.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On page 12, I offer the following amendments to Calendar Number 625, Senate Print Number 3815-D and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR LIBOUS: And, Mr. President, on behalf of Senator Daly, on page 30, I offer the following amendments to Calendar Number 1358, Print Number 1092-A, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: Without objection, so ordered.

Are there other motions or resolutions?

Senator Present.

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

THE PRESIDENT: First the Secretary will read some -

THE SECRETARY: On page 36, Senator Hannon moves to discharge the Committee on Rules from Assembly Bill Number 7012-A and substitute it for the identical Third Reading 1473.

On page 37, Senator Marino moves

to discharge the Committee on Rules from Assembly Bill Number 8654 and substitute it for the identical Third Reading 1478.

On page 38, Senator Jones moves to discharge the Committee on Rules from Assembly Bill Number 4080, and substitute it for the identical Third Reading 1485.

Also on page 38, Senator LaValle moves to discharge the Committee on Local Government from Assembly Bill Number 4101 and substitute it for the identical Third Reading 1486.

On page 38, Senator Padavan moves to discharge the Committee on Rules from Assembly Bill Number 6103-B and substitute it for the identical Third Reading 1487.

Page 38, Senator Maltese moves to discharge the Committee on Rules from Assembly Bill Number 5793-A and substitute it for the identical Third Reading 1488.

On page 39, Senator Nolan moves to discharge the Committee on Rules from Assembly Bill Number 6693-A and substitute it

for the identical Third Reading 1490.

On page 39, Senator Velella moves to discharge the Committee on Rules from Assembly Bill Number 8591, and substitute it for the identical Third Reading 1493.

On page 39, Senator Skelos moves to discharge the Committee on Rules from Assembly Bill Number 7875-B and substitute it for the identical Third Reading 1495.

Also on page 39, Senator Skelos moves to discharge the Committee on Rules from Assembly Bill Number 6359-B and substitute it for the identical Third Reading 1496.

On page 39, Senator Trunzo moves to discharge the Committee on Rules from Assembly Bill Number 8040 and substitute it for the identical Third Reading 1497.

On page 40, Senator Mega moves to discharge the Committee on Rules from Assembly Bill Number 8414-A and substitute it for the identical Third Reading 1500.

THE PRESIDENT: Substitutions ordered.

And now we will take up the non-controversial calendar.

THE SECRETARY: On page 4 of today's calendar, Calendar Number 62, by Senator Levy, Senate Bill Number 80-A, an act to amend the Transportation Law, the Education Law and the Vehicle and Traffic Law.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 211, by member of the Assembly Jacobs, Assembly Bill Number 4858-A, an act to amend the Social Services Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

261, by Senator Velella, Senate Bill Number 3156-A, an act to amend the Insurance Law.

THE PRESIDENT: Last section.

THE SECRETARY: Section 2.

SENATOR GOLD: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 271, by Senator Volker, Senate Bill Number 1539-A, an act to amend the Executive Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 287, by Senator Tully.

SENATOR LEICHTER: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 324, by Senator Holland, Senate Bill Number 880-A, an act to amend the Tax Law and the Insurance Law.

SENATOR LEICHTER: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 395, by member of the Assembly -

SENATOR PRESENT: Lay aside for the day, please.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 434, by Senator LaValle, Senate Bill Number 3722-B, an act to amend the Education Law and the State Finance Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 441, by member of the Assembly Jacobs, Assembly Bill Number 5432-A, an act to amend the Tax Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 814, by the Assembly Committee on Rules, Assembly Bill Number 8059, an act to amend the Education Law.

THE PRESIDENT: Last -

SENATOR LEICHTER: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

859, by Senator Volker, Senate Bill Number 3401-B, Civil Practice Law and Rules.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40, nays two, Senators DeFrancisco and Pataki recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 919, by Senator Sears, Senate Bill Number 4215-B, an act to amend the Tax Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

Oh, that bill is passed. Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. May I just request the clerk, when we skip a page or so, if he would mention the page before reading the bill number, it would be easier to follow. Thank you.

THE SECRETARY: Calendar Number 1073, by Senator Hannon, Senate Bill Number 3172, an act to amend the Tax Law.

SENATOR LEICHTER: Lay aside.

THE PRESIDENT: Bill is laid aside.

THE SECRETARY: Calendar Number 1079, by Senator Holland, Senate Bill Number 3931-A, an act to amend the Public Authorities Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1200.

THE PRESIDENT: This is on page 26.

THE SECRETARY: By member of the Assembly Parment, Assembly Bill Number 4803-A, Alcoholic Beverage Control Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1220, by Senator -

SENATOR GOLD: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number

1251, by Senator Lack, Senate Bill -

SENATOR PRESENT: Lay aside for the day, please.

THE PRESIDENT: The bill is laid aside for the day.

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

SENATOR PRESENT: Lay aside.

THE PRESIDENT: Bill is laid aside.

THE SECRETARY: Calendar Number 1262, by Senator Johnson.

SENATOR JOHNSON: Lay aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1306, by Senator Spano, Senate Bill Number 2020-B, Mental Hygiene Law.

THE PRESIDENT: Last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

THE PRESIDENT: The bill is passed.

SENATOR LEICHTER: Again, would you lay that bill aside, please, reconsider.

THE PRESIDENT: Motion to reconsider the vote. On the motion, all those in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The bill is laid aside. That's 1306?

THE SECRETARY: Right.

SENATOR HOLLAND: What page was that on?

THE PRESIDENT: It was on page 28.

THE SECRETARY: Calendar Number 1322, by Senator Tully, Senate Print 723-B,

amends Chapter 629 of the Laws of 1986.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1331, by Senator Goodman, Senate Bill Number 4446-A, an act to determine the date of birth of Elaine Budoff.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: Bill is laid aside.

THE SECRETARY: Calendar Number 1338, by Senator Hannon.

SENATOR PRESENT: Lay it aside.

THE PRESIDENT: Bill is laid aside. I'd like to ask for order in the chamber please. Hard to hear when you're up here and everybody is talking.

THE SECRETARY: Calendar Number 1344, by Senator Volker, Senate Bill Number 5922-A, Public Authorities Law, in relation to the Buffalo Sewer Authority.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1371.

SENATOR PRESENT: Lay aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1386, by Senator Velella, Senate Bill Number 5303, an act to amend the Insurance Law, the Tax Law and the Administrative Code of the city of New York.

SENATOR SOLOMON: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1389, by Senator Pataki.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1416, by Senator Daly, Senate Bill Number 4757 B, an act to amend the Public Authorities Law.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1423, by the Senate Committee on Rules, Senate Bill Number 5702-A, amends Chapter 879 of the Laws of 1936.

SENATOR GOLD: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1431, by the Senate Committee on Rules.

SENATOR GOLD: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1444, by Senator Mega, Senate Bill Number 5985, Uniform City Court Act.

SENATOR PRESENT: Lay aside. Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1449, by Senator Daly, Senate Bill Number 6018, New York State Urban Development Corporation Act.

SENATOR LEICHTER: Lay aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1455, by Senator Lack, Senate Bill Number 6055-A, amends Chapter 994 of the Laws of 1984.

THE PRESIDENT: Last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1458, by Senator Connor, Senate Bill Number 597, to allow Maryellen V. Adinolfi to file a request for Tier I.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43, nays two, Senators Gold and Leichter recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1463, by member of the Assembly Pheffer, Assembly Bill Number 1019, an act to amend the

Tax Law.

THE PRESIDENT: Last section.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1464, by Senator Holland, Senate Bill Number 5333-A, Social Services Law.

THE PRESIDENT: There is a local fiscal impact note at the desk. Last section.

SENATOR LEICHTER: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1465, by member of the Assembly Brodsky, Assembly Bill Number 5673-A, Local Finance Law.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1469, by the Senate Committee on Rules, Senate Bill Number -- Assembly Bill Number 8418, Estates, Powers and Trusts -

SENATOR GOLD: Lay aside.

THE PRESIDENT: Lay the bill aside.

THE SECRETARY: Calendar Number 1472, by Senator Saland, Senate Bill Number 5979, an act to amend the Tax Law and the Labor Law.

THE PRESIDENT: There is a local fiscal impact note at the desk.

SENATOR LEICHTER: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1474, by the Assembly Committee on Rules, Assembly Bill Number 8663, an act to amend the Executive Law.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1476, by Senator Johnson, Senate Bill Number 6037, an act to amend the Social Services Law.

THE PRESIDENT: Last -

SENATOR GOLD: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1477, by Senator Nozzolio, Senate Bill Number 6044-A, an act to amend the Election Law.

SENATOR GOLD: Lay aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1478, substituted earlier today, by member -- by the Assembly Committee on Rules, Assembly Bill Number 8654, Retirement and Social Security Law.

SENATOR LEICHTER: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1479, by the Senate Committee on Rules, Senate Bill Number 6060, to provide service credit in New York State Teachers' Retirement.

SENATOR LEICHTER: Lay aside.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: Calendar Number 1480, by Senator Libous, Senate Bill Number 6062-A, require the Office of Alcoholism and Substance Abuse Services.

THE PRESIDENT: Once again, the Chair would request that those persons in the chamber who must converse please retire from the chamber. It is impossible for me to hear whether there is an objection to a bill or whether it's just general conversation when the noise level rises to that crescendo.

Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1483, by Senator Montgomery, Senate Bill Number 1588, authorizing the city of New York to

reconvey its interest in certain real property.

THE PRESIDENT: There is a home rule message at the desk. Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1484, by Senator Farley, Senate Bill Number 2268, to allow James R. Cummings, Town Justice of town of Providence, Saratoga County, to obtain retroactive membership in Tier II.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43, nays 2, Senators Gold and Leichter recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1485, substituted earlier today, by member of the Assembly Johnson, Assembly Bill Number 4080, amends Chapter 928 of the Laws of 1966.

THE PRESIDENT: There is a home rule message at the desk. Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1486, substituted earlier today, by member of the Assembly Tonko, Assembly Bill Number 4101, an act to amend the General Municipal Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1487, substituted earlier today, by member of the Assembly Diaz, Assembly Bill Number 6103-B, General City Law.

SENATOR DOLLINGER: Lay that aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1488, substituted earlier today, by member of the Assembly Pheffer, Assembly Bill Number 5793-A, Civil Rights Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1489, by Senator Holland.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1490, substituted earlier today, by member of the Assembly Faso, to establish a library district in the town of Coeymans.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1491, by Senator Tully, Senate -

THE PRESIDENT: Did somebody want to lay it aside?

SENATOR PRESENT: For the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 1492, by Senator Lack, Senate Bill Number 4624, to allow James J. Spero retroactive membership in Tier I.

THE PRESIDENT: There is a home rule message at the desk. Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43, nays two, Senators Gold and Galiber recorded in the negative -- Gold and Leichter, excuse me, recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1493, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8591, an act to amend the Insurance Law.

THE PRESIDENT: Last section.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1495, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 7875-B, an act to amend the Penal Law.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1496, substituted earlier today, by member of the Assembly Feldman, Assembly Bill Number 6359-B, an act to amend the Family Court Act.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1497, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8040, Education Law.

THE PRESIDENT: Last section.

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

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: Yes. May I be excused from voting on this bill, please.

THE PRESIDENT: Without objection, so ordered.

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1498, by Senator Tully, Senate Bill Number 5608-A, an act to amend the Public Health Law.

THE PRESIDENT: Last section.

THE SECRETARY: Section 2 -

SENATOR LEICHTER: Lay aside.

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

SENATOR LEICHTER: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1499, by Senator Farley, Senate Bill Number 5652, Real Property Tax Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

THE PRESIDENT: The bill is passed.

SENATOR JOHNSON: Mr. President, like to explain my vote on this bill.

THE PRESIDENT: Senator Johnson is recognized to explain his vote.

SENATOR JOHNSON: This -- this bill really gives us a rare privilege and that

is to begin a quiet revolution in the way property taxes are applied in the state of New York. Without -- without, as I say, raising ideological issues, this is a concept that was first raised by Henry George over a hundred years ago, was eventually held that land values are created by the community and in addition to the land improvements thereon are created by individuals who put their money and their time into the improvement.

We are recognizing now that that is a valid proposition, and that there should be essentially a differentiation in the tax rate on land and on buildings and on the improvements and this so-called George's movement, in recent years, has brought about greater benefits to many communities in our neighboring state of Pennsylvania which has diminished the tax rate on land -- on property improvements and raised the tax rate on land and it's helped to bring about a renaissance in the city of Pittsburgh and many other cities. A comparable city to Pittsburgh might be Buffalo and the rate of

business permit increases is 80 percent greater in Pittsburgh than in Buffalo and one of the principal reasons for this is because of the two-rate tax system which has not penalized people who seek to improve and upgrade their property.

Now, this is a small bill for a small community in the state of New York, the city of Amsterdam. The city of Amsterdam is one of the old deteriorating mill towns along the Mohawk, and this city is going to have an opportunity to experiment with a two-rate tax system and hopefully bring about an economic resurgence in that community.

So I congratulate Senator Farley for advancing this bill. I've had a great interest in doing this. The city of Rome has had -- made a movement toward that but for many reasons they couldn't implement it, but I think this city is an ideal place to do it.

Senator Farley, you're a leader in helping to rationalize the real property tax situation in the state of New York. I commend

you for it, and this bill deserves the support of all the members in this house.

THE PRESIDENT: Senator Farley is recognized to explain his vote.

SENATOR FARLEY: Just quickly to explain my vote.

THE PRESIDENT: Thank you, Senator Gold.

SENATOR FARLEY: For all of my colleagues that have a small city or any city, it doesn't have to be a small city, Senator Dollinger, this is an exciting piece of legislation that stimulates building, and it's truly a renaissance situation that has been startling in its results in Pennsylvania.

This is the first in the state. Amsterdam, a small deteriorating city in my district, has asked for this, and it's a local piece of legislation, but it's something that you should watch. You should mention it to your small cities if you have them or to your cities within your district, Jamestown included, because it could be a very exciting opportunity

to stimulate building and growth within a - within a city.

I vote aye.

THE PRESIDENT: The bill has been passed, and -

SENATOR GOLD: What were the results?

THE PRESIDENT: The bill has been passed.

SENATOR GOLD: Yes, I just want to know the results. I just want to know if the requests for explanation changed the vote.

THE PRESIDENT: Some time, Senator Gold, I'll tell you the story about when I had an uncontested amendment rejected by the House of Representatives, but not right now. I insisted on explaining my amendment. But that did not happen in this case. The bill is still passed unanimously.

THE SECRETARY: Calendar Number 1500, substituted earlier today, by the Assembly Committee on Rules, Assembly Bill Number 8414-A, Surrogate's Court Procedure Act.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46, nays 1, Senator Pataki recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1503, by Senator Spano, Senate Bill Number 5986, to allow Judge Gilbert Rabin retroactive membership in the New York State and Local Employees' Retirement System.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45, nays 2, Senators Gold and Leichter recorded in the negative.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number -- Calendar Number 1505, by the Senate Committee on Rules, Senate Bill Number 6077, to authorize Lawrence Leff, an employee of Nassau County to file for retroactive membership.

THE PRESIDENT: Last section.

SENATOR GOLD: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1506.

THE PRESIDENT: This bill will be laid aside. It's high, and there is no message at the desk.

THE SECRETARY: Calendar Number 1507, by Senator Johnson, Senate Bill Number 6079, Environmental Conservation Law.

SENATOR LEICHTER: Lay it aside.

THE PRESIDENT: The bill is laid aside.

SENATOR WALDON: Mr. President.

THE PRESIDENT: Senator Waldon.

SENATOR WALDON: Thank you very much, Mr. President. I request unanimous consent, I'm not sure on the procedure, because it passed so long ago, but in regard to Calendar Number 441, that I be recorded in the negative.

THE PRESIDENT: Without objection, it's so ordered.

SENATOR WALDON: Thank you very much.

THE SECRETARY: Calendar Number 1520.

THE PRESIDENT: The bill is high. It will be laid aside, and it, by way of explanation, the bill is not on today's calendar.

That concludes the non-controversial calendar.

SENATOR PRESENT: Mr. President, I believe we're prepared to take up the controversial calendar.

THE PRESIDENT: All right. The Secretary will read.

THE SECRETARY: On page 4, Calendar Number 62, by Senator Levy, Senate Bill Number 80-A, an act to amend the Transportation Law.

SENATOR GOLD: Explanation.

THE PRESIDENT: Explanation is requested, Senator Levy, on the bill.

SENATOR LEVY: I'm sorry?

THE PRESIDENT: No problem, but the Calendar Number 62 was laid aside earlier, is now before the house.

SENATOR LEVY: Sure, if there are any questions, I'd be happy to answer them.

SENATOR GOLD: Explanation.

SENATOR LEVY: Senator Gold, what -- well, let me begin, Senator Gold, by saying that we have an enormous grave and concerning problem in this state, and it relates to the transportation of children in wheel chairs in vehicles -- in vehicles in this state.

Now, about two weeks ago, I hosted a meeting, and let me just acknowledge the extraordinary job that Senator Libous and

his special committee have done in this area. I hosted a meeting a couple weeks ago among the state Department of Transportation, the state Department of Motor Vehicles, the Commissioner of Education, and the Advocate for the Disabled, and I have to tell you, it was incredible to sit at that meeting with DOT, state Education Department and DMV, and they don't talk to one another about this area of concern.

DOT was moving forward within their jurisdiction to regulate this area, and the Department of Motor Vehicles was totally - totally ignorant of what the Department of Transportation was doing, and the Department of Motor Vehicles has a significant area of jurisdiction in this area, Senator Gold, and they weren't doing anything, and they didn't know that the Department of Transportation was acting.

So what -- what this bill does, Senator Gold, is to make sure DOT proceeds and enacts the regulations that it was going to do and requires the Department of Motor Vehicles as

it relates to their area of concern to look into it and enact the rules and regulations to guarantee the safety of these children and others being transported in wheel chairs.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Senator Levy yield to a question?

SENATOR LEVY: Certainly.

SENATOR GOLD: This bill is the same bill as we had last year, Senator?

SENATOR LEVY: No, it isn't, Senator.

SENATOR GOLD: What is the difference between the bill?

SENATOR LEVY: This is -- there are many differences because, since last year, Senator, the DOT has moved forward to regulate -- regulate the transportation of children and others in wheel chairs and to focus in on this very, very real problem of securement devices, occupant securement devices on school buses and omnibuses, and the bill requires that those

regulations be promulgated and it requires additionally that the state Department of Motor Vehicles focus in on the same problem within their jurisdiction and responsibility of buses other than school buses, because they are also regulating on non-school bus type of transportation, the transportation of children and others in wheel chairs.

SENATOR GOLD: Senator yield to a question?

SENATOR LEVY: Yes, I will.

SENATOR GOLD: Senator, your last answer confused me a little bit. You say the bill is different from last year because now the department is doing something and they have regulations.

SENATOR LEVY: No, they don't have regulations. They are looking into it, and this requires the Department of Transportation to act and, as I told you initially, when we sat around the table at this meeting, the -- through the meeting that we convened, the Department of Motor Vehicles found out that the Department of

Transportation was regulating their jurisdictional area. They didn't even know it until I conducted this meeting, and they said they are doing nothing to regulate the transportation of non-school bus type of vehicles in this state that are transporting people in wheel chairs, and this requires them to act to regulate that area.

SENATOR GOLD: Will the Senator yield to a question?

SENATOR LEVY: Yes, certainly.

SENATOR GOLD: Senator, are there any reporting requirements in the legislation?

SENATOR LEVY: Yes. Again, in another area, there is a reporting requirement to the Legislature because for years now there is an interdepartmental school bus committee and that interdepartmental school bus committee for years now has been trying to agree among themselves. These are state department -- state agencies, on a legislative recommendation to us as to the definition of "school bus" and they haven't been able to reach an agreement among

themselves. So we say to them, Hey, guys, get your act together and give us a report on your recommendation of how we should define "school bus."

SENATOR GOLD: Senator Levy, you say that the -- the reporting requirement is to the Legislature. I don't see that. Can you show me where that is?

SENATOR LEVY: It's in the last section of the bill, and it's the report, the definition to the Governor, the Senate, the Speaker, the chair of the respective committees.

SENATOR GOLD: Yeah.

Mr. President, on the bill.

THE PRESIDENT: Senator Gold is recognized.

SENATOR GOLD: Senator Levy, we are lawmakers here. Some of us are even lawyers and words have meanings.

There's no requirement to report to the Legislature, Senator Levy. There's a requirement to report to the President of the Senate and the Speaker of the Assembly, and the

chair of the committee in the Senate and the Assembly.

I'm a member of the Legislature. There's no report -- requirement to report to me. There's no requirement that the Minority Leader of the Assembly receive a copy of your report or any of the ranking members, at least that's the way the language seems to read.

SENATOR LEVY: Senator, I am sorry, that is an oversight, Senator. As you've asked me the other day, with the Commission on Alternatives to the Property Tax, I go out of my way to carry out my responsibility to make sure that there are reports to Majority and Minority leadership in both houses and committee chairs.

That is an inadvertent oversight. If this bill were to become law, when the report is made to those that are directed to receive the report, you can personally be assured of the fact that I myself will bring a copy to your office, Senator Gold.

THE PRESIDENT: Last section. Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I'd just ask one question to the sponsor if I may. I -- Senator, I voted on this bill when it was in the Transportation Committee. I guess it was in a prior print, but my question is, the -- is it true that the National Highway Traffic Safety Administration has already conducted an investigation of the issue of wheel chair safety on school buses and issued a series of regulations; and how does that play in this?

SENATOR LEVY: What they have done, Senator, is to leave certain areas to the action of the state, and this is -- this is the area that this bill deals with to make sure that DOT and DMV carry out the responsibilities that have been left to them by the federal government and the recommendations of the safety board.

SENATOR DOLLINGER: O.K. So I understand it, through you, Mr. President, this is not duplicating anything that the fed's have done; this is to fit in the envelope in this series of regulations created by the fed's?

SENATOR LEVY: Yes, to give us the opportunity to act in this area.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: On page 6, Calendar Number 261, by Senator Velella, Senate Bill Number 3156-A, an act to amend the Insurance Law.

SENATOR GOLD: One second. Will Senator Velella yield to a question?

SENATOR VELELLA: Yes.

SENATOR GOLD: Senator, we had a vote on this bill earlier this year, and then it was amended; is that correct?

SENATOR VELELLA: We had a vote and then what?

SENATOR GOLD: Earlier this year

and then it was amended?

SENATOR VELELLA: Yes. The amendments were at the suggestion of the Insurance Department. After it had passed both houses, they found some technical questions in the language and they had asked that we make some changes that we agreed some of the language in the original bill was a little bit vague, and they were a little concerned about interpret ing that and leaving some big wide gaping holes. So we met with them and, upon the agreement of all the parties, the Assembly, the department, the Senate, we made these modifications.

SENATOR GOLD: All right. Will you yield to one more question?

SENATOR VELELLA: Yes.

SENATOR GOLD: I have a note that indicates on the original print the Life Insurance Council was opposed and Blue Cross/ Blue Shield was opposed on the original print. Were any of their objections dealt with in the amendment?

SENATOR VELELLA: Well, there were -- I can't specifically remember off the top of my head what their specific objections were, but I tend to think that since what we've done is clear up language that would have allowed the possibility of double payments on claims, paying both a physician and an audio logist, that that was one of their objections.

Now, does that remove all of their objections? I don't know. I don't remember what the original objection was. I do know that these amendments clear up the question of whether or not there could be double billing and whether or not services that were provided could be provided outside of a hospital setting.

So those were the main -- the two main changes that were made in these amendments. I would assume that was part of their objection. If they have any others, I've not been made aware of it.

SENATOR SOLOMON: Mr. President.

THE PRESIDENT: Senator Solomon.

SENATOR VELELLA: I've just been advised, Senator Gold, that Blue Cross/Blue Shield has approved this. That was one of their objections, and they're approving it now.

SENATOR SOLOMON: Yeah, on the bill, Mr. President.

THE PRESIDENT: Like to ask for order in the chamber.

SENATOR SOLOMON: Mr. President, this is again another mandate that has an impact only on those that have to abide by New York State's insurance laws. As we drive more and more people out to try and self-insure and be covered by ERISA, if they can, that will raise the cost of insurance as it is; and, again, we talk about basic coverages and basic or coverage of basic services for insurance to supposedly keep down the cost of insurance, and again we're on this trend.

We have no cost/benefit analysis showing us how much items like this are going to cost, how their impacts are going to be on individual policyholders, and we keep moving in

this direction where we consider health insurance costs a major problem, but we keep increasing the number of items which they must cover, and the result being that policies eventually tend to go over, be one of the contributing factors to rising costs of health insurance.

Thank you.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48, nays 1, Senator Libous recorded in the negative, also Senator Solomon in the negative. Also Senator Holland. Also Senator Bruno in the negative, also Senator Seward in the negative. Ayes 45, nays 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 287, by Senator Tully.

SENATOR PRESENT: Lay it aside temporarily.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 324, by Senator Holland, Senate Bill Number 880-A, an act to amend the Tax Law and the Insurance Law.

SENATOR LEICHTER: Explanation.

THE PRESIDENT: Explanation is requested.

Senator Holland.

SENATOR HOLLAND: Mr. President, this bill provides tax incentives for businesses and individuals to encourage the purchase of comprehensive long-term care insurance policies and thus, over time, reduce reliance on the Medicaid program for the provision of long-term care services.

We believe we must take action now to reduce the cost of Medicaid for long term care. By encouraging businesses and middle income individuals to consider the purchase of

long-term care insurance as an integral part of their financial planning, the tax credit provided for this legislation would help ensure that many New Yorkers will not be forced onto Medicaid as their savings are exhausted.

The credit against taxes is 20 percent of the premium paid in a taxable year for long-term care insurance policies.

SENATOR LEICHTER: Mr. President, will Senator Holland yield, please?

SENATOR HOLLAND: Yes, sir.

SENATOR LEICHTER: Senator, I wonder if you could tell us, first of all, whether this is an agreed-upon bill, and I'm not one that generally thinks we shouldn't pass one-house bills, because if the house feels about a particular legislation a certain way then we ought to act on it, but having in mind the date, I think maybe my question is relevant at this point.

SENATOR HOLLAND: There is a similar bill introduced by Assemblyman Schimminger. However, it does have technical

differences with this bill.

SENATOR LEICHTER: I'm sorry, I couldn't hear you, sir.

SENATOR HOLLAND: There is a similar bill that has been introduced by Assemblyman Schimminger, but it does have technical differences with this bill. That's why it has no "same as".

SENATOR LEICHTER: All right. Am I correct then -

SENATOR HOLLAND: They're not exactly the same.

SENATOR LEICHTER: This is a nice way of saying this is not an agreed-upon bill.

SENATOR HOLLAND: They're not exactly the same.

SENATOR LEICHTER: Right, and certainly something, Senator, that on July 3rd, it's important for us to do. I see the bill bears a date of January 20th, and I'm glad that you left the bill for such a propitious time for us to debate this one-house bill. It certainly is significant.

SENATOR HOLLAND: Is that a question?

SENATOR LEICHTER: Let me -- if you'd be so kind just to yield to some questions.

SENATOR HOLLAND: Certainly.

SENATOR LEICHTER: My understanding is that we do have a program in effect in this state relating to the purchase of insurance for long-term health care.

SENATOR HOLLAND: True.

SENATOR LEICHTER: Right? And I'm not sure how that program, which I think just went into effect and I believe was sponsored by our dear and beloved ex-colleague Senator Lombardi, how does it -- how does your bill accommodate and work and coordinate with his bill?

SENATOR HOLLAND: We have been successful, as you say, Senator, in creating the long-term care insurance policy.

SENATOR LEICHTER: Excuse me, Mr. President. It's very hard to hear Senator

Holland.

THE PRESIDENT: Senator Leichter's point is well taken. There will be order in the chamber.

SENATOR HOLLAND: As you say, Senator, we have been successful in creating long-term health insurance policies. This bill, we hope, will reinforce the sale of those policies by giving a tax credit to the people who purchase long-term care policies so that they -- their insurance takes care of their long-term health instead of Medicaid.

SENATOR LEICHTER: O.K. Senator, your -- your fiscal impact notes or fiscal implication statement is always very interest ingly worded. This one says "to be determined."

I thought the whole idea, Senator, of a fiscal implication statement was that when we vote on the bill, we have some idea what it's going to cost.

SENATOR HOLLAND: I'm sorry, Senator, there is a fiscal implication note. I

don't know why you don't have it. It says actually, and I thought you'd bring this up, that this -- they're saying the cost, short-term cost, would be $22 million in the year of 1994. However, in the long term, we believe that on average, it would -- if people were encouraged and given tax credits to buy the long-term insurance policy, they would save or the state would rather save 23 months of long-term care services for each person kept from converting from private pay to Medicaid, and that's approximately $70,000 per individual long-term savings.

Initially, it would be a cost to the state.

SENATOR LEICHTER: Senator, is there anything in your bill which limits the credit or conditions of credit upon what sort of insurance company it is? I -- I assume that you need to be a licensed insurer, but is there any other supervision and control over the insurer to make sure that what we're getting is something that makes it worth this subsidy?

SENATOR HOLLAND: There's a number of things, Senator. Must be -- the credit must be approved by the Superintendent. The policy must provide a minimum of three years benefits, cover skilled, intermediate and long term care, include a case management function, provides indemnity levels for policies issued in 1992, and on and on and on.

SENATOR LEICHTER: Senator, among the insurance coverage that can be purchased under your bill, is there one that provides home care?

SENATOR HOLLAND: Got it. On page 4, line 39, coverage for skilled and intermediate and long-term care, custodial home care, home health care without the requirement of a prior stay -

SENATOR LEICHTER: Where - excuse me, Senator. Where are you reading, what line?

SENATOR HOLLAND: Page 4, line 39. This is an "A" version.

SENATOR LEICHTER: O.K. O.K.

Thank you.

Mr. President. Mr. President, there certainly is merit in trying to get people to secure coverage to cover long-term health care. I'm really not sure that this is the - the most effective way of providing subsidies for people to do that. It may be or it may not be. Obviously, there's a lot of consideration now being given to how we deal with health care needs in this country, if we need a national approach; there are things that we need to do in this state.

Senator Holland's bill provides a cost of $22 million, as I understand that's an annual cost, am I correct on that, Senator, or the initial annual cost if I could ask you to yield again, just so I understand what that 22 is.

SENATOR HOLLAND: Just projected for 1994, Senator.

SENATOR LEICHTER: All right. So that this bill carries a big price tag with it. There's also a question in my mind who really

benefits. Are we reaching the people that we most want to help? In order to get some benefit out of the tax credit, you've got to pay a substantial tax and, while this bill and this credit certainly would be of value to people who make over $100,000, I'm not sure that it's going to amount to very much and be significant for most of the people in this state. Certainly it's going to have limited value, if any value, for working people, middle class people, so on, so that if you're going to take $22 million maybe you want to target it more directly to people who have greater need, Senator Holland.

That's why I think that this bill, while it certainly grapples with the problem, and I don't think anybody can say, Well, this is a wrong way to go, but I'm not sure that you have fine tuned it enough and refined it enough, and I suspect and, as you indicated, it's not something that we're going to be able to get the Legislature to act on at this time.

I don't know why you -- you know,

you bring out the bill at this late hour, and so on, with, I think, such minimal chance that it's going to receive consideration of both houses. Maybe on the idea that as long as there's life, there's hope, and you'll still get another bill through, but I might suggest that you take a look at the calendar. It's July 3rd. Maybe we could be doing things that would be more productive.

I don't mean to say it's not important. It is important, but we certainly could be spending our time much more product ively like being at the beach or at a picnic or some patriotic celebration.

Mr. President, it's just, I think people ought to take a look. It has a $22 million price tag, obviously is not considered in the state's fiscal plan. It does primarily benefit wealthier individuals. For these reasons and also the fact that we're just voting on a one-house bill, I would urge my colleagues to vote in the negative.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47, nays 3, Senators Espada, Leichter and Solomon recorded in the negative.

THE PRESIDENT: The bill is passed.

SENATOR FARLEY: Mr. President, could I be recorded in the negative on Calendar 261?

THE PRESIDENT: Without objection, it's so ordered.

THE SECRETARY: Calendar Number 814, by the Assembly Committee on Rules, Assembly Bill Number 8059, an act to amend the Education Law, in relation to exempting certain persons from licensing requirements for practicing animal health technology.

SENATOR LEICHTER: Explanation.

THE PRESIDENT: Explanation is requested.

SENATOR LEICHTER: I withdraw my -

THE PRESIDENT: The -- read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: This is 814.

SENATOR JONES: To explain my -

THE PRESIDENT: Just a second, Senator Jones. I'll recognize you as soon as the -- Senator Jones.

SENATOR JONES: Yes, to explain my vote, Mr. President.

I have never, I guess, in my life seen so many untruths, misstatements and ridiculous information disseminated anywhere as I've seen on this bill. I am absolutely astounded and shocked, and I want to say particularly to Senator Cook, someone told me once, there isn't any courage here. I want to tell you that I believe that there is.

This bill involves nothing but saving the life of a baby and, in return, it is not harming the life of an animal. There could not be more protection built into this bill to protect the animal with the opportunity to save hundreds of babies a year, and I just want to say thank you to all of you that had the courage to look at the truth and vote for this.

SENATOR COOK: Mr. President.

THE PRESIDENT: Senator Cook is recognized.

SENATOR COOK: Mr. President, I would like to explain my vote by a very unusual method of reading the bill, in case anybody left their glasses home.

A person, an unlicensed person may perform endotracheal intubation on an animal under supervision of a veterinarian in lieu of the veterinarian personally performing the procedure.

In other words, the procedure a veterinarian was going to perform themselves anyway, if the person doing it is a certified

emergency medical technician enrolled in a course of advanced emergency medical technology approved under Article 30 of the Public Health Law.

(b) the procedure is performed as a part of the certified emergency medical technician's pediatric endotracheal intubation training.

(c) And this is important, the procedure is performed in a veterinary facility under the immediate personal supervision of a licensed veterinarian or a licensed veterinarian technician acting under the direct supervision of the veterinarian.

(d) the procedure is medically indicated and performed as a part of treating or operating on any non-emergency disease, pain, injury, deformities or physical condition of the animal.

(e) the procedure is performed only when the animal is properly sedated.

(f) the procedure is performed no more than once per animal.

(g) the animal owner or person having lawful charge or custody of the animal consents in writing to the performance of this procedure.

Mr. President, if that sounds anything like anything that other people have been reading in the past week, I defy them to show me the similarity.

I vote yes.

THE PRESIDENT: Senator Bruno is recognized to explain his vote.

SENATOR BRUNO: Yes, thank you, Mr. President.

Thank you, Senator Cook, for the explanation. I am continually puzzled by the organizations that support or oppose some of the animal legislation that comes through here, and I see for instance opposing this the New York State Humane Society, among many others, and I wonder why the Humane Society opposes this, given that the cats, as we've heard, the kittens are used in the way that they are used and not abused.

It would seem that there ought to be a plausible explanation as to why so many of the animal organizations are against this, and there appears from some of what I've read that using models of infants that don't move serve a very useful purpose as a substitute for using live animals.

So, Mr. President, I hear the explanations, but I for one am very uncomfort able with the potential consequences to helpless animals. So I will vote no.

SENATOR MEGA: Mr. President.

THE PRESIDENT: Senator Mega is recognized to explain his vote.

SENATOR MEGA: May I explain my vote?

This type of legislation involving an animal and the memos that are produced, and the distortions that are presented to try and get someone to vote against this bill -- and I have no problem with anybody voting against this bill -- but I think Senator Cook just very clearly indicated that no way is this

going to hurt an animal, and I think the most important part of the legislation is that this cannot be done, and I repeat that this cannot be done, unless the owner of the animal consents.

Now, what owner of what animal is going to consent to having this done if there was something wrong with it? So a no vote, I can understand, but what I can't understand is anybody believing -- anybody believing the memos in opposition. That boggles my mind.

I vote yes.

THE PRESIDENT: Senator Halperin is recognized to explain his vote.

SENATOR HALPERIN: I'd like to explain my vote.

Earlier today, I had a conversation regarding this legislation and I was advised that this legislation mandates that trainees for emergency -- emergency medical technician status must perform this type of intubation in order to be certified.

I checked with the sponsor of the bill, and I was assured that that's not the case

and, probably more importantly, I read the bill and there's nothing in there that provides for that, and I just want to say that I want to make that clear on the record, and I want to make it clear that this bill relates once again only to voluntary situations where the owners are authorizing this intubation which would otherwise have to occur or has otherwise been determined to be for the best interests of the animal and, with that in mind, I vote in favor of the bill.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I was going to oppose this, and I know that it's been discussed a little bit within some particular groups but, as Senator Jones mentions and as Senator Cook mentions, I think it's very important that there's nothing more important than the possibility of saving a human life, and in this case an infant's life, and I just think that what has been said on the floor and actually reading the bill compels me

to change my vote, and I will support it and vote yes.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Yes, Mr. President.

I was going to oppose this bill, but I think the debate and the explanation makes it absolutely essential that, in my judgment, that there's no concern about inhumane treatment of animals. I'm going to vote aye.

SENATOR LEVY: Mr. President.

THE PRESIDENT: Senator Levy.

SENATOR LEVY: Yes, Mr. President.

I was going to vote against the bill myself and, like so many people in this chamber, I consider myself to be a -- a genuine lover of animals and -- and I listened to the debate, and we have had a bill here a short time ago having to do with bicycle helmets and trying to avert head injuries and this type -- this type of work is vitally important as it relates to dealing with head injuries.

But just in voting yes, let me just say one other thing: The people who have opposed this bill have worked diligently and sincerely out of concern in opposition to this legislation for a while and they are, they have been, and I know that they will continue to provide not only this house but the Assembly and the Governor with -- with really very, very valuable information that raises the level of consciousness of all of us as it relates to genuine problems in the treatment of animals, and I think that -- that the job that they've done ought to be recognized and -- and if there was a misunderstanding over some of the provisions of this bill, it certainly should not work negatively against all of the hard and effective work that has been done by those people in those groups.

I vote aye.

THE PRESIDENT: Senator LaValle is recognized to explain his vote.

SENATOR LAVALLE: Explain my vote, Mr. President.

Like many of the others who have risen to explain their votes, I, too, had intended at one point in time to vote in the negative on this legislation.

Last -- during this year, Senator Bruno had asked me to take a -- a trip to Hudson Valley Community College and, during that visit, I had stopped at one of the -

THE PRESIDENT: Excuse me, Senator LaValle. Senator LaValle is recognized.

SENATOR LAVALLE: I had stopped in one of the departments, respiratory therapy department, and last year many of you might remember that we passed legislation licensing respiratory therapists.

During my visit, I asked several people about the nature of this bill and whether procedures could effectively, on youngsters using a model, whether that would be effective, and the answer was -- was no, and in talking with so many people about whether a procedure could be done using a model, the answer came

back consistently no.

I believe there are protections in this bill and, like Senator Levy, I, too -- I think my record has reflected -- has been one consistently for humane treatment of animals. I think there are sufficient protections in this bill.

Therefore, Mr. President, I vote in the affirmative on this bill.

THE PRESIDENT: The Secretary will report. Senator Montgomery wish to be recognized?

SENATOR MONTGOMERY: Yes. Thank you. Mr. President, I would just like to, in adding to what my colleagues have said regarding this bill, I want to add my comments, my compliments to Senator Cook for your courage in putting this bill out.

I'm voting yes because I see where the intent, the primary intent of the bill, the ultimate outcome is that we will be able to save the lives of many children. In the support memo, I see where some 200 children die

every year because of the lack of experience on this particular procedure and, if we can save the lives of those children, I think it's worth passing this legislation.

So I'm voting yes, and thank you, Senator Cook, for putting the bill out.

THE SECRETARY: Those recorded in the negative on Calendar Number 814 are Senators Bruno, Johnson, Lack, Maltese, Nozzolio, Padavan, Pataki, Spano, Trunzo, Velella and Waldon. Ayes 40, nays 11.

THE PRESIDENT: The bill is passed.

Senator Cook.

SENATOR COOK: Can I have unanimous consent to make a statement?

THE PRESIDENT: Without objection.

SENATOR COOK: Mr. President, I want to thank this house. I think you saved the lives of a hundred kids a year. Thank you.

THE PRESIDENT: O.K. Secretary will read.

SENATOR PRESENT: Mr. President, can we call up Calendar 287, please.

THE SECRETARY: Calendar Number 287, by Senator Tully, Senate Bill Number 724-C, an act to amend the Public Health Law.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

THE PRESIDENT: The bill is passed.

SENATOR PATAKI: Mr. President.

THE PRESIDENT: Senator Pataki.

SENATOR PATAKI: Mr. President, I'd like unanimous consent to be recorded in the negative on Calendar 859, Senate Bill 3401, which previously passed the house.

THE PRESIDENT: Without objection, so ordered.

THE SECRETARY: On page 23, Calendar Number 1073, by Senator Hannon, Senate

Bill Number 3172, an act to amend the Tax Law.

SENATOR LEICHTER: Explanation.

THE PRESIDENT: Explanation is requested.

SENATOR HANNON: Mr. President, this bill would conform provisions of the Tax Law to those provisions currently existing in the federal Internal Revenue Code in order to allow for the limited carry forward of net operating losses when computing minimum taxable income.

This bill was passed in this house last year also.

SENATOR LEICHTER: Yeah, Mr. President. If Senator Hannon would be so good to yield.

Senator, as I said to Senator Holland, I don't usually think it's significant whether something is a one-house bill or not, but I think when it's July 3rd, I see a bill bearing a date of March 2nd, I'm interested in knowing whether the bill is going to have any chance in the other house.

Could you tell us whether this is an agreed-upon bill?

SENATOR HANNON: I'm not going to answer that question. The question -- you ask me a question about the merits of the bill, how many jobs are involved in New York State, what it means to the economy of the state, whether people are looking at this as to whether some people are concerned as to whether or not we're going to do anything for the economy of the state, I'll be happy to answer about it.

I don't know what the state of the mind of the other house is. Currently they're in a full court stall on everything so they can protect wealthy tenants. That's all I know.

SENATOR LEICHTER: Senator, may I -

SENATOR HANNON: I refuse to yield, Mr. President.

SENATOR LEICHTER: Yeah, Mr. President, that's all right. I thought it was a good -- I thought it was a good statement about

where you're at, and where -- and what some of the problems are in this Legislature, why we're not getting anything done, and I'm referring to your frame of mind.

Senator, would you be so good as to yield?

SENATOR HANNON: I respectfully decline, Mr. President.

THE PRESIDENT: Senator Hannon has indicated he does not wish to yield. Senator Leichter has the floor.

SENATOR LEICHTER: I think that's unfortunate and let me just say, Senator Hannon, I've always found you extremely courteous, cooperative, we may not agree on the issues. I think on July 3rd, being here in this chamber anybody is allowed to be intemperate, and I expect to be intemperate very soon too because I think it is -- Senator Gold says I already am.

SENATOR GOLD: I said no, it is impossible for you.

THE PRESIDENT: I'd like to ask all the Senators if you will please keep order,

please not engage in cat calls or other kinds of extraneous conversation.

Senator Leichter is recognized.

SENATOR LEICHTER: Yeah. Mr. President, I -- I can understand the frustration and the annoyance of Senator Hannon, and I think all of us share that. I don't think we should be here. I think it's absurd. I think it's ridiculous. I know that the Majority all likes to say, Well, we were elected to run this house, and let me tell you, we have nothing to do with running this house. You could take all the credit for having us here over July 4th week end doing one-house bills, and I don't -- and I disagree with some of the colleagues on this side of the aisle who in March or April will get up and say, Is this a one-house bill? Why shouldn't we pass one-house bills? You have a particular viewpoint, that's fine.

But I think it's a little different when it's July 3rd, and let me say, Senator Hannon, to you and to the members of the Majority, it's one thing for you to say, I'll

stay here on July 4th, nobody put a gun to your head or to my head or to the head of 211 legislators and said, You've got to serve in the New York State Legislature, but there happen to be hundreds of people who work with us and for us, and we're ruining their July 4th. These are telephone operators, they're elevator operators, they're guards, they're sergeant-at-arms, they're people that work at the desk.

SENATOR TULLY: Mr. President, Mr. President.

THE PRESIDENT: Senator Tully.

SENATOR TULLY: Would Senator Leichter yield to a question?

SENATOR LEICHTER: Yes.

SENATOR TULLY: Senator Leichter, do you really believe for one minute in sincerity, in all due sincerity, and I have the highest personal regard for you, that Senator Hannon's bill that's before us today is the reason we're going to be here the rest of the day or the reason we're going to be here tomorrow or the next day?

You do know, do you not, that it's the Governor that's the reason that we're here. It's no one else's reason; it's the Governor we're here for, because the governor hasn't agreed to things the two houses have agreed upon and, if he would agree, we'd be out of here. It's certainly not Senator Hannon.

SENATOR LEICHTER: Senator Tully, I think there are a number of people, a number of the institutions within this Capitol that are responsible for the -- for us being here at this time and accomplishing absolutely nothing.

SENATOR HANNON: Mr. President, is this germane to the bill before the house?

THE PRESIDENT: The Chair will advise Senator Hannon that there is a wide latitude of relevance, and that this Chair does not have the authority to rule a Senator out of order on the grounds that his comments are unrelated to the bill.

Senator Leichter.

SENATOR LEICHTER: Yeah. Senator, I'm sure the Governor bears some

responsibility. I know that the Majority in this house bears a great responsibility. I believe that the Assembly Majority bears some responsibility. I know one person who bears no responsibility, and that's Franz Leichter, and I know one Conference that bears no responsibility and that's the Democratic Conference of this house.

But I think the fact is, and the point is, Senator Tully and Senator Hannon, and it is relevant to your bill, it's relevant to whether we ought to be discussing a bill of this nature and this sort on July 3rd, and that is that we have not gridlock in this Capitol. We have stagnation. We have gone beyond grid lock. We are totally non-functional.

The way we have conducted business this session is a disgrace. Now, some members have said, Well, the public will see we're really working. We're working even on a patriotic holiday. I think the public is either going to laugh or cry, and they're going to say, Look at these stumble bums. They couldn't get

their work done.

But I want to get back to the fact. Listen, I feel terrible that I'm here, but I don't think that we have the right for the nature of the disputes that are going on, to keep hundreds of people, it's probably thousands that all work for us, and take away their holiday. These are working people. They didn't sign on for this sort of incompetence that is being displayed here, and let me just say to Senator Hannon, who feels, you know, that all the reason that we're here -- Senator, yeah. O.K. Senator Hannon said that he's -- he'd -- if I'd just let this bill pass, he's going to go and take care, and we're going to get out.

Senator Goodman already promised that, Senator Hannon, so I have a gilt-edged promise. Somebody said they saw it on television. Senator Goodman said, Oh, yes, we'll be out of here.

But let me just -- let me just say that the whole concept of -- that has characterized this session, which is that you

negotiate on nothing, and I think it's as true of the Assembly as it is of this house, you wait until the very last minute, you wait until you're up against a deadline and then you're going to start negotiating.

I -- I think it's led us to this impasse. I think that we are the laughing stock of -- of the state, but there are people's lives that are being ruined by what we're doing here, people's plans at least, I don't know if their whole lives, but probably right now they feel their whole lives are being ruined, and it just doesn't make sense and the fact is that we have a one-house bill which, I'm sorry to tell you, Senator Hannon, isn't -- isn't a good bill anyhow, and I'll just briefly say why I'm going to vote against it.

This does give an additional tax credit or -- or it's actually a carry-over which means that we're going to have people paying less taxes as it relates to the corporate alternate minimum tax, Senator Hannon, as I understand it, is trying to conform the New York

State tax to the -- to the federal tax.

Whether that has merit or not, he makes his bill effective as of April 1, 1993, so it will affect our current budget. It will unquestionably mean that there will be less taxes paid and we are already, as we know, running a deficit. How can we conceivably support a bill that's going to bring in less revenues?

For that reason, that the bill is not going to pass in the Assembly and the bill would never been signed by the Governor, but it shouldn't be passed by this house either because it's irresponsible for us to do so, whether or not it's July 3rd.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR HALPERIN: Mr. President.

THE PRESIDENT: Senator Halperin.

SENATOR HALPERIN: I'd like to explain my vote.

Just in line with what Senator Leichter said, I believe that this bill is justified from a policy perspective, but given the fact that there's already an over $200 million shortfall in anticipated revenues in this year's budget, and that the state lost a round in its PEF legislation which could subject it to very large additional expenditures, I believe that it's not wise to impose another loss of revenues upon the state at this time, and should this approach be adopted in the budget and be part of the fiscal plan, I think it is much warranted, and I would be happy to vote for it, but under these circumstances I'm going to vote against it.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Yeah, if I could explain my vote.

Senator Halperin, there was, I'd like to remind you -- I'm sure you heard this

debate the other day that we had on the -- I think it was the Environmental Trust Fund and, in that situation, Senator Halperin, we were talking about $100 million we had to come up with. We didn't pass that bill and maybe, Senator Halperin, the -- well, but it's a one-house bill, one-house bill.

But, Senator Halperin, what I'm getting at is maybe the sponsors of this bill would use the method that was set forth in that memo. They said they were going to skim the money off the taxes so maybe what they're saying, Senator Halperin, is if this becomes law we can use the new Republican fiscal mechanism of skim taxes. You don't like that?

I'll vote in the negative also.

SENATOR DOLLINGER: Mr. President.

THE PRESIDENT: Senator Dollinger is recognized to explain his vote.

SENATOR DOLLINGER: Mr. President, I'm always amazed by the -- since this is my first time around, about the budget

process that we went through, where there were lots of things on the table from the Majority Conference on this side, in this house, and they were all negotiated, and we ended up with a budget and certain things that didn't get into the budget.

Lo and behold, they seem to pop up all over the place as one-house bills now on the 3rd of July, three months later. I gave a speech here a couple of weeks ago about Harvey economics. It seems to me that this is another example of the Harvey economics practiced by the other side, that sort of mythological viewpoint of very rosy future for this state and the things that we ought to do to keep Harvey around.

Well, it seems to me you got me again. I'm going to vote for this, but I have a real question as to whether this rabbit is real either, but you tell me it is, I'll buy the rabbit.

THE SECRETARY: Ayes 50, nays 4, Senators Galiber, Gold, Hal... Galiber, Gold,

Halperin and Leichter recorded in the negative; also Senator Solomon in the negative; also Senator Stavisky. Ayes 48, nays 6.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1220, by Senator Holland, Senate Bill Number 5147-B, an act to amend the Public Authorities Law.

SENATOR LEICHTER: Explanation.

THE PRESIDENT: Explanation is requested. Senator Holland.

SENATOR HOLLAND: This bill would establish the Rockland County Solid Waste Management Authority and provide for its purpose, powers and duties.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: Yes. If Senator Holland would yield?

SENATOR HOLLAND: Yes, sir.

SENATOR LEICHTER: Senator, I had a brief occasion to speak to you in the hall

about a concern that I had about this bill, but also a similar bill, I think, that you have for Orange County dealing with the disposal of solid waste, and that's the provisions that you have in here on competitive bidding, and if you could just address that.

SENATOR HOLLAND: I believe it's covered, Senator, on page 17, line 44, contracts.

SENATOR OPPENHEIMER: Mr. President.

THE PRESIDENT: Senator Leichter has the floor.

SENATOR LEICHTER: If you would just bear with me a second, Senator Oppenheimer. I'm sorry, that's page 17, what line was that?

SENATOR HOLLAND: 44.

SENATOR LEICHTER: Since I don't have the law, Senator, that is referred to in that provision, if you would just tell me what it does insofar as the competitive bidding laws.

SENATOR HOLLAND: That particular section says, I believe, says, subdivision 4 of this section for construction of a solid waste management resource recovery building by the project developer shall contain provisions that such building shall be constructed through construction contracts awarded through public competitive bidding in accordance with paragraphs (a) through (g) of the subdivision; that said project developer, et cetera, et cetera.

SENATOR LEICHTER: Good. Thank you, Senator. One other question if you would be so kind as to yield.

What does it do with prevailing wage?

SENATOR HOLLAND: It has nothing specific, Senator. You know, we're working on separate bills regarding prevailing wages. This doesn't comment on it.

SENATOR LEICHTER: So, Senator, am I correct that contracts let for construction by this authority would not be subject to

prevailing wage?

SENATOR HOLLAND: They would be subject to existing laws, Senator.

SENATOR LEICHTER: Existing laws, and does that existing law include the prevailing wage laws?

SENATOR HOLLAND: Only the prevailing wage laws that are on the books today, General Municipal Law, and you know we are developing other bills regarding the prevailing wage.

SENATOR LEICHTER: But you're saying that it would be subject to -

SENATOR HOLLAND: Existing law.

SENATOR LEICHTER: -- existing prevailing laws insofar as these affect municipal contracts.

SENATOR HOLLAND: Correct.

SENATOR LEICHTER: O.K. Thank you.

SENATOR OPPENHEIMER: Mr. President.

THE PRESIDENT: Senator

Oppenheimer.

SENATOR OPPENHEIMER: If Senator Holland would yield.

SENATOR HOLLAND: Yes, ma'am.

SENATOR OPPENHEIMER: The construction that you're talking about in this bill I'm not sure what that is. There's a portion in the bill that talks flow control, and flow control is fine with me if it involves construction of a MRF, but it's not fine if it involves construction of something that, of an incinerator.

The construction you were just talking about, what -- what is to be constructed?

SENATOR HOLLAND: I don't believe there's any discussion of construction of an in cinerator, Senator. There might be construction of a building where the refuse would be separated.

SENATOR OPPENHEIMER: Right, a MRF.

SENATOR HOLLAND: Yes.

SENATOR OPPENHEIMER: O.K. Yes, I believe last year, you can correct me, I'd like to ask Senator another question. This bill last year, did it have the flow control in it as well?

I question because I voted against it last year, and I think it is -

SENATOR HOLLAND: Was it last year's bill or not?

SENATOR OPPENHEIMER: We have checked it out.

SENATOR HOLLAND: I don't have it.

SENATOR OPPENHEIMER: It was in an earlier edition. It's now changed. I will be supporting the bill.

SENATOR HOLLAND: O.K. Thank you.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is

passed.

Senator Present.

SENATOR PRESENT: Mr. President, call up Calendar 1520, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1520, by Senator Cook, Senate Bill Number 5264-A, an act to amend the Public Health Law.

SENATOR PRESENT: Mr. President, is there a message of necessity at the desk?

THE PRESIDENT: There is a message at the desk.

SENATOR PRESENT: I move we accept the message.

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

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

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

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

SENATOR SOLOMON: Explanation.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT LIBOUS: Lay that bill aside temporarily.

THE SECRETARY: Calendar Number 1306, by Senator Spano, Senate Bill Number 2020 B.

SENATOR GOLD: Explanation.

THE SECRETARY: An act to amend the Mental Hygiene Law.

ACTING PRESIDENT LIBOUS: Senator

Spano, an explanation is requested.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay it aside temporarily.

THE SECRETARY: Calendar Number 1331, by Senator Goodman, Senate Bill Number 4446-A, to determine -

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT LIBOUS: Lay it aside temporarily.

THE SECRETARY: Calendar Number 1338, by Senator Hannon, Senate Bill Number -

SENATOR PRESENT: Lay aside.

ACTING PRESIDENT LIBOUS: Lay it aside temporarily.

THE SECRETARY: Calendar Number 1371, by member of the Assembly Lasher, Assembly Bill Number 5823, Real Property Law.

SENATOR GOLD: Hold on one second. Just one second.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay the

bill aside.

THE SECRETARY: Calendar Number 1386, by Senator Velella, Senate Bill Number 5303, an act to amend the Insurance Law, the Tax Law and the Administrative Code of the city of New York.

SENATOR SOLOMON: Explanation.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT LIBOUS: Lay it aside temporarily.

THE SECRETARY: Calendar Number 1389, by Senator Pataki, Senate Bill Number 5576-A, an act to amend the Mental Hygiene Law.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT LIBOUS: Laid aside temporarily.

THE SECRETARY: Calendar Number 1416, by Senator Daly, Senate Bill Number 4757-B, Public Authorities Law.

SENATOR GOLD: Hold on one second. Last section.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: We'll call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1423, by the Senate Committee on Rules, Senate Bill Number 5702, to amend Chapter 879 of the Laws of 1936.

SENATOR GOLD: Explanation.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT LIBOUS: Lay it aside temporarily.

THE SECRETARY: Calendar Number 1431, by the Senate Committee on Rules, Senate Bill Number 6049, amends Chapter 814 of the Laws of 1987.

SENATOR GOLD: Explanation.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT LIBOUS: Lay it aside temporarily.

THE SECRETARY: Calendar Number 1444, by Senator Mega, Senate Bill Number 5985, Uniform City Court Act.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay that bill aside.

THE SECRETARY: Calendar Number 1449, by Senator Daly, Senate Bill Number 6018, New York State -

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT LIBOUS: Lay that aside for the day.

THE SECRETARY: Calendar Number 1463, by member of the Assembly Pheffer, Assembly Bill Number 1019, Tax Law.

SENATOR LEICHTER: Explanation.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay the bill aside.

SENATOR PRESENT: Temporarily.

ACTING PRESIDENT LIBOUS: Temporarily.

THE SECRETARY: Calendar Number 1464, by Senator Holland, Senate Bill Number 5333-A, Social Services Law.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT LIBOUS: Explanation. Senator Holland.

SENATOR HOLLAND: Mr. President, we've gotten many complaints from the local social services offices because we put an administrative cap on them. In other words, they couldn't spend any more money. This bill will supplement and raise that cap if they have a surge in case loads.

There is no money allocated this year. It would be in next year's budget if this bill is authorized. This bill is also carried in the Assembly by Assemblyman Tallon.

SENATOR LEICHTER: Mr.

President.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: If Senator Holland would yield, please.

ACTING PRESIDENT LIBOUS: Senator Holland, would you care to yield to Senator Leichter?

SENATOR HOLLAND: Yes, sir.

ACTING PRESIDENT LIBOUS: Yes, he will, sir.

SENATOR LEICHTER: Senator, you've addressed what is my concern about this bill is where we pass this bill and we tell the communities, well, if you have a surge in your welfare loads and the administrative costs increase, we're going to help you, but we're not putting any money in. So, you know, you may get it some time in the future.

Is that a fair thing to do? Is that a sensible thing to do?

SENATOR HOLLAND: I think it's fair, Senator, because they have been asking us

to do this for a number of years and, if we're successful in getting it passed this year, then we'll fight over the money implementation next March, and hopefully be successful.

SENATOR LEICHTER: But, Senator, when you say that the localities have been asking us to do this, they've been saying do it with money, not with good wishes. I mean they didn't -- they didn't say, please send us your concern. They said, Send us your money, right?

SENATOR HOLLAND: I understand, but we were unsuccessful in getting it done before this. We were unsuccessful in getting it done before this budget of April 1st. We want to get it done next year. If we pass this bill, we'll be required to look into the possibility of funding this next year. It's better than doing nothing.

SENATOR LEICHTER: Well, Senator, as far as the localities are concerned, this is exactly next to nothing. They're -- they're coming here saying, Help us. I think they probably make a fairly good -- good case.

You're saying, Well, I'm going to do what -- it reminds me of Alice in -- in Wonderland, where Alice -- where Alice was told, You can always have jam tomorrow, but never today. Well, we know your problem, we -- we really feel sorry for you, and maybe we'll do something about it one day. I mean the bill doesn't amount to anything, does it?

SENATOR HOLLAND: Senator, it's supported, you probably know this, by the New York City -- I'm sorry, supported by New York City, New York Public Welfare Association and the New York State Association of Counties.

SENATOR LEICHTER: Senator, if you would yield for one more question. You certainly have distinguished sponsorship in the Assembly and it has distinguished sponsorship in the Senate, I want to make it clear.

SENATOR HOLLAND: Thank you, sir.

SENATOR LEICHTER: Is that -- did Assemblyman Tallon indicate he was going to pass it?

SENATOR HOLLAND: Yes, sir.

SENATOR LEICHTER: O.K. Senator, I guess the justification for the bill is that, if we get it into law in this fashion, then maybe we'll put more pressure on us next year to put it in the budget.

SENATOR HOLLAND: Well said.

SENATOR LEICHTER: O.K.

ACTING PRESIDENT LIBOUS: Senator Espada.

SENATOR ESPADA: Very briefly, on the bill.

This is a good bill. It certainly allows for many other things to happen, some of them awaiting introduction in this house for consideration, and I would urge all my colleagues to support it.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT LIBOUS: The bill is passed.

THE SECRETARY: Calendar Number 1465, by member of the Assembly Brodsky, Assembly Bill Number 5673-A, Local Finance Law.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay the bill aside.

SENATOR PRESENT: No.

SENATOR LEICHTER: Explanation.

SENATOR JOHNSON: Mr. President, this is a bill which, as we've heard, has already passed the Assembly. I see no point in laying it aside constantly. Is there a question which could be addressed at this time?

SENATOR LEICHTER: Can you give an explanation?

SENATOR JOHNSON: Yes, this amends the water pollution control revolving fund. It's making necessary changes to comply with the federal requirements. It allows the

localities to execute a grid note, in other words, a single bond for all the improvements to the municipality's sewer district, and the money would be advanced at the time it was actually needed, the interest would start accruing from the time the money is advanced, not from the time the bond is actually issued.

This is a procedure which is done privately many times which allows you to get a line of credit and borrow what you need and pay what you need at the time. It's a good correction, will save the localities and the EFC some monies, and there's no objection to it. It's passed the Assembly, and it's something that should be done.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: Would Senator Johnson yield?

ACTING PRESIDENT LIBOUS: Senator Johnson, would you care to yield to Senator

Leichter?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT LIBOUS: He will.

SENATOR LEICHTER: Senator Johnson, does this affect in any way the bidding requirements as to municipal notes or bonds?

SENATOR JOHNSON: No, it doesn't. That's the same; this just protects the way the money is -

SENATOR LEICHTER: I'm sorry, can't hear you.

SENATOR JOHNSON: The answer is no. The answer to your question is no.

SENATOR LEICHTER: Senator, if you would yield to another question, would these bonds or notes be subject to competitive bidding?

SENATOR JOHNSON: Whatever the present procedure is, Senator, will remain. All we're saying is, the money can be advanced incrementally and the interest due from that date rather than the entire block being contracted at once.

SENATOR LEICHTER: Good. No objection.

SENATOR JOHNSON: Or having multiple bond issues fattening multiple bond dealers.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT LIBOUS: The bill is passed.

Senator Present.

SENATOR PRESENT: Mr. President, may we call up 1449, please.

ACTING PRESIDENT LIBOUS: 1449, Secretary will read.

THE SECRETARY: On page 33, Calendar Number 1449, by Senator Daly, Senate Bill Number 6018, New York State Urban

Development Corporation Act.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT LIBOUS: Senator Daly, Senator Leichter is asking for an explanation.

SENATOR DALY: Mr. President, this bill extends the loan powers of the Urban Development Corporation which expire on July 1st, 1993 for two years.

It also increases the number of directors for UDC from 9 to 11.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President, on the bill.

ACTING PRESIDENT LIBOUS: Senator Leichter to speak on the bill.

SENATOR LEICHTER: Let me first deal with what I think is a minor aspect of the bill which doesn't bother me that much, in increasing the membership of the board of

directors by providing for an appointee of the Majority Leader of this house and the Speaker of the Assembly.

I think -- I think that's good although I wish that provision had also been made for the Minority Leaders of the respective houses to have an appointment. I think it's good because the UDC has really become a government within a government, and that leads me to the second point and why I'm going to oppose the bill is to extend its borrowing powers.

UDC really has become, as I said, a supergovernment that involves itself in numer ous communities in the state in developments, in projects, with extremely little control. Their expenditures are outrageous. I'm going to be issuing a report soon which will show you enormous sums that the Urban Development Corporation has spent on the so-called 42nd Street Development Project which has gone absolutely nowhere.

SENATOR DALY: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Daly, why do you rise?

SENATOR DALY: Will the Senator yield?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT LIBOUS: Senator Leichter, will you yield?

SENATOR DALY: Senator, I think I heard you say it extends UDC's loan -- borrowing powers. This bill does not extend UDC's borrowing powers. It extends its loan powers; in other words, its power to give loans, not to borrow money. I just want to make that point. Does the Senator understand that?

SENATOR LEICHTER: Senator, I - I'm glad you corrected me in that respect, because I did misspeak. But even its loan powers, I think, are suspect. I'm going to be issuing another report on a program that the UDC has had, a program that was supposed to help minority businesses, that has been where they make loans that has been an appallingly slipshod program, lost money, hasn't achieved its

purpose.

I'm sorry to say that I think the oversight of the Urban Development Corporation by this Legislature has been really in sufficient. We ought to be looking at it. We ought to see what they do. We ought to see where do these contracts go. I'd like to have somebody check more carefully. Who are the bond counsels? Who gets the insurance? What are these projects? To what extent is there local input, is there local control over these projects?

But above all, how are we making sure that public monies, and that's really what we're talking about, I mean the UDC doesn't go raise its own monies; they get large appropriations. How is that being spent; how is it being used?

Now, we'll of the Majority Leader and the Speaker, their representatives will be on the board, maybe there'll be a little more openness, but I think really much more is required, and I -- I just point out we're

dealing with millions and millions and millions of dollars, without any of the controls that we normally impose on governmental agencies, so I wouldn't even call this an incremental step, Senator Daly.

I think really so much more needs to be done here, and I'm not -- I'm not willing and ready at this time to give the UDC an extension of any of its powers. Let's have an audit. Let's have an accounting. Let's have an investigation, because it's really called for.

SENATOR DALY: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Daly.

SENATOR DALY: Mr. President, in many ways Senator Leichter and I agree on UDC. However, I would like to make three points.

First of all, there is the PACB, the PACB, which has the authority to and has to approve any of the borrowings done by UDC.

Secondly, the Assembly is trying to jam down our throats permanentization of the loan powers and we, as you note in this bill,

say we'll go as far as two years, but we won't go any further, and I think that's important, Mr. President.

Also, the Assembly is not willing -- does not want at this time to put any member of the Legislature on the board, and I agree with the Senator, and that's why we have asked and we are requesting your approval to change the law so that we do have one representative from each house on the board of directors.

I think those three points are important. One, PACB does have the authority to have to approve any borrowing. Secondly, we don't want to permanentize; we're saying we'll go another two years, again because we want to keep UDC on a short rein, and that is the purpose of the language in it. That is our approach to controlling UDC and its activities, Mr. President. Thank you.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55, nays two, Senators Espada and Leichter recorded in the negative.

ACTING PRESIDENT LIBOUS: Senator Daly.

Oh, the bill is passed.

SENATOR DALY: Thank you, Mr. President. May I move to reconsider the vote by which Calendar Number 1416, Senate 4757-B passed.

ACTING PRESIDENT LIBOUS: Secretary will read.

THE SECRETARY: By Senator Daly Senate Bill 4757-B, Public Authorities Law.

ACTING PRESIDENT LIBOUS: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

SENATOR DALY: I will shortly have amendments to that bill. In the meantime,

I would like to lay it aside.

ACTING PRESIDENT LIBOUS: Bill is laid aside.

SENATOR PRESENT: Regular order.

ACTING PRESIDENT LIBOUS: Secretary will read regular order.

THE SECRETARY: Senate Bill 1469, by the Assembly Committee on Rules, Assembly Bill Number 8418, Estates, Powers and Trusts Laws.

SENATOR GOLD: Explanation.

SENATOR PRESENT: Lay it aside.

ACTING PRESIDENT LIBOUS: Lay the bill aside.

THE SECRETARY: Calendar Number 1472, by Senator Saland, Senate Bill Number 5979, an act to amend the Tax Law, the Labor Law and the Navigation Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT LIBOUS: Senator Saland, explanation, please.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this is an omnibus mandate relief act. The purpose of the bill is to do just as the name would imply, which is to basically try to attempt to give to the term local/state partnership some substance, and what this bill proposes to do with the relief of a number of mandates which, in turn, would translated to somewhere in the area of $1.5 billion worth of tax relief to our localities, is to accomplish that which we've heard much talk about during the course of this -- of this past session, and yet been unable to attain.

It is, in substantial part, the end product of input from a number of my col leagues, from a series of hearings that myself and Senator Larkin conducted across the state over the course of this session. It basically has six major components.

Those components would be reducing local fiscal burdens, permitting localities greater administrative flexibility, reducing the burden of state regulations, eliminating unnecessary state reporting and

approval requirements, reforming municipal liability and encouraging local consolidation and cooperation.

ACTING PRESIDENT LIBOUS: Senator Gold.

SENATOR GOLD: Yeah, thank you, Mr. President.

Mr. President, I just want to ask Senator Saland one question, if I could.

SENATOR SALAND: All right.

ACTING PRESIDENT LIBOUS: Senator Saland, would you yield to Senator Gold?

SENATOR SALAND: Certainly.

SENATOR GOLD: Senator, is this the same bill as 608-A of last year?

SENATOR SALAND: I don't believe it is. It may -- it may have some of the same components, but I don't believe it is.

SENATOR GOLD: All right. And the second question is, this is my notes say the Republican version. This is not an agreed bill, is that right?

SENATOR SALAND: There are

currently three-way negotiations going on dealing with the subject. As you may recall, the Governor earlier this year at the time of the State of the State and thereafter spoke very glowingly about the subject of mandate relief. We're hoping that that can be accomplished in the remaining, if perhaps not hours then days of this session.

SENATOR GOLD: Yeah. Mr. President.

ACTING PRESIDENT LIBOUS: Senator Gold.

SENATOR GOLD: First of all, I - I want to relate to a point that Senator Leichter made earlier today concerning so-called one-house bills, and I think the point he was trying to make was that we didn't resent so much that we had to discuss a bill earlier today by one of our Republican colleagues that had an introductory date of February or March, in July. I think the point was that, when we were working for 15 minutes a day in February, we could have worked an hour a day in February and

could have done all your one-house bills then.

But with regard to this specific piece of legislation, this bill is opposed by AFSCME and by CSEA. It was opposed, I believe last year also, and I really don't want to get overwhelmed by it, because the bottom line is that there is a true mandate relief bill, I'm sure that everybody will be in favor of it, although, Senator Saland, I'm sure some people over here may decide to vote for it.

But the hypocrisy of it all is not Senator Steve Saland. The hypocrisy is that this side of the aisle, day after day has to point out to your side of the aisle each little piece of schtiklauf which you'll explain to them, Senator Saland, what that means that you come up with each day that's a mandated on localities and in each of your cases, when it's your little bill, it's O.K. to mandate on localities and, if you think that that comment is made without back-up, you're wrong because I would -- we are now up to, this is Calendar Number 1472, Senator Saland, and if any of your

colleagues want to sit down with any of your press or with your staffs and go from Calendar Number 1 through 1472, I'm willing to bet you, you won't find the Democratic bills that you've let through, few as they may be, with mandates in them, but you're going to find bill after bill sponsored by Republicans in this house which have unfunded mandates upon the localities. But in each case we hear, Well, I mean, but there'll be money for that. We'll find money for that, or as somebody said, let them skim tax, I still can't believe that one of you people put that in your memo, that that's how you're going to raise $100 million by skimming taxes.

But the point is that Senator Leichter really was correct. This is the wrong day, July 3rd, to start by negotiating out on the floor. Senator Saland, I believe in my heart that you would love to see a local mandate relief bill, there's no doubt in my mind. I also -- there's no doubt in my mind, Senator Saland, that you have a very fine mind and I'd

like that mind off of this floor negotiating a bill that we can pass, not standing here and hoping, well, there are -- the Democrats in the Assembly are now going to see that this house passed a bill. This was not this house. The Democrats who control the other house know that you can pass anything you want and it doesn't help your negotiating position or hurt it whether you pass it or you don't pass it. All you do is wind up wasting a lot of people's time.

Now, I have heard just moments ago that the Majority Leader of the New York State Assembly has had the courtesy to come before that chamber and announce that the Assembly intends to work a little bit more today, end at a reasonable time and come back tomorrow and work through 'til we do our work. All right?

I would think, if that's what they are going to do, that who knows, at some point we may decide that we are going to treat this house like human beings and set up some

kind of a schedule and work out our problems. But how do you do that if we got a calendar full of things which are on the calendar for no other reason than for people to take positions and make speeches and not get any real laws passed?

When we do one-house bills in July, we're not making laws. We're not doing anything. We're doing nothing except things which I start to resent very much and other people do also.

So I'm not going to read the memos. You've been through these memos before. It's no secret where the opposition and where the support comes from and, Senator Saland, it would seem to me that there are two things that can really happen: You can use your good offices, which I happen to respect, and maybe we can get a bill that becomes a law and, number two, you can convince some of your colleagues on that side of the aisle who I know respect you very much, to stop putting in their bills which are local unfunded mandates.

ACTING PRESIDENT LIBOUS: Senator

Saland.

SENATOR SALAND: On the bill. Permit me to say, I certainly appreciate Senator Gold's comments. He is certainly a most capable representative of the chair, the Minority Leader, and does his job very, very well. But taking his comments and those of Senator Leichter perhaps to their logical conclusion, one would assume that what should be done is during the first week of January, we should have all bills agreed upon and at that time pass all the bills and then spend the rest of our time doing whatever it is that we have to do in order to obtain some type of a budget agreement.

The reality is, as I mentioned in my opening comments, Senator Larkin as the chairman of Local Governments Committee, myself as the vice-chair of the Legislative Commission on State and Local Relations, conducted a series of hearings statewide that concluded some two or three weeks ago. It wasn't until after we had concluded that series of hearings that we were able to put together the bill that is currently

before the house, and the reality is that that bill is supported by all of the municipal organizations, the Association of Towns, the New York State Conference of Mayors and Municipal Officials, the Association of Counties, all with memos strongly in support of the bill.

I certainly -- I don't feel that any member who has been involved in the putting together of this bill has anything to apologize for. I think it certainly makes a statement of where we're coming from. I think it remains to be seen whether those in the other house and whether the Governor can come to grips with what we believe is a relatively simple matter and yet get beyond the stage of paying lip service.

There should be little or no reason not to support this bill, and even in memos to which -- to which Senator Gold referred deals with one small part of the bill, I believe the part dealing with asbestos removal and municipal contracts for roofing and the language in this bill is supported by the roofing unions.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I realize that the whole concept of mandate relief has a certain cachet and has for the last few years in tough economic times, times of budgetary constraint on the state level and on the local and municipal level.

But I think we have to examine each sort of mandate that we relieve and see what its purpose and from whence it arose. Some ten years ago, I was the chair of a task force that conducted hearings around this state on the problems of asbestos and the problem of asbestos in public buildings, in school districts. Also the hearings featured medical testimony and expert testimony about the problem of asbestos exposure and the health conditions it causes.

Very relatively small exposure to asbestos fibers causes asbestosis, which impairs lung functioning and is ultimately fatal. It

causes various types of cancers, which are fatal, and literally in any given contaminated area, there could be millions of virtually invisible asbestos fibers, and it takes but the inhalation of one of them to cause these conditions.

There were, both locally in the city of New York and on the state level, attempts to remedy the asbestos problem and they were two-fold. One was to provide for abatement programs, and the second one was to make sure that the people who were doing the abatement work were qualified to remove asbestos because unqualified, untrained workers removing asbestos only enhance the pollution of the area. If asbestos is removed improperly, the fibers are spread throughout a building and, in some cases, throughout whole neighborhoods when they took off roofing materials, and so on, and we've all experienced from Love Canal in that end of the state, to problems in New York City what can happen when you contaminate a whole neighborhood. Indeed, in my district, lead

contamination in the soil and playgrounds and whole neighborhoods is now a major problem. So we provided that this asbestos abatement work, asbestos removal, had to be done by specially licensed and trained contractors whose workers were trained.

This bill, and because of this most of the public employee unions, AFSCME, C.C. 37, CSEA, are in opposition to it, would exempt local governments and public authorities from the requirements of our asbestos abatement criteria and allow them to do the work, quote, in-house with their own employees, not people licensed to deal with asbestos.

Would they do it well? Well, let me tell you something, my colleagues. We're all dying from asbestos exposure in the LOB. Thirteen or fourteen years ago OGS issued a report, after studying the problem that the whole LOB under those roofing tiles in your office, those ceiling tiles, has friable asbestos, the most contaminating, the most dangerous form of asbestos. It's in your

office. It's in your staff's offices in the LOB, it's throughout, and if you go into those utility closets in the hallway across from your office, it's not even covered by ceiling tiles. You can see it flaking, falling down when you open those doors.

What did OGS do about it? They issued a report on asbestos containment in the LOB, and they said no one can go in those utility rooms to work without it being enclosed in a special air-sealed bubble, without the workers wearing all sorts of breathing equipment. I have seen every year dozens of times telephone company workers and electrical workers in there tinkering around with the door wide open, with the fibers coming out into the hallway. I've seen that every year.

SENATOR SALAND: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Saland.

SENATOR SALAND: Would Senator Connor yield, please.

ACTING PRESIDENT LIBOUS: I'm

sorry?

SENATOR SALAND: Would Senator Connor yield, please?

ACTING PRESIDENT LIBOUS: Senator Connor, would you yield?

SENATOR CONNOR: Yes, I will yield.

SENATOR SALAND: Only for purposes of brevity, because I know some folks on your side of the aisle feel this has been going on indefinitely. Your comments are certainly pointed and well taken, but you understand this is -- this only deals with roofing going on outside of the building.

SENATOR CONNOR: I understand.

SENATOR SALAND: There is nothing that's going to fall inside, nothing that's going to be in any closets.

SENATOR CONNOR: No, I understand, yes.

SENATOR SALAND: What's your question? What's your question? You do understand that?

SENATOR CONNOR: Yes.

SENATOR SALAND: O.K. I thought we could move things up a little bit.

SENATOR CONNOR: Mr. President, I have the floor. Thank you.

So asbestos certainly is invidious. It's damaging to health; it's damaging to your health. It's doing it right now when you go back to your office because those fibers get caught up in ventilation shafts and you all laugh, you all laugh, but it's a serious problem that our leadership, our leadership in both houses, has not addressed. Their offices are over here, by and large, in the Capitol.

Outside, when you remove roofing materials, there is a whole protocol that regards -- that requires step by step that it be done in a certain way and sealed because those fibers can get into the air and, as I said before, there is -- there has been experience where whole neighborhoods, whole neighborhoods have been contaminated with asbestos fibers for

the outside work.

And similarly the disposal of that material that's removed is subject to a whole series of protocols, that contractors and workers are trained to do, the people who do asbestos removal. This bill would exempt local government, municipalities and public authorities, from employing those trained people, those experts. They do it with their own in-house employees.

Now, frankly, a large portion of the asbestos problem, the unremoved, unabated asbestos roofing material, exists in public buildings, in schools. And is it expensive to do? Yes. But the only safe way to remove it is that expensive way, and to say if they do it in house, it's cheaper and they could get a lot more done.

It's not just the problem in removing the material. You have a worse pollution problem if the removal isn't conducted properly. It's safer to leave the asbestos roofing materials there than it is to remove it

improperly. Obviously, the safest thing to do is to properly remove it, and I don't think that these in-house employees that there's any assurance the in-house employees of public authorities and local municipalities have the expertise and knowledge or have even been appraised of what the danger is.

Another thing we uncovered years ago were workers who were sent in to remove asbestos who weren't even told what it was, that it was asbestos, weren't even told what the threats were; they weren't told what precautions they should take. I've seen those same kinds of workers working in the LOB. I've gone into those rooms and said as recently as a year ago, to a phone worker, You know, that's asbestos, you're not supposed to be in here without a mask. This door is not supposed to be open polluting all of our hallways. Actually had one guy walk off the job and one union refuse to do any more work in there. If that's the kind of care we in our own house take with respect to asbestos exposure, imagine what less

sophisticated local entities are going to do with it.

This bill would say it's all theirs to handle in their own way with their own in-house employees, and I'm opposed to it.

ACTING PRESIDENT LIBOUS: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I rise on this bill, and I'm still not sure what I'm going to do, but I wonder.

ACTING PRESIDENT LIBOUS: Excuse me. Senator Saland, why do you rise?

SENATOR SALAND: I'll yield to Senator Dollinger. I didn't realize he was waiting to speak. I wanted to respond to Senator Connor's comments, but -

ACTING PRESIDENT LIBOUS: Senator Dollinger, would you yield?

SENATOR DOLLINGER: I'll yield the floor to the sponsor if the sponsor wants to to the last comments respond.

SENATOR SALAND: Thank you, Senator Dollinger, I appreciate the courtesy.

ACTING PRESIDENT LIBOUS: Senator Dollinger yields. Senator Saland.

SENATOR SALAND: I wouldn't want the body to misunderstand anything that Senator Connor may have said. One might be led to believe that somehow or other, based upon his comments, that there are no standards involved with this bill.

Let me assure you, if you want to take a look at the bill, and I believe the language is contained in section 5, you will observe that nobody gets a free ride. The OSHA standards which requires -- which require training of those people who are going to remove the asbestos is what is required here.

Incidentally, most of this work is done, not in-house, by in-house people. It's done by roofing contractor union employees who favor this bill, who are concerned about working on a roof with an area that's enclosed, with hoses all over the place, where they're at risk, people who are concerned about wearing those suits that they might be required to wear that

OSHA doesn't require in all circumstances, and also it's the very same standard, not a different standard, the very same standard that's currently applied, the OSHA requirement where we're talking private roofing contracts.

So I wouldn't want anybody to misunderstand or somehow to think this is a totally laissez faire operation where there are not any requirements. OSHA not exactly renowned as being a wimpy, sort of disinterested organization requires the training and imposes the standards that have to be met.

Thank you.

ACTING PRESIDENT LIBOUS: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will Senator yield just to one question, then I -

ACTING PRESIDENT LIBOUS: Senator Saland, would you yield for one question?

SENATOR SALAND: Certainly, and I again thank Senator Dollinger for his courtesy.

ACTING PRESIDENT LIBOUS: He will,

Senator Dollinger.

SENATOR DOLLINGER: Senator, is there an appropriation attached to this bill?

SENATOR SALAND: No appropriation attached to the bill, I do not believe, Senator Dollinger. Basically what we're talking here is, in effect, a reduction of certain require ments. Were there, in fact, to be any costs associated with the bill, they'd be significantly outweighed by the savings which are identified by the bill.

SENATOR DOLLINGER: So I understand it, this is mandate relief but there are no funds, sort of unfunded mandate relief, it's a real thing?

SENATOR SALAND: No, for instance, your local governments and school districts would save probably somewhere in the area of 175 million dollars. That's the savings we're talking about by reason of the current asbestos standards that they're required to adhere to. There's a host, probably somewhere in the area of about 40 different mandates that

are addressed in here, each of which has some different fiscal impact which translates to a savings to local government.

SENATOR DOLLINGER: O.K.

ACTING PRESIDENT LIBOUS: Senator Stachowski, why do you rise?

SENATOR STACHOWSKI: You asking questions?

SENATOR DOLLINGER: I was.

SENATOR STACHOWSKI: I was going to ask just one.

ACTING PRESIDENT LIBOUS: Senator Dollinger was asking his one question.

SENATOR STACHOWSKI: I wanted to ask a question; I thought he was through, but go ahead. I'll wait.

ACTING PRESIDENT LIBOUS: Senator Dollinger, you have the floor.

SENATOR DOLLINGER: Well, O.K., Mr. President, I got the answer I was looking for.

When the issue of funded or mandate relief comes up, Mr. President, I guess

it always perks my ears up. It's one of those little catchy things that ends up on a key card pro or con, you know, Dollinger favored mandate relief or didn't favor mandate relief or voted for or against mandate relief and, of course, they leave off the fact that some time in this chamber I proposed the Governor's mandate relief bill which would have saved local communities billions of dollars, but that bill didn't quite go very far, voted down on a voice vote, so I guess we're not talking about funded mandate relief. We're talking about a series of things we can do, and I sat in on one of the hearings in Rochester, and I applaud some of the things you're trying to do. But when you end up shifting 30 or 40 variables in a bill, it represents some interesting dilemmas. So what I did is I did just a little lottery here and just put my finger down on it and said let's look at section 117 of the bill, which requires state agencies -- this is according to the sponsor's memo -- to consider local government petitions for mandate relief and flexibility.

So I took a look at Section 117 and this is where, quite frankly, Mr. President, the question of whether this really is mandate relief or whether this is just mandating a whole bureaucracy in this state to spend a ton of time doing something that they're not currently doing is an interesting question.

Just run through the section, page 54 in the bill, Section 43, it starts off petitions for rule changes, doesn't say local governments can file the petition. It says a person can file a petition. That means anybody, anybody doesn't like a regulation can send a petition to the state of New York to any one of the agencies asking them to take a look at the rules and regulations.

I don't know, a hundred a year, a thousand a year, 18 million people in this state, maybe several thousand a year flooding into our agencies, all different kinds of agencies, asking them, according to the rule, according to this proposed law, to consider amending or repealing their rules.

What are the bases for doing that? Well, the first one is, they're based on inadequate statutory authority. Quite simply, if a rule or regulation is based on inadequate statutory authority, it's unenforceable. That's a simple principle of law. I'm sure most of us can appreciate that. You don't enact rules that are not based on statutory authority. If you do, you can just challenge them in the courts.

It says imposes excessive costs on regulated parties. I think that's an interesting one. I'd leave that one there. Says they're outdated; I think that you should always have agencies looking at them again. Says they're not clearly written. I'm not so sure what that means. It says does not include provisions for making the rules sufficiently feas... flexible to meet the particular unique needs of those who must comply with it.

What that suggests to me is that this is an admonition to our agencies that you should write rules which are specific, and unique to specific situations. What that

suggests to me, Mr. President, is that isn't a rule; that says that you have nothing but exceptions. You have lots of little unique and individual places that you'll simply create a whole bunch of exceptions for all the people that come in and file a request to have their particular needs set.

So we'll end up with something less than statewide regulation. We'll end up with a bunch of little regulations trying to meet all these little unique needs.

Then it says, or they're duplicative or inconsistent with other state or federal rules. We have a whole body of law that applies in those instances when you can simply say, if they're inconsistent with federal law the supremacy clause takes care of them, they're preempted; they're gone. Not a real difference from the law, or they do not fulfill the requirements of law. That falls back to the first section. If they're not following the requirements of law, they're unenforceable; you don't have to worry about it.

Then what does it say? Well, it says you file the petition; you put all this stuff in the petition; you spend all your time doing this, you submit it to the agency and then they have an obligation within a certain period of time to respond, and they say, Oh, yeah, we'll do something or we won't do anything.

But what happens if they do nothing? Well, there's no enforcement provision in the reg, in this proposed law, so the agency doesn't really have to do anything, except, and I will predict that, if this bill passes, if this some day becomes law, every one of our agencies are going to show up at our doorstep and ask for dozens of new employees so that they can respond to this request, so that they can set up an office which will be their regulation review office to handle the hundreds, if not thousands of requests that are going to pour into state agencies asking them to do this.

That's going to generate a huge cost, a huge cost for us. It may look like we're creating mandate relief for someone else

or that we're giving them relief from the flexibility to create flexibility in regulation but to get through this process, we're going to have a need, in my opinion, for hundreds of new employees to handle the thousands of requests. These are detailed, complicated judgments, complicated legal analyses. I think it will be a bonanza for lawyers, and I think you're going to end up in a position where you'll have great frustration because there's no enforcement provision at the end of this. You're going to have someone go through the process. You're going to raise their expectation that they'll get relief, and when the agency basically says six or eight months later, yes, we missed the time period and, Oh, by the way, we've decided not to respond, you don't leave them with any reasonable legal alternative to sue them to force them to do it.

You don't create mandate relief. You simply create the need to create a whole bigger bureaucracy to deal with the whole new series of problems that you create.

Mr. President, I see that this bill has some very good things in it. I appreciate the sponsor trying to package it all together. I understand the complexity of that, and frankly, I'm probably going to vote for it. But my gut reaction is that, if you look at the individual items in this, you'll see that it's not so much creating mandate relief as it's simply creating a whole new level of bureaucracy in this government under the pretext of trying to create mandate relief for some other government.

ACTING PRESIDENT LIBOUS: Senator Saland, do you wish to respond?

SENATOR SALAND: Mr. President, I certainly appreciate Senator Dollinger's comments, and I believe his concern with regard to flexibility can be readily addressed just in terms of what we're attempting to do here is to make sure that there's the ability to handle the unique situation, one in which many regulations require or afford the ability for a waiver mechanism. Not all do, and we basically wanted

to make sure that that mechanism is available; and secondly, I would think that instead of burdening the state in court with Article 78 proceedings, which would be the only measure by which some of these things could be accomplished, in effect, working it out in a less than adversarial situation by way of a petition process would, in the long run, be a less costly process and I don't -- your -- I certainly respect your concerns. I don't know if they necessarily would come to fruition.

ACTING PRESIDENT LIBOUS: Senator Stachowski, did you have a question?

SENATOR STACHOWSKI: Would Senator Saland yield for a question, please?

ACTING PRESIDENT LIBOUS: Senator Saland, would you yield?

SENATOR SALAND: Yes.

SENATOR STACHOWSKI: In your response to Senator Connor, you said that -- how much did you say the school districts and local governments would save on that?

SENATOR SALAND: 175 million.

SENATOR STACHOWSKI: You said they save $175 million and that the work will be done by the same people that are doing it now who all support the bill.

SENATOR SALAND: No, I think I -

SENATOR STACHOWSKI: That's what you said.

SENATOR SALAND: I said there are people who are currently doing that work who are union roofing contractors. It's not done - it's generally not done in-house and they are regulated by OSHA. It's not, somehow this unfettered "we're going to send the janitor up on the roof and have him remove asbestos."

SENATOR STACHOWSKI: But pretty much, you say -- O.K., it's not exactly the same time people, it's the union people that are going to do the work under OSHA standards. Now, maybe I missed something because I know that a lot has happened, but most of the focuses are on places where President Clinton hasn't been so fortunate in a rapid turn-over and a great change in the way things operate, but if I'm not

mistaken in the last 12 years, OSHA has spent more time chasing volunteer fire companies and paid fire companies for the jackets they wear and the air packs they use and the boots they wear to cover fires than they have done on enforcement of work place safety standards, and maybe I missed it, and maybe you can tell me yes or no, but has there been such a change now, that OSHA is once again checking up on these work place safety standards, so that because of that, there will be -- the workers will be safe and we shouldn't pay any attention to these memos, because OSHA will be making sure that the workers are safe and that these memos really aren't necessary and they probably shouldn't have been submitted?

SENATOR SALAND: I didn't know OSHA had stopped, and if you're -- if you're aware of that, I think you should really come to the forefront with it and make sure that the immediate world is aware of it. I think they're doing far more than concerning themselves with volunteer firemen which I perhaps believe

they're being a bit excessively zealous on, but I suggest to you that to assume that OSHA would have no interest or that people such as yourself if you felt somehow or other they were doing an inadequate job wouldn't have the ability to apprise OSHA of a glaring oversight on their part for failing to regulate this area, you know, to me that sort of confounds both logic and reality.

SENATOR DOLLINGER: Mr. President.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Will Senator Saland yield to a question, please? Am I next?

SENATOR SALAND: Certainly, Senator.

SENATOR DOLLINGER: Again, I apologize, I don't mean to be picayune, by pulling out one section, but it happened to be the one that I decided to take a look at. My question is, you talked about negotiating a resolution of these regulations, but isn't the

one lesson that we've learned in the last two weeks, ten days, 24 hours, six days, that someone has to have a hammer somewhere so that, when the negotiations break down, someone can lower the hammer and try to get this process, force someone to actually do this process under penalty of law, penalty of public opinion, and doesn't the absence of any legal alternative in this section, doesn't it render it meaningless? People will go through it, they'll find out that they can't reach resolution and then, oh, by the way, there is nothing else you can do; you've given it a try but you don't have the ability to take them to court and force them to do it. Doesn't that indicate that this will end up being pretty much useless?

SENATOR SALAND: My assumption would be that this would occur within the context of an interested party or an interested locality or some level of government having something that they have a particular issue that they wish to resolve, and I would assume that in lieu of bringing -- bringing on an Article 78

proceeding in an adversarial situation, that they would attempt to try and resolve it by way of working it out in a conciliatory or mediation-like fashion. Assuming they could not, they would still have that remedy.

I would have to think that the people on the other side, the people who were providing the regulations, would be well aware of what the process was all about, would understand where the applicant or petitioner was coming from, and would understand that they'd be prepared to, if necessary, go Article 78.

The Article 78, as you know and I know, is certainly a costly and time-consuming process, but I would assume everybody would prefer avoiding by way of working these out in a conciliatory fashion.

SENATOR DOLLINGER: I concur that conciliation is always the way to go but, Senator, as I think you and I know, at some point somebody has got to have a hammer to make these things happen. My fear is, and again I don't mean to be picayune, I think this bill has

some very good points in it, I don't simply pick this out to see whether it really will do the job, and my sense is that you will have a provision which people will utilize once, get through the process and figure out, Gee, the state agency, as Senator Stafford -- I'm reminded of Senator Stafford who constantly stands here and says the state of New York doesn't respond, they want to litigate, they force those poor towns in the Adirondacks to do this. They're going to force -- the state of New York is going to force this poor community that you just mentioned, this hypothetical community, they'll say, We don't want to change because it's going to cost us money, it's going to take us time, and everybody will sit down and say, Gee, we had a wonderful experience. We tried to conciliate. It didn't work. We're going to go to the lawyer and they say, Can we sue 'em now? And the answer is, Gee, there is no provision for suing them to force them to do it, and I -- unfortunately, you may end up with a procedure that ends up being a form of a cruel

hoax because you raised the expectations but leave them at the doorstep and don't actually get them to bring them in to get the kind of conciliated result that you seek.

THE PRESIDENT: Last section.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: I just want to point out one aspect of the bill that particularly concerns me. I think others have been pointed out, and I think this bill is going to fall very far short of its goal and, indeed, in many instances, I think it's going to end up costing some of the communities in this state.

But I'm particularly concerned about the provision that the Commission on Correction, which has supervision and oversight over the detention facilities, both state and local, will lose the power to direct change. We've had instances where some of the local jails failed to meet basic human standards.

I believe Dutchess County had a problem, Senator Saland. That must be in your district; many years ago where the commission had to go in and had to point out that the conditions were so terrible that changes needed to be made.

Now, you're taking away the power of that commission to direct those changes and saying they can issue advisory opinions. Well, you know, some sheriff who is mismanaging a jail, he gets an advisory opinion. You know what he's going to do with it? Right into the nearest waste basket.

That was an important commission that we set up. It's lost, unfortunately, a lot of its power, a lot of its efficacy, but now you're going and really cutting it off at its knees and saying that it loses its control and power over these local facilities.

I think that's very un fortunate. You know, mandate relief is great. It sounds good, but there are many things that need to be done. There are many times that we

do have to tell a community what it has to do and, as Senator Gold rightly pointed out, nobody imposes more mandates than the Majority. I mean Senator Maltese still has a bill on the calendar that's going to cost the city of New York millions and millions of dollars if -- if that bill were passed and, as was pointed out, it would also cost other localities if they go from a two-person police car to a one-person police car.

Talk about expensive mandates. You have no shame, you'll vote for this bill and you say, We're against mandates, and then you're going to spend the rest of the day imposing mandate upon mandate upon mandate.

But there are some mandates, there are some functions that are important. One of them is to see that the detention facilities meet basic human conditions. We learned after Attica what it means when our facilities, when our prisons fail to meet those conditions, and that's why we set up the Commission of Correction and to take that power

away, I think is a serious mistake.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR STACHOWSKI: Explain my vote.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: To explain my vote.

I would love to support a mandate relief bill. I wish this bill didn't have the asbestos section. I appreciate Senator Saland's comments on asbestos, but unfortunately, in my area, the OSHA inspectors aren't noted for being on all the work sites and that the construction industry for years has had a major complaint of unsafe conditions that when you file a complaint, go through the formal process of filing a complaint, they can't get the proper OSHA inspections.

So with that kind of exposure, possibly to our employees in the local government sector, I've got a major concern, because that concern was brought to my attention by the local -- by the unions that represent those local people, and I don't think if it was such a great procedure and that if OSHA regulations were so good for them and that they were as safe as it was stated by the sponsor, that these memos would be here in front of us and because of that exposure and because of that human safety section of this bill, unfortunately I'm going to find myself voting in the negative.

SENATOR STAVISKY: Mr. President.

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: Explain my vote. There have been other occasions when we have dealt with asbestos. In 1979, both houses of the Legislature adopted a measure known as the School Asbestos Safety Program which required an inventory of every school in the

state to determine whether it contained friable or crumbling asbestos.

We did that in the right way. We required the inspection. This house and the Assembly both adopted the legislation which, in this house, was carried by the chairman of the Senate Education Committee. In this legislation, however, we provided funding for the removal of the asbestos through building aid and special asbestos removal aid.

I must tell you that, in preparation for this legislation, I reached out to the Mount Sinai School of Medicine Environmental Science personnel. I reached out to the unions which handle asbestos, and I discovered that every former head of the asbestos workers' union had died of lung cancer.

It is a highly carcinogenic substance which cannot be entrusted to amateurs for removal. It has to be removed by competent people, not by anyone who may be assigned the job at his or her risk.

For this reason, I wish to be recorded in the negative on this legislation.

THE PRESIDENT: Senator Stavisky votes no.

THE SECRETARY: Those recorded in the negative on -- those recorded in the negative on Calendar Number 1472 are Senators Connor, Espada, Galiber, Gold, Gonzalez, Leichter, Markowitz, Mendez, Montgomery, Ohrenstein, Onorato, Solomon, Stachowski, Stavisky and Waldon. Ayes 43, nays 15. Also Senator Smith in the negative.

THE PRESIDENT: The bill is passed.

SENATOR PRESENT: Mr. President, will you call up Calendar Number 1331.

THE SECRETARY: Calendar Number 1331, by Senator Goodman, Senate Bill Number 4446-A, an act to determine the date of birth of Elaine Budoff, a Holocaust survivor.

SENATOR GOLD: If you will wait one second. Where is Senator Leichter?

SENATOR LEICHTER: Last section.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

SENATOR PRESENT: Calendar 1306.

THE SECRETARY: Calendar Number 1306, by Senator Spano, Senate Bill Number 2020, an act to amend the Mental Hygiene Law, in relation to the reinvestment of funds.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: If Senator Spano be kind enough just to explain briefly the "B" print of this bill. We passed the "A" print earlier, and some of us had some concerns, and I believe those concerns may well have been taken care of in the "B" print.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Mr. President,

this bill which we debated at length a couple days ago, was recalled, was amended to accommodate some of the concerns that were raised by some of the members here, frankly, as well as some of the members in the other house.

We -- what we have done is increased the amount of money that would go to community reinvestment to $49 million per year over a five-year period which comes to a total of $245 million, and we have also increased some of the percentages in terms of the prevalence of unmet need and of mental illness in some of the different areas that are set forth in this legislation, the result of which will be that we'll be able to send some more money to some of the areas that have a real serious problem, namely, the city of New York, as well as to the areas that are affected by consolidation and closure of psychiatric centers and, at the same time, we still have some of the money that would be given to the Commissioner for -- for his decision as to where the balance of it would go. Difference is it goes from 36 percent in

the original bill that would be to the Commissioner's discretion to 20 percent in this bill, and that's where it gave us some of the flexibility to help some of the other regions of the state.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes fifty...

THE PRESIDENT: Senator Espada.

SENATOR ESPADA: To explain my vote.

I think that the term "landmark legislation" is loosely used many times. Certainly we've debated many things back and forth in terms of the needs of real people and this vote cast goes through at least on my part without laying forth or putting forth my feelings that this is, indeed, from the perspective of the homeless, from those that have psychic and emotional pain in our cities

and our state, that this is, indeed, overdue landmark legislation.

My congratulations to Senator Spano for this, and all the mental health groups and the collaboration of both houses on this bill.

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

SENATOR PRESENT: Mr. President, can we call up Calendar 1463, please.

THE SECRETARY: Calendar Number 1463, by member of the Assembly Pheffer, Assembly Bill Number 1019, an act to amend the Tax Law, in relation to evidence of residence.

SENATOR GOLD: Mr. President, I laid it aside yesterday. I did not lay it aside today. Senator Leichter did. If you'd be kind enough to bear with me one moment.

SENATOR LEICHTER: Yes. Senator Maltese, I wanted to ask you a question on the bill.

As I understand it, this bill

makes evidence of someone's membership in a religious org... or institution, such as a synagogue, inadmissible proof as to their residence; is that correct?

SENATOR MALTESE: Mr. President, the -

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: The terminology of the bill indicates that it shall not constitute evidence of residence within the state for tax purposes. Rather than making it inadmissible, it probably makes it of no probative value and not to be considered as a factor by the taxing authority.

It applies not only to the -- it applies, as the terms of the bill indicate, any regularly organized church, synagogue or religious organization.

SENATOR LEICHTER: Senator, what concerns me, and this was brought to my attention by somebody else, but I think it's a valid point. I can certainly see that you don't want to make such membership conclusive, but you

-- your bill provides that no probative value whatsoever can be given to the membership in a synagogue or other religious institution or organization.

That, it seems to me, goes too far. I mean you could draft a careful bill which accomplishes your purpose, which I gather is that you want to make sure that, if somebody has moved to Florida but they keep a membership in the church or the synagogue that they belonged to for many years, that in itself should not be the basis for the Tax Department saying, you're still a resident of New York and we're going to tax you.

But I don't know why they can't, together with other evidence, take a look at the fact that somebody belongs to a particular religious institution.

SENATOR MALTESE: Mr. President, I think that the purpose of the bill is clear by its terms. There was -- there is not -- should not be a desire on the part of the state to penalize somebody for a religious affiliation or

a religious membership.

I think that what the -- the rationale behind this bill can best be referred to by reading from a paragraph of a -- a gentleman who was having his tax returns audited by the state, and was advised that his membership in his temple was being considered as a factor to determine residence, even though it was considered as a factor of lower determinative value; and his -- his letter reads, in the applicable portion:

"One approach has me particularly up in arms. One of the questions asked by the examiners and stated by conciliation conferees is," quote, "'Is the taxpayer still a member of his New York temple?'" Unquote. And following the letter.

Now, I don't care if the taxpayer is a member of a New York country club or if he is a member of a Florida country club, but I look upon a question of religious affiliation, as in the case of Jewish affiliation, as being anti-Semitic at the worst or an illegal act by

the state upon religion at the worst.

Now, I don't buy that paragraph as completely as I do this one. "I have been a member of my temple for 36 years, have served as its president, served as its finance chairman and served on its board of trustees. If I move to the furthermost corner of the earth, I will still be a member of the temple. How dare anybody question the fact that I might still be a member?"

Mr. President, I think this gentleman says it far better than I do. Most people, no matter where they move, still feel a kinship, a tie, a permanent tie, that could never be severed by distance with their temple or their church.

This bill seeks to not have that tie, that affiliation, that nostalgia or religious affiliation to be considered as a factor in auditing his tax returns.

SENATOR LEICHTER: Well, Mr. President, Senator Maltese, if you wrote the bill in this fashion based on that letter, now I

know why you wrote the bill that way. But with all due respect to the person who wrote that letter, and certainly we do want people, even after they leave this state, and God forbid that they ever should leave the Empire State, but we know it happens, and we certainly want them to remain in religious institutions. But certainly if the Tax Department asks about whether you still belong to a particular institution doesn't mean that they're anti-Semitic or anti-Catholic or whatever.

The point is, all I'm trying to point out to you, sir, is that I think that you could achieve your purpose, write a bill that I think would be effective in achieving that purpose and would avoid a veto by the Governor. If you just said that they could not base the residency of somebody solely on the fact that they still belong to a religious institution or organization that was in this state, but I think to say that they could not consider it in toto with other things -- hey, it's really not worth, you know, a protracted debate, but I think you

are inviting a veto because I think you've written -- you've written it so broadly.

SENATOR MALTESE: Mr. President, in response, I could understand Senator Leichter's worry, apprehension that the Governor might veto this if this were a very substantial factor in the determination of residents' audits by the state of New York Department of Taxation and Finance.

But I have a document from that very same department, dated February 17, 1993, that indicates that this is a tertiary factor where it indicates by definition a third ranking of importance. These factors are below secondary in importance and are far below primary in importance, and, as a matter of fact, are some 10 or 15 pages down in importance from the primary factors in considering residence.

So I do not believe we are taking a substantial determining factor away from either the state Department of Taxation or any of its agencies.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Excuse me, ayes 57, nays one, Senator Galiber recorded in the negative.

THE PRESIDENT: The bill is passed.

SENATOR PRESENT: Regular order.

THE SECRETARY: Calendar Number 1474,, by the Assembly Committee on Rules, Assembly Bill Number 8663, an act to amend the Executive Law.

SENATOR LEICHTER: Explanation.

THE PRESIDENT: Explanation is requested. Senator Wright.

SENATOR WRIGHT: The bill provides changes to the name of the Office of Business Permits and Regulatory Assistance and

modifies the powers and duties of that office. The bill is consistent with the requests of the Governor in his program bill dealing with this area also.

SENATOR LEICHTER: Mr. President.

THE PRESIDENT: Senator Leichter.

SENATOR LEICHTER: If Senator Wright would yield, please.

SENATOR WRIGHT: Certainly, Mr. President.

SENATOR LEICHTER: Senator, what intrigued me about this bill is that we're going to have this name change of this office which really has no change in functions. I know you make a few changes. You, on the margin, make a few changes, but essentially it's the same office, isn't it?

SENATOR WRIGHT: Well, no, I wouldn't -- wouldn't agree with that, Senator. In fact, it's a merger of the Office of Management and Productivity with the Office of Business Permits and Regulatory Assistance.

If you will recall, earlier this year, during the budget deliberation, that was a proposed consolidation that we supported in this house, and it was ultimately adopted in the budget. So, in fact, it merges two units within the executive branch and, correspondingly, this title change places a new title and incorporates those new duties in statute.

SENATOR LEICHTER: O.K. One more question, Senator. I -- I didn't read the bill maybe that carefully, but is -- is that consolidation effected by this bill?

SENATOR WRIGHT: The consolidation was effected by the authorization in the budget as well as an executive order that the Governor initiated. This bill changes the statutory language to incorporate those changes, and outline the additional duties.

SENATOR LEICHTER: Good. I understand. Thank you.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1476, by Senator Johnson, Senate Bill Number 6037, an act to amend the Social Services Law.

THE PRESIDENT: Explanation is requested. Senator Johnson.

SENATOR JOHNSON: Mr. President, we have on the books a program which permits Onondaga and Rockland Counties to use finger imaging to screen applicants for home relief. They found out that they saved more than twice as much money in the first few months as it cost to install the system, that in Onondaga County alone some 55 people, when they saw they had to have their finger-imaging processed, they simply decided not to apply for the program. In New York City, it was revealed that last year some 45 million people cheated the system that they know of, and people are very seldom, when

they're caught they're very seldom punished because it's more expensive to prosecute and jail them than just to turn them loose and let them run off with what they've got, their ill-gotten gains.

This does not -- not respect the taxpayers' dollars and it certainly doesn't deter people from trying to do it again. This system did deter people in the few experiments that have been tried. In Suffolk County, they know that they're being ripped off and many times Social Services, Medicaid, and so forth.

This is a very modest bill really. It doesn't do what we ought to do. It doesn't require the finger-imaging of all people applying for welfare programs but only those on home relief, single men, women, who apply for money and they figure if they get it, they get it if they don't, they don't. They probably have off-the-books jobs and other things, so it's just a little supplemental income.

So we're saying let's check these people out, see if they've applied to more than

one place. At least let's not give them more than one welfare check to which they're not entitled.

Now, with the economic problems facing all of our counties I say and the city of New York, it should be statewide. A bill like that was passed by Senator Holland, but apparently it's not going anywhere in the other house.

This is a Suffolk County bill. We do have a Democrat Assemblyman who is interested in putting this bill in the other house. I hope that bill will be filed shortly but, in any event, this bill is before us today and we'd like to respond to the request of the county to give them a chance to save some of their taxpayers' dollars.

SENATOR GOLD: Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Yes, as Senator Johnson indicated, a similar bill was before this house earlier today which dealt with Onondaga and Rockland Counties, and we had a

debate on the issue, and Senators Connor and Dollinger, Espada, Galiber, myself, Gonzalez, Leichter, Markowitz, Montgomery, Ohrenstein, Oppenheimer, Smith all voted in the negative. I don't think anything's changed. The idea still (whispering) stinks.

Last section.

THE PRESIDENT: Last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR MARKOWITZ: Mr. President, I'd like to explain my vote.

THE PRESIDENT: Senator Markowitz is recognized to explain his vote.

SENATOR MARKOWITZ: Senator Johnson, the reason why I'm voting against this bill and the other bills of similar nature is because I just find the idea of finger-printing of welfare recipients to be repulsive. To be honest with you, Senator Johnson, I know a lot of very good people that are in a circumstance

and a situation, as my family was when I was younger, to have to receive welfare, and I think that there are ways of going about eliminating fraud which we all want to eliminate from the system, not only from people that collect welfare, perhaps people that collect SSI, perhaps -- perhaps doctors that are -- provide Medicaid services, as we continue to see on various programs like 60 Minutes, 48 Hours, and other programs.

So it seems to me that if we're about to set up a program of preventing fraud on -- on programs which the state provides money, it seems I would be much more likely to support a bill if it covered the total universe of those that receive benefits and programs provided by public dollars, rather than focus in on only one segment, and that's how I feel, and I -- I would eagerly -- eagerly want to work with you and others on a program that prevents fraud and yet doesn't take away the dignity of people that find themselves in a circumstance that they have to collect welfare and so they can pick

themselves up and make their lives whole again.

So I vote no on this.

THE SECRETARY: Those recorded in the negative on Calendar Number 1476 are Senators Dollinger, Galiber, Gold, Markowitz, Mendez, Montgomery, Ohrenstein, Oppenheimer, Smith, Stavisky, Waldon. Ayes 47, nays 11.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1477, by Senator Nozzolio, Senate Bill Number 6044-A, an act to amend the Election Law.

SENATOR OPPENHEIMER: Explanation, please.

THE PRESIDENT: Explanation is requested. Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. My colleagues, the legislation before us takes another step in our efforts to reform the state's election laws.

The the measure will increase the maximum civil penalty for political candidates who fail to file their financial disclosures, to

require the boards of election to make public a list of those candidates who fail to comply, requires the treasurer of political committees to attest whether or not expenditures have been made independent of the candidates, to close what we believe is a glaring loophole in the law where independent committees come in and make significant expenditures without proper accountability.

We also require campaign disclosure statements to be filed on a more timely basis. Those 10-day election statements will have to be filed by overnight mail or in person with the board of elections, and to allow -- require a greater scrutiny as to those campaign -- campaign contributions made to candidates.

We also make adjustments in the terms of office of the chairmen of the boards of election in order to have more continuity and to have them file on the same calendar year basis, their terms would be every two-year cycle.

Also, and something I believe

very strongly in, the language of voter registration forms and absentee ballots are attempted to be made, by this legislation, more understandable to the public-at-large to have, in fact, a plainer, clearer language, more readily understandable, less legalese, in an effort to enhance voter registration and par ticipation.

We also, something I also feel very strongly about, in conclusion of my explanation, is that in order to enhance voter participation in this state, we believe it essential that we should begin at an early age and that our classrooms across New York, I believe, have been dismal in their efforts to promote the importance of voting in our New York schools, that we learn a great deal about other countries, other societies, but fail, I believe, to learn enough about the fundamental precepts of our democratic system, and that is the right to vote and the necessity to vote, and we think that can be enhanced by increasing educational voter opportunity in the classroom at a very

young age.

Thank you, Mr. President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Mr. President. I know that Senator Connor has some suggestions, very excellent suggestions on how we can make this a better bill. I would like to offer one, and, Senator Nozzolio, I stand up here with a different kind of confidence than I would normally stand up with an amendment because I had the occasion to visit the Senate print shop a few weeks ago, and I was met there by such distinguished people as Senator Larkin, and, Senator Daly, were you there? No, you were -- I didn't think so. But Senator Larkin was there, and, well, I know the very distinguished Senator Kuhl was there, did not have his clubs, neither did I.

But I know I'm going to get support from people like that for this amendment because, on that day, we were told how -- I know Senator Libous was there -- everybody on your side is for total open government, and if we're

going to reform the Election Law, I think my amendment really has to be a part of it.

So, Mr. President, I have an amendment at the desk. I would waive its reading and ask the opportunity to explain it. The amendment is really very simple. It would amend the Public Officers Law to set up an annual mass mailing allotment for each member of the Senate and Assembly. So far, as you can see, that's simple enough. It would provide for three pamphlets per household within a district, 100,000 additional sheets of mass mailing within a district, 22,730 first class mailings within a district for each Senator, and in the Assembly the numbers are a little bit different because obviously the size of the districts are different.

It also codifies the policy of the 30-day mail blackout prior to elections, but then it goes a little further, and this is where the real election reform comes in, Senator Nozzolio. It would require the Senate of the - the Secretary of the Senate and the Clerk of the

Assembly to notify any member in an itemized statement of any items in excess of their allotment if it's been printed or posted, and it's the duty of the member to so notify -- to communicate this with the person or treasurer or entity that they have to deal with, and report it as a contribution to their campaign. Failure to do so would be a misdemeanor.

It also amends the Election Law to require any member who receives any mass mailing in excess of their allotment to report the allotment as a contribution in the campaign disclosure filing.

Now, we have discussed this issue in 17 different ways 'til Sunday, but I think this really deals with the issue in its most open fashion. If a member of the Legislature is going to use public funds to communicate with constituents about the wonderful things we do, then each person, each of the 211 is a person, and the office should be treated equally among the 211 persons who hold that office.

But if a policy is going to exist

whereby, in an election year, as was shown by the wonderful charts prepared by Senator Dollinger which we won't bring to the floor because I don't want the roof to fall in, the - if, as those charts indicate, there are additional mailings and additional postage that hits our post office around election time and if it develops that that is in excess of the policy which is three mailings per member, then indeed there is a campaign contribution that the New York State Senate or the New York State Assembly has made to that member, and if we believe that that ought to happen, we should have no shame in telling the public that it happened.

I know every member of this Legislature and I know, God bless you, I know that no one would consciously do something that they weren't proud of. So I can only imagine that when we send out these mailings that are way in excess of mailings that other people get, it is something that we are not ashamed of. It is a policy of spending taxpayer money and financing campaigns.

It's the same, if you want to label it that in New York or in Rochester or in Syracuse, even in Syracuse, that is campaign financing, back door campaign financing, when you use the public's money to give Senator X extra mailings more than gets Senator Y.

And, Senator Nozzolio, in your attempt to reform, if that's your word, the election laws, this has to be a part of it, if we are going to go to the public with clean hands. And so that is what my amendment does, plain and simple.

It doesn't tell you in this that we can't do it. It tells you that, if you do it, well, actually, it does say you can't do it. It sets up a standard for the Assembly and the Senate but, if you're going to violate that standard, you must at least recognize you're having an impact on elections. If it becomes an Election Law matter, it becomes a campaign contribution, and it must be reported as such.

That is the amendment, and I hope there will be some support for it.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: On the amendment.

Mr. President, I rise in support of this amendment from Senator Gold. It's probably no surprise, given my activities in this body for the last four months on the issue of mail. And my only rhetorical inquiry to Senator Gold would be, Gee, Senator, did this ever go through the Insurance Committee?

And you'd say, why would it go through the Insurance Committee? Well, because my view has always been that, if you use the mail right, if you use that thing the taxpayers paid for, we in this chamber and, frankly, our colleagues in the Assembly and those who scolded me for not taking them to task, we get, by virtue of this office, that form of incumbency insurance. The only thing about it is, Senator, some of us get a little bit more than others. I guess if you're a Republican born before 1977, you get a little bit more and, if you're a

Republican that might be under a political attack, you might even get a little bit more than that, but they don't -- that rule is not written. We haven't found that one in writing anywhere.

But the moral of the story is, we end up with this little form of insurance for incumbents. I get it, you get it, we all get it. The only people that don't get it, of course, are the people that come to challenge us in those things that we call elections. We get the ability to generate name recognition through the taxpayers. We have this huge taxpayer PAC sitting out there in the form of our $10 million mail operation, those little machines, and I'm ashamed that Senator Wright or Senator Spano, Senator Kuhl, those of us who were out there watching those machines grind out those news letters and all that mail, all that printing, they aren't here. They can't appreciate what we saw. I hope you got a full account of it.

But it seems to me that what we ought to be doing is talking about real election

reform in which we try to balance the playing field. Give everyone a chance, give everyone the opportunity. Submit to some reasonable restrictions such as those that are contained in this amendment and we will level the playing field, maybe not perfectly, but we'll begin to balance it off, and it seems to me that's what this amendment is designed to do.

This would be the real first step on the road to creating competitive elections in this state, and giving the people of this state a real opportunity when they go to the polls to make a judgment based on what they see in the campaign and not what they've already paid for through their tax dollars through publicly supported mail.

I think it's a wise amendment, and I hope my colleagues will accept it.

THE PRESIDENT: Last -- on the amendment of Senator Gold.

SENATOR GOLD: Party vote.

THE PRESIDENT: All those in favor say aye.

SENATOR GOLD: Party vote in the affirmative.

SENATOR PRESENT: Party vote in the negative.

THE PRESIDENT: Party vote in the affirmative for the amendment and party vote opposed to the amendment. The amendment is not agreed -- or, oh, the Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 23, nays 35, party vote.

THE PRESIDENT: The amendment is not agreed to.

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I call up my amendment, first amendment Number 1, previously filed, served and filed at the desk, waive its reading and explain.

THE PRESIDENT: Senator Connor is recognized.

SENATOR CONNOR: In essence - and let me comment on the main bill first just very briefly. The main bill is a hodge-podge of technical corrections, minor changes and slight improvements over the present Election Law.

I don't think it even rises to the misnomer of the bill we had last year under Senator Bruno's sponsorship, the so-called Election Reform Act of 1992. This bill, I don't even think with a straight face, could be called the Election Reform Act of 1993, and I'll comment on its specific provisions when we're on the main bill, assuming that my amendments are unsuccessful. I don't know why I have that instinct, but I suspect after all these years I can usually smell when an amendment is a winner or a loser.

But my amendment would substitute for the language of this bill, a bill previously passed by the Assembly which, of course, would add the virtue then of presenting us with an opportunity to engage in lawmaking rather than one-house one-upsmanship.

The bill is denominated in the other house as Assembly 1 or A. 1, which does contain a number of important Election Law reforms, principal of which is a public - voluntary public campaign financing law which we've debated before on this floor. We've seen motions to discharge, and we've had debates on it.

In summary, it would provide for matchable public funding for the offices of Governor, Lieutenant Governor, Attorney General and Comptroller and also for the Senate and the Assembly. There would be -- there's a definition of matchable contributions which, in essence, says those that are matchable come from persons who reside -- natural persons who reside in New York, they're matched one for one up to a maximum of $500.

There, of course, is a bonus mechanism should someone opt not to be in, in order to once again try and level the playing field. Should, for example, a wealthy individual opt -- not opt in and decide to spend

obscene amounts of his or her own money to run for office.

The funding also is provided for a primary, as well as a general election. There are appropriate limits on contributions. For example, in a statewide office an individual contribution would be limited to $4,000 and for the Senate and Assembly $1500, not insubstantial fund amounts, but certainly not amounts large enough to raise the appearance that undue influence is being purchased by a contributor, an appearance that often arises under the present law, I think unfairly, but it's an appearance, and it's there and the public believes it and perceives it and it does do a lot to undermine the public's confidence in the work we, in elected office, do and we ought to do what we can to dissipate that mistaken appearance that is often given.

The overall spending limits, I think, for those who participate, are certainly substantial enough to allow the candidates to get their message to the voters in the modern

electronic campaign era. For example, in the general election, a gubernatorial candidate could spend $7 million. A state Senate candidate could spend $150,000, an Assembly member $75,000, certainly enough money to do enough mail or media to get out the message.

Provision is also made for a tax check-off so the public can voluntarily participate. There are, of course, penalties naturally for -- in this bill, there are also penalties for failures of people, candidates and committees to apply -- to comply with the law or those who make misstatements.

Other changes in this amendment with respect to campaign finance law do not relate to public financing per se, but change the present law in ways that I think ameliorate some of the faults or loopholes that have been exposed in recent years. For example, it requires things like express mail for financial reports mailed within two weeks of an election.

Now, Senator Nozzolio's bill, the main bill here, appears to do that but it leaves

out the 11-day pre-election report, so while Senator Nozzolio's bill would require the 24-hour notice of receipt of a contribution greater than a thousand dollars after the cut off date of the 11-day pre-election report, he would require -- his bill would require it be mailed by express mail. The -- his bill does not address that 11-day pre-election report.

Now, we all have experienced, I'm sure, the frustration of having opponents mail in some remote mail depository, at the final moment on the 11th day before the election, by ordinary mail their filing which may take, given the vicissitudes of the U. S. Postal Service, four or five days to arrive at the state Board of Elections in Albany.

By then, you're in the final week end of a campaign and certainly don't have time to take a look at the report to see if therein lies anything that might be politically exploited, and even if you did find something there's certainly no time to publicize it, no time to give, in all fairness, your opponent a

chance to reply to some appearance in there that may cause political questions.

Other -- and I won't go through every provision. But one of the things, for example, this bill, this amendment would do is -- is add a tie breaker to the Board of Elections. We now have two Democrats and two Republicans. This would add a fifth commissioner, a person who doesn't belong to either -- who belongs to neither party, who is independent and, in effect, would be the tie breaker.

Why? Well, there are times when the two parties disagree. For example, should they disagree on partisan lines over the validity of a petition or should they, as often happens in carrying out of the their investigat ive responsibilities, they divide along partisan lines and, therefore, an investigation is -- is thwarted, a matter doesn't get referred to the proper authorities or whatever. Not because that's the way the commissioners voted, but because there's a tie.

Even in this body, we have our own tie breaker who stands above us all in the event there ever would be a tie although with 61 Senators it's difficult to see how that could transpire. As we know, the U. S. Senate has a tie breaker. Why not the Board of Elections, a person of such independence and credibility that he or she could be the tie breaker.

The bill -- the amendment would also provide for registration and enrollment of voters up until 15 days before an election, in this age of computer processing enough, a sufficient time for the board of elections to process a new voter and get them onto the computer generated rolls which we more and more in every county of this state are now turning to for election day.

The bill also with respect to ballot access, my amendment does not go as far as I would go, and we've had this debate before. My proposal to eliminate virtually every technicality connected with the gathering of signatures, all but the verification that the

signature is actually that of a registered eligible voter, get away with -- do away with witness statements, numbering, cover sheets, E.D.s, A.D.s, all the nonsense we've imposed over it. Maybe it wasn't nonsense 40 years ago, but in the age of computers, the name and address of a voter is sufficient identification to find out if they're registered, and that should be the only criteria.

Regrettably, this amendment doesn't go as far as my proposals would, but it is an improvement. Why do I embrace it now in this amendment? Because it is from A. 1; it last passed the Assembly. This week is no time to engage in offering legislation or amendments that would be merely one house. Adopt my amendment, it's already been enacted by the Assembly and we have legislation that can be presented to the Governor for his signature.

What this does do though, with respect to ballot access, is first of all embrace the principle that I think is long overdue do. It would provide that in

construction of all the valid access provisions, the petition provisions of the Election Law, that the court be directed to liberally construe all those provisions; to, in effect, look at them from the standard of whether they, in fact, in a reasonable way, comply with the requirements of law and, if they do, the court would be, of course, expected to overlook technical deviations, mistakes, clerical errors, and so on.

This is the kind of standard that applies in most areas of the law, and it's very difficult to explain to those not familiar with the arcane provisions of New York election law just how bad it can be. In the course of some work I was doing last year, I had occasion to talk to a very prominent Texas lawyer in Dallas and explain how it wasn't good enough for his client, perhaps one of the best known men in America, had signed a piece of paper in the presence of his secretary who was a notary in the state of Texas who signed her name to it, who but failed to affix her seal with her number

on it, and when I explained to this partner in a large Dallas law firm that that wasn't good enough, it would have to be all redone because the absence of a statement as to the authority of the notary to act would, in fact, invalidate the entire candidacy of a gentleman running for one of the highest offices in the land, and this lawyer in very lawyer-like language said to me, "Mr. Connor, that's about as picky as it gets," and I said, "You've got it. Welcome to New York. We're just about as picky as it gets," and we shouldn't be because we're playing with people's right to vote. We're playing with the right of people, whether you agree with them or not, to run for office, to make their case in a democratic, small "d" way, and we shouldn't be as picky as it gets, and, therefore, embracing the liberal construction provisions of this amendment would go a long way.

And let me say, I don't -- I lay upon the Legislature the responsibility at this date, the responsibility for not dealing with the problems, for not changing it, for not

making it more liberally construed. It's not necessarily the Legislature's fault, for all the strict construction. As I've said before, the courts of this state have, for the last 40 years, embraced the doctrine of strict uniform and mandatory construction of every provision in the Election Law without regard for whether it's form, substance or of any other significance, and it is judge-made law, and it's a judge-made standard, but that's the Court of Appeals has said that's the standard they're using until we give them a different one.

This amendment would give them a different standard, a standard that every reasonable person in this state agrees ought to apply, a standard that is applied across the board in other areas of the law, a standard that is applied across the country.

So I can't blame this institution of the Legislature for adopting this approach, because we've all seen -- we've all experienced, indeed former members of this house have been removed from the ballot while they were

incumbents for very unanticipated reasons because of provisions set forth in the Election Law that no one ever dreamed would be applied in such a strict manner; yet the court said this is how you do it.

So the -- with respect to ballot access, the most important provision that my amendment would do is to adopt this standard of liberal construction, one that has already been passed by the Assembly, one that I think would meet with great approbation throughout the state from editorial boards, from good government groups, and one which would put New York into the 20th Century with respect to ballot access laws.

It would also eliminate the requirement of a hundred signatures from each Congressional District for a statewide candidate and merely go with the total number being sufficient to qualify the candidate. It would amend the Election Law to provide something that the -- let me say, Senator Bruno's so-called Election Reform Act of 1992, if you will recall,

provided that the boards of elections, the state Board of Elections and the county boards of election should provide forms for petitions for primary elections and forms for general elections and should also provide sample cover sheets to candidates.

This is something good government groups wanted. We adopted it. At the time of imposing that so-called reform legislation, one of the objections I raised, it remains to this day, is the fact that that law tells the boards of elections, give out these forms. It does not tell the candidates or -- that they may rely on that, and the courts of this state, specifically the court of Appeals in a case called Galletta against Mahoney, a Buffalo -- case originating in Buffalo some seven or eight years ago, specifically said that when the form is provided by the board of elections the candidate has no right to rely on it, and in that case where the candidate relied on the form given out by the board of elections, the form was erroneous in that it admitted -- omitted calling for some

required simple information. In relying on that, the candidate did so to her own detriment and she was removed from the ballot.

We've now passed a law that's on the books saying they have to give these forms out. They give them out. I have seen sample petition forms being given out that omitted required information, that were erroneous as the cover sheets. I've seen that in the city of New York. Given my interest in the area, I've seen it early, early enough to tell the board, This is wrong, and have them change the sample they were giving -- given out.

But should that fall in the hands of an unwary candidate and should they rely on it, they could be removed from the ballot. That's a ridiculous thing. We've gone from worse -- from bad to worse. It used to be the board didn't give out the forms and candidates were left to their own devices and if they were wrong they were off the ballot.

Now, we have what I call the set up law of 1992. You can be set up if you're a

candidate, set up by the Legislature and the board of elections. Go in; well, what do I have to do? Here, follow this form. Fine. Follow the form, have someone take you to court after the fact and say, The form's in error. Oh, but I relied on the board of elections. Well, you can't do that. Our Court of Appeals has said you have no right to rely on the board of elections.

So one of the things my amendment would do is say you have a right to rely on the information they give you. If you follow the form they give you, you can be on the ballot. This, then, in sum, is what my amendment would do: It would adopt the provisions of Assembly Number 1 which have been adopted, which contain important reforms.

Let me say, Mr. President, in closing, because I have a second amendment which I will discuss in the briefest terms, but what I've observed this year between the two houses, for a long time, there was a long-standing practice that the houses of this Legislature

would cooperate in making necessary technical amendments to the Election Law because from time to time quite apart from policy differences, technical problems arise.

For example, last year we amended the C.P.L.R. in a way that quite unintentionally gravely affected the way the Election Law will operate in this state. Not intended. I have a bill that would correct this, correct it in a most technical way. I've been told in this house they'll pass it, and I find out, well, it's hostage to some policy thing the Assembly wants to do. There are other technical things that I believe are being held hostage by this house because of policy differences, and I would suggest in these closing days of the legislative session, that the responsible people in both houses, and I've conveyed this to the Assembly, sit down and sort out, sort out these technical provisions from the policy differences and at least adopt them, so then the policy can be weighed against policy and a lot of technical administrative problems in the Election Law

won't be held hostage to the policy differences that are embodied in the differences between my amendment and the main bill.

Mr. President, I urge adoption of the amendment.

ACTING PRESIDENT MEGA: On the amendment, all those in favor signify -

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEGA: Senator Leichter on the amendment.

SENATOR LEICHTER: Yeah, Mr. President. I think that in this house we're extremely fortunate that we have one of the leading experts not only in this state but in the nation on the Election Law in Senator Connors, and I think that he made most eminent good sense in the proposals that he put before us in this amendment.

It's hard for me to understand that we would not do it except for what has been the attitude of the Majority here that you make elections as difficult, try to make them as

confusing, try to make it as confrontational between candidates on technical requirements. It's -- it's a real pity. It's a disgrace.

But the biggest disgrace is that we failed to address the issue of big money in elections, and that this Majority takes the hypocritical position that we don't want to use public monies for campaigns and yet you're dipping into the legislative appropriation to send out mailings for your candidates, and we've documented it this year. You've tried to keep it secret which, in itself, is disgraceful because you're telling the public that they don't have a right to know how their money is being spent.

But we found out more and more and more information about the tons of mail that you send out before primary dates for some of your candidates, that you send out before the general election.

So don't tell us that you don't believe in the public financing of campaigns. You don't believe in the public financing of

campaigns other than for incumbent Republican Senators, and I assure you we're going to continue on this issue, we're going to disclose it, you're going to be shown for what you are, which is, when it comes to this particular area, you're out and outright hypocrites.

But it's -- it's really unfortunate not only in respect to how you misuse the public money and seek to hide that, but it's unfortunate that you're willing to address what is really a cancer in the body politick in New York State and throughout the nation, and that is the effect of big money. It's something that we need to address if we're going to preserve our democracy.

If you're going to keep special interest groups from having undue influence, if you're going to make it possible for other than very well connected, very rich people to run for public office. We must address this. We need to address it in New York State. We need to do it nationally. At least some progress is being made in the Congress. They are facing up to the

issue, but here absolutely not. There's a Berlin wall up when it comes to any changes that would make our elections easier, fairer, greater access to the ballot, and would also preclude the expenditures of enormous sums of money.

That's why Senator Connor's amendment is so terribly important and this issue is going to come back and back and back and we're going to make sure that the public knows who practices for themselves, financing of their campaigns with public monies, refuses to disclose it, and that issue will stay until you come clean, until you face up to those matters and those provisions that are raised in Senator Connor's amendment.

ACTING PRESIDENT MEGA: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I rise to address the specific issue of campaign financing and public financing of campaigns. I was a young voter at the time the presidential campaign -- public financing of

presidential campaigns went into effect and I can remember, I guess it was, it was probably largely Republican members of the Senate and the Congress who said this is going to change the whole political dynamics. It's going to change the entire politics, the democracy as we know it is going to cease to exist because we now have a Socialist system of financing presidential campaigns.

Well, Mr. President, my recollection is that, since that went into effect, Republicans have won the presidency three or four times and Democrats have won it once or twice. So obviously the danger of campaign financing, controls on campaign financing, and public financing of campaigns and caps on the amount that could be spent in campaigns has not worked to the disadvantage of the Republican Party even though, quite frankly, in this nation, and I'll bow to my colleagues if they've got better information, but my recollection is, you're still a minority party. There's still more Democrats registered than

Republicans in this nation. So you can hardly suggest that campaign financing and public financing of campaigns has in any way damaged the ability of Republicans to get elected at least to the nation's chief office.

But more important than that, and I think the message has to be heard from Senator Leichter's point of view, about what this means to this body. Senator Connor, in explaining this amendment, said he regretted the mistaken assumption that somehow giving large amounts of money would be perceived by the public as buying votes.

I'd submit to you, my colleagues on the other side of the aisle, that that's their perception. That's their perception on rent control, when three of the major real estate PACs give $355,000 to the Republican Senators, and suddenly six months after the election is over, we talk about luxury rent decontrol.

The perception on the part of the public, quite candidly, not without significant

foundation, is that that money was used to buy votes, if not buy results. The public would not be unjustified in making -- drawing that conclusion.

It seems to me the solution to that is present in this amendment, that if you had public financing of campaigns, if you had everyone, challengers and incumbents alike, have access to public campaign dollars, if you had spending limitations, you would get rid of the notion that big money is all that matters in politics, that big money can buy votes, big money can buy results, big money can buy government.

That is the greatest danger to our political system is that we simply become a wealth-based democracy. We can not allow that to happen.

I'm reminded of the old two dollar bill story, when I first came into politics in the early 1960s with my grandmother who was a Republican elected official who told me the story about what two dollar bills were

and why they disappeared. You don't see them any more because they used to give them out in downtown Rochester when you went in to vote. You got a two dollar bill, and that's all it cost for your vote.

Well, I suggest to you, gentlemen, that the same thing is now true here and certainly the public perception is strong that you can buy votes in this chamber, that you can buy political power by giving massive campaign contributions. That notion is deadly to our system of democracy and deadly to the public's confidence in this government and in this house.

I suggest to you that the kind of things embodied in this amendment on campaign financing have to be enacted in order to preserve the public's confidence in what we do and to create the one thing that I think we all acknowledge a democracy depends on, fair and truly competitive elections in which incumbents and challengers both -- both have access to public financing and opportunity to have their

message heard.

Without that, this system becomes a fraud in and of itself.

ACTING PRESIDENT MEGA: Any further debate on the amendment?

All those in favor of the amendment, signify by saying aye.

SENATOR GOLD: Party vote in the affirmative.

ACTING PRESIDENT MEGA: All those opposed nay.

SENATOR PRESENT: Party vote in the negative.

ACTING PRESIDENT MEGA: Call the roll on a party vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes 22, nays 37, party vote with two exceptions.

ACTING PRESIDENT MEGA: The amendment is defeated.

Senator Connor.

SENATOR CONNOR: Mr. President, most briefly, I call up my second amendment.

That is -- this second amendment is essentially A.1, the bill we just discussed in amendment form without public campaign financing.

It embraces all the myriad reforms contained in the Assembly version but does not provide for the expenditure of public money to support campaign activities. Apparently some members have obviously -- some members have objections and differences about that and I wanted to give those members an opportunity to make clear their position on all of the other campaign and Election Law reforms.

ACTING PRESIDENT MEGA: On the amendment before the house, all those in favor signify by saying aye.

SENATOR STACHOWSKI: Party vote in the affirmative.

ACTING PRESIDENT MEGA: Call the roll on a party vote.

SENATOR PRESENT: Party vote in the negative.

(The Secretary called the roll.)

THE SECRETARY: Ayes 2, nays 35,

party vote.

ACTING PRESIDENT MEGA: The amendment is defeated.

Are there any other amendments?

SENATOR DOLLINGER: No. On -

ACTING PRESIDENT MEGA: Read the last section. On the bill?

THE SECRETARY: Section 30 -

ACTING PRESIDENT MEGA: Withdraw it. Senator Dollinger on the bill.

SENATOR DOLLINGER: Mr. President, on the bill.

I think my views on the issues raised by Senator Connor's amendment have been articulated in this chamber. I guess, when all is said and done, if this is what we're going to pass, I agree with the sponsor this is a step but I'm reminded of that old game I used to play as a kid, Mother, May I. Somebody get real close to the goal, and you'd say, Sure, you can take little teeny weeny itsy bitsy tiny winy wine steps, can't take a giant step, can't take a normal step, but we'll let you have one of

those little tiny, tiny, tiny steps.

This is a little tiny, tiny, tiny step in the right direction. My hope is that next year, as we approach the election in 1994, the kind of giant step that is embodied in Senator Connor's amendment that has already passed one house, that we know has support in the other chamber, that that giant step forward for the Election Law, where we'll look at the issues of ballot access and access to petitions and campaign finance and spending limitations, all of those giant steps that are being talked about in places like Washington, D.C. and other state capitols, that we'll actually have the courage to say, "Mother, may I take a giant step?"

The ayes -- from this chair, the answer is clearly yes, and I hope the chairman of the Election Committee will take that giant step next year.

ACTING PRESIDENT MEGA: Senator Jones.

SENATOR JONES: Yes. While I

agree with my colleagues that a lot more is needed, and I'm certainly going to support Senator Nozzolio's bill, but I couldn't let his definition of public school education as dismal in the effort that we're putting into elections and even in first grade in school, we do show the ballot, we do talk to kids about elections, so I just couldn't let your definition of "dismal" stand. But otherwise I support you.

ACTING PRESIDENT MEGA: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I'm going to vote for this bill not because it's great. It's just because it's like pablum, I mean it doesn't taste good but it doesn't make you sick. So there's no point in making a big fuss about it.

Just let me note though, that a number of provisions in this bill have already been adopted by the Assembly in the form of separate bills and I really, going back to what I said at the beginning, would urge the chairman

of the committee and his staff, the Majority Leader's staff and the staff -- the corresponding people in the Assembly, to sit down and adopt them as separate legislation.

It seems to me we're now engaged in a bit of a charade here by putting all of these individual technical provisions in one bill and maybe it's so you can call it omnibus. They're not going to correspond to the measures adopted by the Assembly. There are slight differences. They're not identical bills and we're going to leave here without even doing some of these technical changes.

And I would also suggest that, you know, the board of elections has prepared, pursuant to legislation that we did in 1992, new vote, new statewide voter registration forms and new statewide absentee ballot applications and they proposed a bill, a plain language bill in effect, on the voter affirmation section. It's embodied in a separate bill. It's embodied in a bill sponsored by Senator Nozzolio and Assemblyman Vitaliano and, in this bill, the

language is added on rather than substituted for the present convoluted technical language.

I don't understand that. This is a very important piece of legislation only because the board is ready to roll the printing presses on new plain language, easily understandable statewide uniform forms that we directed them to do, and I've talked to officials at the state board in the last few days, last night, and so on, and they say, What's going on here? We were told to do these forms. We've proposed them. Everybody said the forms are fine. Senator Nozzolio is sponsoring a bill, Assemblyman Vitaliano is sponsoring a bill adopting the language, and now it's all going to be lost because this omnibus bill is coming out that has a different form in it, Senator. It's not the same form.

ACTING PRESIDENT MEGA: Senator Nozzolio, why do you rise?

SENATOR NOZZOLIO: Will the gentleman yield?

SENATOR CONNOR: Certainly.

ACTING PRESIDENT MEGA: Senator yields. Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. Connor, I just wanted to touch base on a point you were skimming across. Before you continued to skim, I thought we should cross, and maybe you were not aware of, Senator, the fact that we have signed off on those plain language measures that the Assembly, members of your party and particularly the black and Puerto Rican Caucus have raised concern or objection, objection of which I know not what the specifics are.

Now, maybe you could do us a service today by talking to your members, your colleagues there, and find out exactly what their objections are because that, in fact, is what I understand the hold-up to be.

SENATOR CONNOR: O.K. Thank you, Mr. President.

ACTING PRESIDENT MEGA: Senator Connor on the bill.

SENATOR CONNOR: And thank you, Senator Nozzolio, and I'll be happy to make those inquiries because I sense -- I think what the Senator is saying is that they're prepared to move this separate bill that embraces those changes.

Some of the other things in here are just innocuous. Name stamps, it's already case law. Again, not to belabor it. There are things in here that I think the houses can agree on, not in the present form, not in the so-called omnibus bill.

In the meantime, as I said, there's nothing to brag about, nothing to get upset about. I'm voting yes.

ACTING PRESIDENT MEGA: There being no further debate on the bill, read the last section.

THE SECRETARY: Section 30. This act shall take effect on the 30th day after it shall have become a law.

ACTING PRESIDENT MEGA: Call the roll.

(The Secretary called the roll.)

SENATOR NOZZOLIO: Mr. President.

ACTING PRESIDENT MEGA: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I ask unanimous consent to refrain from voting and ask to explain my vote.

ACTING PRESIDENT MEGA: Explain your vote.

SENATOR NOZZOLIO: My colleagues, there has been many words used today to describe all issues relating to election law but not the issues that we are addressing in this bill. If you favor increased accountability, if you favor leveling the playing field for insurgent or write-in candidates, if you favor public disclosure, increased public disclosure for political candidates, if you favor increased ballot access for write-in candidates, if you favor increasing the civil penalties for candidates who fail to file the disclosure forms, if you believe that these are important

issues, then the right thing to do is vote for the bill.

This bill is more than a small step. It's an important step in the effort to reform our Election Law.

Mr. President, I vote in favor of the bill.

ACTING PRESIDENT MEGA: Results.

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEGA: The bill is passed.

Secretary will -- Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEGA: Yes, there is.

SENATOR PRESENT: Can we call up 1522?

ACTING PRESIDENT MEGA: The bill is on Supplemental -- the Supplemental 1 calendar, Senator Present. Do you wish to take up that bill? It's on the Supplemental 1

calendar.

SENATOR PRESENT: Right.

ACTING PRESIDENT MEGA: And we do have a message.

SENATOR PRESENT: Calendar Number 1522, on the supplemental calendar, by Senator Trunzo, Senate Bill Number 5885-B, Retirement and Social Security Law.

SENATOR PRESENT: Mr. President, I move we accept the message.

ACTING PRESIDENT MEGA: So ordered. Message is accepted.

ACTING PRESIDENT MEGA: Read the last section.

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

ACTING PRESIDENT MEGA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEGA: The bill is passed.

Senator Present.

SENATOR PRESENT: Calendar 1498.

ACTING PRESIDENT MEGA: Secretary will read.

THE SECRETARY: Calendar Number 1498.

ACTING PRESIDENT MEGA: 1498 on the regular calendar.

THE SECRETARY: On page 40, by Senator Tully, Senate Bill Number 5608-A, an act to amend the Public Health Law.

ACTING PRESIDENT MEGA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT MEGA: Call the roll.

(The Secretary called the roll.)

SENATOR OPPENHEIMER: Explanation. Sorry. Thank you.

(The Secretary called the roll.)

SENATOR GOLD: Hold on.

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

SENATOR GOLD: Explain my vote.

ACTING PRESIDENT MEGA: Senator Gold to explain his vote.

SENATOR GOLD: Yeah, Mr. President. In explaining my vote, I'd like to point out that this is a different bill. No, the last bill we passed just went so fast, and I -- I want to congratulate Senator Trunzo.

The fact of the matter is somebody made the comment in Rules that this is a legislative mandate relief act. Thanks to the work of Senator Trunzo, we hopefully will not be flooded with all of these absurd pension bills.

SENATOR TULLY: Mr. President.

SENATOR GOLD: And it's about time.

ACTING PRESIDENT MEGA: Senator Tully, why.

SENATOR GOLD: And from that work on that bill, I'm going to vote on this bill. What do you want?

SENATOR TULLY: That's fine.

SENATOR GOLD: What do you want?

ACTING PRESIDENT MEGA: Read the last section.

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

ACTING PRESIDENT MEGA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEGA: The bill is passed.

SENATOR PRESENT: Mr. President, now take up Calendar 1262.

ACTING PRESIDENT MEGA: Calendar 1262.

THE SECRETARY: Calendar Number 1262, by Senator Johnson.

ACTING PRESIDENT MEGA: On page 27.

THE SECRETARY: Senate Bill Number 5900, Environmental Conservation Law.

ACTING PRESIDENT MEGA: Read the last section.

SENATOR OPPENHEIMER: No, not so

fast. Explanation.

ACTING PRESIDENT MEGA: Explanation requested. Senator Johnson, page 27, Calendar Number 1262.

SENATOR SOLOMON: I have an amendment, I think it's been handed up and served on the bill.

ACTING PRESIDENT MEGA: There's an amendment at the desk.

SENATOR SOLOMON: O.K. Thank you, Mr. President. Just give me a second to pull out my papers.

Mr. President, the amendment on the bill is actually -

ACTING PRESIDENT MEGA: We're on an amendment to the bill.

SENATOR SOLOMON: -- actually deals with the piece of legislation that was introduced by Assemblyman Silver and Senator Mega dealing with air emission offsets for incinerators in New York City.

The Clean Air Act which we know, the federal Clean Air Act, which was originally

designed to improve air quality in this state and in the country and particularly in urban areas, prohibited any new pollution sources from opening up and further worsening air quality within the particular designated geographic areas unless there are offsets, and air pollution and emissions had to be -

ACTING PRESIDENT MEGA: Senator Solomon, excuse me. Can we have some order in the house.

SENATOR SOLOMON: -- had to be reduced.

ACTING PRESIDENT MEGA: Senator Solomon.

SENATOR SOLOMON: -- had to be reduced. Thank you, Mr. -- Senator Mega.

And other air emissions had to be reduced. As a matter of fact, the New York City metropolitan area has been designated as a severe non-attainment area for ozone standards. Only two other areas in the country, Denver and Los Angeles, come into that specific designation.

Now, specifically what this would do is, there are two incinerators, one in the Brooklyn Navy Yard and one called the Southwest incinerator. What was interesting was that the Southwest incinerator just happened to have had its application completed several days before the effective date of the federal Clean Air offset requirements, did not receive its permit; it only had its application completed and, in fact, that wasn't even completed because there were subsequent amendments to applications.

This would, in effect, amend the bill we have before us with a great piece of legislation developed by Senator Mega in this house, and all it does is take Senator Mega's legislation and attach it to this bill, which would, in fact, require the city of New York to meet the standards as they really should be meeting under the federal Clean Air Act so they can not pull the wool over everyone's eyes and say, Well, we filed the application with the state of New York a week and a half before the federal Clean Air Act.

This is a very important bill to anyone who represents the city of New York because, in fact, what's going to happen is in the Southwest incinerator, we're going to probably have an additional 700 tons annually of pollution, whereas if we pass this bill, we'll have to offset those -- offset approximately 325 tons of nitrogen oxide.

This also affects the Brooklyn Navy Yard and I believe the Allis Head plant on Staten Island, and I would just suggest everyone vote yes on this amendment.

ACTING PRESIDENT MEGA: Any further discussion on Senator Solomon's amendment?

Senator Galiber.

SENATOR GALIBER: Senator yield for a question?

ACTING PRESIDENT MEGA: Senator yields, Senator Galiber.

SENATOR GALIBER: When you say "offset," from a practical standpoint, what does that really mean?

SENATOR SOLOMON: What happens under the offset requirement, Senator, if the city is going to open any new sources of air pollution, they have to reduce air pollution in other areas.

SENATOR GALIBER: How would they go about doing that?

SENATOR SOLOMON: How would they go about doing that? Well, that's some of the problems that they've talked about. Whether they've talked about reducing the number of cars that come into Manhattan in the central business district, whether they've talked about stricter standards on some private businesses in the area, that's the City's main problem, the main sources of air pollution of this type that comes into the -- the main sources is automobile pollution, by the way.

SENATOR GALIBER: Senator, will you yield for one other question?

SENATOR SOLOMON: Yes.

SENATOR GALIBER: Almost in the form of a statement really. "Offset" always

means to me that, if you clear it up on this side of the street, it has to go some place else. So in the city of New York if we talk about offsets in the Brooklyn Navy Yard, because of whatever the criteria may be, would Mount Vernon be affected by your offset from the city of New York taking care of Brooklyn Navy Yard, but impacting on another part, no, another county in this instance?

SENATOR SOLOMON: No, it would have to be within the city of New York, the City would have to offset it.

SENATOR GALIBER: O.K. Let me go to my other part of my district, I have fun doing that.

SENATOR SOLOMON: O.K.

SENATOR GALIBER: For example, if your amendment passes and this offset that we make reference to, is it conceivable that we do not have an incinerator or we cut down on the pollution in Brooklyn Navy Yard and you add to the South Bronx where we have in the matter of four or five miles an incinerator, a sludge

printing press, Hunt Point Market and more recently the burning of medical wastes within a radius of four or five miles.

Would your offset open up the possibility of another variable coming into that community?

SENATOR SOLOMON: The -- I believe the offsets specifically deal with the emission, type of emission, from that plant. So for that type of emission, there has to be an offset.

SENATOR GALIBER: O.K.

SENATOR SOLOMON: So there may be a different emission from the medical waste in cinerator than there is from the garbage incinerator.

SENATOR GALIBER: My point being that we've got it all in my district; we've got every bit of it. We have got a little bit of Hunt's Point which calls for the trucks coming in, so we've got type of that emission you're talking about still within the frame of the four or five miles; so if you want to offset it in

kind, if you will, the emissions from the smoke trucks et cetera, that's conceivable that could be added onto Bronx County in that particular area where emissions in kind, like if you will.

SENATOR SOLOMON: Senator, if these plants didn't open it wouldn't have to be offset. The offsets only occur if these plants open, and we're able to adopt this amendment. That's what I'm saying. If these plants didn't open, there would not have to be offsets. The offsets only occur if the plants open, because they're adding more pollution.

ACTING PRESIDENT MEGA: On the amendment. On the amendment, all those in favor signify by saying aye.

(Response of "Aye.")

All those opposed no.

(Response of "Nay.")

The noes have it. The amendment is defeated.

On the main bill, Senator Johnson, explanation requested.

SENATOR JOHNSON: Mr. President,

this will -- this bill is designed to comply with the federal law requiring clean air, amends the Environmental Conservation Law, Economic Development Law, Executive Law, Finance Law, Transportation Law, all in regard to clean air compliance, makes an appropriation for that purpose.

The 1990 amendments placed many requirements on us, and what we're doing by this legislation is giving the necessary legislative authority to implement the federal requirements.

We are -- we put a few other things in addition to the federal requirements, for example, Section 17 would have the state be a leader in development and use of electric cars, would help make a pilot program for reduced trips for employees by having the state do this for every 50 employees instead of a hundred, which is mandated by law for other businesses.

It will provide the Department of Environmental Conservation and the Motor Vehicle

Department with flexibility to protect the environment by reducing vehicle emissions with new inspection stations, centralized inspections, and so forth, as required by the federal law.

It has some fees in it on business and we tried to keep the fees to a minimum so that it would not adversely affect business, but as it is, the fees in the first year would bring in about $5 million, over 10 million the second year, and by the third year of implementation in 1995-96, $13.6 million dollars annually.

I could talk more about this bill, but essentially what we're trying to do is what the law requires and so we can comply with the law so we don't have any federal penalties or federal usurpation of the regulations by federal agencies, namely, the EPA.

ACTING PRESIDENT MEGA: Senator Oppenheimer.

SENATOR OPPENHEIMER: I would like first to make a couple of comments and then

question the Senator on the bill.

The Clean Air Act Amendments of 1990, the federal Clean Air Act, it places many new obligations on the state to -- to control the urban smog that we are dealing with, and the acid rain and the toxic pollution and all the other pollutants that come from the smoke stacks.

New York State legislation is - is needed to avoid the rather severe mandatory federal sanctions that will come if we do not pass substantive legislation and it will mean for us the loss of a good deal of money in transportation aid from the fed's and it will put a virtual ban on -- on our industrial growth if we don't get into control and get emission restrictions that meet the federal government's requirements, and I don't have to tell any of you, because you've heard it too often, that we live in an area where the air is considered - the quality is considered unacceptable, and it's the whole metropolitan area that's considered unacceptable, and it's a severe non-attainment

area, right after Los Angeles, and -- yes, in Colorado, Denver. There you go.

Before I speak specifically on the bill, I would like to ask Senator Johnson a couple of questions, if he would yield.

ACTING PRESIDENT MEGA: Senator Johnson, do you yield to a question or two?

SENATOR JOHNSON: Yes, Mr. President.

ACTING PRESIDENT MEGA: Senator Johnson yields.

SENATOR OPPENHEIMER: Senator Johnson, there was a concern in Westchester that we were being grouped into the environmental area with New York City and, therefore, the federal attainment goals could not really be reached as far as the limitation on vehicular traffic.

Do you know if -- if Westchester has been separated out from New York City and put in with Rockland and other suburban counties?

SENATOR JOHNSON: In regard to

trip reduction, yes, Westchester will be able to be handled differently.

SENATOR OPPENHEIMER: We'll be separated out from New York City.

SENATOR JOHNSON: Yes.

SENATOR OPPENHEIMER: Excellent, that was a requirement.

Let me comment on the bill now. Thank you, Senator.

ACTING PRESIDENT MEGA: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: We have very serious concerns about the fee structure. The fee structure looks like it is not sufficient to avoid federal sanctions. The - the Senate's fee structure is -- appears to be inadequate to fund the programs that are required to implement -

SENATOR DALY: Mr. President. Senator yield for a question?

SENATOR OPPENHEIMER: Yes, Senator.

SENATOR DALY: Do you know under

this bill, as far as fees are concerned, Senator, how much money will be raised say by the year 1996 on an annual basis?

SENATOR OPPENHEIMER: It is considered by the environmental groups of this state -

SENATOR DALY: I said how much -

SENATOR OPPENHEIMER: -- to not be a fraction of how much is needed.

SENATOR DALY: But I asked you how much money would be raised?

SENATOR OPPENHEIMER: Can you tell me, Senator?

SENATOR DALY: Oh, I can tell you, it's $20.4 million, $20.4 million in fees through this bill by the year 1996.

SENATOR OPPENHEIMER: And you're probably familiar with the serious costs involved in bringing our polluting stationary sources and mobile sources under control.

SENATOR DALY: Yes, Senator, I am, and I think if you studied the bill and studied and worked with DEC and found out what

they want to use this money for, I think you would find that this fee schedule would meet the needs of DEC in properly implementing the Clean Air Act.

Now, let me say we want to properly implement the Clean Air Act. We want in law, in statute, a bill that will satisfy the federal government, as we have to do by November 15th, and much of what Senator Johnson has done in this bill parallels the Clean Air Act.

Now, the basic question, Senator, we have to ask ourselves is how far, how far up in -- in front of the federal government should we move. If you'll note -- Senator, if you will note in the bill, if you've read the bill and compare it to the Clean Air Act, you obviously will see that this bill does meet the requirements of the federal Clean Air Act.

The question is how far should New York State go? Should we move ahead of all other states, again having a tremendously horrible impact on the economy of the state or should we play on a level playing field with

other states? We believe Senator Johnson in this bill has done an exceptionally good job of trying to obtain -- attain a level playing field status where New York State will honor the federal Clean Air Act and yet not put itself in a position where it goes so far ahead that we are at a great disadvantage in other areas.

SENATOR OPPENHEIMER: Thank you, Senator.

ACTING PRESIDENT MEGA: Senator Oppenheimer to continue.

SENATOR OPPENHEIMER: Thank you. I would question Senator Daly -

ACTING PRESIDENT MEGA: Senator Oppenheimer, would you -

SENATOR OPPENHEIMER: -- in his assessment -

ACTING PRESIDENT MEGA: Senator Oppenheimer, please.

SENATOR OPPENHEIMER: If Senator Daly will -

ACTING PRESIDENT MEGA: I'm trying to get some order for you so we can

listen to your debate.

SENATOR OPPENHEIMER: Thank you; I pointed this right out.

ACTING PRESIDENT MEGA: Would we please -

SENATOR OPPENHEIMER: (speaking loudly) can you hear me now? Senator Daly, if you would yield.

ACTING PRESIDENT MEGA: I guess you want no help. Continue.

SENATOR DALY: I will yield.

ACTING PRESIDENT MEGA: Senator Daly yields.

SENATOR OPPENHEIMER: I -- I have figures that show that what appears to be the Governor's, I think -

SENATOR DALY: May I break in?

SENATOR OPPENHEIMER: The Governor believes that -- the Governor's bill apparently would require about 18 -- 28? .8 - 18.8 million -- $18.8 million per year to im plement what he feels will be required by the federal government to put us in compliance and

to avoid federal sanctions.

The DEC believe $23 million per year will be required to put us into compliance with federal statutes.

What's this 4 million?

SENATOR DALY: May I? May I answer you, Senator?

SENATOR OPPENHEIMER: Yes.

SENATOR DALY: The figures -- the figures Senator Johnson has and let me speak to '94-95 and '95-96. '93-94 are almost finished; we're halfway through there, but in '94-95 we have 10.4 million and 4.35 million from the inspection fee which totals out to almost $15 million. In 1995-96, 13.6 million, 7.8 million which, as I said before, comes out to 20.4 million, and we believe very sincerely, Senator, that that is the amount of money that will do the job for us. We don't see the need for allowing the Department of Environmental Conservation to fold in other jobs that have nothing to do with the Clean Air Act.

We want to relegate these fees to

the administration or the implementation and administration of the Clean Air Act.

SENATOR OPPENHEIMER: There is - Senator, could I ask you to yield to one more question?

ACTING PRESIDENT MEGA: Senator Daly, do you yield?

SENATOR DALY: Yes, sir.

ACTING PRESIDENT MEGA: Senator Daly yields.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I'm curious, Senator. You talk about other jobs that the DEC wants to do with this funding source. What -- what jobs are you talking about?

SENATOR DALY: Well, you see, basically, Senator, we believe that some of the positions identified under these two categories are Title V related, but we believe that they're not needed to implement this particular piece of legislation. We believe that DEC has included in its, quote/unquote, jobs we need much more

than are needed and we have actually -- I know that Senator Johnson in negotiating team sat down and went through the jobs and worked -- we worked from those jobs that -- those jobs on the list that DEC gave to the negotiating team.

SENATOR OPPENHEIMER: They don't have to base it on anything. Let me -- let me say that there is room for disagreement here, but that the various groups that have been following closely the environment in our state for many, many years -

SENATOR DALY: Can I point out a job to you, Senator? Excuse me. I don't mean to interrupt you, but you wanted me to list some jobs for you. Can I give you some of that right now?

SENATOR OPPENHEIMER: O.K.

SENATOR DALY: Let me give you an example of what we mean. Let me point out that the Environmental Chemist 3 position is not related to Title V, and the position description deals with the CEM program mandated by Title IV, and is not required for implementation or not

needed for the implementation of the Clean Air. That's the type of thing we mean that he's including in the list of jobs supposedly required, jobs that are not. That's one example.

SENATOR OPPENHEIMER: All right.

ACTING PRESIDENT MEGA: Senator Oppenheimer has the floor. Senator Johnson, why do you rise?

SENATOR JOHNSON: I'd like to know if I may help to respond to that question that Senator Oppenheimer expounded on a few moments ago.

ACTING PRESIDENT MEGA: Without objection, Senator Johnson to respond.

SENATOR JOHNSON: I'd just like to clarify a few things because some of the memos are very confusing. There's one put out by the American Lung Association, the EPL and other groups collectively, which said that we're only charging $6 a ton and the EPA recommends $22 a ton.

Senator, I'd just like you to

know that the EPA recommends up to $25 a ton or whatever amount is required to perform the job, whatever amount the state feels they need up to $25 a ton, but that doesn't start until 1995, Senator.

What we're doing here is we're phasing in, we're giving them money in advance. We're giving them $6 a ton for '93, $12 a ton for '94 so they can build up and get this thing going, and up to $17 a ton in 1995. So, Senator, we are probably being as generous or more than the federal EPA recommends.

As far as the Governor's memo saying he would like $40 a ton, I'm sure he would because he could pass off more of the costs of running the various departments on the backs of the industries and the vehicle operators of this state. But, Senator, I don't know that it's a good idea to load on all you can on this -- on this camel's back without breaking its back.

So, Senator, our goal is to charge what we feel is necessary to do the job

and not more. That doesn't mean, Senator, we can't go from 17 to $25 some time in the future, but I don't think it's a good idea to send a message to our business and our commuters in this state, we're going to get all we can out of you as fast as we can, and maybe you better make plans to follow up on that inquiry from Kentucky or North Carolina or Mexico and take your business there before we get you for all that big money.

So, Senator, we're trying to be responsible and some of these memos are not accurate, and I would like you to know that and would like you to know that this has been well thought out and, by the time this bill is up and running, they're going to have about $30 million just alone from these fees, let alone another $10 million a year from auto inspections. So they're going to have an awful lot of money, Senator, under this bill; I think enough to do the job.

ACTING PRESIDENT MEGA: Senator Oppenheimer still has the floor.

SENATOR OPPENHEIMER: If -- if Senator Johnson would just yield for one question.

ACTING PRESIDENT MEGA: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes, Senator, Mr. President.

SENATOR OPPENHEIMER: Senator, are you aware that the New York State Business Council has stated, I believe this month, that the $6 per ton that you have mentioned is in sufficient and that $10 per ton is what would be required to do the job this year?

SENATOR JOHNSON: Senator, I don't know how the Business Council did their calculations, and whether they're right or wrong, or whether the Governor is right or wrong with his call for $40 a ton. All I know is, Senator, we have tried to structure this in a way that the money will be sufficient to do the job, and the Business Council is very supportive of our bill, so I feel perhaps that any appraisal you got of what the correct price

should be is merely a shot in the dark, and the present bill is perfectly acceptable to the Business Council.

SENATOR OPPENHEIMER: One more question, Senator, if you will yield. You mention the emissions inspection fees. Are you -- how does that jibe with the fact that, in this bill, these fees are supposed to go back into the general fund, not for this purpose?

SENATOR JOHNSON: Senator, thank you for bringing that subject up. It's something we're well aware of and, as you may know, this bill has been under active negotiation for quite a period of time and we know we're going to have to have an amendment to this bill, perhaps to conform it to the Assembly bill or they're going to get together and make a completely new bill. But, Senator, everything is on dead center with the Governor's office. He doesn't seem to want to pursue any further negotiations.

When we -- when we revise this bill, Senator, we will make sure that that money

goes into a dedicated fund, which is what we want to do.

SENATOR OPPENHEIMER: Excellent. Could I ask the question that the ongoing negotiations are moving ahead and we can expect a two-house bill shortly?

SENATOR JOHNSON: Senator, you know, I think we were further ahead last week than we are this week on the negotiations, and the Governor seems to be very reticent to come to closure on this measure.

Senator, this is one of the most important bills before this house this year, as was the Environmental Trust bill. We passed good bills. If they could be perfected by two or three-way discussions, we'd like to have them but, Senator, we can't leave here without doing this bill, and the only way to make any progress from this point on is to adopt this bill, and let the Governor know this house is serious. This has to be done before we leave here and we're certainly looking forward to having a bill that passes both houses and gets the signature

of the Governor.

SENATOR OPPENHEIMER: Thank you, Senator.

On the bill, I would just like to mention a few other serious concerns that I have. First of all, this bill prohibits New York from adopting the California fuels. I better ask Senator Johnson, does this bill prohibit us from adopting the California fuel?

SENATOR JOHNSON: Senator, yes, it's in the bill. It's in the bill, and it's in the bill because we are trying not to interfere with the California regulations promulgated by the Commissioner which, upon the advice of his advisory board, Environmental Advisory Board, said they would not adopt California fuel, so we are putting in statute his present regulation, Senator.

SENATOR OPPENHEIMER: Thank you, Senator.

My concern is that there ought to be some flexibility built in here and not -- not a prohibition built in. We -- there is current

litigation going on now, and I think we have to wait to see what the outcome is based on the court's interpretation, so I think we are pre mature and certainly ought to adopt flexibility as our goal rather than a prohibition.

I'm also concerned about the - the fact that this bill omits warranty and recall. Warranty and recall would require car manufacturers to warranty air emission systems and issue recalls if the standards aren't met. Without this provision, the consumer, the customer, is going to suffer rather than the - the com... holding the companies accountable, it is going to be the consumer that will have to improve the defective emission system. That seems rather unfair to the consumer.

At this present time, I think I will complete what I had to say and let another Senator speak on the subject.

ACTING PRESIDENT MEGA: Senator Daly.

SENATOR DALY: Mr. President, going back to the discussion we had before, I

would remind my colleagues that the fastest growing part of the state budget over the last six years has been the special revenue other and the first incursion into is that, into the SRO, special revenue other, by any department was DEC back about six years ago when they tried to move -- they tried to move 135 jobs that were normally funded out of the general fund over to SRO and we very frankly believe, Mr. President, that the DEC's request for these additional monies will -- will -- is a clear indication that they will be using those monies for positions other than those required to implement the Clean Air Act.

Point two. The Senator mentioned or questioned Senator Johnson on the fact that this bill includes a prohibition on California reformulated fuels. I would point out that the Governor's bill does exactly the same thing, and DEC agrees with the language we have on this particular situation on this particular part of the bill.

And three, I think the bottom

line, Mr. President, on this bill, and the difference between the executive branch and in particular, the DEC, boils down to one question: Should the Department of Environmental Conservation be given the regulatory power to go well beyond the requirement of the federal Clean Air Act? That's the bottom line. Should the DEC be given that kind of power?

And, very frankly, my colleagues, we don't believe that the DEC should. All you have to do is look at the history of DEC, particularly under the present Commissioner, and you will find constant battles and court cases where DEC is trying to establish itself as the body who will establish policy in this state on environmental matters.

I'm sure my colleagues on both sides of the aisle would take exception to a department trying to take over or usurp the powers in this house and our colleagues in the Assembly.

So, Mr. President, I feel Senator Johnson has done an exceptional job in putting

together a bill that will meet the needs -- meet the requirements of the federal Clean Air Act. This bill will meet those requirements so that on November 15th, if this bill becomes law, New York State will be in compliance and yet we will have not taken that step where we will have given power to a department to go well beyond the requirements established by Washington.

And, again, I remind you of how easy it has been for New York State in the past to take steps that, while certainly well intended, come back and haunt us. And again, I'm talking about balance, the balance about the economy, about the economy, with the environment and again, in no way reducing the urgency of the passage of proper legislation which will help to make our air cleaner.

ACTING PRESIDENT MEGA: Read the last section.

SENATOR LEICHTER: Oh, just a second.

ACTING PRESIDENT MEGA: Senator Leichter.

SENATOR LEICHTER: Mr. President, this is indeed an important issue. I'd like to say it's an important bill. It does come on an important day for Senator Johnson, and Senator Farley and Senator Oppenheimer and myself, and I think Senator Saland. We're all the July 3rd committee. Some of us have anniversaries; some of us have birthdays. So, Senator Johnson, I congratulate you, on your birthday, not the bill.

But, Senator, in all seriousness, I think Senator Oppenheimer's tried to bring out some of the concerns and problems we have. First of all, let's -- let's remember, because I think it's important, particularly from your approach, Senator Daly, we're concerned here with two important issues.

One is the health and welfare of the people of the state of New York. Remember that. We're dealing -- we're dealing with ozone depletion. We're dealing with areas of the state that have very high pollution that -- that are non-, what is the technical term?

SENATOR DALY: Mr. President.

SENATOR LEICHTER: Let me just finish, Senator.

ACTING PRESIDENT MEGA: Senator refuses to yield.

SENATOR LEICHTER: -- that are non-attainment areas. So to comply, first of all we want to do it because it's the right thing, we owe it to the people of this state.

Secondly, we've got to do it because, if we don't act, if we don't comply we're going to lose a billion dollars and more of federal funds. We're in violation, and the EPA is going to come down, and I've got a letter here that they wrote on June 7th to Governor Cuomo saying, What are you guys doing? Now, they put it much more diplomatically, and it took them two pages to do it, but they say, We're warning you, that money is going to be cut off.

Now, what the response of the Republican Majority in this bill is foot dragging, trying to stonewall and total illusion. I mean we've seen the fantasies that

you people have with money all along. We saw it with Senator Johnson's trust fund. We've seen it with -- with other bills that you have. Earlier today, a Senator Holland bill where he was going to do something for local communities, he said, Well, when we get the money, we'll do it.

But we're dealing with something that's very real and the problems that you have with this bill are numerous. First of all, there's no question the fee structure is inadequate. Senator Daly, you say $20 million. Nonsense. That figure as studied by the -- by the OMB is that at best you're going to get $13 million with the fee structure. That's going to be insufficient. We're going to be penalized by EPA.

Senator Oppenheimer pointed out you prohibit the use of California gas. We should give that flexibility to DEC. You don't have a warranty and recall. Your employee trip reduction is inadequate. The operating permit provisions, you impose limitations that make

that ineffective.

I find one of the worse features of the bill that you prohibit DEC from going beyond federal clean air standards. Senator Daly, I couldn't believe, you got up there and you're beating your chest, Oh, that's wonderful, we're really macho see how tough we are. See what you're doing.

You're hurting the people of the state of New York. You might need to go beyond federal clean air standards because that's a homogenized standard for the whole country. We have pockets in our state that have a terrible problem, as far as non-attainment. Rockland County, Manhattan, Westchester, and so on. You may need to go beyond this.

But listen, here we are on July 3rd. I don't know why we couldn't have done this in May or June. What is -- what is this about this brinksmanship that we've got to wait until it's way beyond reasonable time to do it? And Senator Johnson says, Well, we were further along last week than we were this week. There's

got to be some reason prevail in this chamber and the other chamber and in the Governor's office, not only because it's a matter of getting out. I guess that's secondary to the fact that we need to do this.

We need to do this, because the penalties that are going to be imposed on New York State are going to be extremely severe and unacceptable. So let's get to work in a reasonable and in a productive fashion and not in this way and, again, Senator Johnson, congratulations on your birthday.

ACTING PRESIDENT MEGA: Senator Oppenheimer.

SENATOR OPPENHEIMER: I just want to reiterate something that Senator Leichter said which is that the -- the standards that EPA put out, the standards in the federal legislation are minimal standards for the entire United States, and many parts of our state -- of our nation have relatively clean air and they really don't have to put in the kind of effort that we need to put in to start to meet these

standards.

As we all know, we do have the third worst air in the metropolitan area and that's a serious health hazard to the people of this state.

I also wanted to point out that joining the environmental groups of EPA and Sierra Club and the various environmental groups of our state is also a group that I am very close to, the League of Women Voters which has taken a very strong stand and is anxious to move ahead with a clean air bill that is a clean air bill and not, as many of us believe, truly a dirty air bill.

Thank you. I will be voting in the negative.

ACTING PRESIDENT MEGA: Read the last section.

SENATOR JOHNSON: Mr. President.

ACTING PRESIDENT MEGA: Senator Johnson.

SENATOR JOHNSON: Like to correct a couple of, again, misapprehensions which are

flowing fast and furiously around this place.

Senator Leichter, I hope you know there's been no foot-dragging on our part. We've had our bill drafted for months; we filed it several weeks ago but we were trying to get a bill that all sides would agree upon.

Nevertheless we have a good bill which will do what it has to do. I think I may have misled you, maybe Senator Daly misled you, by saying we're not going beyond federal requirements. Yes, we're talking about we're doing what the law requires so that we comply with the law. We're trying to minimize the cost to businesses, as I said, but this does not say that if you've got an area that's impacted with excessive pollution or other problems that you can't go beyond it. But we're not giving the department carte blanche to make their own rules and regulations about what they will or will not do anywhere, but on page 5, if you'd like to look at that at the top of the page, it says that you can exceed the requirements or regulations, they can exceed this bill

essentially, providing that they -- and set up regulations which exceed the authority specifically set forth in this bill to require the -- if it's required to satisfy the act, to prevent an assessment or imposition of sanctions pursuant to the act, to comply with a final decree of a federal court.

So there are some reasons by which they can go beyond the regulations and the laws contained in this bill.

As far as warranty and recall, there's no need for that. We don't have any California car standard in this state due to the federal court action. We're all aware of that, so there's no point to amplify the California law which -- regulations which are not in place at the present time.

California fuels, the entire Northeast Air Transport Region said they're not going to do California fuels. The fact that we have it in here is because the Commissioner's own agency, the environmental board, decided not to have the California fuels. We merely put

into law what they said they would do, even if they did California cars they would not do California fuels, and just the thought of us standing up here on the floor to defend California fuels at a cost of 20 or 30 cents a gallon more than fuels in any surrounding state, that would be economic idiocy to be polite about it.

So, Senator, we don't even think it makes a lot of sense to put in here that you can charge 20 or 30 cents a gallon more than anybody else in the surrounding states and think that that's going to make any difference in your air quality in this state.

So, Senator, this is a good bill. This bill should be brought forth by the other house, and it should be supported by the Governor and all of you here.

ACTING PRESIDENT MEGA: Senator Galiber.

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

ACTING PRESIDENT MEGA: Senator

yields. Senator Galiber, for a question.

SENATOR GALIBER: Senator, I was questioning Senator Solomon on some amendment because there were adjustments to be made as a result of testing and the shifting process.

I guess what troubles me somewhat is the fact that we have so many memos in opposition to this. Usually we have one and, if we try to identify that group, they have very little standard, if you will, but here we have some objections, and what I guess I'm getting at is if this minimum amount of -- to comply with the federal Clean Air Act saves us X number of dollars, and as a result of monies will be earned, made, what happens to those communities such as the one that I mentioned before, and it was mentioned at our committee meetings, where I'm concerned about the cumulative impact in the community.

It's conceivable that we may comply on the one hand but yet do violence to certain communities on the other hand, and I guess more importantly, we are tying -

fettering, if you will, the hands of the state regulatory agency, DEC, which you and I don't have similar feelings towards from time to time, from coming into the community under the guise of saying, Well, it doesn't do enough here, but look at the money that we're making. And we have an Assembly person on the other side who says, Well, if we do violence to your community from an environmental standpoint, I have a piece of legislation that I'm going to put in which is going to offer some jobs to that community.

That doesn't help at all, because if they offer the jobs and you're killed off, it becomes irrelevant except for those persons who are concerned about making the money. Senator, tell me, if we pass this piece of legislation, will there be communities in our state and in particular in our metropolitan area who will not gain from it, but who will be seriously -- the possibility of being seriously impacted from a negative standpoint as the result of the formula here and as the result of you fettering, if you will, the hands of the regulatory agency.

SENATOR JOHNSON: Your question is, are there people in the metropolitan area which will be negatively affected by this bill?

SENATOR GALIBER: Well, that's good for openers, Senator. Yes, that's part of it.

SENATOR JOHNSON: The answer is no, Senator.

SENATOR GALIBER: No?

SENATOR JOHNSON: Yes. The answer is no.

SENATOR GALIBER: O.K.

SENATOR JOHNSON: They may be negatively affected in that they'll have to do car pooling or ride a bus or other things of that nature, Senator, or buy an electric car eventually or other things, but this is going to -

SENATOR GALIBER: Will I have to get rid of that old, old car I have because it burns that other kind of gas? I'm not talking about that; I'm talking about health conditions.

SENATOR JOHNSON: Senator, the only health condition which affects people respiratorily, which presently exists is ozone, ground level ozone, and that, Senator, was only out of compliance four days last year, down from over 120 days ten years ago, so we've made great progress, Senator. This is is like the icing on the cake. You already have the cake.

SENATOR GALIBER: But I'm saying, why, again, I know you've answered the question, but again I think in closing off the debate or coming pretty close to it, why again if these memos in opposition keep repeating one serious factor or factors, one factor; that is why are we fettering the hands of DEC or keeping the hands or whatever from imposing stricter regulations where they feel it's necessary? Because it was brought out that there is some nice clean air between here and California but they use that as minimum standards, and it doesn't exist in this area, and I'm not being facetious about it at all.

We have a serious, serious

problem in the metropolitan area, not only in the city of New York but up in other -- other big metropolitan areas in our state where people are going to be seriously damaged or harmed long range, families, children, as far as their health conditions are concerned as a result of us not being able to have confidence in our regulatory agencies saying, no, you can't come in and arbitrarily set higher standards where they may, in my judgment, be necessary.

Why are we doing this? Why are we cutting down -- down on the DEC powers?

SENATOR JOHNSON: Senator, the entire purpose of this bill is to comply with the federal regulations who many have said weren't necessary in the first place. Nevertheless, they're being -- they're being complied with, Senator. They're clean air. And the provisions are adequate.

Now, you ask me why -- why do some people put up memos against these things? Because they would like to -- they would like the agencies to charge higher fees than we're

permitting under this bill so, therefore, they are as a handmaiden of the DEC, generally, always supportive of more fees, more regulation.

Warranty and recall, it's not required at the moment because there's no such California regulations in place. The trip reduction, now, they criticized the trip reduction, and let me see what their problem is with that. Failure to include an enforcement mechanism, or failure to submit plans, et cetera, et cetera, et cetera. That's not true. There are penalties for not complying with it.

There was some talk about the fines aren't high enough, that some groups want $50,000 fines while the recommendation of the EPA is to have a fine equal to 50 percent of the -- of the -- of the payment which is not made. The fee payment was not made, a fine of 50 percent of the fee in addition to collecting the fee. Some people want $50,000. Well, you can give the agencies all the money you want, I guess, but you have to think about the fact that

it should be enforceable generally by consent and not by beating or use or digging in everybody's pocket for all the money you can get as a sort of a supplement to the budget.

SENATOR GALIBER: Senator, I'm not too concerned about the money aspect. What I'm concerned about is the memo from the American Association -- New York State Environmental Planning Lobby, the Sierra Club and just a couple of others and all of them say something which is of concern to me and I'm sure it concerns you.

It says the bill also prohibits DEC from adopting any rule or regulation which is tougher than the standard set by EPA for the smog, ozone, and New York State population at risk. Senator, the population at risk includes 2,146,891 children and 1,492 -- 1 million, 492 million -- 1 billion -- what is it, elderly, and 438,492 individuals, in other words the at risk factors for those categories, whatever the numbers may be. They're saying that those persons will be at risk. Is that so?

SENATOR JOHNSON: I don't know where you got the figures, Senator, but I doubt it, Senator, since the law which the present federal law and the bill we have here will permit the meeting of all the standards which are thought to affect any health.

Now, there may be people that have illnesses which they've had them for 20 or 30 years, Senator. It's not going to cure them, but it's not going to foment any further illnesses if this law is put in place.

ACTING PRESIDENT MEGA: Read the last section.

THE SECRETARY: Section 25. This act shall take effect immediately.

ACTING PRESIDENT MEGA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEGA: Those in the negative please raise your hands.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEGA: Senator

Leichter to explain his vote.

SENATOR LEICHTER: Yes, just to explain my vote, because there have been references to various groups that have opposed this, but I think it would be helpful to have the whole list read; I'm not sure they all were. It includes the American Lung Association of New York State, the Environmental Planning Lobby, the New York Public Interest Research Group, the Sierra Club, Atlantic Chapter and the League of Women Voters.

Mr. President, I vote in the negative.

ACTING PRESIDENT MEGA: Senator Leichter in the negative. Negatives please raise your hands.

THE SECRETARY: Those recorded in the negative on Calendar Number 1262 are Senators Connor, Dollinger, Espada, Galiber, Halperin, Hoffmann, Jones, Leichter, Levy, Markowitz, Mendez, Montgomery, Ohrenstein, Onorato, Oppenheimer, Smith, Solomon, Stavisky and Waldon.

SENATOR DOLLINGER: Mr. President, was my name called?

THE SECRETARY: Also Senator Masiello. Also Senator Stachowski. Ayes 38, nays 21.

ACTING PRESIDENT MEGA: The bill is passed.

Secretary will read. Senator Galiber, why do you rise?

SENATOR GALIBER: Mr. President, can I have unanimous consent to be recorded in the negative on a few calendar calls earlier in the day, subject to your approval: 1458, 1484, 1492, 1503 and 261.

ACTING PRESIDENT MEGA: Without objection. Senator Gonzalez.

SENATOR GONZALEZ: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1476?

ACTING PRESIDENT MEGA: Without objection. Senator Espada.

SENATOR ESPADA: Yes requesting unanimous consent to be recorded in the negative

on Calendar Number 1476, please.

ACTING PRESIDENT MEGA: Without objection. Senator Leichter.

SENATOR LEICHTER: Unanimous consent to be recorded in the negative on Calendar 1476.

ACTING PRESIDENT MEGA: Without objection. Any other Senators wish to be recorded in the negative on any bills?

Senator Daly, we're going to be -- we have one other bill, and then we'll do some housekeeping.

Secretary will read.

THE SECRETARY: Calendar Number 1495, by the Assembly Committee on Rules, substituted earlier today, Assembly Bill Number 7875-B, an act to amend the Penal Law.

ACTING PRESIDENT MEGA: Read the last section.

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

ACTING PRESIDENT MEGA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 58, nays one, Senator Gold -- ayes 57, nays two, Senators Gold and Leichter recorded in the negative.

SENATOR GALIBER: Record me in the negative, Mr. President.

THE SECRETARY: In relation to Calendar Number 1495, those recorded in the negative are Senators Galiber, Gold and Leichter. Ayes 56, nays 3.

ACTING PRESIDENT MEGA: The bill is passed.

Can I have your attention? We will do some housekeeping, and then there will be a very important memo read after the housekeeping, so please pay attention and listen to the important memo that will be read after we do the housekeeping.

Senator Daly.

SENATOR DALY: Mr. President, I offer the following amendments to Calendar Number 1416, Senate Print 4757-B on page 31 and ask that said bill retain its place on Third

Reading Calendar.

ACTING PRESIDENT MEGA:

Amendments received.

Senator Lack.

SENATOR LACK: Mr. President, on page 30, I offer the following amendments to Calendar Number 1386, Senate Print Number 5303, on behalf of Senator Velella, and ask that the said bill retain its place on Third Reading Calendar, and also on page 30, Mr. President, I offer the following amendments to Calendar Number 1391, Senate Print 5886-B.

ACTING PRESIDENT MEGA:

Amendments received.

Senator Maltese.

SENATOR MALTESE: Mr. President, on behalf of Senator Mega, on page number 33, I offer the following amendments to Calendar Number 1444, Senate Print Number 5985, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEGA:

Amendments received. Senator Saland.

SENATOR MALTESE: Mr. President, might I also point out to the attention of all my colleagues the memorandum from my good Assembly colleague Dennis Butler, with reference to religious services for tomorrow.

ACTING PRESIDENT MEGA: Thank you, Senator.

Senator Saland.

SENATOR SALAND: Mr. President, I wish to call up my bill 5270 recalled from the Assembly.

THE SECRETARY: By Senator Saland, Senate -

ACTING PRESIDENT MEGA: Secretary will read.

THE SECRETARY: -- Bill 5270, an acted to amend the Executive Law.

SENATOR SALAND: Mr. President, I wish to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MEGA: Call the roll on reconsideration.

(The Secretary called the roll on

reconsideration.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEGA: Bill is before the house.

SENATOR SALAND: Mr. President, I offer up the following amendments.

ACTING PRESIDENT MEGA: Amendments received.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. On behalf of Senator Wright, would you remove the sponsor's star on Calendar Number 1000, Senate Print 4277.

ACTING PRESIDENT MEGA: Star removed.

Senator Nozzolio.

SENATOR KUHL: Thank you.

ACTING PRESIDENT MEGA: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I move to to recommit Calendar Number 583 and Calendar Number 586.

ACTING PRESIDENT MEGA: Bill is

recommitted.

SENATOR CONNOR: Mr. President.

ACTING PRESIDENT MEGA: Senator Connors.

SENATOR CONNOR: Thank you, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar Number 1476?

ACTING PRESIDENT MEGA: Without objection.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, I wish to call up my bill, Senate Print Number 1588, which is now at the desk.

ACTING PRESIDENT MEGA: Secretary will read.

THE SECRETARY: By Senator Montgomery, Senate Bill Number 1588, authorizing the city of New York to reconvey its interest in certain real property.

SENATOR MONTGOMERY: I now move to reconsider the vote by which the bill was passed, and ask that it be restored to third

reading.

ACTING PRESIDENT MEGA: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEGA: The bill is before the house.

SENATOR MONTGOMERY: I now move to discharge from the Committee on Rules Assembly Print Number 2673 and substitute it for my identical bill.

ACTING PRESIDENT MEGA: Substitution ordered. Read the last section.

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

ACTING PRESIDENT MEGA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Unanimous.

THE PRESIDENT: There was a home rule message on that bill. The bill is passed.

Senator Volker.

SENATOR VOLKER: Mr. President, I wish to call up my bill, Senate Print Number 1539-A which is now at the desk.

ACTING PRESIDENT MEGA: Secretary will read.

THE SECRETARY: Calendar Number 1539 -- Senate Bill Number 1539-A, by Senator Volker, an act to amend the Executive Law.

SENATOR VOLKER: Mr. President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT MEGA: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT MEGA: The bill is before the house.

SENATOR VOLKER: Mr. President, I now move to discharge from the Committee on Rules Assembly Print Number 2598-A and substitute it for my identical bill.

ACTING PRESIDENT MEGA: Substitution ordered. The last section.

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

ACTING PRESIDENT MEGA: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Unanimous.

ACTING PRESIDENT MEGA: The bill is passed.

Senator Galiber.

SENATOR GALIBER: Mr. President.

ACTING PRESIDENT MEGA: Excuse me, Senator Galiber. Senator Volker, did you have something else?

SENATOR VOLKER: No, that's O.K. We did it, thank you. I'm sorry.

ACTING PRESIDENT MEGA: Senator Galiber.

SENATOR GALIBER: Mr. President, could you tell me how I was recorded on the clean air bill?

ACTING PRESIDENT MEGA: On

Senator Johnson's clean air bill?

SENATOR GALIBER: That's correct, sir. Thank you.

Any further housekeeping?

SENATOR PRESENT: May I make an announcement.

ACTING PRESIDENT MEGA: Senator Present for the purpose of an announcement.

SENATOR PRESENT: Before everybody runs off, I'd like to announce there will be an immediate meeting of the Republican Conference immediately following the adjournment of this session today.

ACTING PRESIDENT MEGA: Meeting of the Republican Conference.

SENATOR PRESENT: Immediate short conference.

ACTING PRESIDENT MEGA: Short conference immediately after session of the Republican Majority.

The Chair hands down a message from the Assembly.

THE SECRETARY: The Assembly

returned Senator Spano's bill, Senate Bill Number 2026, an act to amend the Mental Hygiene Law, with amendments.

ACTING PRESIDENT MEGA: Concur in the amendments; restore to third reading.

Secretary will read some substitutions.

THE SECRETARY: On page 9 of today's calendar, Senator Hannon moves to discharge the Committee on Rules from Assembly Bill Number 1829-B and substitute it for the identical Third Reading 470.

On page 15, Senator LaValle moves to discharge the Committee on Rules from Assembly Bill Number 6521-A and substitute it for the identical Third Reading 725.

On page 25, Senator Masiello moves to discharge the Committee on Rules from Assembly Bill Number 7838-A and substitute it for the identical Third Reading 1185.

On page 26, Senator Mega moves to discharge the Committee on Rules from Assembly Bill Number 6677-B and substitute it for the

identical Third Reading 1211.

On page 29, Senator Marino moves to discharge the Committee on Rules from Assembly Bill Number 8464-A and substitute it for the identical Third Reading 1348.

On page 40, Senator Spano moves to discharge the Committee on Rules from Assembly Bill Number 8219-A and substitute it for the identical Third Reading 1502.

Now, in relation to the supplemental calendar, Senator Spano moves to discharge the Committee on Rules from Assembly Bill Number 3276 and substitute it for the identical Third Reading 1509.

Senator Johnson moves to discharge the Committee on Rules from Assembly Bill Number 6135 and substitute it for the identical Third Reading 1512.

Senator Sheffer moves to discharge the Committee on Corporations, Authorities and Commissions from Assembly Bill Number 6381 and substitute it for the identical Third Reading 1513.

Senator Goodman moves to discharge the Committee on Rules from Assembly Bill Number 8248-A and substitute it for the identical Third Reading 1517.

Senator Velella moves to discharge the Committee on Rules from Assembly Bill Number 7910-A and substitute it for the identical Third Reading 1518.

Senator Trunzo moves to discharge the Committee on Rules from Assembly Bill Number 8044 and substitute it for the identical Third Reading 1521.

Senator Goodman moves to discharge the Committee on Rules from Assembly Bill Number 8582 and substitute it for the identical Third Reading 1524.

ACTING PRESIDENT MEGA: Substitutions ordered.

Memorandum dated July 3rd, 1993 to all Senators and staff, from Steve Sloan. Subject: Logistics for Sunday, July 4th, 1993. Secretary will read.

THE SECRETARY: The following

arrangements have been coordinated with the Office of General Services and the Capital Police regarding the logistics for Sunday, July 4th, 1993, assuming that the Legislature will be in session.

General: Number 1. State Street will be closed from South Swan Street to Eagle Street all day Sunday. Any cars parked on the street will be towed.

Number 2. Capital Police will be patroling the Empire State Plaza at all times and are available for emergencies. Dial 111.

Number 3. Tunnel from the Capitol to the Alfred E. Smith Office Building will be closed all day Sunday.

Building access: Number 1. Capitol: The building will be open to members, staff and the public. Capital Police will patrol the third and fourth floor, Senate and Assembly chamber and gallery areas.

Number 2. Legislative Office Building. Building will be open to members, staff and public. The Plaza level door east end

of building on the second floor will be locked. Please use the Concourse level entrance for access to the building.

Number 3. Agency Building 4: Senate and Assembly staff with access cards will be granted entry. If the access card system is operating, an OGS security person will approve access for staff presenting an access card.

Parking: Number one. P-3 member parking area. The access gate will be open, but pylon cones will be blocking the access road way. Members should go around the pylon cones and park in assigned spots.

Number 2. P-2. Employee parking area. Access will be available and no shortage of parking spots is expected prior to 4:00 p.m. After 4:00 p.m., there is no guarantee of parking; so plan accordingly.

Number 3. Closing of roads: All roads leading into the Empire State Plaza garage will be closed at approximately 7:00 p.m. and will not reopen until after the fireworks have concluded, and the bulk of those parking in the

garage have left.

ACTING PRESIDENT MEGA: Senator Present.

SENATOR PRESENT: Mr. President, there being no further business, I'd remind again that there's an immediate conference of the Majority following the adjournment of this session tonight.

I now move that we adjourn until tomorrow at 1:30 and would announce that we're going to continue to work tomorrow until we finish this session.

ACTING PRESIDENT MEGA: Adjournment as indicated.

SENATOR DOLLINGER: Is there a vote on the motion to adjourn? Please record me in the negative on the motion to adjourn.

ACTING PRESIDENT MEGA: You're in the record.

We're adjourned until tomorrow at 1:30. Immediate meeting of the Majority.

(Whereupon at 8:05 p.m., the Senate adjourned.)