ALBANY, NEW YORK

June 14, 1994

3:59 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order, members take their seats. Staff find their places. Ask all the visitors in the gallery to rise and join with us in saying the Pledge of Allegiance to the Flag.

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

We're pleased to be joined by the Reverend Peter G. Young of the Blessed Sacrament Church in Bolton Landing for the prayer.

REVEREND PETER G. YOUNG: Thank you, Senator. Let us pray. Almighty and eternal God, may Your grace enkindle in all of us a love for the many unfortunate people whom poverty and misery reduce to a condition of life unworthy of human beings. Arouse in the hearts of those who call You Father a hunger and a thirst for social justice and for fraternal charity in deeds and in truth. Grant us, O Lord, in this chamber of the Senate of New York State peace in our days and peace to all of those in New York, for their families and for

all of those that, again, are eager to be Your people. Now and forever. Amen.

ACTING PRESIDENT KUHL: Thank you, Father.

Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 13th. The Senate met pursuant to adjournment, Senator Farley in the Chair upon designation of the Temporary President. Prayer by Rabbi M. Mitchell Serels of New Rochelle. The Journal of Friday, June 10th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees. Secretary will read.

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

Senate Bill Number 5312-B, by Senator Hannon, an act to amend Chapter 915 of the Laws of 1982;

Senate Bill Number 1362, by Senator Marchi, an act to amend the Judiciary Law;

1425, by Senator LaValle, an act to amend the Town Law;

1426, by Senator LaValle, an act to amend the Town Law;

2068, by Senator Kuhl, an act to amend -- authorize the county of Yates to convey certain lands;

3463-A, by Senator Trunzo, Real Property Tax Law;

4136, by Senator DeFrancisco, an act to amend the Tax Law;

4386, by Senator Cook, an act to amend the Tax Law;

4822, by Senator Stafford, an act to amend the Town Law;

5799-A, by Senator Smith, authorizing the city of New York to reconvey its

interest in certain real property;

5933, by Senator Daly, disposition of surplus monies of the East Gates Water District;

6692, by Senator Connor, city of New York to reconvey its interest in certain real property;

6849-A, by Senator Gold, New York City reconvey its interest in certain real property;

6863-A, by Senator Wright, sale of certain state lands in the town of Ellisburg, Jefferson County;

6879, by Senator LaValle, General Municipal Law;

6909, by Senator Pataki, legalize, ratify and confirm the town of Dutchess;

6961, by Senator Holland, General Municipal Law;

7052, by Senator Rath, State Administrative Procedure Act, in relation to regulatory flexibility;

7128, by Senator Pataki, an act to amend the Town Law;

7142, by Senator Rath, State Administrative Procedure Act;

7737-A, by Senator Seward, Real Property Tax Law;

7749-A, by Senator Velella, an act to amend Chapter 285 of the Laws of 1891;

7772, by Senator Stafford, Commissioner of General Services to convey certain land in Clinton County;

7776, by Senator Rath, State Administrative Procedure Act;

7800, by Senator Present, Real Property Tax Law;

7948, by Senator Wright, Commissioner of General Services to convey real property in St. Lawrence Psychiatric Center;

7975, by Senator Libous, an act to amend the Tax Law;

8002-A, by Senator Rath, State Administrative Procedure Act;

8167, by Senator Skelos, town of

Hempstead to lease certain park lands;

8180, by Senator Tully, authorize the village of Westbury to discontinue the use of and sell certain park lands, reported with amendments;

And 8547, by Senator Tully, authorizing an assessor of the county of Nassau to accept an application for exemption of real property taxes.

All bills reported directly for third reading.

ACTING PRESIDENT KUHL: All bills reported directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, on page number 27, I offer the following amendments to Calendar Number 967, Senate Print 6733-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

Amendments are received and adopted.

SENATOR SKELOS: And also, Mr. President, on page number 36, I offer the following amendments to Calendar Number 429, Senate Print Number 6522, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

Amendments are received and adopted.

Senator Spano.

SENATOR SPANO: Mr. President, on behalf of Senator Volker, on page 13, I offer the following amendments to Calendar Number 633, Senate Print 1507, and ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

Amendments are received and adopted.

SENATOR SPANO: On behalf of Senator Libous, I wish to call up his bill, Print Number 7812-A recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Libous, Senate Bill Number 7182-A, an act to amend the Highway Law, in relation to designating a portion of state highway system as the 27th Division Memorial Highway.

ACTING PRESIDENT KUHL: Call the roll.

SENATOR SPANO: Move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT KUHL: On the motion to reconsider the vote by which the bill was passed, the Clerk will call the roll on reconsideration.

(The Secretary called the roll on reconsideration. )

THE SECRETARY: Ayes 40.

SENATOR SPANO: Offer the following amendments.

ACTING PRESIDENT KUHL: Amendments received and adopted.

SENATOR SPANO: On behalf of Senator LaValle, on page 37 of the starred

calendar, offer the following amendments to Calendar 539, Senate Print 6882, ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

SENATOR SPANO: Thank you.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, I move that we adopt the Resolution Calendar.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Could we lay aside temporarily on the Resolution Calendar 3993 by Senator Stafford, and Senator Kuhl has a Resolu tion 3961, which I just really want to ask if you'll open it up for -- oh, there you are, open it up for co-sponsorship.

SENATOR KUHL: That's fine.

SENATOR GOLD: All right. Thank you. Put me on it.

SENATOR PRESENT: Mr. President, with the exception of 3993, we adopt the Resolution Calendar.

ACTING PRESIDENT KUHL: Motion is to accept the Resolution Calendar, to adopt the Resolution Calendar with the exception of Resolution 3993. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The Resolution Calendar is adopted with the exception of 3993.

SENATOR PRESENT: Mr. President, I believe I have a privileged resolution at the desk. May I have the title read and act upon it now.

ACTING PRESIDENT KUHL: Secretary will read the title of the privileged resolution.

THE SECRETARY: Legislative Resolution, by Senator Present, joining the Westfield Chamber of Commerce in saluting

Welch's.

ACTING PRESIDENT KUHL: On the motion to accept the resolution, all those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Present, that brings us to the calendar.

SENATOR PRESENT: Let's take the non-controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the non-controversial calendar.

THE SECRETARY: On page 4, Calendar Number 199, by Senator Skelos, Senate Bill Number 6552-A, an act to amend the Correction Law.

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

291, by Senator Skelos, Senate Bill Number 29-C, an act to amend the Penal Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 400, by member of the Assembly Brodsky, Assembly Bill Number 9628-A, Environmental Conservation Law, in relation to the state Superfund Management Board.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 475, by Senator Volker, Senate Bill Number 6416-B, incorporate the Twin District Volunteer Firefighters Benevolent Association.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 478, by Senator Saland.

SENATOR PRESENT: Lay it aside for the day, please.

ACTING PRESIDENT KUHL: Lay the

bill aside for the day.

THE SECRETARY: Calendar Number 555, by Senator Holland, Senate Bill Number 6633-B, an act to amend the Public Health Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 563, by Senator Johnson, Senate Bill Number 7386, proposing an amendment to the Constitution.

ACTING PRESIDENT KUHL: Read the last -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill -- lay the resolution aside.

THE SECRETARY: Calendar Number 720, by Senator Johnson, Senate Bill Number 7382.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 721, by Senator Johnson, Senate Bill Number 7383, Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 722, by Senator Johnson, Senate Bill Number 7384, Environmental Conservation Law.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 723, by Senator Johnson, Senate Bill Number 7385, Environmental Conservation Law.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 828, by Senator Johnson, Senate Bill Number 3917-A, Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 896, by Senator Rath, Senate Bill Number 7743-A,

an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 898, by Senator Rath, Senate Bill Number 7999, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 900, by Senator Rath, Senate Bill Number 8005-A, State Administrative Procedure Act.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 941, by Senator Johnson, Senate Bill Number 7174-A, Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 943, by Senator Daly, Senate Bill Number 7784, Environmental Conservation Law.

SENATOR DOLLINGER: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 945, by Senator Daly, Senate Bill Number 7786, Environmental Conservation Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 946, by Senator Daly, Senate Bill Number 7...

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1040, by Senator Johnson, Senate -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1121, by Senator Wright, Senate Bill Number -

SENATOR GOLD: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1160, reported directly for third reading earlier today, Senate Bill Number 5312-B, by Senator Hannon, an act to amend Chapter 915 of the Laws of 1982 amending the Public Authorities

Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present, that completes the non-controversial calendar. What's your pleasure?

SENATOR PRESENT: The controversial calendar, please.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar.

THE SECRETARY: On page 4, Calendar Number 199, by Senator Skelos, Senate Bill Number 6552-A, an act to amend the Correction Law, in relation to enacting the sex offender registration act.

SENATOR GOLD: Could we have one day on this, please?

ACTING PRESIDENT KUHL: Senator Skelos, Senator Gold is asking for one day? Lay the bill aside for the day.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: We had one bill laid aside that -- or excuse me, one resolution laid aside today, and it's the resolution designating the report of the fiscal committees on the Executive Budget, in effect the official intent of the Legislature. I just wondered if it -

ACTING PRESIDENT KUHL: We'll return to motions and resolutions. We'll ask the Secretary to read Resolution 3993.

SENATOR STAFFORD: Hold on. I -

ACTING PRESIDENT KUHL: Senator Stafford.

SENATOR STAFFORD: I would thank the Deputy Majority Leader for the opportunity

to present the resolution, but why don't we lay it aside again.

SENATOR PRESENT: Lay the resolution aside.

ACTING PRESIDENT KUHL: Lay the resolution aside.

The Clerk will continue the controversial calendar calling Calendar Number 563.

THE SECRETARY: On page 11, Calendar Number 563, by Senator Johnson, Senate Bill Number 7386, proposing an amendment to the Constitution, in relation to legislative review of rules and regulations.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Johnson, Senator Gold has asked for an explanation.

SENATOR JOHNSON: Mr. President, last fall a series of hearings were held by the Senate Environmental Conservation Committee, the Legislative Commission on Toxic Substances and Hazardous Waste, the Legislative Commission on

Waste Management and the Administrative Regulations Review Commission.

During those hearings, the information was presented to us repetitively that regulations were enacted by departments, in this case the Department of Environmental Conservation. There's no doubt this same type of over-regulation is taking place in other agencies. We do have the Administrative Regulations Review Commission to oversee regulations which come out and make recommendations, but they can't roll back those recommendations.

This would give us the same power as a legislative body which now resides in the bodies of two adjoining states, Connecticut and New Jersey, where if they find that a department has issued regulations for which there is no statutory authority, they would be able to bring it up in both houses and vote to negate that regulation if that were the case.

It's a Constitutional Amendment and it gives a little bit of the power back to

the legislators which we thought we had. We thought the laws were made by the people's representatives in concert with the will of the people, and we find out the laws are made by the bureaucracy.

This gives a chance to correct those instances where the regulations go beyond the intent of the law.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah. Will the Senator yield to a question?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: Senator, I want to understand this and, as you know, I certainly support the concept of legislative oversight. I don't have a problem with that, but right now we pass a law, we give an agency the authority to do rule making and regulations, and that law is not only passed by the Legislature; it must be signed into law by the Governor.

SENATOR JOHNSON: That's correct.
SENATOR GOLD: Now, under this proposal, can the Legislature act to void regulations now without the Governor?
SENATOR JOHNSON: That's correct.
SENATOR GOLD: You're saying "correct", and my distinguished colleague Senator Present is shaking his head no. Under your proposal, if it was an amendment to the Constitution -- yes. Senator Present is changing his opinion.
SENATOR JOHNSON: I think my answer is correct, Senator, that essentially -
SENATOR GOLD: I think you're right.
SENATOR JOHNSON: -- the Legislature -- the Governor doesn't sign regulations, he doesn't sign onto regulations. If we feel a department has gone too far, we can negate those regulations to bring the regulations in accordance with the law that's been already passed and signed by the Governor.

SENATOR GOLD: Senator yield to a question?

ACTING PRESIDENT KUHL: Senator Gold.

Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR GOLD: Senator, right now if we believe that there is a regulation and we believe that that regulation is not in accordance with the legislation that we passed and was signed into law by the Governor, we can change our law; we can clarify a law, and we can pass a new law then which is signed by the Governor. Isn't that in line with what the process is today where the law takes its initial effect because the Legislature and the Governor work together on that?

SENATOR JOHNSON: Senator, the - I think the question is whether the Legislature can play a productive role in the making of the

laws or whether we'll have some general authority assumed by the bureaucracy which makes regulations which -- with which we may not concur, but with which the executive branch has no problem and, therefore, we have no way to correct those regulations.

SENATOR GOLD: Senator, will you answer one last question? If your resolution becomes part of the Constitution, how, in effect, will it work? Would each house vote separately? Will we have joint meetings? Can either house void a regulation acting alone?

SENATOR JOHNSON: No, both houses have to adopt by majority, have to adjudicate this regulation.

SENATOR GOLD: By sort of a concurrent resolution or something?

SENATOR JOHNSON: Apparently.

SENATOR GOLD: Senator Dollinger.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will the sponsor yield to a

question?

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to Senator Dollinger?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator Johnson yields, Senator Dollinger.

SENATOR DOLLINGER: Senator, if we disagree with a regulation promulgated by an agency, don't we have the power through the budget to cut off the funds to achieve the goals of that regulatory authority?

SENATOR JOHNSON: While we do have two houses and we do have a Governor, and everyone plays a role, and if the Governor has no problem with the improper assumption of authority by his own agency, I'm sure he's not going to take their budgetary funds away.

SENATOR DOLLINGER: But certainly, again through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT KUHL: Senator Johnson, do you continue to yield? Senator Johnson yields.

SENATOR DOLLINGER: But certainly through the budget process, when all these issues about how we spend our money in this state are resolved, we as the Legislature and certainly the other side of the aisle as the majority in this house speaking on behalf of this house in those negotiations, have the ability to say to the Governor, We think that these regulators are doing something that disagrees with their original intent, and we don't want to fund them any more. We could cut those funds out of the budget, could we not?

SENATOR JOHNSON: Senator, I don't have to tell you that a budget is a process of negotiation, and it's -- I want X and you want Y and she wants Z, and we each get what we want, but we don't eliminate what other people think should be in there, and that's a problem, and I think if -- if the bureaucracy has no problem, the second floor has no problem with their agencies and what they're doing, they're not going to be effective in helping us regain what we feel is the legislative

initiative.

I mean I don't have to tell you, Senator Dollinger, because you know it, you've gone up many times and apologized for things that happen up here. You said, I don't want you to say that, I want you to say we have the authority to change it, I'll get my majority in my house and the other house to eliminate that regulation. We don't have to ask the Governor or the bureaucracy to give us back our powers and not impose things on our people which we didn't intend to be imposed upon them.

SENATOR DOLLINGER: But we have -- again through you Mr. President.

ACTING PRESIDENT KUHL: Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator Johnson continues to yield.

SENATOR DOLLINGER: We currently have the legislative power in conjunction with the Governor to accomplish what you want to accomplish in this Constitutional Amendment;

isn't that correct?

SENATOR JOHNSON: Theoretically.

SENATOR DOLLINGER: Any time that a regulation is promulgated that this Legislature feels is inconsistent with our intent, our legislative intent is expressed in statute approved by both houses and signed by the Governor, if we think the regulators were wrong we can go back and simply take the power to make that regulation away from them, can't we?

SENATOR JOHNSON: You asking me to yield to another question, Senator?

SENATOR DOLLINGER: Yes, I did ask you to yield.

SENATOR JOHNSON: What was that question again, Senator? Would you rephrase it?

SENATOR DOLLINGER: Again, through you, Mr. President. We currently have the legislative power which is the power that we, in this house, exercise in conjunction with the Assembly and with the Governor, all three players have to be a part of the exercise of the

legislative power, but we have the power if an agency promulgates a regulation, to simply take that power away by changing the underlying statute with which we gave them the original authority. Isn't that correct?

SENATOR JOHNSON: Senator, I don't think you listened to my previous answer. My previous answer is that you can't do that unless the Governor concurs in the legislative opinion. If not, he will not sign it, so if his agencies make regulations going beyond the intent of the law which he wanted but he couldn't get in legislation but he's getting it now by regulation, we have no power to take that away unless the Governor agrees that he gave too much freedom to his bureaucracy and he personally tells them to back off. So if he agrees with what they're doing because they went beyond our intent but not beyond the Governor's intent, perhaps then he'll let them get away with it, and we'll not be able to stop it. So he gets two bites of the apple, and we don't think he should. We would like to get another

bite of it for ourselves.

SENATOR DOLLINGER: Again, through you, Mr. President, and just so I understand the term, it takes three coordinated powers to create the law which creates this legislation, but under this amendment it would take only two to take it away.

SENATOR JOHNSON: Senator, as I said, we're the Legislature. We're closest to the people. When people complain to us of their problems, and we can't say we'd like to change that, we think they went beyond their authority but the Governor won't sign a bill diminishing the power of the agency, then we're powerless.

We're restoring the power which we should have, to see that regulations concur with the laws that we passed, and if a majority in each house agree, we will have that power restored, which I think we should do.

SENATOR DOLLINGER: O.K., Mr. President. On the bill.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: Mr. President, I look at this bill as a very fundamental restructuring of the constitutional powers of this state.

I think Senator Johnson properly points out that it takes three players to put a law into effect: The majority in this house, the majority in the other house and the signature of the Governor who, although he acts as the executive with the power in the agencies, he's also law making as well as we are because without his signature, unless two-thirds of this body overrules his veto, we can't pass legislation.

So what it takes is three people to make rules, but what this bill would say is that only two people can change the rules, and it seems to me we have budgetary authority. We can control by extending, limiting spending, taking people out of the budget, taking inspectors, taking regulators out of the budget. We've got the power to do that.

One thing I point out, although I

agree with Senator Johnson that the Senate and Assembly are close to the people and are responsive to the people, certainly whoever lives on the second floor is also responsible to the people. They have the same responsiveness that we do, at least theoretically, I think as Senator Johnson put it, and we have -- they have an obligation to respond to the people as much as we do.

I think this is a very, very dangerous concept to take a constitutionally enshrined balance of powers and turn them topsy-turvy because we may, on specific instances, disagree with the way agencies exercise the broad authority that we gave them. If we want to take that broad power away, we've clearly got the ability to do it. We do it the same way we do everything else, through a conjunction of the Assembly, the Senate and the Governor.

I don't think we should tinker with our constitutional system, and the balance of power inherent in that system simply because

there's a complaint that we're over-regulating. If we're over-regulating, let's do our own home work. Let's go back, figure out where we're regulating too much, and let's collectively, the same way we created the power to regulate, let's take it away.

When that happens, Senator Johnson, I would join you because I also agree that there are excesses in our -- excesses in our regulatory power exercised by the agencies, but I'm not going to tinker with our constitutional systems to try to rectify that.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Thank you.

Mr. President, for the first five minutes reading my remarks, I want to repeat what Senator Dollinger said, because I think he's right on target, and now I can be very, very brief.

It seems to me that, when I see legislation like this, it's not because it's motivated by any evil, because Senator Johnson

couldn't do that, wouldn't know how to do that, but it's a recognition that we just do not do our job. That's what it really is all about.

If we take a look at some of the things we have said, not anybody else, but what we have said over the last years, we've said we give too much power by regulation to the agencies and, therefore, our own Administrative Regulations Review Commission is going to review every piece of legislation and determine whether or not the granting of power is done properly, and Senator Present used to do that. Senator Present was the chair of that committee and we used to ask, and we used to get reports and the Administrative Regulations Review Commission would take a look and say, No, we like the way this power is being granted.

Now, we go to step two. When the Administrative Regulations Review Committee and then Commission was established, it was envis ioned that we, as part of legislative oversight, would take a look at what's going -- at what goes on and go from there and really have

legislative oversight.

Now, I'm not now going to get involved in name calling. I think, while Senator Present chaired the committee, he did a phenomenal job and an enormous amount of work was done, and I think all of the chairpersons get credit, but maybe that committee should be four times the size. Maybe it should be that every one of the committee chairs in their own substantive area ought to be examining regula tions, when all of a sudden now in 1994 we're going to wake up and say that we in some way have been asleep at the switch and, therefore, we're going to change the Constitution of the state of New York to change the law-making process of the state of New York because that's what you're doing. You're telling every governor from here on in that, well, we'll agree on the laws, but when it comes to their application on a day-by-day basis, Governor, you're out of it, and it's just an absurdity and we're not suggesting there shouldn't be legislative oversight. We have that.

I don't know what this straw was, Senator Johnson, that breaks the camel's back in your mind. Maybe it's Environmental Conserva tion. Maybe it's in Motor Vehicle, I don't know, but whatever it is, we can deal with those regulations through our committee, deal with the agency or put in a statute that amends the grant of authority and then the Legislature and the Governor, in a proper law-making manner will take on that job and get it done.

But the concept of putting in a change to the Constitution, I mean we are, in my opinion, belittling the Constitution and what it's supposed to be versus statute law with the concept, and making, as Senator Dollinger has so aptly described, an enormous change in the philosophy of our laws.

I certainly am going to vote against it, and I would urge others to vote against it.

ACTING PRESIDENT KUHL: Question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

SENATOR GOLD: In the negative.

ACTING PRESIDENT KUHL: Clerk will call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Announce the results.

Senator Mendez to explain her vote.

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

Ordinarily I would have supported -- would have voted against this resolution. However, a case in point is the Department of Conservation of the state of New York. It has shown consistently its horrendous amount of environmental racism in terms of projects that should have been re-examined and critically analyzed before establishing, whether it is medical incinerators or what have you in minority districts in the city of New York.

Therefore, I think that, if this resolution goes through, after next year's approval here in the Legislature, that at least we would have an opportunity to, in fact, review those regulations put forth by some of the agencies and do something about it.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Mendez, how do you vote, in the negative? Announce the results.

Senator Mendez, are you - Senator Mendez, in the affirmative or in the negative?

SENATOR MENDEZ: No, no, no, I vote yes.

ACTING PRESIDENT KUHL: Senator Mendez in the affirmative.

Clerk will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 3563 are Senators Dollinger, Galiber, Gold, Kruger, Leichter, Markowitz, Montgomery, Ohrenstein, Onorato, Smith and Stachowski. Ayes 44, nays

11.

ACTING PRESIDENT KUHL: The resolution is adopted.

THE SECRETARY: Calendar Number 720, by Senator Johnson, Senate Bill Number 7382, an act to amend the Environmental Conservation Law, in relation to action on permit applications.

SENATOR OPPENHEIMER: Explanation.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator Johnson, explanation has been asked by both Senator Leichter and Senator Oppenheimer.

SENATOR JOHNSON: Mr. President, one of the findings of our hearings was that permits were delayed not only for months but sometimes for years, applications for permits duly submitted legally -- for legally advanced projects under the state Department of Environmental Conservation.

They would send back a permit and say, We need more information in answer to this question, and then a month or two later or six

months later, you get it back, there's some other question they want answered.

Under the Uniform Procedures Act, there's a time limit when these have to be processed, but there's no limit; they can indefinitely send these applications back and forth causing great inconvenience to business, discouragement to people to expand their businesses, inability to resolve problems expeditiously, costing businesses a lot of money and costing a lot of jobs in the state of New York.

All we're saying here is when the DEC receives an application, they should examine it, say what's wrong with it, what is incomplete and what's got to be answered, additional ques tions, give all this information to the appli cant at one time so he can resubmit it with everything that's required and get the thing processed.

It's simple as that, and it's something that almost goes without saying, but it has not been the procedure of the Department

of Environmental Conservation.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Leichter.

SENATOR LEICHTER: Mr. President, my colleagues, on the bill. You know, we're dealing here with the safety and health of people. We all have these examples before us of people of this state that have been injured, damaged and in some instances killed, whether it's Love Canal, whether it's other toxic dump sites, or other dangerous pollutants that may be used and come into the atmosphere.

We have a Department of Environmental Conservation, and they're charged with trying to protect the public. Do they always do the right thing? No. Do they always do a good job? No. Do they always do it expeditiously? No. But there are ways to try to make that department function better, but one way not to -- to -- that is not going to work, it's not going to make that department function more efficiently, and that is going to have the effect of hurting the people that we're supposed

to be helping and saving them from environmental harm. So cripple the department and unfortun ately, Senator Johnson -- and he's done some very good work on environmental matters; I serve on his committee, I'm the ranking member; he's a lovely chairman to work with, but there are certain blind spots. I'm sorry to say so, Senator Johnson, and to take this power of the department to approve or deny permits and to say that, if a permit is initially not denied but is returned because more information is needed, that then you can not ask for any additional information just doesn't make sense because it may well be that, let's say, on the permit application there are 12 questions. The applicant failed to answer question number 9 so you say, Please answer question number 9. By virtue of the answer to question number 9, you may find that you need additional information. Oh, we didn't realize that this particular condition existed. Therefore, will you please tell us this information. Under Senator Johnson's bill, they couldn't do that.

Now, that just doesn't make sense to try to make these blanket prescriptions, so I -- I beg of you, Senator Johnson -- well, I'm not going to beg. I suggest to you, Senator Johnson and my colleagues, this is an ill advised bill. It's again, where you see a prob lem and, instead of trying to -- trying to limit the problem, trying to deal with it, you come up with a sort of a shot gun approach which almost obliterates the power of the department to act knowledgably and intelligently on applications.

And what are those applications? They're looking at how we can protect the public from harm. That's really what that department does. So don't cripple their power because, if you cripple their power, you are going to create harm, injury and maybe even loss of life to the people of this state.

It's an ill-advised bill.

SENATOR OPPENHEIMER: Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Oppenheimer.

SENATOR OPPENHEIMER: I actually don't want to reiterate what's been said. I think that the point that Senator Johnson made about the delay in processing is -- is very often accurate, and I think we're sending in a bulldozer here where a shovel could -- could do the job.

Perhaps there might be some way we could lay down greater time limits than we currently have, but the primary way of regulating activities in this state in construction projects is through the permit process and often the first permit doesn't contain all the information that's really needed, and so then the second permit application comes in and because there's not enough detail, DEC sees that other questions must be asked and to simply cripple it and say that they can't continue to ask questions is to open us up to, I think, a lot of liability, and I think really cripple our Department of Environmental Conservation which, after all, is there to protect all of us.

So I think it's imperative that

the DEC be given the authority that it -- power to maintain its authority, and I think this should be rejected out of hand.

ACTING PRESIDENT KUHL: Senator Dollinger, on the -

SENATOR DOLLINGER: I believe Senator Mendez was first.

ACTING PRESIDENT KUHL: Senator Mendez.

SENATOR MENDEZ: Thank you. Mr. President, again DEC has had the power to protect all -- every citizen and neighborhood in the city and the state of New York. It has chosen to really practice environmental racism as it is putting the city of New York through dirt in the streets and I think this bill - Senator Johnson's bill will not, in fact, tie the hand of that agency to proceed and do and protect the people of this state of New York.

I want to mention that, if there is one agency in the state of New York that shows the most horrible record in terms of having any one member of my -- of the minority,

of any one minority, in a top policy position that it's horrible what is occurring at that time. Not one Puerto Rican, not one African American, not one Asian, nobody, no representation at all of any one of these groups has been found at the present time in DEC.

So no wonder it's the policy reflects the attitude that this agency has had towards some minority neighborhoods in the city of New York.

I think this is a good bill. It will not tie the hands of the bureaucrats in the agency, and it might enlighten them a bit to the effect that they have to be more sensitive to the needs of all the different communities in the state of New York.

I will be voting yes.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Mr. President, will the sponsor yield for a question?

ACTING PRESIDENT KUHL: Senator

Johnson, do you yield to Senator Dollinger?

SENATOR DOLLINGER: Senator, what's the practical consequence of this proposed change in the law? What -- what actually happens if there's a first return that they need more information, and then the DEC determines after reviewing the information supplied that additional information is required in their judgment? Your bill, as I understand it, would say that they couldn't write the applicant back and say, We need more information and so they're now left with a -- they realize they need more information but they can't ask for it. What's the consequence of that? Is that your interpretation of the bill? And then -

SENATOR JOHNSON: Well, let me tell you what might happen, Senator, if it were an enlightened agency we're dealing with, let me tell you what will happen. They will go over their application, see what information they need. They will put all the questions, all the requisite information, blanks or in whatever

form that they need: These are the things that we need, A, B, C, D, et cetera. That would be completed by the applicant, would be processed within the 90 days provided for under the Uniform Procedures Act and the permit would either be issued or denied based on that, but they could not deny it any further for incomplete -- so they wouldn't have to reject it for incompleteness and have that 90 days running over and over, which they've done in the past.

So the agency would get on the ball and do a proper job. That's all that this is really intended to do, have them do their job right the first time.

SENATOR DOLLINGER: Again, through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Johnson, again, do you continue to yield? Senator Johnson yields.

SENATOR DOLLINGER: What is the effect -- what is the effect if a bureaucrat makes a mistake in reviewing the application the first time, sends out information that he needs

more data and then realizes that he should have asked more questions that he didn't ask the first time around. If that happens, if they drop the ball, to use your analogy, what then happens? You now have the DEC having significant questions for which it cannot ask the applicant for additional information. Do they deny the permit? Do they approve the permit? What do they do?

SENATOR JOHNSON: Well, right now -- right now they can do what they please and it's not a happy thing for the regulated community. It's not a happy thing for the citizens of our state, for the simple reason that there's something that should be done or corrected or a new process to be permitted and the department fools around for six months or a year and six months. The people in the community are endangered as well as the business being impeded in their activities and everyone is endangered because the DEC is not doing their job. They should do their job right.

As far as the person, I'm sure he

wouldn't be named Richard Dollinger, but what ever his name would be, if he doesn't do his job well, he'd get a different job in short order or he would have a new boss or something like that, and the agency would run effectively and efficiently.

SENATOR DOLLINGER: Again, through you, Mr. President.

ACTING PRESIDENT KUHL: Senator Johnson, do you continue to yield? Senator Johnson yields.

SENATOR DOLLINGER: The DEC makes a mistake, it ends up with insufficient informa tion to make a decision. Under your statute, if it becomes law, they can't ask the applicant to provide more. What does DEC then do if they deny the permit because they don't have the additional information? We'll go to court and I would assume what the courts would do. They'd say, O.K., DEC, you need more. We're going to give you more. Or would they say the DEC doesn't need any more and we're going to require the DEC to issue the permit even though in the

regulator's judgment, they don't have enough information to do it?

SENATOR JOHNSON: Senator, I think the agency has to figure out how they're going to handle the situation. The simple fact is that we can't go on like this delaying for years issuance of permits costing a lot of money, interfering with jobs. I mean one of the principal things we've heard at our hearings were all the jobs lost in this state, all the expansion not taking place in the state, all the factories will be out of this state because of the activities of the DEC.

I'm not here to beat on them. I'm here to correct their operation, and this is one method to correct their operation, and I might say that a lot of people understand and agree with this, the Council of Mayors, Business Council, county association, all agree that this is one of the major problems that we have in the state, and they've got to correct it so they've got to do their job in the first place. Got to make the application properly, they've got to do

their job properly, say what's wrong with it and give the applicant an opportunity to respond to it.

So this is going to be good for the business environment, the environmental environment I would say, the healthy environment of this state, to get this act straightened up but the DEC can't do it without help. If they ask for more money, if they don't have enough computers, if they don't have the people, they should get the experts to carry on, but they should not be permitted to carry on as they have in the past.

SENATOR DOLLINGER: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I guess I've been persuaded in the course of the discussion that what this bill really does is create further litigation and further problems because I appreciate -- Senator Johnson, let me start off by saying I appreciate the intent behind

this bill. I've represented litigants prior to coming to this chamber, in permit applications before DEC and we, frankly, were run around the mulberry bush on a number of occasions many different times, and it's not a capital project that's tied up, it's not a happy process when you're told that you didn't answer question number 10 properly, we need more information to do it.

But it seems to me that the consequence of this is that you take a bureaucratic mistake or bureaucratic intransigence, the very thing you're trying to overcome, and what you do is you create an error that suddenly becomes either a denial of a permit prematurely when additional information is necessary or the granting of the permit without sufficient information to justify, and I think that's only going to -- going to generate additional gobs of litigation. It will be a wonderful thing for my profession because lawyers will be contesting the issuance of these permits when they haven't -- the applicants have

been -- can't get a second batch of information to DEC or, for that matter, DEC can't ask for it.

I think you're going to see a ton of litigation when these permits are either issued based on insufficient information or denied based on insufficient information and the one thing we ought to be doing in our protection, our shared concern for protecting the environment is to make sure that DEC operates with all the information.

I agree with one thing you said Senator completely, and that is the person who continually makes that mistake ought to find another job, but that's a responsibility that rests with the Commissioner of DEC, with his deputy commissioner, with the second floor and the person who's primarily responsible for those executive agencies.

I share the frustration. I wish I could share the optimism that this was a solution. Senator.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 720 are Senators Connor, Dollinger, Galiber, Gold, Goodman, Kruger, Markowitz, Montgomery, Ohrenstein, Oppenheimer and Smith. Ayes 45, nays 11.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 722, by Senator Johnson, Senate Bill Number 7384, an act to amend the Environmental Conservation Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator

Johnson, Senator Gold has asked for an explanation.

SENATOR JOHNSON: This is, I don't believe, a controversial bill. I don't believe it would have any negatives at all.

Just to reassure my friends on the other side of the aisle, the DEC has the opportunity now when a permit is being issued to request financial security, and there's no limitations on the type of financial security, recently they've been asking for -

SENATOR GOLD: Last section.

SENATOR JOHNSON: Senator Leichter wanted to hear the explanation. I'll have to tell him privately.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 723, by Senator Johnson, Senate Bill Number 7385, Environmental Conservation Law.

SENATOR OPPENHEIMER: Explanation.

ACTING PRESIDENT KUHL: Senator Johnson, Senator Oppenheimer has asked for an explanation.

SENATOR JOHNSON: Senator Oppenheimer, this -- this is a real bill. You can fight over this one.

This is another recommendation that came out of our hearings and what it says, Senator, is that neither Section 3-0301 or 19-0301 of the Environmental Conservation Law shall be the basis of formulating of any regulations. In other words, these are general grants of power, not specific legislative enactments, and should not be used as the basis of legislation, but particular laws passed by both bodies and signed by the Governor shall be

the only basis for making those type of regulations.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR OPPENHEIMER: Oh, may I be recognized?

ACTING PRESIDENT KUHL: Chair will recognize Senator Oppenheimer.

SENATOR OPPENHEIMER: This is a very, very damaging bill. What this bill would prevent the DEC from promulgating their own rules and regulations under the general authority. They have a general grant of powers under Title 3, General Functions, Powers, Duties and Jurisdiction, and what this bill would say is that they can't promulgate their own powers and their own regulations and the rules and in no way does it look to anticipate the myriad of very unique environmental problems that come along continuously. There are just countless problems that we can't see in advance and beyond that this is so damaging because this totally tries to rearrange the functioning of the levels

of government, the different, not levels, the different departments of government.

It is giving to the Legislature the powers that reside in the executive branch. It would just totally reverse our historic balance of powers because if this -- if these general powers were not granted to the DEC, then every problem that came along, environmentally would have to be handled by the Legislature and we would have to pass a different bill on every issue that would come up, and many of them are highly technical, highly specific, and we don't have the kind of expertise to deal with that, so I mean this -- this is really a very poor bill, and -- and it should be noted that the EPL has given it its absolute worst, it strongly opposes this bill, and has three smoke stacks to prove it.

So I'll be voting in the negative.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: I'll yield

the floor to Senator Connor, Mr. President.

ACTING PRESIDENT KUHL: Senator Connor.

SENATOR CONNOR: Thank you. Thank you, Mr. President. Thank you, Senator.

Mr. President, this bill seems to be an outcry against modern government. You look at it historically, the concept of rule making or regulation-making developed as a rather progressive, and I don't say liberal or conservative, a progressive means of dealing with complicated problems toward the end of the last century.

Interestingly enough, on the federal level, rule-making powers were first challenged in cases involving the Department of the Interior in the 1880s.

Harking back to public administration, I remember a case involving a guy named Gifford or this or that, and the Department of the Interior. The need for it, of course, was that it's fine for the legislative body to set policy in an area such as the

environment, protection of natural resources, but we couldn't possibly -- couldn't possibly deal with and enact such comprehensive detailed regulations as would be necessary to deal with particular -- particular substances, where the need for localized regulations dealing with every beach, every environmental problem in different parts of the state, every unique situation on a beach or a forest or a woodland. We have to leave it to the experts to do this.

Now, that doesn't mean we give up -- the legislative body gives up its sovereign power to intervene to reverse regulations which have caused problems or which seem not to be consistent with the public policy elucidated in the legislation, but this bill would say it's just an outcry. Some people don't like some of the regulations.

Do they get to be cumbersome? They're as cumbersome, Mr. President, as would be a bill -- a bill dealing with all these problems in very specific ways would, I dare say, be a couple feet thick -- would prove just

as cumbersome for people who have to work in the areas to deal with as lengthy regulations may be, and I think the -- the whole concept of public administration requires that the executive be delegated this quasi-regulatory, quasi-legislative power to deal with specific problems that come up. Else this Legislature, if we were going to do the job across the board, not just in the area of the environment, would have to sit 12 hours a day, 300 days a year to do an adequate job of addressing every problem.

My colleagues, do we really, really want to have to have a bill every time there's a particular problem, every time there's a need for a specific regulation with respect to a pond or a lake or a substance being used that affects the environment? Of course, we don't. This is just simple naysaying. It's turning a blind eye to the last hundred years of devel opment of modern government administration.

That's not to say there aren't problems. That's not to say there aren't bureaucracies that not only are fun to take

pokes at, but that perhaps need to be brought back to the line from time to time. But remember, courts exist to do that. This Legislature is the ultimate resort. To just wipe out the ability of a department to make regulations based on a legislative grant of authority is simply not a reasonable way to deal with whatever problems have arisen pursuant to these regulations.

So I would urge a no vote. This is -- we can't govern our state; we can't protect our environment by harkening back to 18th Century governmental systems that simply can't work in the modern day.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Will the sponsor yield for a question, Mr. President?

ACTING PRESIDENT KUHL: Senator Johnson, do you yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Senator, I do know that you held a series of hearings, and I think the Environmental Conservation Committee did some real solid work in gathering informa tion about the tendency to over-regulate in the environmental context as well as others. But could you just point out to me -- I have a copy of the section of the law that you would like to amend, Article 3 -- Section 3-0301, which is the general function powers and duties of the commissioner. Can you tell me which of these powers the commissioner or his regulations have exceeded? Where specifically has the commissioner gone -- can you give me one example, two examples of where it was doing something that it wasn't specifically authorized to do by law because these are very, very broad powers: Coordinate, develop policies relating to the environment of the state and the regions thereof, it's extremely broad power, and I would point out to you that these powers were given in 1974, I assume, by a majority of this body. I assume that the members who were here in 1974

all voted in favor of these very broad powers.

So could you just -- is it possible you can specify which one of these powers are too broad, which is exceeded?

SENATOR JOHNSON: Senator, you know, we passed a lot of bills in this house in recent years to protect the air, protect the water, protect the fisheries, fresh water wetlands, marine wetlands, we've done any number of laws here, and including pollution prevention laws, I can't tell you how many, recycling laws. Since you've been here you've helped to vote on a lot of those laws.

We've given a specific grant of authority in every case for the regulations which flow from those laws. Now, if there's something among these general powers and duties of the department which would permit, for example, a multi-media regulation procedure which has now come forth from the department essentially demanding that every business do an audit at their place every three months, keep records, submit it, we didn't give them the

authority to do it, but they say under this they could do anything they really please. They can make any regulation they choose, but they come to us for grant of authority in specific cases because they know that's the best way to do it, with the support of the people and the people's representatives for the funds to do those programs, but when they don't get it or they can't get it from the Legislature they just go off on their own and make these regulations. This multi-media regulation is the one recently enacted by or recently put in place by the department without authority, which again is harassing businesses, and I might tell you that some of the comments we got, and here's one comment supporting this legislation: New York regulatory policies are among the most rigid in the nation. Ridiculous environmental rules! A recent survey taken of small businesses shows that a hundred percent believe New York State is hostile to business, and many cite excessive regulation, overzealous regulators for these.

So what we're saying here is, if

you got a specific grant of authority in a specific field signed by the Governor, all the i's dotted and the t's crossed, you can make the regulation, but you can't use a general grant of authority to establish an agency to make regulations when you can not get the Legislature to do it for you. That's 3-0301, and the same thing with 19-0301.

We were having a very interesting discussion on air quality, and you know the California car and the LEV and the ZEV and all the things the Governor did here trying to make it more difficult and more expensive in this state without any benefit to the air quality, and I say that, I have said it before, and this house passed a New York State clean air bill by a two-to-one margin; it had almost two-to-one sponsors in the other house. It should have been considered. The department refused to consider it, refused to discuss it, refused to negotiate another bill, and they said, Well, under 19-0301 we realize we don't want air pollution; it's a general grant of authority for

air quality regulation; therefore, we can do it, we don't have to ask the Legislature, and they did it, to the detriment of our economy and not to the betterment of our environment, I would say, so these are the reasons we can't let them use a general grant of authority that they can't get specific grants of authority through this government which is established to make the laws in this state in behalf of the people they represent.

SENATOR DOLLINGER: Again, through you, Mr. President, if the Senator will continue to yield.

ACTING PRESIDENT KUHL: Senator Dollinger -- Senator Johnson, you continue to yield?

SENATOR JOHNSON: Sure.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: Just one other question. Section 3-0301, the first power that's given to the commissioner is to develop, coordinate policies and programs related to the

state and the environment of the regions thereof.

Your legislation is tantamount to repealing that, is it not?

SENATOR JOHNSON: Well, I didn't understand your question. What did you say the power is?

SENATOR DOLLINGER: The first power in Section 1, subdivision (a), small "a", right there on the page -- I think you've got it right there; it's page 22 of the Environmental Conservation Law. Doesn't your legislation repeal that broad grant of authority to the commissioner?

SENATOR JOHNSON: If you're asking me if I'm opposed to them planning and coordinating or whatever, I'm not. I'm against them imposing things on people with -- with no authority to do so.

SENATOR DOLLINGER: But here's my question.

SENATOR JOHNSON: Without any recompense for the people that have to do all

the work that they want done.

SENATOR DOLLINGER: Right, but your bill says that you can't impose a regulation unless it's not otherwise directed by law.

SENATOR JOHNSON: That's right.

SENATOR DOLLINGER: Under that portion of the statute, aren't we directing that they do all those things?

SENATOR DALY: Mr. President.

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

SENATOR DALY: Will Senator Dollinger yield?

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to Senator Daly?

SENATOR JOHNSON: I will.

ACTING PRESIDENT KUHL: Senator Daly.

SENATOR DALY: Do you see that in that section of law, it says plan and develop, it does not say set policy, and that's the point. The point we're making is the recent

administration of DEC has taken unto itself to write the said policy in the state. We don't think they have that right. This does not give them the power to set policy.

What Senator Johnson's bill deals with is the setting of policy, not the coordin ating, not the planning, not the developing, but the setting of policy.

SENATOR DOLLINGER: Mr. President, if Senator Daly will yield to a question in response?

ACTING PRESIDENT KUHL: Senator Daly, do you yield to a question from Senator Dollinger.

SENATOR DALY: Yes.

ACTING PRESIDENT KUHL: Senator Daly yields, Senator Dollinger.

SENATOR DOLLINGER: Since I've gotten this copy of the bill, I've seen the text of the current law, but in section (d) it says it can promote, coordinate management of water, land, fish, wildlife for their protection -

SENATOR DALY: Yes, and -

SENATOR DOLLINGER: And then at the tail end, it says in connection with any license, permit, order, certification or any other similar action or promulgating any other -

SENATOR DALY: You leave out the middle where it says consistent with the environmental policy -

SENATOR DOLLINGER: The environmental policy of the state and taking into consideration the cumulative impact of the policy in effecting any determination -- any determination in connection with any licenses.

The point I'm making, Senator, isn't that a very broad grant of authority in that section, and doesn't this -- aren't those regulations at least according to DEC consistent with law?

SENATOR DALY: Mr. President, in answer to Senator Dollinger, I'll go back and read the middle part of section (b) whether it says consistent with the environmental policy of the state. This -- the Legislature had the

power to set policy by Constitution. The DEC does not.

SENATOR DOLLINGER: I agree with you.

SENATOR DALY: Our point is this, Senator, that DEC has been setting policy. I'll point to Part 378, Part 325, the California Air Emission Act and a few others in a minute, where they have literally taken away from the Legislature the right to set policy for the state. We have take very strong exception to this, and this bill simply says, Uh-uh.

While I'm up here, I might as well go on if you don't mind.

SENATOR DOLLINGER: I don't, Senator. Go ahead.

SENATOR DALY: Let's go back to Part 378 which was recently promulgated by DEC. Where did they get the power to promulgate 378?

SENATOR DOLLINGER: Mr. President, if I could just ask a question. I'm not familiar with Part 378, sir.

SENATOR DALY: Well, let me just

say that's the reduction of hazardous waste. It was a bill we passed in both houses, signed into law in 1990, and the intent of this bill, the intent of this bill was to set a policy that companies in this state would plan the reduction of the hazardous wastes they generate. That was it.

The companies had to submit to DEC a plan of how they're going to reduce that hazardous waste that they generate. Lo and behold, DEC got a hold of the -- the bill, the law, when it came down from the Governor, developed rules and regulations that went far beyond hazardous waste generation. It went multi-media. It went into air emissions; it went into water emissions.

It was a -- just some violation of the very intent of the bill, and I know, Senator, because I carried the bill, and I didn't pass that bill here in this house nor did my staff draft that bill to allow DEC to go crazy and take that bill -- take that bill that we passed, and it was signed into law and use it

as a slingshot to jump into every other area of hazardous waste in this state.

SENATOR DOLLINGER: Mr. President, will Senator Daly yield to a question?

ACTING PRESIDENT KUHL: Senator Daly, do you yield to Senator Dollinger?

SENATOR DALY: Yes.

ACTING PRESIDENT KUHL: Senator Daly yields.

SENATOR DOLLINGER: Senator, I understand your frustration at passing a bill and then finding that the bureaucrats changed the intent of that bill.

SENATOR DALY: This is as a result of that frustration.

SENATOR DOLLINGER: Correct, but don't we have the ability in that specific in stance to rein in DEC by changing the text of your very own statute. Couldn't we do that collectively?

SENATOR DALY: Certainly we could do that but, very frankly, Mr. President, what

we're trying to do with this bill is not make that necessary. I take exception to the fact that the head -- the present commissioner of DEC thinks he has the right to set policy in this state, this marvelous feeling.

What we're trying to do is a matter of principle, and this particular legis lation that we're dealing with right now tells the commissioner, You do not have the right to set policy. The Legislature sets the policy, and you implement it. That's the purpose of the bill.

I could go, as I said -- let me read some more of the other actions they took if I can find it, and I'm sure I can. Let me tell you some of the other regulations they promul gated that, in our opinion, really violated the intent of the legislation they used to promulgate the rules.

I said Part 378 just talked about that multi-media; Part 357, Part 325, pesticide notification regulations, the court threw it out. Court said you went way out. Court said,

You set policy, and the court said, You can't do that, and that was thrown out.

The California low emission vehicle regulations, and the proposed fresh water wetlands regulations several years ago that drove everybody crazy, they backed off.

Mr. President, the intent of this legislation is to stop this, to stop it. DEC does not have the right to set policy. Only the Legislature has the right to set policy, and that's all Senator Johnson is trying to do.

SENATOR DOLLINGER: And Mr. President, on the bill.

I agree with -

ACTING PRESIDENT KUHL: Senator Dollinger on the bill.

SENATOR DOLLINGER: I agree with Senator Daly that the repository for the power to set policy ought to be in this Legislature. I'd simply point out that we gave part of that power away, in my opinion, in Section 1 (a) of the statute in which we said -

SENATOR DALY: Mr. President.

SENATOR DOLLINGER: -- you said that -

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

SENATOR DALY: Because I want to point out we're trying to change it.

SENATOR DOLLINGER: Well, I'm simply -

ACTING PRESIDENT KUHL: Senator Dollinger, on the bill.

SENATOR DOLLINGER: What I'm simply trying to point out as part of this debate is that I don't think this bill does that, because I don't think, unless you repeal the paragraph, Section 1, which says it shall be the responsibility of the department, in accordance with existing provisions and limitations as may elsewhere be set forth in law, that is, we have the ability to set the policy.

We constructed the outer perimeter of DEC's authority. I agree with Senator Daly that we should. I believe we have

in specific instances, and I believe we should continue to do so, but we did set or outline the perimeter in the following way:

It shall be the responsibility of this department, in accordance with existing provisions and limitations as they may elsewhere be set forth in law, by and through the commis sioner, to carry out the environmental policy of this state set by us, set forth in Section 1-0101, which is the section that deals specifically and announces the legislative intent to regulate the environment for the benefit of the public, and then this paragraph says, In doing so, the commissioner shall have the power to coordinate and develop policies, planning, programs related to the environment of the state and regions thereof.

I suggest and I submit, Senator Johnson and Senator Daly, that what this bill does, this bill says nothing in this section shall be deemed sufficient as the sole basis for the promulgation of any rule or regulation not otherwise directed by law.

They are directed by law to coordinate and develop policies and if the purpose of this legislation is to overturn that branch -- that broad grant of authority, it's not going to be accomplished because unless you repeal section (a) and change the text of that statute, you're still going to have a broad grant of authority to the department. You're not going to solve the problem.

I understand the intent with which this moves forward, but this just doesn't do the job that you want it to do. There's another way to do it, be right up front. Do it, repeal Section 1, revoke the grant of authority and then you can put DEC in the box in which you want to try to put them in. This doesn't put them into this box. In my opinion, it won't accomplish anything. It will simply generate a ton of litigation over what it means, how it should be construed.

I'd simply point out that we already have, under current law, a provision that prevents DEC from exceeding its authority.

It's challenged on a case-by-case basis. Unfortunately, the reason why the Conference of Mayors and Municipal Officials writes a memo in opposition is because they say it's exceeded its mandate by producing -- promulgating numerous regulations which are contrary to legislative intent.

The reason why they say that is because every time they go to court, the DEC stands up and says, No, we're not violating legislative intent because the Legislature in its broad grant of powers said we develop and coordinate policies to protect the environment. It's such a broad grant given by this Legislature in 1947, the courts have said, Do whatever you want, DEC; the Legislature gave you the power to do whatever you want.

I just think that this legislation, while well-intentioned, won't accomplish the goal that its sponsor has articulated. If we want to put DEC in a box, let's do it. Repeal those sections; take away the broad grant of authority explicitly. Let's

do it right if we're going to get this done.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Galiber.

SENATOR GALIBER: Thank you, Mr. President.

I had not intended to speak on this, but I think that there's a need to explain some of my negative votes, and they were negative votes notwithstanding the fact that we are heading in the same direction and we want to accomplish the same thing. Those of you, some have to go to your history books because you weren't here then, but I was, when EnCon as it was known before was a dumping ground; when we couldn't find any place for anyone politically we put them in EnCon. And then we changed the initials and they there started our problem. And under the broad powers what we did, Senator, was to give to a person, I think the name Diamond was the man, Diamond wrote the rules and regulations based on the broad power that we gave him and, as a result, we have cultured, if you will, a sense of arrogance, a total

disregard for the legislative branch of government, and we have within our collective power the opportunity to vitiate that arrogance that I made reference to before.

Now, I serve on your committee also with a sense of pride and dignity. I have been trying very -- very, I think it was about last year, about a year ago, asked that we have a cumulative impact statement on the environ ment, something we could have done collectively, and what happened was that the state and national level, they delegated that responsibility down to the state and the state gave it to local government.

We have entities out there that have the authority to pass on anything they wish to pass on. We have an opportunity here to put a screeching halt to it. Let's not say we're going to show you. Let's prove it to them. Let's take their power, let's pass legislation, and we would have no problem whatsoever with DEC in the areas of concern.

We have a permit process. You

heard Senator Mendez mention about the environmental racism in hiring of people. That's only a by-product of the arrogance that they have in that agency.

We asked them down in Bronx County in a radius of about five miles, similarly to prevent what you brought to our attention with Love Canal, many, many years ago. We're saying, if you want to put something in that's for a community, you should have a cumulative impact statement.

What will this additional licensing process do to this community? They say we don't have to do that. Local government can give their approval. State government can give their approval and the fed's who sit back and say, "I gave it off to the state," and some of us say they should never have delegated that responsibility over to the state, and the state should not have given concurrent jurisdiction to local government.

So what do we have? We have a situation where we are back with a piece of

legislation and say, We're going to spank you on your wrist and we're going to say to it that if you don't fulfill the application then we're going to say once is enough. We have some objections afterward, you're going to have to comply with them.

Let me give you another approach to that. We want an environmental impact statement down in the South Bronx. They did not notify the public of hearings. They left out some information. We asked them to correct it. Under the legislation which I would have liked to have voted yes for, I voted no, because in that instance the community is out of the ball park. You have added on to the arrogance, if you will. You have added on to this attitude that the commissioner has, not personally, but we built this monster, we created this ogre by inactivity as far as this legislative body is concerned.

Why in God's name can't we do it simply by saying we pass a piece of legislation that takes away your broad powers. You no

longer have those powers. We are going to designate what you can do and, when you need something else, you have to come back to us so that there won't be any ambiguity at all, none whatsoever, in those crazy rules and regulations that Diamond promulgated many, many years ago.

It's a simple process. We have a confused administration as far as DEC and the environment is concerned. Washington is out of the ball park. The state is out of the -- in the ball park. They point to local government when they need to. They use it as a sword or a shield. Either they hide behind the fed's or they cut you up with regulations from the fed's or from local government.

So what Senator Dollinger is saying, and many of us on this side, some who voted, Senator, against your legislation today, is a very easy way to do it, very easy way to do it. We have -- this is an issue that has no partisan ramifications. DEC, we created this horrible, horrible, horrible monster and we're living with it, whether you're upstate,

downstate or wherever you are.

Why don't we stop saying, We're going to spank you on the wrist and say, we are going to take your powers away from you because you have misused -- you have misused what the legislative intent really was. We trusted you, we trusted you as an agency with the will and concern of the people out there. We gave you broad powers. You have abused those powers. And in doing so, we're now going to take them away from you.

It calls for a simple piece of legislation, Senator, simple piece of legislation, because those middle management people, with especially -- especially we have a wonderful opportunity. We have a new commissioner coming in. You're going to hold some hearings, to your credit, and I don't know whether that new commissioner has been contaminated to the point where, what can we do about it?

What we can do about it is say, Commissioner, we know there are some middle

management people in all state and local government agencies. They are contaminated, they outlive commissioners. They outlive legislators. They outlive governors. They are there; they're part of the structure and one way that we can change attitudes is either get rid of them or change the law, and we have a golden opportunity to change the law.

Let's take the broad powers away.

SENATOR DALY: Mr. President.

SENATOR GALIBER: Because you want, Senator, you want what I want. You want what we all want. Why are we piddling with this notion about the broad powers? And you gave those to people with a stout heart, good intentions, good will people. DEC doesn't have any of those characteristics.

Why are we playing with them? Why don't we just repeal -- why don't we take away those broad powers and give them designated powers as they or we see fit, not they see fit, we do, because we are the government force, the

legislative branch of government.

SENATOR DALY: Mr. President.

ACTING PRESIDENT KUHL: Senator Daly, I'm so overwhelmed by Senator Galiber's presentation, could we just pause for a minute for me to re-collect my thoughts.

SENATOR DALY: I would like to ask him to yield to a question.

SENATOR GALIBER: I would.

ACTING PRESIDENT KUHL: Just pause just a minute.

Senator Daly, we're now prepared to take every word of your question down. If you would like to ask Senator Galiber to yield? Senator Galiber, do you yield?

SENATOR GALIBER: What if I don't yield, Mr. President?

SENATOR DALY: Well, I'll ask Senator Dollinger to yield.

ACTING PRESIDENT KUHL: Senator Dollinger, will you yield to Senator Daly?

SENATOR DALY: They both can answer this question, Mr. President. I'm sure

you can work this out, but I gather from listening to Senator Dollinger and Senator Galiber, they don't think we've gone far enough. I'm delighted to hear that they feel the intent of this bill -- its good intent, and it's something that we should put in law.

Now, if they're saying we haven't gone far enough and that they want to submit legislation which will repeal the power section, I will be delighted to work with them so that - and I want to know if I interpret it properly what they said.

Are they willing to accept the intent -- are they willing to go further and repeal the power section or rewrite the entire power section?

ACTING PRESIDENT KUHL: Senator Galiber to respond?

SENATOR GALIBER: I would like, yes, if I may, Mr. President.

ACTING PRESIDENT KUHL: Senator Galiber.

SENATOR GALIBER: It's an

excellent question. I thought you would never ask it.

The only slight change I would like to make is this: I'm a Democrat on this side of the aisle with a couple of votes over here. If you are really sincere, and I suspect that the mere fact that you would ask a Democrat to sponsor this bill questions seriously your sincerity in terms of whether you want this passed or not.

Now, if you want it for the record, you have it as far as I'm concerned. In your heart's heart, you know that I'm right and Senator Johnson knows that I'm right and, more important, I know that both of you are right. I am merely saying, rather than nitpick, why don't we rather than single out certain sections, all we really have to do is take away, abolish if you will, vitiate if you will, that broad power that we granted to them because they don't know how to use the broad power.

A lot of us abuse it. Sometimes you on the other side, because they're broad

powers that you abuse it, we say with tongue in cheek, some days we need it on other days. This is an instance where we can simply take away their broad powers and then we can list you on all those pieces of legislation.

You've been too nice to me Senator, you've been too nice. Don't start picking away because they don't understand signals. Bite off one moment and we can pass your bill and say maybe these guys down there, guys and dolls, are serious. We ought to straighten up our act and we're going to take away some more powers, and we don't want that, so we're going to straighten it out and it ain't going to happen with them. It ain't going to happen by this bill.

Let's go about the business the right way. Please put the bill in. I don't even have a bill to star this year. I wish I had one to star. I wish I had one to star, but you put one in, I certainly can muster up some support on this side of the aisle.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I'll be extremely brief.

I just want to follow up the answer that Senator Daly or Senator Galiber gave to Senator Daly and highlight the issue of institutional arrogance which I think is the point of my colleague's comments.

Every year since 1974 when we passed this bill, we have amended this section of the law and every time we've done it we've given more power to the Department of Environmental Conservation. No wonder the bureaucrats in the Department of Environmental Conservation are used to exercising extremely broad and unchecked powers and they look to the Legislature for the last 18 years, and I think it's every year since 1974 we've amended this statute to just increase the scope of their power.

The arrogance which may have started off in a small little embryo is now a

full grown walking around living thing and if we're going to get it back, if we're going to get this agency under control, if we're going to avoid the problems that Senator Johnson and Senator Daly detailed in the regulators over stepping their legislative permission, it seems to me we've got to do a lot more than simply pass this bill which I think will be easily misconstrued and not accomplish the goal.

But whatever beast we put into existence in 1974 we have been feeding it since then and now it has grown to Gargantuan size so that simply trying to put the beast back in the cage through this legislation I don't think will accomplish the goal. We've got more work to do. It's a good effort. I just don't think it does the job.

ACTING PRESIDENT KUHL: Now the Secretary will read the last section.

SENATOR JOHNSON: Mr. President.

ACTING PRESIDENT KUHL: Senator Johnson to close debate.

SENATOR JOHNSON: Yes, I'd like

to conclude by saying that we're not opposed to the department making regulations in accordance with specific grants of authority. We're saying this general power functions and duties of the department should not be the basis of any regulation. Simple as that.

As far as the comments about we pass laws every year, yes, we pass laws about fish, we pass laws about solid waste recycling, we have no problem with regulations being drafted under that, but under this general grant of authority should not be the basis of any regulations, so we are essentially vitiating the general power by saying they can not use it without a further grant of authority.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Announce

the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 723 are Senators Babbush, Connor, Dollinger, Espada, Galiber, Gold, Goodman, Jones, Kruger, Leichter, Levy, Markowitz, Ohrenstein, Onorato, Oppenheimer, Smith and Stachowski. Ayes 41, nays 17.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative on Calendar 720?

ACTING PRESIDENT KUHL: Without objection, Senator Leichter will be recorded in the negative on Calendar Number 720.

Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 943, by Senator Daly, Senate Bill Number 7784, an act to amend the Environmental Conservation

Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 946, by Senator Daly, Senate Bill Number 7787, an act to amend the Environmental Conservation Law and the State Finance Law.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator Daly, Senator Leichter has asked for an explanation.

SENATOR DALY: Yes.

Mr. President, by title, we call this bill the Voluntary Remediation Act - hopefully it will be an act -- and the purpose

have this legislation, Mr. President, is to speed up the clean-up of hazardous, contaminated sites in this state.

Basically, what this legislation does, it allows a company or an individual to approach the Department of Environmental Conservation and say, "I think I have a contamination problem here, I want to clean it up." They work with DEC, and DEC reviews the remediation process, the remediation work that's being done, then approves it. After that, when it's completed, the party gets a notice of completion and also a guarantee, a covenant, not to sue.

As we know, Mr. President, we have many, many sites in this state that could well be hazardous, well over 700, and unfortun ately the process is too slow. We still have, and we've been doing this now for 15 years, Mr. President, and we still have as many sites today on the list as we had 15 years ago. As one comes off, another goes on.

What has happened, Mr. President,

is that companies are -- do not want at times to bring to the attention of the DEC that they might have a problem because then they are eligible for the penalties that DEC has the right to place on them.

As we also know, Mr. President, the Superfund monies could be running out by the end of the decade. We want to get more and more people from the private sector in to work with us in the cleaning up of the sites, their sites, and I think this is good legislation.

One of the things I want to point out, particularly is this legislation, under the lender liability bill which this house had the wisdom to pass just earlier today is particular ly -- I should say particularly concerns what is happening in our cities and what's happening in our inner cities where we have a property being deserted, so many of which are contaminated which, because of the existing laws, which again hopefully we're going to change it because we passed earlier today the lender liability bill which would hold a bank responsible and,

therefore, banks are not lending money for those properties in the inner city, companies want to go in and use those properties, use that property. They can work out a voluntary remediation program with DEC. They can work out a loan -- can't function without money. You have to have someone who is willing to invest money in that property and, if we continue to hold banks liable, then banks will not invest.

What I'm saying, my colleagues, is that this bill and the lender liability bill is particularly aimed -- will be a particular help, I should say, to our inner cities in developing properties within the inner cities and otherwise would be deserted and companies will go out to virgin land where there is no chance of contamination and that's where we need businesses. That's where we need jobs, and I think both of these bills will help us in addition to the primary thrust of the legislation helping to clean up contaminated or hazardous sites.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: If Senator Daly would be so good as to yield.

ACTING PRESIDENT KUHL: Senator Daly, do you yield?

SENATOR DALY: Yes.

ACTING PRESIDENT KUHL: Senator Daly yields.

SENATOR LEICHTER: Senator, before getting into the substance of the bill, I just want to be sure that I heard or understood correctly something I heard in your peroration. Did you say this bill will create jobs?

SENATOR DALY: I said this bill will help create jobs. Yes, Mr. President, I said it.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR DALY: Particularly, Mr. President, in places where we need them the most, the inner cities.

SENATOR LEICHTER: I'm sorry,

Senator. Maybe I'm missing something.

SENATOR DALY: The inner cities.

SENATOR LEICHTER: I know it's the mantra to get up on any sort of bill and say, This will create jobs, but how will this create jobs and particularly in the inner cities?

SENATOR DALY: What's happening now, Mr. President, is properties are being deserted in the inner -- properties are being deserted in the inner cities. No developer, no development wants to go in.

SENATOR LEICHTER: Are we on Bill 946, Senator?

SENATOR DALY: We are on 946, Senator, and I think if you'll accept the points that I'm trying to make in answer to your question, I'm saying the voluntary remediation bill will help encourage entrepreneurs, companies, to go in to inner city properties and clean them up so they can be used for the development of jobs.

At the present time, because of

the -- the existing law and DEC's power over that company, companies will not do that. They will not go in and, if they're going to start a company or expand a company, they're not going to go into the inner city, pick up land that could be or will be contaminated. They're going to go out to the rural areas where there is virgin land and they don't have to worry.

Now, if they can go in, they want this property. If they can make an arrangement with the Department of Environmental Conservation for a voluntary remediation of that property, as this bill allows, which you can't do right now, then that property can be cleaned up by the people who want to start that business, or expand it, and thus create jobs.

SENATOR LEICHTER: Thank you.

Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: I did want Senator Daly to yield, but before I deal with the substantive merits of the bill, I may end up

supporting the bill.

I think it has some good ideas in it, Senator, but I would not, frankly, sell this bill on the basis that this is going to really create jobs in the inner cities. I mean I just don't think that's -- that's a realistic sales point for this bill. As I said, it almost seems like any bill we have, you get up and say, it will create jobs. You sit down because you - you've said everything about the bill that is needed to convince your colleagues to vote for it.

I think if all the bills that you guys are claiming are going to create jobs actually did what you said, there wouldn't be a single unemployed person in New York and most people would have to work twice.

Senator, I don't think the difficulty of the problem that we have in the inner city relates to the difficulty of cleaning up contaminated sites. Obviously there are a lot of problems, difficulties, that we have relating to creating of a better economic

climate in the inner city, but I -- I don't think that this bill has any bearing on that whatsoever, but having said that, I think there may be a definite value, Senator, for having what I would call sort of a fast track way of cleaning up sites that maybe don't have too much of a contamination problem that maybe it makes sense to do it in what you say voluntary, sort of a quasi-voluntary way because you've got to -- you've got to get the permission of the department before you can do that, and it's in relation to that, Senator, that I have a question that I wanted to ask you if you would be good enough to yield.

ACTING PRESIDENT KUHL: Senator Daly, do you yield?

SENATOR DALY: Yes.

ACTING PRESIDENT KUHL: Senator Daly yields.

SENATOR LEICHTER: The department has stated that it strongly opposes this, and again it's that one liner, and I think it's appalling, it's outrageous that a state

department would not have the decency and show enough respect for the Legislature to try to explain what its position is. Unfortunately, we have to deal with this, but one of our staff people checked with the department.

One point they made which may have some merit and that's what my question relates to, is that you require the department within 30 days after an application is made for voluntary remediation to respond, and I understand the department felt that that was an unreasonable period of time. I don't want to give them a long period of time. I understand your -- your purpose is let's get the thing done quickly, but would you comment on that? Is 30 days possibly unreasonable?

SENATOR DALY: No, it isn't because really, 30 days is just to determine the eligibility. That's all the 30-day period is used for. The means to clean up the site, that comes later, but also, Senator, I might add that DEC never spoke to me about it, never sent me a memo on the bill. I didn't know they had that

objection, but I really feel that, if that's their only objection, the fact that -- that they have -- they have to do within -- within 30 days, they have to do that, I -- hunh! I don't think it's much of an objection, Senator.

SENATOR LEICHTER: Senator, let me ask you if you would be kind enough to continue to yield.

ACTING PRESIDENT KUHL: Senator Daly, you continue to yield?

SENATOR DALY: Certainly.

ACTING PRESIDENT KUHL: Senator Daly yields.

SENATOR LEICHTER: You have a provision in here which says an affected person who implements a voluntary remedial program pursuant to this title shall not be held liable for claims concerning matters addressed in such remedial program or certificate of completion.

Does that mean that, if the remediation is done in a negligent or careless manner, that the affected person cannot be held responsible?

SENATOR DALY: Not if it's done in a negligent manner, no, Senator.

SENATOR LEICHTER: Well -

SENATOR DALY: Counsel just said, you know, the program is approved by DEC before they do it. DEC approves the program, the remediation program. So nothing goes on, nothing is done to that site unless DEC signs off.

SENATOR LEICHTER: All right. If he doesn't -

ACTING PRESIDENT KUHL: Senator Daly, you continue to yield?

SENATOR DALY: Yes.

ACTING PRESIDENT KUHL: Senator Daly continues to yield.

SENATOR LEICHTER: Thank you, Mr. President.

If the person does it in accordance with the remediation plan, what you're saying is that, at that point, he can not be held liable.

SENATOR DALY: That's right.

SENATOR LEICHTER: So that the department, in effect, is almost a guarantor, not in the sense that you could sue the department although maybe you could.

SENATOR DALY: Well -

SENATOR LEICHTER: I just wonder, Senator, whether that's really giving too great an exemption to -- to an affected person.

SENATOR DALY: Well, that's the carrot, Senator; that's exactly it. That's the carrot that we have in this legislation to encourage companies to come forward and say, "Listen, I have a contamination problem, I have a hazardous waste problem, I want to clean it up now. You tell me how to do it, you approve the plan, I'll do it because I want to come back in here and keep this plant moving, I mean open. I want to put some new jobs in here," getting back to the jobs, Senator.

SENATOR LEICHTER: Yes, Senator.

SENATOR DALY: And I'm not going to do it, let's face it, if I'm not going to get protection from DEC then I'm not going to do

it. I'm not going to put my money into that. You have to have some final point when a person feels I've done what I had to do and now I'm safe. The reality of that Damocles sword hanging over my head constantly is going to make me hesitate and, very frankly, is going to make me say, No, I'm not going to do it here; I'm going to move out of the city and out to the country or wherever.

SENATOR LEICHTER: Senator, then let me, if I may, go back to the question of the timing by which DEC has to act. You say the 30 days are only to determine the eligibility.

SENATOR DALY: Yes.

SENATOR LEICHTER: How much time will they have to really consider the voluntary remediation program so that the department can indeed be assured that that remediation program will deal effectively with the problem?

SENATOR DALY: What you would do, Senator, in that case there would be an agreement signed between DEC and the company or individual cleaning up the site. That's an

individual contract that would be signed by DEC.

SENATOR LEICHTER: O.K. And what you're saying, there's no time.

SENATOR DALY: The legislation does not have any time in it. We think that's wise. We think that's wise. We think DEC and the company or the individual should sit down and work out a time frame.

SENATOR LEICHTER: Well, Mr. President.

SENATOR DALY: Just not to let it drag.

SENATOR LEICHTER: I thank the good Senator.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: Yes. I thank my good friend for his explanation.

I understand that this is certainly an effort to try to get some of these sites cleaned up in a more expeditious manner. Absent really an explanation by the department

of its opposition and no other memorandum, and understanding the concerns that Senator Daly has, I'm going to support the bill.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57, nays 1, Senator Galiber recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Stavisky.

SENATOR STAVISKY: Mr. President, without objection, I should like to be recorded in the negative on Calendar 720, Calendar 723 and also 563. Thank you.

ACTING PRESIDENT KUHL: Without objection, Senator Stavisky will be recorded in the negative on Calendars Number 563, 720 and 723.

Senator Espada.

SENATOR ESPADA: Mr. President, I, too, seek unanimous consent to be recorded in the negative on Calendar Number 563 and 720.

ACTING PRESIDENT KUHL: Without objection, Senator Espada will be recorded in the negative on Calendar Number 563 and Calendar Number 720.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like to unanimous consent to be recorded in the negative on Calendar Number 723.

ACTING PRESIDENT KUHL: Without objection, Senator Montgomery will be recorded in the negative on Calendar Number 723.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1040, by Senator Johnson, Senate Bill Number 7387-A, an act to amend the State Administrative Procedure Act.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah. We're going to want an explanation. We're going to want an explanation, and there may be some debate on this, but I have some members who have to go to a function. Is it possible to open the roll call and allow Senator Mendez to vote on this?

SENATOR PRESENT: Yes.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

THE SECRETARY: Senator Espada.

SENATOR GOLD: Negative.

ACTING PRESIDENT KUHL: Senator Montgomery?

SENATOR MONTGOMERY: Not me.

ACTING PRESIDENT KUHL: Senator Mendez.

SENATOR MENDEZ: Negative.

ACTING PRESIDENT KUHL: Senator Mendez, yes, no, negative? Senator Mendez in the negative.

Secretary will withdraw the roll call. Senator Gold, do you wish an explanation on this bill? No?

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Johnson, Senator Gold is asking an explanation.

SENATOR JOHNSON: Mr. President, this -- this measure will provide that all agencies secure an estimate of the accuracy of their cost to agencies and to business from the Department of Economic Development.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.

SENATOR GOLD: Hold on. Hold on. Hold on. Hold it a minute.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Please hold just a minute.

SENATOR LEICHTER: Senator Johnson, if you would yield.

ACTING PRESIDENT KUHL: Withdraw the roll call. Senator Johnson, Senator Leichter is asking you to yield. Do you yield? Senator Johnson, do you yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator Johnson yields, Senator Leichter.

SENATOR LEICHTER: Do I understand that this bill will give the Department of Economic Development the power to review regulatory impact statements by other agencies?

SENATOR JOHNSON: The economic impact of the regulation, yes, by other agencies, yes; that's correct.

SENATOR LEICHTER: And can the department overrule the determination by another

state agency that it wishes to proceed with a regulation?

SENATOR JOHNSON: No, I don't think it can do that, Senator. All they can say is that we think this is going to cost business so many dollars and that would be part of the memorandum that goes with the bill.

SENATOR LEICHTER: Well, Senator, if -

ACTING PRESIDENT KUHL: Senator Johnson, do you continue to yield?

SENATOR LEICHTER: If you would continue to yield.

Can I draw your attention, Senator, to page 2, line 29, where it says to review, comment upon, amend and approve the regulatory impact statement. Doesn't that imply that it also has the power, one, to disapprove, certainly clearly states that it can amend the regulation.

SENATOR JOHNSON: Yes, Senator, we're answering questions here, and, yes, that's what it says, Senator, that they would have to

approve the figures submitted by the other agency, that they would be correct in that.

SENATOR LEICHTER: Senator, then it's correct to say that you're really making Department of Economic Development a super agency that has the right to pass on the work of any other agency insofar as it involves regulatory impact statements?

SENATOR JOHNSON: Senator, we're not really affecting the law. We're affecting the appraisal of what the economic impact of that role would be upon the regulated businesses. We feel in the past we haven't got the full story from a lot of the agencies who minimized the impact or almost said it's de minimus when really it's a substantial impact on the regulated members of our community.

SENATOR LEICHTER: Senator, let me ask you this question.

ACTING PRESIDENT KUHL: Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator

Johnson yields.

SENATOR LEICHTER: Is there anything which precludes the Department of Economic Development in passing on the regulatory impact statement of another agency?

SENATOR JOHNSON: We haven't had any impact, any comments from them. In very few cases have we had any comments at all.

SENATOR LEICHTER: Senator, I wonder if you could comment on this concern of mine, and that is that by requiring the department to approve the regulatory impact statement of every other agency, are we just adding another delay? I know we've had a number of concerns expressed today in the debate on the bills about the lengthy regulatory process. Now you're adding just another layer.

Doesn't that have the effect of further hindering an expeditious resolution of regulatory procedure?

SENATOR JOHNSON: Senator, I don't know what to say. I think I agree with Senator Galiber in the previous discussion here

where we ought to just go back and take some of these laws completely off the books and start over again but, Senator, we're not prepared to do that right now, so what we're trying to do is introduce some sensitivity to the impact on the regulated community because, as I mentioned earlier, the loss of jobs and businesses leaving our state and people fleeing almost from this regulatory behemoth which is overcoming all of them.

What we want to know what this is going to cost and maybe the department would, or the agency that's subject here to this requirement would look twice and make sure they got the proper estimate before we send out the new -- the new regulations, and so forth, so I think that's the problem.

It's -- get the Administrative Procedure Act to give us some straight figures from a department which is concerned with the state of our economy in the state of New York.

SENATOR LEICHTER: O.K. Mr. President, one more question if Senator Johnson

would yield.

ACTING PRESIDENT KUHL: Senator Johnson, do you continue to yield?

SENATOR JOHNSON: Yes.

ACTING PRESIDENT KUHL: Senator Johnson? Senator Johnson yields.

SENATOR LEICHTER: Senator, I see there's no appropriation, although we're now giving a much broader responsibility to the Department of Economic Development. You're at least -- you're conceding that there will be some fiscal implications. You say, Well, it's minimal, but, Senator, it bothers me and I raised it today in committee. I raised it on the floor yesterday with Senator Bruno. I've raised it in many other instances, the -- what I think is an unfortunate habit that's developing particularly on the part of the majority to impose mandates on state agencies and never provide the financing, the funding for it. It's -- it's -- it must be clear to you and certain ly is to me, should be clear to everybody that, if you're not going to require the department to

review all of these regulatory impact statements, you want them to make a thorough review, they're going to be dealing in an area where, by the way, they're not particularly familiar, whether it's the economy or health or other areas. Now this department has suddenly become a super-department and has to make determinations. They may have to make a determination as to some regulation affecting hospitals. This is a form of economic development and the department has to now, under your legislation, review the economic impact.

They're going to have to hire people for that. They're going to have to make studies. Not only will it delay it, it will cost money. How are they going to do this without being given some additional appropriation?

SENATOR JOHNSON: Well, Senator, I don't know. I think the agency has not objected to the bill. They haven't put out a memo in opposition. That doesn't mean they approve it, but they probably know themselves

that we've got to get a better handle on what we're doing here.

We're finding, even on the federal level, the federal Congressmen are demanding or taking a pledge that we'll put no more mandates on state and local government. Yet every regulation is a mandate on some regulated person or some agency or something, and these things go on continuously.

I think if this should become law then I think DED would have to figure out how they're going to do it, reassign personnel, some things that are not necessary, maybe -- maybe an agency in Malaysia to promote business in New York, maybe that's not necessary. Maybe they could close that office up and bring those people back here and see that we stick to our knitting and keep the business and jobs in the state of New York by not imposing onerous regulations which cost a lot of money.

We have an economic crisis in this state. I don't need to tell you, Senator, you know it. Just the other day, we celebrated

the fact that our revenues went up 2.4 percent. New Jersey's tax revenues went up 9.7 percent, so we're not doing everything great. We're lucky that the economy came back a little bit.

We've got to do a lot more things to have a healthy economy in this state, and one of the things we're needing to do is to know what we're doing in terms of rules and regulations, Senator.

SENATOR LEICHTER: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: Senator Johnson, I agree we have to do things, but I think we have to do intelligent things. I don't know whether we have to run off in every direction; I don't know whether that's particularly helpful, Senator.

Let me say I have a number of problems with this bill, but let me try to deal with this underlying basis, Senator. You talk about the economy; Senator Daly talks about the

job creation, and so on. We appreciate that we have a problem in this state. Much of it is due to national and by and large economic forces over which we have extremely little control, and there's very little that we can do, frankly, that's going to make enormous changes in the economy. I think we can affect it in the margin.

There was an article in the paper the other day, it certainly should be no surprise to anybody that this great tax bill that we have passed is probably going to have a minimal effect in any effect on job creation. So, Senator, to put forward these bills as Senator Daly did, you know, this is a great job creation bill humbug, or that this bill is really going to avoid the expenses and the burdens that are now imposed on corporations by unwise regulations.

So putting that aside, it may make sense under certain circumstances to do some of the things you propose. I thought Senator Daly's bill made sense just from the

viewpoint of trying to clean up some contaminated sites, but I don't think it's - and if it makes sense, Senator, to do this, to give that department this power to review every regulatory impact statement, then you've got to give them the money to do it.

I mean this Republican idea that you can increase government functions, because this is an increase of a function, that you can cut taxes, and do all of this and that all of this can be done without in any way affecting the expenditures of government, just -- just really makes no sense whatsoever.

You clearly can't do that. If this makes sense, then, I think you ought to have the fortitude, if I may put it that way, of putting in an appropriation and, if anybody then says, Oh, my God, you increased government spending, you said, Yeah, I did it, because it provides a government function which is very important, that -- that it just seems to me that, unless you do this, I don't know how we can take any of this legislation seriously.

But I think that even with an appropriation, this bill would give me a lot of problems because I submit to you that this department is not in a position to understand the economic impact of regulations that are made by other state agencies. In some instances maybe, in other instances, I think in the health field, I just don't think that they could do that. I think in transportation, I can see many areas where the Department of Transportation has a much better understanding of the economic impact than the Department of Economic Development. Doesn't have the people with the background in these areas. They don't have the knowledge and all that you're requiring in imposing on that department that they study anew and afresh determinations that have been made by other departments.

I have no objection to that department, if it looks at a regulation and says, We think there's an error here for the Department of Economic Development to contact whether it's Transportation, DEC or Health or

whoever put out this regulation, say, We have some question, but they have that power now, but to require that in every instance they review the regulatory impact statement, that they approve it, delays the procedure, makes it more expensive, and will involve the department in areas where it's totally untrained.

So far from speeding up the process, making, if you will, the state more business friendly, I think you're going to delay the enactment of regulations that may, in fact, be beneficial to business. You're going to impose unnecessary work on a department that, frankly, may not be qualified to do this.

I don't see this a help at all. I think this is a -- this is a hindrance, and I -- I think it's a mistake to enact this legislation.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I share most of the comments that

Senator Leichter made. I haven't quite figured out how I'll vote on this bill, but I guess I was reminded in sitting here it ties in with the point that we talked about earlier about institutional arrogance, and it's unfortunate, but I get this little image in my head.

I have a 15-year-old son, and I keep thinking, Gee, you know, wasn't it nice when he was a little tiny kid. But what happened is I kept feeding him and feeding him and he grew up and, my gosh, now he's about two inches shorter than I am and about three months ago, he and I had a little wrestling match in my living room, watched by my other children and my wife, in which, frankly, he just about beat the daylights out of me.

In some of ways, it's similar to what we go through here. We create a nice little agency. We want to give them a nice little thing to do, but we keep feeding them responsibility. We have fed the Department of Environmental Conservation, by lending them broad powers every year for the last 16 years;

just feed them more and more and suddenly when we look at them they're growing outside the box. They're big and strong and they can beat up their old man.

Well, we're the old men; we're the old man. If we're going to take control over these agencies, we have the power. Unlike myself, I'll just continue to watch my son get bigger and bigger and eventually he will be able to beat me up, and that will be settled. But we still have the power to do it. We can do it on a case-by-case basis.

I share a lot of Senator Leichter's concerns, and I'm, frankly, not sure even as I stand here how I'm going to vote, but recognize that we're feeding the Department of Economic Development by giving them a huge grant of authority, an enormous grant of authority. They can overturn, amend and, where necessary, approve every single regulation enacted by every single department in this state.

I agree with Senator Leichter, I do think it's a bit hypocritical to do that and

in your fiscal note accompanying the -- the bill, you say possible savings from reduced state regulatory burdens. I think the first thing that Mr. Tese will do is ask us for a couple hundred employees so that he'll be able to do what we've told him to do, and next thing you know it will not only be DEC that is outside the box and taking power that we don't want, but it will be DED that is doing exactly the same thing.

I caution my colleagues before we do this.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1040 are

Senators Espada, Galiber, Gold, Leichter, Mendez, Montgomery, Ohrenstein and Oppenheimer. Ayes 50, nays 8.

ACTING PRESIDENT KUHL: The bill is passed.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1121, by Senator Wright, Senate Bill Number 6941, an act to amend the Executive Law and the State Administrative Procedure Act.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 58.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR PADAVAN: Any housekeeping, Mr. President?

ACTING PRESIDENT KUHL: Yes, we have some housekeeping.

Senator Libous.

SENATOR LIBOUS: Mr. President, on behalf of Senator Skelos, I wish to call up his bill, Senate Print Number 2272-A recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Skelos, Senate Bill Number 2272-A, an act to amend the Real Property Tax Law.

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

ACTING PRESIDENT KUHL: On the motion to reconsider the vote by which the bill was passed, Secretary will read the roll on reconsideration.

(The Secretary called the roll on reconsideration. )

THE SECRETARY: Ayes 58.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT KUHL: Senator Libous.

SENATOR LIBOUS: I now offer up the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I have one more. On behalf of Senator Skelos, I wish to call up his bill, Print Number 7129-A recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Skelos, Senate Bill Number 7129-A, Economic Development Law.

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

ACTING PRESIDENT KUHL: Call the roll on reconsideration.

(The Secretary called the roll on

reconsideration. )

THE SECRETARY: Ayes 58.

SENATOR LIBOUS: Mr. President, I now offer up the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Wright.

SENATOR WRIGHT: Mr. President, I wish to call up my bill, Print Number 6861-A, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Wright, Senate Bill Number 6861-A, authorize the city of Ogdensburg School District to finance the projected accumulated deficit.

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

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

(The Secretary called the roll on

reconsideration. )

THE SECRETARY: Ayes 58.

SENATOR WRIGHT: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator LaValle, on page number 42, I offer the following amendments to Calendar Number 1067, Senate Print Number 8063, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted. Bill will retain its place on the Third Reading Calendar.

Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President.

I would announce that tomorrow during the session, we will be announcing a meeting of the Committee on Finance in Room 332, time to be announced.

ACTING PRESIDENT KUHL: There will be a meeting of the Senate Committee on Finance tomorrow during session to be called from the floor, time to be announced at that time.

Senator Goodman.

SENATOR GOODMAN: Mr. President, I'd like to remind members and staff that tomorrow evening is our annual night at Saratoga Performing Arts Center. There will be a performance of Madama Butterfly given by the New York City Opera. This is a gala spring event which all members and staff have been invited to. Those who have been invited know they have. We look forward to welcoming you both for dinner and for a delightful performance, and I want to be certain that everybody makes it a point to come and to bring some bug repellant with them.

Thank you very much.

ACTING PRESIDENT KUHL: Thank you for the reminder, Senator Goodman.

Senator Padavan, that completes

the housekeeping.

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

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

(Whereupon at 6:11 p.m., the Senate adjourned.)