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ALBANY, NEW YORK

March 22, 1995

11:01 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT KUHL: The
3 Senate will come to order, members please find
4 their chairs. Ask all our visitors in the
5 gallery, together with members, to rise and join
6 me in saying the Pledge of Allegiance to the
7 Flag.

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

10 We're very pleased to be joined
11 today by the Rabbi Daniel Fried of the
12 Congregation Anshe Emeth of Columbia County.
13 Rabbi Fried.

14 RABBI FRIED: Ladies and
15 gentlemen of the Senate, before taking up
16 today's legislative business, I'd like to ask
17 you to join me in a moment of reflection and
18 prayer.

19 We invoke Your presence, O God,
20 at this session of the Senate. We ask that Your
21 spirit be a support and mainstay for these
22 dedicated men and women who have taken upon
23 themselves the weighty mantle of political

1 leadership. Help them in fulfilling their
2 sacred trust of safeguarding the lives and
3 ensuring the well-being of all of those who
4 reside in the state of New York.

5 Let the awesome power vested in
6 this assemblage in regulating, influencing and
7 directing the lives of fellow New Yorkers be an
8 ever present consideration for its members.

9 Lord, endow these legislators
10 with the wisdom, skill and patience necessary to
11 grapple with the great and perplexing issues of
12 our day: How to make our streets and our
13 neighborhoods safe once again; how to give the
14 people of New York a healthy and wholesome
15 environment in which to live and raise their
16 children; how to create an economy in which
17 there will be full employment for all those who
18 desire to work; how best to feed the hungry,
19 house the homeless and care for the sick and
20 aged; how to rebuild the deteriorating
21 infrastructure of our towns and cities; how to
22 recapture the dynamism, sense of purpose and
23 vision of the future that was once synonymous

1 with the Empire State.

2 May the legislative business
3 conducted this day and every day be attuned to
4 the collective needs of all the inhabitants of
5 New York and, in the words of your ancient
6 Psalmist we pray: (Phonetic) Vih-he naw-ahm
7 hashem eh-law-kay-noo ah-lay-noo oo-mah-ah-seh
8 yah-day-noo kay-nih-nah ah-lay-noo, oo-ma-ah-seh
9 yah-day-noo kaw-nih-neh-hoo.

10 "And let Thy graciousness, O
11 God, be upon us; establish Thou also the work of
12 our hands for us; Yea, the work of our hands,
13 establish Thou it." Amen.

14 ACTING PRESIDENT KUHL: Reading
15 of the Journal. In Senate, Tuesday, March
16 21st. The Senate met pursuant to adjournment,
17 Senator Kuhl in the Chair upon designation of
18 the Temporary President. The Journal of Monday,
19 March 20th, was read and approved. On motion,
20 Senate adjourned.

21 Hearing no objection, the Journal
22 stands approved as read.

23 Presentation of petitions.

1 Messages from the Assembly.

2 Messages from the Governor.

3 Reports of standing committees.

4 Reports of select committees.

5 Communications and reports from
6 state officers.

7 Motions and resolutions. Senator
8 Skelos.

9 SENATOR SKELOS: There being no
10 motions and resolutions at this time, Mr. Presi
11 dent, if we take up the non-controversial.

12 Senator Farley.

13 ACTING PRESIDENT KUHL: The Chair
14 recognizes Senator Farley for a motion.

15 SENATOR FARLEY: Thank you, Mr.
16 President.

17 On behalf of Senator Leibell, Mr.
18 President, I move that the following bill be
19 discharged from its respective committee and be
20 recommitted with instructions to strike the
21 enacting clause: That's Senate Print 2983.

22 ACTING PRESIDENT KUHL: The bill
23 will be recommitted and the enacting clause will

1 be stricken.

2 The Chair recognizes Senator
3 Larkin.

4 SENATOR LARKIN: Mr. President,
5 Calendar 198, Senate Bill 2655, I'd like to
6 place a sponsor's star.

7 ACTING PRESIDENT KUHL: Sponsor's
8 star will be placed on the bill.

9 Senator Skelos, we have one
10 substitution at the desk if you'd like to take
11 that now.

12 SENATOR SKELOS: Yes.

13 THE SECRETARY: On page number 5,
14 Senator Volker moves to discharge from the
15 Committee on Codes Assembly Bill Number 2659 and
16 substitute it for the identical Senate Bill
17 Calendar Number 237.

18 ACTING PRESIDENT KUHL:
19 Substitution is ordered.

20 The Chair recognizes Senator
21 Velella.

22 SENATOR VELELLA: Mr. President,
23 my bill, Calendar 221, Senate 2442, would you

1 place a sponsor's star on that, please?

2 ACTING PRESIDENT KUHL: Sponsor's
3 star will be placed on Calendar Number 221.

4 SENATOR VELELLA: And also 223,
5 Senate Number 2766, would you also place a star
6 on that?

7 ACTING PRESIDENT KUHL: Sponsor's
8 star will be placed on Calendar Number 223.
9 Senator Skelos.

10 SENATOR SKELOS: Yes, Mr.
11 President, at this time if we could take up the
12 non-controversial calendar.

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

15 THE SECRETARY: On page number
16 11, Calendar Number 10, by Senator Tully, Senate
17 Print 185-A, an act to amend the Civil Practice
18 Law and Rules, in relation to forfeiture of the
19 proceeds of a felony related to a sexual
20 performance by a child.

21 SENATOR PATERSON: Lay aside.

22 ACTING PRESIDENT KUHL: Lay the
23 bill aside.

1 THE SECRETARY: Calendar Number
2 146, by Senator Goodman, Senate Print 983, an
3 act to amend the Arts and Cultural Affairs Law,
4 in relation to the New York State fine arts
5 collection.

6 SENATOR STACHOWSKI: Lay it
7 aside.

8 ACTING PRESIDENT KUHL: Lay the
9 bill aside.

10 THE SECRETARY: Calendar Number
11 167, by member of the Assembly Schimminger,
12 Assembly Print 2488, an act to amend the General
13 Business Law and the Personal Property Law, in
14 relation to the cancellation of personal
15 emergency response service.

16 ACTING PRESIDENT KUHL: Secretary
17 will read the last section.

18 THE SECRETARY: Section 5. This
19 act shall take effect on the 1st day of
20 September.

21 ACTING PRESIDENT KUHL: Call the
22 roll.

23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 38.

2 ACTING PRESIDENT KUHL: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 176, by Senator Velella, Senate Print 2946, an
6 act to amend Chapter 696 of the Laws of 1887,
7 relating to providing hospitals, orphan asylums
8 and other charitable institutions in the city of
9 New York with water.

10 SENATOR PATERSON: Lay aside.

11 ACTING PRESIDENT KUHL: Lay the
12 bill aside.

13 THE SECRETARY: Calendar Number
14 190 -- 179, by Senator Hoblock, Senate Print
15 1634, an act to amend the Judiciary Law, in
16 relation to the seal of Albany County.

17 ACTING PRESIDENT KUHL: Secretary
18 will read the last section.

19 THE SECRETARY: Section 2. This
20 act shall take effect on the 1st day of
21 January.

22 ACTING PRESIDENT KUHL: Call the
23 roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes 38.

3 ACTING PRESIDENT KUHL: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 191, by Senator Seward, Senate Print 1109, an
7 act to amend the Real Property Tax Law, in
8 relation to real property held in trust for
9 certain senior citizens.

10 ACTING PRESIDENT KUHL: Secretary
11 will read the last section.

12 THE SECRETARY: Section 2. This
13 act shall take effect on the 1st day of
14 January.

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 38.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 194, by Senator Levy, Senate Print 1977, an act
23 in relation to authorizing the Department of

1 Transportation to survey areas of the state.

2 ACTING PRESIDENT KUHL: Secretary
3 will read the last section.

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

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 38.

10 ACTING PRESIDENT KUHL: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 212, by Senator Farley, Senate Print Number
14 1092, an act to amend the Real Property Tax Law
15 and the Social Services Law, in relation to
16 withholding social service rents payable.

17 SENATOR PATERSON: Lay aside.

18 ACTING PRESIDENT KUHL: Lay the
19 bill aside.

20 Senator Skelos, that completes
21 the non-controversial calendar.

22 SENATOR SKELOS: At this time, if
23 we can take up the controversial calendar, Mr.

1 President.

2 ACTING PRESIDENT KUHL: Secretary
3 will read the controversial calendar.

4 THE SECRETARY: Calendar Number
5 10, by Senator Tully, Senate Print Number 185-A,
6 an act to amend the Civil Practice Law and Rules
7 in relation to forfeiture of the proceeds.

8 SENATOR PATERSON: Lay it aside.

9 ACTING PRESIDENT KUHL: Senator
10 Tully, an explanation has been asked for by
11 Senator Paterson.

12 SENATOR TULLY: Thank you, Mr.
13 President.

14 Mr. President, this bill requires
15 civil forfeiture of property by certain persons
16 convicted of sex offenses to include a person
17 convicted of or a defendant who has been
18 indicted for an offense related to the sexual
19 performance of a child.

20 ACTING PRESIDENT KUHL: The Chair
21 recognizes Senator Paterson.

22 SENATOR PATERSON: Senator Tully,
23 you were extremely open to questions and to

1 amendments on this particular bill and we
2 appreciate that. You're addressing a very
3 serious issue in our society involving the
4 criminality of individuals.

5 I'd like to know if you would
6 yield for a question at this time.

7 ACTING PRESIDENT KUHL: Senator
8 Tully yield for a question?

9 SENATOR TULLY: Yes, Mr.
10 President.

11 ACTING PRESIDENT KUHL: Senator
12 Tully yields, Senator Paterson.

13 SENATOR PATERSON: Senator Tully,
14 the bill, as I read it, says that it requires
15 the local district attorneys to take the action
16 that they are taking in this particular case
17 but, in my opinion, that conflicts with the
18 C.P.L.R., particularly section 13-A which
19 relates to civil forfeitures in that the civil
20 forfeiture law is permissive, and so even at a
21 point that there would be the threshold test in
22 which the forfeiture might be achieved, why
23 would we require the district attorney when -

1 and not leave it up to the district attorney as
2 to whether or not they, at that point, want to
3 achieve the forfeiture?

4 SENATOR TULLY: Thank you,
5 Senator Paterson.

6 Mr. President, the concept is
7 that mandating it would make sure that no one
8 slips through the cracks, and the bill does
9 authorize a forfeiture proceeding under C.P.L.R.
10 Section 1311 which the Court of Appeals has
11 already held to be possessive of the requisite
12 procedural safeguards.

13 SENATOR PATERSON: Would Senator
14 yield for another question?

15 ACTING PRESIDENT KUHL: Senator
16 Tully, you continue to yield?

17 SENATOR TULLY: Yes, Mr.
18 President.

19 ACTING PRESIDENT KUHL: The
20 Senator continues to yield, Senator Paterson.

21 SENATOR PATERSON: What I don't
22 understand, Senator Tully, is that the district
23 attorney has a number of options in this

1 particular situation. If the district attorney
2 is really motivated by convicting the individual
3 of the crime, they might not want to seek the
4 forfeiture and, if we're mandating it, in a
5 sense we're kind of micromanaging the district
6 attorney's office relating to criminal offenses
7 and their prosecution, which a district attorney
8 is elected to do by the population.

9 I don't really see the need to
10 have this bill require district attorneys where
11 I would have written the law to have said -- to
12 have stated that it enabled district attorneys
13 to do so.

14 SENATOR TULLY: Thank you, Mr.
15 President.

16 Senator Paterson makes a good
17 plea on behalf of the district attorneys. As he
18 indicated earlier, we have kept this bill open
19 for amendment. We have amended it. We have had
20 an opportunity to have it shown to the district
21 attorneys' offices in this state and we have no
22 memorandum or other indication from those
23 offices that they are in opposition to the bill

1 as it exists today.

2 ACTING PRESIDENT KUHL: Senator
3 Paterson, do you wish to continue to speak?

4 SENATOR PATERSON: Yes. I was
5 just waiting to be recognized, Mr. President.

6 ACTING PRESIDENT KUHL: Senator
7 Paterson, on the bill.

8 SENATOR PATERSON: On the bill,
9 Mr. President.

10 The civil forfeiture law is, in
11 my opinion, a very dangerous piece of
12 legislation. It definitely conflicts, in my
13 opinion, with the due process clause of the
14 Fourteenth Amendment of our Constitution.

15 There are certain emergencies
16 where I think that we actually recognize that
17 the criminality has risen to such a threshold
18 that we might seek civil forfeitures. In the
19 cases of drug dealing and the openness and the
20 notorious way the drug dealers present their
21 assets, I think it's actually a good idea. In
22 other words, we will seize the assets of these
23 individuals and send a message, a message to

1 children, for instance, that we are going to go
2 right after the profit of drug dealing.

3 I don't understand how this
4 particular legislation actually would send that
5 message in as visible a way as we have in other
6 situations, and I think we're starting to open
7 the door by mandating the civil forfeiture of
8 people's property, people who are not convicted
9 of a crime, people who are in many cases not
10 even indicted for a crime, and yet we're going
11 to pick up their assets because a preponderance
12 of the evidence has been established that they
13 may be guilty. In other words, we are
14 suspicious that they may be engaging in the sale
15 of child pornography. We have a reason to
16 believe that they are profiteering off of the
17 sexual performance of a child. But it's the
18 belief that separates this country from other
19 countries. In the Iron Curtain countries, the
20 belief is enough for individuals to have many of
21 their liberties subjugated by the state; but
22 this is America, and we have a presumption of
23 innocence and we're not saying that there

1 shouldn't be firm prosecution in this particular
2 area.

3 What I'm arguing is that we want
4 to force prosecutors to prosecute, not to give
5 them the out of forfeiting the proceeds from the
6 sexual performance of a child or from drug
7 dealing or from anything else. We want to see
8 these individuals convicted. If you seize the
9 assets, this might actually have a chilling
10 effect on the prosecutor going forward, which is
11 why I would like for the district attorneys to
12 have as much of an option in this situation, and
13 I'm very glad to hear that Senator Tully is
14 willing, if any of the district attorneys'
15 offices want to come forward, to discuss this
16 issue, as he's been very open in terms of the
17 process of passing this bill all along.

18 But I can't vote for this bill in
19 good conscience. I can't vote for it because I
20 don't think it really conforms to the
21 protections that set our country apart from
22 other nations, and those are the presumptions of
23 innocence and the rigorous burden of proof that

1 must be established before a person is
2 incarcerated.

3 I think that there should be an
4 additional burden before we start to seize the
5 assets of individuals, and I think that that is
6 the reason that I can't support this bill.

7 ACTING PRESIDENT KUHL: The Chair
8 recognizes Senator Dollinger on the bill.

9 SENATOR DOLLINGER: Thank you,
10 Mr. President. My lips are unsealed.

11 Will Senator Tully yield to one
12 question?

13 ACTING PRESIDENT KUHL: Senator
14 Tully, do you yield to Senator Dollinger?

15 SENATOR TULLY: Yes, Mr.
16 President, I will yield, and I would say in
17 behalf of my colleagues on this side of the
18 aisle, that we're at least happy that we had one
19 in a row with Senator Dollinger.

20 ACTING PRESIDENT KUHL: The
21 Senator yields, Senator Dollinger.

22 SENATOR DOLLINGER: Mr.
23 President, through you. Was consideration

1 given, Senator -- I know this has been a bill
2 that you sought input from other parties and
3 suggested receptivity to amendments -- was it
4 ever considered that the proceeds from the civil
5 forfeiture would go to the crime victims
6 assistance board for the purposes of reimbursing
7 victims directly who are victims of sexual abuse
8 or -- I know that this deals with the sexual
9 performance by a child and I know that it's
10 included in there to fund treatment programs,
11 but my question is, was it ever considered to
12 just give it to the crime victims assistance
13 board to allow them to draw down the funds for
14 treatment or pay -- compensation for pain and
15 suffering or other consequences of being
16 victimized in these instances?

17 SENATOR TULLY: Yes, Mr.

18 President. That was considered and apparently
19 there's a procedure in existing law that
20 provides as to how these monies would be spread
21 out and these are the ones that have not been
22 considered, and that's the reason they were
23 included in the statute.

1 SENATOR DOLLINGER: So again
2 through you, Mr. President just so I understand
3 that.

4 ACTING PRESIDENT KUHL: Senator
5 Tully, you continue to yield?

6 SENATOR TULLY: Yes, Mr.
7 President.

8 ACTING PRESIDENT KUHL: The
9 Senator continues to yield, Senator Dollinger.

10 SENATOR DOLLINGER: At one time
11 it was considered to give it exclusively to the
12 crime victims assistance board and then decided
13 not to, and instead the funds -- training pro
14 grams and other programs such as are described
15 on page 2 of the bill.

16 SENATOR TULLY: Yes, Mr.
17 President, and there is no need to consider
18 that, because they are already provided for in
19 C.P.L.R. Section 1311.

20 SENATOR DOLLINGER: Again,
21 through you, Mr. President, just so I understand
22 it.

23 ACTING PRESIDENT KUHL: Senator

1 Tully, you continue to yield?

2 SENATOR TULLY: Yes, Mr.
3 President.

4 ACTING PRESIDENT KUHL: Senator
5 continues to yield.

6 SENATOR DOLLINGER: Does the
7 section -- does the section in 1311 deal with
8 the pre-conviction forfeiture or does it simply
9 say that's where the fines -- the post
10 conviction fines and assessments against the
11 convicted person, those funds go to the victims
12 -- crime victims assistance board?

13 In other words, I'm trying to
14 make a point, Mr. President, as to whether this
15 is a pre-conviction forfeiture.

16 SENATOR TULLY: Mr. President,
17 I'm advised by counsel it's the latter.

18 SENATOR DOLLINGER: It's -- maybe
19 I should just ask for a clarification, then of
20 my former and latter. Which one is it?

21 SENATOR TULLY: I wouldn't
22 struggle the stenographer to read it back, so
23 let's go through it again.

1 SENATOR TULLY: 1311, Mr.
2 President, for the benefit of Senator Dollinger
3 deals with post-conviction.

4 SENATOR DOLLINGER: Post
5 conviction fines.

6 SENATOR TULLY: Yes.

7 SENATOR DOLLINGER: So the post
8 conviction fines go to the crime victims
9 assistance board. I guess my question is, if
10 you have a pre-conviction forfeiture doesn't
11 that take all the assets out of the defendant so
12 that the post-conviction fine ends up being
13 somewhat meaningless because the accused, the
14 now convicted felon, doesn't have the assets to
15 pay for the fine to go to the victims assistance
16 board?

17 SENATOR TULLY: No, Mr.
18 President. This statute is specific in that it
19 indicates that when the forfeiture is based upon
20 a post-conviction crime or a pre-conviction
21 crime defined in Article 263 of the Penal Law as
22 opposed to 1311 of the C.P.L.R., you then would
23 give it for training as we've indicated in this

1 bill or to train law enforcement officers and to
2 be a treatment program for the victims.

3 SENATOR DOLLINGER: Again, just
4 one thing, again through you, Mr. President,
5 just so I -

6 ACTING PRESIDENT KUHL: Senator
7 Tully, do you continue to yield?

8 SENATOR TULLY: Yes, Mr.
9 President.

10 ACTING PRESIDENT KUHL: Senator
11 continues to yield, Senator Dollinger.

12 SENATOR DOLLINGER: The effect of
13 this bill is to allow the forfeiture to go to
14 these items, and there's already current law
15 that provides that post-conviction fines go to
16 the victims assistance board?

17 SENATOR TULLY: No, the current
18 current law does not. No, Mr. President, I
19 think he has it reversed. The current law,
20 C.P.L.R. Section 1311 is the pre-conviction.
21 This statute deals with both pre-conviction or
22 post-conviction and specifies those areas which
23 are not covered in 1311 under section 263 of the

1 Penal Law.

2 SENATOR DOLLINGER: O.K. Thank
3 you, Mr. President.

4 ACTING PRESIDENT KUHL: Is there
5 any other Senator wishing to speak on this
6 bill?

7 Senator Abate.

8 SENATOR ABATE: Yes. Senator
9 Tully, would you yield to a question?

10 ACTING PRESIDENT KUHL: Senator
11 Tully, do you yield to a question from Senator
12 Abate?

13 SENATOR TULLY: Yes, Mr.
14 President.

15 ACTING PRESIDENT KUHL: The
16 Senator yields, Senator Abate.

17 SENATOR ABATE: Yes, I'd like
18 clarification. It's my understanding that the
19 district attorney is not required to commence a
20 proceeding. He may be able to commence and that
21 can be done either at the indictment stage or
22 post-conviction. There's no mandatory
23 requirement under this bill; am I correct?

1 SENATOR TULLY: Mr. President.

2 SENATOR ABATE: You had some
3 discussion with Senator Paterson that it was
4 mandatory. I don't see that language within the
5 bill.

6 SENATOR TULLY: Mr. President,
7 that's my understanding also. Senator Paterson
8 was the one who indicated there was a
9 possibility of that, and I responded that we
10 hadn't heard anything to that effect from the
11 district attorneys association.

12 SENATOR ABATE: Yes, because in
13 many cases district attorneys will wait until
14 there is conviction because they will not want
15 their witnesses to undergo cross-examination and
16 have premature discovery; so I read this that
17 they can choose to proceed either at the
18 indictment stage or post-conviction.

19 SENATOR TULLY: Thank you,
20 Senator Abate. I'm delighted that one of my
21 colleagues can read this legislation with such
22 clarity.

23 ACTING PRESIDENT KUHL: Secretary

1 will read the last section.

2 THE SECRETARY: Section 4. This
3 act shall take effect on the 1st day of
4 January.

5 ACTING PRESIDENT KUHL: Call the
6 roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT KUHL: Announce
9 the results when tabulated.

10 THE SECRETARY: Those recorded in
11 the negative on Calendar Number 10 are Senators
12 Leichter and Paterson. Ayes 46, nays 2.

13 ACTING PRESIDENT KUHL: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 146, by Senator Goodman, Senate Bill Number 983,
17 an act to amend the Arts and Cultural Affairs
18 Law.

19 SENATOR STACHOWSKI: Explanation.

20 ACTING PRESIDENT KUHL: Senator
21 Goodman, an explanation has been asked for by
22 Senator Stachowski.

23 SENATOR GOODMAN: Mr. President,

1 the purpose of this bill is to allow the State
2 Museum to work with public and private holders
3 of art works significant to New York State to
4 develop a New York collection suitable for
5 touring art, research and public access.

6 The bill adds another section to
7 the Arts and Cultural Affairs Law requiring the
8 State Museum to develop and implement a plan for
9 a collection of fine arts of significance to the
10 state whether owned by a public or private
11 institution or an individual, with nomination of
12 works in the collection based on historic
13 significance, artistic achievement in
14 relationship to New York.

15 The owner of the work must agree
16 to be nominated, to have his work nominated to
17 the collection, and the commissioner is required
18 to establish standards for access to the work
19 which may include access by researchers,
20 preservation and maintenance of the work and
21 loan to museums or other cultural institutions.

22 The State Museum is required to
23 work with the owners to maximize public interest

1 in and exposure of the work by such means as
2 publishing a catalogue of the work, mounting
3 exhibits, pursuing research and other
4 interpretive programs.

5 There are many major works of
6 distinction in New York and in such schools as
7 the Luminous and others, which are of interest
8 to the public and the researchers. However, the
9 works are scattered in various institutions and
10 private collections throughout the state, and
11 this bill would allow the State Museum to work
12 with the holders and owners of the art work to
13 develop a comprehensive approach to the work
14 which will ultimately benefit the public and
15 researchers.

16 ACTING PRESIDENT KUHL: Senator
17 Stachowski.

18 SENATOR STACHOWSKI: Mr.
19 President, will Senator Goodman yield for a
20 question?

21 ACTING PRESIDENT KUHL: Senator
22 Goodman will you yield.

23 SENATOR GOODMAN: Yes, I will, Mr.

1 President.

2 ACTING PRESIDENT KUHL: Senator
3 yields.

4 SENATOR STACHOWSKI: The main
5 reason I asked for the explanation was to ask
6 this question. It's my understanding that the
7 State Museum along with many other departments
8 and areas of the state budget have received some
9 cuts in their budget and, with that in mind, I
10 found it interesting that we're finding some
11 more work for them to do even though we're
12 taking away some of their resources.

13 Do you have any idea that they'll
14 be able to carry out this new task that you're
15 giving them with the fact that they've had some
16 budget cuts? I'm not sure, that's why I'm
17 asking you.

18 SENATOR GOODMAN: Good question,
19 Senator. Fact is this is a multi-year project
20 and this year there's only planning to be done.
21 The fiscal impact of it upon the museum would
22 not be felt until future years, and I'm not
23 certain that there would be any significant

1 fiscal impact at all.

2 ACTING PRESIDENT KUHL: Chair
3 recognizes Senator Stachowski.

4 SENATOR STACHOWSKI: I appreciate
5 Senator Goodman's answer, and the only reason I
6 asked the question was -- and it had nothing to
7 do with the State Museum, but in other depart
8 ments, when we've had prospective commissioners
9 come in in the last couple of weeks, one of the
10 big things they mention in anticipation of
11 becoming the head of the department, was that in
12 light of the budget cuts that their various
13 departments were expecting to have, they were
14 concerned that we were going to continue to pass
15 bills that asked for new studies, new reports,
16 new work loads after we had taken away some of
17 their resources.

18 I will accept in this case
19 Senator Goodman's explanation that he doesn't
20 anticipate any problem with getting this
21 particular bill done without causing any work
22 load. However, if the museum makes a point that
23 this could be a problem to us maybe we should

1 pass that on and maybe stop this bill further
2 along in this procedure, either in the Assembly
3 or at the Governor's offers.

4 ACTING PRESIDENT KUHL: Chair
5 recognizes Senator Montgomery.

6 SENATOR MONTGOMERY: Yes. Mr.
7 President, thank you. I wonder if Senator
8 Goodhue would yield to just one question?

9 ACTING PRESIDENT KUHL: Senator
10 Goodman would be happy to yield.

11 SENATOR LEICHTER: Senator
12 Goodhue?

13 SENATOR MONTGOMERY: I'm sorry.
14 I'm sorry. As you can see, I miss Senator
15 Goodhue.

16 Senator Goodman, on this -- on
17 this legislation, is there any -- any indication
18 that you want to make sure that the collection
19 is reflective of the wide variety of artists in
20 our state? I know that I have a number of major
21 African-American artists living in my district
22 and -- African-American and white and other
23 artists who live in my district -- and I

1 certainly would not want to see our collection
2 skewed one way or the other and especially that
3 it should leave out some of the works of some of
4 those major artists.

5 SENATOR GOODMAN: Senator, I
6 assure you that there is no -- that I'd be happy
7 to work with you to be assured that that
8 objective is realized, and there's nothing in
9 the bill that would in any way be adverse to
10 that objective.

11 SENATOR MONTGOMERY: All right.

12 SENATOR GOODMAN: I might just
13 mention to you, at this very moment at the
14 Museum of Modern Art in New York, there is -
15 the single featured exhibit is that of a famous
16 black artist who's chronicled black life in
17 America, and obviously anyone who is familiar
18 with art in any particular knows that artists of
19 many backgrounds contribute greatly to the
20 enrichment of our culture.

21 SENATOR MONTGOMERY: Absolutely.
22 Thank you, Senator.

23 ACTING PRESIDENT KUHL: Chair

1 recognizes Senator Gold.

2 SENATOR GOLD: Yes, Mr.

3 President, I feel a necessity.

4 Senator Goodman, I apologize to
5 you. I think Senator Stachowski doesn't, after
6 all these years -- apparently doesn't understand
7 the system.

8 Senator Stachowski, you shouldn't
9 worry about the budgetary implications here.
10 The process is one of perspective and priority.
11 So many of us have heard that there are certain
12 budgetary freezes, but I understand -- it's only
13 a rumor, but I understand that in the last few
14 days there was a little bit of money that was
15 released. It had to do with fixing stages up at
16 Saratoga, I was told.

17 Of course, the Holocaust Center
18 at Queensborough Community College has to cut
19 back and there are people who are being told
20 that they won't have hours of nursing care, et
21 cetera, but I guess, you know, it's a question
22 of getting your priorities straight.

23 Of course, I'll be able to give

1 everybody a better answer to that next week
2 because it's my understanding from an
3 announcement that just came to my district
4 office that the Governor who, by the way, voted
5 affirmatively for the Holocaust law last year
6 that would mandate education, and the Governor,
7 I know, does not like mandates so in voting for
8 the Holocaust bill, I know that was quite a step
9 -- on this Sunday I just got an announcement
10 the Governor is going to be speaking at the
11 installation of officers of the Queens Jewish
12 Community Council, so I know when the subject of
13 the great damage to the Holocaust Museum is
14 raised by someone -- I don't know who might ask
15 that question -- maybe we'll get a better
16 insight into the budget, Senator Stachowski, and
17 then we can understand how this bill by Senator
18 Goodman, which I think is a wonderful idea and a
19 great priority and great perspective, I'll tell
20 you next week how all of this budget stuff
21 works.

22 ACTING PRESIDENT KUHL: The Chair
23 recognizes Senator Leichter.

1 SENATOR LEICHTER: Thank you, Mr.
2 President.

3 Senator Goodman, your erudition,
4 as always, is very admirable and striking. I
5 was just intrigued at your memo in the reference
6 to the "Luminous" and I wondered if you could
7 tell us a little bit about that school of art
8 and the reason they've been identified here as a
9 group that's worthy of being part of this
10 collection or at least the study that your bill
11 requires.

12 ACTING PRESIDENT KUHL: Senator
13 Goodman, would you be so kind as to augment the
14 information that's available to Senator
15 Leichter.

16 SENATOR GOODMAN: Yes, Mr.
17 President, I shall be so kind.

18 ACTING PRESIDENT KUHL: Thank
19 you.

20 SENATOR GOODMAN: Senator
21 Leichter, as you may be aware the "Luminous"
22 refers to the Hudson River school of painters,
23 and the Hudson River school of painters are

1 peculiarly identified with New York because in
2 the period during the 19th Century when they did
3 their work, they focused at first on a number of
4 scenes within the Hudson River area.

5 These are particularly
6 interesting works of art, not just from the
7 standpoint of depiction of the beauty of New
8 York State, but also because in the school of
9 painting romanticism, the Hudson River school
10 occupies a unique place in the world firmament
11 of artists.

12 The Romanticists, as you may
13 know, had a unique style which generally could
14 be identified because in the foreground of
15 paintings, there was usually a depiction of work
16 which was more or less in shadow and which
17 typically was represented in a arch form of
18 presentation and through the arch there was a
19 luminous depiction of either sunsets or sun or
20 other bright and very intense chromatic
21 depiction of a scene which contrasted vigorously
22 to what was in the foreground.

23 This type of romantic approach

1 was used by many other world artists, but we
2 innovated this and because we did the Luminous
3 school plays a decisive role in the history of
4 art. That was simply one example of the kind of
5 work, but a foremost variety of work which is to
6 be utilized, and I think what you can understand
7 is that by identifying the location of all of
8 these types of work and at some point perhaps
9 bringing them together in a master presentation
10 of an art show, it gives the public great oppor
11 tunity which it would not otherwise have if we
12 hadn't catalogued and identified the location of
13 these diverse works of art.

14 So I think over time, although
15 this is certainly not an expensive matter and
16 impacts virtually not at all on the budget and
17 is especially assisted, incidentally, by
18 computerization and technology which enables us
19 at low cost to input all of the data relating to
20 location of art works, that this is a very
21 constructive idea and one which is largely
22 organizational and conceptual in bringing before
23 the public the very best that the state has to

1 offer from its vast resources and collections.

2 ACTING PRESIDENT KUHL: The Chair
3 recognizes Senator Leichter.

4 SENATOR LEICHTER: I don't think
5 I did Senator Goodman justice when I talked
6 about his erudition. Obviously it goes far
7 beyond that. I want to say that that was an
8 extremely edifying explanation. I never knew
9 that the Hudson school had been referred to
10 initially as Luminous, but your explanation is
11 very good, and I would just add to the bill if I
12 had a chance to make an amendment that in
13 working on this collection, this compilation,
14 that the State Museum ought to check with you
15 because you bring a great deal of knowledge. I
16 say that very sincerely. Thank you.

17 I will support the bill
18 enthusiastically.

19 ACTING PRESIDENT KUHL: Is there
20 any other Senator wishing to speak on the bill?

21 (There was no response.)

22 Hearing none, the Secretary will
23 read the last section.

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

3 ACTING PRESIDENT KUHL: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 50.

7 ACTING PRESIDENT KUHL: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 176, by Senator Velella, Senate Bill Number
11 2946, an act to amend Chapter 696 of the Laws of
12 1887, relating to providing hospitals, orphan
13 asylums and other charitable institutions in the
14 city of New York with water.

15 ACTING PRESIDENT KUHL: Senator
16 Paterson.

17 SENATOR PATERSON: Mr. President,
18 would the sponsor be willing to lay this bill
19 aside for the day? We have a number of members
20 and also groups, including the city of New York,
21 that would like to comment on this bill.

22 SENATOR VELELLA: Lay it aside.

23 ACTING PRESIDENT KUHL: Lay the

1 bill aside for the day.

2 THE SECRETARY: Calendar Number
3 212, by Senator Farley, Senate Bill Number 1092,
4 an act to amend the Real Property Tax Law and
5 the Social Services Law, in relation to
6 withholding social services rents payable to
7 landlords.

8 SENATOR PATERSON: Explanation.

9 ACTING PRESIDENT KUHL: Senator
10 Farley, an explanation has been asked for by
11 Senator Paterson.

12 SENATOR FARLEY: Thank you, Mr.
13 President. Incidentally, New York City is
14 excluded from this bill.

15 This was a bill that came about
16 as a request from a county, and the counties are
17 very enthused about it. It would permit
18 counties the option of withholding social
19 services rent payments to landlords who are
20 delinquent in payment of their real property
21 taxes. That's over a three-month period, you
22 know, when it goes back to the county, not just
23 modestly delinquent.

1 Under the section 159 of the
2 Social Services Law, landlords who have welfare
3 recipients as tenants may receive rental
4 payments directly from the Department of Social
5 Services as you're aware. Specifically, some
6 counties are sending Department of Social
7 Services checks to landlords, when those same
8 individuals are failing to meet their financial
9 obligations to the county by not paying their
10 property taxes.

11 Incidentally, they are not
12 permitted to evict the tenant. All -- and this
13 -- there's precedent for this in that they are,
14 for instance, allowed to withhold rent if the
15 property becomes unsafe or in bad repair, that
16 sort of thing, and let me see, it would apply to
17 all property taxes. As I mentioned, the city of
18 New York is excluded and he can pay partial
19 payment, it's held in escrow.

20 Are there any other questions?

21 ACTING PRESIDENT KUHL: Senator
22 Paterson.

23 SENATOR PATERSON: Would Senator

1 Farley be willing to yield for a question?

2 SENATOR FARLEY: I'll be
3 delighted to yield.

4 ACTING PRESIDENT KUHL: Senator
5 Farley is delighted to yield to you, Senator
6 Paterson.

7 SENATOR PATERSON: Thank you.
8 Senator Farley, have you considered expanding
9 this bill to actually allow the county to notify
10 all tenants in the particular buildings that -
11 for which the landlord has not paid taxes and
12 then basically pick up everybody's rent and send
13 it to the county to pay the taxes, instead of
14 isolating just the clients of social service
15 which we think might have a chilling effect even
16 though you have -- you've addressed this in your
17 bill by prohibiting the landlords from evicting
18 those tenants because of the non-payment of
19 rent; but at the same time the chilling effect
20 that I'm describing is the landlord that will
21 decide that maybe they could have tax problems
22 in the future and they're just not going to rent
23 to clients of Social Service or welfare

1 recipients because later down the road that
2 money could go to the county? They've already
3 eschewed the opportunity to pay their taxes. I
4 think they would take the next step and just not
5 rent to individuals whose rent payments could be
6 confiscated by the county.

7 So what I'm suggesting is that we
8 expand the bill and allow the county to notify
9 all the tenants that the landlord's rent, that
10 the landlord's taxes are in arrears and at that
11 point, I think we might, you know, not create a
12 circumstance where certain individuals are stig
13 matized by this legislation. And my question to
14 you is, have you considered expanding the
15 legislation?

16 SENATOR FARLEY: I understand
17 your point. I'm afraid that, again, we're
18 philosophizing that the counties might be
19 opposed to that because of the extra effort that
20 may have to be imposed upon them as far as
21 notifying.

22 Actually, the Social Services
23 tenants are not notified per se. They're not

1 notified or they wouldn't be aware of this.
2 It's just that the landlord will not receive the
3 social service payments for rents when he's not
4 meeting his obligation to pay the taxes. The
5 counties have to pick up that burden, and the
6 counties are very enthusiastic for this.

7 There was a concern, and a
8 concern that I had, that maybe landlords would
9 be reluctant to rent to welfare clients, but the
10 Department of Social Services says, at least has
11 said to me, that they don't feel that that's a
12 problem at all.

13 ACTING PRESIDENT KUHL: The Chair
14 recognizes Senator Rath.

15 SENATOR RATH: Yes, Mr. Chairman.
16 I'd like to commented on the -- excuse me -- on
17 the legislation. As it came by us last year, I
18 think I probably commented also, and I said to
19 Senator Farley there are wonderful things that
20 happen if you spend enough time in a legislative
21 body as I did in the Erie County Legislature,
22 and this was an item that we did in Erie County
23 about ten years ago. We called it Project

1 Intercept, and we only did it for about three or
2 four weeks until we were notified by the state
3 that we couldn't do it.

4 So now what Senator Farley is
5 making happen is making it possible for counties
6 to take this action, and I would like to tell
7 you the results of one county who did it, if you
8 will, kind of by the seat of our pants for a
9 period of three to four weeks. We collected
10 over \$400,000, and people came forward asking,
11 number one, please don't publish in the
12 newspaper who those of us are whose rents are in
13 arrears because you would be surprised how many
14 people I knew and how many community people that
15 you would think that they had paid all the rents
16 on their property, how they showed up and how
17 quickly they walked into the Tax and Finance
18 Department and wrote out major checks in order
19 to make sure that they would not have their
20 names published.

21 It's a wonderful program. It
22 could probably stand some expansion and contin
23 uing activity. We found the city of Buffalo was

1 not able to participate with us because of
2 additional circumstances that foreclosed them
3 from this possibility, but as this stands right
4 now, this is a piece of legislation and a
5 program or a Project Intercept, if anyone picks
6 up the same name, that will pull money together
7 for counties, monies they should have, monies
8 that they deserve, and monies that will help
9 them in their budgetary problems.

10 ACTING PRESIDENT KUHL: Is there
11 any other Senator wishing to speak on the bill?

12 (There was no response.)

13 Hearing none, Secretary -
14 Secretary will read the last section.

15 THE SECRETARY: Section 3. This
16 act shall take effect on the 90th day.

17 ACTING PRESIDENT KUHL: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT KUHL: Announce
21 the results when tabulated.

22 SENATOR FARLEY: Incidentally,
23 that bill is open to anybody that wishes to get

1 on it.

2 THE SECRETARY: Those recorded in
3 the negative on Calendar Number 212, Senators
4 Abate, Connor, Markowitz, Paterson. Ayes 49,
5 nays 4.

6 ACTING PRESIDENT KUHL: The bill
7 is passed.

8 Senator Skelos, that completes
9 the controversial calendar.

10 SENATOR SKELOS: Yes, Mr.
11 President. Is there any housekeeping at the
12 desk?

13 ACTING PRESIDENT KUHL: Nothing
14 at the desk, Senator Skelos.

15 SENATOR SKELOS: Mr. President,
16 just a reminder to the members of the Majority
17 that there will be a conference immediately
18 following session tomorrow, and now there being
19 no further business, I move we adjourn until
20 Thursday, March 23rd, at 10:00 a.m., sharp.

21 ACTING PRESIDENT KUHL: Without
22 objection, the Senate will stand adjourned until
23 tomorrow -- note the time change, to 10:00 a.m.

1 Senator Gold, before we adjourn?

2 SENATOR GOLD: Yes, before you
3 adjourn, on Calendar Number 212, may I have
4 unanimous consent to be voted in the negative,
5 please. Thank you very much.

6 ACTING PRESIDENT KUHL: Without
7 objection, Senator Gold will be recorded in the
8 negative on Calendar Number 212.

9 Without objection, the Senate
10 stands adjourned until tomorrow, Thursday, at
11 10:00 a.m. Immediate conference of the Majority
12 thereafter.

13 (Whereupon, at 11:45 a.m., the
14 Senate adjourned.)

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