ALBANY, NEW YORK

May 8, 1996

11:14 a.m.

REGULAR SESSION

SENATOR MICHAEL J.HOBLOCK, JR., Acting President

STEPHEN F. SLOAN, Secretary

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

ACTING PRESIDENT HOBLOCK: Senate will come to order.

I ask everyone present to please rise and join with me in the Pledge of Allegiance.

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

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

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 7th. The Senate met pursuant to adjournment, Senator Kuhl in the chair upon designation of the Temporary President. Prayer by the Reverend Bishop Muriel Grant, Mount Olivet Discipleship, Brooklyn. The Journal of Monday, May 6th was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT HOBLOCK: Without objection, the journal stands approved

as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Velella, please place a sponsor's star on Calendar 876.

ACTING PRESIDENT HOBLOCK: Starred at the request of the sponsor.

SENATOR FARLEY: On behalf of Senator Levy, Mr. President, on page 71 I offer the following amendments to Calendar Number 845, Senate Print 7341, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT HOBLOCK: Amendments are received.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe that there is a resolution at the desk by Senator DeFrancisco. I would ask that the title be read and that we move its adoption.

ACTING PRESIDENT HOBLOCK: Clerk will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution honoring the students of Grade 6 at Cathedral School, Syracuse for their participation in the 49th Senate District Good News - Good Kids student recognition program.

SENATOR DeFRANCISCO: Mr. President.

ACTING PRESIDENT HOBLOCK: Senator DeFrancisco.

SENATOR DeFRANCISCO: I rise to just congratulate these students who are in the gallery today. This is the last group that we'll be bringing up. They're from the Cathedral School in the city of Syracuse and it's a group of sixth graders and what they've

done for our project and have done for themselves and for the community is to feed the homeless. They go to their parish center, groups of kids, each day to -- each week to feed the homeless, a hundred homeless men, and they're only sixth graders, young children that have already been given the proper direction, already know what it means to be responsible, already know what it means to be caring, and I want to congratulate them for doing the fine things they are doing for the city of Syracuse and the people they serve and they've got great bright futures as great citizens of this state if they continue that same attitude of responsibility and caring for other people, and I'm very pleased that they're here with us today and I urge the unanimous adoption of this resolution.

ACTING PRESIDENT HOBLOCK: On behalf of the Senate, we welcome the teachers and the students from the Cathedral School of Syracuse, and thank them for sharing their responsibility and gifts with those in need.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Yeah, Mr. President. I believe there are three privileged resolutions at the desk by Senator Connor. I would ask that their titles be read and that we move for their immediate adoption.

ACTING PRESIDENT HOBLOCK: Secretary will read.

THE SECRETARY: By Senator Connor, Legislative Resolution commending Letitia Cooper Benjamin upon the occasion of her designation for special recognition by the Red Hook Arts on May 16, 1996.

By Senator Connor, Legislative Resolution commending Michelle Demonte Lucarelli, upon the occasion of her designation

for special recognition by the Red Hook Arts on May 16, 1996.

By Senator Connor, Legislative Resolution commending on Pam P. Lindsay upon the occasion of her designation for special recognition by the Red Hook Arts on May 16, 1996.

ACTING PRESIDENT HOBLOCK: The question is on the resolutions. All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolutions are adopted.

Senator Bruno, there are substitutions at the desk.

SENATOR BRUNO: Please take the substitutions.

ACTING PRESIDENT HOBLOCK: Secretary will read.

THE SECRETARY: On page 7, Senator Levy moves to discharge from the Committee on Health, Assembly Bill Number 9820

and substitute it for the identical First Report Calendar 1007.

On page 10, Senator Larkin moves to discharge from the Committee on Judiciary, Assembly Bill Number 2288-B and substitute it for the identical First Report Calendar 1027.

On page 13, Senator Skelos moves to discharge from the Committee on Judiciary, Assembly Bill Number 4728-B, and substitute it for the identical First Report Calendar 1053.

On page 16, Senator Larkin moves to discharge from the Committee on Investiga tions, Assembly Bill Number 6818-C, and substitute it for the identical First Report Calendar 1071.

On page 16, Senator Goodman moves to discharge from the Committee on Investiga tions, Assembly Bill Number 7963 and substitute it for the identical First Report Calendar 1072.

On page 17, Senator Goodman moves to discharge from the Committee on Investiga tions, Assembly Bill Number 5881 and substitute

it for the identical First Report Calendar 1074.

On page 21, Senator Seward moves to discharge from the Committee on Codes, Assembly Bill 8549-A and substitute it for the identical First Report Calendar 1106.

And on page 29, Senator Nozzolio moves to discharge from the Committee on Crime Victims, Crime and Correction, Assembly Bill Number 8120-A, and substitute it for the identical First Report Calendar 1174.

ACTING PRESIDENT HOBLOCK: Substitutions are ordered.

Senator Bruno, are you ready for the calendar?

SENATOR BRUNO: Mr. President, can we at this time take up the non-controversial calendar.

ACTING PRESIDENT HOBLOCK: The Secretary will read.

THE SECRETARY: Calendar Number 411, by Senator Johnson, Senate Print 5850, an act to amend the Environmental Conservation Law,

in relation to excluding from the definition of facility.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 429, by Senator Libous, Senate Print 4497, an act to amend the Vehicle and Traffic Law, in relation to authorizing senior citizens to renew motor vehicle registrations annually.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 519, by Senator Marcellino, Senate Print 6090-B, an act to amend the Environmental Conservation Law, in relation to prohibiting the possession and transportation of live venomous reptiles.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 532, by Senator Nozzolio, Senate Print 6237-A, an act to amend the Navigation Law, in relation to type of life preservers.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 557, by Senator Volker, Senate Print 6408, an act to amend the Executive Law, in relation to the community services block grant program.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The

bill is passed.

THE SECRETARY: Calendar Number 572, by Senator DeFrancisco, Senate Print 6052-A, an act to amend the Real Property Tax Law, in relation to authorizing an infrastructure exemption in certain instances.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT HOBLOCK: Lay the bill aside.

THE SECRETARY: Calendar Number 597, by Senator Sears, Senate Print -

SENATOR BRUNO: Lay it aside for the day.

ACTING PRESIDENT HOBLOCK: Laid aside for the day.

THE SECRETARY: Calendar Number 628, by Senator Levy, Senate Print 6460-A, an act to amend the Vehicle and Traffic Law, in relation to providing for the permanent revocation of a driver's license.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the first day of September.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 634, by Senator Rath, Senate Print 6622-A, an act to amend the Vehicle and Traffic Law, in relation to mandatory suspension of licenses.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 675, by Senator DiCarlo, Senate Print 6631, an act to amend the Executive Law, in relation to establishment of the Resident Advisor Program.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 3. This act shall take effect April 1st.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 683, by Senator Cook, Senate Print Number 6412, an act to amend the Vehicle and Traffic Law, in relation to designating civil defense emergency vehicles.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT HOBLOCK: Lay aside 683.

THE SECRETARY: Calendar Number 690, by Senator Padavan, Senate Print 4068, an act to amend the Penal Law, in relation to including police officers in the violent felony offense of aggravated assault upon a peace officer.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 699, by Senator Volker, Senate Print 6646, an act to amend the Penal Law, in relation to the definition of "criminal act" for the purposes of enterprise corruption.

ACTING PRESIDENT HOBLOCK: Read

the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of November.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 720, by member of the Assembly Parment, Assembly Print 1221-A, an act to amend the Agriculture and Markets Law, in relation to domestic animal health permits.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 30th day.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 721, by Senator Kuhl, Senate Print 3981, an act to amend the Agriculture and Markets Law, in relation to strengthening the licensing requirements.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on July 1st.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 722, by Senator Kuhl, Senate Print 6223, an act to amend the Agriculture and Markets Law, in relation to improving the agricultural districts program.

ACTING PRESIDENT HOBLOCK: Read

the last section.

THE SECRETARY: Section 17. This act shall take effect on the 90th day.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 724, by Senator Nozzolio, Senate Print 5553-A.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT HOBLOCK: Lay the bill aside. Home rule message is at the desk.

THE SECRETARY: Calendar Number 742, by Senator Johnson, Senate Print Number 6841, an act authorizing the Education Department to apportion certain transportation aid to the West Islip Union Free School District.

ACTING PRESIDENT HOBLOCK: A local fiscal impact statement is at the desk.

Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 774, by Senator Holland, Senate Print 281-A, an act to amend the Tax Law, in relation to providing for business tax credits.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT HOBLOCK: Lay aside, reconsider the vote. Lay aside.

THE SECRETARY: Calendar Number 776, by Senator Saland, Senate Print 1434-B, an act authorizing the Commissioner of General Services to sell certain land to the city of Beacon.

ACTING PRESIDENT HOBLOCK: There is no home rule message at the desk. Lay the bill aside.

THE SECRETARY: Calendar Number 781, by Senator Present, Senate Print 6397, an act to amend the Tax Law, in relation to the distribution of additional mortgage recording tax.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT HOBLOCK: Lay the bill aside.

THE SECRETARY: Calendar Number 784, by Senator Present, Senate Print 6568, an act authorizing the Commissioner of General Services to consent to the Commissioner of

Environmental Conservation to transfer and convey state lands.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 885, by Senator Padavan, Senate Print 3091, an act to amend the Executive Law, in relation to cooperation between police agencies and the United States Immigration and Naturalization Service.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT HOBLOCK: Lay the bill aside.

THE SECRETARY: Calendar Number 931, by member of the Assembly Tonko, Assembly

Print 9678, an act to authorize the county of Schenectady to convey to CNG Transmission Corporation easements.

ACTING PRESIDENT HOBLOCK: A home rule message is at the desk. Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 985, by Senator Bruno, Senate Print 7502, an act to amend the Education Law, in relation to submission of school district budgets.

ACTING PRESIDENT HOBLOCK: Read the last section.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT HOBLOCK: Lay

the bill aside.

Senator Skelos, that completes the non-controversial calendar.

SENATOR SKELOS: Mr. President, if we could have a reading of the controversial calendar at this time.

ACTING PRESIDENT HOBLOCK: Secretary will read.

THE SECRETARY: On page 48, Calendar Number 572, by Senator DeFrancisco, Senate Print 6052-A, an act to amend the Real Property Tax Law, in relation to authorizing an infrastructure exemption in certain instances.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT HOBLOCK: Explanation has been asked for. Senator DeFrancisco.

SENATOR DeFRANCISCO: This is a bill which would provide a local option for the local municipalities, if passed by the Legislature, to grant an exemption to owners of building lots for that portion of the construc tion that has taken place for the infrastruc

ture, and "infrastructure" is defined in the bill, and it includes public facilities which are intended to be dedicated to the municipal corporation or special district thereof, including streets, storm and sanitary sewers, drainage facilities and other facilities required by the municipality to be installed in such residential subdivision.

The purpose for it is right now, I know in our county and I know throughout the state, there is a substantial down-turn in the building industry, and there are many home builders that are stuck with their inventory that are half completed by way of infrastructure work with no -- no purchasers in sight for the construction. The infrastructure is normally done first, and then if they find a buyer a home will be built on that property.

There's some substantial number of builders in my district that have requested this bill and as well as the Home Builders Association of the state, to give the local communities an option that if they wanted to

exempt that infrastructure until there was a certificate of occupancy on the house, that they should be given that option and that is the purpose of the bill, and that's my explanation.

SENATOR LEICHTER: Mr. President, if Senator DeFrancisco will yield.

ACTING PRESIDENT HOBLOCK: Senator Leichter. Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

SENATOR LEICHTER: I mean you're making it local option, so it really is not objectionable. I'm just concerned that we are giving municipalities, localities, a power and sometimes they come under, as we know, certain influences and, while in some instances I can understand trying to lift the burden from a contractor or developer, but wouldn't this enable the developer -- the contractor -- just to hold back on getting a certificate of occupancy until he finds a buyer, then come in, get a certificate of occupancy. In the meantime the municipality loses the tax payment. I mean

the municipality's invested a lot of money in infrastructure, and so on.

SENATOR DeFRANCISCO: Well, generally, the infrastructure, at least in our area, is built by the contractor and they are holding the homes, holding that tract until they could get a residential buyer to put up a piece of property, a building, on that property.

Now, there's no incentive for a home builder to build a structure and hold onto it and have that investment of a hundred thousand dollars or whatever it might be sitting there and just holding the certificate of occupancy because all this exempts is the infrastructure, not the building itself.

So what this protects is that person who's made a substantial investment in valuable land exempting that investment from increased taxes until there is a building that's ready for occupancy, so I don't think it would be an incentive for home builders to hold that certificate. They'd want to get that house that's sold immediately because of the

investment.

SENATOR LEICHTER: Yes, excuse me. Senator DeFrancisco, I appreciate when the market is slow as it may be at various times and it may be now, obviously the builder is out trying to get a purchaser but he can hold back filing the certificate of occupancy until he finds that purchaser.

I'm just concerned about the loss of revenue to municipalities. I understand that we want to be as friendly as we can. The builders, on the other hand, they take certain risks, and I don't know whether the taxpayers ought to take that risk and assume it by the payments that will have to be made by other taxpayers because you're not going to get the full value of the plot that you're exempting.

SENATOR DeFRANCISCO: What I'm saying is that you -- there's two stages, the infrastructure work and there's a lot of builders in central New York that have their infrastructures in place with no buyers in sight. They can't hold the certificate of

occupancy. The building isn't on the property. If they -- if the building is built, they're not getting an exemption or a deduction, an exemption for the building structure which they've put a mountain of money in, so there would be no incentive for them to hold a certificate of occupancy because they're not gaining anything more and they put up a substantial investment in it.

This is just the infrastructure, and what I liken it to is somebody who is holding an inventory in a store to sell a piece of personal property and that inventory is being held, and if we don't make it financially feasible for them, in slow times like this, to hold that inventory rather than going under, I think in the long term the municipality is going to get hurt by not having this valuable asset which will be taxed at a much higher level at some point in the future.

And, finally, it's a local option. If the people agree locally that - with your theory, then they certainly don't have

to implement it.

SENATOR LEICHTER: I'll accept. Let the locality decide.

SENATOR DeFRANCISCO: Thank you.

ACTING PRESIDENT HOBLOCK: Senator Hoffmann.

SENATOR HOFFMANN: I'm familiar with this situation, and I think Senator DeFrancisco has explained it very well, but I wonder if he would yield for one question.

ACTING PRESIDENT HOBLOCK: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

SENATOR HOFFMANN: Senator DeFrancisco, given the fact that there is a slow-down on housing in the central New York area, is there a situation right now where large tracts of land are owned by developers who are unable to make improvements on them and build on them because the cost of the taxes to them once they have the infrastructure in place, would be exorbitant, and is that, in fact, in your opinion, a deterrent to housing construction?

SENATOR DeFRANCISCO: Right. You're deterring the development of the infrastructure because then they would be holding a much more substantial investment indefinitely until they have got a -

SENATOR HOFFMANN: Thank you. Would Senator DeFrancisco yield to one further question.

ACTING PRESIDENT HOBLOCK: Senator DeFrancisco, do you continue to yield?

SENATOR DeFRANCISCO: Yes.

SENATOR HOFFMANN: Senator, would you think that this particular legislation might actually inspire more housing starts, creating more jobs in the construction industry, creating more jobs in the building trades?

SENATOR DeFRANCISCO: I don't know if it will inspire more construction because the builders would love to construct more homes. The problem is the buyers aren't there. What it will do is it will prevent those builders who have made this substantial investment while there's a slow period of time

from going under because of the taxes that they have to pay and ultimately preventing them from continuing in a business when the market changes.

SENATOR HOFFMANN: Thank you, Senator.

On the bill, Mr. President.

ACTING PRESIDENT HOBLOCK: On the bill, Senator Hoffmann.

SENATOR HOFFMANN: I think Senator DeFrancisco has introduced a very worthwhile piece of legislation, and I would believe at this point that anything that we can do to ease the tax burden during that interim phase for the construction industry is going to inspire an increase in construction. The more capital that contractors and developers have tied up in taxes for which they have no revenue at this point and in some cases are not even anticipating revenue for a number of years, the more chilling effect on the home construction industry.

We have one of the worst

histories in upstate New York, certainly in central New York, of a slow-down in home construction that's been experienced in the country. It's -- it is a frightening time for us, so we really must heed the concerns of the home builders industry, not just for those builders, but I would urge my colleagues to consider the large number of people who are employed in the building trades who have a better chance of being employed particularly as we go into the construction season.

If there is a greater amount of capital available for the builders by relieving the tax burden during that infrastructure phase, we are more likely to see a greater number of housing starts. So I would urge my colleagues on this side of the aisle to support this legislation.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT HOBLOCK: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Skelos.

SENATOR SKELOS: At this time, if we could call up Calendar Number 985, Senate Number 7502, first for the purpose of Senator Holland voting and then to conduct the debate on the bill.

ACTING PRESIDENT HOBLOCK: Secretary will read.

THE SECRETARY: Calendar Number 985, by Senator Bruno, Senate Print 7502, an act to amend the Education Law, in relation to submission of school district budgets.

ACTING PRESIDENT HOBLOCK: Senator Holland.

SENATOR HOLLAND: I vote yes.

ACTING PRESIDENT HOBLOCK: O.K.

Senator Holland. Read the last section.

THE SECRETARY: Section 39. This act shall take effect immediately.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT HOBLOCK: Senator Holland, how do you vote?

SENATOR HOLLAND: I still vote yes.

ACTING PRESIDENT HOBLOCK: Thank you.

SENATOR SKELOS: Please withdraw the roll call and, if we could just stand at ease for one moment.

ACTING PRESIDENT HOBLOCK: The roll call is withdrawn, and we'll stand at ease for a couple of moments. (Pause) All right. Calendar 985, Senate Bill 7502. Senator Bruno.

SENATOR SKELOS: I don't think the bill is before the house.

SENATOR BRUNO: Is this bill

before the house presently?

ACTING PRESIDENT HOBLOCK: Yes, it is, Senator Bruno.

SENATOR BRUNO: On the floor.

ACTING PRESIDENT HOBLOCK: On the floor.

SENATOR BRUNO: And we are opening debate. Thank you.

SENATOR SKELOS: Explanation.

SENATOR BRUNO: Explanation. We have before us a property tax relief package that pertains primarily to the school property taxes that people in this state pay.

All of us know that New York State is still the highest taxed per capita in all of the United States, and that's after having passed the largest personal and business tax cuts last year in all of the United States.

Why are we still highest taxed per capita? Local taxes, property taxes, school taxes. This package -- well thought out - you'll hear from one of the major sponsors, our chair of education, Senator Cook, with a

detailed -- more detailed explanation, but it gives incentives to school districts to freeze the property taxes, freeze them.

They then get school aid based on their freezing property taxes. There is a home stead exemption for the middle income -- middle income taxpayers. There is a circuit breaker for seniors, giving them a double exemption. This will take most seniors' incomes of 15-, 16,000 off the school property tax rolls, helping some of the school budgets to pass.

This will provide property tax relief over a four-year period. It's being phased in. Ultimately, it will impact in a positive way property taxes to the tune of about $810 million. Those that -- in this chamber, that will support this property tax relief will be doing the right thing for their constituency because we have learned that when people are forced to pay taxes over and above what they can afford, they look for ways to escape and they leave the state and they do many other things to avoid paying their taxes. Many

of the people can't afford to pay the property taxes that they presently pay.

So, Mr. President, I would urge my colleagues to support what we are doing here this morning because it will help all of the people of this state.

Thank you.

ACTING PRESIDENT HOBLOCK: Senator Cook.

SENATOR BRUNO: Would you recognize Senator Cook to complete the description.

ACTING PRESIDENT HOBLOCK: Senator Cook.

SENATOR COOK: Mr. President, we have confronted for a number of years in this state the serious dilemma that, on one hand, the property tax levy upon individual citizens has reached the point first of distress, secondly of hardship and currently, I believe the point of disaster for many citizens in this state.

The stories that I hear of people saying, "I pay one entire month's Social

Security check just to pay for my school taxes" is commonplace and, when you think about what that means, it means that somebody has to somehow parcel out throughout the rest of the year that amount of money which they take out of their food budget, out of what frequently are extraordinarily high medical expenses, all the other costs, heating fuel, all the other costs that they have to live, but they're having to rob from those expenses in order to keep current on their school taxes. You can see how important it is and how imperative it is that we deal with this school tax issue.

On the other hand, we have an increasing need to provide the resources by which our education system can perform at the level that it is expected to perform going into the 21st Century. Regents have just put forward a new set of frameworks, a new set of require ments, for graduation that will be new demands upon school districts for expending money in order to keep current with the needs that we have to provide quality education for our

students.

So this bill attempts to deal with both sides of this, because on one hand, it offers an incentive to school districts to freeze their property taxes at current levels. They get a five-year plan which is approved by the Commissioner of Education and, if that is approved, then they are guaranteed a three percent annual increase in revenues coming into their school district to pay for the incremental costs which they are going to incur in order to provide a quality education for their students.

It is a balanced approach which recognizes, on one hand, the hardships that are created by the property tax, on the other hand the need that we have to continue to improve the quality of our educational programs. It is a creative program that, for the first time, provides into the future an incentive which will tell districts that they can indeed plan on where they're going to go, plan on what their program will be five years hence, and that they will know that there will be funds available to

them to fulfill the financial requirements of that school district.

ACTING PRESIDENT HOBLOCK: Senator Padavan, why do you rise?

SENATOR PADAVAN: Just waiting for Senator Cook to complete his explanation and I'd like him to yield to a question if he would.

SENATOR COOK: Yes.

SENATOR PADAVAN: Did you finish?

SENATOR COOK: Well, not completely yet.

ACTING PRESIDENT HOBLOCK: Senator Cook, you can continue.

SENATOR COOK: So the point being that this plan will actually do three things: Provide the tax relief; secondly, provide for the ongoing program -- educational program of the schools and, thirdly, provide one other thing which is to give predictability so that the school districts will be able to know if they have an approved program five years in advance that indeed those funds will be

available to them to pay for that program.

Now, Senator, I'd be pleased to yield.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Padavan.

SENATOR GOLD: Mr. President, I was wondering whether you were keeping a list.

ACTING PRESIDENT HOBLOCK: Yes, I do have.

SENATOR GOLD: You are keeping a list, and I believe I was on that list first.

ACTING PRESIDENT HOBLOCK: I don't believe you were, sir.

Senator Padavan.

SENATOR PADAVAN: Senator Cook, I fully understand the need for this legislation and I wonder if you would help us understand how it applies in the city of New York.

SENATOR COOK: Senator, it applies in the city of New York -

SENATOR PADAVAN: As you know, in the city of New York, we don't have a separate

property tax bill. We have one bill that includes obviously the cost of education and, as was explained, there are circuit breaker benefits to senior citizens. There are other benefits to individuals of certain incomes under this proposal.

Now, in view of the fact that there is no separate property tax bill or assessment on homeowners and other property owners in the city of New York, how would these benefits kick in?

SENATOR COOK: Senator, Mr. President. Mr. President, currently the Education Department, Senator, breaks out an amount from the New York City budget and the other -- the other "big five", the other four of the "big five", the proportion of their budgets that is expended for school purposes and cal culates a school tax rate even though in New York City and the other cities, you're correct, there is not a separate levy for that purpose, but they do create a statistical rate based on the appropriation that's in the City budget so

that there is a comparable number that's available for the city of New York and the other -- the other four of the "big five".

SENATOR PADAVAN: Yes. Just how would the freeze -- for example, if we pass the freeze to enable a school district to freeze its property tax assessment as it relates to schools and thereby to benefit by virtue of increased school aid, how would that -- I mean specific ally how does that happen in the "big five" including the city of New York?

SENATOR COOK: Well, Senator, what you would -- in that case because you're doing it statistically rather than actually, you would back into it, because you would -- your plan for expenditures would anticipate the three percent annual increase that you would receive in state revenues, so that then in effect you would have to limit the increase of the approp riation that's set aside in the City budget for school purposes to no more -- that is for the general fund appropriations, the operating appropriations -- there are some other things

that are outside that, but the operating purposes, you would have to have an appropriation which annually would not exceed the three percent increase in state aid that you were receiving so that, in effect, it becomes a spending limitation upon the City but it does give them the three percent annual increment.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Gold.

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

Firstly, I wanted to ask some questions, and I guess I can start with Senator Cook if he would not mind yielding.

SENATOR COOK: Certainly.

ACTING PRESIDENT HOBLOCK: Senator Cook, do you yield?

SENATOR COOK: Yes.

SENATOR GOLD: Senator Cook, first of all, I'm delighted. I owe, I think, the same respect to Senator Bruno as Senator Bruno has been giving to me and to my side

because obviously, he has been listening because we have been talking since January telling everybody in this chamber how the budget, the Governor's budget, is a disaster for local taxes so the concept that we are now dealing with something that might help local property owners is something we've been excited about since January, particularly in view of the horrendous budget by the Governor.

But I'm curious about this particular proposal. For example, there are projections from the state Education Department that indicate in Nassau County, and I know Senator Skelos is very concerned about that, they expect a 17 percent increase in student population in the next few years. Under this proposal, how would the locality deal with that if they have this expansion of 17,000 additional children?

SENATOR COOK: Senator, Mr. President. Senator, growth aid is not capped so that, as the district -- if the district had increases in student population, they're able to

get the additional aid to cover that growth in population.

SENATOR GOLD: Right. So if I understand you properly, Senator, that's more state money; that's not local money, right?

SENATOR COOK: Not necessarily. No, Senator, it's only that the cap would not - the cap would not apply to them, but also the computation of aid, the three percent increase would also be there. The computation of aid is based upon either a figure which is $9,000 or something in that category per student related to the tax levy of the district times three percent, which is -- I'm losing everybody on the arithmetic, but the point is that as the numbers of students would increase, the amount of aid would increase because the amount of aid would be in that case related to the number of students in the district, not to the actual flat amount of the gross expenditures of the district.

SENATOR GOLD: So in plain language, if I understand you properly, Senator,

the amount of money that this Senate would have to vote for the locality would have to go up; in other words, they won't be making it up on property taxes.

SENATOR COOK: That's right.

SENATOR GOLD: We will increase the state budget for education is what you're saying.

SENATOR COOK: Senator, that is correct and that is -- I will have to tell you -- you may be aware that I've had a bill in for some number of years -- in fact, we passed it in this house two years ago -- which, in fact, would have -- would have even made that appropriation larger. We would have guaranteed districts a ten percent annual increase in aid in exchange for actually reducing their tax levy, the point being that I am in full agreement with what I think you may be -- the point that I think you may be coming into; that is, that education is constitutionally a state responsibility, and I think we ought to be moving towards state funding of that

responsibility.

SENATOR GOLD: Thank you, sir. The other question, if you'll yield to another question, Senator.

ACTING PRESIDENT HOBLOCK: Senator Cook, do you continue to yield?

SENATOR COOK: Yes.

SENATOR GOLD: And, Senator, I don't know how you and Senator Bruno are breaking that up so, if I ask you a question that he wants to answer, I'm certainly not offended.

SENATOR COOK: Probably it depends on which one of our spokesmen can give us the right answer.

SENATOR GOLD: Yes, and I don't mind it at all. Let me say, for the record, I think Lackman is brilliant; that's why he just got elected.

SENATOR COOK: So is Bob Hotz.

SENATOR GOLD: At any rate, in the fiscal year that we are about to enter, '96-97, can you tell me what the cost of this

bill will be?

SENATOR COOK: There's no cost, Senator, because the first requirement is that the school district submit to the Department - well, I beg your pardon. Let me -- let me rescind that for a moment. There's no cost in the -- in the capping portion of it, because they have to submit this year during the oncoming school year a five-year plan, which would click in the year after that, so that would have to be assumed in future budgets.

There is, however, on the senior citizens -- the homestead exemption, the so-called circuit breaker, that does begin to click in and there is some impact on that. 20 million, I'm told, is the estimated cost of that.

SENATOR GOLD: All right. Now, the 20 million, Senator, is it the circuit breaker portion?

SENATOR COOK: Yes.

SENATOR GOLD: And the circuit breaker, is that what we were talking about

earlier that -- withdrawn. That's been a horror. In this household credit, we're told that it helps senior citizens, this homestead. Now, the way I take a look at it, the income has to be under 17,500, isn't that correct?

MR. HOTZ: To get the maximum.

SENATOR GOLD: Well, Senator, wouldn't you say there's an awful lot of seniors out there that have nothing other than Social Security but doesn't Social Security give them more than that?

SENATOR COOK: Senator, I appreciate that you want to talk so everybody over there can hear you, but I can't hear you when you turn your back.

SENATOR GOLD: I apologize, Senator.

It seems to me when we talk about seventeen five, when we're talking about senior citizens even on Social Security, don't we have an awful lot that are disqualified at that exemption?

SENATOR COOK: Senator, the

17,000 is the current homestead exemption which we currently have on the books in New York State and we basically are doubling it.

SENATOR GOLD: All right. Now, Senator, the -- getting back to where I was a moment ago, on the basic issue of freezing local property taxes, as you explained it and as I understand it, there is no cost in this fiscal year because they're going to do these calculations and it kicks in a year from now.

MR. HOTZ: If they opt in.

SENATOR GOLD: Mr. President. Well, Senator, then this is my question. My understanding is at the last budget meeting with the Governor, each side was asked to give its estimates as to what the shortages were or what was needed in the various categories and in the education field, I understand that the number was 450 million; I think your side said 410 or 415 million.

MR. HOTZ: That included our 20 million circuit breaker.

SENATOR GOLD: So are you telling

us today, Senator Cook, that in this fiscal year, your side stands now ready to increase the budget -- the Governor's budget by at least $410 million so that at least for this year we're giving no money for local property tax support in this bill and in this bill we will cover this area of the school aid formula.

SENATOR COOK: Senator, it's my understanding, and I don't sit at the table where Senator Connor sits as part of those conversations, but we have identified about $410 million of restorations which we think are necessary in order to continue existing educa tional programs and to cover the $20 million that you were referring to in the -- in the senior citizen exemption.

SENATOR GOLD: Right.

SENATOR COOK: And that is, in fact, I believe a position which Senator Bruno is pursuing. I don't presume to speak for him. But I believe that that is the announced position of this Conference, yes.

SENATOR GOLD: Mr. President,

yeah. Well, then, maybe Senator Bruno wants to answer that question.

Mr. President, will Senator Bruno yield?

ACTING PRESIDENT HOBLOCK: Senator Bruno, do you yield?

SENATOR BRUNO: That depends on the question, Mr. President. Can you restate it?

SENATOR GOLD: Yes, I'm be glad to.

Senator Bruno, according to Senator Cook, and I view him to be accurate, there is no money in this bill that is going to help any localities that may have to increase local property taxes as a result of this year's Pataki budget, and as I indicated on a prior occasion, if the Pataki budget were to pass, for example, Albany County which is now at about 8.6 percent increase would go up to over 10 - excuse me, over 12 percent increase, so obviously the Pataki budget, that would in fact be mandated local property tax increases, and

your bill wouldn't help this year.

So my question, Senator, is by putting the bill out in this way and not granting any money this year, are you saying that it is the position of you and your Conference that you are asking for additional spending this year in the budget of some 410 or more million dollars to make up the educational deficit?

SENATOR BRUNO: Thank you, Senator Gold.

SENATOR GOLD: You're welcome, sir.

SENATOR BRUNO: I now understand the question.

SENATOR GOLD: Me too.

SENATOR BRUNO: And it was a long question.

SENATOR GOLD: Very long.

SENATOR BRUNO: And I will try and give you a short answer.

SENATOR GOLD: Very short.

SENATOR BRUNO: And the answer,

and I'm pleased and thank Senator Gold, Mr. President, on my behalf for asking this question, because we are going to take the lead in restoring some of the cuts, maybe all the cuts, that the Governor proposed in his budget. That is part of the conversations we are having with the Speaker and with the Governor about the restoration, just the restoration that you are describing, Senator, and it will impact in a positive way school aid, the school year over $500 million. That's what's on the table. That's what we expect we will get agreement on and I, again, Mr. President, thank Senator Gold for asking the question. I hope he finds my answer acceptable.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Gold.

SENATOR GOLD: Would my very articulate and distinguished leader yield to another question.

SENATOR BRUNO: Yes, Senator.

ACTING PRESIDENT HOBLOCK:

Senator Bruno, do you yield? Senator Gold is not happy with his answer.

SENATOR BRUNO: Yes.

SENATOR GOLD: On a point of order, Mr. President. I loved it.

SENATOR BRUNO: Thank you.

SENATOR GOLD: Mr. -- Mr. President, Senator Bruno, I don't have a dictionary handy, but I listened to what you said, and I just need one clarification. You said that in education and some other areas that you are hoping to lead the fight for restorations. Restorations, by definition, that means spending, doesn't it?

SENATOR BRUNO: M-m h-m-m, yes.

SENATOR GOLD: Spending. Your Conference wants to spend more than the Governor, is that correct?

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Bruno.

SENATOR BRUNO: Yes, our Conference wants to restore school aid so that

we can do all the good things that are important to our constituencies, respectively, yes.

SENATOR GOLD: Mr. President, like spending.

SENATOR BRUNO: There are appropriate places to spend money. That's a very handsome tie you have, Senator.

SENATOR GOLD: Thank you.

SENATOR BRUNO: And that was an appropriate place to spend some money, and school aid restorations are appropriate places to spend money.

SENATOR GOLD: Well, Senator, I want to say that your tie is very nice.

SENATOR BRUNO: Thank you.

SENATOR GOLD: But I can't afford that spending, so that's why I have this tie.

If the distinguished Majority Leader would yield to another question.

ACTING PRESIDENT HOBLOCK: Senator Bruno, do you continue to yield?

SENATOR BRUNO: Yes, Mr. President.

SENATOR GOLD: Mr. President. Thank you, Senator Bruno, and I appreciate your clarifying that your Conference was spending more than the Governor would propose.

There's a question I have though. In each of the districts there are problems and educationally related problems and under your bill, what do you do with your tax free situation? If a district has needs, they have real needs to improve either services or facilities or they have to do something to raise money to provide a need. Under your bill, will they lose their advantage because they may have to raise taxes to provide for a need?

SENATOR BRUNO: This will -- most of this will be at local option so that those of us that believe in government closest to the people will allow that government elected by their -- our respective constituencies to make those judgments, Senator, so that we wouldn't be mandating that they give this relief in most of the areas, so those judgments will be made and it's very perceptive of you to make that

observation and that was all considered in the drafting of this legislation.

Senator Ken LaValle has been the mastermind, along with Senator Cook and many of the others in this chamber potentially on both sides of the aisle, and in their wisdom over the years they have constructed a package that's before you and it wasn't done lightly.

SENATOR GOLD: Senator, Mr. President, if the Senator will yield to a question.

ACTING PRESIDENT HOBLOCK: Senator Bruno, do you continue to yield?

SENATOR BRUNO: Yes, Mr. President.

SENATOR GOLD: Senator, it's the same question. I heard the answer and it -- and you speak very, very well, and it's a shame you're not a lawyer, but we went through that yesterday. The point I'm getting at, though, is that isn't it a fact that, if a district has to make this local determination and have additional spending because of deterioration or

because of increased needs or one thing or another, that they could be, in order to be servicing their students properly, be knocking themselves out of the formula?

SENATOR BRUNO: Senator Gold, I apologize for not being a little more explicit in answering your question. Part of the proposal and the recommendation that we make through this legislation is that a school district put together a five-year plan, and if they find a need because they freeze property taxes, well, then they will get, for freezing, to help fill their needs, state aid up to the inflation level to be determined by the indexes so they would get state aid to help meet some of their increased expenses, and the intent, of course, is to create responsibility on the part of school districts so that they manage their affairs and, when we talk about spending, we talk about appropriate spending. We talk about priorities in spending and we recognize that educating young people is a priority of our Conference and I believe, Senator, of your

Conference, and it is of the Speaker's, and all of this has been stated.

I think that's probably the Governor calling you.

SENATOR GOLD: Yeah, said he wasn't happy with your explanation.

SENATOR BRUNO: Yeah.

SENATOR GOLD: Thank you, Mr. President. On the bill.

ACTING PRESIDENT HOBLOCK: Senator Gold, on the bill.

SENATOR GOLD: First of all, Senator Bruno, I must tell you that we should always be working together as you have indicated, and I consider that the newly found concern of your party with local property taxes after we've been talking about it for four months, indicating that we are now starting to work together and that you are listening.

I also was very, very pleased to hear from you that you are unhappy with the Governor's budget. I surmised you were unhappy with the Governor's budget when you didn't put

it out for a vote earlier this year or even put out your own version earlier this year as you did last year. Last year, with great pride, you put out a budget and you challenged the Speaker to do the same. This year you don't do that, and I understand why. The Governor's budget would be a disaster, and your party apparently now, the Senate Republicans, realize that; and while we had a bill before us a couple days ago that wanted to cut taxes by 80 million and while this side of the aisle agrees with the concept of tax cuts but had different cuts in mind, the fact of the matter is that when the budget process is over, your party will be able to put out that major press release which says that you want to spend more money than the Governor and that spending in the ultimate budget that we pass is something which is now apparently a part of the Republican platform in this house.

I don't know as a technical matter, Senator Bruno, whether or not the bill that you have before us is going to help in the long run. I know that from the point of view of

many people on this side of the aisle, we feel that property taxes are, in fact, devastating. I think it's interesting that Senator Bruno said today something we have been saying for four months, and that is if New York State is the tax leader, it is the tax leader because of the local property taxes and local taxes and unfor tunately, for the people many of that -- those taxes come from areas controlled by local Republicans, so this is perhaps some kind of an acknowledgement from our distinguished president of the Senate Pro Tem that his party has some responsibility and together with us, we will try to see to it that local property taxes do not in the future drive our citizens to disaster.

But the most important part of today's conversation is not this bill which, by the way, I personally intend to vote for because maybe it will help, but the most important part of today's conversation is the fact that we are going to recognize that the block grant program, that the budget as presented by Governor Pataki, would unquestionably drive up local property

taxes and the only way that we can save our localities is to do what Senator Bruno apparently is proposing, spend.

So, Senator Bruno, when you come before us with the proposal to help education by proposing the Republican spending plan, I'm going to look at that very closely.

Thank you.

ACTING PRESIDENT HOBLOCK: Senator LaValle.

We have a list. Senator LaValle is next.

SENATOR LAVALLE: Thank you, Mr. President.

I would like to begin my remarks with some commendations because I think that that is important. First, I think Senator Bruno deserves to be commended for his diligence. His efforts, Senator Gold, and others, began with a press conference in November, November of 1995, in which Senator Bruno articulated a proposal. That proposal is in a 34-page bill before us today.

Senator Cook should be commended as chairman of Education, to be focused on this issue, and to have allowed members in this house, the Majority, to work with him in bringing this to fruition.

Our Secretary of the Finance Committee, Abe Lackman, Jeff Lovell, and Bob Hotz, should be commended in working with the members in this house to bring about the specifics of this proposal.

There has not been a proposal such as this as comprehensive, and the reforms that are articulated here and the philosophy, in probably two decades. I say a change in philosophy because heretofore we used one strategy to deal with property tax reform and monies for programs for education, and that mechanism has been solely the state aid formula, but that we have talked and debated, have worked on during the budget deliberations.

Today, we establish a two-pillar philosophy. One of the pillars is yet to be developed as was articulated by our Majority

Leader, and that is the state aid proposal that will deal primarily, although not in its entirety, but primarily dealing with the programmatic side of the school district budget -- how much money do we have to provide services to our students -- and hopefully, some districts will have sufficient dollars to provide tax stabilization.

Today, we unveil a second pillar, and that second pillar has sub-parts to it and that's what makes this proposal a measure of reform.

In the first instance, it says to our citizens that they should be more involved in the education process, by their vote, by their participation in developing a school district budget. It says that that budget should be presented to all the voters in the district in plain language in a form that the Commissioner will be involved in so that our citizens can understand what is going -- what expenditures are going for what programs in the school budget.

It will allow the presentation of that budget for the first time to be presented in three different parts, programmatic part, the instructional services, the administrative budget, as defined by the legislation, and thirdly the capital budget. The voters will be able to see what the effect will be on the tax levy and what each portion of that budget has in terms of a tax -- a tax rate, and how that part of the budget would be reflected in the tax rate. So we involve the voters in trying to participate in the process.

The second part has been discussed through the questions that Senator Gold asked of Senator Cook in terms of the tax stabilization, to allow the school districts to make a decision whether there are sufficient in centives to stabilize their tax rate.

The third part of the bill says, How do people pay for that tax once it's established? And so much discussion was -- was made in terms of the homestead exemption and what we are doing for the first time is creating

a state portion of the homestead exemption that many of our localities, towns, counties and local school districts already participate in.

We add to this a portion that will affect all of our taxpayers who use an itemized tax form to pay their state taxes by taking a double school tax deduction and, thirdly, as has been discussed, a circuit breaker program that really goes to the heart of our middle income taxpayers, those with incomes of 75,000 or less, that would really pay a percentage of their income of property taxes, and then the state would help them.

What we are doing in this proposal is something that people have talked about for years and years in moving and getting the state more involved in sharing education and helping people pay some of the onerous property taxes that are levied locally, and so this measure has been put together with proposals and some of you may look at some of the ideas over a number of years in separate bills and some of those proposals we have passed.

So today really is a great day for this house with the leadership of Senator Bruno, Senator Cook, in putting this proposal together, because I think it moves us into the next millenium at the right juncture at the right time.

ACTING PRESIDENT MARCELLINO: Senator Dollinger.

SENATOR DOLLINGER: Mr. President.

SENATOR STAVISKY: Is there a list there?

SENATOR MARCELLINO: Yes, there is, Senator Stavisky, and you are after Senator Dollinger.

SENATOR DOLLINGER: Mr. President, who would answer questions on behalf of the bill? Senator Bruno, I note, is not in the house. Perhaps Senator Cook?

ACTING PRESIDENT MARCELLINO: I believe Senator Cook will answer your questions, sir.

SENATOR COOK: Yes.

SENATOR DOLLINGER: Senator, I'm trying to understand this bill along the lines that have been discussed about how significant and important this proposition is.

One of the things that's raised in this bill is the Consumer Price Index.

SENATOR COOK: Yes.

SENATOR DOLLINGER: A commonly used tool to try to gauge the overall inflationary effect on the economy and, as I understand it, this bill says that any budget increase more than CPI has to have the support of two-thirds of the trustees of the school board before it can go on. Is there any requirement in this bill that a certain percentage of the voters have to approve it?

SENATOR COOK: No.

SENATOR DOLLINGER: Again, through you, Mr. President if Senator Cook will yield to a question, the Consumer Price Index I assume that the -- what we'd be looking for is an effect of the inflation in the state of New York, correct?

SENATOR COOK: It's -- Senator, it is the Consumer Price Index for the New York Northern New Jersey region.

SENATOR DOLLINGER: My question is, Mr. President, what does New Jersey and the costs associated in New Jersey have to do with education or price increases in the state of New York?

SENATOR COOK: Senator, the point was to find a standardized number that was generally accepted. That number happens to be the United States Department of Labor CPI number that they have been developing and publishing for years. It's a generally accepted number in a whole variety of things that are done in commerce and in government and, therefore, it's, I would say, a generally accepted standard. That's why it was used.

SENATOR DOLLINGER: But again through you, Mr. President, including New Jersey in the calculation of the CPI and what effect it has on this state, including Plattsburgh -- a long ways away from New Jersey; Rochester, a

long ways away from New Jersey -- could you tell me what relevance prices in New Jersey have in being used in a CPI which affects our local school district?

SENATOR COOK: Senator -- Mr. President. Senator, you are a good lawyer. You know when something you're saying is disingenuous. The point is that we adapt to the standard. It could have been the standard that was called the Northeastern United States standard. It could have been -- we do it all the time.

The point is we did not attempt to put in a whole new bureaucracy that would establish what the CPI would be within the geographic boundaries of the state of New York which might be one-tenth or one-hundredth of a percent different from the -- from the average that is already on record and, furthermore, we can use a standard that's established by an authority that's outside New York so it cannot be manipulated by anyone within the state of New York, and that's really what it does. It gives

the bill credibility because it's a generally accepted standard.

SENATOR DOLLINGER: Again through you, Mr. President, I guess I'm just astounded that when it comes to figuring out what the effect is in New York, we use a standard that includes New Jersey and is developed by another government, the federal government. It's not even one we develop ourselves, so we're going to rely on the federal government to do the calculation and we're going to allow them to use New Jersey numbers when that's the most critical thing in this bill, isn't it, because if it sets new standards, if it exceeds a Consumer Price Index that includes New Jersey and is devised by the federal government.

SENATOR COOK: Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Cook.

SENATOR COOK: Senator, we are more than once accused in this Capitol of manipulating numbers and figures and standards, to fit whatever necessity is before us. The

other -- the other alternative is to find national standards. Now, we do this in a whole variety of areas -- transportation. We use the AASHTO standards, which are national standards, and they're used because they are -- they are objective, they're generally accepted numbers.

Why we use the federal number is because it cannot be manipulated according to whatever whim anyone in this Capitol might have. It is a solid number. If we have -- if we put into statute some way of calculating those figures within the state of New York, I would have to confess it would be subject to manipulation, and we really don't want that to happen. We want a standard that is generally accepted, and that's why it's in the bill.

SENATOR DOLLINGER: O.K. Through, Mr. President, if Senator Cook will yield to another question.

ACTING PRESIDENT MARCELLINO: Senator Cook, do you continue to yield?

SENATOR COOK: Yes.

SENATOR DOLLINGER: All of the

provisions in this bill that deal with the form of the budget that the school district would present, is there anything in current law in this state that prohibits them from doing that by themselves?

SENATOR COOK: Mr. President, there is nothing in current law that prohibits them from doing it. I think Senator LaValle, in his presentation, however, touched the point and that is that school budgets are to some people and many people, perhaps a very complex thing. They often have difficulty understanding what it is that they're actually being asked to vote upon. This bill simply provides that, when that option is placed before them to vote on a budget, that it has to be presented in such a way that they know exactly what questions they're being asked.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator Cook will yield.

SENATOR COOK: Yes.

SENATOR DOLLINGER: Are you suggesting, Senator, that the school districts

in your district don't put properly identified, properly prepared, easily understandable budgets before their voters, because I've got news for you, Senator. I represent probably seven school districts and in every single one of them, I think they do an exemplary job of breaking down the budget in common plain language in putting the proposals before the voters, in mailing to the voters before the election two or three times to explain to them what the proposition is all about, and I guess my question is, is this needed in your district because it clearly isn't needed in mine? I just want to find out where it's needed.

SENATOR COOK: Mr. President - Mr. President, Senator. You're very fortunate. I am not going to attribute any bad motives to anyone, but I will have to tell you that some of the information that is distributed by school districts is less than clear in terms of what it really does, that many of the issues that are - frankly arise within school districts could be avoided if, in the first instance, the material

that was distributed to the voters was more clear in exactly what it was trying to do.

So I don't see this as punitive. I see this as something that is of good information. We have clear language laws that we have put in place around here for years providing that various kinds of things have to be written in plain language. This does nothing more than that. It's to say that, when you put a proposal out before the public, you have to do it in a manner in which it is easily understood.

Now, if -- let us assume that with all good motives, a school administrator who is not, by his profession, necessarily a public relations person, he may be able to write a budget in jargon that is totally understandable to the BOCES commissioner, superintendent, totally understandable to the Department of Education, totally understandable with his explanation to the school board but when it goes out to the voters, it is jargon that they simply do not comprehend.

The point of this would be that the Commissioner would design for the school districts a means in which they would be presenting their budget to the voters so that hopefully it would be comparable from one district to another so that someone who lives in School District A looks at their budget and when they try to compare it to School District B or School District C, they'll know that this particular item means a particular thing in their district, so that those comparisons are accurate and there won't be people jumping to conclusions because they see things that they think mean one thing and actually mean something else.

It is a matter of putting in formation out in an understandable form so that, when voters vote, it will be an informed vote based upon the statewide understandings and it's -- if you will, Senator, not unlike the CPI, it's a matter of trying to develop common understandings so that when people look at something, they accurately know what they're

voting on.

SENATOR DOLLINGER: Again through you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Cook, do you continue to yield?

SENATOR COOK: Yes, I will.

SENATOR DOLLINGER: Again through you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Cook, do you continue to yield?

SENATOR COOK: Yes, I will.

SENATOR DOLLINGER: The types of itemization and information that you would request in school budgets, is that provided for the New York State budget, the $65 billion that we spend every year?

I know Senator Leichter and others over here have asked for itemized budget, more budget detail, just the same kinds of good government things that you for some reason think are not present in local school districts, yet every time, I think, we have brought up those amendments for the last five years, four years

that I have been here, I don't know that anybody on the other side has voted for those to apply to us.

My question is, why? If it's supposedly so good for local school districts, why is it such a bad thing here?

SENATOR COOK: Mr. President.

Senator, I'm not sure exactly what kinds of additional stipends you would receive, but I know you receive $57,500 in base salary, plus some kind of an additional stipend; in other words, you are paid to have the analytical ability to deal with complex issues.

SENATOR DOLLINGER: My critics don't suggest that I do.

SENATOR COOK: There are many citizens out there who don't receive that kind of salary and who are nevertheless expected to make complex decisions. I think it's incumbent upon us to provide them with as clear information in as simplest forms as we can do it and not expect them to spend the same time that you or I spend trying to understand these issues

given the kind of salaries we receive.

SENATOR DOLLINGER: Okay. Just one other question in another area, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Cook, do you continue to yield?

SENATOR COOK: (Indicating affirmatively.)

SENATOR DOLLINGER: Senator, I am intrigued about the divvying up of the budget into the administrative, the programmatic and the capital areas. What happens if the administrative budget -- which, of course, includes very sensitive things, salaries of school superintendents, other items that I'm sure voters who feel a certain angst about school taxes may look at those numbers and say, "I don't want to pay those bills." What happens if those budgets are defeated? So you put all three of them up, the program passes, the capital passes. What happens to the administrative budget?

SENATOR COOK: Mr. President, as

I understand it, there are certain mandated obligations which a district has, and obviously direct supervision is one of them.

However, I would tell you that our colleague from Westchester County, Assemblyman Tocci, has repeatedly talked about a particular school district which has spent an inordinate amount of money to hire an outside firm, a consulting firm, which they have utilized for certain purposes within the district, and it's his concern that that district not be permitted to spend that kind of money without voter approval. That is really where we're at.

It is not the necessary, ongoing expenses of the district which are already part of the austerity item, but it would be those other kinds, if you will, of optional services that a district may decide for whatever reason to purchase outside.

SENATOR DOLLINGER: Again through you, Mr. President just so I understand it. If the administrative budget doesn't pass, my

understanding is that they can have a second crack at the administrative budget. Is that correct?

SENATOR COOK: Mr. President. Senator, that's true of any portion of the budget, yes.

SENATOR DOLLINGER: And then the third portion, if they get 100 voters or 10 percent of the people who voted, they can have a third crack at it. Is that correct? What happens if it fails all three times?

SENATOR COOK: Senator, the austerity requirements go in place. The district obviously has to be able to continue its mandated services, so it obviously has to have a superintendent, but those other kinds of services that they may be contracting for that would be outside the necessary administrative expenses would not -- they would not be permitted to expend.

SENATOR DOLLINGER: Again through you, Mr. President.

I'm not sure I understand. I

know, Senator Cook, you've been in charge of the Education Committee, been the chairman of the committee. I'm not on the committee, but what other nonausterity expenditures would be included in the administrative portion that would be subject to voter approval?

SENATOR COOK: Senator, the very point that I just mentioned, hiring of consultants, for example, of outside firms for whatever purpose they were being hired would not be covered under that.

SENATOR DOLLINGER: Okay. On the bill, Mr. President.

ACTING PRESIDENT MARCELLINO: On the bill, Senator Dollinger.

SENATOR DOLLINGER: Mr. President. The reason why I'm concerned about the CPI index -- and I understand Senator Cook's point. He says that the CPI could be subject to manipulation if we did it. That doesn't accept the fact that the federal government could, of course, manipulate the CPI to its own device.

And, number 2, they picked the

urban CPI, not the all consumers CPI. Why would they pick the urban CPI when so much of everything upstate, in your district, Senator, in my district, I believe, is not included in the urban CPI?

And, for some reason, we've decided to pick and include New Jersey which might be wonderful for certain things, but it seems to me that the -- all the laudatory comments that have been made about this bill as being a good thing for New York State, we can develop our own CPI. We don't need New Jersey and its market basket of items, including gas prices in New Jersey, to start affecting the CPI and become a critical threshold for when we trigger larger super majority votes in our school districts.

I don't think that, frankly, makes any sense, and I don't know who was thinking about this, but to include an urban CPI which encompasses New Jersey really makes me wonder about who was thinking about this whole idea of reform, and New York's education system

is now dependent upon who buys gasoline, who buys eggs, who buys milk, in the state of New Jersey.

Also I think that based on my reading of this proposal, it has a very cynical view of local school boards which I don't quite understand. I know there has been a lot of controversy in education. I understand that the voters in this state across the state are rightly concerned about what is going on in our educational system to prepare our children for the future. But what this bill has is an extremely cynical view of what they do. It suggests all those voters who go in to vote on school budgets aren't well-informed. I don't have any evidence of that, Senator.

I know that everybody complains about paying school taxes, but I have nobody who comes up to me and says, "I don't understand what's on the budget; I don't understand what the numbers are; I can't understand; they want to raise my property taxes 3 percent, I can't understand it." All the information is

available. Every school district that I deal with floods your mailbox with information about the school budget. Spend some time and read it. We don't need this.

I don't know what happens in your district or in all the other 37 districts that are represented by members on the other side of the aisle, but you must think that your school boards are defrauding the voters because, obviously, you are suggesting that they are not doing it right. I don't understand that.

Maybe I've got to go visit some other school districts in Long Island or up in the Metropolitan New York area and find out how they have been flimflamming these voters all the time, because we now suggest that we have to come up with -- tell them how they are going to present their budget to their voters to which they are completely accountable.

I would suggest, Senator Cook, that if any school board is flimflamming your voters and not giving them sufficient information, those voters have the absolute

power, the one power we can't take away, the one power I respect, vote them out of office. Throw them out. Tell the next school board to redesign the whole budget, do it a better way, make it more informed.

What they don't need are people way, way in Albany, in the little tower that we work in and in traveling in a little corridor of the LOB, to sit down and say, "This is the right thing for the Greece Central School District. We know better than you do how to educate your voters. We know better than you do in the town of Brighton how to educate your voters. We know better than you do in the town of Pittsford how to educate your voters." Seems to me that doesn't make any sense at all for us to be telling them what to do.

I said it before. I will say it again. I think this has lots of mandates, and I'm going to vote in favor of this. I'm not against property tax cuts, but, once again, I think we come back to the same image that I drew last time. Dumbo is jumping off the top of the

tower. Fly, Dumbo, fly, and that elephant is just flying around, flying around. It's all fantasy. It's a nice wonderful thing to be able to put in your newsletters, to be able to shoot for television commercials in the fall, to stand up and do a press release and say, "We've saved property taxpayers in New York; we know better than local school boards; we know better how to do it." We somehow have been given this great gift of insight on how to reform public education and how to reform the budget process.

You got me. I am willing to do it. I'm willing to stand by and say just like the magpies did in "Dumbo, the Flying Elephant," I think I will have seen everything when I see an elephant fly.

I will be voting yes.

ACTING PRESIDENT HOBLOCK: Senator Stavisky.

SENATOR STAVISKY: Senator Cook yield for a question or two?

ACTING PRESIDENT HOBLOCK: Senator Cook, do you yield?

SENATOR COOK: Yes.

SENATOR STAVISKY: Senator Cook, I see as a fiscal note that when the plan takes effect in the future that there will be a $400 million price tag. Am I correct? Who will be paying that?

SENATOR COOK: Senator, that will be part of the general state revenues.

SENATOR STAVISKY: That's not necessarily money that we presently have or we foresee in the existing state revenue stream.

SENATOR COOK: Senator, as you probably are aware, we have a pretty consistent growth in revenues in New York State over a period of years which is generally in the neighborhood of a billion to a billion and a quarter dollars, and we don't see all that revenue all the time because there are also a whole variety of entitlement programs in the state which at the same time are driving up our expenditure requirements.

The anticipation is, however, that we expect to have some fiscal discipline in

this state that is going to make available to us some funds for purposes which we currently don't have money available -- frankly, property tax relief which I would like to -- the bill I presented would be $600 million a year not $400 million. But, Senator, I believe it can be done. I believe the requirement of this Legislature is to place that mandate on the books.

You have talked -- we've heard Senator Gold talk about the Governor's budget. If we have it, there as a statutory responsibility that in future years that money is going to have to be provided in the Governor's budget, then we won't have to argue about it because it will be an entitlement that's there to go to the school districts, and I think that is one of the real genius of this bill is that because, for the first time, we're starting to say that that school aid does become in the nature of an entitlement.

SENATOR STAVISKY: But if the optimistic projection of revenue for future

years is not there, won't there be, by necessity, an increase in state taxes?

SENATOR COOK: Mr. President, I think we have to deal with that in the same manner we deal with other kinds of expenditures in other years. We have seen years in which we have been confronted with tremendous proposed increases in social programs. We have seen increases in dealing with the correctional system. We have seen increases in dealing with mental health problems. You name it, we always have that quandary of how do we deal with increased costs on one side and with whatever revenues we have on the other.

The problem, Senator, as you readily can recognize is that all too often school aid and school funding has been a sort of end product of what was left over when all these other concerns were paid for; and for the first time, we have in this bill a requirement that puts education up there at the top of the list along with these other state requirements, and I think that's a real -- I think we should look

upon that not as a deficit in the bill but, indeed, a real plus.

SENATOR STAVISKY: I agree with you, Senator Cook, that education should be a number one state priority. But I think the members in voting for this piece of legislation should be aware of the fact and the possibility that if the revenue is not as optimistic as we projected, if the receipts are not as optimistic as we projected, then what is being proposed today in this bill -- and your members should be aware of it -- that this may be a tax increase bill that we are putting in place, and I think you should label it as such.

This may be a bill to increase state taxes, and if you understand that and are willing to vote with it under those ground rules, then there will be no dispute. But please don't pretend that the revenue will be there. The revenue is wish money, and this could be a tax increase bill, and you bear the responsibility for that increase in taxes if it has to come to pass.

Let me speak about some other aspects of the bill. I am not certain that I am satisfied with the manner in which aid to cities such as Syracuse, and Rochester and Buffalo and Yonkers and New York City, has been explained and the benefits that will accrue. Because in those cities, which are fiscally dependent school districts, they pass through a municipal budgetary process, and revenue from various sources is used by the municipality, sometimes the property tax, but sometimes the sales tax which also is regressive, and, yes, there even are taxes such as income taxes, local income taxes and fees and other miscellaneous sources of revenue. There is no relief for the overburdened taxpayer who may, through an accumulation of municipal taxes, be forced to pay an extremely high percentage of that person's income for the combination of municipal taxes which when taken together might be greater than another taxpayer's burden with regard to property taxes alone.

Then, there is the problem of

block grants, block grants which may be consolidating a whole host of programs that are needed. Educational disadvantage is not dealt with in this bill. Increases in school enrollment is really not dealt with in this bill. When you consolidate into block grants a whole host of programs that have been separately funded, for students with reading disability, students for whom English may not be the primary language but who are moving into districts all over the state -- they are no longer a problem that affects the City of New York. Educational disadvantage has become very democratic. It's affecting the suburbs. It's affecting the communities surrounding the large cities, and many of you represent those areas. If now, squeezed into a shoe, you have no longer five toes but you have ten toes and the size of the shoe has not become any larger, you will be facing some of the consequences of the movement to block grants which are a very easy way of promising local self determination. But when there is less money, consolidation into block

grants does not help any of the school districts, especially if the population soars and especially as the number of children who are suffering from educational disadvantage of various kinds continue to move into your districts as well as maybe moving into my district.

And so I suggest to you that this bill promises a panacea which may not necessarily be real and, therefore, be prepared to find that the local school districts will be suffering with this kind of approach that may not necessarily have one shoe fitting all feet that may be stuffed into it. I think that if you're voting for this, be prepared to have it explained in your districts that this is possibly a higher tax bill where you will be taxing taxpayers at the state level to take care of some of these problems where you are promising real property tax relief.

And with that understanding, we all are on the same wave length and we all can come together to seek a better way of financing

education and paying for school costs, but they are not necessarily going to get any smaller simply because we're calling for a tax freeze on the real property tax. There are many other expenditures that this bill does not address, and I'm prepared to work with you. We all are prepared to work with each other in dealing with these issues.

The state aid formula for operating costs is not workable. We end up throwing money in there through individual programs which bear no relationship to a formula. I don't think this bill even discusses the issue of save harmless, which is the conventional, easy way that the Legislature has guaranteed that regardless of the number of pupils, even when the number of pupils goes down, regardless of the number of problems or lack of problems, the school district receives the same money as last year. Sometimes that save harmless continues generation after generation, and you've had save harmless, the son of save harmless, the grandson of save

harmless, and sometimes legislatures have thrown money in there, the school districts whose students, whose children graduated five or ten years ago.

Those are unaddressed issues in this bill. Be prepared to defend this bill if this is the way you think we should go, but understand, too, that there are many issues that are left out of this legislation that should be considered by those of us who have the responsibility for the more than 700 school districts in the state.

Thank you very much.

ACTING PRESIDENT HOBLOCK: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I quite obviously rise in support of this bill. I am pleased to be one of the sponsors of this bill, and I certainly would like to commend Senator LaValle, Senator Cook and certainly Senator Bruno, as well as Jeff Lovell and Bob Hotz, and the rest

of the staff who work tirelessly on this bill. Needless to say, the Senate majority has been in the forefront of dealing with education and real property tax reform for a number of years.

We have seen bills introduced by Senator LaValle, bills introduced by Senator Cook, there was a bill two or three years ago introduced by Senator Levy, all of which have passed this house with overwhelming numbers, overwhelming support, only to meet with either benign neglect or perhaps either indifference or intransigence in the other house.

The Senate is by no means -- this Conference is by no means a Johnny-come-lately. We have time and again restored dollars or increased dollars in aid to education, and we have striven tirelessly to deal with the issue of real property tax reform. As I said earlier, there have been several occasions in which we have passed, overwhelmingly, bills that would accomplish that.

There has been mention of the Big Five, and perhaps that may in part explain the

indifference with which these proposals have been met in the other house. Within the big five, we're not talking about reliance on real property taxes, certainly school taxes, as a means of funding their education. So the reality is is that the kinds of pressures that we in suburban and rural upstate districts have dealing with real property tax is never felt at the local level by the residents of the Big Five who happen to own one- or two-family houses and there's not that push; and, therefore, there has been little or no pressure of placed on the Assembly to deal with this issue.

This is the most comprehensive bill dealing with the subject of real property tax reform and aid to education that this state has ever seen, and this conference should take enormous pride in it as a major accomplishment, and I'm hoping that this will be the vehicle that will at long last put the Assembly's feet to the fire.

This bill will provide when fully phased in an excess of $800 million in direct

real property tax aid to real property tax/ owners in the State of New York, whether it's the double shot on income tax, whether it's the senior citizens real property tax exemption, the circuit breaker, whatever the means is, this bill in an omnibus fashion delivers. But it does more than that.

It doesn't treat the property tax problem, the problem of ever-increasing real property taxes as just a revenue problem. It also treats it as a spending problem, and you heard Senator LaValle a little bit earlier address at great length, as did Senator Cook, some of the proposals that deal with the spending side of the equation.

There's nobody here in this chamber regardless of what side of the aisle you're on that negotiates salaries -- nobody - and salaries make up some 70 to 80 percent of what your school districts are paying in terms of their budgets.

So this is not disingenuous. I have heard certainly some back biting. I have

heard certainly some efforts to try and whittle away at what I think is an extraordinarily well crafted bill. The fact of the matter is and the bottom line is that this conference has time and again endeavored to make this a front-burner issue. We have once again put it out there. It's there for everybody to see.

It's something that the Assembly is long overdue in even attempting to deal with, and, hopefully, they will finally take up this issue, and the people of the State of New York, the real property tax/owners who are suffering mightily will at long last see relief.

Mr. President. With great pride, not only do I identify with this bill, support this bill but, again, commend Senator Bruno, Senator LaValle, and Senator Cook.

ACTING PRESIDENT HOBLOCK: Senator Leichter.

SENATOR LEICHTER: Mr. President, thank you.

I don't know, Senator Saland, I must say that either you've talked yourself into

this or you're a helluva good actor, because I look at this bill and I see it as a fraud.

It's a hoax on people who are paying more and more real estate taxes. You can go and you can claim that you are providing real estate tax relief, but, in fact, you are giving these districts, the school districts, a Hobson's choice. It's a Hobson's choice for them. Either they freeze the real estate tax, in which event they get -- assuming it's available -- a certain amount of additional state aid, but which is pegged to the CPI.

Now, if you have a school district that -- as some of my colleagues here have pointed out, that has large, increased enrollments -- take the city of New York. Last year, we had 20,000 additional students. We expect 20,000 additional students in the next school year, and forgetting for a moment the problem on the Big Five, and I want to address that again just a little bit later -

SENATOR SALAND: Mr. President. Will Senator Leichter yield?

ACTING PRESIDENT HOBLOCK: Senator Leichter, will you yield?

SENATOR LEICHTER: Yes.

SENATOR SALAND: Senator Leichter, how many single-family homeowners do you have in your district?

SENATOR LEICHTER: Oh, I would say maybe 100.

SENATOR SALAND: 100?

SENATOR LEICHTER: Yes.

SENATOR SALAND: How many people reside in your district? I'm assuming you have somewhere in the area of the same 295,000 that the rest of us have.

SENATOR LEICHTER: Well, I have more, Senator, because my district, as the census bureau has conceded and admitted, under counted parts of my district, so let's say I have 325,000 people.

SENATOR SALAND: So you have 100 single-family residences out of 325,000 people.

SENATOR LEICHTER: Yes.

SENATOR SALAND: Have they been

clamoring at your doorstep for real property tax relief?

SENATOR LEICHTER: Senator, I have certainly had complaints about real property taxes from the owners of larger residential buildings, multiple dwellings, apartment houses, commercial owners. I have a lot of complaints in my district from owners of cooperatives and condos because they are definitely being discriminated against.

However, as you know, the city of New York has taken the position that it would keep artificially low the taxes that are assessed on single- and two-family homes, so I think it would be with ill grace that anybody who has a single-family home in my district or anywhere in New York City came to us and complained about real estate taxes.

SENATOR SALAND: Let me just pursue this a little further -

ACTING PRESIDENT HOBLOCK: Senator Leichter, do you continue to yield?

SENATOR SALAND: -- if you will

continue to yield.

I'm not quite sure what your opening remarks were, but I think they were less than kind in your characterization of my feelings and comments about this bill, and I certainly, you know, don't object to your being sanctimonious.

But if you wouldn't mind, I must tell you, given the reality of our respective districts as I pointed out a bit earlier, there's not exactly a ground swell of support coming from anywhere in the Metropolitan area in the city of New York within the five boroughs with some rare exception, I'm sure, and it would be very, very rare, and certainly little or no cause within the ranks of the other members of the Big Five because you've never had to deal with the issue.

And, on the one hand, I listen to Senator Gold and I listen to you with your proposed 94 percent whatever that bill may be, talking about the fact that the state isn't doing enough and what we're endeavoring to do is

to impose additional burdens on local government; and when we here, with the vehicle of this bill, attempt to lift that burden off the back of local government, you attempt to have it both ways, the height of hypocrisy. The absolute height of hypocrisy.

SENATOR LEICHTER: Senator Saland, one of my colleagues -- I will not say who, but when you said that I was sanctimonious said, "Well, at least you are not hypocritical."

SENATOR SALAND: No, I just accused you of being hypocritical, so we'll drop that also.

SENATOR LEICHTER: I mean here I was feeling good. One of my colleagues said that I wasn't hypocritical, but I didn't enjoy that status very long because you now tell me I am.

SENATOR HOBLOCK: Senator Leichter, Senator Saland, could you kindly address your questions and answers through the chair.

SENATOR LEICHTER: Right. Yes.

I am answering Senator Saland.

First of all, I certainly did not say or mean to imply that you in any respects were sanctimonious. I thought that you gave a ringing, even a persuasive statement of support for this bill, and it was so good that I can attribute it only to the fact that you had talked yourself into it or you were a very good actor because, I think, when you look at what the bill does, as I tried to say, I don't think that it achieves in any respect what hopefully all of us agreed to, is that we need real property tax relief.

And, Senator, while I may not have many homeowners, and I appreciate that the homeowners in your districts are clamoring for relief, and they are entitled to it. I'm not at all blind to their problems because, while I may not have many single homeowners, probably the real estate taxes in total paid in my district exceed the real estate taxes paid in your district when you consider all of the classes of real estate.

But there is no question -- in fact, one of the things that I wanted to address and I will when I get back talking about the bill -- is the extent to which real estate taxes have risen in this state. They far outpace the growth of the income tax and other taxes. There is a very simple reason for it. It's because of the policies that this Legislature and this governor and the previous governor have followed, have shifted more and more burdens on the localities. The localities are desperate because the only source of revenue they have is basically the very, very regressive real estate tax.

So I agree with you that we need real relief. My problem with this bill is, as I said, it's a Hobson's choice and I will try to explain that when I get back to it on the bill.

Thank you, Senator Saland.

The reason I say it's a Hobson's choice is because if you have a district that has rising enrollment, there is no way that they can freeze the levy, and Senator Cook, I believe

earlier, said, "Well, they are going to get more state aid under the formula." Even assuming that the formula isn't meddled with and twisted and turned as it is each year, the amount of additional aid they get in no respect covers the full cost of the additional enrollment. So the district, what does it do? It has really no choice. Either it cheats its children or it puts the burden on the real estate taxpayers, and that's what's occurred.

SENATOR COOK: Mr. President. Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Cook.

SENATOR COOK: Would Senator Leichter yield?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT HOBLOCK: Senator Leichter yields.

SENATOR COOK: Senator Leichter, just so you don't misunderstand what I thought we made clear, that growth aid is not impacted by the cap.

SENATOR LEICHTER: Senator, if I may respond by asking you a question. I understand that the overall state aid is not capped as far as growth aid, but your bill as I understand it is pegged on overall costs. It's not done on a per capita basis.

SENATOR COOK: It's done on a per capita basis, Senator, but growth aid which is currently available to districts, continues. And, Senator, the point is that growth -- if you add 10 percent of the students to a district, you do not add 10 percent to the cost because generally you can absorb into a classroom the additional two students or three students that that may accommodate at no additional cost, so as a matter of fact growth aid generally becomes a bonus to a district.

SENATOR LEICHTER: Senator Cook, just responding to that. In the city of New York, we're not able to squeeze any more people in our classrooms, because we have classrooms in my school district, District 6, as an example, where you have 30-40, maybe even more number of

students, and Senator Marcellino, who is of course in the school system, I'm sure can think of many classes that he has seen where it wouldn't be possible to squeeze any more students in.

So certainly for the city of New York but I submit for also many suburban and rural districts, the growth aid that will come from the state will not cover the additional cost of increased enrollment.

If we take a look at what has been happening, we see that the real estate tax has far outpaced all other taxes in the rate of growth. Property tax revenues statewide have risen 48.7 percent to 23.4 billion in the most recent seven-year period. It's very easy to explain why that's happened, because we have reduced state support not only for education but for many other services, and the Governor's current budget will just drive up real estate taxes and possibly the sales tax only that much more.

Very interesting. When we had

the local municipal officials here and they had a reception and I talked to a number of them. In fact, I talked to somebody from Nassau County that Senator Marcellino introduced me to, a mayor from one of the towns or cities there, and they were all complaining. They said, We know what you people are doing up in Albany. You are shifting the burden on us. You are trying to look good and saying we're cutting taxes in Albany on the state level, and you are just shifting the burden on us, and we've been increasing the real estate tax and, frankly, we can't do it, and I heard this from local officials, both Democrats and Republicans who said, Keep on doing what you are doing and we're going to be totally broke, because we can not raise the real estate tax any higher.

So I would like to see some real property tax relief. I submit to you that even if this worked, at the best, it would be a niggling amount because of so many other factors that also go into the local real estate tax. Obviously, school aid is one of them, but it's

by no means the entire universe which has driven up the real estate tax.

I just finally want to say, Senator Cook, I was interested to hear you say this is going to be an entitlement. I mean I don't know what makes it more or less of an entitlement, let's say, than the school aid formula now is, and what we've seen when this Legislature -- for instance, when we did the Community Reinvestment Act, and now the Governor has scrapped that. He has just torn it up and thrown it in the waste paper basket. So what's to prevent another governor two or three or four years from now doing the same thing that Governor Pataki is trying to do to the Community Reinvestment Act?

My point is, it's not a real entitlement. It can be changed by any Legislature. It can be changed by the Governor in his budget. Obviously, the Legislature can respond to it, and I think we're really going to be tested when we come to the passing of budget, whenever that's going to be, to see whether

we're going to keep our commitment to the Community Reinvestment Act.

I think there are many things that can be done to provide real real estate tax -- I mean real property tax relief. There's also some other problems with this. I just must mention that I don't think this works at all for the city of New York. Senator Padavan raised that question, and I must say that I think this has been written to benefit or at least to allow legislators to go into suburban or rural districts and say I'm providing real property tax relief, but I don't see how this works at all for the Big Five. Certainly doesn't work for the city of New York.

So all in all, I think, once again we have something that maybe will, you know, allow some legislator to go to his district and say, "Look what I've done for you," but the worst thing that could ever happen to this bill and to you guys is if this bill of became law, if the Assembly of passed it, all of you would have a stricken face, "oh my God" and

if the Governor signed it and then you were tested and you were tested in your localities on this bill, you would be in deep trouble.

ACTING PRESIDENT HOBLOCK: Senator Oppenheimer.

SENATOR OPPENHEIMER: The hour is late, and I'm not going to reiterate a lot of the points that have been made. This is a very serious issue in the community that I live in. In the district that I represent, we have property taxes that are I think unquestionably the highest in the state, and they have become a very serious burden.

I would just like to question one point. Senator Cook, if you would yield for a question?

ACTING PRESIDENT HOBLOCK: Senator Cook, do you yield?

SENATOR COOK: Yes.

SENATOR OPPENHEIMER: Let me see if I have this correct. You are talking about the cap on enrollment growth, but you're saying that through growth aid that that amount of

money would be coming into the district because of growth aid for the increased number of students, and, mind you, we expect about a 25 to 27 percent increase in student population. We are really going to be hit in Westchester County over the next five years. Now, while the growth aid would take into account the number of students that are now increased, it will not advance anywhere from the cap per student that is being put in place, so as the years go on, and there's teachers contracts and there are expenses of increased costs for supplies, that is not reflected in the amount that comes for the additional student.

SENATOR COOK: No, Senator, if there's growth, there is a provision that the increase -- that the tax levy can be increased commensurate with the growth. There's also the growth aid that continues, and there's also the fact that the 3 percent, then, is calculated on the previous year's budget. So that once the growth aid is engrossed into the formula, that also increases.

But the point is that the tax levy growth could -- and I don't see this, happily, but it could reflect whatever is necessary to cover growth. But I would also tell you there is an additional state revenue going into the district to help cover that.

SENATOR OPPENHEIMER: Well, thank you, Senator Cook.

I think I'm pretty justified in the feeling that without restoring the revenue sharing monies that are supposed to be coming to municipalities and without looking at the monies cut out for our at-risk children, that this can't possibly have an impact that you perceive it will have on restraining the growth in property taxes.

I think we have to take a serious look and say maybe this is a beginning, but a whole lot more has to be done and -- you know, I will support this because, hey, if there is any way we can even begin to get at our escalating property taxes, I am willing to give it a try. But I don't see how this begins to touch the

problem; and with our student population growing as it is now, I simply can't perceive that this could restrain our growth, and we certainly need assistance.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 39. This act shall take effect immediately.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

Senator Cook to explain your vote.

SENATOR COOK: Mr. President. I would simply like to offer a word of thanks to the staff people who have really helped put the flesh on these bills. Those of us who are legislators have conceptual ideas, but the deep research that has to be done to develop the numbers and to write the language is really the staff people. Jeff Lovell and Bob Hotz have already been mentioned for their part. I think that Peter Applebee also ought to be recognized

because I know that he did a major part of actually drafting the language that's in this bill, and I think this might be an appropriate point to just say again what we've said many times before that while we make policy, the staff people around here do an immensely effective job of helping us develop effective legislation.

I vote in the affirmative.

ACTING PRESIDENT HOBLOCK: Results.

THE SECRETARY: Those recorded in the negative on Calendar Number 985 are Senators Leichter, Markowitz, Paterson, Santiago, Seabrook, Smith, Stavisky and Waldon. Ayes 47, nays 8.

ACTING PRESIDENT HOBLOCK: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time, if we could continue with the controversial calendar, regular order.

ACTING PRESIDENT HOBLOCK:

Secretary will read.

THE SECRETARY: On page 54, Calendar Number 683, by Senator Cook, Senate Print 6412, an act to amend the Vehicle and Traffic Law, in relation to designating civil defense emergency vehicles.

ACTING PRESIDENT HOBLOCK: Explanation has been asked for. Senator Cook.

SENATOR COOK: Mr. President, currently in the Vehicle and Traffic Law there is provision that municipal vehicles that are designated as emergency vehicles can utilize red lights and have certain other, if you will, privileges afforded to do what is necessary in an emergency, in terms of parking or observing one-way streets, and in fact, with due caution, even the traffic signals and signs, even though it doesn't remove the liability if they do have an accident. It simply means that if they proceed through a signal after due caution, they are not subject to a fine.

The problem is that in many, particularly smaller communities, the people who

respond to these emergencies live at considerable distances. We just went through a flood in which the roads in many areas were closed. People literally could not get -- even if there had been vehicles available at the county office building or the county garage, they literally could not get from their homes to pick up one of these vehicles; and, therefore, they could not function as emergency personnel, that is, having these privileges under the Vehicle and Traffic Law.

All this bill says, if a person is first designated by either a state official or a town or county personnel as emergency personnel, that they would have those privileges.

ACTING PRESIDENT HOBLOCK: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Cook would yield.

SENATOR COOK: Yes.

ACTING PRESIDENT HOBLOCK: Senator Cook, do you yield?

SENATOR PATERSON: All I'm really trying to find out is, are the privileges granted during the emergency period or do they extend to all times?

SENATOR COOK: Senator, yes, the bill says that the individual is a designated person, so it doesn't apply to the vehicle or the instance. It does, indeed, apply at all times. This is not, Senator, unlike a volunteer fireman or emergency medical technician who has certain privileges to use lights. The point is, however, that if you utilize those lights or those privileges in an instance where there in fact is not an emergency, then you aren't covered by the provisions of the Vehicle and Traffic Law. You are in fact in violation of the law if you are not responding to an emergency. So we haven't tried to make this bill unduly complicated. We have simply tried to engross it into existing statute.

SENATOR PATERSON: Thank you very much, Senator Cook.

Mr. President, on the bill.

ACTING PRESIDENT HOBLOCK: Senator Paterson on the bill.

SENATOR PATERSON: I just have a concern, and I think the Governor voiced this concern recently when he prohibited the use of unmarked cars, and the concern is just about individuals who really are not in any real authority having these kinds of vehicles and these identifications and symbols that actually do portend that they have greater power and authority than they actually have, and there is a tendency to abuse it particularly when long periods go by and there's not a civil emergency, and yet these individuals still have these delineations on their vehicles.

This is something, I think, we should think about. I understand what Senator Cook is trying to accomplish, but, you know, we don't want to have this kind of circumstance where there is a perceived influence and that it is misused.

ACTING PRESIDENT HOBLOCK: Read the last section.

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

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54, nays 1, Senator Stavisky recorded in the negative.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 724, by Senator Nozzolio, Senate Print 5553A, an act to amend the Retirement and Social Security Law, in relation to including certain Monroe County employees.

ACTING PRESIDENT HOBLOCK: The home rule message is at the desk.

Read the last section.

Explanation asked for.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, this measure is a home rule request from the county of Monroe which asked to have the ability for the County Legislature of Monroe to relieve

an inequity that has existed between the fire fighters of Monroe County, those who fight fires and keep the safety at the Monroe County Airport with those who do fire service for the rest of the county.

ACTING PRESIDENT HOBLOCK: Senator Dollinger.

SENATOR DOLLINGER: Senator, I know the issue of the takeover of the relationship between the city fire department and the county fire fighters at the airport has been a subject of discussion. As I understand it, this bill only affects the pension benefits. It doesn't deal with the tie-in between the two fire departments, the possible relationship between the city fire department and the county fire fighters at the airport. Is that correct?

SENATOR NOZZOLIO: Yes, Senator Dollinger.

SENATOR DOLLINGER: Okay. And there's been no opposition filed from the city fire fighters on this bill.

SENATOR NOZZOLIO: None that I am aware of.

SENATOR DOLLINGER: Thank you, Mr. President. That's all I was interested in.

SENATOR NOZZOLIO: Thank you, Senator.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 774, by Senator Holland, Senate Print 281A, an act to amend the Tax Law, in relation to providing for business tax credits.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT HOBLOCK: The

bill is laid aside for the day.

THE SECRETARY: Calendar Number 781, by Senator Present, Senate Print 6397, an act to amend the Tax Law, in relation to the distribution of the additional mortgage recording tax.

ACTING PRESIDENT HOBLOCK: Explanation had been asked for.

Senator Present.

SENATOR PRESENT: Mr. President, this is a bill that's been requested by Cattaraugus County under the existing law. This additional mortgage recording tax is limited to certain issues, such as -- there are six -- mass transportation, airport/aviation, municipal/ historic site, municipal park, community mental health and retardation facility, or a sewage treatment plant. This bill is pretty near exactly like we passed I think back in February, a bill sponsored by Senator Stafford, which was statewide. This applies only to Cattaraugus County. It will allow them to use those funds for other capital investments.

SENATOR PATERSON: Thank you, Mr. President. The purpose of the bill is very clear, but if Senator Present would yield for a question.

ACTING PRESIDENT HOBLOCK: Senator Present, do you yield?

SENATOR PRESENT: Certainly.

SENATOR PATERSON: Senator, I have just been looking at a number of bills that have come through particularly Investigations and Taxation Committee, and there are a number of bills that are very similar to this involving the mortgage tax revenues, and the question is, if we're going to have a rule and then we're going to nick the rule to death by having all these different bills, doesn't it became a measure of political strength in a particular community or a particular locality that you can get this type of legislation passed? Shouldn't we really be, in a sense, just changing the law generally, let's say, to a law where the counties can just make their own individual decisions about the mortgage tax revenues?

Why are we making a law and then having so many exceptions to it? There have got to be at least six or seven bills that have come through here this year that do the same thing, and my concern is, because I'm concerned about everything today -- my concern is just that - one of my other concerns just came up, so I'm going to sum up and just let you know that why don't we just pass a general bill giving the counties the option where the mortgage tax revenues are concerned.

SENATOR PRESENT: I think that's what we do in Senator Stafford's bill.

SENATOR PATERSON: All right, Senator. Thank you for answering my question.

On the bill, Mr. President.

ACTING PRESIDENT HOBLOCK: Senator Paterson on the bill.

SENATOR PATERSON: I think we should pass Senator Stafford's bill.

ACTING PRESIDENT HOBLOCK: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 30th day.

ACTING PRESIDENT HOBLOCK: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT HOBLOCK: The bill is passed.

THE SECRETARY: Calendar Number 885, by Senator Padavan, Senate Print 3091, an act to amend the Executive Law.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT HOBLOCK: The bill is laid aside for the day.

Senator Skelos.

SENATOR SKELOS: Housekeeping at the desk?

ACTING PRESIDENT HOBLOCK: No housekeeping.

SENATOR SKELOS: Mr. President, there is no housekeeping at the desk. There being no further business, I move we adjourn until Monday, May 13, at 3:00 p.m., intervening

days to be legislative days.

ACTING PRESIDENT HOBLOCK: On motion, the Senate stands adjourned until Monday, May 13, at 3:00 p.m., intervening days to be legislative days.

(Whereupon, at 1:28 p.m., the Senate adjourned.)