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ALBANY, NEW YORK

March 4, 1997

3:05 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

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

2 THE PRESIDENT: The Senate will
3 please come to order. Would everyone rise and
4 join with me in the Pledge of Allegiance.

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

7 May we bow our heads in a moment
8 of silence.

9 (A moment of silence was
10 observed.)

11 The reading of the Journal,
12 please.

13 THE SECRETARY: In Senate,
14 Monday, March 3rd. The Senate met pursuant to
15 adjournment. The prayer by the Reverend Peter
16 G. Young, Blessed Sacrament Church, Bolton
17 Landing. The Journal of Sunday, March 2nd, was
18 read and approved. On motion, the Senate
19 adjourned.

20 THE PRESIDENT: Without
21 objection, the Journal stands approved as read.

22 Presentation of petitions.

23 Messages from the Assembly.

24 Messages from the Governor.

25 Reports of standing committees.

1 The Secretary will read.

2 THE SECRETARY: Senator Wright,
3 from the Committee on Alcoholism and Drug Abuse,
4 reports the following bills:

5 Senate Print 37, by Senator Levy,
6 an act in relation to requiring the Department
7 of Motor Vehicles;

8 52, by Senator Levy, an act to
9 amend the Vehicle and Traffic Law, in relation
10 to permitting sentencing;

11 404, by Senator Maziarz, an act
12 to amend the Vehicle and Traffic Law, in
13 relation to victim impact programs;

14 2083, by Senator Cook, an act to
15 amend the Insurance Law.

16 Senator Marcellino, from the
17 Committee on Environmental Conservation, reports
18 the following bills:

19 Senate Print 1785, by Senator
20 Saland, an act to amend Chapter 748 of the Laws
21 of 1991; and

22 Senate 2369, by Senator Larkin,
23 an act to amend the Navigation Law.

24 Senator Stafford, from the
25 Committee on Finance, reports the following

1 bills:

2 Senate Print 310, by Senator
3 Skelos, an act to amend the Executive Law;
4 697-A, by Senator Nozzolio, an
5 act to authorize the New York State Urban
6 Development Corporation; and

7 Senate Print 1684, by Senator
8 Farley, an act to amend the Executive Law.

9 All bills ordered directly for
10 third reading.

11 THE PRESIDENT: All bills direct
12 to third reading.

13 Senator Bruno.

14 SENATOR BRUNO: Madam President,
15 I believe that there's a report from the Finance
16 Committee. Can we have it read at this time?

17 THE PRESIDENT: The Secretary
18 will read.

19 THE SECRETARY: Senator Stafford,
20 from the Committee on Finance, offers the
21 following nominations: Member of the state
22 Commission of Correction, Thomas Joseph Goldrick
23 of Blauvelt.

24 SENATOR JOHNSON: Move the
25 nomination.

1 THE PRESIDENT: Senator?

2 SENATOR JOHNSON: Move the
3 nomination.

4 THE PRESIDENT: The question is
5 on the confirmation of Thomas Joseph Goldrick as
6 a member of the state Commission of Correction.

7 Oh, I'm sorry. Senator Holland.

8 SENATOR HOLLAND: I would like to
9 say a few words about Sheriff Goldrick, a
10 personal friend of mine for many, many years.

11 I'm proud to be able to recommend
12 a long time friend, Tom Goldrick, as a member of
13 the Correction Commission. Tom's impressive
14 credentials and experience in law enforcement
15 span nearly 50 years. He has 21 years as a
16 police officer in New York City, 13 years as a
17 professor of criminal justice, much of it at
18 Rockland Community College -- if not all, Tom -
19 ten years as the Rockland County Sheriff -- and
20 we still call him "Sheriff" -- where I got to
21 know Tom and experienced firsthand his stellar
22 record in the field of public safety. Tom has
23 previously served on the Commission for three
24 years.

25 During his tenure, Tom Goldrick

1 contributed to a team at the Commission which
2 earned accolades from sheriffs around the state,
3 from the New York State Department of
4 Correctional Services and from the New York City
5 Department of Correction. Under Tom Goldrick,
6 the Commission worked diligently for a strong
7 and effective criminal justice system, one which
8 reflects the tough anti-crime agenda advanced by
9 Governor Pataki.

10 On a personal level, Tom is
11 endowed with the personality, capacity and
12 temperament to form and sustain a positive
13 working relationship with colleagues and
14 constituents. It is this ability which has
15 contributed to an outstanding career in criminal
16 justice.

17 I am very happy and I highly
18 recommend Tom Goldrick, and I'm proud to second
19 his nomination. Good luck again, Thomas.

20 ACTING PRESIDENT KUHL: Is there
21 any other Senator wishing to speak on the
22 nomination?

23 (There was no response.)

24 Hearing none, the question is on
25 the nomination of Thomas Joseph Goldrick of

1 Blauvelt, New York to become a member of the
2 state Commission of Correction. All those in
3 favor of the nomination signify by saying aye.

4 (Response of "Aye".)

5 Opposed, nay.

6 (There was no response.)

7 The nominee is unanimously
8 confirmed.

9 I'm very pleased to have Mr.
10 Goldrick in the chamber with us. Congratula
11 tions and good luck.

12 (Applause)

13 ACTING PRESIDENT KUHL: The
14 Secretary will continue to read the report of
15 the Finance Committee.

16 THE SECRETARY: Senator Stafford,
17 from the Committee on Finance, offers the
18 following nomination: Member of the state
19 Commission of Correction, Patricia R. Tappan of
20 Baldwinsville.

21 ACTING PRESIDENT KUHL: Senator
22 Johnson.

23 SENATOR JOHNSON: Move the
24 nomination.

25 ACTING PRESIDENT KUHL: Is there

1 any Senator wishing to speak on the nomination?

2 The Chair recognizes Senator
3 DeFrancisco.

4 SENATOR DeFRANCISCO: Yes.

5 Patricia Tappan is from the great
6 49th Senate District, the home of the Syracuse
7 Orangemen and many, many other great things.

8 Pat is an excellent choice for
9 this position. She's served many, many years in
10 the corrections area, most recently as the
11 Commissioner of Corrections of the Onondaga
12 County Department of Corrections. She's well
13 respected in the community. She's an individual
14 who not only does her job but she's been
15 involved in so many community projects as a
16 community leader that I can go on for a long
17 time listing them. They include the boys -
18 director of the Boys' Club, the Volunteer
19 Center, the Child and Family Services, the
20 president of St. Mary's Roman Catholic Church.
21 She was a founder and first president of the
22 Baldwinsville Community Scholarship Foundation,
23 founder and first president of the Discovery
24 Center in Syracuse, was -- just opened an
25 Omnimax theatre which is an incredible tourism

1 attraction in Central New York that I invite all
2 of you to.

3 The point I'm trying to make is
4 Governor Pataki outdid himself in this
5 particular appointment. It's a quality person
6 with all the experience that will make a great
7 addition to the department, and I congratulate
8 Governor Pataki and I congratulate Pat, and I'm
9 very pleased to see this nomination and I'm
10 hoping it will be unanimous.

11 ACTING PRESIDENT KUHL: The Chair
12 recognizes Senator Nozzolio on the nomination.

13 SENATOR NOZZOLIO: Thank you, Mr.
14 President.

15 Mr. President, my colleagues, I
16 wish to echo the sentiments of Senator
17 DeFrancisco in praising Governor Pataki's
18 appointment of Patricia Tappan to the Commission
19 on Corrections, that I have had the opportunity
20 to study the background and experience of the
21 nominee as a result of my chairmanship with the
22 Crime Victims, Crime and Corrections Committee
23 and the members of the Committee are extremely
24 impressed with truly a corrections professional
25 before us as Governor Pataki's nominee to serve

1 on the Commission, that the nominee has worked
2 hands-on in the correctional system and this
3 experience will serve her extremely well and the
4 Commission extremely well and all of us as she
5 reviews the important correctional policies and
6 their implementations in this state.

7 The Commission on Corrections is
8 entering in a very critical period, that we have
9 this state's correctional system with its state
10 and local jails, certainly a very important
11 crossroads, and that the Commission on
12 Corrections becomes all that more important in
13 dealing with not just state correctional issues
14 but those on the local level as well, and that's
15 why the Governor is to be praised for his wisdom
16 in putting forth this nomination of Patricia
17 Tappan.

18 I congratulate Governor Pataki,
19 Senator DeFrancisco and urge my colleagues to
20 support this very fine nominee.

21 ACTING PRESIDENT KUHL: Is there
22 any other Senator wishing to speak on the
23 nomination?

24 Senator Meier on the nomination.

25 SENATOR MEIER: Mr. President, I

1 would just like to point out that although
2 Patricia Tappan resides in the great 49th, she
3 comes to the great 47th to relax and enjoy
4 herself at her vacation home.

5 This is an outstanding nomination
6 by our Governor. She brings great practical
7 experience to the Commission of Correction and
8 I'm proud to also urge my colleagues that this
9 warrants unanimous confirmation.

10 Thank you, Mr. President.

11 ACTING PRESIDENT KUHL: Is there
12 any other Senator wishing to speak on the
13 nomination?

14 (There was no response.)

15 Hearing none, the question is on
16 the nomination of Patricia R. Tappan of
17 Baldwinsville to become a member of the state
18 Commission of Correction. All those in favor of
19 the nomination signify by saying aye.

20 (Response of "Aye".)

21 Opposed, nay.

22 (There was no response.)

23 The nominee is unanimously
24 confirmed.

25 We're very pleased to have

1 Patricia Tappan in the gallery to my right,
2 along with her husband John and her son Eric.
3 Thank you very much for coming. We appreciate
4 your contribution seemingly in the near future,
5 and good luck.

6 (Applause)

7 ACTING PRESIDENT KUHL: The
8 Secretary will continue to read the report of
9 the Finance Committee.

10 THE SECRETARY: Senator Stafford,
11 from the Committee on Finance, offers the
12 following nomination: Member of the State Fire
13 Prevention and Building Code Council, James J.
14 Yarmus of New City.

15 ACTING PRESIDENT KUHL: Senator
16 Johnson.

17 SENATOR JOHNSON: Move the
18 nomination.

19 ACTING PRESIDENT KUHL: Any
20 Senator wishing to speak on the nomination?

21 (There was no response.)

22 Nearing none, the question is on
23 the nomination of James J. Yarmus of New York
24 City to become a member of the state Fire
25 Prevention and Building Code Council. All those

1 in favor of the nomination signify by saying
2 aye.

3 (Response of "Aye".)

4 Opposed, nay.

5 (There was no response.)

6 The nominee is confirmed.

7 The Secretary will continue to
8 read.

9 THE SECRETARY: Senator Stafford,
10 from the Committee on Finance, offers the
11 following nomination: Youth member of the state
12 Council on Youth, Justin Taylan of Hyde Park.

13 ACTING PRESIDENT KUHL: Senator
14 Johnson.

15 SENATOR JOHNSON: Mr. President,
16 move the nomination.

17 ACTING PRESIDENT KUHL: Any
18 Senator wishing to speak on the nomination?

19 (There was no response.)

20 Hearing none, the question is on
21 the nomination of Justin Taylan of Hyde Park to
22 become a youth member of the state Council on
23 Youth. All those in favor of the nomination
24 signify by saying aye.

25 (Response of "Aye".)

1 Opposed, nay.

2 (There was no response.)

3 The nominee is confirmed.

4 The Secretary will continue to
5 read.

6 THE SECRETARY: Senator Stafford,
7 from the Committee on Finance, offers the
8 following nomination: Youth member of the state
9 Council on Youth, Kelly Van Patten of
10 Schenectady.

11 ACTING PRESIDENT KUHL: Senator
12 Johnson.

13 SENATOR JOHNSON: Mr. President,
14 move the nomination.

15 ACTING PRESIDENT KUHL: Is there
16 any Senator wishing to speak on the nomination?

17 (There was no response.)

18 Hearing none, the question is on
19 the nomination of Kelly Van Patten of
20 Schenectady, New York to become a member -- a
21 youth member of the state Council on Youth. All
22 those in favor of the nomination signify by
23 saying aye.

24 (Response of "Aye".)

25 Opposed, nay.

1 (There was no response.)

2 The nominee is confirmed.

3 The Secretary will continue to
4 read.

5 THE SECRETARY: Senator Stafford,
6 from the Committee on Finance, offers the
7 following nomination: Member of the Small
8 Business Advisory Board, Catherine Crowley of
9 New York City.

10 ACTING PRESIDENT KUHL: Senator
11 Johnson.

12 SENATOR JOHNSON: Mr. President,
13 move the nomination.

14 ACTING PRESIDENT KUHL: Any
15 member wishing to speak on the nomination?

16 (There was no response.)

17 Hearing none, the question is on
18 the nomination of Catherine Crowley of New York
19 City to become a member of the Small Business
20 Advisory Board. All those in favor of the
21 nomination signify by saying aye.

22 (Response of "Aye".)

23 Opposed, nay.

24 (There was no response.)

25 The nominee is confirmed.

1 The Secretary will continue to
2 read.

3 THE SECRETARY: Senator Stafford,
4 from the Committee on Finance, offers the
5 following nomination: Member of the Small
6 Business Advisory Board, Emma Kounine of
7 Mahopac.

8 ACTING PRESIDENT KUHL: Senator
9 Johnson.

10 SENATOR JOHNSON: Mr. President,
11 move the nomination.

12 ACTING PRESIDENT KUHL: Is there
13 any Senator wishing to speak on the nomination?

14 (There was no response.)

15 Hearing none, the question is on
16 the nomination of Emma Kounine of Mahopac, New
17 York, to become a member of the Small Business
18 Advisory Board. All those in favor signify by
19 saying aye.

20 (Response of "Aye".)

21 Opposed, nay.

22 (There was no response.)

23 The nominee is confirmed.

24 Are there any reports of select
25 committees?

1 Communications and reports from
2 state officers.

3 Motions and resolutions.

4 Senator Tully.

5 SENATOR TULLY: Thank you, Mr.
6 President.

7 On behalf of Senator Holland,
8 please remove the sponsor's star from Calendar
9 Number 146.

10 ACTING PRESIDENT KUHL: At the
11 request of the sponsor, the star is removed on
12 Calendar Number 146.

13 Senator DeFrancisco.

14 SENATOR DeFRANCISCO: No. I'm
15 just going outside.

16 ACTING PRESIDENT KUHL: Have a
17 nice trip.

18 Senator Wright.

19 SENATOR WRIGHT: Thank you, Mr.
20 President.

21 I have a privileged resolution at
22 the desk. I would ask that it be read in its
23 entirety.

24 ACTING PRESIDENT KUHL: The
25 Secretary will read the title to the privileged

1 resolution at the desk.

2 THE SECRETARY: Legislative
3 Resolution 531, by Senator Wright, memorializing
4 Governor George E. Pataki to recognize Tuesday,
5 March 4, 1997 as "Small Business Day" in the
6 state of New York;

7 WHEREAS, small businesses are
8 vital to our nation's economy and our way of
9 life, constituting the singlemost important
10 segment of our free enterprise system; and

11 WHEREAS, small businesses
12 generate virtually all new jobs arising in New
13 York State.

14 The contributions made by small
15 business owners are too often taken for granted
16 even though they often risk their financial
17 security to create jobs, pay taxes and produce
18 goods and services for the people of New York
19 State.

20 Small businesses are the source
21 of many innovations in products and
22 merchandising and have made significant
23 contributions to our state and our society.

24 Small businesses in New York
25 State exert a strong positive influence on the

1 political, economic and social development of
2 the state, and the future welfare of the state
3 depends on the continued development of small
4 business; and

5 WHEREAS, the members of the New
6 York State Assembly and Senate wish to proclaim
7 their recognition of small business as a crucial
8 element in the economy of New York State; now,
9 therefore, be it

10 RESOLVED, that this legislative
11 body pause in its deliberations to congratulate
12 all small business owners who operate in New
13 York State on their achievements and to
14 memorialize Governor George E. Pataki to
15 recognize Tuesday, March 4, 1997 as "Small
16 Business Day" in the state of New York; and be
17 it further

18 RESOLVED, that a copy of this
19 resolution, suitably engrossed, be transmitted
20 to Governor George E. Pataki.

21 ACTING PRESIDENT KUHL: The Chair
22 recognizes Senator Wright on the resolution.

23 SENATOR WRIGHT: Thank you, Mr.
24 President.

25 First, let me begin by opening

1 the resolution for sponsorship to any member of
2 the Senate, and let me also recognize a number
3 of individuals who have joined us today that are
4 in the gallery who are here at the Capitol
5 meeting with their representatives in the Senate
6 as well as in the Assembly, sharing their
7 perspective on what is occurring in New York
8 State and the business climate for small
9 businesses.

10 I think we've all recognized the
11 changes that have occurred in the last two years
12 in this state and we've seen those very positive
13 changes in terms of \$3 billion in private sector
14 investments that have been made in our state
15 over the last two years in terms of \$5.3 billion
16 in payroll that have been created in the last
17 two years in this state, and in many instances
18 those investments and those increases in payroll
19 have been made by men and women like those who
20 are in our gallery who have made the commitment
21 to New York State, to its people, who have
22 stayed here, who have weathered the storm
23 historically and now are creating the jobs and
24 driving this economy and the growth that New
25 York State is seeing.

1 So we're very pleased to welcome
2 them to the Capitol today to take the
3 opportunity to listen to their concerns, to
4 spend the day meeting with them and their
5 representatives from the Business Council and
6 the National Federation of Independent
7 Businessmen.

8 I would also, briefly, Mr.
9 Chairman -- Mr. President, take the opportunity
10 to recognize one of those individuals, Jerry
11 McDonald, who has been selected as the advocate
12 for small business in New York State by both the
13 Business Council and the NFIB.

14 Jerry is -- started in 1991 as an
15 advocate for small business in the Broome County
16 area, serving as the first chairman of the Small
17 Business Council in Broome County, having taken
18 those skills, advanced them to the state level,
19 being a founder of the first state Council on
20 Small Business, and has demonstrated over the
21 last 20 years that commitment to small business
22 and to this state.

23 He has also been active in
24 numerous organizations throughout Broome County
25 and he's typical of the type of individual who

1 has committed himself to New York State and to
2 this business climate that we're starting to
3 see.

4 So I would like to recognize
5 Jerry and ask him to stand and be recognized by
6 the chambers.

7 Jerry McDonald.

8 (Applause)

9 SENATOR WRIGHT: Mr. President,
10 if I may at this time, I would like to defer to
11 my colleague, Senator Libous, from Broome
12 County.

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

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

17 And thank you, Senator Wright,
18 and, Senator Wright, let me first applaud you
19 for recognizing small business here in the
20 Senate chamber today. I think all too often we
21 tend to look at accomplishments in New York
22 State, when it comes to business, in large
23 numbers and talk about large companies, but it
24 is the little company, the little business, the
25 one, two, three, four, five and fifty and on up,

1 those are the companies that actually fuel the
2 engine in New York State, and I want to applaud
3 you for recognizing small business today and it
4 is an honor for me to stand on this floor and
5 talk about Jerry McDonald.

6 Jerry McDonald has been a friend
7 of mine for a number of years and, as Senator
8 Wright mentioned, he was one of the first to
9 chair the Small Business Council of the Broome
10 County chamber and, Mr. President, back about 15
11 years ago when I was working in the private
12 sector, I served on a number of those
13 committees, and I see Jerry kind of smiling. I
14 hope my service was a good service at the time,
15 but he was always there for the small business
16 person. Always pushing, always trying to get
17 the point across that what's important, not only
18 in the Broome County area but also throughout
19 New York State, is that it's small business
20 people that really make this state go. It's the
21 small business people who dedicate their entire
22 lives, and coming from a family of small
23 business people, I recognize that because as
24 growing up, Jerry, like you and many of your
25 colleagues that are joining us here today, my

1 father put in 14 hours a day at the grocery
2 store seven days a week, and it was very seldom
3 that we saw him. As a matter of fact, the only
4 opportunity I got to see him was if I joined him
5 in stocking shelves and had the opportunity to
6 spend some time with him, because that's the
7 kind of commitment that small business people
8 make and, you know something, they don't ask for
9 a lot.

10 Jerry McDonald has worked over
11 the last 15 years in Broome County and
12 statewide. His recognition today is certainly
13 proper and, you know, he's done so much in
14 working with our community, with the Broome
15 County Board of Realtors. He serves and works
16 tirelessly on the BC Open, which is a golf
17 tournament we have in Broome County which is on
18 the PGA tour. He has been a very active leader
19 when it comes to our library system, in talking
20 about the Broome County library system, and he
21 also serves with CEP, which is a non-private
22 provider of housing for the elderly.

23 Mr. President, it is, indeed, an
24 honor for me to salute Jerry McDonald this
25 afternoon, and I too would like to recognize

1 that many of his colleagues in small business
2 have joined him today and they're up in the
3 gallery, and I would ask if they would just
4 stand for a moment because they recognize the
5 hard work and the perseverance that Jerry
6 McDonald has put in. These are all the people
7 that Jerry has worked with in the Broome County
8 area and he has taken this group with him
9 statewide when they try to push for what's right
10 for small business.

11 ACTING PRESIDENT KUHL: Is there
12 any other Senator wishing to speak on the
13 resolution?

14 (There was no response.)

15 Hearing none, the question is on
16 the resolution. All those in favor signify by
17 saying aye.

18 (Response of "Aye".)

19 Opposed, nay.

20 (There was no response.)

21 The resolution is unanimously
22 adopted.

23 Senator Meier.

24 SENATOR MEIER: Mr. President, on
25 behalf of Senator Levy, I announce an immediate

1 meeting of the Transportation Committee in Room
2 332.

3 ACTING PRESIDENT KUHL: There
4 will be an immediate meeting of the
5 Transportation Committee, immediate meeting of
6 the Transportation Committee in the Majority
7 Conference Room, Room 332.

8 Senator Wright has left -
9 Senator Wright, you wanted to open up that
10 resolution to everybody, is that correct?

11 SENATOR WRIGHT: That's correct.

12 ACTING PRESIDENT KUHL: Senator
13 Meier, we had an indication from several members
14 at the desk that they would like to go on that
15 resolution. Following past practice, if we
16 could put everybody on -- if that's okay with
17 you -- except those who indicate they don't want
18 to be on the resolution, that would serve save
19 the desk a lot of time.

20 SENATOR MEIER: That would be
21 acceptable.

22 ACTING PRESIDENT KUHL: That's
23 what we'll do. I'll direct the Secretary to do
24 that.

25 The Chair recognizes Senator

1 Meier. We're still on motions and resolutions.

2 SENATOR MEIER: Mr. President,
3 may we at this time adopt the balance of the
4 Resolution Calendar, and would you then please
5 recognize Senator Goodman.

6 ACTING PRESIDENT KUHL: If it's
7 all right with you, Senator Meier, the motion is
8 to adopt the Resolution Calendar excepting
9 Resolution Number 533, the resolution by Senator
10 Goodman. We'll return to that in a minute.

11 All those in favor of adopting
12 the Resolution Calendar signify by saying aye.

13 (Response of "Aye".)

14 Opposed, nay.

15 (There was no response.)

16 The Resolution Calendar is
17 adopted.

18 We'll return to Resolution Number
19 533. I'll ask the Secretary to read the title.

20 THE SECRETARY: By Senator
21 Goodman, Legislative Resolution 533, saluting
22 Arts Day in New York, 1997, to be held on March
23 4, 1997.

24 ACTING PRESIDENT KUHL: The Chair
25 recognizes Senator Goodman on the resolution.

1 SENATOR GOODMAN: Mr. President,
2 this has, indeed, been a festive and very
3 special day because it's Arts Day 1997.

4 The state Senate has a special
5 identification with this day because, as all of
6 my colleagues will recall, the Senate has always
7 taken a great initiative in doing everything
8 within its power to advance the arts and
9 cultural affairs in the state of New York. This
10 day was quite remarkable in several respects.

11 First of all, we had a glorious
12 meeting and a press conference with the
13 Governor, who announced a new educational and
14 arts initiative which links arts awareness with
15 education in some several very unique ways which
16 have not heretofore been part of the state's
17 education effort, and this was a signal and in
18 every way a pioneering venture furthered by the
19 new chairman of the Council on the Arts, Mr.
20 Earl Mack.

21 We then proceeded to a rally at
22 Hearing Room A, in which I'm delighted to report
23 that none other than Lauren Bacall and several
24 other noted celebrities were together for the
25 purpose of extolling the virtues of the arts.

1 These celebrities include Kitty Carlisle-Hart,
2 Mr. Jeffrey Holder, Miss Betty Comden, Miss
3 Martha Stewart, Miss Brett Sommers and Mr. Al
4 Levin, and the message which all united to
5 convey is one which I very succinctly remind the
6 house that is highly important to all of us;
7 namely, the arts are not only significant for
8 their spiritual and cultural upliftment but they
9 also are our mighty economic engine which helps
10 to drive the state's economy in very significant
11 ways.

12 A recent study by the Port of New
13 York Authority has indicated that in the greater
14 New York City area alone, the arts account for
15 some \$9 billion of commerce. This makes the
16 arts probably the third largest revenue producer
17 in the state and is in no small measure
18 responsible for the prosperity which New York is
19 enjoying under this administration.

20 Now, let me point out that it was
21 not so long ago -- it was only in the early
22 1980s -- that the state arts budget through the
23 New York State Council on the Arts, was some \$59
24 million. Today it stands at the level of
25 approximately \$30 million and change, which

1 represents a startling reduction in the amount
2 that we commit to our arts.

3 I would like to remind you,
4 ladies and gentlemen, that in Germany alone, \$2
5 billion a year is spent simply for the
6 subsidization of music. In the United States of
7 America, we actually spend more on marine bands
8 than we do on the whole commitment which we have
9 to the subsidizing of the arts nationwide.

10 So that our priorities are not
11 always in full recognition of the significance
12 of this great area, and the importance of Arts
13 Day here in the Capitol is that we declare
14 ourselves in the fullest possible support of the
15 arts and will seek to increase the arts budget
16 by some \$6.6 million, but let it be noted that
17 under this Governor we have for the first time
18 in many years a reversal of form in that the
19 Governor has brought in an Executive Budget
20 which has an arts commitment which is somewhat
21 greater than that of last year.

22 This is a Governor who goes to
23 the theatre, to the ballet, to symphonic and
24 operatic performances. He not only speaks
25 glowingly of the arts but he's actually a

1 participant, along with his gracious wife Libby,
2 and so we're enormously pleased, Mr. President,
3 that Arts Day this year has been a crashing
4 success, that it has carried with it a clarion
5 call to greater commitment to the arts for the
6 Empire State which will bring countless benefits
7 and good living to those of us who are fortunate
8 to attend these concerts, and that includes the
9 elderly and our students and many under
10 privileged people who would in no other way have
11 an opportunity to expand their horizons.

12 The arts provide us with a key to
13 the gates of our slums. I'd rather put a
14 piccolo in the hands of a youngster than a gun,
15 and I'd rather put a crayon in the hands of a
16 youngster than a packet of cocaine. These are
17 the values for which we stand and these are the
18 things which cause us to feel so deeply that the
19 arts has a tremendous future in the Empire
20 State.

21 ACTING PRESIDENT KUHL: Is there
22 any other Senator wishing to speak on the
23 resolution?

24 (There was no response.)

25 Hearing none, the question is on

1 Resolution 533, by Senator Goodman. All those
2 in favor signify by saying aye.

3 (Response of "Aye".)

4 Opposed, nay.

5 SENATOR GOODMAN: Mr. President,
6 may I ask that the resolution be open to all
7 members who wish to participate.

8 ACTING PRESIDENT KUHL: Are there
9 any members who would like to be on the
10 resolution before it's adopted?

11 Seeing several hands, Senator
12 Meier, may we take the same process? We'll put
13 every member on the resolution except for those
14 who don't wish to be on the resolution.

15 SENATOR MEIER: Put all members
16 on the resolution.

17 ACTING PRESIDENT KUHL: Okay.
18 The resolution is adopted.

19 The Chair recognizes Senator
20 Smith for a motion.

21 SENATOR SMITH: Thank you, Mr.
22 President.

23 On behalf of Senator Stavisky, I
24 move that the following bills be discharged from
25 their respective committees and be recommitted

1 with instructions to strike the enacting clause,
2 and that would be S.1361.

3 ACTING PRESIDENT KUHL: So
4 ordered.

5 Any other motions and
6 resolutions?

7 Senator Meier, that brings us to
8 the calendar.

9 SENATOR MEIER: Mr. President,
10 could we now take up the non-controversial
11 calendar.

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

15 THE SECRETARY: Calendar Number
16 183, by Senator Tully, Senate Print 383, an act
17 to amend the Public Health Law, in relation to
18 public water supplies.

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

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

23 ACTING PRESIDENT KUHL: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 57.

2 ACTING PRESIDENT KUHL: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 189, by Senator Velella, Senate Print 1312, an
6 act to amend the Transportation Law, in relation
7 to application of Article IX of such law.

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

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

12 ACTING PRESIDENT KUHL: Call the
13 roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 57.

16 ACTING PRESIDENT KUHL: The bill
17 is passed.

18 THE SECRETARY: Calendar Number
19 196, by Senator LaValle, Senate Print 1299, an
20 act to amend the Town Law, in relation to lands
21 within the Hampton Bays water district.

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

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

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 57.

5 ACTING PRESIDENT KUHL: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 202, by Senator Farley, Senate Print 1955 -

9 SENATOR PATERSON: Lay it aside.

10 ACTING PRESIDENT KUHL: Lay the
11 bill aside.

12 THE SECRETARY: Calendar Number
13 203, by Senator Rath, Senate Print 2013, an act
14 to amend the County Law and the Town Law, in
15 relation to making corrections.

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

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

20 ACTING PRESIDENT KUHL: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 57.

24 ACTING PRESIDENT KUHL: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 208, by Senator Levy, Senate Print 72, an act to
3 amend the Penal Law, in relation to including
4 the theft of dogs and cats.

5 ACTING PRESIDENT KUHL: Senator
6 Meier.

7 SENATOR MEIER: Mr. President,
8 could we lay that aside at the request of the
9 sponsor?

10 ACTING PRESIDENT KUHL: For the
11 day?

12 SENATOR MEIER: Yes.

13 ACTING PRESIDENT KUHL: Lay the
14 bill aside for the day at the request of the
15 sponsor.

16 THE SECRETARY: Calendar Number
17 209, by Senator Johnson, Senate Print 501, an
18 act to amend the Criminal Procedure Law, in
19 relation to requiring certain persons committed
20 to the custody of the sheriff.

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

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

25 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 57.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 211, by Senator Marcellino, Senate Print 1135,
8 an act to amend the Penal Law, in relation to
9 criminally negligent homicide.

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

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 57.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 212, by Senator Velella, Senate Print 1187, an
23 act to amend the Penal Law, in relation to the
24 crime of unauthorized use of a motor vehicle.

25 ACTING PRESIDENT KUHL: The

1 Secretary will read the last section.

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

5 ACTING PRESIDENT KUHL: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 57.

9 ACTING PRESIDENT KUHL: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 214, by Senator Saland, Senate Print 1290, an
13 act to amend the Penal Law, in relation to the
14 minimum period of imprisonment.

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

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

20 ACTING PRESIDENT KUHL: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 57.

24 ACTING PRESIDENT KUHL: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 218, by Senator Volker, Senate Print 1466, an
3 act to amend the Civil Rights Law, in relation
4 to providing for limited immunity.

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

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

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT KUHL: Announce
14 the results when tabulated.

15 THE SECRETARY: Ayes 56, nays 2,
16 Senators DeFrancisco and Sampson recorded in the
17 negative.

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 219, by Senator DeFrancisco, Senate Print 1537,
22 an act to amend the Criminal Procedure Law, in
23 relation to applications for recognizance or
24 bail.

25 ACTING PRESIDENT KUHL: The

1 Secretary will read the last section.

2 THE SECRETARY: Section 3. This
3 act shall take effect on the 30th day.

4 ACTING PRESIDENT KUHL: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes -

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

10 THE SECRETARY: Ayes 57, nays 1,
11 Senator Sampson recorded in the negative.

12 ACTING PRESIDENT KUHL: The bill
13 is passed.

14 THE SECRETARY: Calendar Number
15 220, by Senator DeFrancisco, Senate Print 1538,
16 an act to amend the Criminal Procedure Law, in
17 relation to compliance with orders fixing bail.

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

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

22 ACTING PRESIDENT KUHL: Call the
23 roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes 59.

1 ACTING PRESIDENT KUHL: The bill
2 is passed.

3 THE SECRETARY: Calendar Number
4 222, by Senator Larkin, Senate Print 1582, an
5 act to amend the Criminal Procedure Law, in
6 relation to security services in the courts.

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

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

11 ACTING PRESIDENT KUHL: Call the
12 roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT KUHL: Announce
15 the results when tabulated.

16 THE SECRETARY: Ayes 58, nays 1,
17 Senator Leichter recorded in the negative.

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 Senator DeFrancisco, that
21 completes the reading of the non-controversial
22 calendar.

23 SENATOR DeFRANCISCO: Can we have
24 the reading of the controversial calendar,
25 please.

1 ACTING PRESIDENT KUHL: The
2 Secretary will read the controversial calendar,
3 beginning with Calendar Number 202, Senate Print
4 1955, by Senator Farley.

5 ACTING PRESIDENT KUHL: Senator
6 Volker, why do you rise?

7 SENATOR VOLKER: Could I
8 interrupt just for one second? Could I call an
9 immediate meeting of the Codes Committee in Room
10 332, please?

11 ACTING PRESIDENT KUHL: There
12 will be an immediate meeting of the Codes
13 Committee in the Senate Majority Conference
14 Room, Room 332. Codes Committee in Room 332,
15 the Majority Conference Room.

16 Senator DeFrancisco.

17 SENATOR DeFRANCISCO: Mr.
18 President, would you please read the last
19 section on this bill? Senator Leichter would
20 like to be recorded at this time.

21 ACTING PRESIDENT KUHL: The
22 Secretary will read the title.

23 THE SECRETARY: Calendar Number
24 202, by Senator Farley, Senate Print 1955, an
25 act to amend the Real Property Tax Law and the

1 Social Services Law.

2 ACTING PRESIDENT KUHL: Read the
3 last section.

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

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT KUHL: Senator
10 Leichter, how do you vote?

11 SENATOR LEICHTER: No.

12 ACTING PRESIDENT KUHL: Senator
13 Leichter will be recorded in the negative. The
14 roll call is withdrawn.

15 We're on debate on Calendar
16 Number 202, by Senator Farley.

17 SENATOR PATERSON: Explanation.

18 ACTING PRESIDENT KUHL: Senator
19 Farley, an explanation has been asked for by
20 Senator Paterson, the Acting Minority Leader.

21 SENATOR FARLEY: Thank you,
22 Senator Paterson.

23 This particular bill permits
24 counties the option to withhold social service
25 rent payments to landlords who are delinquent in

1 their payment of real property taxes.

2 Currently, Section 159 of the
3 Social Services Law allows landlords who have
4 welfare recipients as tenants to receive rental
5 payments directly from the county Department of
6 Social Services. Problems develop when some of
7 these same landlords are delinquent in their
8 payment of real property taxes. Specifically,
9 some counties are actually sending Department of
10 Social Service checks to landlords when these
11 individuals are failing to meet their financial
12 obligations to pay their property taxes.

13 This bill would correct this
14 inequity by giving counties the option of
15 withholding the social service rent payments due
16 landlords who are delinquent in their property
17 taxes. Rental payments could be withheld until
18 the amount of taxes plus any penalties is paid.

19 The local Department of Social
20 Services would then resume sending payments
21 directly to the landlord. If there were any
22 overpayments of the tax bill, this amount would
23 be returned to the landlord in the next rental
24 payment when the direct payments resume. The
25 landlord is not permitted to evict a tenant

1 whose rental payments are being withheld due to
2 the landlord's tax delinquency.

3 This bill would not create a
4 unique situation. Currently Section 149(b) of
5 subdivision (2) of the Social Services Law gives
6 public welfare officials the power to withhold
7 rents to landlords if it is found that the
8 living conditions of the dwelling are not in
9 compliance with the local building codes.

10 Last year Senator Abate raised a
11 concern, and we added a sentence to clarify the
12 point that, if there are any conflicts, Senator
13 Abate, between the new section and Section
14 149(b) of the Social Services Law -- that's the
15 Spiegel Act -- the existing Social Services Law
16 shall control it.

17 The city of New York is excluded
18 from this legislation. The City, with its
19 numerous rent controls and regulations, has a
20 unique circumstance which would make the
21 implementation of this legislation very
22 difficult.

23 This bill originated in 1993 as a
24 request from the county of Montgomery. It has
25 passed the Senate. It is carried in the

1 Assembly by Assemblyman Tonko and Senator Rath
2 -- I don't know; she's not here -- has always
3 been a strong supporter of -- there you are -
4 this bill and has had personal experience with
5 this in Erie County, and I guess that's about my
6 explanation.

7 Senator Rath, I think would like
8 to add to it.

9 SENATOR RATH: Yes, Mr.
10 President -

11 ACTING PRESIDENT KUHL: Senator
12 Rath.

13 SENATOR RATH: -- if I can.

14 ACTING PRESIDENT KUHL: Senator
15 Rath.

16 SENATOR RATH: This is one of
17 those circumstances that you know somehow, if
18 something is right, it will eventually surface
19 and you will see it again, and it was a
20 circumstance in Erie County where we knew if we
21 could intercept the dollars that were going to
22 the landlords on the vouchers that were going
23 through, that we would be able to pay for some
24 of the back taxes and get that money back
25 flowing in Erie County, and we worked it through

1 with the city of Buffalo, with the comptroller,
2 Joel Giambra, who is getting to be quite a
3 well-known man around all governments. Be that
4 as it may, we worked it with the city of Buffalo
5 because that's where most of the delinquent
6 properties were and it was called Project
7 Intercept, and the vouchers were intercepted
8 actually by the sheriff's office who had to
9 deliver them to the Tax Department, and we were
10 able to bring together -- I think it was
11 something like 4- or \$500,000. It was a
12 sizeable amount of money, and we couldn't
13 continue the project or go any further with it
14 because of state regulations and state
15 considerations, and so we tried to do it from
16 the county level and we tried to get someone on
17 the state level to pay attention and somehow it
18 fell apart and it didn't happen, and when I got
19 here, the first year I got here, I was sitting
20 at my desk as I was just now, and all of a
21 sudden I heard Senator Farley debating a bill
22 and I looked in on it and I listened carefully
23 again, and I thought, It's Project Intercept,
24 and I asked Senator Farley, Where did it come
25 from? and he said, sure enough, he had picked it

1 up from something, from the New York State
2 Association of Counties who probably heard me
3 pontificating about how important this was to
4 make this happen, to get some of those dollars
5 away from landlords who were irresponsible, not
6 only in how they took care of their property but
7 in how they paid their taxes, and I'll tell you,
8 one of the things that got everyone's attention
9 was when we went out with the TV camera and
10 stood in front of some of those properties and
11 said these are the properties who, the next time
12 we come out with the camera, the names of the
13 people will be announced.

14 Now, you would have been
15 surprised -- we were surprised in my community
16 -- who came in and just put thousands of
17 dollars down the next day just like that because
18 they didn't want to have their names identified
19 as people who were that delinquent and who were
20 not taking care of their property and not taking
21 care of their financial responsibilities.

22 I can't speak more highly than
23 that for it. It was wonderful, but we need help
24 from the state in order to make this available
25 for the other -- all across the state for

1 counties to enact.

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

4 Senator Paterson.

5 SENATOR PATERSON: Thank you, Mr.
6 President.

7 Would the firm of Farley and Rath
8 yield for a question?

9 SENATOR FARLEY: Certainly.

10 ACTING PRESIDENT KUHL: Senator
11 Farley, do you -

12 SENATOR FARLEY: I'm the
13 secondary partner. That's Rath and Farley.

14 ACTING PRESIDENT KUHL: Senator
15 Farley yields to a question.

16 SENATOR PATERSON: Thank you,
17 Senator.

18 Just for clarification regarding
19 the question that Senator Abate raised last
20 year, you're saying that Section 143(b) of the
21 Social Services Law, more commonly known as the
22 Spiegel Act, which allows for withholding of
23 monies where there are damages to the actual
24 property, you're saying that that would be the
25 superseding section if there's any conflict with

1 the legislation that you're passing now?

2 SENATOR FARLEY: Yes. I amended
3 the bill at the request -- at the suggestion of
4 Senator Abate and the Spiegel Act would control
5 it.

6 ACTING PRESIDENT KUHL: Senator
7 Paterson.

8 SENATOR PATERSON: Thank you, Mr.
9 President.

10 If Senator Farley would yield for
11 another question.

12 SENATOR FARLEY: Certainly.

13 ACTING PRESIDENT KUHL: The
14 Senator continues to yield.

15 SENATOR PATERSON: Well, Senator,
16 that's actually very helpful if it will
17 alleviate the possibility of conflict of laws in
18 these particular areas, and this is a very
19 creative idea and one that is certainly
20 understandable with respect to the situations
21 where people do not pay taxes on their property
22 and the government obviously is suffering for
23 it, but I'm a little uninspired by what it may
24 accord the tenants in buildings, particularly
25 those who are on social services. Would it not

1 be very possible that landlords, knowing that
2 they would be eligible to lose a lot of that
3 money, would, therefore, discriminate and not
4 rent to such tenants?

5 SENATOR FARLEY: I don't feel
6 that that would be the case at all. You asked
7 that question last year. Let me just check into
8 that. Hold on. I want to get -- be consistent
9 in the answer that I gave you last year.

10 SENATOR PATERSON: Well, Senator,
11 I don't want you to necessarily be consistent.
12 I just want you to respond.

13 SENATOR FARLEY: I know. I guess
14 I didn't answer that last year.

15 I don't think that there would
16 really be a discrimination in that regard. What
17 it will do, in my judgment, is to have the
18 landlord pay his taxes, and I think this is an
19 appropriate thing that should be done. The
20 counties are plagued with these -- with these
21 people that are not paying their taxes on time,
22 having to forego the money and put it up
23 themselves, and yet the rents are being paid by
24 the Department of Social Services. I think it's
25 only fair that the landlord pay his taxes,

1 particularly when much of his rent is coming
2 from Social Services.

3 ACTING PRESIDENT KUHL: Senator
4 Paterson.

5 SENATOR PATERSON: Thank you.

6 If the Senator would continue to
7 yield.

8 ACTING PRESIDENT KUHL: Senator
9 Farley, do you continue to yield? The Senator
10 continues to yield.

11 SENATOR PATERSON: Mr. President
12 and Senator Farley, I have the same concern that
13 you have with respect to the landlord and to
14 whatever extent this legislation will be helpful
15 in that regard, I can see myself supporting it.

16 What I'm just saying is that
17 these individuals, who we both agree have not
18 complied with what their responsibilities, were
19 as owners of property, certainly are in many
20 ways either lacking the resources or the
21 facility to keep the property at times in the
22 condition that it should be in, and I'm afraid
23 that the -- that the resources being taken away
24 from the landlord would inure to the detriment
25 of the tenants if the certain rehabilitation or

1 certain remedies to damages on the property are
2 not made, and so I just wanted to add to that
3 what is a concern regarding the fact that since
4 the landlords know that this policy will be in
5 application, that they would further be less
6 willing to rent to individuals where there would
7 be obviously some redress.

8 I'm not saying that this is
9 right. I'm just saying that this is something
10 that they would be likely to do, and I'm just
11 wondering what the effect of the legislation is
12 going to be if it actually denies the
13 opportunity of individuals who are on social
14 services and their particular cases, they have
15 not -- the fact that they're on social services
16 does not make them irresponsible. It just puts
17 them in the position where they are requiring
18 some assistance from the state, and if that is
19 now withheld from the landlord and that becomes
20 a policy that landlords know, particularly with
21 this avoiding behavior of paying the taxes in
22 the first place, I'm just concerned that there's
23 a possibility that the prospective tenants would
24 be hurt by passing this legislation.

25 SENATOR FARLEY: I truly do not

1 feel -- for instance, you're mentioning that
2 that's a resource that the landlord needs to
3 keep the building in repair. I don't feel that
4 the real property taxes that are due and owing
5 should be a resource that the landlord uses.

6 I'm sorry. I just have to
7 disagree with that, Senator Paterson, and under
8 this bill they cannot evict a tenant, and I'm
9 confident that there would not be
10 discrimination.

11 SENATOR RATH: Senator Farley -
12 Mr. President, through you, if Senator Farley
13 would yield.

14 Senator Paterson, when we were
15 looking at the same issue at the county level,
16 we were working at great length with the city of
17 Buffalo, and the question came up about the
18 pieces of property that were not up to the code
19 level and what was our circumstance going to be
20 when we were intercepting that.

21 Now, I don't mean to muddy the
22 waters on this, Senator Farley, because it
23 turned out, after much examination, that they
24 are different issues, but the second one is
25 valid and once we found that we had a piece of

1 property where the taxes were not being paid,
2 the next question came about code enforcements
3 and what kind of condition that building was
4 being kept in, which was a very valid question
5 and a very valid consideration but it was a
6 separate question, and we knew if we could get
7 the one answered, that we could move to the next
8 one, but we never could get the one answered and
9 this was why Senator Farley's legislation is
10 like the first step in the process, the second
11 step would come.

12 That was what we thought when we
13 were dealing with this ten years ago at the
14 county level, but your point is valid and it was
15 the same question asked by the city of Buffalo.

16 ACTING PRESIDENT KUHL: Senator
17 Paterson.

18 SENATOR PATERSON: Mr. President,
19 if Senator Rath would yield.

20 ACTING PRESIDENT KUHL: Senator
21 Rath, do you yield to a question? The Senator
22 yields.

23 SENATOR PATERSON: Well, Senator,
24 if we could get past that first step -- in other
25 words, if we were to pass this legislation in

1 the Assembly and codify what Senator Farley is
2 proposing, what would be your suggestion as to
3 how we could maintain the building for the
4 benefit of not just the tenants who were on
5 social services but all the tenants with the
6 landlord in arrears and we've diverted the
7 social service money for taxes?

8 SENATOR RATH: I would think that
9 we would have to take time and go to work with
10 the Housing Committees in both houses of the
11 Legislature and take a look at where the
12 sticking point was in the buildings, whether it
13 was a health code, whether it was an aesthetic
14 kind of thing that people were saying, because
15 this was, again, part of the discussions, and
16 I'm trying to remember them because, for
17 aesthetic purposes, if someone would rather have
18 a green wall than a blue wall, I don't think,
19 you know, we would certainly need to get in
20 between the landlord and his tenants on items
21 like this, but if there's a health or safety
22 problem, I think, yeah, we do have something
23 that we have to talk about, and sometimes these
24 are the same properties that we're talking
25 about.

1 Senator Farley's got something to
2 add to it.

3 SENATOR FARLEY: I just want to
4 say on this issue, if I understand the -- the
5 debate that's going on here, currently Section
6 149(b) of the -- in subdivision (2) of the
7 Social Services Law gives the public welfare
8 officials the power to withhold rents already if
9 it is found that the living conditions of the
10 dwelling are not in compliance with the building
11 code. So we can already withhold the rents if
12 there's a code violation there.

13 What we're saying now is that if
14 they're in arrears in taxes -- seriously in
15 arrears in taxes, that social services can
16 withhold the rents going to the landlord.

17 ACTING PRESIDENT KUHL: Senator
18 Paterson.

19 SENATOR PATERSON: Thank you, Mr.
20 President.

21 The Senators have been very
22 responsive and they've worked very well together
23 and they have actually alleviated a couple of
24 concerns.

25 Since we talked about the bill

1 last year, Section 143(b) of the Social Services
2 Law, the Spiegel Act, would supersede in matters
3 where it conflicts with the legislation that
4 Senator Farley is proposing, and Section 149(d),
5 I guess, would apply if you have a situation
6 where the property falls into disrepair due to
7 inaction on the part of the landlord after much
8 of the money was diverted for tax purposes, and
9 so two of the three concerns that we have really
10 raised have been effectively answered and
11 cleared up, but just this point, on the bill, is
12 that we are still concerned that the landlord -
13 that this is kind of what might be the natural
14 response of the landlord at a point when this
15 money that the landlord had an expectation of
16 collecting for rent winds up going to pay the
17 back taxes and that that might actually be the
18 catalyst for the building falling into
19 disrepair.

20 Now, I don't suggest that that is
21 something that I can be sure would actually
22 occur. It's just something that I would suggest
23 might occur, but what I'm very sure of is that
24 where landlords are aware that this process is
25 in motion -- and with all due respect to

1 Senators Rath and Farley, who have made every
2 effort to improve this bill such that everyone
3 here might be able to vote on it -- I'm still
4 not convinced that landlords who are exercising
5 such avoiding conduct in paying the rent in the
6 first place are not going to be very selective
7 of who they rent to, knowing full well that if
8 there's any kind of -- any kind of withholding
9 of the property taxes, that there's going to be
10 a -- this kind of response, and what I think is
11 that it creates a sort of protected class for
12 those who are tenants who are paying their own
13 rent, and I'm just suggesting, and would be
14 willing to work with both of the Senators, that
15 there must be another administrative remedy that
16 we can take against these landlords for not
17 paying their taxes. They certainly deserve
18 exactly what Senator Farley is proposing right
19 here.

20 I think his proposal is quite
21 creative, and it really would send a strong
22 message to property owners who aren't paying
23 their taxes. All our concern is for the
24 individuals who would be bystanders to the
25 process who might be injured by the action.

1 ACTING PRESIDENT KUHL: Any other
2 Senator wishing to speak on the bill?

3 (There was no response.)

4 Hearing none, the Secretary will
5 read the last section.

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

8 ACTING PRESIDENT KUHL: Call the
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT KUHL: Announce
12 the results when tabulated.

13 THE SECRETARY: Those recorded in
14 the negative on Calendar Number 202 are Senators
15 Connor, Kruger, Lachman, Leichter, Markowitz,
16 Montgomery, Paterson, Sampson, Santiago and
17 Stavisky. Ayes 51, nays 10.

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 Senator Marcellino, that
21 completes the reading of the controversial
22 calendar active list. What's your pleasure?

23 SENATOR MARCELLINO: Mr.
24 President, can we call up at this time Calendar
25 240, Senate 2959, Senator Padavan's bill?

1 ACTING PRESIDENT KUHL: On page
2 13, at the bottom of the page, Calendar Number
3 240, by Senator Padavan, Senate Print 2959, I'll
4 ask the Secretary to read the title.

5 THE SECRETARY: Calendar Number
6 240, by Senator Padavan, Senate Print 2959, an
7 act to amend the Tax Law and the Administrative
8 Code of the city of New York.

9 ACTING PRESIDENT KUHL: There is
10 a home rule message at the desk. Is there any
11 Senator wishing to speak on the bill?

12 (There was no response.)

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

15 THE SECRETARY: Section 15. This
16 act shall take effect immediately.

17 ACTING PRESIDENT KUHL: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 61.

21 ACTING PRESIDENT KUHL: The bill
22 is passed.

23 SENATOR MARCELLINO: Mr.
24 President, is there any housekeeping at the
25 desk?

1 ACTING PRESIDENT KUHL: Yes, we
2 do. We have a report from the standing
3 Committee on Transportation we would like to
4 read at this time.

5 SENATOR MARCELLINO: Have that
6 report read, please.

7 ACTING PRESIDENT KUHL: We'll
8 return to the order of reports of standing
9 committees.

10 I'll ask the Secretary to read
11 the report of the Transportation Committee.

12 THE SECRETARY: Senator Levy,
13 from the Committee on Transportation, reports
14 the following bill direct to third reading:
15 Senate Print 706, by Senator Bruno, an act to
16 amend the Vehicle and Traffic Law, in relation
17 to the disqualification of a bus driver in
18 certain instances.

19 ACTING PRESIDENT KUHL: On the
20 motion of Senator Marcellino to accept the
21 report of the Transportation Committee, all
22 those in favor signify by saying aye.

23 (Response of "Aye".)

24 Opposed, nay.

25 (There was no response.)

1 The report is accepted. The bill
2 is reported directly to third reading.

3 Senator Marcellino.

4 SENATOR MARCELLINO: Mr.
5 President, we're going to have to ask the
6 Senate's indulgence to stand at ease until we
7 get our report from the Codes Committee.

8 ACTING PRESIDENT KUHL: The
9 Senate will stand at ease awaiting the report of
10 the Codes Committee, which should be
11 momentarily.

12 (Whereupon, from 4:03 p.m. until
13 4:15 p.m., the Senate stood at ease.)

14 ACTING PRESIDENT KUHL: The
15 Senate will reconvene.

16 Senator Skelos.

17 SENATOR SKELOS: Return to
18 reports of standing committees. I believe
19 there's a report of the Codes Committee at the
20 desk. I ask that it be read.

21 ACTING PRESIDENT KUHL: We'll
22 return to the order of reports of standing
23 committees.

24 The Secretary will read the
25 report of the Codes Committee.

1 THE SECRETARY: Senator Volker,
2 from the Committee on Codes, reports the
3 following bill direct to third reading: Senate
4 Print 1800, by Senator Maltese, an act to amend
5 the Penal Law.

6 SENATOR SKELOS: Move to accept
7 the report of the Codes Committee.

8 ACTING PRESIDENT KUHL: The
9 motion is to accept the report of the Codes
10 Committee. All those in favor signify by saying
11 aye.

12 (Response of "Aye".)

13 Opposed, nay.

14 (There was no response.)

15 The report is accepted. The bill
16 is ordered directly to third reading.

17 Senator Dollinger, why do you
18 rise?

19 SENATOR DOLLINGER: Mr.
20 President, was that a debatable motion, to
21 accept the report of the Codes Committee?

22 ACTING PRESIDENT KUHL: Was it?

23 SENATOR DOLLINGER: Well, Mr.
24 President, I was standing. I wanted to be
25 recognized to be heard on that issue.

1 ACTING PRESIDENT KUHL: Well, the
2 motion was adopted. I didn't see you, Senator
3 Dollinger. I apologize.

4 SENATOR DOLLINGER: That's fine,
5 Mr. President. I'll just explain my vote, if I
6 may.

7 I would like to be recorded in
8 the negative on accepting the report from the
9 Rules Committee. I made my view of this issue
10 known. I greatly respect the Chair of the Rules
11 Committee and I know that this procedure -- this
12 bill could have been brought to the floor even
13 quicker but, nonetheless, Mr. President, I
14 believe this is the wrong way to legislate.

15 I think that this is an area, in
16 particular, where we need more information. We
17 will probably have the debate some time next
18 week about this bill. It will be a debate about
19 rhetoric, it will be a debate about politics, it
20 will be a debate about who's telling the truth
21 and who isn't, but what it will not be a debate
22 about is about scientific facts that were
23 gathered by this chamber and the people in it
24 and that, unfortunately, on this issue, in my
25 opinion, will be a great disservice to the

1 public.

2 ACTING PRESIDENT KUHL: Senator
3 Dollinger, the record will reflect that Senator
4 Dollinger voted in the negative on the motion
5 to -

6 SENATOR SKELOS: Mr. President,
7 there being no further business, I move we
8 adjourn until Wednesday, March 5th, at 10:00
9 a.m. sharp.

10 ACTING PRESIDENT KUHL: The
11 motion is to adjourn -- it's non-debatable -
12 'til tomorrow. All those in favor signify by
13 saying aye.

14 (Response of "Aye".)

15 Opposed, nay.

16 Senator Paterson, do you wish to
17 explain your vote on the motion to adjourn?

18 SENATOR PATERSON: Mr. President,
19 I just wanted to -- no. I'm very much in favor
20 of adjourning, Mr. President, but I just wanted
21 to point out that Senator Volker did inform the
22 ranking member, Senator Waldon, that he did want
23 to have that Codes Committee report. With all
24 fairness to Senator Volker but on the rest of
25 the issue of the seasonableness of the -- of

1 whether this report should be accepted, I agree
2 with Senator Dollinger and with that, Mr.
3 President, I bid you farewell for another day
4 here in this chamber.

5 ACTING PRESIDENT KUHL: The
6 Senate stands adjourned until tomorrow,
7 Wednesday, May 5th, at 10:00. Note the time
8 change, 10:00 a.m.

9 (Whereupon, at 4:18 p.m., the
10 Senate adjourned.)

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