ALBANY, NEW YORK

March 12, 1997

11:05 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to take their places, the staff to take their places. I'd ask everybody in the chamber to rise and join with me in saying the Pledge of Allegiance to the Flag.

(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.)

The reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 11th. The Senate met pursuant to adjournment. The Journal of Monday, March 10th, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Maltese, from the Committee on Elections, offers up the following bills:

Senate Print 1167, by Senator Lack, an act to amend the Election Law, in relation to polling places;

1440, by Senator Maltese, an act to amend the Election Law, in relation to political committees;

1474, by Senator Maltese, an act to amend the Election Law, in relation to cancellation of registration;

2069, by Senator Johnson, an act to amend the Election Law, in relation to the transmitting of certain information;

2651, by Senator Farley, an act to amend the Election Law and the State Finance Law.

All bills directly for third reading.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, the bills are ordered directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos, we have a substitution at the desk. Can we take that up.

SENATOR SKELOS: Make the substitution.

ACTING PRESIDENT KUHL: The Secretary will read the substitution.

THE SECRETARY: Senator Libous moves to discharge from the Committee on Health Assembly Bill 4394 and substitute it for the identical Senate Bill 1913.

ACTING PRESIDENT KUHL: The substitution is ordered.

Senator Skelos.

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

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

THE SECRETARY: Calendar Number 36, by Senator Velella, Senate Print 355-A, an

act to amend the General City Law and the Penal Law, in relation to creating the crimes of urinating in public.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 110, by Senator Present, Senate Print 765, an act to amend the State Administrative Procedure Act, in relation to compliance requirements.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 150, by Senator Cook, Senate Print 366, an act to amend the Education Law, in relation to defining non-residents of a district for

purposes of admission.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 206, by Senator Present, Senate Print 909-A, an act authorizing the Belmont Central School District name change.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 238, by Senator Hannon, Senate Print 1499, an act to amend the Public Health Law, in relation to reimbursement of city or county medical expenses.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 239, by Senator Seward, Senate Print 1943, an act to amend the Public Health Law, in relation to authorizing the provision of Hospice.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 247, by Senator Skelos, Senate Print 310, an act to amend the Executive Law, in relation to the

search of criminal history records.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 252, by Senator Farley, Senate Print 2144, an act to amend the Banking Law and the Criminal Procedure Law, in relation to the regulation of licensed transmitters of money.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 253, by Senator Farley, Senate Print 2145, an act to amend the Banking Law, in relation to money transmitters.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 279, by Senator Rath, Senate Print 2396, an act to amend the Village Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the reading of the non-controversial calendar.

SENATOR SKELOS: Take up the controversial calendar, please.

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar, beginning with Calendar Number 36, by Senator Velella.

THE SECRETARY: On page 4, Calendar Number 36, by Senator Velella, Senate Print 355-A, an act to amend the General City Law and the Penal Law, in relation to creating the crimes of urinating in public.

SENATOR PATERSON: Explanation.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number

150, by Senator Cook, Senate Print 366, an act to amend the Education Law, in relation to defining non-residents of a district for purposes of admission.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: Senator Cook, an explanation of Calendar Number 150 has been requested.

SENATOR COOK: Mr. President, this bill permits a school district to charge tuition for students who are residing in tax exempt properties.

With the problems that we have of trying to fund schools adequately, when we have large establishments within school districts which are sending substantial numbers of students to the school district and are contributing absolutely nothing toward the cost of educating those students, it simply shifts the burden to everybody else who resides there.

In one particular school district, the assessed value of that particular property is over $1 million that is off the tax rolls. Conversely, there are 30 students

attending school -- the Fallsburg School from one particular property at a cost of at least $100,000 per year to all the other taxpayers in the school district and those students are contributing absolutely nothing toward the cost of their education and the property is contributing nothing toward the general budget of the school district.

So this is an attempt to remedy that situation by permitting the school district to charge tuition to those students who reside in that type of property.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Cook will yield for a question.

ACTING PRESIDENT KUHL: Senator Cook, do you yield? Senator Cook yields.

SENATOR PATERSON: Thank you, Senator.

I can certainly understand the public policy of trying to make sure that any students that use our public schools share in

the cost, or at least that their families share in the cost and that with the difficulty funding schools, that large sums of money that would be not operable because individuals are living on poverty that's not taxed is -- would be a significant issue.

My question to you is do you see this legislation as the only remedy? Wouldn't an impact fee or some kind of use tax that might be applied more to the entity, not to the individuals who are using the school, achieve the same purpose and not in any way penalize children from getting their education?

SENATOR COOK: Mr. President, I don't disagree with that statement. Unfortunately, we have had numerous bills through the years that have attempted to take that type of approach to this problem.

We've had bills that, for example, limit a -- the tax exemption to only the portion of the property that's actually used for the exempt purpose which would mean all the residential portions of those properties where people simply live would have been taxable just like everyone else. That's one example.

A second bill that we've attempted to get passed limits the acreage to a limited numbers of acres, except that the property owner is able -- if they are able to prove that additional acreage is utilized for the exempt purpose, that that can be added to the acreage. We have never been able to get that passed as well.

We are attempting a third effort now in a different direction because the first two don't seem to meet the approval of the members of the Legislature for -- or at least the mechanism by which these bills get passed. We have been able to get the bills out onto the floor in the Senate on several occasions. Never even been able to get them out of committee in the Assembly. In the meantime, the other taxpayers in the district where the property taxes continue to escalate are paying the cost of educating these students who live and are getting a totally free education.

The irony is that people who attend private schools are both paying taxes to the school district and paying tuition in the private schools but these people are living on a

religious property and attending the public schools and paying nothing and getting the benefit of the education. So it's actually the flip side of what the folks are who attend private schools. So it's really trying to remedy a problem in a very narrowly crafted way.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Cook would continue to yield.

SENATOR COOK: Yes.

SENATOR PATERSON: Mr. President, I'm wondering if this bill is not in many ways over-reaching because, while I can understand a large entity, some religious institution having a number of residents on it, they're using the public schools, as you said and pointed out, I think very aptly, when their neighbors are not only paying school taxes but maybe sending their children to private school, does seem as if there is a pretty severe inequity but, Senator Cook, what about the local minister who just lives where the religious institution is, who lives next door to the church and it's on the church's property? Because of the way this bill

is laid out, it's at least my understanding that that minister and his family may be charged for the education of his children when their service to the community may never really be repaid even by the fact that the location in which they reside allows them not to have to pay the school taxes.

So what I'm saying is I think this legislation is going too far and is not specific, what you're probably trying to address, which are those large institutions and would you consider finding a way to scale the legislation down so that it would coincide with the entities that you're trying to address?

SENATOR COOK: Mr. President, the difficulty, Senator, as you fully recognize, is the equal protection requirement. You simply cannot pick out one religious organization simply because they happen to have a large number of students who are attending a school and charge them tuition, whereas someone else who maybe only has one child attending a school is exempt. So, in fact, you are correct.

If the school district chooses to charge that tuition, they do have to charge it

to everyone who lives on an exempt property in the district. That being the case, I would indicate parenthetically that it is increasingly the practice, at least among Protestant denominations -- and generally Catholics don't have children so we don't have that problem there -- that they pay housing allowances and the pastors actually own their own properties and pay taxes on them anyway. So I think that's getting to be less of a differentiation than originally it was.

However, you are correct, of course, that if a school district chose to charge tuition to the students in this particular institution that I'm discussing, they would have to charge taxes on all the other properties -- charge tuition to students residing in all the other exempt properties in the district.

SENATOR PATERSON: Mr. President, if the Senator would continue to yield.

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

SENATOR COOK: Yes, Senator

Paterson.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR PATERSON: Senator Cook, I'm actually in a way disappointed that you agreed with my statement, and the reason is because I think that the issue that you're trying to address does identify a real inequity and had it been the case that perhaps some of the local ministers that just live on the properties of their churches -- you know, had been a way to exempt them, perhaps this legislation would be more appealing to me, and you're probably right about the equal protection clause as it would extend to those ministers, which is why the nature of the bill concerns me to a great degree.

Therefore, what I'm suggesting takes us back to my original question which is there's got to be some kind of substitution, some kind of use tax or impact statement that could be assessed to the entity rather than the individuals, whereby the government would collect what it needs and the children would not be in any way punished, because my fear is that

you're going to be assessing tuition to individuals who can't pay them and certainly their families are extending a great service to the local community.

SENATOR COOK: Mr. President, I fail to see how, for example, the bill -- the other bill I mentioned which said that only the portion used for the tax-exempt purpose would be exempt. That, of course, would also include the residents of the clergy member as taxable property. In fact, it would be even more so because it would even include people who do not have -- who are not sending children to school because it would be a tax on the property.

Senator, let me just tell you, we have been trying to deal with this problem for more than a decade. We had a meeting -- and I'm going into ancient history here, but we had a meeting in which we called all the religious organizations of the state, the Catholic bishops, the Catholic churches, the Jewish organizations. We had representatives of the city of New York and we said to them, you know, you tell us what you think would work. Their response was, yes, we will try to get back to

you and find a solution to this problem. The response after all these years has been absolutely nothing because they have felt that they have been able to successfully so far stonewall the issue and not get any action taken by this Legislature.

In the meantime, we have folks out there who are suffering under the burden of property taxes who probably are less able to pay the property taxes and the very people that you're trying to protect in your statement and who have no choice except to pay the taxes, whereas the other folks are getting a free ride.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I want to thank Senator Cook for, I think, a pretty thorough explanation.

Speaking on the bill -

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: My concern over this legislation is the precedent that it may set. If the religious institution rents out

the property, would we then be charging the renter a tuition that they might not be able to pay to send their children to the public school?

In the situation of the minister, where the salary of the minister already assumes that the minister is not paying any property taxes because the entity, the religious institution is paying them, now we're going to assess the minister a tuition cost. There are a lot of ministers who serve almost at the pleasure and don't really collect large sums of money from their churches. So I think that the problem that Senator Cook is trying to address, interestingly enough, is better addressed by the other pieces of legislation that he referred to earlier which really would create the scenario whereby the government would be collecting what it certainly provides in services going around what would be the -- certainly the tax exemption in certain situations, but in the current piece of legislation that's before us, I think it would open up the door and make it very difficult for a number of outstanding ministers and other clergy in our institutions from

serving us particularly well in an attempt to stop a process that does need to be stopped. I just think that we're going to have to find a better way.

ACTING PRESIDENT KUHL: Senator Lachman.

SENATOR LACHMAN: Would the distinguished Chairman of the Education Committee continue to yield?

ACTING PRESIDENT KUHL: Senator Cook, do you yield to Senator Lachman?

SENATOR COOK: Well, I'll send out and ask him if he would come in.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LACHMAN: Senator Cook, how many children approximately are involved in this?

SENATOR COOK: In this particular property, it's 30 -- about 30 children.

SENATOR LACHMAN: About 30 children.

SENATOR COOK: It varies a little bit because, interestingly enough, to give a little bit of the scenario, these are often

children of very wealthy, out-of-state people who simply come to this place and stay there for a period of time and attend the local schools. So it's sort of a changing population.

SENATOR LACHMAN: I'll be discussing that on the bill in a few minutes. Will you continue to yield for another question or two?

SENATOR COOK: Yes.

SENATOR LACHMAN: Do you know of any precedent in this county or in the state of New York where children -- or the parents of children have to pay money even though they're residing in buildings which are tax-exempt, thereby denying them resident status and charging their children to attend the public schools of the district in which they live?

SENATOR COOK: Senator, I don't believe that's possible under present law. That's what this law would -- what this bill would do is change the law so that would conceivably be possible.

SENATOR LACHMAN: So what you're saying is that this is a precedent bill that would change the law, not only in your district

in reference to 30 children but would change the law for the entire state of New York.

SENATOR COOK: That's correct, Senator. I would indicate, however, Senator, that the bill is a local option. In other words, the district does not -- is not mandated to charge tuition. It's their choice.

SENATOR LACHMAN: I know that you have checked the constitutional issue, Senator Cook, because you are a very meticulous and intelligent person, but has the issue of constitutionality of establishing such a precedent in the state of New York arisen in your deliberations regarding this bill?

SENATOR COOK: Mr. President, the issue of constitutionality is always raised whenever any of these tax exemption bills comes before us and, again, that is why in this case we believe we have responded to that because we're not taxing the exempt property, per se. We're putting -- to use Senator Paterson's words, we're really charging a service charge to the persons who reside on those properties.

SENATOR LACHMAN: On the bill, Mr. Chairman.

ACTING PRESIDENT KUHL: Senator Lachman, on the bill.

SENATOR LACHMAN: I understand Senator Cook's frustrations and the people who live in South Fallsburg in Sullivan County because this bill is even more complex than perhaps the Senator realizes and my colleagues realize.

It touches upon basic constitutional rights and it also impacts upon not only religious groups but what has been called by the New York -- the publication, The New Yorker, a group that might not necessarily be defined in the normative terms of religion but has been called by researchers a cult group.

Now, we are discussing a group known as Syda, S-y-d-a, Syda Yoga Dam, which is a multi-million-dollar complex in South Fallsburg, and if I'm wrong, Senator Cook, please correct me. There are ashrams now in the hotel -- former hotels known as Brickman's, Gilbert's and I believe the Windsor and, at any one time, there could be 3,000 people at a particular ashram.

Now, in a recent article in The

New Yorker magazine, as well as other articles that have appeared in Time Magazine and the Village Voice, this group was discussed, and I think the discussion impacts upon the educational issue we have before us.

The founder -- if I may for five minutes -- of Syda Yoga Dam or home of Syda Yoga was Swami Muktananda who died in October of 1992. He came to America in 1970 and founded this group. According to his will, he was supposed to be succeeded by a sister and brother whose names are Gurumayi and Nityananda.

There was a violent split between these siblings, between the sister and brother and the sister came out on top. Both sides have accused the other side of using brainwashing, sexual and physical abuse of women and children and the focusing of veneration upon an individual rather than a deity. Both sides, according to The New Yorker article, have called the other group a cult group and not a religion, and that is a major issue because if it is accurate, it might not have tax exemption. Some have even called this group a destructive cult.

Now, there is an agency in New

York State known as the Interfaith Coalition of Concern About Cults which consists of Protestants, Catholics, Jews, people of Eastern Orthodox faith, Muslims and others and they have defined the destructive cult with three characteristics:

1. A cult is a self- -- has a self-appointed Messianic leader who focuses his or her follower's veneration upon him or her claiming divine selection and exercising autocratic control over members;

2. The use of deception and misrepresentation for the purposes of recruitment, retention and fund-raising;

3. Using techniques aimed at controlling individuals' thought and personal privacy that frequently lead to coerced reconstruction of personality which means simply brainwashing.

Some have said in articles that I have read that this group falls within at least two if not all three criteria of a cult group.

Now, the bill before us proposes to punish children and parents residing in these buildings which are tax-exempt by denying them

resident status and charging them to attend the public schools of the district where they reside.

I agree with NYSUT that this would be unfair, if not unconstituional. Now, NYSUT recommends a use tax or impact fee upon the group's properties that are tax-exempt. Now, I have problems with that and I have discussed it with the NYSUT representatives.

A use tax in this nation is usually if not always used on a voluntary basis, usually for water and rarely, if ever, for education. Since the tax on the building could be in violation of the First Amendment and the tax on the children and the parents would, as NYSUT states, violate the tradition of free public education, I would recommend that an exception be made for these 30 youngsters without taxing their parents and without taxing the buildings, and I recommend an exception because of all the children in the state of New York. If these articles that I have read are to be believed, these are the children that need a free public education with free inquiry and free thought. That is the American way.

I would, therefore, have to oppose this legislation. Thank you.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Dollinger.

SENATOR DOLLINGER: Will the sponsor yield to a couple questions, Mr. President?

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

SENATOR COOK: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator, could you just tell me, would this bill apply to children that are in group homes in a school district if that group home is owned by the state of New York?

SENATOR COOK: Senator, I don't believe that under the definition of exempt properties, municipally-owned properties, that they would be liable. However, it could apply to properties that are owned by non-profit organizations.

SENATOR DOLLINGER: Okay. We

have a group home -- again, through you, Mr. President, if the sponsor would continue to yield. We have a group home in the community I live in which is run by DFY. The property is actually owned by the state of New York. It is tax-exempt because it's owned by another municipal government. There are about a dozen young men that live in that facility, are educated in the Brighton School District. How would they pay tuition?

SENATOR COOK: Well, as I indicated, Mr. President, those particular students, because they are living in a state owned property, would not be but -- because of other sections of law, the state simply doesn't -- isn't taxable, but I will not beg your question because there are certainly properties that are owned by non-profit organizations where they do have people attending schools, but I would indicate, Mr. President, that, in fact, there would be a tuition due the district and, in fact, this is a problem as well because, again, we are facing increasing opposition in the placement of group homes in school districts because that burden is, in fact, then absorbed

by the local school district and the school district has no means of recouping any costs - any of its costs relative to those students.

So even though it's not the intent of this bill to address that particular problem, I think that it would -- it would, in fact, apply or could apply to those cases but it, in fact, may also be a remedy for a different problem that we have which is a matter of the communities that are getting saturated by group homes that are imposing costs upon local school districts for whom there's -- for which there is no reimbursement.

SENATOR DOLLINGER: Through you, Mr. President. In some of those cases, those group homes involve children who are wards of the particular local social service district or, in some cases, actually wards of the not-for-profit entity that places them in those homes. Is it your intention that they would have to pay tuition?

SENATOR COOK: Mr. President, I would assume that if someone is financially responsible for the bills of a particular child and there is a bill that -- charges levied

against that child, that whoever is financially responsible for that child, indeed, becomes financially responsible for the charge, yes.

SENATOR DOLLINGER: Again through you, Mr. President, if Senator Cook would continue to yield. Is there anything in this bill that prevents the local school district from charging a tuition that would reflect the actual cost of educating a child who has enormous special needs that requires their placement in a group home? As you know and I'm sure well aware, that cost would be many, many multiples of the tuition charge that a school district would otherwise set. Is there anything that prevents the school district from charging the actual cost of special education for those special disabled populations?

SENATOR COOK: Mr. President, I believe that the present law which permits school districts to charge aid tuition to students from other school districts -- and that already exists in law -- provides that it be a uniform tuition large, and I would indicate, Senator, as you know, that the school district does receive excess cost aid and various kinds

of things from the state which help pay some of those costs.

SENATOR DOLLINGER: May ameliorate some of the costs. Again through you, Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT KUHL: Senator Cook, do you continue to yield? The Senator continues to yield.

SENATOR DOLLINGER: How would this apply in the case of a graduate student dormitory? Again, I represent a community - the University of Rochester has a very substantial graduate student housing complex in one of my school districts. There are many young children who are picked up by the buses every single day. I assume, and I should add, that I'm not 100 percent sure, but I believe those apartment buildings are all tax-exempt as part of the university property. Would they be included as well?

SENATOR COOK: Mr. President, those properties could be included and, again, if the folks who reside and own homes in those school districts are picking up the cost of

educating those students, I see no reason why those students shouldn't be required to pay a tuition cost. It is, after all, a burden upon the other taxpayers in the district who are, in effect, subsidizing them.

SENATOR DOLLINGER: Again through you, Mr. President. Senator, are you familiar with the programs that are sponsored by DHCR and other entities that create a reduction in taxes for new homeowners in special property developments where they are exempt from all real property taxes for the first two years as an incentive for home ownership and, therefore, they phase in their school taxes over time so theoretically you could buy a house and not pay any real property taxes in the very first year; would this bill say to those people who are trying to be first-time buyers of homes, that instead of paying your property taxes for the schools, you have to go out and tuition finance the education of each of your children in that first year?

SENATOR COOK: Mr. President, that is correct. If the people are living in a tax-exempt property and they're sending children

to the public school, they are, again, responsible for paying the cost of that education for the children, and I don't see how that violates the principle of helping people buy their property. You know, we give that as a benefit, but I don't see where it's a right that we necessarily owe it to them.

SENATOR DOLLINGER: Just a final question, Mr. President. What does this do to the concept of the old vicarage, that is, in the Protestant churches, the home that is purchased usually on the church grounds, I assume, Senator -- and I don't know for a fact -- but I assume it's part of the tax-exempt status, that it doesn't pay real property taxes. It's a benefit that's given to the vicar of the church so he can live in a property that is part of his salary. They reduces his salary, he gets housing. Would his children have to pay tuition as well?

SENATOR COOK: Mr. President, if the school district were to impose that cost upon the -- were to impose a fee, that, indeed, would be the case, but let me also indicate, if I happen to live in a school district -- and I

have a number of them in my area -- where the only such residences would be occupied by Protestant ministers, then why should I expect the Catholic residents and the Jewish residents to, in fact, subsidize the pastor of a Protestant church, which is basically what they're doing under the present law.

SENATOR DOLLINGER: Thank you, Mr. Chairman.

I appreciate the candor of the Chairman of the Education Committee, but I'm going to oppose this bill. I think that there are many obstacles to be faced in achieving access to public education.

I'm concerned because there are a number of things which I have tried to highlight, areas that we may not necessarily think of as tax exempt for a year but nonetheless are. It would seem to me that if we were encouraging home ownership in my community, both in the city of Rochester, the town of Brighton, the town of Greece that I represent, and what we're doing is we're asking DHCR to come in with very innovative programs to allow the working poor to buy homes and as part of

those programs, we absolve them from the obligation to pay real property taxes in the first year of ownership and phase in their payment of those taxes so that after a period of five years they are then at full assessment and are paying their full share, that's an incentive for them to own a home.

If what we do is say to those parents, we're going to give you an incentive to buy the house but, oh, by the way, you've got to come up with $8,000 or $6,000 or 5- -- and I believe in the communities that I represent, the going tuition rate is in excess of $6,000 - it's far more than what they would pay in real property taxes for schools. So we end up in a situation where we give them an incentive to buy a home and then we immediately force them to go and pay tuition if their local school board decides that's appropriate.

I'm concerned about the vicarage, the fact that there's a church somewhere that has bought property for its minister to live in, that he or she has children and that suddenly a school district says we're now going to assess tuition on you even though you live in our

school district.

Lastly, I'm concerned about the issue of group homes. There's been a group home experiment in my community involving youths from DFY. There are a dozen kids that live in that house. It's right across from the Brighton Town Hall. They've done a very good job in the Brighton School District in trying to bring them into the school district, to mainstream them, to make up for educational deficiencies. The school district has done it, I believe without the payment of tuition. I think what we ought to be doing is encouraging school districts to live up to their responsibilities so that everybody gets a free public education.

I'm concerned that the tuition costs will be far more than what they would otherwise pay in real property taxes and for those reasons -- I'm also concerned about the college dormitory. I think that's another huge problem. We should be encouraging people to take advantage of free public education.

This bill steps away from that. I understand why the New York State United Teachers oppose it. I would urge my colleagues

to do the same.

ACTING PRESIDENT KUHL: Senator Waldon, do you wish to speak on the bill? Senator Waldon? Senator Waldon, I know you're having a wonderful conversation.

SENATOR WALDON: I had had a discussion with the Majority Leader in regard to being permitted to vote no on Bill Number 36 because there's a hearing of Racing and Wagering that I need to attend, Mr. President. I don't know if that's appropriate at this moment.

ACTING PRESIDENT KUHL: I would like to finish debate on this bill.

SENATOR WALDON: That's fine. I had that discussion and that was what I thought would happen.

ACTING PRESIDENT KUHL: We'll move to Senator Stavisky. We'll be back to take your vote in a moment then, Senator Waldon.

SENATOR STAVISKY: Mr. Speaker, I heard the artful presentation of Senator Lachman, Senator Dollinger, and I do not wish to duplicate the points that they have raised.

In my district, the district that I represent for many years, was a military

establishment known as Fort Totten located in Bayside and at Fort Totten, there were many and are still many military personnel who live there, who have families.

I would like to ask the sponsor of the legislation if he would yield.

ACTING PRESIDENT KUHL: Senator Cook, do you yield to Senator Stavisky? The Senator yields.

SENATOR STAVISKY: Senator Cook, are you suggesting that the military personnel who are at a place such as Fort Totten would be required to pay tuition for their children's education?

SENATOR COOK: Mr. President, two responses to the Senator's question. I would see nothing wrong with those military residents paying some tuition because, after all, it is, I assume, the city of New York then or the city of New York school district that is absorbing the cost of educating those students and most of those folks being military personnel probably aren't New York -- New York residents anyway, but the other side of the issue, Senator, is I would believe that since it's a federally-owned

property, that probably we wouldn't be able to enforce this on the federally-owned property, I guess.

SENATOR STAVISKY: Mr. Speaker, on the bill.

We have a problem here. The problem is the failure of the United States government to pay for the cost of the education of the children since the United States government is exempt from the imposition of school property taxes.

I think that those of you who have a concern for military personnel whose salaries are not usually very great, would be forewarned not to vote for this bill which would cause a soldier, any military personnel living at Fort Totten who has children and they do attend the public school to pay tuition. I think this is a very dangerous precedent that does a great disservice to those people who are serving our nation. The nation should pay the tax. The nation should pay in lieu of taxation but not the individual family, and for that reason and the others that have already been stated, I would hope the members of this body

would defeat this bill.

Thank you.

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

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

SENATOR STAVISKY: I'm going to explain my vote, Mr. Speaker.

ACTING PRESIDENT KUHL: Senator Stavisky, to explain his vote.

SENATOR STAVISKY: I do not wish to limit my presentation to Fort Totten. Think of what it would do to the people at West Point, the families living at West Point whom we honor here regularly with resolutions. Think of that.

There are many other installations, federal installations, military installations throughout the state but think of West Point, and do you want to tax the parents, the service people who live at West Point with a school tax? I think that would be, again, a very serious error.

I vote in the negative.

ACTING PRESIDENT KUHL: Senator Stavisky will be recorded in the negative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 150, Senator Abate, Breslin, Connor, Dollinger, Gentile, Kruger, Lachman, Leichter, Markowitz, Mendez, Montgomery, Onorato, Paterson, Rosado, Sampson, Santiago, Seabrook, Smith, Stavisky and Waldon. Ayes 36, nays 20.

ACTING PRESIDENT KUHL: The bill is passed.

Excuse me, Senator Leichter.

Senator Waldon.

SENATOR WALDON: With unanimous consent, Mr. President, I would like to be recorded out of order in the way we're

considering bills on Calendar Number 36 in the negative. You have to read the last section.

ACTING PRESIDENT KUHL: Senator Alesi.

SENATOR ALESI: Mr. President, would you please call Calendar 36.

ACTING PRESIDENT KUHL: The Secretary -- before we do that, Senator Leichter, why do you rise?

SENATOR LEICHTER: May I, before we get in the debate on that bill, have unanimous consent to be recorded in the negative on Calendar 110.

ACTING PRESIDENT KUHL: Without objection.

SENATOR LEICHTER: Thank you.

ACTING PRESIDENT KUHL: Hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 110 -- 110.

SENATOR ALESI: Mr. President, Calendar Number 36.

ACTING PRESIDENT KUHL: That completed the calling of the controversial calendar's first reading. Would you like to take up Calendar Number 36?

SENATOR ALESI: Yes, Mr. President. Would you please read the last section so that Senator Waldon may have the opportunity to vote.

ACTING PRESIDENT KUHL: Why don't we get the bill before the house, Senator Alesi. We'll do that.

The Secretary will read the title to Calendar Number 36.

THE SECRETARY: Calendar Number 36, by Senator Velella, Senate Print 355-A, an act to amend the General City Law and the Penal Law, in relation to creating the crimes of urinating in public.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

SENATOR WALDON: No.

ACTING PRESIDENT KUHL: Senator Waldon, you vote in the negative?

SENATOR WALDON: In the negative.

ACTING PRESIDENT KUHL: The roll call is withdrawn. We'll return to debate on Calendar Number 36. We're on debate on Calendar Number 36.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I am not going to ask the sponsor to answer any questions because I think the bill is self-explanatory, although we have -- several members have indicated that there are other titles of this legislation, none of which can be stated in the record.

However, I would like to just reiterate what my comments were last year in relationship to this bill. It seems to establish a criminal penalty for such behaviors as begging and urinating in public as well as, I believe urinating and begging and defecating, I believe is also included in this bill.

As I said last year, there is an attempt with the legislation to address a major social crisis which is essentially homelessness, I believe, by establishing criminality and criminal penalties for these behaviors, such

that a person who is sleeping on the streets or a person who has no facility to relieve themselves appropriately, in an appropriate place, or a person who is attempting to receive charity by asking as an individual on the street with a cup in their hand, can now be sanctioned with a Class B misdemeanor charge.

All of those behaviors, we know, are abhorrent to all of us in this room and I believe to all of our neighbors and people - civilized people who live in our cities across the state, but I don't believe any of us would like to see the social -- the social problem of homelessness addressed by trying to criminalize them. We know that we've tried these kinds of remedies in other instances and they have not worked, and so to try and address a symptom of a major social problem by establishing criminality just does not work and we may, in fact, end up with an increase in the population that we're trying to address in reducing that population, mainly prison population, by adding to it with these kinds of petty behaviors, behaviors that are really not criminal but are indications of a social breakdown.

So, Senator Velella, I certainly must oppose your legislation, not because I'm opposed to what you would like to see happen, and that is you would like to see people not be begging on the street and not be sleeping on the street and not be urinating in your front yard perhaps and mine, but because I think that we need to look for other means of remedying these problems and not to make criminals of them and, in fact, you indicate at one point -- just to read one little part of the bill -- you want to order them to perform community service if they can't pay the penalty of $50 which you would establish in the legislation, and so they're already homeless, penniless and you are also going to require of them community service. I don't know how that's going to work, who is going to have them work and where would you have them perform the community service and who would likely be pleased to have these people performing community service? They need treatment, obviously. They need a home. They need a lot more of what we have not been providing for them but certainly they don't need to be charged with a crime.

So I'm voting no on this, Mr. President.

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

(There was no response.)

Hearing none, the Secretary will read the last section. Oh, I'm sorry. Senator Seabrook.

SENATOR SEABROOK: Will the sponsor yield for a couple of questions?

ACTING PRESIDENT KUHL: Senator?

SENATOR VELELLA: Certainly.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SEABROOK: Senator, just a quick question, if you could possibly just define two things for me. What is considered this urban commercial zone and how is that defined and who dictates what that zone is?

SENATOR VELELLA: Well, the person -- the entity that would dictate the commercial zone under the guidelines set in the bill would be the local government. So, in your case and in mine, for example, we both represent the city of New York and we both represent the

city of Mount Vernon. That local government would decide what would be these commercial zones that people would not be allowed to lie down in the streets in front of commercial establishments and we have a safety valve on that that no more than 15 percent of the streets of the City could be set aside as these critical commercial zones.

I would hope that you would read the bill rather than listen to what our distinguished colleague from Brooklyn has said because apparently the lapse of time from last year's debate to this year's debate has clouded her mind, and I would suggest she goes back and reads the bill because everything she said is absolutely wrong.

We do not mandate B misdemeanors in this bill. We say it's a violation and, if you repeat it again, like we do in all the criminal laws and all the statutes, if you repeat the crime, it elevates it to the next level, a battery of things which she chose not to ask me questions but if you would like to, I would be happy to explain. She's just dead wrong on what she said.

It is not about social problems. It's about quality of life issues and about cleaning up our communities and making people behave in a socially responsible matter - manner and not to have people begging and put people in fear of imminent bodily harm that, if they don't respond to a beggar in an aggressive manner, they might be injured in some way. That is what we're talking about.

I agree with it. There are a lot of social problems, things that we need to address and we will address, but one of the things that we need to address is the quality of life in our cities. Mayor Dinkins, when we had the Democratic National Convention, made a very aggressive stand on cleaning up the streets down in Manhattan, so that the Democratic delegates across the City, across the country wouldn't see the people lying in the streets, the people interfering with delegates from across the country. We had Manhattan -- it was a jewel. I would like to see that all over, even in our borough, and I think this is a law that we would follow Mayor Dinkins' pattern. We would say we're not going to tolerate that kind of

behavior. We didn't want the rest of the country to see it. Dave Dinkins didn't want to have the rest of the country see it. I don't want the rest of the country -- I don't want my constituents to see that kind of behavior, defecating in the streets, urinating in the streets, threatening people that, if they don't give you money, they might have some kind of danger, interfering with our commercial establishments. Those are all things that bring our city down, whether it be Mount Vernon, whether it be New York City or whether it be any city.

We ought to follow Dave Dinkins' lead, and I think he has a pretty strong social conscience. I think he did a pretty good thing in setting that example. I want to follow his lead. People who break those laws ought to be punished and, if they can't afford to pay a fine, maybe we ought to let them do community service. Do what? Clean up after themselves. They're making the messes in the streets, community service. Let them clean up after themselves. That's what the bill is about, Senator.

SENATOR SEABROOK: Would the Senator yield?

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

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR SEABROOK: Just a -

SENATOR VELELLA: I know that wasn't a very direct answer but I had to get it in.

SENATOR SEABROOK: Just because -- some clarification. A person who has to relieve themselves is a natural act so it's going to take place either in a proper place or an improper place. What proper places are available in the districts in which we represent, in the Bronx and in Mount Vernon, that's public accessible in the Bronx and Mount Vernon, even if someone has to put a coin in?

SENATOR VELELLA: Senator, off the top of my head, we have facilities that the parks department has available. We have restaurants. We have establishments. We have many places where, when you're walking through

the streets of Manhattan, when you're walking through the streets of our district, when you're walking up in Mount Vernon in our district, if you have to go to the men's room or have to relieve yourself naturally, I don't believe under any circumstances you would relieve yourself on the streets of Manhattan, the streets of Mount Vernon or the streets of the Bronx. You would find a proper place to do it, and that's all I'm asking the rest of these people to do. Find a proper place, whether it be a public facility like a park where we have park rest rooms. We have them in Mount Vernon. We have them in the Bronx. We have them in various places. There are public facilities. We don't have enough but we all manage to follow the social behavior of not doing it in the street. You wouldn't do it. I wouldn't do it, and I don't think anybody else should do it. That's all I'm saying. Whatever the problem is that when you have that emergency, you find a place to go to, I'm asking them to perform to the same level.

SENATOR SEABROOK: Well, Senator, I think that in some cases -- I don't know about

you, but there have been times on various roads on a number of occasions that I've witnessed other people do it when they didn't have access but nature made its call and it was done, but in terms of the parks that you raised an issue, the majority of the parks -- I would say that the overwhelming majority of the parks in New York City and in the Bronx, in particular, you don't have access to the public bathrooms.

SENATOR VELELLA: Some you do, some you don't.

SENATOR SEABROOK: In the majority of the cases where those people who actually are residing -- then there are also signs that says "rest rooms for patrons only", that if you aren't eating here, you aren't drinking here, then you can't use the facility. So basically these are people who, if you don't have any money, you can't go in. There's no access. There's not one paid public toilet in your district or my district that the public actually have access to. Maybe a few in Manhattan but not in your district or my district.

SENATOR VELELLA: I disagree with

that, Senator.

SENATOR SEABROOK: Can you name one and show me where?

SENATOR VELELLA: Oh, I know several parks that have park attendants there during the day and the facilities are open.

SENATOR SEABROOK: No. I said public paying toilets -- public paying toilets.

SENATOR VELELLA: Oh, public paid?

SENATOR SEABROOK: Right.

SENATOR VELELLA: I'm sorry. No. I don't know of any paying toilets. I know of free ones.

SENATOR SEABROOK: Well, if you could -- you know of free ones that's available in your district right now?

SENATOR VELELLA: Yes, sir. I could name you several parks that have open toilet facilities where they have park personnel during the day for people who have to relieve themselves in public.

SENATOR SEABROOK: You're probably right. In your district, you're probably right. You're absolutely correct.

That's true, but in a place where a lot of the homeless people are, they have actually padlocked the parks. So what I'm saying -- and I agree with some portions of the bill in terms of a person, but if we gave people access and options that they would not have to urinate on the streets, but in New York City, in Manhattan, there are paid public toilets that people can actually pay and have access to go to so that they would not urinate.

In the Bronx, there is not one paid public toilet that people actually have access to go in to relieve themselves, so they do it wherever. Subway stations that used to have access to this have actually padlocked all of their rest rooms unless you're in Grand Central Station or Penn Station that you have access to that.

So what I'm saying, if we're talking about not allowing people just as, you know, I have seen people decide to allow -- to release themselves on the New York State Thruway, couldn't make a rest stop, decided to relieve themselves, some in perfect business attire. The majority of them aren't homeless

because they couldn't get a car. So they are basically using whatever when nature makes that call.

What I'm saying is that opportunity, if we were to provide in those areas that you're talking about, those commercial zoned areas, public access to rest rooms, then I would say that this would be a good bill, but if we're telling a person, we're not going to provide you with -- you look very bad. You can't come into the facility because you don't have the monies, now you make a decision where you want to release yourself. Nature calls, it's any place. I'm saying that if we're going to talk about commercial zones and we're going to develop these places, then we should have people having access to public facilities in some capacities so that would allow them to do that. Other than that, it's a very punitive thing for a natural thing that is going to happen if you don't have access to a rest room or facility.

SENATOR VELELLA: Is that a question?

SENATOR SEABROOK: Yeah. I asked

you in reference to the commercial zone by saying that, if these provisions would dictate that if you're going to have a commercial zone area, then they should have -- at least have public bathrooms available in those zones so that a person would have an option and an opportunity.

SENATOR VELELLA: In response, Mr. Chairman -- Mr. President, through you. The bill doesn't only require that you not go to the bathroom and defecate or urinate in a commercial zone. It says anywhere in the city. The question of lying in doorways and sleeping on doorways is for commercial zones. So this would be citywide or statewide in any city where you urinate or defecate on the public streets, you would be subject to a fine.

Now, I agree with you. It becomes very difficult. I am sure you have in your lifetime been in a situation where you had to relieve yourself and had to seek out a bathroom, and I am sure ultimately you found one some way, some how. I don't believe that we ought to set a social policy in this state that says, if you can't find the right place, just do

it anywhere you want.

Now, that is the problem that we have. We have people that are using our streets, especially in the city of New York, as public rest rooms. We've got to stop that and we've got to try to tell these people that you don't do that and, if you do do it, you're breaking the law.

Now, I can't envision anybody wanting to say that if you really have to go bad enough, go ahead and go on the sidewalk. Go ahead and go any place you want. We have to have some degree of civil concern about the health and safety and propriety in our communities and we cannot tolerate people going to the bathroom on the public streets, whether they're homeless -- the areas you spoke about, they have homeless shelters. They can go to the homeless shelter. Be a little bit responsible about your personal concern for your fellow man. Just because you're poor, it doesn't mean you have to act like a pig and pigs go in the street. You know, unless there's an emergency -- and this is an intentional act. We are trying to tell people we will not tolerate this

kind of behavior. It's unhealthy. It's anti-social and it's wrong and whether you're rich, poor or middle class, you shouldn't be going in the street, and that's all I'm saying.

ACTING PRESIDENT KUHL: Senator Seabrook.

SENATOR SEABROOK: Yes, on the bill.

ACTING PRESIDENT KUHL: Senator Seabrook, on the bill.

SENATOR SEABROOK: I think that the bill, as it is, doesn't deal with the problems in terms of saying that there are options and opportunities for people who have a desire. I dare say that if we did not have the facilities here, then all of us in our attire would do just what a homeless person would do and some might do worse if the facilities were not made available.

SENATOR VELELLA: Would Senator Seabrook yield to a question?

SENATOR SEABROOK: Absolutely.

ACTING PRESIDENT KUHL: Senator Seabrook, do you yield? The Senator yields.

SENATOR VELELLA: Senator, are

you telling me that, if the bathrooms in this building were closed and you had to go to the men's room, you would go anywhere you can in this building?

SENATOR SEABROOK: If nature made that call, it would dictate where I would go.

SENATOR VELELLA: You'd go right here in the middle of the floor of the Senate?

SENATOR SEABROOK: If nature made that call, it would dictate where you and I would go.

SENATOR VELELLA: I will do everything in my power, Senator, to see that we protect you from yourself and keep the bathrooms in this building open at all times because I wouldn't go in here on the floor. Maybe you might.

ACTING PRESIDENT KUHL: Did you have another question, Senator?

SENATOR SEABROOK: Yeah. The question that I have for Senator Velella is that I would certainly like to see -

ACTING PRESIDENT KUHL: Senator Velella, do you yield?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: He yields.

SENATOR SEABROOK: Senator Velella, I would just like to ask how you would certainly supersede natural calling, but since you have that ability and capability, I would hope that we would pass a resolution that we would eliminate all of the rest rooms from here to New York City and Senator Velella will show us how not to do what we are supposed to do when nature calls.

ACTING PRESIDENT KUHL: Senator Seabrook, would you mind the interpretation? Senator Paterson is waving like he has a natural calling. (Laughter)

Senator Paterson, why do you rise?

SENATOR PATERSON: Well, actually, Mr. President, Senator Abate has to leave immediately for a very similar reason. We would like to know if she could relieve herself of voting before she relieves herself.

ACTING PRESIDENT KUHL: Senator Alesi.

SENATOR ALESI: Mr. President,

would you please call the last section in order to accommodate Senator Abate.

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

THE SECRETARY: Section 7. This act shall take effect on 1st first day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator Abate, how do you vote?

SENATOR ABATE: No, and I wish I could speak on the bill but I cannot, but for the reasons I stated last year, I agree with the intent and not the wording of this bill. Too vague and too broad. I look forward to working with the Senator to correct that language.

ACTING PRESIDENT KUHL: Senator Abate will be recorded in the negative.

SENATOR ABATE: Thank you.

ACTING PRESIDENT KUHL: The roll call is withdrawn. We're back on debate. Senator Seabrook, you had the floor.

Senator Leichter, why do you

rise?

SENATOR LEICHTER: Before you withdraw the roll call, would you call my name, please?

ACTING PRESIDENT KUHL: I already did.

Senator Alesi.

SENATOR ALESI: No objection, Mr. President.

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

THE SECRETARY: Section 7. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

SENATOR LEICHTER: Thank you, Mr. President.

Edifying as this debate is and the high level that it's reached, I'm sorry to have to leave. For reasons unrelated to the -

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: We're trying to accommodate people that have urgent business to go back to their district. If they want to vote, they can vote, but a lot of people are staying here listening to the debate. We know it's a getaway day. We understand that, but I would ask if we're going to make accommodations on voting, vote and please conduct your business.

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

SENATOR LEICHTER: Thank you. It's a fair statement. I vote in the negative.

ACTING PRESIDENT KUHL: Senator Leichter will be recorded in the negative.

Senator Paterson.

SENATOR PATERSON: Mr. President, I would just like to agree with the Deputy Majority Leader. Whatever the urgencies are that people have to leave this chamber and as urgently as they make it sound when they come over here and ask me, it would seem to me that a simple no vote would suffice.

ACTING PRESIDENT KUHL: Thank you. Points are both well taken.

The roll call is withdrawn. We're back on debate.

Senator Seabrook.

SENATOR SEABROOK: Mr. President, I won't belabor this too long because I have to make a stop myself. So I'm going to be very, very quick and make sure that it would not be in this room, Senator Velella, but I would hope that people would -- when we decide to do these things and that Senator Velella would look about putting a lot more public accessibility to facilities so that people would do that, and I agree with him in terms of the intent of what he's trying to do, but I'm saying that there should be some options and opportunities for people, and I'm certain that they will understand the necessity of doing it in the proper place.

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

(There was no response.)

Hearing none, the Secretary -

SENATOR VELELLA: Just to close

debate -- I would like to speak briefly on the bill in closing the debate.

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: I would just like to point out to my colleagues, Senator Seabrook said he would like to cut the debate a little short because he has to make a stop on the way. Senator Abate had a personal matter that had to be attended to. All this shows is that where there is a will, there is a way, and I say that if we can do it, everybody else can do it and this bill is a good, solid bill.

Thank you.

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

THE SECRETARY: Section 7. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in

the negative on Calendar Number 36, Senators Abate, Breslin, Connor, Gonzalez, Leichter, Montgomery, Paterson, Sampson, Santiago, Seabrook, Smith, Stavisky and Waldon. Also Senator Mendez. Ayes 44, nays 14.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Oppenheimer.

SENATOR OPPENHEIMER: With unanimous consent, I would like to be recorded in the negative on Calendar 150.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Oppenheimer will be recorded in the negative on Calendar Number 150.

Senator Gonzalez.

SENATOR GONZALEZ: Mr. President, may I be recorded in the negative on Calendar Number 150.

ACTING PRESIDENT KUHL: Without objection.

SENATOR GONZALEZ: Thank you.

ACTING PRESIDENT KUHL: Hearing no objection, Senator Gonzalez will be recorded in the negative on Calendar Number 150.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I recently read in the paper that one of our colleagues, who I will not name, has decided not to seek another office and has decided to remain part of this body and I, for one, am glad that that individual did that because I don't think this body would be the same without him and I'm pleased that he or she, because I won't identify him, has decided to remain.

ACTING PRESIDENT KUHL: Senator Alesi.

SENATOR ALESI: Mr. President, may we return to the order of motions and resolutions, please.

ACTING PRESIDENT KUHL: We'll return to the standing order of motions and resolutions.

SENATOR ALESI: Mr. President, there is a privileged resolution at the desk by Senators Bruno and Rath. May we please read the title and move its immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read the title.

THE SECRETARY: By Senators Bruno and Rath, Legislative Resolution commending the women of New York State government in designating them for honor in conjunction with the celebration of Women's History Month, March 1997.

ACTING PRESIDENT KUHL: Senator Rath.

SENATOR RATH: Mr. President, I would like to invite all my colleagues to join me on this resolution, as I'm sure all of us are willing and anxious, enthusiastic about commending the women of New York State government in Women's History Month.

ACTING PRESIDENT KUHL: Are there any members who would like to co-sponsor the resolution?

Senator Marchi, everybody?

Senator Alesi, if it's okay with you, standard procedure, we'll put everybody on the resolution with Senator Rath excepting those people who indicate to the desk that they don't wish to co-sponsor, if they would do so.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, just a note of inquiry. Is Senator Marcellino on that resolution?

ACTING PRESIDENT KUHL: He is now.

SENATOR PATERSON: Oh, good. I would be pleased to be on it because there's no one harder working in government than Senator Marcellino.

ACTING PRESIDENT KUHL: Senator Alesi.

SENATOR ALESI: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT KUHL: All has been taken care of, Senator Alesi.

SENATOR ALESI: Thank you.

There being no further business, I move we adjourn until Monday, March 17th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, the Senate stands adjourned until Monday, March 17th, at 3:00 p.m. in the afternoon, all intervening days to be legislative days.

(Whereupon, at 12:19 p.m., the Senate adjourned.)