NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 3, 1999

11:00 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I ask that everyone present please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

THE PRESIDENT: The invocation today will be given by Rabbi Lance Sussman from Temple Concord in Binghamton, New York.

RABBI SUSSMAN: Our God, God of your ancestors and all people, we ask for Your blessings on the State of New York and the United States of America, cause us to prosper in all our ways, help us to live up to the high ideals of our founding fathers and mothers, teach us to live together in harmony and to cherish the rich diversity of our many cultural and religious traditions.

Lord, strengthen our resolve to serve You by serving our fellow citizens and grant us peace, prosperity and well-being all the days of our lives. Amen.

THE PRESIDENT: Reading of the

Journal.

THE SECRETARY: In Senate, Tuesday, March 2nd. The Senate met pursuant to adjournment. The Journal of Monday, March 1st, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: Without 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 LaValle, from the Committee on Higher Education, reports:

Senate Print 3021, by Senator Saland, an act to amend the Education Law and the Executive Law.

And Senator Farley, from the Committee on Banks, reports the following bills:

Senate Print 1918, by Senator Farley, an act to amend the Banking Law; and

Senate Print 2925, by Senator Farley, an act to amend the Banking Law.

All bills ordered direct for third reading.

ACTING PRESIDENT MEIER: Without objection, all bills directly to third reading.

Reports of select committees.

Communications and reports from State officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time, could we please take up the non-controversial calendar.

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

THE SECRETARY: Calendar Number 121, by Senator Hannon, Senate Print 1524, an act to amend the Public Health Law, in relation to reimbursement of city or county medical expenses.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 125, by Senator Larkin, Senate Print 1578 -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 129, by Senator DeFrancisco, Senate Print 547, an act to amend the Vehicle and Traffic Law, in relation to the maximum speed limit for certain portions of highway located in Onondaga County.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2, this act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

131, by Senator Holland, Senate Print 1084, an act to amend the Vehicle and Traffic Law, in relation to the maximum speed limit on a certain portion of the Catskill section.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2, this act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36. Nays 1.

Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 171, by Senator Nozzolio, Senate Print 1094, an act to amend the Penal Law, in relation to allowing an 11-year-old person to take a hunting safety course.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2, this act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 181, by Senator Johnson, Senate Print 1588, an act to amend the Criminal Procedure Law, in relation to requiring certain persons to be committed to the custody of the sheriff.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2, this act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 186, by Senator LaValle, Senate Print 1746, an act to authorize payment of transportation aid to the Miller Place Union Free School

District.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 192, by Senator Wright, Senate Print 2426 an act to amend the Public Service Law, the Public Officers law and the General Construction Law, in relation to video conferencing.

ACTING PRESIDENT MEIER: Read -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 193, by Senator Wright, Senate Print 2427, an act to amend the Economic Development Law, the Public Officers Law and the General Construction Law, in relation to video conferences.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

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

SENATOR SKELOS: Mr. President, could we take up the controversial calendar, please.

ACTING PRESIDENT MEIER: Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 121, by Senator Hannon, Senate Print 1524, an act to amend the Public Health Law, in relation to reimbursement.

ACTING PRESIDENT MEIER: Senator Duane.

Senator Hannon, an explanation has been requested of Calendar 121.

SENATOR HANNON: Thank you, Mr. President.

This bill would permit any city or county to seek reimbursement from a third-party insurance carrier in the event a prisoner, who's in their facility, has incurred medical expenses. This would mean that the municipality would be able to access

the benefits that do exist for the individual.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. I would ask if the sponsor would yield to some questions?

ACTING PRESIDENT MEIER: Senator Hannon, do you yield?

SENATOR HANNON: Yes.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR DUANE: Thank you very much.

Under this legislation, since a prisoner's going to be using their insurance premiums, does that mean that they will get a choice of which doctor they can see?

SENATOR HANNON: This plan, this proposal envisions that whoever is their current insurance carrier would be paying premiums. It would, therefore, mean that there would be an existing insurance contract and, therefore, whatever rights, privileges, obligations of the existing insurance contract are there would be applicable.

SENATOR DUANE: So that would mean that the incarcerated person could see whatever specialist that's in the network of their insurance plan?

SENATOR HANNON: Whatever might be appropriate.

SENATOR DUANE: So that would be appropriate, that they could see -

SENATOR HANNON: Whatever would be appropriate in the circumstances pursuant to the legally existing contract of insurance then existing.

SENATOR DUANE: So if -- through you, Mr. President. If -

ACTING PRESIDENT MEIER: Senator Hannon, do you continue to yield?

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT MEIER: He yields.

SENATOR DUANE: So if an incarcerated person had needed to go to the Mayo Clinic or Sloan Kettering for treatment, and that was covered under their insurance plan, then they would be permitted to go to

that facility to get their treatment, if it was so covered by their network?

SENATOR HANNON: It has nothing to do with that and, frankly, nothing in the portion of the bill relates to that.

SENATOR DUANE: Well, the -

SENATOR HANNON: You want to yield again?

SENATOR DUANE: Yes, please.

SENATOR HANNON: Yes.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR DUANE: But it does mean, in fact, then that an incarcerated person, if their insurance is entitling them to that, that they then should be able to use the healthcare professional of their choice or the specialist of their choice. And I'm -- of course, I would be -

SENATOR HANNON: Senator, I submit to you -

SENATOR DUANE: -- I would be for that.

SENATOR HANNON: Senator, I submit to you that the plain language of the

bill simply speaks about reimbursement to the county or city so that -- and it has happened in the past -- people of good means, are incarcerated, have accessed a high amount of medical care and this allows the municipality to get payment that they've had to lay out and it reduces the cost. But it has nothing to do, and you read by -- the bill is only about 13 lines long. It doesn't say anything about changing access provisions. Those would remain as they are in current status.

SENATOR DUANE: I would respectfully hold, though, that, in fact, if private insurance is being used by an incarcerated person, then on the other end, they should be entitled to use the private healthcare provider of their choice.

I'm also concerned -- if I may continue, Mr. President.

ACTING PRESIDENT MEIER: Are you on the bill now, Senator?

SENATOR DUANE: No, I'm continuing, if I may, I have a couple of other questions, if I may.

ACTING PRESIDENT MEIER: Senator

Hannon, do you continue to yield?

SENATOR HANNON: Oh, I didn't realize. I thought he finished questions.

Am I being asked to yield?

SENATOR DUANE: I have other questions, because I think this particular piece of legislation raises a lot of intriguing questions and I'd like to ask another one, if I may.

ACTING PRESIDENT MEIER: Senator Hannon, do you continue to yield?

SENATOR HANNON: I'll yield for another question.

ACTING PRESIDENT MEIER: Sponsor yields.

Senator Duane.

SENATOR DUANE: Many HMOs require that after an emergency room visit that the patient needs to call the provider within 24 hours. I'm wondering if, again, the New York State's correctional system could take into account the need of the incarcerated person to make that call so that they don't lose their reimbursement.

SENATOR HANNON: According to the

terms of the bill, Senator, we're only dealing with municipalities or cities. We're dealing with the local correctional facility. It has nothing to do with the New York State correctional facilities. And this is for those people who have been incarcerated for a year or less.

SENATOR DUANE: Still then, provision would need to be made that either the incarcerated person or someone from the facility, the local facility, would need to call the HMO within 24 hours, which is what the policy is of most of the HMOs.

SENATOR HANNON: If that's a question, I think I've answered it before, Senator.

SENATOR DUANE: Um, also -

ACTING PRESIDENT MEIER: Senator, work with me. Do you want the sponsor to continue to yield?

SENATOR DUANE: Yes, please.

ACTING PRESIDENT MEIER: Okay. Senator Hannon, do you continue to yield?

SENATOR HANNON: Yes.

ACTING PRESIDENT MEIER: Sponsor

yields.

Senator Duane.

SENATOR DUANE: In a case where an incarcerated person is stabbed or injured through no fault of their own, perhaps by another incarcerated person, isn't the state, therefore, liable in a case like that? Or the municipality?

SENATOR HANNON: I'm sorry. I did not, I simply didn't hear the last part of the question. Is it the?

SENATOR DUANE: Is it not the local authority, the city or town or county, liable for treatment of the incarcerated person in a case like that?

SENATOR HANNON: Liable in the sense of liable for the medical treatment?

SENATOR DUANE: Yes.

SENATOR HANNON: Yes.

SENATOR DUANE: And what, therefore -- through you, Mr. President, is the impact of this legislation -

ACTING PRESIDENT MEIER: Do you continue to yield, Senator Hannon?

SENATOR HANNON: The impact?

If they have medical insurance and you can access that, you would be able to recover a part or all of that medical treatment from the insurance carrier, the same way as if that person was hurt on the outside and would get payment for their medical treatment from their insurance carrier.

SENATOR DUANE: Through you, Mr. President.

I am concerned -

ACTING PRESIDENT MEIER: Senator Hannon, do you continue to yield?

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT MEIER: Sponsor yields.

SENATOR DUANE: I am concerned then that this removes some of the liability from the local correctional institution and the local governing body in a case like this.

SENATOR HANNON: Is that a question?

SENATOR DUANE: Does it -

SENATOR HANNON: Does it? No.

SENATOR DUANE: It does not?

SENATOR HANNON: Not that I can see.

SENATOR DUANE: I have a couple more questions, Mr. President.

ACTING PRESIDENT MEIER: Senator. Hannon, do you continue to yield?

SENATOR HANNON: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR DUANE: Will incarcerated persons be allowed to carry their insurance cards with them at all times so that we would all -- they would have access to their numbers to call to access their, their network of physicians?

SENATOR HANNON: Nothing in the bill speaks to anything about that.

SENATOR DUANE: Well, I am concerned about that, Mr. President.

And, now, I think maybe I'll just speak now on the bill, if I may, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: I'm taken aback at how powerful it is that the Senate seems to think that incarcerated people are, that they all have or that many of them have private insurance. I don't think that that is the case. There may be a few, but I don't think it's a vast number of people that carry their private insurance. We also seem to think that incarcerated people, when they're brought into court, oftentimes shackled or at least handcuffed, that somehow they're able to carry bags of feces and urine that they can throw around in a court room. I don't see that they are that clever that they can do that sort of thing. That they don't need legal help because they're so smart, they can write their own legal briefs all the time, and that they are so smart on legal issues that they'll be able tie our court system up.

I, while I have a healthy respect for people who are incarcerated, I just don't really give them this kind of superhuman credit. I don't understand why it is that we continue to pile on in terms of how it is that incarcerated people are being treated in our

facilities. I absolutely believe that there is a price to be paid for criminal behavior, but I do think there comes a point when other issues besides punishment, including rehabilitation, need to be looked at as well.

And I plan on voting no on this bill because I think it's unnecessary and I also think it's mean spirited.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hannon.

SENATOR HANNON: Mr. President, to conclude, just so people are clear as to what the bill exactly says, doesn't impose any new obligations, doesn't propose any new burdens. It simply says that, if an individual has existing health insurance, then the city or municipality may act and apply for a reimbursement for services it has laid out.

It's frankly a very simple proposition and I think one that makes a lot of logic. So I would urge its adoption.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49. Nays 1.

Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 125, by Senator Larkin, Senate Print 1578, an act to amend the Education Law in relation to fostering compliance.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Larkin, an explanation has been requested of Calendar Number 125 by Senator Paterson.

SENATOR LARKIN: Senator Paterson, this is a bill that we had last year. Basically, what this bill does, it would require the registration to the Selective Service System as a pre-condition for receipt of New York State aid for higher education.

The federal government, since 1982,

has withheld PELL grants for higher education from the federal level. And, basically, there are 25 other states who have already signed onto this. New York would be the 26th. And what we're saying is a very simple -- and I think for my colleagues on the other side of the aisle, I think a very important statement was made by the Democratic governor of the State of New Hampshire, when she said that "this is a positive step in the realization of young adults of their responsibility. Men who register not only help America but help themselves. This is the proper thing to do. Young men who are required to register but do not do so will be denied admission and financial aid to the universities and colleges in the State of New Hampshire."

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

There is nothing about the spirit of this legislation with which we disagree. We just disagree with the nature of the legislation, being that it is the law right

now that an individual of seasonable age must register with Selective Service. That's the law. If the law is not followed, our federal government has the resources and also has the regulations that it follows to enforce the law. And, really, as a preemptive measure, this is something that is already discharged by the federal government.

The issue of the TAP grants or anything that emanates from the state, is really one that conflicts to some degree with what -- with the carrying out of the federal law.

Now, what's interesting is that there are people who apply for small business loans in this state, they apply for job development association type loans. There are all kinds of loans that we could create this kind of standard, where they must have selected with -- they must have registered with Selective Service. And many of those individuals are far older than the younger people who we are addressing this legislation to, specifically.

So, if we were going to pass this

legislation, and I kind of hope that we don't, I would think that we would want to create a standard that would apply to everyone who is put in that situation where they need state aid.

The specificity of aiming this at college students, many of whom do receive TAP, we have cut higher education by $114 million this year. Those who are in TAP have had the amount of their tuition reduced from 90 percent to 75 percent. This amount must be made up by, by themselves. We are not, as a sovereignty, in economic need right now, but, nonetheless, we've made these cuts. It really sends an additional message now to let them know that they must be registered with Selective Service even though the federal law says they must have been registered with Selective Service anyway.

So what I think I'm saying is that this proposal should, in effect, be void for vagueness because it really does not address anything that is not already covered in the law. This is a point that was raised last year by Senator Leichter, and this is one that

I think remains relevant in terms of passing the legislation.

On the issue of whether or not someone should register with Selective Service, they absolutely should. And if they do not, then they should, should accrue the full punishment or whatever the federal government exacts on those who don't follow the law and cooperate with the Service. But as far as carrying out the duties in state government, we could attach to this legislation the same kind of standard for not paying one's income tax. I don't see why a person who doesn't file their income tax should be collecting TAP when they owe the government money that they should have paid.

So what I think I'm just saying is that I think we're, in a sense, piling on to those issues that have already been resolved in our federal system.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 125 are Senators Duane, Mendez, Montgomery, Paterson, Sampson, Seabrook and Smith.

Ayes 46. Nays 7.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 186, by Senator LaValle, Senate Print 1746, an act to authorize payment of transportation aid to the Miller Place Union Free School District.

ACTING PRESIDENT MEIER: There is a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Section 3, this act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Hevesi to explain his vote.

SENATOR HEVESI: Mr. President, I

rise to explain my vote on this piece of legislation.

This bill recognizes that there may be situations and circumstances by which a school district, for whatever reason, has not submitted claims and is entitled to that money irrespective of those circumstances. And this bill, essentially, would provide that monies back to that school district, and it is as a result of that circumstance and situation right on the money. And I commend Senator LaValle for introducing it.

What it does, however, is highlight a greater problem and gives me hope that this institution will recognize and remedy the larger problem, which is, the fact that currently there are school districts throughout the State of New York that are owed in the aggregate in excess of $820 million in prior year school claims, including $725 million of which comes from the City of New York. $95.3 million comes from school districts throughout the remainder of the state. And under the current system of repayment and an inadequate section of the

State Education Law which caps at 40 percent the amount any one school district can receive of the total amount allocated to repay these prior year claims in any one year, the current payment schedule for the City of New York means that we will not receive payment, full payment on these claims until the year 2051. And despite the fact that the City will not receive that money to which it's entitled until that time, the other school districts throughout the state will receive their entire payments over the next three years.

This situation has progressed to the point where we are in crisis mode. Not only is it jeopardizing and compromising the fiscal integrity of the City and the state, as viewed through the perspective of the credit rating agencies, what is happening is the City now has not submitted an additional $428 million in claims because we have not received sufficient payment on those claims. And in addition, since, to conform with GAP accounting procedures, we must right off claims that are in excess of 10 years. Currently, if we do not receive in the City of

New York $39 million by June 1st of this year, the City will forfeit those funds blowing a hole in the New York City Board of Education budget of $39 million. Next year that's $33 million, then it drops down to 10 and then it kicks up into the hundreds of millions of dollars.

So I support Senator LaValle's bill and I hope that this means that this institution, the Assembly and the Governor all recognize that it's time to address this problem of prior year school claims. The taxpayers of the State of New York and the school children of the State of New York are entitled to these funds. It's time we recognized the problem.

Mr. President, I vote in the affirmative on this legislation.

ACTING PRESIDENT MEIER: Senator Hevesi will be recorded in the affirmative.

The clerk will announce the results.

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 192, by Senator Wright, Senate Print 2426, an act to amend the Public Service Law, the Public Officers Law and the General Construction Law, in relation to video conferencing.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MEIER: Senator Wright, an explanation has been requested of Calendar Number 192 by Senator Paterson.

SENATOR WRIGHT: Thank you, Mr. President.

The bill amends the law to allow for meetings of the Public Service Commission to be held by video conferencing and further amends the Open Meetings Law as to reflect that these are public meetings and subject to public attendance in all of the open meetings provisions. It's the same legislation that was passed unanimously by this house last year.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Madam

-- Mr. President.

Would the sponsor -

Habit.

Would the sponsor yield to a few questions?

ACTING PRESIDENT MEIER: Senator Wright, do you yield to a question from Senator Duane?

SENATOR WRIGHT: Yes, Mr. President.

ACTING PRESIDENT MEIER: Sponsor yields.

SENATOR DUANE: Thank you very much.

Now, I understand that the PSC wants this legislation because they're concerned that without it, if they do do video conferencing, that they would be breaking the Open Meetings Law?

Or maybe you could be more specific about why the PSC has requested this.

SENATOR WRIGHT: The intent of the bill is to utilize the new technology that's available through video conferencing.

As you may be aware, the Public

Service Commission has a large number of staff both in the Capital as well as in their New York City offices.

Frequently, if we can telecommunicate between those two, and video conference between those two offices, it would save New York State money and make for a more efficient operation in terms of conducting the meeting without convening everyone in one place. The same is true of utilities that are located throughout the state.

So it's simply a recognition as we move into the new millennium that there are new technologies and government should accommodate utilization of those new technologies and amend its laws accordingly.

SENATOR DUANE: To continue through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Wright, do you continue to yield?

SENATOR WRIGHT: I do, Mr. President.

ACTING PRESIDENT MEIER: Sponsor yields.

SENATOR DUANE: I was under the

impression, by the way that the legislation reads, that this is only to be used for the commissioners. Is that correct or is this supposed to be used agency-wide?

SENATOR WRIGHT: Well, it would be used in terms of the formal Commission meetings themselves, and we specifically amend the Public Service Law to provide for it and to address the determinations in terms of voting.

We further amend it in the Open Meetings Law in terms of meeting the requirements of that statute in assuring that there is public awareness of the meetings, public awareness of the utilization of video conferencing and public access to those members utilizing video conferencing.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Wright, do you yield?

SENATOR WRIGHT: I continue to yield, Mr. President.

ACTING PRESIDENT MEIER: He yields.

Senator Duane.

SENATOR DUANE: Does that mean that the video equipment will be in large auditoriums or big conference rooms so that the public can participate any time that equipment is being used?

Or maybe not participate, but at least follow the proceedings.

SENATOR WRIGHT: We do not define the size or the specifications of the meeting rooms or the facilities, but the Open Meetings Law and the Public Service Law requires that there be public access to those, those proceedings. They are generally determined based on the nature of the proceedings as to the size of the facility that is warranted. If it is a highly controversial meeting with a large number of multiple intervenors and participants, they select a location accordingly.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Wright, do you continue to yield?

SENATOR WRIGHT: Continue to

yield, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: The sponsor's indicated that the equipment's only going to be for the New York and Albany offices?

Is that correct?

And if that is correct, then I don't understand how that is particularly helpful in terms of commissioners from other parts of the state being able to use this, or, for that matter, then the public from other parts of the state getting more access to what happens during the meetings.

SENATOR WRIGHT: Mr. President, in my response, I did not indicate that it was limited to Albany and New York. I simply cited the location of Public Service Commission offices at those two locations and that they would readily be conducive to utilizing video conferencing from those two areas. However, I further cited utilities that are located at various locations geographically across the state that, certainly, could make the investment, could be

in a position to participate in video conferencing.

The very concept of video conferencing, in fact, expands the horizons rather than constricting horizons, as we currently have.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Wright, do you continue to yield?

SENATOR WRIGHT: Yes, Mr. President.

ACTING PRESIDENT MEIER: Sponsor yields.

Senator Duane.

SENATOR DUANE: Then I'm confused. I didn't understand that this means that the public -- that utilities would now be able to hook into the PSC and be able to have video conferencing in addition to video conferencing among the members of the Commission with the public part of that as well.

I'd like a clarification as to whether or not this is also being done in an

effort to help hook in utilities with the PSC through video conferencing.

SENATOR WRIGHT: This bill is being done to facilitate the meeting of the Public Service Commission. That is the intent of the bill. That's what the statute provides for. It certainly does not exclude the participation of others through video conferencing since these are open, public meetings, which utilities would be available to participate in, as would any other members of the public, because it would be defined as a public meeting.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Wright, do you continue to yield?

SENATOR WRIGHT: I do, Mr. President.

ACTING PRESIDENT MEIER: Sponsor yields.

SENATOR DUANE: Well, the third part of the triangle, the utilities, the Commission, the public, the public, actually, then, it seems to me, would be at a

disadvantage. Most citizens don't have telecommunications capability in their homes or their place of work. And it seems to me that this then gives an advantage, an unfair advantage to public utilities who, most likely, would have more of the financial wherewithal to have video conferencing.

SENATOR WRIGHT: I disagree with that assumption. It's not inconsistent with the current arrangement, whereby meetings are convened in either Albany or New York.

I can assure you that for a consumer from Watertown to travel to either of those areas is a long distance. They do not have the financial wherewithal to do that, but utilities may well have that financial wherewithal to send their counsel or their representative. So video conferencing can, in fact, open those horizons, facilitate greater public participation, and that is our objective.

SENATOR DUANE: Well, through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Wright, do you continue to yield?

SENATOR WRIGHT: I do, Mr. President.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR DUANE: The other element of this, though, is that, while we don't see it in this legislation, there is a public, a potential public commitment of funds to create this telecommunications system. We don't know how much money it is.

Why is it that the actual dollar amount of what this video conferencing system would cost in the legislation and why is it not being done as part of a budget bill as opposed to strictly legislation, not taking into account the amount of money that such video conferencing system would cost the citizens of our state?

SENATOR WRIGHT: Well, first have all, the bill itself amends two specific provisions of law and does not reflect appropriations. That's normally handled through a budget, which is currently being debated.

Secondly, if you're familiar with

the operation of the Public Service Commission, you know that that is -- the revenues for support of the Public Service Commission are provided through the utilities.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Wright, do you continue to yield?

SENATOR WRIGHT: I do, Mr. President.

ACTING PRESIDENT MEIER: Senator yields.

Senator Duane.

SENATOR DUANE: Mister -- the sponsor of the legislation acknowledges in his Memo of Support, though, that there will be a financial commitment that will need to be made at some point. Although the exact dollar amount is not set out, it's envisioned, I believe, somewhere in the range of 200 to $300,000, which is public funding, again, which would be used from the outset, more specifically, yes, maybe for the PSC, but also to utility companies. But I believe, without taking into account how that will impact on

the ability of an average citizen who doesn't have teleconferencing capability to participate in this, what we all acknowledge will be, state funded teleconferencing system.

SENATOR WRIGHT: Mr. President, I interpreted that to be a statement as opposed to a question.

If there's a question, would the Senator please rephrase it?

SENATOR DUANE: Um, well, I might just, Mr. President, leave that statement hanging there for the moment and go on to say that -- -- .

ACTING PRESIDENT MEIER: You're on the bill now or do you have a -

SENATOR DUANE: Well, I'd like to leave open, Mr. President, the possibility that the sponsor could respond, if he so desires.

ACTING PRESIDENT MEIER: Are you asking the sponsor to yield for a question, Senator Duane?

SENATOR DUANE: Yes, I will ask the sponsor to yield to a question.

ACTING PRESIDENT MEIER: Senator

Wright, do you yield to a question?

SENATOR WRIGHT: I do. And I would prefer a question as opposed to statement, Mr. President.

ACTING PRESIDENT MEIER: Noted.

Senator Duane.

SENATOR DUANE: As it is now, when, outside of the public meeting, when a private citizen or a public utility needs to get information from the PSC, is it not just as effective and feasible to do that in a regular telephone call?

SENATOR WRIGHT: I simply have no answer. In terms of whether a telephone is more efficient than some other method of securing information, that's up to the individual who's attempting to secure the information. I don't see where that has relevance to video conferencing, where we're talking about convening a public meeting, amending the law for the purposes of establishing a quorum and amending the Open Meetings Law, to insure that those meetings, while being video conferenced, are, in fact, open and accessible to the public.

SENATOR DUANE: Through you, Mr. President.

Then it seems to me -

ACTING PRESIDENT MEIER: Well, for a question?

SENATOR DUANE: Yes, please.

ACTING PRESIDENT MEIER: Senator Wright, do you continue to yield?

SENATOR WRIGHT: I do.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR DUANE: Then should we not make sure then that an average citizen will have as much access to this state funded teleconferencing system as will a better funded energy corporation?

SENATOR WRIGHT: The utilization of video conferencing is to facilitate open meetings at various locations. Those open meetings, by their definition, are open to the public. Therefore, it is accessible to the public. Therefore, the money being utilized makes public access more readily available than currently is available by transporting people to one location.

You may not be aware of it, but we do not provide public dollars to transport people to meetings of the Public Service Commission. So, when we're putting in place a system of video conferencing, which will more effectively allow the Commission itself to function and by doing that in multiple locations, that means multiple locations then are accessible to the public; thereby, making it more accessible.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Wright, do you continue to yield?

SENATOR WRIGHT: If there are new questions, yes, Mr. President.

SENATOR DUANE: I absolutely acknowledge that this will be cheaper for the energy companies to not have to send people to the commission, but I don't see what -- how it becomes cheaper then for the public to access the Commission since they don't have access to telecommunications equipment.

SENATOR WRIGHT: Mr. President, Senator, you seem to be missing the point. If

I am a member of the Public Service Commission in New York City video conferencing with the balance of the Commission in Albany, you, as a New York resident, can go to the location of that video conference and you can observe the entire proceeding in interactive video conferencing; thereby, saving you the cost, if you wish to participate in that Commission meeting, of driving all the way to the Capital, in Albany, and returning. Therefore, just as a utility executive co-located with you in New York City, they would avoid the cost. The cost being the same to either party, either party having equal access to that Commission member; thereby, participating in that video conference.

SENATOR DUANE: Mr. President.

SENATOR WRIGHT: Thank you, Mr. President.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: For what purpose? For a question?

SENATOR DUANE: For a final question.

ACTING PRESIDENT MEIER: Senator Wright, Senator Duane is asking you to yield for a final question.

SENATOR WRIGHT: For a final question, Mr. President, I will be glad to yield.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: I would like to assure the sponsor that I do completely, totally, and 100 percent do understand. However, since there is, we all acknowledge, going to be a public financial commitment to this, I do believe that it is more favorable to, and will not the sponsor understand what I'm saying, that, in fact, it is immediately advantageous, this new infrastructure, that it's more advantageous to be in place and used by an energy company than it is by an average citizen from many, many parts of the state?

SENATOR WRIGHT: I do not agree with that assumption and I did not acknowledge that assumption, and I look forward to debating that assumption further when we take up the budget.

SENATOR DUANE: And then on the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: This may or may not be an appropriate use of money, 2 or $300,000. And, in fact, we're about to do another bill which is similar in intent. But in a year, when we're fighting about how to spend money on a whole range of issues and making restorations to cuts, whether it's, for instance, $500,000 to funding for housing for people with AIDS or our struggle to put enough money in the budget so that we can do, for instance, senior nutritional programs, or, for that matter, TAP funding, that we would vote on this legislation which everybody acknowledges will have a financial commitment. Although I'm not convinced that it's an equally advantageous financial commitment to the public as it is to power companies, I think that we should be looking at this legislation and the financial commitment that goes along with it in the context of the state budget, in general, where there are many

competing interests, and it would be hard to convince me that the money to spend on teleconferencing for these two agencies is more important than providing nutritional assistance to older people.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53. Nays 1.

Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 193, by Senator Wright, Senate Print 2427, an act to amend the Economic Development Law, the Public Officers Law and the General Construction Law, in relation to video conferences.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane to explain his vote.

SENATOR DUANE: I just wanted to say that I'm voting no on this for the same reasons that I debated on the piece of legislation which we discussed.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane will be recorded in the negative.

Announce the results.

Oh, I'm sorry. Senator Wright.

SENATOR WRIGHT: To explain my vote, Mr. President. Just for the record, so that we clarify, were these proposals to be rejected, there would be no budget savings available to transfer elsewhere in the budget for other purposes, such as nutrition or other worthy objectives, because these are sole source revenues that are dedicated to these

respective agencies.

ACTING PRESIDENT MEIER: Senator Wright will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes 53. Nays 1.

Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: Senator McGee, that concludes the reading of the controversial calendar.

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

ACTING PRESIDENT MEIER: No, there is not.

Oh, wait a minute. I'm sorry.

Senator Montgomery asks to be recognized.

SENATOR MONTGOMERY: Thank you, Mr. President.

I would like to unanimous consent to be recorded in the negative on Calendar 121.

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative on Calendar 121.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT MEIER: Senator McGee, the desk is clean. there's no housekeeping.

SENATOR McGEE: Mr. President, there being no further business, I move we adjourn until Monday, March 8th, at 3 p.m., intervening days being legislative days.

ACTING PRESIDENT MEIER: On motion of the Acting Majority Leader Senator McGee, the Senate stands adjourned until Monday, March 8th, at 3 p.m. Intervening days will be legislative days.

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